Ensuring equal access

for people with disabilities

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E-kudos to Medved
I am an attorney that provides e-discovery and computer forensic support to law firms and businesses. I wish to convey my thanks to Bar News and Robert Medved for his June 2006 article, “E-Discovery and the Proposed Amendments to the Federal Rules of Civil Procedure: A Primer.” Mr. Medved’s article was insightful, well researched, and useful for attorneys and paralegals that have engaged in electronic discovery (as well as those that will be doing so soon due to the upcoming amendments to the Federal Rules of Civil Procedure). Mr. Medved’s article is a must-read primer on the subject.

Mark Walters, Seattle

A statutory offense?
I want to thank President Taylor for his June editorial regarding the pending ballot measure in South Dakota. I also want to thank you for publishing numerous letters from citizens who took issue with President Taylor.

I have carefully reviewed the letters in your July issue. I cannot predict the fate of the current ballot measure, but after reading the letters I am reasonably certain that the next ballot measure these folks will support will be an effort to repeal all those pesky English rules about spelling and syntax.

One letter did, however, create some confusion in my mind. Mark Yannone of Phoenix, Arizona, cited what he claims to be the language of the ballot measure, including a supremacy clause giving the measure primacy over “...any other contrary statute.” If he has accurately quoted the language of the measure, we may be suffering a threat more to our sculpture than our legal system.

Charles L. Smith, Seattle

The judge wears no clothes
Bar President S. Brooke Taylor devoted his June 2006 column to the issue of South Dakota’s proposed constitutional Amendment E. However, Mr. Taylor took the wrong position.

Amendment E, the Judicial Accountability Initiative Law, would effectively abolish the doctrine of judicial immunity. This doctrine is a holdover from the divine right of kings, the English concept that “the king can do no wrong,” and therefore his judges can do no wrong. This outmoded elevation of judges over the rest of us should be ended.

Wouldn’t we all like to enjoy immunity from lawsuits — private attorneys, plumbers, farmers, business people, truck drivers, and teachers? We could just do as we pleased and hide behind immunity with no regard for the consequences to others.
If passed, Amendment E will greatly benefit society. The disturbing bias of judges in favor of prosecutors (prosecutorial immunity should be abolished, also) will come to an end. The present outrageous odds in favor of the state are not just due to the vast resources that the state can wield against an individual. They are also due to the favorable evidentiary rulings and jury instructions that the judges routinely grant to prosecutors.

Judges even go so far as to violate the inherent power of jurors to judge the law and render their verdicts according to conscience. Judges have been known to invade the jury room and remove jurors who begin discussing the unjustness of a given law during jury deliberations. The bias of judges against independent jurors will be put to an end by Amendment E.

Mr. Taylor asks, “What judge in his or her right mind would stay on the bench in a system where unhappy litigants have such a remedy at their disposal?” The answer to this question is: It would be the fair-minded, restrained, and respectful judges who protect people’s constitutional rights who would be attracted to the bench.

Power without accountability has some unsavory consequences. The Judicial Accountability Initiative Law will go a long way toward restoring liberty and justice to our society.

Tom Stahl, Ellensburg

Take my freedom ... please

It is obvious that guest editor Jeff Tolman has failed to appreciate the subtle logic underlying President Bush’s decision to collect and monitor the phone records of average American citizens (“Troubled over a ringing phone,” Editor’s Page, July 2006 Bar News). The unhappy reality is that the war on terror has no beginning nor end. It could be against anybody and everybody. As Mr. Tolman correctly observes, nearly anyone you meet on the street could be a terrorist. Your neighbor down the block could be a terrorist (particularly if you don’t live in a gated community). So you can’t be too careful. If you don’t know who the enemy is, then you have to keep an eye on everybody. And that’s just what President Bush is doing, and he’s doing it for you, me, your children and their children, and your pet dog, too (assuming it’s pedigreed and you have the papers to prove it).

What Mr. Tolman fails to understand is that the president’s plan for doing away with all our silly, extraneous civil liberties forms an essential part of a brilliant grand scheme to bring the war on terrorism to a successful conclusion. You see, there is more than one way to win the war on terror. Up front, our strategy from day one has been to crush the terrorists wherever we find them — kill, maim, torture, lock them up and throw away the key — whatever it takes. But for some odd reason this doesn’t seem to be working as well as we would like. We can’t find them all, and (cowards that they are) they hide themselves among the people. And some ill-informed malcontents fail to understand that in bringing the blessings of democracy to benighted foreign lands it may be necessary to temporarily destroy towns and villages, wreck the local economy and foment civil strife. So it sometimes seems like for every terrorist we take out ten more spring up the next day to replace them. Clearly, we need a different approach.

I am happy to report that President Bush has come up with the answer. The key lies in his keen analysis of the terrorists’ motivation. As the president has told us many times over, the reason that the terrorists hate us is because they hate our freedom. Well, think about it. If you can’t knock them out, maybe what you do is attack the root cause. This is what the President is doing, and what lies behind his ingenious but unfairly maligned policy of spying on American citizens. If the terrorists hate our freedom, and the president takes our freedom away, what will be left for the terrorists to hate? I can just see Osama now, sitting there in his cave scratching his beard and wondering what to do: “Allah be praised, the American infidels have perfidiously destroyed all their cherished freedoms. What is there left to hate? Why should we bother with them? Say, what about Sweden? They seem to have lots of freedom there. Contact our
agents in Stockholm!"

Yes, Mr. Tolman, President Bush has come up with the final solution to the war on terrorism. Just destroy American freedoms and the terrorists eventually will lose interest in us and go away. This strategy is elegant in its simplicity and inexorable in its effects. In closing let me leave you with the inspired words that our beloved leader auspiciously uttered on August 5, 2004, exactly two years, 10 months and 25 days after the tragic events of 9-11: “Our enemies are innovative and resourceful, and so are we. They never stop thinking about new ways to harm our country and our people, and neither do we.”

Keep the faith and God bless!

Stafford L. Smith, Kenmore

A parent by any other name

Jacqueline Jeske has over 20 years of experience in family law, and still refers often in her “Children of the Poor” article (July 2006 Bar News) to “nonresidential parent.” That seems to me defined nowhere in our statutes. Is that a parent who is homeless?

More than once, she refers to a “nonresident” parent. Is that an undocumented worker with children?

She even referred at least three times to “custodial parent,” but I thought “custody” as a concept vanished over a decade ago with the new parenting act.

The words we choose to use matter. Lawyers above all should know that.

There are no “primary” parents — implying the existence of “secondary” parents. There are no “primary residential parents,” or “residential parents.” There are just parents, mothers and fathers, moms and dads, both of whom have equal and concurrent obligations to abide by the parenting plan and to meet their respective joint obligations to financially support their children.

The sooner practitioners excise these imprecise and pejorative terms from presentations, the more fairly we will treat all who apply for help from the family courts — both the residential and nonresidential litigants.

J. Mills, Tacoma
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Number 115 and Counting

S. Brooke Taylor, WSBA President

With my year as your 115th president winding down, I continue to be amazed at the dramatic changes that have occurred in WSBA leadership.

It took 113 years to elect a president from Pullman (David Savage), and 115 years to elect one from Port Angeles, but it has happened. Ellen Conedera Dial, soon to be Number 116, is only the third woman to be elected president in the history of our organization, and the first person ever to do so without prior service on the Board of Governors. But it has happened. It took 114 years to elect a person of color as president, and Ron Ward broke that barrier in 2004-2005.

These and other dramatic “happenings” did not just happen. They are the result of a six-year effort that began when Tacoma’s Dale Carlisle was chosen by the Board of Governors in June 2000 to serve as our 111th president. This created a vacancy in his position as governor representing the Sixth Congressional District, and the Bylaws provide that vacancies are filled by the Board rather than the traditional district-wide election by members. I was persuaded to apply for the position, even though my prior participation in WSBA activities had been minimal. Five other Sixth District lawyers also applied, and we were interviewed one-by-one during a Board meeting in Spokane in September 2000.

I distinctly recall telling the Board that, as I looked around the leadership table then consisting of 11 Governors, a president from Spokane, and a president-elect from Seattle, I did not see any rural lawyers, despite the fact that several thousand of our members live and practice in small firms in small towns across the state. I explained that many rural lawyers viewed the WSBA as a Seattle-centric “good ol’ boys’ club” with little relevance for the rest of us. We face different issues, have a different view of the world, and often feel disenfranchised by our mandatory bar association. I was certain the same sentiment prevailed in many other groups within our membership.

That theme must have resonated with the Board because, with little else in the way of credentials to offer and five other excellent candidates, I was still elected to fill the remaining two years of the unexpired term. That was the beginning, and other changes followed in rapid succession. Before that first year on the Board was over, we had amended the Bylaws to expand the membership from 11 to 14, with the three new seats dedicated to adding diversity to bar leadership. Bar News Editor Lindsay Thompson, then a member of the Board, took a leadership role in this effort. Diversity was defined in the broadest terms possible, with the goal of bringing voices to the table that had not been heard and represented significant constituencies within our membership.

The changes since my first year as a governor have been nothing short of dramatic, bringing a richness and energy to Bar leadership that had never existed. In the first election to fill those new seats, which is done in the same manner as vacancies are filled, the Board was overwhelmed with qualified applicants, and elected the first Latina to serve, the first Whitman County lawyer to serve, and the first-ever representative of the Young Lawyers Division. The Board has been similarly blessed with stellar candidates each time thereafter when those seats have turned over, and the WSBA has been well served as a result.

The current Board includes nine men and five women; eight from King County (including, for the first time, all three of the diversity positions); three from mid-sized communities; three from rural counties; three who are young enough to be my children; four lawyers of color; and lawyers of differing sexual orientations. The WSBA will of necessity always be somewhat Seattle-centric, because half of our members live and practice in King County, as do most of our staff and most of our volunteers. But only five seats out of 14 on the Board are actually dedicated to King County lawyers, so balance is now the rule rather than the exception.

Paralleling this metamorphosis, and in a large measure because of it, has been the growth and ascendancy of our minority and specialty bar associations, which now have a voice at the
To further encourage this growth, the Board has, among other measures, created a staff position of diversity advocate, activated the Board’s Diversity Committee, and supported the award-winning WSBA Leadership Institute, the remarkable brainchild of predecessors Number 113 and Number 114.

This has been hugely rewarding for those involved, and healthy for our Association. But one nagging problem persists: When we have regular elections for governors and president, nobody runs! Three of four races this spring for seats on the Board were uncontested, as was the election of Stan Bastian from Wenatchee as president Number 117. Fortunately, those elected without contest are all superbly qualified, and will serve you well. But it is the apparent lack of interest in district races that is concerning, and this has been going on for decades.

Eleven positions on the Board are elected by the members in a particular congressional district for three-year terms. Candidates apply and ballots are sent out from WSBA headquarters. There is no filing fee, and campaigns are optional (and rare). But, you may ask, why would one want to do this? A detailed answer would consume a full column by itself. Suffice it to say that my service on the Board of Governors has been the most exciting and rewarding volunteer work I have ever done in a lifetime of volunteerism. And most current and former governors will echo that sentiment.

Several seats will be up for grabs next spring, including districts 2, 7-central, 9, and one at-large seat that has no geographic limits. The election process is simple, and the service incredibly rewarding. One of the messages I have been taking to local bar associations across the state this year is simple: If I can do it, you can do it. Think about it.

Brooke Taylor can 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.
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the following observations in upholding application of the ADA to courts and court services:

*The unequal treatment of disabled persons in the administration of judicial services has a long history, and has persisted despite several legislative efforts to remedy the problem.... Faced with considerable evidence of the shortcomings of previous legislative responses, Congress was justified in concluding that this “difficult and intractable problem” warranted [the enactment of Title II].... Recognizing that failure to accommodate persons with disabilities will often have the same practical effect as outright exclusion, Congress required the States to take reasonable measures to remove architectural and other barriers to accessibility.... As it applies to the class of cases implicating the fundamental right of access to the courts, [Title II] constitutes a valid exercise of Congress’ authority to enforce the guarantees of the Fourteenth Amendment. *Tennessee v. Lane*, 124 S.Ct. 1978, 1993-4 (2004). (Italics added.)*

**Introduction**

Three recent Washington sources have confirmed that persons with disabilities have great difficulty achieving access to facilities and services in Washington courts.

In 1999, the Civil and Legal Rights Subcommittee of the Governors’ Committee on Disability Issues and Employment reviewed the accessibility of Washington state’s district, municipal, and superior courts, using an ADA self-assessment tool. The following year, the WSBA Court Improvement Committee and the Access to Justice Board’s Impediments to Access to Justice Committee conducted a survey of court officers, attorneys, and users of courthouses throughout the state. In 2003, the Supreme Court conducted a civil legal needs study. All these reviews confirmed what we already knew: Our courts and court programs are not accessible.

More than 940,000 people in Washington have disabilities. This is a substantial
proportion of our state population of six million. The Civil Legal Needs Study shows that people with disabilities experience legal problems at a significantly higher rate than many other low-income groups, and that low-income persons with disabilities are among the least likely to secure legal help from an attorney.

What the Law Says
Generally: Access to the courts is a fundamental right under the state and federal constitutions. State and federal statutes require that people with disabilities be afforded equal access to courthouses, courtrooms, and court services. Their access must be just as effective as the access provided to other members of the public.

Treat everyone exactly the same way does not ensure fairness. Truly equal treatment of people with disabilities often means treating them differently.

Sources of the Law
- The Americans with Disabilities Act
- The Washington Law Against Discrimination
- The United States Constitution
- The Washington Constitution
- The State Supreme Court Access to Justice Technology Principles

What Is a Disability?
The definition of “disability” is broad, and now is the same under both the ADA and the WLAD. Under the ADA, “disability” is a physical or mental impairment that substantially limits one or more major life activities. 42 U.S.C. § 12102(2). A person is also considered disabled for purposes of the ADA if she has a record of such an impairment, or is perceived as having such an impairment. 42 U.S.C. § 12102(2)(B).

Washington state statutes contain no definition of qualifying disability. WAC 162-22-020(1) provides that “disability” is a short-hand term for “the presence of any sensory, mental or physical disability” — namely “a sensory, mental, or physical condition” that is medically cognizable or diagnosable, exists as a record or history, or is perceived as existing (whether or not it actually does). In July 2006, the Washington State Supreme Court rejected this definition and adopted the ADA definition. McClarty v. Totem Elec., No.75024-6, 2006 Wash. LEXIS 504 (July 6, 2006).

Implications for Courts
What Is Prohibited?

Title II of the ADA prohibits exclusion or unequal treatment of qualified individuals in any program, service, or activity of state or local government. 42 U.S.C. § 12132. A qualified individual is anyone who, with or without reasonable regulatory modifications, removal of barriers or auxiliary aids and services, is eligible for public services. 42 U.S.C. § 12131(2).

In the arena of the court system, this is virtually everyone.

The WLAD prohibits discrimination on the basis of disability, and requires reasonable accommodation of disabilities. RCW §§ 49.60.010, 49.60.030, 49.60.215. State implementing regulations in WAC 162-26-060, ff, set forth prohibitions and requirements similar to those under the ADA. There are additional provisions scattered throughout Washington statutes, which protect, inter alia, the constitutional rights of persons with hearing or speech impairments (RCW § 2.42.010) and the equal right of the “physically disabled” to “full and free use of...public buildings, public facilities, and other public places.” (RCW § 70.84.010).

What Is Required?
These laws apply to courts and to administrative agencies conducting adjudicative hearings. Both courts and agencies are public entities and places of public accommodation fully subject to the ADA and the WLAD. Indeed, Congress intended to make it difficult for government to avoid compliance with the ADA. State and local government services, programs, and activities — including those of administrative and judicial courts — must be “readily accessible to and usable by” individuals with disabilities. 28 C.F.R. § 35.150(a). In short, the ADA applies to all judicial programs and services, and to all participants: jurors, lawyers, parties, witnesses, and observers.

The law does not require courts to make fundamental alterations to their programs or make changes that would result in undue financial or administrative burdens, and no action is required that would threaten the significance of a historic site. But the law requires reasonable efforts to remove barriers to courthouses and court services, and affirmative steps to ensure that participation in public programs is equally available to people with disabilities. This means identifying and removing barriers, or identifying and implementing accommodations. These requirements apply to court services, viewed in their entirety.

- For example, “auxiliary aids and services” must be furnished where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity. 28 C.F.R. § 35.160(b)(1). Courts must make “reasonable modifications” to rules, practices, and policies if changes are necessary to avoid discrimination on the basis of disability. And courts must assure that communication is as effective for people with disabilities as it is for others. 28 C.F.R. § 35.160(a).
- Courts must create a procedure by which an accommodation can be requested, and must then investigate and ascertain what accommodation is reasonable.
- Costs must be borne by the court, and may not be passed on as a surcharge to the individuals accommodated.
- Entities that employ 50 or more people must designate an employee to receive ADA complaints and must publish procedures for handling those complaints. 28 C.F.R. § 35.107.
- To ensure compliance where structural changes are undertaken to achieve accessibility to a program, places of public accommodation (if they employ 50 or more persons) must develop transition plans setting forth the steps needed to complete those changes. Plans must, at a minimum, identify physical barriers and limited access to facilities, detail the methods
to be used to make the facilities accessible, set a timeline for the changes, and identify the official responsible for the plan’s implementation.

**Is There Immunity?**
The ADA expressly abrogates state sovereign immunity. In *Tennessee v. Lane*, the U.S. Supreme Court upheld this abrogation, at least insofar as it applies to the accessibility of judicial services. Under both the WLAD and Title II, public entities — including courts — are subject to suits for declaratory relief, injunctive relief, and damages.

Judges performing judicial functions have generally been held absolutely immune, although their immunity will not protect others. In one local case, a judge who denied a motion for real-time transcription as an ADA accommodation was held absolutely immune. *Duval v. Kitsap County*, 260 F.3d 1124, 1133, 1138 (9th Cir 2001). (“Ruling on a motion is a normal judicial function, as is exercising control over the courtroom while court is in session.”) A question of fact existed, however, as to whether the court administrator who denied the accommodation request was acting in an administrative capacity (providing no immunity) or a quasi-judicial capacity (immune). *Id.* at 1135.

Whether immunity protects a judge who wrongly denies accommodation as an administrative act is doubtful. “Absolute judicial immunity does not apply to non-judicial acts, i.e., the administrative ... and executive functions that judges may on occasion be assigned to perform.” *Id.* at 1133. See also *Memmer v. Marin County Courts*, 169 F.3d 630, 634-5 (9th Cir., 1999) (litigant had visual disability; state court provided a reader, but refused to provide specific individual requested; federal district judge held judges immune; circuit court held plaintiff failed to show accommodation was unreasonable, and did not address immunity).

**Jurors**
Jury service is an important civic right, and jurors are protected by the ADA. A jury summons should solicit information about any need for accommodations, and should provide contact information so the juror can work with the court before reporting for jury duty. When empanel-
When a person with a disability represents himself, there may be no intermediary between the court and the litigant on the subject of necessary accommodations. It is acutely important that judicial officers, clerk’s staff, and courtroom staff be alert, communicate effectively and respectfully, and determine appropriate accommodation if needed.

What About Administrative Tribunals?
Administrative agencies are public entities and places of public accommodation, and both the ADA and the WLAD apply to administrative agencies conducting adjudicative hearings. State and local government services, programs, and activities — including those of administrative and judicial courts — must be “readily accessible to and usable by” individuals with disabilities. 28 C.F.R. Sec. 35.150(a).

Preconceptions and Stereotypes
When most of us think about disabilities, we may imagine a person who uses a wheelchair, or who is blind. We may assume that all people with disabilities have roughly identical needs. But when we stop to imagine how a disability would affect our day-to-day activities, we realize that each disability creates different challenges and different needs.

Unfortunately, our initial responses to people with disabilities often are formed by stereotypes and myths. It takes training to recognize and reject such responses. Very often, the first step is to learn a new vocabulary that conveys respect and avoids offense. (See p. 24 for some people-first language guidelines.)

When justice is inaccessible, the simple result is injustice. The need to eliminate barriers preventing access to our courts is real and immediate.

Ensuring equal access to justice chiefly depends on understanding that people with disabilities are people. They are not medical diagnoses like cerebral palsy; they are not devices like wheelchairs. They adapt to their disabilities and live their lives — go to school, work, get married, have families, shop for groceries, laugh, cry, vote, pay taxes, come to court — just like everyone else. Most people with disabilities prefer to be responsible for themselves. If we believe people have a right to equal justice, and if we remember that all of us can contribute to change, things will work out.

Providing Access
What constitutes a reasonable accommodation depends upon the particular circumstances. Here follows an introduction to four common kinds of disabilities.

Hearing or Other Communication Disability
Hearing loss varies greatly. A person with mild hearing loss may not be greatly affected in the activities of daily living. Once hearing loss is at a moderate level, however, it is likely that a person will
misunderstand speech. Assistive technology can bridge the communication gap. Those with profound hearing loss will likely need interpreters.

Communication disabilities may have many causes, including medical, developmental, or other conditions. A stroke or accident can affect speech or hearing, illness can alter speech patterns, and some conditions such as autism can prevent voiced communication.

The key to providing solutions: Never assume that one solution will accommodate every person with a communication disability. In choosing among different alternatives, courts must try to abide by the preference of the person needing the accommodation. The ADA requires public entities to give “primary consideration to the requests of the individual” in deciding what auxiliary aid or service is necessary to ensure that communications with persons with disabilities are as effective as with other persons. 35 C.F.R. § 35.160(b)(2).

Most people with hearing loss or communication disorders use some type of sign language or assistive technology in order to communicate effectively. Courts must provide a qualified interpreter or other effective assistive technology at every stage of a proceeding for persons who are deaf, deaf/blind, or hard of hearing, and should make this capacity known to the public. RCW 2.42.180 gives the court discretionary authority to order visual recording of a proceeding in involving a person with a hearing loss, and makes visual recording mandatory in capital cases.

Vision Disabilities
Vision limitations also vary greatly, and may range from mild to moderate losses of visual acuity to tunnel vision, night blindness, or color blindness, to total lack of sight. Appropriate accommodations will be similarly varied, depending upon the specific nature and level of impairment. Only 10 to 15 percent “see” total darkness. The majority can distinguish light, color, and/or form. Enabling access for those with visual disabilities requires consideration of both communication and physical barriers.

Mobility Limitations
People with mobility limitations may encounter obstacles getting to and entering the courthouse, or getting around once inside. The ADA mandates the “readily achievable” removal of architectural and structural barriers unless programs can be made accessible in some other way. 42 U.S.C. §§ 12182(2)(A)(iv), (v). Whether or not barriers exist, courts should ensure a continuous, unobstructed route from accessible public transportation and parking through an accessible public entrance into the areas where court services are conducted.

The ADA does not necessarily require that each courtroom, office, or restroom be barrier free. Rather, the services and accommodations of the courthouse, viewed as a whole, must be readily accessible and usable by people with disabilities. 28 C.F.R. §§ 35.130(a), 35.150(a). When it is not feasible to serve a person in the same place others are served, the person must be served in the most appropriate integrated setting. 18 C.F.R. § 35.130(d).

Cognitive and Other Mental Disabilities
People with cognitive and other mental disabilities often encounter paternalistic...
attitudes and condescending responses. They may therefore be unwilling to acknowledge a need for help, and may be suspicious or skeptical about offers of help. At other times, the presence of a mental disability may go unrecognized, and behavior may be misinterpreted.

Many conditions can affect learning and decision-making: cerebral palsy, autism, and Down syndrome; traumatic brain injuries; epilepsy or other seizure disorders; or mental illness, to name just a few. Individuals with these disabilities may be of normal intelligence or may have cognitive limitations. The major barriers to access for persons with cognitive disabilities are unnecessary complexity and ineffective communication.

The vibrancy of our Democracy depends upon our willingness to ensure that the fullest range of voices and interests is represented and heard. This is what the fight for equal justice is all about.

— Justice Robert F. Utter, Washington State Supreme Court (Retired)

Special Accommodation Issues

Guide dogs and service animals

Guide dogs are the most widely recognized kind of service animal, but people with many types of disabilities use animals for assistance. A service animal must be allowed in any area open to the public, including courtrooms.21

A service animal is “an animal that is trained for the purpose of assisting or accommodating a disabled person’s sensory, mental or physical disability.” RCW 49.60.040(23). Service animals may alert a person to sound, pull a wheelchair, carry or fetch things, alert its owner to a seizure or other health issue before the owner is aware of symptoms, or alleviate anxiety by engaging in specific behaviors.25

A service animal is not required to wear a cape, special harness, or other equipment, and there is no requirement that a service animal be licensed or certified as such by any government agency. Where the purpose of the animal is unclear, it is permissible to ask whether the animal is needed because of a disability, and what tasks the animal has been trained to perform. In most cases, court personnel should accept a person’s statement that the animal is a service animal. The person using the animal is responsible for supervising the animal, and a service animal can be excluded if it poses a threat to property or to other people.

Valuable guidance may be found in the Department of Justice publication Commonly Asked Questions About Service Animals in Places of Business.26

Companion animals

Individuals with disabilities are sometimes accompanied by a pet that has no specialized training but may provide relief from anxiety. For example, a companion animal may help persons with extreme fear of crowds avoid panic attacks in public places. Although untrained animals are not entitled to the protection mandated by the service animals statute, treating untrained animals as service animals may constitute a reasonable accommodation in some circumstances.27

Support persons

Many people with disabilities, especially those with cognitive disabilities, are intimidated or confused by court proceedings. When such individuals are involved in court proceedings without representation, the assistance of someone they know well, or who is skilled at explaining court proceedings in simple terms, may constitute a very effective accommodation. Support persons may explain paperwork or follow-up obligations, or identify signs of confusion or misunderstanding, or may simply reduce the anxiety of court proceedings.

Cautions: It is the prerogative of the individual to accept or refuse such assistance. Further, the presence of a support person during attorney-client communications may have an impact on privilege in certain circumstances. See 14 A.L.R. 4th 594. Applicability of Attorney-Client Privilege to Communica-

Multiple challenges compound

Many who are entitled to ADA accommodation also face other barriers and obstacles to the justice system, so that their difficulties compound. Such barriers or disparate treatment may result from age, religion, ethnicity or race, social class, sexual orientation, nationality, gender, or language. The findings of the Washington State Civil Legal Needs Study tell us that people who have disabilities experience discrimination more than other groups, and that many will be without financial resources as well. When disability is compounded by other factors, the situation will be more complex and difficult, and the accommodations needed may be affected. How we respond in such complex situations will likely have lasting consequences.

Accommodation Plans for Washington Courts

There is much courts can do to provide the necessary access for people with disabilities. The following steps are rec-
commended:

1. Read the Guide.
2. Review current practices throughout the courthouse and courtrooms in an objective, self-aware, and critical manner.
3. Provide education about understanding and accommodating disabilities, and train everyone working in the court system to be ready to help all people achieve effective access to the court.
4. Adopt an accommodation plan, which should include the following steps:

   - Ensure that persons with disabilities and/or the organizations representing them have the opportunity to participate in formulating the plan.
   - Identify an ADA coordinator;
   - Identify physical barriers, formulate solutions, and provide for emergencies.
   - Educate judicial officers and staff, as described above.
   - Identify assistive-technology aids, acquire and install them, and train staff in their use.
   - Disseminate information about available accommodations.
   - Establish and publicize a procedure by which accommodation may be requested and swiftly investigated.
   - Identify accommodations frequently requested, and ensure they are ready at hand.
   - Identify someone to be the assistive technology expert.
   - Identify someone to be the link to outside disability organizations;
   - Prepare and maintain a directory of current local services available to assist the court in providing accommodations.
   - Review court forms and procedures, and amend as needed.
   - Establish a procedure for receiving and acting upon complaints.
   - Regularly review and update the plan.
   - Assign one individual with overall responsibility for the plan.

The details of each accommodation plan will depend on the specific barriers of each courthouse and programs, but it may help to think about providing access in different stages:

**Short-term goals:** Consider how to provide immediate access by relocating services and informally consulting with disability groups on how to meet needs on a case-by-case basis. Review policies and procedures to identify easily made changes to enhance access. Consult with community experts to develop “fast fixes.”

**Medium- and long-term goals:** Perform a full architectural survey of barriers and make a careful assessment of barriers
posed for different disabilities. Develop a budget and schedule for implementing changes. Ensure that future structural changes incorporate the needs of people with disabilities. Evaluate technology and assistive devices, and maintain relationships with the local community for regular advice and feedback.

**Conclusion**

First, a reminder: The Guide addresses only the most common disabilities. Many other disabilities — some of them invisible — affect persons in our courts. These may include seizure disorders, AIDS or other serious illness, multiple sclerosis, etc. Be alert. All of us in the justice system are in this together. We must and we can make our courts accessible to those with disabilities. If we share our ideas and experiences, and if we are creative — perhaps by starting "banks" of assistive devices to be shared among courts, or publishing bibliographies, or building websites for exchanging suggestions and successes — we will get it done.

Finally, remember to consult those of us living with disabilities as you work to ensure our access.

**NOTES**

4. Many county and city ordinances also prohibit discrimination on the basis of disability.
5. "To provide for a single definition of "disability" that can be applied consistently throughout the WLAD, we adopt the definition of disability as set forth in the federal Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12101-12209. We hold that a plaintiff bringing suit under the WLAD establishes that he has a disability if he has (1) a physical or mental impairment that substantially limits one or more of his major life activities, (2) a record of such an impairment, or (3) is regarded as having such an impairment." McClarty v. Totem Elec., No. 75024-6, 2006 Wash. LEXIS 504 at *7 (July 6, 2006).
6. RCW 2.42 governs and mandates the use of interpreters in legal proceedings for persons who are deaf. RCW 2.43 governs and mandates interpreters for those who do not speak English.
7. See RCW 4.60.040(10); Duwall v. County of Kitsap, 260 F.3d 1124, 1135-1136 (9th Cir. 2001) (implicitly holding that courts are places of public accommodation under Washington statutes).
9. 28 C.F.R. § 35.150(a)(3).
10. 28 C.F.R. § 35.130(b)(7).
11. 28 C.F.R. § 32.130(b)(7).
12. The ATJ Impediments Committee has proposed a court rule setting forth a procedure for requesting accommodation. The rule has been endorsed by the ATJ Board and was approved in April 2006 by the WSBA Board of Governors. The rule is now pending before the Washington State Supreme Court.
13. 28 C.F.R. § 35.130(f).
14. The Rehabilitation Act of 1973 has long required recipients of federal funding to undertake many of the same responsibilities as public entities under Title II of the ADA. 29 U.S.C. § 794.
17. At least one federal circuit has held there is no judicial immunity from prospective and injunctive relief when a judge violates the ADA. See Livingston v. Guice, 68 F.3d 460 (4th Cir. 1995) (unpublished; see Westlaw WL 610355). (Note: Facts are reported in Livingston v. Guice, 855 F. Supp. 834 (W.D.N.C. 1994).)
18. Duwall contains a useful discussion of the interplay between the federal and state statutes, and sets forth the tests to be applied in 9th Circuit cases analyzing Title II claims, including the test for proof of intentional discrimination to support claims for money damages (the deliberate indifference standard).
19. This publication is available from the Administrative Office for the Courts, 1206 Quince Street SE, PO Box 41170, Olympia, WA 98504-1170; (360) 753-3365; Fax (360) 586-8869.
20. See WAC 16-26-060(2).
21. See 28 C.F.R. § 35.160(b)(1); RCW 2.42.130, 140 (delineating between "qualified" and "intermediary" interpreters, and stating when and from what sources they are to be appointed); GR 11.1 (setting forth a code of conduct for court interpreters in Washington). See also: RCW 26.50.55 (interpreters to be appointed as necessary in domestic violence proceedings).
23. The ADA Accessibility Guidelines for Buildings and Facilities (ADAAG) provide standards for assuring that corridors and public areas can be used safely by people with visual disabilities. ADAAG 4.4 addresses objects that protrude into walkways. ADAAG 4.30.4 deals with raised and Brailled characters and pictorial symbol signs (pictograms). ADAAG 4.30.5 deals with the finish and contrast for word signs. Location and mounting of signs is covered by ADAAG 4.30.6.
24. The Seattle Office for Civil Rights recently awarded a $21,222 judgment to a woman who was required to leave her dog outside while patronizing a convenience store. Seattle Times, May 3, 2005, "Woman wins bias case over service dog". Jennifer Sullivan.
27. Another category is therapy animals, which are specially trained to go into healthcare facilities to provide therapeutic contact with patients. Information about therapy animals is available from the Delta Society, http://deltasociety.org. See also, Service Dog Tasks for Psychiatric Disabilities, Joan Froling, http://iaadp.org/psd_tasks.html.
28. CH 381, 2005 Laws, effective July 24, 2005, codified at RCW 7.69B.
29. See HB 2126 § 1, 2(2) and RCW 9A.42.010.
Guide to Etiquette and Behavior for Working with People with Disabilities

Remember that you are not working with disabilities; you are working with people who have disabilities. Please consider the following general guidelines as a starting point when working with people with disabilities.

- **Use common sense.** People with disabilities want to be treated with respect, as does everyone. Remember, a person is a person first, the disability comes second.

- **Don’t be patronizing.** Show the person the same respect that you expect to receive from others. Treat adults as adults.

- **Be considerate and patient.** A person with a disability may require more time to communicate, to walk, or to accomplish various tasks.

- **Don’t be afraid to offer assistance.** If the person looks as if he or she needs assistance, ask if there is something you can do. Wait until the offer is accepted, then listen or ask for instructions.

- **Communicate directly** with the person. Do not communicate directly to the person’s interpreter, companion, or assistant. If the person wishes, the companion or assistant can offer suggestions to help you communicate effectively.

- **Listen attentively** and wait for the person to finish speaking. If you have difficulty understanding, ask short questions that require short answers or a nod of the head. Never pretend to understand; instead repeat what you understood and allow the person to respond.

- **Use plain language** in explanations and questions. Avoid jargon, terms of art, and acronyms. If you must use these terms, provide an explanation each time you use them.

- **Be patient with yourself in learning the specific needs** of each person. Don’t be embarrassed if you find yourself doing or saying the wrong thing. Just apologize and continue with good intentions to learn what to do in the situation.

- **Don’t make assumptions** based on appearance. An individual’s abilities — and disabilities — aren’t always obvious. Many disabilities are hidden, such as epilepsy.

- **Respect** the person’s adaptive aids and equipment. A wheelchair is part of an individual’s personal space — don’t lean on it! A service animal is doing a job — don’t treat it as a pet!

- **Use these guidelines** unless someone with a disability tells you they want something done a different way.

*Information compiled by Washington Protection & Advocacy System*
People-First Language Guidelines

When referring to a person’s disability, use People-First language.

**People-First Language**

- People with disabilities
- A person with a cognitive disability
- He has autism
- She has Down syndrome
- He has a learning disability
- I am deaf, hard of hearing
- She has a physical disability
- She has a mobility disability
- He has low vision; he is blind
- She has an emotional disability
- He uses a wheelchair
- A person without a disability
- He receives special-education services
- Congenital disability
- Accessible parking, bathrooms, etc.
- She needs support for ...

**Do Not Use**

- The handicapped; the disabled
- The mentally retarded; retarded; mental retardation
- Autistic
- Down’s kid; mongoloid
- Learning disabled; slow learner
- Hearing impairment
- Crippled; invalid; victim of
- stricken with; suffers from; afflicted with; impaired
- Emotionally disturbed; crazy; psychotic
- Wheelchair bound; confined to a wheelchair
- Normal person; whole person
- Special-education kid
- Birth defect
- Handicapped parking, bathrooms, etc.
- She has a problem with ...

- Do not refer to a person’s disability unless it is relevant.
- Use “disability” rather than “handicap” or “impairment” to refer to a person’s disability.
- Avoid negative or sensational descriptions of a person’s disability.
- Do not use “normal” to describe people without disabilities; instead say people without disabilities, if comparisons are necessary.
- People with disabilities have very diverse abilities and characteristics. Avoid making assumptions or generalizations about their level of functioning.
- Do not describe people with disabilities who excel as overly courageous, brave, special, or super human.
- Specific disability-related information may be confidential.

*Information compiled by Washington Protection & Advocacy System*

Resources

Websites

**Technology website:** The University of Washington Center for Technology and Disability Studies, the Access to Justice Board’s ATJ Technology Bill of Rights Committee, and the Washington Assistive Technology Alliance have developed a wonderful and very practical website designed to make it easy to identify, obtain, and use technology tools to improve access to justice. It is comprehensive and excellent, and can be used by anyone, including those who work in the courts.

[www.jystery-AT.uwctds.washington.edu](http://www.jystery-AT.uwctds.washington.edu)

**Local government website:** The King County Office of Civil Rights has developed a website to assist courts in providing access for persons with disabilities. It contains text files regarding etiquette, communication, and formats for printed materials.

[www.metrokc.gov/dias/ocre/courts.htm](http://www.metrokc.gov/dias/ocre/courts.htm)

Guidance Materials

**The United States Access Board**

Phone: 800-872-2253, 202-272-0080; TTY: 800-993-2822, 202-272-0082; Fax: 202-272-0081

[www.access-board.gov](http://www.access-board.gov)

The Access Board, a federal agency, offers a variety of useful publications that can help courts to identify and correct architectural barriers. These are available on their website. The Board also provides training and technical assistance. Among the publications are reports, detailed explanations and diagrams of ADAAG, and technical bulletins.

**U.S. Department of Justice**

ADA Information and Technical Assistance

Phone: 800-514-0301; TTY: 800-514-0383

Useful Federal Regulations

- Electronic and Information Technology Accessibility Standards, 36 CFR Part 1194
- Telecommunications Act Accessibility Guidelines, 36 CFR Part 1193

Agencies and Organizations

National Center for State Courts: Court Services Division
Phone: 800-466-3063, 303-293-3063; Fax: 303-296-9007

Provides technical assistance and consulting on ADA compliance for all levels of state courts.

National Association of the Deaf
Phone: 301-587-1788; TTY: 301-587-1789; Fax: 301-587-179
E-mail: NADInfo@nad.org
www.nad.org

Provides information and answers to frequently asked questions on its website.

The ABA Commission on Mental and Physical Disability
www.abanet.org


Washington Governor’s Committee on Disability Issues and Employment
Olympia Office:
Phone: 360-438-3168; TTY: 360-438-3167; Fax: 360-438-3208
Spokane Office:
Phone: 509-482-3851; TTY/Fax: 509-482-3852

Provides advice on disability issues and concerns, and makes recommendations to address those concerns, with emphasis on increasing opportunities for independence and employment.

Northwest ADA Business and Technical Assistance Center
Phone: 800-949-4232
www.wmwwda.org

Provides consultation, technical assistance and training on the Americans with Disabilities Act, other disability-related laws, or accessible information technology.

Washington State Human Rights Commission
Phone: 800-233-3247; TTY: 800-300-7525
www.hum.wa.gov

Sponsors many different free education forums, including direct training seminars, publications and brochures on the Washington State Law Against Disability Discrimination.

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www.wpas-rights.org

**Washington State Office of Administrative Hearings**

Phone: 800-558-4857; 360-664-8717

**National Alliance on Mental Illness (NAMI)**

Phone: 425-990-6404; Helpline: 800-782-9264
A statewide organization with 25 local affiliates. Provides advocacy, public education, training, and support for people with mental illness and their families.

**ARC of Washington State**

Phone: 360-357-5596, 888-754-8798; Fax: 360-357-3279
www.arcwa.org

A statewide organization with 11 local affiliates. Provides advocacy and training for people with developmental disabilities and their families.

**People First of Washington**

Phone: 800-758-1123; Fax: 509-758-1289
An organization of people with developmental disabilities, with local chapters.

**Self-Advocates of Washington**

Phone: 253-565-3091
An organization of people with developmental disabilities in the Tacoma area.

**Centers for Independent Living**

Accommodations for people with disabilities.

**Alliance of People with disabilities**

(Formerly Washington Coalition of Citizens with Disabilities)
Phone: 866-545-7055, 206-545-7055; TTY: 206-632-3456; Fax: 206-535-7059
E-mail: info@disabilitypride.org
www.disabilitypride.org
Coalition of Responsible Disabled
Phone/TTY: 509-326-6355; Fax: 509-327-2420
www.cord.wa.info

DisAbility Resource Connection
Phone/TTY: 425-347-5768; Fax: 425-710-0767
E-mail: drcnet@drconline.net
www.drconline.net

Disability Resources of Southwest Washington
Phone: 360-694-6790; Fax/TTY: 360-882-1324
E-mail: disabilityresources@darswa.com

Cowlitz and Wahkiakum counties:
Phone: 360-425-0340

Resources for the Deaf and Hard of Hearing

National Association of the Deaf
Phone: 301-587-1788; TTY: 301-587-1789; Fax: 301-587-1791
E-mail: NADInfo@nad.org
www.nad.org

Provides information and answers to frequently asked questions on its website.

Department of Social and Health Services: Office of the Deaf and Hard of Hearing
Phone/TTY: 800-422-7930; 360-902-8000; Fax: 360-902-0855
D-Link Video Phone IP Address: 209.181.93.249
D-Link Video Phone: 509-328-3728
E-mail: odhh@dshs.wa.gov
www.odhh.dshs.wa.gov; www.dshs.wa.gov/hrsa/odhh

Washington Relay Service
Dial 711
www.washingtonrelay.com

Community Service Center for the Deaf and Hard of Hearing
Serves King, Snohomish, Jefferson, and Clallam counties.
Phone/TTY: 877-301-0006; 206-322-4996; Fax: 206-720-3251

E-mail: CSCDHH@cscdhh.org
www.cscdhh.org

Eastern Washington Center for the Deaf and Hard of Hearing
Serves Okanogan, Douglas, Lincoln, Ferry, Chelan, Pend Oreille, Stevens, Spokane, Whitman, and Grant counties.
Phone/TTY: 509-328-9220; Fax: 509-327-4266
E-mail: ewcdhh@ewcdhh.org
www.ewcdhh.org

Interpreter Services:
Phone: 509-328-3728
E-mail: Interpreter@ewcdhh.org
D-Link Video Phone: 509-329-3323
D-Link Video Phone IP Address: 64.3.28.96

Hearing Speech and Deafness Center
Serves Whatcom, King, Island, San Juan, Skagit, and Snohomish counties.
Phone/TTY: 206-323-5770; Fax: 206-328-6878

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E-mail: info@bellingham.hsdc.org
D-Link Video Phone IP Address: bham.hsdc.org
D-Link Video Phone: 360-647-8508
www.hsdc.org

Southeastern Washington Service Center for the Deaf and Hard of Hearing
Phone: 888-543-6598, 509-543-9644; TTY: 800-543-9649, 509-543-9649; Fax: 509-543-3329
E-mail: vizz@sewscdhh.org
D-Link Video Phone IP Address: 65.160.146.138
D-Link Video Phone: 509-543-9644
www.tefn.org/deafcenter

Yakima Satellite Office:
Phone/TTY: 509-469-1845; Fax: 509-469-3965
www.tefn.org/deafcenter

Southwest Washington Center for the Deaf and Hard of Hearing
Serves Clark, Skamania, Lewis, Pacific, Cowlitz, and Wahkiakum counties.
Phone: 360-695-3364; TTY: 360-695-9720; Fax: 360-695-2706
D-Link Video Phone IP Address: 66.92.192.245 or vp.swcdhh.org
D-Link Video Phone: 360-695-0010
www.swcdhh.org

Tacoma Area Coalition of Individuals with Disabilities
Serves Pierce, Thurston, Grays Harbor, Mason, and Kitsap counties.
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Sign Language Interpreter Referral Agencies

The following agencies have contracts with Washington state to provide American Sign Language services as of April 2006. Other agencies may also exist. To schedule an interpreter, contact one of the agencies listed below, or contact the State Office of the Deaf and Hard of Hearing.

ASI. Professionals
Phone: 253-759-7653; Fax: 253-761-8936
E-mail: aslprofessionals@harbornet.com

Conner, Luanne
Phone: 360-576-7777; Fax: 360-258-3140
E-mail: dljconner@comcast.com

Dynamic Language CTR, Ltd.
Phone: 206-244-6709; Fax: 206-243-3795
E-mail: asl@dlc-usa.com

Eastern Washington Center for the Deaf and Hard of Hearing
Phone: 509-328-3728
E-mail: nancy@ewcdhh.org

Private Valuations, Inc.
1800 – 112th Avenue N.E.
Suite 302E
Bellevue, Washington
98004

Adrien E. Gamache, Ph. D., President
Mark H. Wellington, ASA, Technical Director

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Call for references and qualifications
425-688-1700 • 425-450-9990 FAX

Northwest Interpreters, Inc.
Phone: 360-600-5485; Fax: 360-566-0453
E-mail: vm@emarcus.net

Signing Resources & Interpreters, LLC
Phone: 877-512-2246; Fax: 877-512-2246
E-mail: deborah@signingresources.com

SignOn: A Sign Language Interpreter Resource
Phone: 206-632-7100; Fax: 206-632-0405
E-mail: vm@emarcus.net

Southeast Washington Service Center of the Deaf and Hard of Hearing
Phone: 509-543-9644; Fax: 509-543-3329
E-mail: jennsewsc@abs-inet.net

Universal Language Service, Inc.
Phone: 888-462-0500; Fax: 877-516-4347
E-mail: unilang@gte.net

Suggested Reading/Video Materials

Baynton, Douglas. Forbidden Signs: American Culture and the Campaign Against Sign Language.

Biesold, Horst. Crying Hands Eugenics and Deaf People in Nazi Germany.

Charlton, James I. Nothing About Us Without Us: Disability Oppression and Empowerment.

Condeluci, Al. Interdependence: The Route to Community.

Gallagher, Hugh G. By Trust Betrayed.


Johnson, Allan G. Power, Privilege and Difference.

Johnson, Mary. Make Them Go Away: Clint Eastwood, Christopher Reeve and the Case Against Disability Rights.

Liachowitz, Claire. Disability as a Social Construct: Legislative Roots.


Montana Advocacy Program. Hidden in Plain Sight: A Disability Awareness Video.


Pernick, Martin S. The Black Stork.

Scotch, Richard. From Good Will to Civil Rights: Transforming Federal Disability Policy.

Shapiro, Joseph. No Pity.

Thomson, Rosemarie Garland. Extraordinary Bodies.

Treanor, Richard. We Overcame: History of the Civil Rights of the Disabled.
What Have You Done (Reported) Lately?

by Dan Young

What did former presidents George H.W. Bush and Bill Clinton have in common? They each made an appeal to volunteerism to help the nation’s poor: the senior Bush in his “thousand points of light” acceptance speech at the Republican National Convention in 1988, and Clinton in creating the community-service-oriented AmeriCorps program.

Lawyers have a special responsibility to engage in similar volunteerism: service pro bono publico. This special responsibility has been recognized by the bar’s history of nearly 400 years of pro bono service. Although the legal landscape has changed considerably from the 1600s in England to modern times in America, Reginald Heber Smith’s classic observation in *Justice and the Poor* (1919) that “the rich and poor do not stand on an equality before the law” remains true today. The American Bar Association Task Force on Access to Civil Justice recently noted that more than 50 million people have incomes so low that they are eligible for legal services from Legal Services Corporation-funded programs, and “millions more survive on incomes so low they cannot afford lawyers when in serious legal jeopardy.”

Closer to home, the Task Force on Civil Equal Justice Funding sponsored by the Washington State Supreme Court concluded in its Civil Legal Needs Study of 2003 that approximately 87 percent of low-income households in Washington state experience a civil legal problem each year, with some experiencing several problems. Frequently these problems relate to matters affecting core issues — shelter, income sustenance (either through employment or government benefits), safety, access to appropriate healthcare, child custody, and domestic violence. Altogether, low-income people have more than a million important legal problems a year. The injustice is that low-income people face 88 percent of their legal problems without help from a lawyer.

There is a network in place to try to deal with these unmet legal needs. The Washington State Alliance for Equal Justice, composed of Columbia Legal Services; the Northwest Justice Project; and specialty legal services programs such as TeamChild, Northwest Immigrant Rights Project, Unemployment Law Project, and county pro bono programs, delivers legal services to those needing it. The Access to Justice Board (ATJ), established by our state Supreme Court, develops policy for addressing and meeting the civil legal needs of the poor. The ATJ Board has a standing committee, the Equal Justice Coalition, which acts as the principal voice of the Board and the Alliance on matters relating to funding legal-aid programs. The WSBA hosts and funds the ATJ Board and its committees, whose aim is to eliminate the barriers impeding the poor’s access to civil legal services.

Ultimately, all of these legal services have to be provided by individual lawyers — those in private practice, a corporate environment, the Attorney General’s Office, or a legal-services organization. The ATJ Board has very recently revised the State Plan adopted in 1999 to implement the delivery of legal aid to low-income people in Washington. This plan supports the efforts of volunteer lawyers to provide free legal aid to low-income people across the state.

Most lawyers are aware of the implementation of RPC 6.1, which asserts that “[e]very lawyer has a professional responsibility to assist in the provision of legal services to those unable to pay.” A lawyer should “aspire” to a goal of at least 30 hours per year of pro bono work. Although the rule does not explicitly favor (a) direct representation of, and advice to, clients over (b) bar committee work, giving advice to general nonprofit organizations, etc., only the former category has a direct impact upon those low-income individuals faced with pressing legal problems.

How can you fulfill this aspirational goal? First, you obviously have to find a low-income client who needs the legal services you are able to provide. The public-service Advocate Resource Center, known as the ARC, makes available on its website (www.advocateresourcecenter.com) the *Washington State Pro Bono Opportunities Guide*, a joint project of Seattle area pro bono coordinators, Northwest Women’s Law Center, Davis Wright Tremaine LLP, Perkins Coie LLP, and the Unemployment Law Project. The ARC has available...
not only volunteer and *pro bono* listings, but also thousands of library resources, training materials in many subject areas, e-mail lists, and more. Membership is free and open to lawyers actively taking *pro bono* cases. At the ARC website, any lawyer desiring to meet or exceed his or her aspirational goal is only a few mouse clicks away from obtaining both an appropriate *pro bono* opportunity, and backup training and support in an area of law that may not be that familiar.

Transactional lawyers may find a “no stress” introduction to doing *pro bono* work at another website (www.corporateprobono.org). This site provides detailed information on corporate best practices, in-house *pro bono* policies, and other *pro bono* resources. Business lawyers may also wish to volunteer through Washington Attorneys Assisting Community Organizations (WAACO) (www.waac.com) (Be careful to pronounce the acronym “wahco,” not “whacko!”)

Another helpful site is www.probono.net, which is an online resource for *pro bono* lawyers across the country. The site provides online support and resources to its members, including news; calendars of training and events; volunteer opportunities, member-driven e-mail lists; and online libraries of training manuals, model pleadings, and other practice materials.

Law firms of all sizes have a major role in supporting *pro bono* opportunities for their lawyers, associates, and staff. The Challenge (www.probonoinst.org) asks participating law firms to follow a set of basic principles: support *pro bono* participation; focus on providing access to the justice system for those of limited means; ensure that partners and associates alike contribute; provide a broad range of opportunities for lawyers and monitor their progress; recognize the obligation of major firms to contribute financial support to *pro bono* organizations; and strive to commit three to five percent of billable hours to *pro bono* endeavors. Many Seattle law firms actively support *pro bono* work and some have accepted the Challenge. Has your firm accepted the Challenge?

Are you motivated to reduce gun violence or defend reasonable gun legislation? Then www.gunlaws.org may offer an opportunity. Are you concerned about the political situation in Tibet? Then www.tibetjustice.org which works on international law issues affecting the Tibetan people, may beckon. If none of these organizations excite your passion, search a list of *pro bono* organizations by state at the ABA website (www.aba.net.

Volunteers know that those who give benefit far more than those who receive. In addition to satisfaction, those who fulfill their aspirational goal may even obtain tangible benefits: CLE credits.

Transaction lawyers may find a “no stress” introduction to doing *pro bono* work at another website (www.corporateprobono.org). This site provides detailed information on corporate best practices, in-house *pro bono* policies, and other *pro bono* resources. Business lawyers may also wish to volunteer through Washington Attorneys Assisting Community Organizations (WAACO) (www.waac.com) (Be careful to pronounce the acronym “wahco,” not “whacko!”)

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According to a 2004 survey of 1,100 lawyers by the American Bar Association’s Standing Committee on *Pro Bono* and Public Service, two-thirds of lawyers said they provided *pro bono* legal services to the poor over the previous year. They spent an average of 39 hours providing those free services. How do Washington lawyers measure up? It is difficult to tell, primarily because such a small percentage of WSBA lawyers report *pro bono* hours. In 2004, only 200 out of 36,000 Maryland lawyers did not report on their *pro bono* work. However, in Washington in 2005 only 3,777 of some 30,000 WSBA members did report their *pro bono* hours. While reporting is strictly voluntary, the number of *pro bono* hours is valuable in assessing the capacity of lawyers to meet the civil legal needs of the poor and in measuring our progress. It also helps tell our story to the public. There is no harm in the acknowledgment that lawyers have lived up to the historically high ethical and professional aspirations of their calling. As Senator Jacob Javits was fond of saying, “The quest for justice is man’s greatest calling.”

The WSBA recognizes those lawyers who in 2005 reported 50 or more hours of *pro bono* work. There were 1,479 lawyers, or nearly 40 percent of lawyers reporting, who are eligible to receive a certificate of appreciation. Of those, 452 apparently either wished to remain anonymous, or simply forgot to write their names on the reporting form. So 1,027 certificates will be presented in recognition of the importance of those *pro bono* hours to the recipients, and the positive impact those hours have on access to justice. While we all have to make a living, if each one of us met our annual *pro bono* aspirational goal, and reported it, then the Bar as a group could feel proud of our collective efforts.

Is your name on the following list (other than the 452 anonymous providers)? Did you report your hours? It would be nice to demonstrate objectively that volunteerism in America — and among lawyers in particular — is not dead, and that our former presidents were on the right track. We can do well by doing good.

Dan Young is chair of the WSBA Pro Bono and Legal Aid Committee. He serves as a director of Verity Credit Union and is a volunteer at the KCBA downtown Spanish legal clinic. Mr. Young is a sole practitioner primarily involved in litigating landlord-tenant, real estate, and consumer issues. He can be reached at danryoung@netzero.net or 206-292-8181.

NOTES

WSBA Members Reporting 50 or More Hours Pro Bono Service in 2005

A

Ajay Bhatt
Robert C. Bibb
W. James Biederman
Sharon Jean Blackford
Tucker F. Blair
Nicole D. Blake
Alan T. Blotch
Ahndrea L. Blue
David Boerner
Gloria J. Bolino
Julia Mayer Bolz
Marc Allen Boman
George Edward Bonini
Jeanette Whitcomb Boothe
Kristin Johanna Boraas
Annette M. Borell
Mardi Jo Boss
Patricia Lynn Bostrom
Bridge Bourgette Shaw
Katherine Thomas Bove
Ben Harlan Boyd
Heidi Brooks Bradley
Richard D. Brady
Michelle M. Branigan
Kerry J. Breen
Gayle A. Murray Brenchley
Roy G. Brewer
Joseph E. Bringman
April Boutillette Brinkman
Roxane Broadhead
Lisa Ellen Brodoff
Camerina L. Brokaw-Zorrozua
Joshua C. Allen Brower
Ari Y. Brown
Daniel J. Brown
Jennifer L. Brown
Kimberly D. Brown
Lora Lorraine Brown
Michael Serizawa Brown
Andrew Bryant
Fred Ellis Bryant
Debra C. Buchanan
Lynne Margaret Buchanan
Jonathan Flagg Buchtcher
David Douglass Buck
Britton A. Buckley
Charles Henry Buckley
Michael William Bugni
Philip James Buri
Muriel M. Burke
David John Burman
Joseph M. Burrowes
Tierra A. Busby
Louis Broderick Byrd
Stanley Richard Byrd

B

William John Carlson
Stephen Thomas Carmick
Dennis Paul Carroll
Joseph Grant Carroll
Robert Mckinley Carter
Roderic Alan Carucci
Matthew Aaron Carvalho
John M. Cary
Jess Gregory Casey
Lianne E.F. Caster
James Aldon Cathcart
Cecilia K. Cervantes
Steven John Chance
Rebecca Chapman
Yvonne K. Chapman
Robert H. Chavez
Alan Chertok
Lisa Huang-Yee Chiang
John Joseph Chihak
Carol Lee Childress
Sharon Elizabeth Chiritchillo
Roberta Sue Church
Patricia Joan Chvalat
Samuel Ciapanna
Frank Louis Cikutovich
Daniel N. Clark
Karen A. Clark
Julia Parsons Clarke
Owen F. Clarke
Jamie Corrine Clausen
Bruce Clement
James Michael Cline
Michael J. Clinton
David Van Ham Cohen
Robert Michael Cohon
Richard Alan Cole
Benjamin Sanford Coleman
Kenneth H. Coleman
Ronald L. Coleman
Beth Ann Colgan
Ryan Wesley Collier
Michael T. Connors
Teresa Lynn Conlan
John Stanley Conniff
Jeffrey Coopersmith
Carrie M. Coppinginer Carter
Cecilia Ann Cordova
Barbara L. Corey
Adam Cornell
David Carl Cottingham
Jennifer Mary Coughlin
Neil Presley Cox
Stephen Joel Crane
Ralph Eric Crear
Derick D. Crichton
Shelly Crotchet
Michael L. Crofts
Jeff B. Crollard
Christine Crowell
Angela Alberola Cuevas
James Donald Curran
Melody Ann Curtiss
Gregory Brian Curwen

C

Jacob Dylan D’Annunzio
Madeleine E. Dabney
Richard L. Dabney
Gregory Raymond Dallaire
Brian James Dano
John Henry Darrow
Kaustuv Mukul Das
Scott L. David
Bruce Scott Davis
Jon Brian Davis
Noah Christian Davis
Paul Matthew Davis
Katherine A. Davis-Delaney
Richard Albert De Clerck
Stephen E. DeForest
Deborah Swander de Ponce
Brent Adrian De Young
Deborah K. Dean
Steven L. Defoe
Marta Uballe DeLeon
Bernice Cecelia Delorme
Frank C. DeMarco
Rodrick Dembowski
Curran Christopher Dempsey
Charles Wayne Dent
Carolyn Louise deRoos
Elizabeth Colette Derrick
Alexander D. DeVitis
Julian Correll Dewell
Ellen Conedera Dial
Jeffrey F. Dickerman
Matthew Diggs
Paul A. DiNenna Jr.
Jennifer Suzanne Divine
Thi D. Do
John Hatton Doherty
Justin Dolan
Susan K. Donaldson
Alfred E. Donohue
Robert Joseph Downey
Stephan Dwight Downing
Allen Bruce Drahmer
Catherine A. Drews
Bill Jones Druffel
Bayburn K. Dudenhostel
Cheryl Lynn Duffy
Fuchia Campbell Dulan
Jacques M. Dulun
Patrick Winston Dunn
Lorri Anne Dunsmore
Timothy Michael Durkin
Elaine Dyce
Janis Marie Dyer
Robert John Dziela

D

C. Scott East
Leo Thomas Eberle
Ernest M. Edsel
Lloyd G. Edwards
Shauna Martin Ehert
Elizabeth Evelyn Ehrhart
Peter Scott Ehrlichman
Marvin W. Eiding Jr.
Erik Carl Einhorn
Elizabeth Convington Elder
Helene Ellenbogen
Scott Martin Elderby
Roger L. Ellington
Building Public Faith in the Courts

How should judges be evaluated?

What tools can judges use to improve their performance?

How can information on judicial performance be provided to the public?

Few things are more central to the dual task of doing justice and building public faith in the institutions of representative government than assuring that judges perform their duties with both integrity and skill. Washington has been fortunate in the quality of its judges. It would be presumptuous, however, to suggest that those now on the bench could not improve their performance, or that the voters who are called upon to select among judicial candidates could not benefit from having more and better information about them.

There are few tools that judges can use to evaluate and improve their own performance. Voters have a hard time distinguishing among judicial candidates, making them reluctant to participate in electing judges and potentially susceptible to single-issue attacks. Bar polls and ratings, where available, offer only the perspective of practicing attorneys. Judicial independence, integrity, and excellence are too important for us to be satisfied with this state of affairs.

Twenty years ago, the ABA published a set of proposed guidelines for judicial-evaluation programs. A task force led by then-Washington State Supreme Court Justice Robert F. Utter was formed to develop a program for Washington, but it was never implemented. In 1996, the Walsh Commission recommended that “[a] process for collecting and publishing information about judicial performance shall be created under the authority of the Supreme Court.” In 2006, this recommendation still awaits implementation.

Over the past six years, the Washington State Chapter of the American Judicature Society (AJS) has developed a model for an effective program of performance evaluations for Washington state judges. Judges from every level of court in Washington participated in this project. The AJS has examined programs used elsewhere, developed and pilot-tested evaluation instruments for both trial and appellate judges, and wrestled with practical issues of implementation.

The first task that the AJS undertook was to articulate performance standards for judges, by reviewing standards used in several different states, as well as standards used previously in Washington in more limited evaluation systems (see chart on page 39).

Under the guidance of Professor David C. Brody, and utilizing the ABA guidelines, the AJS developed questionnaires to measure these qualities. Pilot tests were conducted among both trial and appellate judges. For trial judges, questionnaires were distributed to attorneys, witnesses, and jurors who appeared in the trial judges’ courtrooms. For appellate judges, questionnaires went to attorneys appearing before the appellate court and to superior court judges in the same jurisdiction. The judges who were evaluated found the results very useful; the feedback they received would not otherwise have been available to them. Professor Brody’s article summarizing the findings was the cover story in the January-February 2004 issue of Judicature. (Access the article at www.kcba.org/scriptcontent/kcba/judicial/pdf/brody.pdf.)

Pilot testing validated the AJS’s questionnaire-based evaluation process and established that a well-designed evaluation program can be carried out at reasonable cost. Nevertheless, a reliable source of ongoing funding is essential: grants and volunteer labor are not sufficient to carry out an ongoing, statewide program of judicial-performance evaluations.

**Implementation**

A panel of citizens should oversee the evaluation process. The panel should represent the diversity of the state and should include attorneys; retired judges; well-informed lay representatives; and members of good-government groups such as the Municipal League, AJS, and the League of Women Voters. The Administrative Office of the Courts should provide staff support and oversight.

Respondents must be assured that their views will not be traceable to assure candid evaluations. Responses should reflect ratings on specific criteria and not

It would be presumptuous, however, to suggest that those now on the bench could not improve their performance, or that the voters who are called upon to select among judicial candidates could not benefit from having more and better information about them.
include narrative comments.

A similar process of evaluation, conducted mid-term, could be a very valuable tool for judicial self-improvement. The confidentiality required for this kind of evaluation process is likely to require legislation, given the clear public policy in this state favoring release of public records absent specific exemption. It will be essential to work with public-access proponents to craft such a proposal.

A key goal of the judicial-evaluation program envisioned is to provide information to the public to consider when voting for judges. Evaluations should be published in the Judicial Voter Pamphlet as well as made available electronically.

... judicial-evaluation programs might help overcome voter distrust of candidates’ own statements in the voter’s pamphlet and could bring to light those excellent judges and attorneys who might be operating in relative obscurity.

The results should list the number of responses and provide the judge’s response, if offered. The evaluation panel should not recommend for or against any judge. Rather, bar associations and editorial writers may interpret the results and offer recommendations if they wish.

All candidates for election to the bench should be evaluated, and the results of those evaluations publicly disseminated, including not only judges but also candidates for judicial office who lack judicial experience. The same qualities are relevant for all candidates. In evaluating non-judge candidates, the panel should focus on the candidate’s arbitration, mediation, and pro tem experience, and seek evaluations from attorneys who have appeared before or opposite the candidate, and judges who have had the candidate in their courtroom.

Although candidates who are not currently part of the court system cannot be compelled to cooperate, these challenges are not insurmountable. Publicizing the evaluation process and disclosing any lack of cooperation will discourage stealth candidates. In addition, the evaluation panel can elicit and publicize information from sources not disclosed by the candidates. The end result will be an evaluation process that is fair to all participants and that promotes voter knowledge. (The entire report can be found at www.kcba.org/scriptcontent/kcba/judicial/pdf/ajs-evaluations.pdf. [sic])

The Judicial Independence and Selection Summit

The AJS proposal for judicial performance evaluations, outlined above, was presented at the Judicial Independence and Selection Summit in November 2005. Statewide systems of judicial evaluation were also among the topics discussed during breakout workshop sessions at the Summit. The diverse audiences at the Summit who participated in four different workshops demonstrated that there is broad support for such a program, at least among those who were present.

Nearly every workshop participant favored a statewide program for evaluation of judicial performance. Participants noted that voters need more information, including criteria by which they should evaluate judges. A systematic program will promote consistency in evaluations over time and across the state. Ideally, such a program will feature high levels of participation as well as timely, valid responses from folks with recent experience of a judge, focused on appropriate evaluation criteria. This will engender public trust and confidence in the judiciary.

A majority of Summit workshop participants believed that a judicial evaluation program should be aimed at both self-improvement and voter education. With respect to self-improvement, participants noted that judges tend to become isolated or to lose touch — feedback from evaluations can be valuable. Participants were also enthused about the potential value of such a program for improving the information available to voters. As some participants noted, judicial-evaluation programs might help overcome voter distrust of candidates’ own statements in the voter’s pamphlet and could bring to light those excellent judges and attorneys who might be operating in relative obscurity. The public needs information about what judging is about (e.g., the process by which decisions are made). Confidence in the judiciary is not the same thing as ideological alignment with judges’ views.

As to how such a program might be implemented, participants agreed that judicial-performance evaluations should be conducted by a broad-based, diverse citizens’ group, including nonlawyers. This group should be independent of, though supported by, the government. It should avoid any “popularity contest” and avoid recommending candidates to the voters. It should also seek to assess those who are challenging sitting judges, even though this could be difficult.

There was consensus that a statewide judicial-evaluation program would not automatically inform voters. It would need to be combined with effective voter education that delivers the results of the judicial evaluation program to voters, and limits upon infusions of money into judicial campaigns that could otherwise drown out this information. (Evaluation forms from the summit can be found at www.kcba.org/scriptcontent/kcba/judicial/pdf/evaluationsystems.pdf.)

As the conclusions reached by the American Judicature Society and the participants at the Summit show, there is growing interest in creating a statewide judicial-evaluation system. Interested persons from many organizations, including the Municipal League and the League of Women Voters, and various bar groups, have joined members of the original American Judicature Society committee to further develop these ideas and explore methods of implementation. If you are interested in joining this effort, please contact King County Bar Association Executive Director Alice Paine.

Mary Wechsler practices in Seattle. The American Judicature Society (AJS), founded in 1913, is an independent, national, nonpartisan organization of judges, lawyers, and other members of the public who seek to improve the justice system.
## Judicial Performance Standards Guidelines

### Trial Judges

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Integrity</strong></td>
<td>Treat all persons fairly, equally, and without discrimination based on race, gender, income, or any other bias. Conduct proceedings and make decisions fairly, impartially, with an open mind, and without consideration of public criticism.</td>
</tr>
<tr>
<td><strong>Professionalism</strong></td>
<td>Treat parties, witnesses, jurors, staff, and attorneys with courtesy and respect. Demonstrate emotional maturity and multicultural awareness. Act with patience and self-control. Act in a manner that instills public confidence in the judiciary.</td>
</tr>
<tr>
<td><strong>Legal Ability</strong></td>
<td>Understand and apply the relevant rules of law, evidence, and procedure. Appreciate the importance of flexibility and common sense in ensuring just results. Exercise sound legal reasoning.</td>
</tr>
<tr>
<td><strong>Administration</strong></td>
<td>Be punctual and prepared for court. Maintain control over the courtroom. Demonstrate a commitment to improving the judicial system. Appropriately enforce court rules, orders, and deadlines. Make decisions and rulings in a prompt, timely manner.</td>
</tr>
<tr>
<td><strong>Communication</strong></td>
<td>Communicate in a clear and logical manner while on the bench. Prepare well-thought-out, clearly presented written rulings. Communicate with jurors regarding court procedures, their duties, and delays in the proceedings as they occur.</td>
</tr>
</tbody>
</table>

### Appellate Judges

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Integrity</strong></td>
<td>Treat all persons fairly, equally, and without discrimination based on race, gender, income, or any other bias. Conduct proceedings and make decisions fairly, impartially, with an open mind, and without consideration of public criticism.</td>
</tr>
<tr>
<td><strong>Professionalism</strong></td>
<td>Treat staff and attorneys with courtesy and respect. Demonstrate emotional maturity and multicultural awareness. Act with patience and self-control. Act in a manner that instills public confidence in the judiciary.</td>
</tr>
<tr>
<td><strong>Legal Ability</strong></td>
<td>Understand and apply the relevant rules of law, evidence, and procedure. Appreciate the importance of flexibility and common sense in ensuring just results. Exercise sound legal reasoning.</td>
</tr>
<tr>
<td><strong>Administration</strong></td>
<td>Demonstrate a commitment to improving the judicial system. Appropriately enforce court rules, orders, and deadlines. Make decisions and rulings in a prompt, timely manner.</td>
</tr>
<tr>
<td><strong>Communication</strong></td>
<td>Prepare well-thought-out, clearly presented written rulings.</td>
</tr>
</tbody>
</table>

Two Wheels Good; Four Wheels Bad
A Lawyer Joins the Chain Gang

BY STEVEN REISLER

Clothing defines the lawyer. Suits are mandatory in court. When meeting clients in the office, although the attire can be relaxed, there is still a dress protocol that affirms the formality of the practice: dark colors, clean collars and neat creases, black shoes, and black pens.

These days, however, a large portion of my practice is handled remotely by computer. After the initial meeting, my clients and adverse counsel might retain that mental image of the Pin-Striped Me, but, courtesy of the Internet, I could be dressed in cut-offs and flip-flops while negotiating the deal of the century. And whereas the traditional lawyer’s costume requires traditional vehicular transportation to drive to the office, the computer has given us other ways to commute. Some of the time, anyway.

So when the price of gasoline nudged above $2 a gallon, I took my trusty old bicycle down from its rack in the garage. When the price of gas inched above $2.25, I pumped up the tires and lubricated the derailleur. When the price rose another quarter at the pump, to $2.50 a gallon, I finally bit the bullet: I was going to join the chain gang and try commuting to work by bicycle.

Fortunately, my law offices are only a few level miles from home, more or less. Most of the trip is on the Burke-Gilman Trail. Unfortunately, it had been so long since I had last ridden my bike that I had to buy all the accessories: new helmet, new tires, front and rear lights and batteries, a new saddle, and the de rigueur over-the-shoulder messenger bag big enough to hold a laptop computer, water bottle, cell phone, and 500 pages of courtroom pleadings.

Then there was the question of clothing again. Either I could opt for pedal-fashion-wear, the skin tight polypropylene fabrics that look like you’re moving fast even when standing still, or the tutti frutti abstract art of the urban bicycle messenger. When you’re more than 30, skin-tight anything can constitute a gross misdemeanor, so I chose the messenger look: low fashion and attention-getting high visibility. I stash a suit, white shirt, dress shoes, and silk tie at the office. I have learned to become a quick-change artist, when necessary.

**Week One.** The few more-or-less level miles seem a whole lot less level than more level. I am ... really ... really ... out ... of ... condition. But after a few days, the trip got easier. My legs lost that springy feeling after riding. It was warm, sunny weather. I quickly decided to leave out the cell phone from my shoulder bag. Who wants to stay in touch while bicycling anyway? I felt pretty good about myself, almost smug. The commute took only about 10 minutes longer than if I were traveling by car, including stopping at all the traffic lights, and I feel healthier for the effort. I figured that I have saved about 10 dollars in gasoline, almost enough to buy a small cup of coffee. Better still, I do not need to find or pay for parking. The score after the first seven days of the alternative commuting experiment: Two wheels good; four wheels bad.

**Week Five.** Cars are a cyclist’s nemesis. Unlike in European cities where the bike paths are often completely separate lanes adjacent to the streets, in Seattle — more often than not — you have to share the road with automobiles. I quickly decided not to get too philosophical about road-sharing and who has the legal right of way. In a contest between 30 pounds of aluminum versus two tons of steel, the greater weight and mass always win. I decided to yield to every car at every crossing. Around this time, the folks at www.ghostcycle.org started placing their white, mangled bike carcasses around Seattle as memento mori of car-bicycle collisions. I heed the message and take it to heart.

On the whole, Seattle drivers do make special allowances for bicyclers. Some drivers, however, are simply in another planetary system. After a few close calls with drivers who barely stop before making a right on red or who stop at the traffic lights with their hoods intruding halfway into the cross-walks, I learn to exercise extra caution at road-crossings. I thought about flying a bike pennant that advertised “THIS BICYCLE IS RIDDEN BY A LAWYER” — so drivers beware! On reflection, however, I concluded that this was like painting a target on my back. Strike that idea.

Cars turn out not to be the only obstacles on the commute. One morning a tree fell across the Burke-Gilman Trail, its roots rotted out from prolonged dry weather. Fortunately, it didn’t fall on me or a runner. Also fortunately, it had fallen after daybreak. For those who bike at night, like I do, a tree lying across the trail can be deadly. This particular dead tree was too heavy to heave out of the path myself, so with the help of a few other passersby, I dragged it out of the way. I later called the City Parks Department and by the evening the fallen tree had been sawed up and taken away. Two wheels OK; four wheels bad.

**Week Nine.** More hazardous than the occasional fallen tree are other bicyclers and pedestrians. There are the lollygaggers, people who tend to walk three and four and five abreast in the center of the trail, oblivious to the road sharing and who has the legal right of way. In a contest between 30 pounds of aluminum versus two tons of steel, the greater weight and mass always win. I decided to yield to every car at every crossing. Around this time, the folks at www.ghostcycle.org started placing their white, mangled bike carcasses around Seattle as memento mori of car-bicycle collisions. I heed the message and take it to heart.

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yak on the telephone or cyclists who ride two abreast carrying on a conversation. More hazardous still are the Husky fans during football season who straddle the entire Burke-Gilman pathway in purple gangs of human bowling pins 10 abreast or more. (I know, I know, what all you Wazzu Cougars and Oregon Ducks are cruelly thinking to yourselves, but who wants to spend the money re-truing my wheels after bowing a strike with my bicycle?) And then there are the long-line pet walkers. These are the people who walk their dogs, especially the little, practically invisible ones. They let their animals walk behind them on lengthy, retractable leashes, bounding randomly from north to south and east to west like dogs do. I like dogs, but who wants one wound around my front axle?

Also hazardous are the family bikers: usually the mother duck leading a meandering line of gosling bicyclers, some with training wheels and all wearing bubble-gum colored over-sized helmets, wobbling and weaving all over the path. Sure, they are entitled to use the trail, and I encourage more to do so. But you learn to just slow down until you have the chance to pass the kiddie convoy. It may slow down the commute a little, but so what. Commuting by bicycle is not just about getting somewhere. It is also about how you get there and how you feel about yourself when you arrive. Four wheels OK; two wheels better.

**Week 14.** I witness my first bike accident. A head-down rider who must have imagined himself riding at the Tour de France pedaled right through a stop sign into the side of a Mercedes. Miraculously, the bicycle and cyclist were not badly damaged — only a slightly bent front wheel and very bent pride. However, this proved that one of the biggest hazards on the Burke-Gilman Trail is the small handful of bikers who try to pedal faster than the speed of light. Usually dressed in Mardi Gras-colored composite plastic and Teflon tights with bug-eyed sunglasses, these two-wheeled Hell-on-Wheels barrel past slower bikers like BMW drivers passing Volkswagen Beetles on the autobahn. Sometimes, these folks agglomerate into a peloton, blindly drafting one behind the other seeking a slower man, woman, or squirrel to run over.

On the other hand, there are knuckleheads who drive cars the same way, so there really is no greater danger riding the trail than driving the freeway. Comparing speeds and masses of potential impact, I think I am relatively safer biking than driving. **Two wheels OK; four wheels OK.**

**Week 18.** The days have gotten shorter, the weather colder. I have added several additional layers of clothing, a hat under my helmet, and gloves. It still feels cold until I have pedaled the first mile. My lights are adequate for night riding, but late at night I can barely see 10 feet in front of me. I purchase a more powerful halogen headlight and, to boot, an array of side and rear-facing red lights that flash like strobes. I probably look like a Christmas tree rolling down the road. Better than than the folks who persist in riding at night without any lights at all: you hear them before you see them, but sometimes an impact is only barely avoidable.

Now it is not only colder, but wetter. I buy the latest high-tech rain gear. I still get soaked.

I also learn that, even with pannier and shoulder bags, there is a limit to how much stuff you can carry on a bicycle. As the weather turns nasty and I start carrying more gear, the saddle bags grow fatter and heavier. I have added a massive bicycle chain to my baggage to prevent horse theft. I cram it onto the panniers along with extra clothes, bike batteries, two F.2ds, three reply briefs, an *Amfjär* and a set of interrogatories. On occasion, I can concede the utility of driving a car. **Four wheels OK; two wheels better.**

**Week 22.** Cold. Rain. Wet. Wind. My first inner tube blow out. Of course, my car’s tires could blow out, too. Still, the automobile looks like an occasional winner. **Four wheels good; two wheels so-so.**

**Week 26.** January 2006. Rain. More rain. Still more rain. The diehards are still biking on the trail, especially the recumbent riders wrapped in their bubble windshields and sealed plastic shells. I am no diehard, however. The bike stays in the garage as does my wetsuit, snorkel, and flippers. Water is, in fact, intruding into the garage. The roads are flooding. The traffic lights have gone out. No way that I am going to even drive a car through this stuff. Traffic is horrendous. The surface roads, the bridges, and the freeway are all barely moving. Everyone has the flu. Rain falls in buckets. I think I’ll stay home for a while. **Two wheels bad; four wheels bad; Metro bus better.**

**Week 30.** Spring beckons. That strange yellow orb is back in the sky. There are new sights to be appreciated: flowering plants, svelte young bikers, roller-bladers, and barely clad runners. Ahh, youth and athleticism, whichever sex orients you. The commute to work has become something to look forward to, rather than an unavoidable hassle.

I have evolved into a two-wheeled pedal-powered commuter. I am part of the chain gang. I will still occasionally drive to work, but it now seems like a hassle. I recognize other bicycling commuters, and they recognize me. Unlike car drivers who try to avoid eye contact for fear of provoking road rage, everyone you pass on the trail, whether a runner, walker, skater, or biker, looks at you and acknowledges you. There is a camaraderie in bicycle commuting. It’s like the camaraderie at the bar.

The price of fuel at my local gas station has started to rise again. It’s well past three dollars a gallon. I bike on by.

**Two wheels good; four wheels bad.**

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Steven Reisler practices civil and commercial law at his micro mini-boutique in Northeast Seattle near Children’s Hospital just off the Burke-Gilman Trail. Reisler is a past member of the WSBA Board of Governors and edited Bar News from 1980 to 1985. He commutes by bicycle.
You are cordially invited to attend

The Washington State Bar Association’s Annual Awards Dinner and Business Meeting

Please join us for an evening of inspiration as we celebrate the accomplishments of the 2006 WSBA award recipients. All members of the legal community are invited to attend.

Name ________________________________________ WSBA No. ____________________
Address ____________________________________________________________________________
Phone __________________ E-mail ____________________________
Affiliation/organization ____________________________________________________________

Registration is $75 per person (table of 10 = $750). To make your reservation, please return this form (or a photocopy) with your credit-card information or check payable to WSBA. Space is limited, so please make your reservations early. Reservations and payment must be received no later than September 7, 2006 (refunds cannot be made after September 7). Seating will be assigned.

☐ MasterCard ☐ Visa No. ____________________________ Exp. date ____________
Name as it appears on card ____________________________________________________________
Signature ____________________________________________________________

_______ (no. of persons) X $ _______ (price per person) = $ ____________ TOTAL

Please list the names of all attendees and indicate meal choices. Be sure to include yourself.

☐ beef ☐ salmon ☐ vegetarian
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All those listed on the same registration form (up to 10) will be seated at the same table.

Send to: Washington State Bar Association
Annual Awards Dinner
2101 Fourth Avenue, Suite 400
Seattle, WA 98121-2330
Phone: 800-945-WSBA • 206-443-WSBA • Fax: 206-727-8319

☐ If you need special accommodations, please check here and explain below.

_________________________________________________________________________
_________________________________________________________________________
Please join us as we celebrate the accomplishments of the 2006 WSBA 50-year members. All members of the legal community are invited.

Name ___________________________________________  WSBA No. ____________________

Address _______________________________________________________________________

Phone ___________________________________ E-mail ______________________________

Affiliation/organization _________________________________________________________

Registration is $45 per person (table of 10 = $450). To make your reservation, please return this form (or a photocopy) with your credit-card information or check payable to WSBA. Space is limited, so please make your reservations early. Reservations and payment must be received by September 22, 2006 (refunds cannot be made after September 22).

☐ MasterCard  ☐ Visa   No. ____________________________  Exp. date _________________

Name as it appears on card _______________________________________________________

Signature _______________________________________________________________________

_______ (no. of persons)  X  $ _______ (price per person)  =  $  ____________ TOTAL

Please list the names of all attendees and indicate meal choices. Be sure to include yourself.

______________________________________________________________________________
☐ chicken  ☐ salmon  ☐ vegetarian
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Send to:  Washington State Bar Association
50-Year Member Tribute Luncheon
2101 Fourth Avenue, Suite 400
Seattle, WA 98121-2330
Phone: 800-945-WSBA or 206-443-WSBA  •  Fax: 206-727-8319

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______________________________________________________________________________

WSBA office use only:
Date ____________________
Check No. _______________
Amount _________________
No. MTL92906
WSBA Seeks Board and Committee Members

The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving on the following boards and committees. Members should submit letters of interest and résumés to: WSBA, Bar Leaders Division, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330, or e-mail: barleaders@wsba.org. (Letters of interest and résumés are also required for incumbents seeking reappointment.)

Legal Foundation of Washington Board of Trustees

Application deadline: November 1

The Legal Foundation of Washington seeks one member to serve a two-year term on its board of trustees commencing on January 1, 2007. Incumbents are eligible for reappointment (up to two consecutive terms). The Legal Foundation of Washington is a private, not-for-profit organization that promotes equal justice for low-income people through the administration of IOLTA and other funds. Trustees should have a demonstrated commitment to, and knowledge of, the need for legal services and how these services are provided in Washington. For more information, e-mail caitlindc@legalfoundation.org.

Limited Practice Board

Application deadline: September 29

The WSBA Board of Governors seeks three candidates for appointment to the Limited Practice Board, which oversees administration of, and compliance with, the Limited Practice Rule (APR 12) authorizing certain lay persons to select, prepare, and complete legal documents pertaining to the closing of real estate and personal-property transactions. The candidate’s names will be submitted to the Washington State Supreme Court for appointment and will serve four-year terms commencing January 1, 2007. Incumbents are eligible for reappointment (limited to two consecutive terms). In keeping with the member requirements of APR 12, one position must be filled by a representative from the real estate industry, and at least one of the other two positions must be filled by an attorney member of the WSBA. The board generally meets every other month.

Loan Repayment Assistance Program Advisory Committee

Application deadline: August 15

The Washington State Bar Foundation Loan Repayment Assistance Program (LRAP) Advisory Committee seeks one member to serve a three-year term commencing on October 1, 2006. Applicants must be attorneys from private law firms. The LRAP provides loan forgiveness to attorneys committed to working in the public interest, thereby helping to meet the legal needs of the people of Washington. For more information, visit the WSBA website at www.wsba.org/lawyers/lrap.htm.

Northwest Justice Project Board of Directors

Application Deadline: November 1

The Northwest Justice Project seeks two members to serve three-year terms on its board of directors. The terms will commence on January 1, 2007. Incumbents are eligible for reappointment (up to two consecutive terms). The Northwest Justice Project is a not-for-profit organization that receives primary funding from the state and through the federal Legal Services Corporation to provide civil legal services to low-income people. Board members, who play an active role in setting program policy and assuring adequate oversight of program operations, must have a demonstrated interest in, and knowledge of, the delivery of high-quality civil legal services to the poor. For more information, e-mail mac@nwjustice.org or lisag@nwjustice.org.

Washington Defender Association Board of Directors

Application Deadline: November 1

The Washington Defender Association (WDA) seeks two members to serve on its board of directors, one for a two-year term, and one for a three-year term. Both terms will commence on January 1, 2007. The board generally meets 10 times per year. The WDA is committed to increasing the funding and improving the quality of the criminal-defense bar in Washington and works to oppose legislation that would undermine constitutional protections for people accused of crimes.

Washington Pattern Forms Committee

Application Deadline: November 1

The Washington Pattern Forms Committee seeks one member to serve a four-year term commencing on January 1, 2007. Incumbents are eligible for reappointment (up to two consecutive terms). The Washington Pattern Forms Committee has published new sexual assault protection order forms and updates to the domestic relations, domestic violence, anti-harassment, juvenile court, misdemeanor judgment and sentencing forms, available at www.courts.wa.gov/forms. For more information, e-mail merrie.gough@courts.wa.gov.
Ethics 2003 Amendments to Rules of Professional Conduct Adopted
On July 10, 2006, the Washington State Supreme Court approved amendments to Washington’s Rules of Professional Conduct (RPC). The amendments, proposed by the WSBA Board of Governors in October 2004, were based on recommendations submitted to the Board of Governors by the WSBA Special Committee for the Evaluation of the Rules of Professional Conduct (“Ethics 2003 Committee”), chaired by Ellen Conedera Dial. In adopting the amendments, the Supreme Court modified the proposed rules in a number of instances. The amended rules will go into effect on September 1, 2006. For more information, visit the WSBA website at www.wsba.org or the Washington Courts website at www.courts.wa.gov.

2006 WSBA Annual Awards Recipients to Be Honored
The WSBA Board of Governors takes great pleasure in announcing the recipients of the 2006 WSBA annual awards. The awards will be presented at the WSBA Annual Awards Dinner in Seattle on September 14, with the exception of the Pro Bono Award, which was presented at the Access to Justice Conference in Yakima on June 10.

Award of Merit: Marc A. Boman
First given in 1957, this is the WSBA’s highest honor. The Award of Merit is most often given for long-term service to the Bar 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: Joy B. McLean
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 Petruss Award for Lawyers in Public Service: Penny L. Allen
Named in honor of the late Angelo R. Petruss, 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: Judge D. Gary Steiner
Presented for outstanding service to the bench and for special contribution to the legal profession at any level of the court.

Pro Bono Award: Leonard J. Feldman
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: Nancy C. Ivarinen
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 Awards: Prof. David Boerner, Prof. Paula Lustbader,
Seattle University School of Law Alternative Admissions Program/Academic Resource Center
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, and persons with disabilities.

Outstanding Elected Official Award: Governor Christine O. Gregoire
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 call of duty.

Lifetime Service Award: Patrick H. McIntyre
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.

Community Service Award: Judge Joel M. Penoyar
The Community Service 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.
**President’s Award:** Recipient to be announced. The President’s Award is given annually in recognition of special accomplishment or service to the WSBA during the term of the current president.

**Leonard J. Feldman Receives WSBA Pro Bono Award**
Seattle attorney Leonard J. Feldman, a shareholder at Heller Ehrman, received the 2006 WSBA Pro Bono Award at the Access to Justice Conference in Yakima on June 10. The Pro Bono Award is presented annually to a lawyer, nonlawyer, law firm, or local bar association for outstanding efforts in providing free or low-cost services to the poor, and is based on cumulative efforts rather than the number of pro bono hours or amount of financial contribution.

**Seeking Applications from Judicial Candidates**

**Application deadline: October 31, 2006**
The WSBA Judicial Recommendation Committee is currently accepting applications from attorneys and judges seeking consideration for appointment to fill potential vacancies on the Washington State Supreme Court and Court of Appeals. The committee will interview candidates in November 2006. The committee’s recommendations are reviewed by the WSBA Board of Governors and then referred to the state governor, who then reviews the recommendations when making judicial appointments. To obtain an application, visit the WSBA website at www.wsba.org/lawyers/groups/judicial recommendation/default1.htm, call 206-727-8239, or e-mail barleaders@wsba.org. Please specify whether you need the application designed for a judge or attorney.

**WYLD Elects New President-elect and Trustees**
The WSBA’s Young Lawyers Division (WYLD) elected Seattle attorney Mark W.D. O’Halloran to serve as its 2006-2007 president-elect. O’Halloran’s term as president-elect will begin on October 1, 2006, and end September 30, 2007, at which time he will begin his one-year term as WYLD president. A 2002 graduate of Seattle University School of Law, Mr. O’Halloran is currently a WYLD trustee representing King County and, since the summer of 2004, an associate at the Gosanko Law Firm in Seattle, where he focuses on civil tort cases. The WYLD also elected three new trustees: Tacoma attorney Kimberly L. April representing the Pierce County District, Bremerton attorney Jennifer A. Durcan representing the Peninsula District, and Seattle attorney David G. Estudillo representing the King County District. The new trustees will serve three-year terms beginning October 1, 2006.

**LMBA Honors Ron Ward, 2004-2005 WSBA President**
At its recent annual dinner, the Loren Miller Bar Association renamed its President’s Award after 2004-2005 WSBA President Ronald R. Ward, in honor of his service to the WSBA and in recognition of his accomplishments in the areas of court funding, legal services for the poor, maintenance of the independence of the judiciary, and diversity.

**Chief Justice Alexander Receives Lifetime Service Award**
On July 10, Washington State Supreme Court Chief Justice Gerry L. Alexander received the prestigious 2006 American Inns of Court Ninth Circuit Professionalism Award for his lifetime of service to the law. Justice Alexander received the award at the Ninth Circuit Judicial Conference in Huntington Beach, California. Elected to the Washington State Supreme Court in 1994 and serving as chief justice since 2001, Justice Alexander has given more than three decades of service to the Washington state bench, and is the longest-serving chief justice in the state’s history. The American Inns of Court is a national organization of judges, lawyers, law professors, and law students who work to improve the skills, professionalism, and ethics of the bench and bar.

**Washington Assistant Attorney General Receives National Award**
David Huey, assistant attorney general for Washington state, was recently
honored with the Marvin Award from the National Association of Attorneys General (NAAG) for his work on consumer-protection issues, including nationwide settlements with two sub-prime mortgage lenders. Huey works for the Consumer Protection Division in the Attorney General's Office in Tacoma. Named after Ray Marvin, executive director of NAAG from 1976 to 1986, the Marvin Award recognizes excellence and dedicated service by assistant attorneys general who have taken on leadership roles in multi-state legal initiatives and other projects.

Family Law and Civil Procedure Deskbooks Supplements
Bring your library up to date with the 2006 supplements to the Washington Family Law Deskbook (2d ed. 2000) and Washington Civil Procedure Deskbook (2d ed. 2002), scheduled for release this fall. To receive these supplements automatically and enjoy a 10 percent discount, sign up for the Automatic Update Service online at http://pro.wsba.org/forms/automatic.asp or call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA. You can also ask to be notified when the supplements are available by calling the numbers above or e-mailing orders@wsba.org.

2006 WACDL Awards
On July 9, the Washington Association of Criminal Defense Lawyers held its annual awards ceremony. Redmond attorney Donna Tucker, Seattle attorney Cherilyn Church, and Tri-Cities attorney Jim Egan each received the President’s Award (Tucker and Church were recognized for their work in City of Redmond v. Moore, a landmark misdemeanor-practice case); Whatcom County Public Defender Jon Ostlund received the Champion of Justice Award for his vigilant advocacy for the rights of the accused and the disenfranchised; and Seattle attorney Dan Dubitzky and Port Orchard attorney Roger Hunko each received the William O. Douglas Award for their criminal defense work.

They Got Game
On June 8, the Seattle Lawyers Basketball League wrapped up its 21st season with the reigning 2005 champions Johnson & Associates (not a real law firm) beating the number-six seed Stanislaw Ashbaugh team in a bruising battle, avenging the team’s only loss to clinch the 2006 season crown. The hard-working but always-a-bridesmaid Stanislaw-Ashbaugh proved no match for Johnson & Associates’s superior ball-handling and Tenacious D.

MCLE Credits Just Got Easier
Watch your mailbox for the WSBA-CLE Fall Seminar Catalog. Find complete information on a comprehensive array of hot-topic seminars from WSBA-CLE, the Innovator in Legal Education™.

WSBA Court Rules and Procedures Committee 2006-2007 Agenda
When it reconvenes in October, the WSBA Court Rules and Procedures Committee is scheduled to review the Rules of Evidence (RE) and the Infraction Rules for Courts of Limited Jurisdiction (IRLJ). Suggestions regarding these rules or questions about the work of the committee should be directed to Douglas Ende at 206-733-5917 or e-mail WSBACourtRules@wsba.org. Interested individuals are encouraged to participate in the work of the committee.

Armed Forces Fee Exemption
WSBA members whose status is active and who are otherwise eligible for the armed forces exemption (as described in the newly amended WSBA Bylaw II.E.1.b.) can apply for a waiver of WSBA license fees beginning in December. WSBA members whose status is inactive or emeritus must still pay the annual license fees. If you are an active member and believe you are eligible for the fee

Accounts Receivable Collection
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“Collection Services for the Legal Professional”

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1425 Fourth Avenue, #820 Seattle, WA 98101 (206) 340-0883
Update Your Contact Information

Now is the ideal time to check that the WSBA has your correct contact information for the 2007 license fee renewal packets scheduled to be mailed in early December. APR 13(b) requires all attorneys to update their office address and telephone number within 10 days of a change. You can check your listing by going to the online lawyer directory at pro.wsba.org. If anything has changed, please update the information by e-mailing questions@wsba.org, faxing the change to 206-727-8319, or calling the WSBA Service Center at 800-945-WSBA (9722) or 206-443-WSBA.

Save the Dates: WSBA Annual Awards Dinner and 50-Year Member Tribute Luncheon

The 2006 WSBA Annual Awards Dinner will be held Thursday, September 14, at the Renaissance Madison Hotel in Seattle. The 50-Year Member Tribute Luncheon will be held Friday, September 29, at the Hilton Seattle. All members of the legal community are invited to attend these events. See the registration forms on pages 42 and 43.

WSBA Leadership Institute Seeks Fellows for 2007

The Washington State Bar Association seeks applicants for the 2007 WSBA Leadership Institute. The Leadership Institute recognizes that many lawyers, especially those from diverse backgrounds and other underrepresented groups, have not been traditionally recruited for leadership positions or made aware of opportunities for leadership training, skill development, and professional growth available through the WSBA. Ten to 12 attorneys, in practice for three to 10 years, will be carefully selected for the third year of the program. The 2007 program will take place January to August 2007.

The program is a collaborative, experiential, and individualized curriculum that includes eight professional-development seminars. WSBA Leadership Institute fellows will 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 attorneys from the private and public sectors. The program requires a two-year commitment. Following the completion of the first year, fellows are expected to serve on a WSBA section, committee, or bar-related activity. Fellows will earn 30 CLE credits, and the program is free of charge.

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 mid-summer 2006 for submission in early fall. Application forms and instructions will be available on the WSBA website at www.wsba.org/lawyers/leadership_institute.htm.

LAP Solution of the Month: Addicted?

People become addicts when they repeatedly engage in a behavior to obtain escape, relief, or pleasure, even when that behavior becomes counterproductive. People can become addicted to many things: work, sex, alcohol, drugs, gambling, even relationships. If addiction is getting in your way, call the Lawyers Assistance Program at 206-727-8269. All calls are confidential.

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. Clinics are held the second Monday of the month. The next clinic is August 14 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 Lawyer Meeting

LOMAP hosts a meeting of contract lawyers the first Tuesday of each month at the WSBA office from noon to 1:30 p.m. Bring a lunch and network with other contract lawyers.
between a lawyer and his or her client. To participate, both parties must agree to be bound by the arbitrator’s decision. The Mediation Program provides a venue for parties to work together to resolve any dispute involving a lawyer, including those between a lawyer and a client, a lawyer and another lawyer, nor a lawyer and another professional. Either party to a dispute may initiate fee arbitration or mediation. Both programs are non-disciplinary, voluntary, and confidential. For more information, visit www.wsba.org/lawyers/services/adr.htm or call 206-733-5923.

**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.

**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.

**Search WSBA Ethics Opinions Online**

You can search both formal and informal WSBA ethics opinions at http://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.

**Assistance for Law Students**

The Lawyers’ Assistance Program offers counseling to third-year law students attending Washington schools. Sessions are held in person or by phone. Treatment is confidential and available for depression, addiction, family and relationship issues, health problems, and emotional distress. We offer a sliding-fee scale ranging from $0-830 depending on 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.

**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 rebecca@wsba.org.

**Upcoming Board of Governors Meetings**

**September 14-15, Seattle • October 27-28, Spokane**

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. Contact Donna Sato at 206-727-8244 or 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 July 2006 was 5.297 percent. Therefore, the maximum allowable usury rate for August 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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and

**Scott O. LaFranchi**

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Jacob “Jack” Wieselman
has joined the firm as Of Counsel.

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has joined the firm as an Associate.

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Jenny Yeh
formerly associated with Hogan and Hartson

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Sallie Lin
formerly a housing developer at the Low Income Housing Institute

have joined the firm as associates.

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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

John M. Cooper (WSBA No. 22977, admitted 1993), of Spokane, was disbarred, effective March 29, 2006, by order of the Washington State Supreme Court following a default hearing. This discipline was based on his conduct between 1997 and 1999 in three matters involving multiple acts of misconduct. John M. Cooper is to be distinguished from John M. Cooper of Bainbridge Island and John G. Cooper of Seattle.

Matter 1: In October 1998, Mr. Cooper was hired by a client to probate the estate of her mother. The client paid Mr. Cooper $250 in advance legal fees. Mr. Cooper obtained an order admitting the will to probate and appointing the client as personal representative. The estate, valued at approximately $50,000, included a house that was subject to numerous creditors’ claims. Mr. Cooper advised his client to give him the estate’s bills to pay and to take out a mortgage on the house to raise funds to cover the bills. The client followed Mr. Cooper’s advice and, in December 1998, gave him a cashier’s check for $5,750. Of that amount, $750 was for additional advance legal fees and $5,000 was for Mr. Cooper to pay the estate’s creditors, with any remainder to be refunded to the client. Mr. Cooper deposited the check into his trust account. Over the next month, the client called Mr. Cooper several times; Mr. Cooper repeatedly assured her that everything was fine. After a month, he stopped returning her telephone calls. Between December 1998 and February 1999, the estate’s creditors began approaching the client, stating that their bills had not been paid. During this time, Mr. Cooper withdrew a portion of the client’s funds from his trust account to pay the expenses of other clients and to obtain cash. In February 1999, the client and her husband confronted Mr. Cooper at his home office, where he gave them a trust account check for $3,010 as a partial refund. He also gave to the client a promissory note in the amount of $4,990, with 12 percent interest commencing that day, which represented the remaining $1,990 the client had provided him to pay the creditor’s claims, the $1,000 the client had paid as advance fees, and an additional $2,000. Mr. Cooper never made any payments on the promissory note and never provided the client with an accounting. The client settled the creditors’ claims by herself.

Matter 2: In June 1998, Mr. Cooper was hired by a husband and wife after the wife’s sister suddenly died, leaving two minor children. The children’s father was incarcerated, and the clients sought to petition for custody. The father contested the petition and, in July 1998, a guardian ad litem (GAL) was appointed. Mr. Cooper told the clients not to contact the GAL, but to wait for the GAL to contact them. Between July and December 1998, the clients waited to hear from the GAL. During this time, Mr. Cooper failed to work on the clients’ case, never informed the clients that the GAL had written to him several times requesting to speak with them, and rarely returned the clients’ many phone calls. The GAL eventually told Mr. Cooper that if he did not hear from the clients, he would recommend that the father get custody. Mr. Cooper did not advise the clients about this. In January 1999, the GAL called the clients and asked why they had not contacted him. He told them that a motion brought by the father’s lawyer to dismiss the custody proceeding was scheduled for hearing, and he advised them to attend. Mr. Cooper never informed the clients of this hearing, never filed a response to the motion to dismiss, and arrived late for the hearing. The GAL informed the court of Mr. Cooper’s behavior and explained that there was no cause to dismiss the matter. The clients hired new counsel immediately after the hearing and were awarded custody of the children.

Matter 3: Mr. Cooper represented a client in a criminal trial in January 1997 and subsequently on appeal following a conviction. Mr. Cooper failed to file an appellate brief on the client’s behalf despite several notices from the Court of Appeals and the imposition of terms against Mr. Cooper. In October 1997, the client’s appeal was dismissed. The matter was remanded to Superior Court, which mailed to Mr. Cooper a notice of a hearing to set the client’s jail incoming date. Neither Mr. Cooper nor his client appeared at the hearing. The court issued a warrant and the client was arrested. The court later appointed another lawyer to represent the client.

Mr. Cooper’s conduct violated RPC 1.2(a), requiring a lawyer to abide by a client’s decisions concerning the objectives of representation; RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; RPC 1.4, requiring a lawyer to keep a client reasonably informed about the status of a matter, promptly comply with reasonable requests for information, and 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 fees to be reasonable; RPC 1.14(a), requiring all funds of clients be deposited in one or more identifiable interest-bearing trust accounts and no funds belonging to the lawyer or law firm be deposited therein; RPC 1.14(b), requiring a lawyer to promptly notify a client of the receipt of his or her funds, to maintain complete records of client funds and render appropriate accounts regarding them, and to promptly pay or deliver to the client funds that the client is entitled to receive; RPC 1.15(d), requiring a lawyer to take steps to the extent reasonably practicable to protect...
a client’s interests upon termination of representation; RPC 3.2, requiring a lawyer to make reasonable efforts to expedite litigation consistent with the interests of the client; RPC 8.4(b), prohibiting a lawyer from committing a criminal act (here, theft in the first degree) that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects; and RPC 8.4(c), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Marsha A. Matsumoto represented the Bar Association. Kenneth S. Kagan represented Mr. Cooper. James P. Spurgetis was the hearing officer.

**Disbarred**

**Terry O. Forbes** (WSBA No. 5626, admitted 1974), of Everett, was disbarred, effective March 29, 2006, by order of the Washington State Supreme Court following a default hearing. This discipline was based on his conduct between 2002 and 2004 in six matters involving trust-account irregularities and multiple other acts of misconduct.

**Matter 1:** In September 2002, Mr. Forbes wrote a check from his trust account in the amount of $39,000 payable to his legal assistant. His legal assistant was not a client, she had no funds on deposit in his trust account, and she was not entitled to the funds.

**Matter 2:** For a period of years, Mr. Forbes represented a client who was the adult ward in a guardianship case. In September and October 2002, Mr. Forbes received two checks totaling $168,709.78 on his client’s behalf, which he deposited into his pooled client trust account. Beginning in April 2003, Mr. Forbes’s trust-account balance fell below $168,000 and so remained (with the exception of a few days) until August 2004, at which time it had declined to approximately $70,500. Mr. Forbes was not entitled to remove the client’s funds from his trust account. Knowing that the client’s case was set for a hearing in August, Mr. Forbes closed his trust account and opened a new trust account in which he deposited the balance from the old account, supplemented by other deposits totaling approximately $97,000, which he obtained from his family. In August 2004, Mr. Forbes filed a declaration in superior court, stating that “the $168,709.75 [sic] he had received” on his client’s behalf in 2002 remained available for disbursement or investment as the court might direct. Upon learning that the client’s funds had been held in trust for nearly two years without interest accruing to the client’s benefit, the superior court commissioner ordered that Mr. Forbes pay the $168,709.78 into the court registry by the end of the day. That afternoon, Mr. Forbes tendered to the court a check for $168,709.78 drawn on his new trust account.

**Matter 3:** Mr. Forbes represented a husband and wife in a child custody matter. In June 2004, the clients paid him $1,000 as costs to be paid to a guardian ad litem appointed in the case. The clients received a receipt indicating the funds would be placed in Mr. Forbes’s trust account for the guardian ad litem. Mr. Forbes neither deposited the funds into his trust account nor paid them to a guardian ad litem. He did not have the clients’ permission to use the funds for any other purpose. Mr. Forbes never rendered an accounting to the clients for the money they paid him.

**Matter 4:** In December 2002, a client paid Mr. Forbes an advance fee deposit of $1,000 to represent him in a dissolution case filed by the client’s wife. The fee agreement stated that Mr. Forbes’s hourly rate was $175. Mr. Forbes deposited the entire amount into his business account, even though he had only spent about 90 minutes on the client’s case at their initial meeting. Mr. Forbes did not file a notice of appearance on behalf of the client until January 2003, and he did not file an answer to the dissolution petition until the day before a default motion was to be heard. Shortly thereafter, the client reconciled with his wife and, in October 2003, the client requested that Mr. Forbes prepare a stipulation to dismiss the dissolution petition. Mr. Forbes took no further action in the case, did not return the client’s repeated calls, did not prepare a stipulation as requested, and did not sign the stipulation proffered by opposing counsel until March 2004. After the client filed a grievance with the Bar Association, Mr. Forbes responded in writing that he had refunded $590.50 to the client in September or October 2003. Mr. Forbes had not refunded any money to the client. Mr. Forbes never earned the entire $1,000 paid to him and never provided an accounting to the client.

**Matter 5:** In September and October 2004, Mr. Forbes received from a dissolution client a total of $39,500 in marital community funds, which he deposited into his trust account. Mr. Forbes advised the client to transfer these funds to him in order to protect them from being frozen by opposing counsel and to ensure their continued availability to her. In November 2004, the client terminated Mr. Forbes’s services, at which time her balance in Mr. Forbes’s trust account should have been $31,500. Mr. Forbes’s trust account balance was less than $19,000 at the time. Mr. Forbes did not have the client’s permission to remove any portion of the $31,500 from his trust account.

**Matter 6:** In November 2004, Mr. Forbes borrowed $21,500 from one client and $1,300 from a second client without fully disclosing in writing to either client the risks involved in lending him money or affording them a reasonable opportunity to seek the advice of other counsel. That same day, Mr. Forbes deposited $21,760 into his trust account.

Mr. Forbes’s conduct violated RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; RPC 1.4, requiring a lawyer to keep a client reasonably informed about the status of a matter, promptly comply with reasonable requests for information, and 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 1.8(a), prohibiting a lawyer from entering into a business transaction with a client or knowingly acquiring an ownership, possessor, security, or other pecuniary interest adverse to a client unless the transaction and its terms are fair and reasonable and fully disclosed and transmitted in writing to the client, the client is given opportunity to seek the advice of independent counsel, and
the client's interests upon termination of a representation; RPC 8.4(b), prohibiting a lawyer from committing a criminal act (here, theft in the first degree) 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(i), prohibiting a lawyer from committing any act involving moral turpitude, or corruption, or any unjustified act of assault or other act that reflects disregard for the rule of law.

Natalea Skvir represented the Bar Association. Mr. Forbes did not appear in the proceeding either personally or through counsel. Margarita V. Latsinova was the hearing officer.

Suspended

Graeme H. Strickland Jr. (WSBA No. 4977, admitted 1973), of Lake Oswego, Oregon, was suspended for one year, effective March 16, 2006, by order of the Washington State Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of Oregon following a hearing. This discipline was based on his conduct in 2003 involving criminal convictions for improper use of the emergency reporting system, initiating a false report, and disorderly conduct.

In August 2002, Mr. Strickland learned that the city of Lake Oswego was planning to build a reservoir near his home. For a time, Mr. Strickland observed the construction workers, took pictures, and recorded notes in a journal. Mr. Strickland subsequently sent several letters to the city's attorney and the city's contractor to put them "on notice" of a potential tort claim. Mr. Strickland wrote at least 10 separate letters, complaining of disturbances from the construction workers and claiming that the construction workers were "retaliating against him." In March 2003, Mr. Strickland felt vibrations in his home that he associated with the construction site. He drove his car near the construction site and parked in the middle of an intersection. A construction worker asked him to move the car because he was parked in a work zone. Rather than move his car, Mr. Strickland left it in the intersection and walked back to his home, where he dialed 911. He asked the dispatcher to send the police because he was surrounded by construction vehicles and being threatened. Mr. Strickland then returned to the intersection, and lunged at one of the construction workers. Although no physical contact occurred, Mr. Strickland fell backwards to the ground and began screaming that his back was injured. A Lake Oswego police officer arrived. Mr. Strickland told the officer that the construction worker had assaulted him and thrown him to the ground. The officer notified Mr. Strickland that making a false report is a criminal act, but Mr. Strickland persisted in his story and refused to leave. Paramedics arrived and Mr. Strickland told them that the construction worker had assaulted him. Mr. Strickland then appeared to have a seizure, stiffening and trembling. Immediately thereafter, he sat up, appeared alert, and said that he was going home. Although the attending paramedic believed that Mr. Strickland had feigned the seizure, the paramedics transported Mr. Strickland to the emergency room because he continued to state that he was in pain. There, doctors found no evidence of physical injury.

In connection with these events, Mr. Strickland was charged with and convicted by a jury of three misdemeanors in Lake Oswego Municipal Court: violation of ORS 165.570, improper use of emergency reporting system; ORS 162.375, initiating a false report; and ORS 166.025, disorderly conduct.

Mr. Strickland'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; and DR 1-102(A)(3), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Felice P. Congalton represented the Bar Association. Mr. Strickland represented himself.

Suspended

Neil W. Jackson (WSBA No. 32574, admitted 2002), of Portland, Oregon, was suspended for 60 days, effective March 10, 2006, by order of the Washington State Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of Oregon following a stipulation. This discipline was based on his conduct between 1997 and 2004 involving improper withdrawal, neglect of a legal matter, failure to account for client funds, and failure to properly deliver client property.

Mr. Jackson was hired by a client to represent her in a personal-injury matter. In March 1997, Mr. Jackson filed a complaint on behalf of the client. The court entered an order transferring the action to arbitration. Mr. Jackson requested that the client deliver $1,100 for costs incurred and to be incurred in the action, which he received in October 1997 and deposited into his lawyer trust account. In October 1997, Mr. Jackson withdrew $630.22 for expenses and costs incurred. In November 1997, the court issued a notice of pending dismissal of the action. The court dismissed the case in December 1997 and sent a copy of the judgment of dismissal to Mr. Jackson.

Between October 1997 and October 2001, Mr. Jackson failed to respond to the client's telephone calls and letters, failed to provide the client with written communications from the opposing party's counsel and other persons, failed to respond to inquiries and requests from the opposing counsel, failed to provide the client with a copy of the court's notice of pending dismissal and judgment of dismissal of the action, failed to take action to reinstate the case, failed to notify the client that he
was taking no action and was no longer representing or pursuing her interests, failed to monitor the client’s case, and failed to take action to protect the client’s interests. In October 2001, the client hired a new lawyer, who requested a copy of the documents contained in Mr. Jackson’s file. Mr. Jackson did not deliver the documents until March 2002, after the new lawyer had made additional requests. Until June 2004, Mr. Jackson failed to deliver the unused balance of the client’s funds and failed to account for those funds.

Mr. Jackson’s conduct violated Oregon DR 2-110(A)(2), prohibiting a lawyer from withdrawing from employment until the lawyer has taken reasonable steps to avoid foreseeable prejudice to the rights of the lawyer’s client, including giving due notice to the lawyer’s client, allowing time for employment of other counsel, delivering to the client all papers and property to which the client is entitled, and complying with applicable laws and rules; DR 6-101(B), prohibiting a lawyer from neglecting a legal matter entrusted to the lawyer; DR 9-101(C)(3), requiring a lawyer or law firm to maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to the lawyer’s client regarding them; and 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 that the client is entitled to receive.

Felice P. Congalton represented the Bar Association. Mr. Jackson represented himself.

Non-Disciplinary Notice

Suspended Pending Outcome of Disciplinary Proceedings

Paul Hernandez (WSBA No. 21015, admitted 1991), of Seattle, was suspended from the practice of law pending the outcome of disciplinary proceedings, pursuant to ELC 7.2(a)(3), effective May 25, 2006, by an order of the Washington State Supreme Court. This is not a disciplinary action.

CONSTRUCTION SITE INJURIES

Bradley K. Crosta
Counsel for plaintiff in State v. PBMC, Inc., 114 Wn.2d 454 (1990) (General contractor has primary responsibility for the safety of all workers.)

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APPEALS

Philip A. Talmadge, former justice, Washington State Supreme Court; fellow, American Academy of Appellate Lawyers

Emmelyn Hart-Biberfeld, former law clerk, Washington State Supreme Court; invited member, the Order of Barristers

Anne E. Melley, former law clerk, Washington State Court of Appeals

Thomas M. Fitzpatrick, former executive director, Snohomish County; former assistant chief, civil, Snohomish County Prosecuting Attorney’s Office; fellow, ABA Center for Professional Responsibility

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Tukwila, WA 98188-4630
206-574-6661
Fax: 206-575-1397
E-mail: christine@talmadgelg.com
www.talmadgelg.com
For when they insure it is sweet to them to take the money; but when disaster comes it is otherwise and each man draws his rump back and strives not to pay.

— Francesco di Marco Datini —
Florentine businessman, letter to his wife, 14th century.

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William C. Smart, trial attorney with over 25 years of experience, is available for consultation, referral, or association on failure to defend, failure to settle, excess judgment, negligent claims handling or other insurance bad faith claims, including disability insurance.

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1201 Third Avenue, #3200
Seattle, WA 98101
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September 26 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

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August 10 — Seattle. 3.25 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

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September 14 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

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Calendar

Please check with providers to verify approved CLE credits. To announce a seminar, please send information to:

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Elder Law

Elder Law at the Cutting Edge: Annual Fall Elder Law Conference
September 15 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Environmental Law

Renewables and Energy Efficiency: New Policies and Market Opportunities

Estate Planning

Basic Washington Estate Planning Series (series of seven sessions)
September 8 — Seattle. 27 CLE credits, including 1 ethics. By UW School of Law; 800-CLE-UNIV or 206-543-0059.

Essentials of Drafting and Using Trusts
September 22 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethics

Ethics, Professionalism and Civility: The Hard Questions
September 28 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Family Law

A Tax and Financial Checklist for Your Family Law Practice: Advising
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September 19 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Lawyer’s Toolbox: Effective Writing
August 3 — Seattle. 3 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Lawyer’s Toolbox: Setting Up Your Practice and Handling Your Trust Account
August 18 — Seattle. 3.5 CLE credits, including 1.5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

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September 14 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

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September 27 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Auto Crash Cases — Winning with Cutting Edge Technology
August 17 — Seattle. 6 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

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September 21 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA

Residential Landlord Tenant Law
September 12 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

A Tax and Financial Checklist for Your Family Law Practice: Advising Clients in Traditional and Non-Traditional Relationships
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Business associate — Seattle office: Garvey Schubert Barer, with offices in Portland, Seattle, Washington, New York, and Beijing, seeks an associate for its business practice in Seattle, Washington. This position offers opportunity for challenging work in a collegial environment. Three-plus years’ experience in business practice with emphasis on M&A work and securities preferred. Current WSBA membership required. Applicants must have excellent writing and analytical skills, top academic credentials, and a commitment to excellence. Garvey Schubert Barer has a tradition of hiring exceptional associates in order to make the best legal talent possible available to its clients. We are an equal opportunity employer and encourage and support a vibrant and diverse team of professionals. We seek highly qualified and motivated individuals who will work hard and are able to balance that work ethic with their life outside the firm. If you meet this description, we would be delighted to hear from you. Please reply in confidence to Genevieve P. Tietjen and include your cover letter, résumé, and law-school transcripts. Application materials should be sent to Garvey Schubert Barer, 1191 Second Ave., 18th Fl., Seattle, WA 98101; fax: 206-464-0125; e-mail: gptietje@gsblaw.com.

Senior environmental associate attorney. Marten Law Group PLLC is seeking two exceptional attorneys to assist us in expanding our environmental practice. These positions require five or more years’ substantive experience in one (and preferably more than one) of the following areas of environmental law: air quality, water quality, waste cleanup, waste management, permitting and environmental review, property development and acquisition, endangered species and natural resources, and environmental litigation. Interested applicants should review the detailed job description and the specific materials to be included with their C.V. and cover letter at the “Careers” link on the firm’s website, www.martenlaw.com.

Paralegal: Palace Law Offices is now hiring a workers’ comp paralegal. Must have legal experience in workers’ compensation w/strong computer skills. Full time w/benefits. Send résumé to: Office Manager, PO Box 1193, Tacoma, WA 98401.

Fluke Corporation is seeking a qualified attorney at our corporate headquarters in Everett, Washington. The ideal candidate will have seven or more years of practice in a law firm or combined law firm/in-house, J.D. degree, and excellent written/oral communication and interpersonal skills. Key responsibilities include negotiating/drafting sales contracts, licensing agreements, advising/training staff about contract-related and general legal issues. The attorney will report to Fluke’s general counsel and will also provide legal services to other company operations. Please submit résumé directly using our corporate website, www.fluke.com.

Microsoft employment attorney. Microsoft, the world leader in software for personal and business computing, has an immediate opening for an experienced employment attorney to work on cutting-edge employment law issues in support of its dynamic and creative human resources department and senior leaders. Primary responsibilities include: Advising HR and business leaders about employment and labor law matters arising in the business, sales, and operations groups; advising on and handling attorney
directed internal investigations as well as preparing responses to demand letters and agency charges received from current and former employees and/or their counsel; developing and reviewing written HR policies, templates, handbooks, and HR Intranet sites; assisting the HR new ventures team in acquisitions, joint ventures, investments, and spin-offs; developing and delivering legal training for HR generalists and company managers. The responsibilities of this position require the ability to grasp and explain technical subject matter; think creatively to resolve situations; identify and implement systemic changes where appropriate; and frequently and regularly communicate with outside counsel, with other attorneys, paralegals and staff, human resources personnel, and with Microsoft leaders and executives. Qualifications should include: A minimum of six years of demonstrated work experience in employment and labor law, including counseling clients, handling significant employment litigation, and conducting training; J.D. degree from an ABA accredited law school with a license to practice law, and outstanding academic credentials; highly developed written and oral communications skills, with the ability to articulate recommendations and options about complex legal issues; ability to partner effectively with others as a member of a legal services team; ability to understand technology issues is preferred. This description has been designed to indicate the general nature and level of work performed by employees within this position. The actual duties, responsibilities, and qualifications may vary based on assignment or group. Please submit your résumé in Word format to resume@microsoft.com. Please indicate job code N150-162861 in the subject line. Microsoft is an equal opportunity employer (EOE) and strongly supports diversity in the workplace.

Senior attorney. Yakama Nation, office of legal counsel. Attorney will serve as legal counsel to the YN Tribal Council and government as a whole. Representation includes appearances before tribal, state, federal courts, and other hearing bodies and encompasses many subject areas. Knowledge of Indian law, research formulated and presents legal issues ideas and arguments. Strong litigation skill. Require minimum of four years’ legal experience and two years’ Indian law. Requires admission to WSBA and drug test. Apply: JA#2006-124, YN Personnel, 509-865-5121, ext. 4833. Open until filled.

King County Superior Court is accepting applications for the position family law commissioner pro tempore. Successful applicants will be placed on a list maintained by the court, and may be called to duty as needed. Current pro tempore commissioners who wish to continue serving must reapply, except that former judicial officers need not reapply. Applications must be received by 4:30 p.m. on August 31, 2006 (postmarks not accepted). For information and required application materials, please see www.metrokc.gov/ohrm/jobs, or call 206-296-9355.

Business and real estate attorney. Hanson Baker Ludlow Drumheller P.S., a nine-attorney AV-rated firm serving the Eastside and greater Puget Sound area for over 50 years, is seeking a lateral partner to supplement its growing transactional and litigation practice, particularly in the areas of business, real estate, construction, financing, land use, and environmental matters. HBLD provides the highest quality legal services to a wide range of businesses and individuals throughout the Northwest, while offering its attorneys a quality of life and collegial atmosphere not found at a large firm. Applicants should have significant transactional and/or litigation experience. Please send résumé and/or business plan and cover letter to John T. Ludlow, Hanson Baker Ludlow Drumheller P.S., 10777 Main St., Ste. 300, Bellevue, WA 98004.

Construction and condemnation litigator: seeking attorney with at least five years of experience, including litigation, to represent Pierce County Public Works/Utilities Dept. Duties include all phases of condemnation proceedings, complex public-works construction, contract/leasing issues. WSBA membership required. Full-time w/benefits, $66,048-88,379/year, DOE. Closes 3/10/06. Send résumé/cover letter to: Becky Stover, Human Resource Manager, Pierce County Prosecuting Attorney’s Office, 930 Tacoma Ave. S., Rm. 946, Tacoma, WA 98402. EOE.

Owens Davies, P.S., an established Olympia law firm, is seeking a motivated, self-starting attorney with a minimum of four years’ family law experience and excellent interpersonal, writing, and academic credentials willing to join a team of six attorneys in Washington’s most livable city. Owens Davies has been providing legal services to Southwest Washington for 40 years and offers a congenial work environment that appreciates high quality work without the pressures of a large city firm. Motivated individuals with a desire to build or expand their practice are encouraged to send their résumé with cover letter and writing sample to H.R. Davies, Owens Davies, PO Box 187, Olympia, WA 98507, or via e-mail to leg@owensdavies.com.

Estate planning attorney: Hawley Troxell Ennis & Hawley LLP is seeking an estate planning attorney with an LLM in taxation, six-plus years of experience and good business development skills to join our growing practice in Ketchum, Idaho. Corporate experience and/or real estate experience is preferred, but not required. All replies confidential. Direct inquiries to: Hawley Troxell Ennis & Hawley LLP, Attn: Eugene A. Ritti, 877 Main St., Boise, ID 83701; phone: 208-344-6000; fax: 208-342-3829; or e-mail: ear@hteh.com.

Public notice: The Court will select a part-time United States Magistrate Judge for the Western District of Washington at Vancouver. The person selected will replace the incumbent, who will retire March 23, 2007, after 28 years of distinguished service. The new Magistrate Judge will enter on duty March 24, 2007, or as soon thereafter as possible. Applications are now being accepted for the position. Position description: part-time United States Magistrate Judge, Vancouver, Washington. The United States District Court, Western District of Washington announces the vacancy of the position of part-time magistrate judge for the Western District of Washington at Vancouver. The person selected will replace the incumbent, who will retire March 23, 2007. The new magistrate judge will assume duties on duty March 24, 2007, or as soon thereafter as possible. Applications are now being accepted for the position. The duties of the part-time magistrate judge position may include the following: to conduct initial appearances, pretrial matters, trial, and disposition of petty and misdemeanor cases charged as violations of regulations promulgated by the U.S. Forest Service, General Services Administration, Veterans Administration, U.S. Fish and Wildlife, and the Corps of Engineers; to conduct initial appearances and related matters in criminal cases; to consider, under oath, Applications for Search Warrants, Applications for Arrest Warrants, and Complaints in criminal matters. Such other responsibilities as may be assigned. The jurisdiction of the part-time
A fully qualified candidate is specified in 28 U.S.C. 636(a). To be qualified for appointment an applicant must: be, and have been, a member in good standing for at least five years of the bar of the highest court of a state, the District of Columbia, the Commonwealth of Puerto Rico, or the U.S. Virgin Islands, and have been engaged in the active practice of law for a period of at least five years (with some substitutes authorized); be competent to perform all the duties of a United States magistrate judge; be of good moral character; be emotionally stable and mature; be committed to equal justice under law; be in good health; be patient and courteous; and be capable of deliberation and decisiveness; be less than 70 years old; not be related to an active judge of the district court; possess such other qualifications for the position as may be established by the district court. The person serving in this position may practice law, and may appear as counsel in any case in state court and in any civil case in this court. He or she may not, however, appear as counsel in a criminal case in this court. A merit selection panel will review all applications and recommend to the judges of the district court in confidence a list of the persons it considers best qualified. The court will make the appointment, following an FBI full-field investigation and IRS tax check of the appointee. An affirmative effort will be made to give due consideration to all qualified candidates, including women and members of minority groups. The current annual salary of the position is $25,512. The term of office is four years. Application forms and further information on the magistrate judge position may be obtained from the Clerk of the District Court (or via the court’s website at www.wawd.uscourts.gov). Bruce Rifkin, District Court Executive, U.S. District Court, 700 Stewart St., Lobby Level, Seattle, WA 98101, 206-370-8400. Applications must be submitted only by potential nominees personally and must be received no later than September 1, 2006. All applications will be kept confidential, unless the applicant consents to disclosure, and all applications will be examined only by members of the merit selection panel and the judges of the district court. The panel’s deliberations will remain confidential.

Insurance defense litigation attorney — well established, AV-rated downtown Seattle law firm seeking civil litigation attorney, preferably with insurance defense experience. We are a small/medium-sized firm consisting of 10 attorneys. We seek a full-time associate with a minimum of five years’ litigation experience. Successful candidate will be able to work independently and handle all levels of civil litigation. Excellent research, writing, and analytical skills are required. The right candidate should also be energetic and willing to work as part of a team. We have a friendly and relaxed work environment. We offer a competitive salary and benefit package. Please e-mail your résumé, cover letter, and a short writing sample to resume@gardnerbond.com. No telephone calls please.

Property law professor — the University of Montana School of Law invites applications for a tenure-track position teaching in the area of property law, to commence in the fall of 2007. More information, including a full position description and the hiring criteria, is available on our website, www.umt.edu/law. Application materials should be submitted by October 1, 2006.

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Employee benefits attorney. The employee benefits practice at Bullard Smith Jernstedt Wilson, an Equal Opportunity Employer, continues to expand. We are the largest specialty management, labor and employment law firm in the Pacific Northwest and are seeking an experienced employee benefits attorney to join our team. The ideal candidate has 10-plus years’ experience in the employee benefits area, including tax-qualified retirement plans, nonqualified plans, and health and welfare plans. Essential skills include plan drafting, problem solving, and exceptional client service. The ability to converse in a broad spectrum of tax qualified retirement plans, nonqualified plans, and health and welfare plans. Essential skills include plan drafting, problem solving, and exceptional client service. The ability to exercise sound independent judgment while functioning as a valued team member is a plus. Exceptional academic, writing, and research skills are required. To apply, please submit a cover letter, résumé, law-school transcript, and writing sample (no longer than 10 pages) to Jackie Damm, Bullard Smith Jernstedt Wilson, 1000 SW Broadway, Ste. 1900, Portland OR 97205; e-mail jdamm@bulalrdlaw.com. No calls or search firms please. EOE.

Employment law and litigation associate. Bullard Smith Jernstedt Wilson is looking for an associate with two-plus years’ experience to join our expanding firm. We are a specialty firm representing management in labor and employment law matters exclusively. Our ideal candidate will have an excellent academic and professional record and be dedicated to client service, teamwork, and community. The ability to exercise sound independent judgment and an entrepreneurial outlook on the practice of law are a plus. Exceptional academic, writing, and research skills are essential. To apply, please submit a cover letter, résumé, law-school transcript, and writing sample (no longer than 10 pages) to Jackie Damm, Bullard Smith Jernstedt Wilson, 1000 SW Broadway, Ste. 1900, Portland OR 97205; e-mail jdamm@bulalrdlaw.com. No calls or search firms please. EOE.

Real estate associate. Stoel Rives LLP is seeking an associate attorney to join its real estate section in its Portland, Oregon, office. The ideal candidate has between two-plus years of practice experience in transactional real estate law. Exceptional academic and writing skills are required. Send a cover letter, résumé, law-school transcript, and writing sample to Michelle Baird-Johnson, Recruiting Manager, Stoel Rives LLP, 900 SW Fifth Ave., Ste. 2600, Portland, OR 97204. No calls, please.

Paralegal: Real estate transactions. Responsible for supporting in-house counsel
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Chief legal counsel. Montana Department of Revenue. Salary range $80k-100k, DOQ. Helena office, position No. 58101009. We are seeking an experienced principal legal officer to lead and manage the office of legal services. A diverse and broad knowledge of tax law required. For complete job and application information, please visit our department website at www.discovering-montana.com/revenue. Position is open until filled, first review July 25, 2006.

Real estate attorney. Pinnacle Real Estate Law Group has an immediate opportunity available for a real estate attorney with at least four years’ experience in real estate transactions, land-use matters, and/or real estate litigation. We are located on Bainbridge Island and are building a team of attorneys and staff to meet the transactional and litigation needs of our real estate clients throughout western Washington. We represent developers, financial institutions, title insurance companies, real estate-related businesses, and individuals. This is a great opportunity for a confident, self-motivated person with a demonstrated ability and desire to handle real estate matters independently and assist our client teams in more complex matters. You may visit our website at www.pinnacle-law.com. Send cover letter and résumé to Office Administrator, Pinnacle Real Estate Law Group, 175 Parfitt Way SW, Ste. S140, Bainbridge Island, WA 98110. All replies are confidential.

Springer, Norman & Workman, Longview, Washington, seeking motivated attorney with minimum two years’ experience with workers’ compensation. Excellent in-person communication skills required. Well established plaintiffs’ practice with a relaxed work environment, established over 40-plus years. Position to handle all phases of case management and litigation. Salary DOE. Please send résumé and references to Springer, Norman & Workman, PO Box 757, Longview, WA 98632; or e-mail: robhall@mcleodusa.net.

Plaintiff personal-injury litigation position. The law firm of Harold D. Carr, PS handles personal-injury cases with a main office located in Olympia/Lacey and satellite offices in Pierce County. A position is now available to handle both arbitration and jury litigation. Please mail résumé to 4535 Lacey Blvd. SE, Lacey WA 98503 or fax to 360-455-0031.

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### Will Search


**Will search:** seeking will of Richard B. Nichols of Everett/Lake Stevens, Washington. Contact Michael Howard. 206-236-1301.

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