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Bar News welcomes letters from readers. We do not run letters that have been printed in, or are pending before, other legal publications with overlapping readership. Letters must be no more than 250 words in length, and emailed to letterstotheeditor@wsba.org or mailed to: WSBA, Attn. Bar News Letters to the Editor, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539. Bar News reserves the right to edit letters. Bar News does not print anonymous letters, or more than one submission per month from the same contributor.

Methodology

Upon reading “A New View of Embracing Diversity in Washington” [June 2011 Bar News], I was disappointed, but not surprised, to learn that the survey determined “how female attorneys of color are being treated compared to their peers.” (Emphasis supplied.) I was disappointed, but not surprised, to learn that the survey cited sought to determine how attorneys perceived they were being treated. The difference is very important. As a woman who entered the profession in the 70s, I am not unfamiliar with some of the challenges discussed in the article. Representing perceptions as fact does not advance our understanding of those challenges, however.

Margaret Manning, Eastsound

The Authors Respond: Studying people’s experiences through a questionnaire is problematic because one is always asking about things that happened in the past, and responses are filtered through the respondents’ memories and emotions. Our methodology attempted to overcome the thorny issue of perceptions versus experience by asking respondents if they “experienced certain behaviors.” Thus, we were not merely asking them to report whether they “believed” or “perceived” if they were harassed, discriminated against, or otherwise mistreated, but rather we asked women to report whether they experienced concrete harassing and discriminating behaviors within the context of work. — Sarah Leyrer, Jacqueline Walker, Marc Perez, and Michelle Raiford

Wise Thoughts

WSBA President Steven Toole showed his profound wisdom about the legal profession in his column on “Wisdom” [President’s Corner, June 2011 Bar News]. He is right that ordinary people are clueless about what lawyers do and don’t care. They learn about lawyers from nasty jokes, media soundbites or TV series that make lawyers out to be shysters and take-no-prisoners terminators. Unfortunately, the legal profession does not reward lawyers who have wisdom (or strive to get it). What wisdom I may have acquired after 35 years as a lawyer has come from the experiences and tales of clients, business and community leaders, friends and family. For the legal business to survive into the next century, and not be reduced to an arcane dying venue to resolve anything other than criminal responsibility, a whole new paradigm has got to be adopted by all of us very soon from training lawyers in law school to the last day of lawyering. There can be advocacy with a “win-win” professional approach to resolving disputes. Advising clients should always include a reality check of their position, true costs to resolve it, honesty, integrity and imparting wisdom. The traditional adversarial model has to give way to consultation and collaboration between opposing lawyers in resolving conflict, not just professional courtesy. And, lawyers need to morph into something other than the “sharks swimming with sharks” persona they have today, because as the rest of American society gets smarter and wiser, there will be no place for the present day lawyer in the future.

Michael Gianunzio, Camano Island and Sacramento, California

Discipline Thoughts

If I were defending a bar complaint case, I would find out what the lawyer did wrong, and fix it (“Lawyer Discipline in Washington: What You Need to Know, July 2011 Bar News). It might take digging to find out why the lawyer erred, as well as imagination to figure out how to change the lawyer’s ways so the offense isn’t repeated. It is a process of getting to know the lawyer well. Once done, I would approach bar counsel and ask for a disposition that reasonably accommodates the respondent’s needs. I would back up my request with “exhibits” that show the lawyer has mended his ways. One could bring in neat account records that show that the lawyer has learned to track his funds correctly and promptly and methodically. You could provide receipts showing the lawyer had paid a coach to learn how to break a bad habit: pictures, creativity, proof. The attorney has to be sincere. A defending attorney should have counsel. It shows the bar that you care about the complaint. It shows courtesy because it is easier for the bar counsel to talk to an attorney than a defendant. It relieves the defendant lawyer from some risk of committing more bar errors. I would generally trust bar counsel not to take advantage of the arcana of the disciplinary system. It does behoove attorney and respondent to study the rules. This approach might work in other areas of law as well. It does not apply to every situation.

Roger B. Ley, Astoria, Oregon
Taking the High Road

I am able to focus better on the truly important issues in my cases and not get sidetracked or upset over opposing counsel’s antics. Generally in my experience, if you don’t take the bait, your opponent gets frustrated and gives up on the sharp tactics.

In my 35-year career as a lawyer, I have rarely encountered an attorney who, in my opinion, has acted unprofessionally. Yes, some have come close and a few have crossed the line. Others have started out, how shall we say, a bit “sharp,” but after maintaining my politeness and consistently giving them the benefit of the doubt, they have come around. I have found that if treated unconditionally professionally by me, they ultimately, albeit at times reluctantly, take the same road. Now, I don’t mean to suggest that we are all perfect, myself included. We all have our bad days when we lose our patience way too easily and we temporarily forget about civility when dealing with another attorney who just manages to push our buttons the wrong way. But for me, these days are fortunately few and far between, both in myself and the other attorneys with whom I interact.

Some of you might argue that I am letting these attorneys take advantage of me and my clients. I would say that I am a cup half-full type of guy and I just see it differently. I take great pride in being able to bring out the best in people. As long as I am prepared, know my case very well, and am fully able and willing to take my case to trial, my being professional does not cost me or my clients anything—in fact, it pays off. By not getting caught up in what a judge might see as petty bickering over discovery, I am able to focus better on the truly important issues in my cases and not get sidetracked or upset over opposing counsel’s antics. Generally in my experience, if you don’t take the bait, your opponent gets frustrated and gives up on the sharp tactics. Now by acting professionally, I am not suggesting that you assume you can take everyone at their word and not confirm things in writing. I confirm everything in writing, if for no other reason than to remind me of some-
thing to which I agreed.

Although I have not personally experienced a pattern of unprofessional behavior among attorneys, based on anecdotes from a significant number of other attorneys, lack of professionalism is very much a growing problem in the legal profession. It apparently is so prevalent that we cannot ignore these numerous and repeated complaints. Indeed, this entire issue of the Bar News is devoted to professionalism.

So, what is the problem? Are some of us just born to be unprofessional? Did we learn this behavior in college? In law school? I'll bet there was no one who, during professional responsibility courses in law school, said, "This is all a bunch of rubbish and once I start practicing law I intend to do whatever it takes to come out on top and to take advantage of other attorneys along the way." After passing the bar and standing up at our swearing-in ceremony taking the attorney oath, none of us was thinking that this is all nonsense. We were incredibly excited about the career we were now finally about to undertake and had every intention of being professional in everything we did.

If we aren't born with a tendency to be unprofessional and we don't learn this behavior in school, where does it come from? Is it the result of bad mentors or lack of any mentorship? This certainly could be a factor, but there must be more than this. After all, where, when, and how did the "bad mentor" lose his or her sense of professionalism? It had to start somewhere. Can we put the blame on pressure placed on us by our clients, particularly those who would be considered sophisticated and are accustomed to telling the lawyer what to do as opposed to looking for counseling and advice from the lawyer? I do believe this can be a factor. But we need to ask ourselves why. We are the educated and trained professionals. We are the ones subject to the Rules of Professional Conduct. We are accountable for our own behavior, we are the ones who will be able to report that in videotaped so that your opposing counsel's antics will be visual and verbal records for the judge or jury to see if appropriate.

Keeping your cool and retaining a professional demeanor has multiple beneficial effects. By maintaining your professionalism, you can unnerve opposing counsel. In the long run, it will enhance your reputation. It might even improve your ability to interact with your opposing counsel. You will feel good about yourself. You will become a better attorney for learning how to effectively deal with the unprofessional opposing counsel. Developing these skills may take some time and effort, but it will be worth it in the long run.

But what if you just can't help yourself and you respond in kind? I would say, don't beat yourself up. Learn from the experience. Go to friends and colleagues, describe the fact pattern, and ask them how they would have handled the situation. Be better prepared the next time you encounter this type of behavior. Stay on the high road.

If every member of the WSBA would focus on being accountable for his or her own behavior, we would be well on our way to improving the professionalism of the Bar as a whole. Anecdotal stories about unprofessional attorneys will not go away, but there will be more and more people who will be able to report that in their practices they rarely run into unprofessional conduct by attorneys. This will be refreshing!

WSBA President Steven G. Toole can be reached at steve-wsba@sptoolelaw.com or 425-455-1570.
Day One in Law School
Is Day One in the Profession

For too long, entrance into the profession has been divided into three seemingly separate stages: law school, the bar exam, and then one becomes a member of the profession. In Washington over the last several years, the academy and the bar have been working to break down these barriers so that in Washington, law students understand that “Day one in law school is day one in the profession.”

When I speak to law students during 1L orientation, I tell them: “Look to your left, look to your right — don’t worry, you’ll all still be here — but these are your future colleagues, our future judges, and the future leaders of the bar.”

I then emphasize that the reputations they will build in the profession begin now. Few of us would question this premise: think back to law school and that one classmate who you still remember — the one who often made intemperate comments or generally didn’t have a positive reputation. Imagine walking into a courtroom and seeing that classmate on the bench or finding yourself across the table from him or her representing a client. Despite any changes that might have occurred since law school, your first thoughts will be informed by your memories from law school.

In an effort to ensure students get off on a strong footing in the profession, our efforts to create this culture of professionalism in law school operate on many fronts. Starting with orientation, entering 1Ls learn about the social contract we have with society to be the only peer-regulated profession in the United States — and the only profession responsible for an entire branch of government. The responsibility is awesome, and we must honor the trust society
has placed in us if we are to retain this privilege. We honor each other, to honor the profession.

In the fall, the WSBA president, the Young Lawyers Division (WYLD) president, the staff liaison to the WYLD, and I go out to our state’s three law schools to talk with students about getting involved with the WSBA and their profession. There are numerous opportunities for them to get involved, whether through the WYLD, our 27 practice sections, or various other avenues. We stress that regardless of what they do when they leave law school, they will always be members of the profession and their reputations will bear upon the profession.

Perhaps the most systematic way in which we reach law students is through the WSBA Professionalism Outreach Initiative. Through this program, two members from the WSBA Professionalism Committee and one staff member visit each professional responsibility class at each Washington law school every year. The goal of these presentations is to stress that the Rules of Professional Conduct are the floor for our profession’s expectations of conduct and that we should all strive to go beyond these minimums. The class session is a combination of emphasizing again the concept of being a member of a profession that has a delegated responsibility to protect the public, as well as giving the students practical tips on building and maintaining a strong reputation in the legal community.

The roots of the legal profession are deliberate and profound. Our role in society developed out of a need to protect the individual from the over-reaching and under-reaching of the government. This responsibility requires two important things: the ability to regulate ourselves independent of the legislature and executive, and a lawyer-client privilege that is nearly inviolate. Lawyers also hold a unique position in society, since people turn to us during what are often the most stressful times of their lives. We are also the guardians of the cornerstone of democratic societies: the rule of law.

I have worried over the years that we are a profession that has lost, or is at least losing, our ethos around being a profession. Many older lawyers point to the U.S. Supreme Court decision in 19771 as the turning point for when the profession began to operate more as a business than a profession. Bates v. The State Bar of Arizona was significant because the Supreme Court ruling led to lawyers being able to advertise for their services. The effects of this case on the profession are hard to determine, and my concern over the direction taken by the profession is perhaps unfounded. It is my hope, however, that as we enter law school and eventually receive our bar cards that we remind ourselves of the higher standard we hold ourselves to as a self-regulated profession.

We must understand this privilege, we must honor this privilege, and we must never lose sight of the critical role that lawyers play in our democratic society. I am hopeful that as we orient law students to these concepts, we will enhance the roots of our profession and, as a result, this appreciation of our personal responsibilities and responsibility to society will permeate our culture.

Paula Littlewood is the WSBA executive director and can be reached at paulal@wsba.org.

NOTE
We have been granted the public trust; the public deserves service in return. Professionalism includes an understanding of that privilege and an embracing of the duty to serve.
The professional lawyer makes time for herself and those important to her. Perfect facts and good law are wasted in the hands of the practitioner without the physical and mental health to effectively see the client through trial.

SEC filings, first appearances, notice provisions, etc. — are the bugaboo of any practice, small or large, and they should be managed with the utmost care and attention, lest your client find a new defendant. A trustworthy calendaring system is important, but the human element is more so. Any number of date reminders will fail to rescue the lawyer who inputs the wrong year.

While law schools are not business schools, the practice of law is often a business and should be run that way. Most lawyers joined the profession for a larger calling, but also to make a decent living. Feeding one’s family is a laudable goal, if not one instilled by evolutionary biology, and should not be disparaged. Moreover, a bankrupt lawyer serves her clients poorly. A practice managed with little fiscal discipline invariably leads to greater problems. Desperation begets dishonesty. The quarterly Lawyers’ Fund for Client Protection docket is littered with the names of lawyers who, in lean times, borrowed from Peter to pay Paul and ended up stealing from both.

The client and practice alone cannot appropriate all focus. Again like the boxer, a lawyer’s stability requires balance. The professional lawyer makes time for herself and those important to her. Perfect facts and good law are wasted in the hands of the practitioner without the physical and mental health to effectively see the client through trial. The eternal flame is not a candle burning at both ends.

Add fuel to a double-lit candle and a greater conflagration may result. Substance abuse is a common problem in our ranks, more common than the national average. Drugs and alcohol play a leading role in Lawyers’ Fund parables as well. If you have a problem, or think you might, find the courage to seek help. Though most lawyers spend entire careers helping clients with their deepest troubles, it is the rare and admirable lawyer who can face his own demons and conquer them before it is too late.

Civility

Though one can feel anonymous among 35,000 other lawyers, we are not. Our state’s legal community is not small, but the subsections make it so. Organization into practice areas, associations, and other demographics circumscribes our relative legal communities into groups of hundreds instead of thousands. In these small groups, reputation is essential. The WSBA Professionalism Committee impresses upon law students that their careers began the first day of orientation. Reputations of quality, diligence, and honesty are being made now. So, too, are the opposite. Lawyers are a skeptical bunch; we pay attention and do not soon forget. Accordingly, we gain credibility in drops, but can lose it in buckets.

What, then, of civility? Other articles in this edition will discuss civility in depth from a variety of perspectives. The term, like the issue it represents, is fickle. Civility resists definition and begets “Miss Manners” quips and the like. It is easier to say what it is not; civility is not a mandate to be a door mat, to offer niceties at the expense of advocacy. It is not a rigid code of conduct with objective measurables. The reality is that only the practitioner can be the true judge of her civility. Only one person is in every room you enter, every time. That person must be the judge. My favorite rule (as offered by a member of the Professionalism Committee who practices in Washington and in Canada) is this: “Always act as if the Queen is in the room.” Wouldn’t we all avoid heaps of petty bickering if that were so? Remember that notion in all interactions, not just with the court and staff, not just when in a deposition with the court reporter transcribing, but all exchanges with counsel and client, on the record or not. The word “courteous,” after all, was derived from “courtly” elegance. A touch of humility, grace, and perhaps humor, can take you a long way.

There are those who would argue that, in the pursuit of the clients’ interests, we must sacrifice civility for the sake of competence. Our clients’ interests come first and, in the rough-and-tumble world of litigation, civility must take second. Meet fire with fire, they say. If one gains a material advantage by being uncivil, is it not the lawyer’s obligation as an advocate to do so?

This is a false choice. I have engaged

The fight is won or lost far away from witnesses — behind the lines, in the gym, and out there on the road, long before I dance under those lights.

MUHAMMAD ALI, BOXING GREAT

Preparation is the be-all of good trial work. Everything else — felicity of expression, improvisational brilliance — is a satellite around the sun. Thorough preparation is that sun.

LOUIS NIZER, TRIAL LAWYER

But before a lawyer can begin case preparation, the law practice must be in order. Lacking in glamour, organization gets short shrift. Organization, though, can keep you from calling your liability carrier. The professional lawyer runs a tight ship. Deadly deadlines — statutes of limitation,
deeply with the civility supporters and cynics and inquired on the issue. I have asked for an example, a fact pattern, where an act of civility has harmed the interests of a client or where incivility was necessary to protect a client. No reply ever came. On this point, the Washington Oath of Attorney has this to say:

I will abstain from all offensive personalities, and advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which I am charged.

The oath contemplates the rare occasion when attacking the honor of a party is essential and, even then, nothing is said to condone personally attacking opposing counsel. Such situations — where incivility is required to advance the client’s interest — must surely exist, but they are just as surely exceptional. In the wide swath of daily interactions that transpire between these rare occurrences, let our actions be civil.

Community and a Culture of Service

When the Professionalism Committee speaks to the law schools, WSBA Executive Director Paula Littlewood reminds students that, once they have their license, they are lawyers 24 hours a day, seven days a week. A lawyer is an officer of the court, all day and every day. Public opinion polls notwithstanding, individual citizens often view individual lawyers in their life with some degree of respect, if not reverence. Whether we like it or not, lawyers are leaders. We, as lawyers, should grasp this opportunity to engage with our communities — both business and personal — to lead and give back. We have been granted the public trust; the public deserves service in return. Professionalism includes an understanding of that privilege and an embracing of the duty to serve.

The WSBA website is loaded with pro bono opportunities just waiting for lawyers to volunteer. Providing free or low-cost legal services can open the doors of the courthouse to citizens who would otherwise be shut out. Our service should not stop there. As the only profession that controls an entire branch of government, we are the keepers of the justice system. As the lawyers and judges who practice in that system every day, we must argue and agitate for its protection. Generally, that means money. Court funding in this economic climate is as difficult
as ever, but it is our duty to fight for those funds. So, too, should we fund civil legal aid to low-income citizens of our state. New lawyers swear never to reject “the cause of the defenseless or oppressed.” Those causes are funded by legal aid; legal aid is in large measure funded by lawyers.

Diversity, too, is an essential element of professionalism. Our primary function is to effectively advocate for all clients, not just some. Our clients are as diverse as the public, yet our ranks are not. The medical field has a similar public mission, and a recent report from the Institute of Medicine found that “evidence demonstrates that greater diversity among health professionals is associ- 
ated with improved access to care for racial and ethnic patients, greater patient choice and satisfaction, and better patient-provider communication.”11 Racial and ethnic minority providers have been found to be more likely than non-minorities to serve minority populations, thereby improving access to healthcare.12 Moreover, diversity within a profession brings with it improvements in “cultural competency,” allowing professionals the capacity to better serve patients of differing backgrounds.13

There is little reason to think that our profession is any different. Diversity of ethnicity, culture, race, gender, religion, sexual orientation, and physical ability among members of the bar improves the likelihood that the bar will serve diverse populations and fosters a broader understanding of the issues facing those communities. A diverse bar, and wide exposure to members of the bar to diverse backgrounds and perspectives, can aid a critical element of our service: empathy. Some scholars argue that empathy is a core skill — on par with logical reasoning — when it comes to the service of our clients.14 While we can argue whether members of the bench should empathize with the parties before them, I suspect few would argue that lawyers, as advocates and counselors, should not empathize with their clients. Our differences — language barriers, customs, beliefs, dress — can hinder our communication with clients at best, and excise our ability to empathize at worst. Cultural competence of the bar is critical for us to meet our goals of service. If we care about effectively representing our clients, and serving the public who has entrusted us with the administration of justice, then it is our shared professional responsibility to promote and embrace diversity within our profession.

In sum, I see professionalism as a series of objectives toward which we should collectively stride. We will each view the goal through our own prism, with differing definitions and priorities, but we should at the very least be mindful of these issues as we shape our practice and our profession. As our first American President wrote in the 110th rule of his 110 rules of civility:

Labor to keep alive in your breast that little spark of celestial fire called conscience.

GEORGE WASHINGTON

Sims Weymuller is a member of the Seattle law firm Johnson-Flora, PLLC. His practice areas include legal malpractice, medical malpractice, and personal injury claims. Sims currently chairs the WSBA Professionalism Committee and is a former chair of the WSBA Lawyers’ Fund for Client Protection Committee.

NOTES
1. The WSBA Professionalism Committee “recommends programs to increase professionalism by
assisting attorneys in fostering better client relations, improving civility among practicing attorneys, and developing a better public image. For more information, visit www.wsba.org. From the Legal Community tab, select Committees, Boards, and Other Groups; then Professionalism Committee.

2. The Lawyers’ Fund celebrated its 50th anniversary of client protection last year. Since a fund was established in 1960, Washington lawyers have compensated the victims of the few dishonest lawyers who misappropriate or fail to account for client funds or property in an amount totaling more than $5.3 million. See, WSBA Lawyers’ Fund for Client Protection, Annual Report, 2010, available at www.wsba.org. From the Legal Community tab, select Committees, Boards, and Other Groups; then Lawyers’ Fund for Client Protection Board where you will find a link to the report.


4. The WSBA Law Office Management Assistance Program is a terrific resource for low-cost and confidential assistance with law office administration. From the Resources and Services tab at www.wsba.org, select Law Office Management Assistance Program.


6. The WSBA Lawyers Assistance Program (LAP) provides education, referrals, and direct confidential mental health and addiction counseling. The Resources and Services tab at wsba.org has a link more information about LAP.

7. Objective criteria may be inappropriate, but systematic subjective criteria can help. Some members of the medical profession engage in a “360 review” of young physicians in which all who surround the individual in question (patients, nurses, techs, other doctors, secretaries, etc.) are interviewed to grade the physician.


9. When the Gallup Poll asked, “Please tell me how you would rate the honesty and ethical standards of people in these different fields: very high, high, average, low, or very low?” 17 percent of respondents answered very high/high for lawyers, January 7–9, 2010, Gallup Poll, available at www.pollingreport.com/values.htm.


12. Id.

13. Cultural and linguistic competence is "a set of congruent behaviors, attitudes, and policies that come together in a system, agency, or among professionals that enables effective work in cross-cultural situations. 'Culture' refers to integrated patterns of human behavior that include the language, thoughts, communications, actions, customs, beliefs, values, and institutions of racial, ethnic, religious, or social groups. 'Competence' implies having the capacity to function effectively as an individual and an organization within the context of the cultural beliefs, behaviors, and needs presented by consumers and their communities." As defined by U.S. Department of Health and Human Services; available at http://minorityhealth.hhs.gov, under the "Cultural Competency" tab (Adapted from Cross, 1989).


We're pleased to announce that COMMISSIONER JAMES VERELLEN has joined JDR as a panelist.

Before joining JDR, James Verellen served as a Commissioner at Division I of the Washington State Court of Appeals and was a partner in the law firm currently known as Vandeberg, Johnson & Gandara.

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Fresh Perspectives

Professionalism for New Attorneys

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with Linda Jenkins and Carly Summers

“...beginning lawyers are encouraged to join WSBA sections and other organizations to develop relationships outside the firm. Volunteering is another way to meet people and have a life outside of the legal community...”

for new attorneys just beginning to develop their practice, professionalism and ethical issues can present themselves almost immediately — whether through interactions with opposing counsel, appearance and filings in court, or in their private lives. Linda Jenkins, an associate with Tuohy Minor Kruse PLLC in Everett, and Carly Summers, an associate with Davis Wright Tremaine LLP in Seattle, discuss some of the issues that arise for new lawyers in both a small- and large-firm setting.

The New Lawyer’s Role

Carly: Professionalism in the legal industry is a timely topic, and new attorneys face distinct challenges. As a new attorney in a large firm, I am acutely conscious that while I am learning to practice, I also represent a well-respected firm.

A partner told me that during his first few years at our...
firm, he kept expecting the managing partner to knock on his door, tell him they had made a mistake, and ask him to pack up his things. He called that period "the faking-it years" and said that if he had just asked for help and feedback, he would have realized he was doing great. Another experienced litigator advised me that skill-building is like home-building — your tenth house will look better than your first. Although I am not yet equipped to handle everything, I am lucky to be learning from incredible attorneys at a firm that gives new associates appropriate responsibilities according to our clients' high expectations.

**LINDA:** Yes, the early years are about accepting the hard truth that we are learning. As an attorney in a small firm that is deeply rooted in the local community, I know that there are high expectations of my work. That "faking it" feeling is universal for new attorneys. To help alleviate that, I have found that mentors are an incredible asset. More than any treatise or form bank, experienced mentors add to a new lawyer's practice by giving generously of not only their legal knowledge but also their wisdom and encouragement.

For me, professionalism is easy when working with mentors — be grateful. I say "thank you," return calls, always show up for scheduled appointments, don't ask for too much time, and try to give something back when I can. Right now my mentors are becoming good friends and I have mentees of my own. I am thankful for every mentoring relationship, new and old, and I am rich in the number of people I can call on whom I truly admire. That's the benefit of maintaining professionalism with mentors.

**CARLY:** Speaking of mentoring, most new attorneys are supervising the work of others for the first time — paralegals, assistants, document clerks, and other support staff. I was lucky to have several years' work experience as a paralegal before law school, and to supervise and coordinate the work of others on my team. Even with that experience, supervisory roles are simply challenging and humbling.

**LINDA:** I also came to practicing law after a few years in the working world. It's a challenge to be supervising the work of others when as a new lawyer you are also learning your own job. I try to focus on people's strengths in the workplace. I also find it valuable to talk through mistakes as they arise, set out clear written directions, and be available for clarification. Kindness and courtesy really are essential — I've often been saved from hours of wandering and confusion by the highly experienced and knowledgeable administrative staff in our office and in our small legal community. However, supervising others can be difficult with a busy schedule, and time management plays a big role each day.

**Time Management and Billing Requirements**

**CARLY:** Time management and the struggle for work-life balance at large firms is probably the most talked-about issue for new and experienced lawyers. I am frequently asked — not how I am — but how busy I am. If I respond, "My workload is pretty crazy," the overwhelming response is, "Great!" That said, I am lucky to work at a firm that recognizes the value of work-life balance, reflected in a lower billing requirement than many other large firms.

**LINDA:** We don't have a billing require-
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Civility and Communication

LINDA: Once in law school, a particularly stressed classmate called me “nice” like it was a four-letter word. However, I credit my empathy and interest in others as the source of my continued gainful legal employment and advancement opportunities. I think professionalism in communication as a new lawyer is about communicating appropriately for the situation and the venue and managing stress well. I’ve seen new lawyers descend into outright obnoxiousness to disguise a lack of experience. A lawyer’s conduct and choice of words can change people’s lives, and that’s something to honor, not to defile with behavior that is as transparent as it is uncivil.

CARLY: I agree. I have also been accused of being “nice,” but I have never seen the utility in turning an adversarial relationship with opposing counsel into an uncivil one. New attorneys can be especially susceptible targets for abuse by more senior attorneys trying to capitalize on their lack of experience and confidence. Even if it passes ethical rules — which are only a floor for attorney conduct — is it civil? I think not. And, as new attorneys, we rely on more experienced members of our bar to support, encourage, and model for us the integrity that drew us to the profession, even when our interests are fiercely opposed.

LINDA: Yes, and this also applies to the online world. Communicating with friends and other attorneys on social networking sites is a great way to support each other and stay connected. However, I am disappointed to see that some people seem to forget themselves and our ethical rules when posting on social networking sites. There is no such thing as anonymity in the Internet; even if your friends will keep your secrets, the Internet will not. As new attorneys, we may be the most likely to run afoul of this hard truth because we rely on online social connections to get us through the difficult first few years of practice and stay connected to law school friends and colleagues.

Client and Career Development

CARLY: At my firm, new attorneys are instructed to treat the partners and senior associates they work with as their “clients.” That said, beginning lawyers are encouraged to join WSBA sections and other organizations to develop relationships outside the firm. Volunteering is another way to meet people and have a life outside of the legal community, and it sometimes pays unexpected dividends in the form of client development.

Some firms, including mine, encourage pro bono work by crediting pro bono hours toward their attorneys’ billing requirement. An active pro bono practice is an important part of my professional life: it helps me stay grounded in legal issues that matter to me and my community, and as a result, my practice is more fulfilling.

LINDA: Volunteering is a big part of my life. For me, it is rewarding to stay actively involved in my community. Every volunteer group is different; sometimes it takes a few tries to find the right fit. I have also found that clients invariably want to con-
nect with me about my volunteer work and community involvement. I enjoy these interactions, and I find that it adds something to my relationship with clients and my attitude toward my practice.

Mentors have stressed to me that volunteer work can be a good source of new business development, and for an attorney in a small firm those community associations are important and make a new attorney more marketable in a lean job market.

**A Fresh Perspective on Professionalism**

**Carly:** Professionalism for new lawyers is not an oxymoron. I try to remind myself that, although I am still learning about my area of practice, good lawyers never stop that learning process. And because the law is ever-changing, you must be flexible. I think one of the greatest benefits of being a newbie is having fresh eyes and an open mind that can see creative arguments and solutions. And along with that will hopefully come a new generation of lawyers who can view the adversarial process with fresh eyes, too, and move the profession into an era of civility that is sorely needed.

**Linda:** The benefit of being new is that we are always learning and realizing that none of us, no matter how low our bar number is, has all the answers. Professionalism can help ease the stresses and challenges of being a new attorney by providing guidance on how to manage our new roles and thrive in our first few years of practice.

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*Linda Jenkins graduated from Seattle University School of Law in 2008. She is an associate attorney at Tuohy Minor Kruse PLLC in Everett, where she practices in real estate, business, estate planning, and probate matters. She can be reached at linda@tuohyminor.com. Carly Summers graduated from Seattle University School of Law in 2009. She is an associate attorney at Davis Wright Tremaine LLP in Seattle, where she practices in civil litigation. She can be reached at carlysummers@dwt.com.*

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Professionalism and the Pro Se Problem

by Washington State Supreme Court Chief Justice Barbara Madsen

In this era of tight budgets, many judges are particularly concerned with the added costs of serving unrepresented litigants and barriers to justice these individuals suffer. How can judges maintain professionalism while remaining impartial, ensuring fairness to all, and moving dockets?

Our Code of Judicial Conduct (CJC) provides general guidance — act with integrity, impartiality, patience, and courtesy, without bias or prejudice; avoid impropriety and the appearance of impropriety; protect the right of every party to be heard. The code also urges prompt disposition of cases. Effective January 1, 2011, we added an important comment to the CJC, Rule 2.2: “It is not a violation of this Rule, however, for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard.” While broadly announcing ethical principles, the code provides little practical advice for dealing with pro se litigants.

Initially, I intended to focus on the impact of unrepresented parties on judges, but when talking with the lawyer sitting next to me on a recent trip, he too shared frustration. “I owe a duty to my client,” he said, “but if I wouldn’t

“Pro se litigants challenge the entire justice system. Unfortunately, the numbers are growing . . . Given this, we must find ways to help judges, lawyers, and the unrepresented while preserving ethical standards.”
feel good about doing something as a human being, then I sure don't want to engage in that conduct as a lawyer.”

Like the CJC, the Rules of Professional Conduct (RPC) touch on a lawyer’s responsibilities when interacting with unrepresented litigants. Rule 4.3 prohibits lawyers from giving legal advice to the opposing unrepresented person, except advice to obtain counsel or to correct any misunderstanding about the lawyer’s role. Rule 1.7 prohibits a lawyer from undertaking representation that involves a concurrent conflict of interest. Rule 3.3 requires a lawyer to disclose to the court legal authority in the jurisdiction known to be adverse to his client’s position. Beyond these specific rules, and some general requirements, the RPC give no more “real world” answers to the CJC.

Pro se litigants challenge the entire justice system. Unfortunately, the numbers are growing. In 2003, our Civil Legal Needs Study found that “[i]n the aggregate, low-income people face more than 85 percent of their legal problems without help from an attorney.” Studies conducted by the National Center for State Courts estimate that in 70–80 percent of dissolution cases, and in one-third of all other cases, at least one party is unrepresented.

Given this, we must find ways to help judges, lawyers, and the unrepresented while preserving ethical standards. Two recent cases illustrate this imperative.

In 2007, the Washington State Supreme Court reviewed Brenda and Michael King’s dissolution proceeding. Ms. King, with just a ninth-grade education, did not work outside the home. She was the primary caregiver for the five children. Michael King sought primary residential placement. Mr. King had counsel — Ms. King acted pro se.

Ms. King was unable to counter skilled opposing counsel. She failed to make critical evidentiary objections. She was unable to handle issues requiring expert testimony. The trial took much longer than necessary because Ms. King was unfamiliar with legal procedures. The court lost patience, stating, for example, “Please ask questions and avoid the commentary or I won’t permit you to ask questions,” and “Ms. King, I’m a fairly patient person, and you’re taxing my patience greatly.” On its own, the court frequently refused to allow Ms. King’s questions, testimony, and exhibits. In the end, the trial judge stated: “[C]andidly I agree with you insofar as your arguments about Mrs. King not being well served because she was pro se. I think the record will bear that out.”
The second case, *Edwards v. Le Duc*, 157 Wn.App. 455 (2010), was complex due to Colleen Edwards's existing medical conditions. The only issue was the extent of Edwards's injuries. Edwards called several experts but had difficulty questioning them. Nearly every time opposing counsel objected, the trial court explained the nature of the objection and how to cure it in front of the jury. The court helped Edwards formulate questions. Several times Edwards simply asked the witness to answer the court's question. Edwards thanked the court in front of the jury for helping her, noting the difficulty for a person with a brain injury to act *pro se*.

Although none of the witnesses testified to a probability that the accident exacerbated Edwards's existing conditions, the jury awarded Edwards $100,000. Holding the trial judge's assistance in front of the jury was excessive, the court reversed. It noted that, without the judge's help, the defendant likely would not have prevailed on a motion for directed verdict.

These cases are not unique. Nationwide, judges and lawyers are looking for solutions. In 2002, the Conference of Chief Justices (CCJ) adopted Resolution 31 resolving that "courts have an affirmative obligation to ensure that all litigants have meaningful access to the courts, regardless of representation status." In particular, the CCJ committed to reengineering courts to provide better access for self-represented litigants, make effective use of plain-language forms, and use the Internet to disseminate information to self-represented litigants. Resolution 31 also "advocate[s] for increased participation of lawyers in pro bono programs, for increased funding for Legal Services, and increased use of unbundled legal services." In 2007, the CCJ reaffirmed support for "continued development and dissemination of resources to help courts meet the increasing demand for assistance posed by self-represented litigants" in Resolution 2.

In Washington, our Office of Civil Legal Aid and Access to Justice Board coordinate legal services and funding, technology, development of self-help tools, and pro bono assistance programs. Our court rules unbundle legal services and encourage pro bono service. Recently, the WSBA launched its Home Foreclosure Legal Aid and Moderate Means projects aimed at increasing access to attorneys.

However, pro bono assistance and self-help programs are not enough. We must consider expanding the use of courthouse facilitators and providing greater latitude for advocates to assist victims of domestic violence in court. And, recognizing that nature abhors a vacuum, we must embrace the legal technician rule (for more information, see [http://www.wsba.org/legal-community/committees-boards-and-other-groups/practice-of-law-board](http://www.wsba.org/legal-community/committees-boards-and-other-groups/practice-of-law-board)).

While building system capacity takes time and carries significant challenges, there is much that judges and lawyers can do now. As our court has observed, a judge is not a 'potted palm.' Many courts have adopted voluntary codes of professionalism dealing with *pro se* litigants, including California, Minnesota, New
Hampshire, and New York. Though generally voluntary, these guidelines provide ways to address professionalism issues raised by unrepresented litigants.

One example is the Massachusetts Judicial Guidelines for Civil Hearings Involving Self-Represented Litigants adopted in 2006, calling for judges to use plain English, avoid complex legal terms, and make reasonable efforts to ensure that self-represented litigants understand the trial process, e.g., the guidelines encourage judges to explain rulings, court policies, and procedures in the same manner as to a jury. The guidelines suggest that, where necessary to enable a pro se litigant to present his case, judges may ask questions to elicit general information and obtain clarification, explaining to juries why the questions are being asked and that the questions do not reflect the judge’s opinion.

Guidelines in Minnesota urge judges to explain the process, elements of the action, burden to present evidence, type of evidence that may be presented, and limitations on evidence. Additionally, the guidelines permit lay-advocates to sit with pro se litigants (but not to argue or question witnesses) and suggest that judges, where possible, render a decision and order at the proceeding.

Several states also have developed guidelines for attorneys working with pro se opponents. One of the most interesting guidelines urges a distinction between legal information and legal advice. Legal information is a factual statement that requires no interpretation, while legal advice is an opinion based upon the lawyer’s knowledge, experience, and training. The guideline suggests a lawyer can provide legal information to an unrepresented party, carefully explaining that the lawyer represents only the adverse party. As one judge observed in the 2003 Civil Legal Needs Study, “[w]hen one party is represented and the other is not, depending on the lawyer, the attorney can ‘grease the skids’ for both sides OR can operate as a travesty of justice.” Adopting these good ideas from other states will give judges and lawyers more latitude to assist pro se litigants.

In Washington, we can be proud of our access to justice initiatives, but we can, and must, rethink our notion of professionalism to ensure the justice system works for everyone.

Justice Barbara Madsen currently serves as the 55th chief justice of the Washington State Supreme Court and is best known for her work on domestic violence and gender equality issues. In 2004, Justice Madsen co-chaired the Crystal Brane Committee, which secured legislation requiring all police agencies to adopt investigation protocol for police-perpetrated domestic violence. Since 2005, she has led efforts to establish the Initiative for Diversity, a program encouraging legal employers to commit to and implement individual organizational plans to increase diversity. Justice Madsen has chaired the Washington State Gender and Justice Commission since 1998. The Commission, partnering with other community groups, recently succeeded in passing legislation banning the shackling of women prisoners during labor. Chief Justice Madsen was named Seattle University School of Law 2010 Woman of the Year and most recently received the 2011 Social Justice Award from the Loren Miller Bar Association for her dedication to the pursuit of justice and equality in Washington state. As chief justice, she is committed to continuing the Supreme Court’s long-standing support for access to justice, and her commitment to equal justice continues today in her role as the chair of the Washington State Gender and Justice Commission.
5 Steps to Improving Civility

by Washington State Attorney General Rob McKenna

“It’s the first principle in the Washington State Bar Association’s Creed of Professionalism:

In my dealings with lawyers, parties, witnesses, members of the bench and court staff, I will be civil and courteous and guided by fundamental tenets of integrity and fairness.

Professionalism is as simple as holding the door for opposing counsel, returning phone calls, or providing documents in a timely manner. Professionalism is embodied in the tone and tenor of all our interactions with one another.

You can find this principle at work at its highest level in the U.S. Supreme Court, where parties are required to collaborate on joint appendices and Supreme Court justices refer to opposing counsel as “friends.” We find shining examples of civility and professionalism every day across our profession.

Unfortunately, at the same time, we face a continuing erosion of this basic principle. This lack of civility is found in angry or offensive emails, refusal to respond to motions for discovery necessary to establish the basic facts in a case, or at-

“Civility . . . means employing a sense of decency and consideration for all involved, thinking through the strength of your case, fully understanding the ramifications of your actions, and displaying respect for all parties.”
tackling opposing counsel in the media.

It’s been said, “To whom much is given, much is expected.” Seattle University Law Professor Paula Lustbader alluded to this in her January 2011 Bar News article announcing Robert’s Fund, a new foundation created in honor of her uncle, Robert Lustbader, to encourage increased civility in society. Lustbader points out, “Lawyers exert a powerful influence within our society . . . they shape our values and laws as judges and politicians . . . serve vital roles in private industry . . . [and] serve as leaders in our respective communities in their capacity as lawyers or as members of a group.” “Like it or not,” she writes, “as lawyers we are role models for many people.”

Much has been said about the root of incivility in our world today. Some blame the large number of attorneys now practicing for the decline of civility, claiming that because attorneys know they may never see opposing counsel or their clients again, they give themselves a pass when it comes to polite behavior. Similarly, a lack of familiarity among lawyers furthers a lack of trust and defensiveness that breeds incivility. Others claim greater competition in the field leads attorneys to compromise civility toward one another in the name of zealous advocacy on behalf of their clients. To these people, the end justifies the means.

Regardless of the root of the problem, I’m inspired by the Washington State Bar Association’s commitment to recognize, reward, and revive civility in the legal field. Civility is the foundation of the professionalism training we provide to our assistant attorneys general at our Attorney General’s Office (AGO) Academy. We also feature professionalism as a segment in our continuing legal education (CLE) seminar on “Effective Public Lawyering.”

1. Recognize the power we have to change lives and use it wisely.
In his presentation at the Effective Public Lawyering CLE, AGO Chief Deputy Brian Moran counsels assistant attorneys general to remember the power attorneys have to change lives for the better — and for the worse. As lawyers, we all play an important role in people’s lives. Whether trying family law cases involving abuse, trying complex consumer protection cases, or giving advice to a person facing home foreclosure, one mistake can tear a family apart, destroy a business’s reputation, or ruin a person’s life. Civility in this case means employing a sense of decency and consideration for all involved, thinking through the strength of your case, fully understanding the ramifications of your actions, and displaying respect for all parties.

2. Communicate effectively.
Communication is a two-way street. Listen to your clients, to the public, to opposing counsel, and to the bench. As per the Creed of Professionalism, be forthright and honest in your dealings with them. Review your correspondence for tone and tenor. Avoid sending email or leaving voicemail messages when you’re angry. While the legal universe may seem expansive, your reputation is important and displaying civility in communication — on a personal level, in public and in the courtroom — is an important way to enhance that reputation.

3. Value candor and integrity.
Rule of Professional Conduct 3.3 requires candor toward the tribunal, but that candor should be applied to all. As the Creed of Professionalism suggests, your word “is your bond in (your) dealings with the court, with fellow counsel and with others.” It also...

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encourages us to “be forthright and honest in (your) dealings with the court, opposing counsel and others.”

Discredit yourself at your own peril. Despite the sheer number of attorneys, the legal community is a connected network that is smaller than it might seem. Maintaining your integrity is critical to your reputation.

4. **Demonstrate a healthy work ethic.**

Demonstrating respect is key to civility and professionalism—and, beyond communicating civilly and exhibiting candor and integrity, displaying a strong work ethic shows your opponent, your client, the bench, and the public that you value them, their time, and the legal profession as a whole. The Creed of Professionalism directs us to “honor appointments, commitments, or case schedules and be timely in all your communications.” Beyond that, excellent briefing, witness preparation, and overall preparation for oral argument demonstrates respect not only for yourself, your client, and our profession, but also for the judge, jury, and opposing counsel. A strong work ethic doesn’t only establish you as a professional and civil advocate, it tends to persuade both judges and potential jurors to listen more favorably to your case.

5. **Learn that winning comes in many forms.**

As mentioned earlier, many believe one of the roots of incivility today is the “win-at-all-costs” mentality prevalent in so many areas of modern life. But winning depends upon how that term is defined. Is it avoiding mediation with a winner-take-all strategy? Is it racking up prosecutions? Some might say yes — and in today’s super-competitive world, it might seem that is the case. The Creed of Professionalism suggests otherwise, encouraging us to “endeavor to resolve differences through cooperation and negotiation, giving due consideration to alternative dispute resolution.”

In the Attorney General’s Office, we encourage our assistant attorneys general to do the right thing for the right reason. Oftentimes, in liability cases, the state recognizes its liability and employs early dispute resolution to help make the victim whole while reducing exposure for taxpayers. Similarly, we strive to work with businesses accused of violating the consumer protection act or groups charged with defying the state’s campaign finance laws to bring justice without prolonged litigation.

In a time when the media, the entertainment industry, and society as a whole seem to increasingly value the sharp comeback, political gamesmanship, deceit, disrespect, and disdain toward others, I agree with the Washington State Bar Association that civility starts with us.

As Chief Justice Warren Burger noted 40 years ago when he gave his famous speech on civility to the American Law Institute:

> . . . lawyers who know how to think but have not learned how to behave are a menace and a liability not an asset to the administration of justice . . . I suggest the necessity for civility is relevant to lawyers because they are the living exemplars—and thus teachers—every day in every case and in every court; and their worst conduct will be emulated . . . more readily than their best.

We have a duty to our profession, to our communities, and to our nation to continue our efforts to return civility and professionalism to our society.

Rob McKenna is serving his second term as Washington’s attorney general. He is the 2011–2012 president of the National Association of Attorneys General and co-chair of the 2011–2012 Campaign for Equal Justice.
Professionalism Beyond the RPC

Constraint or Advantage?

BY SUCHI SHARMA

“Professionalism takes center stage in lawyers’ interactions with the Legislature and executive administrative agencies.”

Consider this: Differences between worker and employer interest groups and a large state agency are showcased each legislative session. In one instance, worker representatives propose to stiffen penalties against employers who violate wage payment laws. Together with representatives from the employer community and the stage agency, the parties craft a bill that easily becomes law. The assigned legislative staff counsel works with all the parties to quickly assemble the final draft in a very tight turnaround with minutes to spare. The new law doubles existing penalties against employers who violate wage laws and creates a new class of employer-violators with new associated penalties.

Last year, I had the privilege of working on this bill. Having just emerged from a bruising round of failed negotiations on a proposed regulatory amendment, I was cynical and pessimistic about the bill’s viability. To my delight, once we started negotiating, things started to fall into place. We danced the delicate dance of a successful negotiation — each giving a little, pushing back a little — and created new pathways where the old ones became obscured by irreconcilable contentions. As I analyzed what made this negotiation successful, there
was one factor that stood out above the rest: the professionalism of the participants, who were, all but one, lawyers.

So what is professionalism? Is it a particular demeanor, demonstration of an attitude, or the direction of an inner compass? I submit that it is all of these and more. In the instance above, it was embodied in ways small and large. It was embodied by the parties’ civil and respectful tone, despite the highly charged nature of our discussions. It was embodied by the courtesy of letting the speaker complete the sentence. It was embodied in the decorum with which the parties expressed their positions. Looking back, even if we hadn’t reached an agreement in that process, the parties would have left the table without much personal rancor.

Professionalism takes center stage in lawyers’ interactions with the Legislature and executive administrative agencies. Lawyers do not have the exclusive right to be lobbyists, nor to advocate on behalf of others before administrative agencies. In fact, RPC 3.9 recognizes that lawyers may be subject to regulations that other advocates in the same forum may not be.

Thus, working in these fora, a lawyer can appear to be put at a strategic disadvantage, because one’s opponent may not be bound by the RPC or any creed of commitment to professionalism — and that can be occasionally maddening, says Kris Tefft, general counsel of the Associated Business of Washington. “There is sometimes a sense of fighting, as it were, with one hand tied back while one’s opponent fights freestyle,” says Tefft, “but that is a small price to pay for maintaining the tradition of the lawyer as a problem-solver rather than a political opportunist.”

Professionalism is not a substitute for preparation, and neither is it intended to replace the ethical obligations placed on lawyers in this forum by the RPC, state ethics laws, and lobbyist reporting laws. “Professionalism in legislative advocacy is a lot like professionalism in court,” says David Ward, legal and legislative counsel for Legal Voice. “When you’re trying to get a bill passed, you need to know your legislation just as well as you’d know your case in a courtroom.” One of the critical roles of a lawyer is that of a persuader. Because legislators rely on representations made by lobbyists, one of the fastest ways to lose trust and credibility before the Legislature is to provide inaccurate information, says Ward.

Candor, fairness, decorum, and not launching gambits intended to delay the process are some of the characteristics of professionalism that Tefft has noted in his eight years of work. According to Ward, professionalism means not exaggerating one’s position or trying to answer a legislator’s question when you don’t know the answer. To Andrea Schmitt at Columbia Legal Services, professionalism means conducting herself in a way that her lawyer colleagues or the judge whom she clerked for would find appropriate, even in instances where the RPC do not apply.

For lawyers working in the myriad roles at the Legislature, professionalism takes on an even more heightened role. “It is difficult to analogize legislative work to the traditional legal representation envisioned by the RPC,” says Kristen Fraser, senior counsel at the Office of Program Research, the office that provides nonpartisan legal support to the committees of the House of Representatives. Legislative counsel in her
office may draft legal research memoranda, draft bills and amendments, analyze legislation, and provide legal advice on legislative options and proposals. For example, at the request of two partisan members, legislative staff may draft two competing bills on the same subject. In this environment, professionalism is of paramount importance, creating order and harmony in the clash of opposing legislative agendas.

"Professionalism is our watchword," says Fraser. "Our honesty, confidentiality, and objectivity must be absolute, particularly for those of us who work with both parties as nonpartisan staff." Having worked as legislative counsel for 17 years, Fraser is emphatic about the critical role of professionalism. "We must maintain a trusting relationship with all legislators in order to fulfill the role that the legislative institutions ask us to serve," she emphasizes. In my own work with legislative counsel, I have observed the thorough professionalism of staff legislative lawyers. I know never to waste time by asking legislative counsel the backstory of infant bills, or to attempt to elicit information that is not meant to be shared.

"On a philosophical level, perhaps being a lawyer changes us in a substantial and ontological way," says Tefft. Personally speaking, without professionalism, my interactions with other lawyers — both in the legislative and rule-making arenas — would be unbearable and ultimately unworkable. Stakes are high in the legislative and regulatory arenas, where crafting laws and policies affects rights of not one individual, but those of all citizens in the state. It is no exaggeration that balancing the interests of different stakeholders is fraught with inherent tensions. As I experienced last session, when we conduct ourselves professionally, we are able to focus on solving problems without getting distracted from the task at hand. For us as lawyers, professionalism is an advantage, not a constraint.

Suchi Sharma is counsel for policy and regulatory development for the Department of Labor and Industries’ Employment Standards Program. Prior to her current position, she was an assistant attorney general representing the Department of Labor and Industries. The opinions are the author’s own and do not represent those of her employer or any other entity.
In 2001, the WSBA Board of Governors adopted the Creed of Professionalism, a statement of professional values intended to guide and inspire all members of the Bar to conduct themselves with civility, integrity, and fairness. Two years later, the WSBA Professionalism Committee created the Random Acts of Professionalism Award to promote the Creed and highlight those who have demonstrated these principles, whether from the bench or in practice.

The recipients, nominated by their fellow members of the Bar, receive a certificate of recognition, a copy of the Creed of Professionalism, and a congratulatory letter from the Professionalism Committee chair explaining the laudable conduct recognized by the recipient’s nominating peer. While neither the WSBA Board of Governors nor the Professionalism Committee specifically endorse a selection, the award serves as an important testament to the professional behavior of our members.

The following Profiles in Professionalism are a necessary reminder that our Bar is composed of dignified, courteous, and honest members who do not confuse ardent client advocacy with “win at all costs” tactics. Likewise, the conduct of the following recipients encourages every member of the Bar to act with similar integrity and to recognize the commendable professional acts that they witness.
James A. Conley

James Conley practices in commonly contentious areas of law and does so with integrity, grace, and, as he puts it, "an innate sense of justice." After serving as a prosecutor for 11 years, James established his own Edmonds firm in 2001 to provide plaintiffs’ personal injury and criminal defense services.

His dedication to professionalism is apparent both in the courtroom and out. After noting a deposition for an opposing counsel's witness, James learned that the witness was forced to use his only day off that week to attend, and that the witness's employer would not cover the witness’s wages for the day missed. Upon receiving this news, Mr. Conley graciously offered to pay for the witness's lost wages and expenses to attend the deposition. Without prompting from opposing counsel, Mr. Conley immediately offered to pay the witness an amount which more than covered the lost wages and expenses. Mr. Conley had no obligation to pay for the witness's time, but he chose to look beyond legal mandates to promote what he believed to be just and courteous.

When he is not in a suit supporting his clients, James is in a baseball cap rooting on the Seattle Mariners, often with his wife and eight-year-old daughter by his side. He has been a season passholder since 1979, was named the “three millionth fan” in 2002 and even threw out the first pitch at a game. James's dedication to professionalism produces just results; here’s hoping that his loyalty to the Mariners does the same.

Robert Graham Cross (posthumous)

Robert Graham Cross was posthumously nominated for a Random Act of Professionalism award for his years of service to his profession and his community. In this regard, Mr. Cross's dedication to professionalism was far from random, but was borne out each day of his life. Graham attended the University of Idaho College of Law and, upon graduating, clerked for the Honorable Richard B. Ott, the chief justice of the Washington State Supreme Court at the time. Graham went on to found the firm Cross & Hadley, where he practiced until the day of his passing. During his 44 years of service, he was a dedicated lieutenant in the Naval JAG Corps Reserve, was a member of the Longview Chamber of Commerce, Longview Lions Club, Kelso Mason Lodge No. 90, Kelso Scottish Rite, and served on the Board of Directors of Youth and Family Link.

His nominator wrote: “Graham represented hundreds of youth who found themselves in trouble with the law. He not only shared his legal knowledge and advice with them but counseled many youth to do the ‘right’ thing, to change the course of their lives if need be, to earn respect and achieve their goals. He and his wife worked hard with the court to establish the HOPE (Helping Our Parents Excel) Court, which is a ‘drug court’ specifically designed to help parents overcome their addiction and to reunite their family. Graham always had a smile and treated everyone with respect and kindness. He was the embodiment of the principles set forth in the Creed of Professionalism and inspired others to do the same. He will always be remembered as a person with the highest ethical standards.” And as Graham’s brother, Shaun Cross, one of six Cross family lawyers in Washington, shared, “Graham saw law as a vehicle, a platform, to help people, to serve his community and to right wrongs.” Mr. Cross's legacy is a shining example of a life lived in service and professionalism.

Lisa J. Dickinson

Spokane attorney Lisa Dickinson seems to do it all. Lisa previously worked for a law firm in Spokane but formed her own solo practice in 2008. While she enjoyed her time at the firm, she hung her own shingle to free up more time for public service. When Lisa is not providing civil litigation and business legal services to her clients, she is engaged in myriad leadership roles. Lisa is a past chair of the Professionalism Committee, and although her tenure is up, she has continued to speak about professionalism at Gonzaga University School of Law. Lisa is currently serving as the vice president of the Northwest Justice Project, and was the previous president of both the Spokane County Young Lawyers Division and the Spokane County Washington Women Lawyers Club.

Lisa’s nominator summed up her professionalism best: “Lisa merits recognition for her dedication to professional and courteous conduct and maintaining the respect of our profession — she per-
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Mark A. Arthur is currently in-house counsel and vice president of business development at Luxtom Homes and Construction, LLC, and a member of the WSBA Professionalism Committee. Prior to joining Luxtom, Arthur was a solo practitioner, and assisted clients with a variety of real estate litigation and transactional needs.
Mentors have been instrumental in teaching me about professionalism in the office. Over the course of my 28-year career, the lessons learned from five mentors stand out.

**Staying Organized**

In law school, I had the privilege to serve as an extern to the Honorable Eugene A. Wright, of the 9th Circuit Court of Appeals. Judge Wright’s practice was to complete his work every night and leave with a clean desktop. He started each day with a clean slate.

I still aspire to the Judge Wright school of desk management. My desk is like a battlefield: I attack the clutter nearly every day, but try as I might, the mess remains — sometimes only a small beachhead in the corner, but always present to challenge me when I start the battle the next day.

**Empowering Others**

William W. Baker was a partner at the law firm where I began my career in 1982. Bill demonstrated professionalism in every aspect of his practice. He respected the ability of others to do their job; he did not take it upon himself to re-do that job.

One day, Bill directed me to research whether a client had a claim for invasion of privacy. I researched the issue and presented my memorandum to Bill for his consideration. Bill gave a copy of the memo to
the client exactly in the form I gave it to him. He did not feel the need to tweak the memo; rather, he lifted me up by accepting my work as good enough for the client.

I try to remember to withhold the red pen when reviewing a draft prepared by an associate or paralegal. I try to remember that there are often at least two equally valid and appropriate ways to express a position; my way is not the only way.

Yet, those in my office will attest: I still am too eager to grab the red pen. As a result, if I take a draft document back to an attorney or staff member to talk about and begin with a compliment on the fine job, I am likely to get the retort, “Okay, where’s the ‘but?’” I try to remind myself of what I learned from Bill: that “my way” via the red pen is not always the most productive or empowering way.

Respectfulness
My late law partner, C. Thomas Tuohy, was another consummate professional. Tom treated everyone with respect. For 20 years of our professional relationship, my open office door was six feet from his open office door. I heard him on the phone with opposing counsel negotiating a lease; or with a client, dealing with an estate plan issue. I watched him work with our staff. He treated all with politeness and dignity.

It is my goal to treat others as Tom always did: with respect. This is not always easy for me. Sometimes the “heat of the moment” interferes; sometimes it is just plain old impatience. I am blessed to have had the experience of working with Tom, who was a role model I will always strive to emulate.

Generosity to Other Attorneys
Mark T. Patterson I, bar number 91, taught by example to give back to others in our profession. Whenever I needed sage counsel from a family law lawyer when I was starting out — and, let us be honest, long after I was just starting out — I could turn to Mark.

I recall a troubling spousal maintenance issue from years ago, I was not sure what to do; there was no “Maintenance Schedule” comparable to the Child Support Schedule, and I had precious little experience to fall back on.

So I called Mark. Could I hire him for a consult — I had prepared a memo of the salient facts; perhaps I could pay him for a half-hour? The answer was unequivocal: Absolutely not. Instead, why don’t you come over at lunchtime and we will kick it around? And so we did. I think I was too highly focused on my problem to eat, so I
just watched Mark eat his yogurt.

Mark’s willingness to help me when I was a neophyte attorney has had an ongoing impact. When I get the random telephone call from another younger attorney who needs a “reality check,” even when I am feeling strapped for time, I try to remember Mark and what he was always willing to do for me — and I pick up.

**Finding the Creative Solution**

A mentor does not need to be older than her mentee, and such is the case with my mentor and law partner, Kara M. Kruse. Kara has demonstrated time and again the power of thinking “outside the box” to solve her clients’ legal issues.

An example from early in our association is typical. A client came in to see me with an adoption issue. While it was true that she desired to adopt the child who was then in her care, much more pressing was the non-parental custody motion that recently been served on her.

I spent an hour learning about her situation and discussing her options. The client and I developed a workable game plan. Then I stepped outside to run it by Kara. After a five-minute overview, Kara asked, “Why don’t you try . . . ” and she spelled out a practical, straightforward, and, dare I say, elegant solution. Her solution would garner the same result — but faster, with fewer possible complications, and with less expense.

Finding the creative solution to a client’s problem — one that solves the problem quickly and cost-effectively — still gets me jazzed up after nearly three decades in the trenches of private practice.

I have been blessed throughout my career to have mentors who have demonstrated what it means to be a professional. The practice of law involves the practice of professionalism in so many areas: organizational efforts, empowerment of others, respectfulness towards all comers, generosity with other lawyers, and the crafting of the creative solution to a client’s unique situation.

All this while having fun! How lucky is that? 😊

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Deane W. Minor is a member of Tuohy Minor Kruse PLLC, a five-attorney firm in Everett. He can be reached at deane@tuohyminor.com.
Maintaining Professional Relationships
A View from the Court from Judge Laura Inveen

by Joe Marshall

When I left public defense practice and crossed into the country of civil litigation, the previously discounted stereotype of “civil” being less civil than criminal suddenly became relevant. Prosecutors and defenders saw each other almost daily and generally interacted with respect; after a single case, civil lawyers might never have to think of each other again, which sometimes resulted in a vigorous disrespect. I infuriated and was infuriated in due course, and I thought something should change. Hence, this article. But I thought that lawyers would listen most to a person who makes the ultimate decision on advocacy, so I interviewed Judge Laura Inveen.

The Honorable Laura Inveen, chief civil judge, King County Superior Court, serves as president of the Washington Superior Court Judges’ Association. In her over 20 years on the bench, her commitment to justice has led to a juvenile drug court and truancy reforms among many other accomplishments. She is a graduate of the University of Washington School of Law.

“You will see people again in your professional life, and you can get more of what you want through good relationships than through bad behavior. The highest-stakes cases with experienced, professional counsel are often the least litigious.”
**Joe Marshall:** Why shouldn’t lawyers feel free to burn bridges, taunt, or insult opposing counsel, when the odds are good they won’t cross paths again?

**Judge Laura Inveen:** Life is too short. To the extent that we can, it is very important to achieve professional goals while still keeping personal relationships intact. It’s amazing how small Seattle is. You will see people again in your professional life, and you can get more of what you want through good relationships than through bad behavior. The highest-stakes cases with experienced, professional counsel are often the least litigious.

As you lose family members and friends over the years, you realize you only have so much time to spend with them and there are experiences you can’t replicate, like a special vacation or milestone event. A trial, deposition, or a brief deadline has the potential to impact these important events. I am tolerant of people who need to balance their court obligations with family life to the extent their client is not negatively affected. To safeguard this and better prepare, people do need to plan ahead. Lawyers should be careful of the case schedule.

**JM:** Why shouldn’t a lawyer be a discovery miser for her own client and a sanction scourge to the other side, and battle every last motion, even family emergency/health/vacation continuance requests? Aren’t lawyers winning if they intimidate or infuriate the opposition? Doesn’t that impress the Bench?

**LI:** I am a big believer that you will be on the receiving end sometime. If you take the hardball approach you may not get an accommodation when you need one, and it just makes you look like the bad guy/gal, and judges see through it.

A motion for order shortening time or emergency motion, for instance, is telling the judge to rearrange their schedule because the motion is more important than anything the judge has to deal with that day. Such a motion should be used sparingly. Instead, picking up the telephone can often save everyone time and the client money.

Email has fueled the problem of being excessively adversarial! People tend to be more terse and behave like they are anonymous in email. Nothing can equal a personal conversation. If you can’t resolve it in three emails — scheduling settlement, for instance — pick up the phone. There’s nothing quite like personal conversation. I respect lawyers who are judicious regarding requests for sanctions, asking only when they’re appropriate and when they really matter.

The largest case before me was one in which the lawyers acted very professionally while advocating vigorously for their clients. This group was very organized, with multiple parties, and arranged themselves in advance to share time in court. They focused on the merits as opposed to ancillary matters.

**JM:** Is it even possible to define “Professionalism?”

**LI:** Yes, it’s possible, because I see lawyers all the time who comply. 🤝

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**Joe Marshall practices real estate, municipal law, and criminal defense at Williams & Williams in Bothell. He has represented property owners in eminent domain cases, fought for fire districts against hydrant charges before the Washington State Supreme Court, and won dismissal for a client caught in the courthouse with non-medicinal marijuana.***
The WSBA developed the Home Foreclosure Legal Aid Project in partnership with the Northwest Justice Project in response to Washington’s foreclosure crisis. Launched in June 2009, the program provides free legal assistance to low- to moderate-income homeowners imminently faced with losing their homes.

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WSBA Board of Governors Meeting — Kennewick June 3, 2011

BY MICHAEL HEATHERLY

At the June 3, 2011, meeting in Kennewick, the Board of Governors elected Seattle attorney Michele Radosevich as WSBA president-elect for 2011–2012. She will assume that office from current President-elect Steve Crossland at the WSBA annual meeting in Seattle on September 23, 2011. Crossland succeeds current President Steve Toole. Radosevich will begin her one-year term as president in September 2012. Also at the June meeting, the BOG elected Kent attorney James Armstrong as an at-large governor for 2011–2014 and approved a set of standards and guidelines for indigent-defense services.

Election of President-elect/President

The Board chose President-elect Radosevich by secret ballot. Radosevich is a partner at Davis Wright Tremaine, where she has worked in the commercial litigation department since 1995 and focuses her practice primarily on state and local tax litigation. She is a former Wisconsin state senator and spent 10 years on the WSBA Legislative Committee, including serving as chair. Radosevich has represented the Washington State Legislature and the National Conference of State Legislatures in state court litigation. She is a graduate of the University of Puget Sound School of Law (now Seattle University School of Law), and holds a B.A. in political science from Marquette University. Radosevich served as clerk to Washington State Supreme Court Justice Charles W. Johnson.

In her presentation to the BOG, Radosevich said she places her highest value on maintaining a justice system that is fair and impartial to all, regardless of factors such as race and economic status. She acknowledged that the entire justice system likely faces a tough battle for funding in the next few years and cited her experience as a legislator and lobbyist. Having been a young girl in the 1950s, and having attended law school when she was already in her forties, she is familiar with overcoming obstacles, she said.

Radosevich told the BOG that one of her highest priorities as WSBA president-elect/president would be member service. One of the organization’s biggest challenges in the coming years will be in serving younger members, she said, especially because they face a shortage of jobs in the current economic climate. When asked for examples of how the Bar could better engage young members, she suggested that young lawyers with some experience could serve as mentors for law students and that the Bar could expand existing activities that provide experience to younger lawyers, such as the WSBA Moderate Means and pro bono programs. When asked what she saw as the greatest challenge to the WSBA’s efforts at increasing diversity, Radosevich said it is that biases are so deeply ingrained in people’s minds that they may not even realize they have them.

Also running was Burien attorney David Heller, who served on the BOG from 2007–2010. In his presentation to the Board, Heller said he believed many WSBA members don’t feel connected to the organization. He suggested that the Bar leadership itself needs to be more service-oriented. Rather than telling members to serve, he said, Bar leaders need to breed a “culture of service” by setting a good example. Heller also suggested that the Bar’s diversity efforts sometimes seem disjointed, and that more effort needs to go into diversifying the bench as well as the bar.

When asked what he sees as the biggest threat to the Bar’s well-being, Heller replied that it is legislative budget cuts to the justice system. He also voiced concern about the Bar’s own budgetary future, in which he foresees the BOG having to make difficult decisions regarding potential fee increases versus reductions in programs.

After Radosevich and Heller gave their separate presentations, the BOG deliberated over the choice with both candidates out of the room. Much of the discussion focused on perceived differences in leadership styles. Some BOG members appeared more comfortable with Heller’s more outspoken manner,
while others seemed to prefer what they saw as Radosevich’s more diplomatic approach. BOG members also differed in their perceptions of which candidate answered questions with more specificity. Immediate Past President Sal Mungia noted that Radosevich would be only the fourth female WSBA president, while others argued that should not be a deciding factor.

**New BOG Members**

Also at the June meeting, the BOG elected James Armstrong of Kent to fill the at-large seat that will be vacated by Governor Anthony Gipe when he completes his three-year term in September. The Board chose Armstrong, also in a secret ballot, over three other candidates: Raphael Nwokike of Federal Way, Philip Brady of Olympia, and Elizabeth Fry of Omak.

Armstrong maintains a solo practice in workers’ compensation and Social Security disability and is a graduate of Seattle University School of Law and Western Washington University. He was president of the Loren Miller Bar Association and served in the U.S. Marine Corps.

Armstrong will join the four new member-elected governors on the Board in September. They are: Brian Kelly of Chehalis, replacing Loren Etnegoff in the 3rd District; Vernon Harkins of Tacoma, replacing Patrick Palace in the 6th District; Daniel Ford of Seattle, replacing Catherine Moore in the 7th-East District; and Wilton “Bill” Viall III of Seattle, replacing Brian Comstock in the 8th District.

More information about the new Board members will appear in the October issue of Bar News.

**Indigent Defense Standards and Guidelines**

In other business at the June meeting, the BOG passed a set of proposals recommended by the Council on Public Defense regarding statewide standards and guidelines that would apply to all lawyers who represent indigent defendants in criminal cases. The Board approved:

1) an updated version of the 2007 WSBA Standards for Indigent Defense Services; 2) a resolution recommending adoption by the Washington State Supreme Court of specific portions of the Standards in connection with the Court’s enactment of rules requiring all indigent-defense lawyers to certify their compliance with applicable criteria for competence; and 3) a new document pertaining to criminal defense practice, the Performance Guidelines for Criminal Defense Representation.

The Standards as approved omit numerical caseload limits for misdemeanors, which had been included in a previous version debated by the BOG at its March and April meetings. Several BOG members spoke in opposition to the limits, which would have prohibited any lawyer who practices misdemeanor defense from handling more than 300 to 400 cases (depending on the type of case) in a year. The Council on Public Defense is to continue work on the misdemeanor caseload standard and return to the BOG with a new proposal later this year.

**WSBA Governance Issues**

Also at the June meeting, the BOG approved a new process for election of the WSBA treasurer and decided not to expand the jurisdiction of the BOG Legislative Committee.

Under the current procedure for annually electing the WSBA treasurer (a position always held by a current Board member), the treasurer is nominated by the president-elect and must be confirmed by the BOG. Under the new procedure, the treasurer will be elected directly by the BOG, the election to be decided by a simple majority of governors voting. If more than one candidate runs, the vote will be by secret written ballot. The new process will take effect in 2012. The BOG decided to omit a previously suggested provision of the proposal that would have formed a candidate-review committee.

Regarding the BOG Legislative Committee, the Board decided not to adopt a proposal to extend the Committee’s authority beyond measures in the Washington State Legislature to those involving local governments within the state, the U.S. Congress, and the American Bar Association. The proposed change would have applied in situations where the full BOG had insufficient time to act.

**Access to Justice Annual Report and Conference**

In other business at the June meeting, Access to Justice Board Chair Judge Steven González and Board member Kirsten Barron presented the organization’s annual report to the BOG. The report summarizes ATJ’s operations for the past fiscal year. The many activities in which ATJ was involved include the Task Force on Race and the Criminal Justice System; the Pro Se Project Work Group; support for resolutions and legislative efforts urging adequate funding of the judicial system and opposition to
additional filing fees and other court fees; and drafting of recommendations involving immigration issues.

In addition, the annual ATJ and Bar Leaders Conference took place June 4–5 in Kennewick, in conjunction with the BOG activities. The ATJ annual report and materials from the conference are available online in the ATJ area of the WSBA website at www.wsba.org.

Amicus Brief Committee Recommendation

Also at the June meeting, the BOG voted to adopt an Amicus Curiae Brief Committee recommendation to monitor but not file a brief in a case in which a civil plaintiff alleges his case was unconstitutionally delayed because of inadequate court funding. Counsel for the plaintiff requested that WSBA file an amicus brief in support of his client’s petition for review, but that the Board leave open the possibility of filing a brief on the merits of the case if the Court accepts review.

Michael Heatherly is the Bar News editor and can be reached at barnewseditor@wsba.org or 360-312-5156. For more information on the Board of Governors and Board meetings, see www.wsba.org/about-wsba/governance/board-of-governors. For more information on issues addressed by the Board, see News Flash at www.wsba.org/news-and-events/publications-newsletters-brochures/news-flash.
The Value of Civility in the Legal Profession

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BY JUDGE HARRY McCARTHY

Much has been written during the last decade about civility and professionalism in the practice of law. Numerous journal articles have been published concerning the importance of civility in the legal profession. Has it been overdone? In my opinion, the answer is no. While we have become more aware of the need to honor the basic values of courtesy and respect, we still have a way to go before those values are again solidly integrated into the professional practice of law.

One does not have to look far to witness public uncivil behavior. We need only recall the recent obnoxious and startling shout of “You lie!” by a member of Congress during President Obama’s State of the Union address in 2010. As shocking as that outburst was, in many ways it was representative, albeit in an extreme form, of the quarrelsome, polarizing conduct by many of our elected officials who have seemed to have lost the importance of courteous discourse. When elected representatives behave in such an unprofessional way, the message is clear — courtesy is a sign of weakness that does not get results.

What has gotten us to this state when our elected representatives and many attorneys engage in such a rude, downward spiral of destructive, uncivil conduct? To be sure, we are speaking about a minority of attorneys who engage in such unprofessional behavior; yet this boorish conduct has seeped into the practice of law with alarming frequency. Perhaps the sheer increase in the number of lawyers has had something to do with the decline in civility. There was a time where attorneys saw each other frequently. If one attorney betrayed a trust or reneged on an agreement, the legal community quickly knew about it. Now, in many cases, attorneys encounter opposing counsel only once or twice. This anonymity has required little investment in civility.

Professionalism is the very essence of being a successful lawyer. With the proliferation of mega-law firms and the increased complexity of transactions, the law as a profession has become subordinate to the law as a business. The daily pressures of increased billings and the “bottom line” have become the paramount concerns. However, despite the unfortunate recent trend of uncivil behavior, a law office’s profitability is more likely to be enhanced by the habitual practice of civility. The civil, professional approach is not just politeness — it can be, and most often is, the best business practice.

Technological advances in law practice also have been a contributing factor in the decline of professional values. It is tempting for an attorney to respond instantly to a shrill email with an equally shrill one. Not long ago, before the technology boom, letters were the more common means of communication. Even a provocative letter allowed the recipient time to reflect before responding. That extra time often proved the difference between a more thoughtful response than the more contemporary, reflexive act of hitting the “hot” email send button and perhaps regretting it later.

In a 1995 article, titled “Be Just to One Another: Preliminary Thoughts on Civility, Moral Character and Professionalism,” Mark Neal Ironstone noted: “Generally speaking, civility is important because it frames common expectations about trust and respect in seeking resolution through dialogue. Without such mutual confidence there cannot be an effective meeting of the minds as a way to resolve social disputes and problems. Instead, individuals wind up talking past each other or sinking to the lowest common denominator to strike a short term advantage or to achieve a cheap gain.”

Is a decline in attorney civility simply a byproduct of the adversarial system? Probably not, since the adversarial system has always been with us and has never been an excuse for disrespectful behavior. The very best attorneys, well-versed in the traditions of civility, can conduct an important cross-examination, even one of a hostile witness, and do so in such a productive and respectful manner that the goals of the cross are met while simultaneously maintaining a high standard of professionalism.

More recently, the profession has responded to the concerns that we have lost our professional bearings in our dealings among ourselves and others. The adoption and wide dissemination of the WSBA Creed of Professionalism (see the inside back cover of this issue) has become an important reminder of the importance of the underlying values of respect and trust. The revival of the Inns of Court has also done much to renew our commitment to civility and inspire us in our daily professional lives. These are promising signs that a significant number of attorneys are again seeing civility and professionalism as crucial to a successful law practice. May their number increase and may civility be-
Come routinely practiced as the profession honors its time-honored traditions of integrity, respect, and courtesy.

Judge Harry J. McCarthy has served on the King County Superior Court since 2002. As chair of the WSBA Professionalism Committee in 2001, he was the primary author of the Creed of Professionalism. He wrote articles and traveled throughout the state to speak with lawyers and judges to obtain input on civility in general and the Creed in particular. He served for many years as an assistant United States attorney in the U.S. Attorney’s Office in Seattle, the last four years as criminal division chief. Judge McCarthy has served as a mentor for many young attorneys during his career.

NOTES
2. From the St. Thomas Law Review, Vol. 8, p. 113. Reprinted in an article titled “Civility in the Practice of Law” by Robert W. Ritchie in the July/August edition of The Bencher, the magazine of the American Inns of Court, at p. 15.
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Registration is $95 per person (table of 10 = $950). 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 16, 2011 (refunds cannot be made after September 16). Seating will be assigned.

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☐ beef ☐ fish ☐ vegetarian

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

Send to: WSBA Annual Awards Dinner
Attn: Pamela Wuest
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Supreme Court Ethics Advisory Committee
Application Deadline: September 5, 2011
The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving a two-year term on the Supreme Court Ethics Advisory Committee. The Board of Governors will nominate one member who is appointed by the Supreme Court. The term will commence on or about November 1, 2011, and expire October 31, 2013. The incumbent is eligible for reappointment and must submit a written expression of interest and a résumé if interested in reappointment.

The Committee is designated as the body to give advice with respect to the application of the provisions of the Code of Judicial Conduct to officials of the Judicial Branch as defined in article 4 of the Washington Constitution and shall from time to time submit to the Supreme Court recommendations for necessary or advisable changes in the Code of Judicial Conduct (GR 10). The Committee communicates regularly by email regarding opinion requests. The Committee also meets from time to time in person, although such meetings are infrequent. Further information about the Supreme Court Ethics Advisory Committee can be found at www.courts.wa.gov/judicial_education/?fa=judicial_education.ethics_display&section=advisory.

Please submit letters of interest and résumés to: WSBA Communications Dept., 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539 or email barleaders@wsba.org.

Northwest Justice Project Board of Directors
Application Deadline: September 1, 2011
The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving a three-year term on the Northwest Justice Project Board of Directors (two positions, commencing January 2012). Incumbents are eligible for reappointment. The Northwest Justice Project is a statewide not-for-profit law firm funded by the state of Washington and the federal Legal Services Corporation to provide free civil legal services to low-income people throughout Washington. Board members play an active role in setting program policy and assuring adequate oversight of program operations and must have a demonstrated interest in, and knowledge of, the delivery of high-quality civil legal services to low-income people. For more information, email Board Development Chair Lisa Dickinson at lisa@dickinsonlawfirm.com, or Executive Director César Torres at cesar@nwjustice.org. To apply, submit a letter of interest and a résumé to: WSBA Communications Dept., 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539; or email barleaders@wsba.org.

WSBA Leadership Institute Seeks 2012 Class of Fellows
The WSBA Leadership Institute (WLI) is now accepting applications for the 2012 class of fellows. To be considered, all required application materials must be received at the WSBA offices no later than September 30, 2011, at 5:00 p.m. The WLI is an extensive leadership training program born from the recognition 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. Approximately 12 attorneys in practice for at least three years and not more than 10 years will be carefully selected for the eighth year of the program. The eight professional-development seminars run from January to August 2012. Each session is designed to expose participants to the latest trends in professional leadership development. Fellows will earn a minimum of 30 CLE credits, and the program is provided at no charge to participants.

For more information about the program and the application process, visit the WLI webpage at www.wsba.org/legal-community/wsba-leadership-institute or contact Judy Berrett at judithb@wsba.org, 206-727-8212, or 800-945-9722, ext. 8212.

“Foundations of American Democracy” Civics Pamphlet
The WSBA offers a pamphlet for the public called “Foundations of American Democracy” that describes the basics of American government: the rule of law, the separation of powers, checks and balances, and a fair and impartial judiciary. It also includes a short quiz and a list of useful websites. Lawyers and judges are encouraged to bring the pamphlet with them when they speak to students or the public in schools, courtrooms, and the community. Teachers may also request the pamphlet for classroom use. The WSBA can provide reasonable numbers of copies at no charge, or the pamphlet may be downloaded from the WSBA website at www.wcba.org. Requests for copies should be directed to Pam Inglesby, WSBA outreach programs manager, at pami@wsba.org.

Facing an Ethical Dilemma?
Members facing ethical dilemmas can talk with WSBA professional responsibility counsel for informal guidance on analyzing a situation involving their own prospective ethical conduct under the RPCs. All calls are confidential. Any advice given is intended for the education of the inquirer and does not represent an official position of the WSBA. Every effort is made to return calls within two business days. Call the Ethics Line at 206-727-8284 or 800-945-9722, ext. 8284.

Search WSBA Ethics Opinions Online
Formal and informal WSBA ethics opinions are available online at http://mcle.mywsba.org/io. You can search opinions 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 206-727-8284 or 800-945-9722, ext. 8284.

LOMAP and Ethics on the Road: The 2011 Traveling Seminar
The WSBA Law Office Management Assistance Program (LOMAP) comes to you! Join us in Wenatchee on August 30, or in Yakima on August 31. Four ethics credits are available and the cost is $99. To register, call or email Julie Salmon at 206-733-
In the next group, contact LAP therapist topic. If you are interested in participating in a supportive environment for this critical week group offers both specific skills and resources.

A growing number of legal professionals are interested in mindfulness practices for their personal and professional well-being. For more information, contact Dan Crystal at danc@wsba.org, 206-733-5914, 800-945-9722, ext. 5914, or juliesa@wsba.org.

Monthly and Weekly Job Seekers Groups

On August 10, from noon to 1:30 p.m. at the WSBA office, Lawyers Assistance Program psychologist Dan Crystal will be hosting a roundtable conversation about best practices for finding a legal job in Seattle. This format allows for more individualized attention to your job search. No RSVP is required. There is also a Weekly Job Seeking group that provides strategy and support to unemployed attorneys. The group runs for eight weeks and is limited to eight attendees. For more information about monthly and weekly job group programming, contact Dan Crystal at danc@wsba.org, 206-727-8267, or 800-945-9722, ext. 8267.

Work/Life Balance Group

The Lawyers Assistance Program is offering “From Surviving to Thriving: Achieving a Meaningful Work/Life Balance.” This eight-week group offers both specific skills and a supportive environment for this critical topic. If you are interested in participating in the next group, contact LAP therapist Heidi Seligman at 206-727-8269, 800-945-9722, ext. 8269, or heidis@wsba.org.

Interested in Mindful Lawyering?

A growing number of legal professionals are interested in mindfulness-based skills and training to lawyering. The Washington Contemplative Lawyering group meets on the last Wednesday of each month (August 31) at the Lawyers Assistance Program office from 8:15–9:00 a.m. The group explores ways in which mindfulness practices may lead to more effective delivery of quality legal services, increased professionalism, and lawyer well-being and health. For more information, contact Sevilla Rhoads at srhoads@gsblaw.com. Learn more about mindful lawyering at http://wacontemplativelaw.blogspot.com.

Taking a Vacation?

If not, why not? All work and no play will make you grumpy and inefficient. Vacations are good for you and your family, so plan now to get out of town. And turn off your cellphone while you’re there! If you feel guilty about even contemplating time off, call the Lawyers Assistance Program at 206-727-8269 or 800-945-9722, ext. 8269.

Speakers Available

The WSBA Lawyers Assistance Program offers speakers for engagements at county, minority, and specialty bar associations, and other law-related organizations. Topics include stress management, life/work balance, and recognizing and handling problem-personality clients. Contact the lawyer services coordinator, at 206-727-8268, 800-945-9722, ext. 8268.

Help for Judges

The Judges Assistance Services Program provides confidential assistance to judges experiencing personal or professional difficulties. Telephone or in-person sessions are available on a sliding-scale basis. For more information, call the program coordinator at 206-727-8268 or 800-945-9722, ext. 8268.

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. A sliding-fee scale is offered ranging from $0–30, depending on ability to pay. Call 206-727-8268, 800-945-9722, ext. 8268, or visit www.wsba.org.

Casemaker Online Research

Casemaker is a powerful online research library provided free to WSBA members that can be accessed from the WSBA website at www.wsba.org/resources-and-services/casemaker-and-legal-research. For help using Casemaker, contact Julie Salmon at 206-733-5914, 800-945-9722, ext. 5914, juliesa@wsba.org, or call the WSBA Service Center at 800-945-WSBA (9722) or 206-443-WSBA (9722).

Learn More about Case-Management Software

The WSBA Law Office Management Assistance Program (LOMAP) maintains a computer for members to review software tools designed to maximize office efficiency. LOMAP staff is available to provide materials, answer questions, and make recommendations. To make an appointment, contact Julie Salmon at 206-733-5914, 800-945-9722, ext. 5914, or juliesa@wsba.org.

Upcoming Board of Governors Meetings

September 22–23, Seattle
October 28–29, Tacoma
December 9–10, Bellingham

With the exception of the executive session, Board of Governors meetings are open, and all WSBA members are welcome to attend. RSVPs are appreciated but not required. Contact Margaret Shane at 206-727-8244, 800-945-9722, ext. 8244, or margarets@wsba.org. The complete Board of Governors meeting schedule is available on the WSBA website at www.wsba.org/about-wsba/governance/board-of-governors.

Usury Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in July 2011 was .081 percent. Therefore, the maximum allowable usury rate for August is 12 percent.
CLE seminars are subject to change. Please check with providers to verify information. To announce a seminar, please send information to:

WSBA Bar News CLE Calendar
1325 Fourth Ave., Ste. 600
Seattle, WA 98101-2539
Fax: 206-727-8319
Email: barnewscalendar@wsba.org

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

CLE Calendar

**Administrative Law**

Administrative Law
September 15 — Seattle and webcast. CLE credits pending. By the WSBA Administrative Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Alternative Dispute Resolution

Creating and Leading an Effective Collaborative Team

Mediation Tips and Suggestions
September 14 — Seattle. 1 CLE credit. By McKinley Irvin Family Law Speaker Series; 206-625-6900; www.mckinleyirvin.com/resources/cle.

Settlement Conference Mediator Training
September 20 — Tacoma. 2.75 CLE credits. By Pierce County Center for Dispute Resolution; 253-572-3657; www.pcccdr.org.

Negotiation Basics
September 23 — Seattle and webcast. 1.5 CLE credits pending. By King County Washington Women Lawyers; 206-442-0888; www.kcwwl.org.

**Business Law**

Drafting and Interpreting Contracts
September 13 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethical Challenges and Malpractice Risks Facing Corporate Counsel and Outside Lawyers Who Advise Them
September 14 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Criminal Law**

18th Annual Criminal Justice Institute
September 8–9 — Seattle. 15.25 CLE credits, including up to 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Employment Law**

Protecting Company Secrets and Social Media: Best Practices in Light of Recent Developments
August 22 — Seattle and webcast. 1.5 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Hiring, Firing, and Employee Handbooks
August 23 — Seattle and webcast. 6 CLE credits, including 1 ethics. By the WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Estate Planning**

Estate Planning Fundamentals and Forms
August 4 — Seattle and webcast. 6.25 CLE credits, including 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Six Insider Secrets Every Family Law Professional Must Know
August 9 — Seattle and webcast. 1.5 CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

14th Annual Labor and Employment Law
August 18–19 — Seattle. 11.5 CLE credits. By The Seminar Group; 800-574-4852 or 206-463-4400; www.theseminargroup.net/seminar.lasso?seminar=11.empwa.

**Elder Law**

Annual Elder Law Conference
September 16 — Seattle and webcast. CLE credits pending. By the WSBA Elder Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

QDROs
August 30 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Ethics**

LOMAP and Ethics on the Road: The 2011 Traveling Seminar
August 30 — Wenatchee. 4 ethics credits. By WSBA Law Office Management Assistance Program; 206-733-5914; www.lomap.org.
LOMAP and Ethics on the Road: The 2011 Traveling Seminar
August 31 — Yakima. 4 ethics credits. By WSBA Law Office Management Assistance Program; 206-733-5914; www.lomap.org.

Annual Ethics, Professionalism, and Civility
September 19 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Institutional Racism and Lawyer Responsibilities
September 20 — Seattle and webcast. 6.25 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Lincoln on Professionalism
September 28 — Seattle and webcast. 2.75 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Family Law
Six Insider Secrets Every Family Law Professional Must Know
August 9 — Seattle and webcast. 1.5 CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

The “Nuts and Bolts” of Protection and Restraining Orders
August 10 — Seattle. 1 CLE credit. By McKinley Irvin Family Law Speaker Series; 206-625-6900; www.mckinleyirvin.com/resources/cle.

QDROs
August 30 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Annual Elder Law Conference
September 16 — Seattle and webcast. CLE credits pending. By the WSBA Elder Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Indian Law
7th Annual Re-Emerging Northwest Tribal Economies
August 4–5 — Tulalip. 12 CLE credits. By The Seminar Group; 800-574-4852 or 206-463-4400; www.theseminargroup.net/
10 Smart Marketing Strategies to Help You Build Your Practice
September 12 — Seattle and webcast. No CLE credits pursuant to APR 11. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Webcast Seminars
Tenant Eviction: Practice and Procedure
August 2 — Seattle and webcast. 1.5 CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Estate Planning Fundamentals and Forms
August 4 — Seattle and webcast. 6.25 CLE credits, including 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Six Insider Secrets Every Family Law Professional Must Know
August 9 — Seattle and webcast. 1.5 CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Real Estate Exchanges
August 9 — Seattle and webcast. 1.5 CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Trust Account Reconciliation
August 16 — Seattle and webcast. 1.5 CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Protecting Company Secrets and Social Media: Best Practices in Light of Recent Developments
August 22 — Seattle and webcast. 1.5 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Hiring, Firing, and Employee Handbooks
August 23 — Seattle and webcast. 6 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Cloud Computing Essentials
August 25 — Seattle and webcast. 1.5 CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Litigation Section Annual Seminar
August 26 — Seattle and webcast. 5.75 CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Maximize Your Online Presence: How to Attract Clients, Leverage Your Website, and Save up to Thousands per Year on Marketing Costs
August 31 — Seattle and webcast. No CLE credits pursuant to APR 11. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

The Client Whisperer
September 12 — Seattle and webcast. No CLE credits pursuant to APR 11. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Drafting and Interpreting Contracts
September 13 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethical Challenges and Malpractice Risks Facing Corporate Counsel and Outside Lawyers Who Advise Them
September 14 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Administrative Law
September 15 — Seattle and webcast. CLE credits pending. By the WSBA Administrative Law Section and WSBA-
**Annual Elder Law Conference**
September 16 — Seattle and webcast.
CLE credits pending. By the WSBA Elder Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Annual Ethics, Professionalism, and Civility**
September 19 — Seattle and webcast.
CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Institutional Racism and Lawyer Responsibilities**
September 20 — Seattle and webcast.
1.5 CLE credits pending. By King County Washington Women Lawyers; 206-442-0888; www.kcwwl.org.

**Understanding Intellectual Property**
September 23 — Seattle and webcast.
CLE credits pending. By the WSBA Intellectual Property Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Negotiation Basics**
September 23 — Seattle and webcast.
1.5 CLE credits pending. By King County Washington Women Lawyers; 206-442-0888; www.kcwwl.org.

**Spoliation of Evidence**
September 26 — Seattle and webcast.
CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**How to Handle Your First/Next Motor Vehicle Accident Case**
September 27 — Seattle and webcast.
CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Lincoln on Professionalism**
September 28 — Seattle and webcast.
2.75 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

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**Disciplinary Notices**

These notices of imposition of disciplinary sanctions and actions are published pursuant to Rule 3.5(d) 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 disciplinary notices should be read carefully for names, cities, and bar numbers.

**Disbarred**

**William O. Guffey** (WSBA No. 13249, admitted 1983), of Chula Vista, California, was disbarred, effective March 18, 2011, by order of the Washington State Supreme Court following a default hearing. This discipline was based on conduct involving conversion of funds, failure to provide a written accounting, trust account irregularities, dishonesty, and disregard for the rule of law.

Client hired Mr. Guffey to represent him in two lawsuits against his former lawyer. Client’s father advanced Mr. Guffey $10,000 for costs in the first lawsuit. In both cases, the contingent fee agreements provided that Client would pay no fee if there was no recovery. In February 2008, Mr. Guffey informed Client that he would have to withdraw from both cases for health reasons.

Mr. Guffey refunded $4,726.42 of the advance for costs. Mr. Guffey did not provide an accounting of the costs, even though Client’s father requested one. In April 2008, Mr. Guffey informed Client that his health had recovered sufficiently to resume representation of him in the two lawsuits. Client’s father wrote a check for $25,000, which was an advance for costs in the two lawsuits. Mr. Guffey deposited the check into his trust account on April 24, 2008. Between April 24, 2008, and November 18, 2008, Mr. Guffey removed, or caused to be removed, approximately $24,995 without entitlement. Some of the funds were withdrawn by Mr. Guffey’s employee, who is not a lawyer, by way of checks made out to “cash.” Mr. Guffey knew that the funds were removed from Client’s trust account without entitlement.

On October 2, 2008, the court entered a summary judgment against Client on the claims in the second lawsuit. In February 2009, Mr. Guffey settled the claims in the first lawsuit for $15,000. He mailed the full amount to Client’s father. Client repeatedly requested an itemization of costs expended on his behalf. Mr. Guffey did not respond to any of these requests or provide an accounting of the funds that he removed from Client’s funds in his trust account.

Prior to April 18, 2009, Client told Mr. Guffey that he would file a bar complaint, and possibly a criminal complaint, if Mr. Guffey did not refund his costs. Mr. Guffey refused to refund any of the funds that he had removed from the Client’s funds in his trust account.

On April 18, 2009, Mr. Guffey resigned from the Bar Association. In his resignation letter, Mr. Guffey stated, “I certify that there is no disciplinary proceeding against me and that I have no personal knowledge that the filing of a complaint of substance is imminent.” This statement was false. Mr. Guffey’s resignation was accepted effective April 23, 2009.

Mr. Guffey’s conduct violated RPC 1.15A(b), prohibiting a lawyer from using, converting, borrowing, or pledging client or third-person property for the lawyer’s own use; RPC 1.15A(e), requiring a lawyer to promptly provide a written accounting to a client or third person after distribution of property or upon request; RPC 1.15A(b)(5), requiring all withdrawals from a trust account be made only to a named payee and not to cash; RPC 1.15A(b)(9), requiring only a lawyer admitted to practice law to be an authorized signatory on the (trust) account; RPC 5.3(b), requiring a lawyer having direct supervisory authority over a non-lawyer to make reasonable efforts to ensure that non-lawyer’s conduct is compatible with the professional obligations of the lawyer; RPC 8.4(b), prohibiting a lawyer from committing a criminal act (here, theft) 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 other act which reflects disregard for the rule of law.

Francesca D’Angelo represented the Bar Association. Mr. Guffey represented himself. Scott M. Ellerby was the hearing officer.

**Disbarred**

**Paul D. Ryals** (WSBA No. 17732, admitted 1988), of Richland, was disbarred, effective May 25, 2011, by order of the Washington State Supreme Court following a default hearing. This discipline is based on conduct involving the commission of a crime.

On March 21, 2009, Mr. Ryals stole a vacuum cleaner from a department store in Lynnwood, Washington. On March 24, 2009, the Snohomish County prosecutor filed an Information charging Mr. Ryals with second-degree theft.
Disbarred

Kristine R. Villager (WSBA No. 36837, admitted 2005), of Seattle, was disbarred, effective May 17, 2011, by order of the Washington State Supreme Court following approval of a stipulation. This discipline is based on conduct involving misappropriation of client funds and dishonesty. While not admitting to the misconduct, Ms. Villager admits that the Association could prove by a clear preponderance of the evidence the violations set forth in the Stipulated Facts and that proof of such violations would suffice to result in her disbarment. According to the Stipulated Facts:

In May 2008, Insurance Company A hired the law firm where Ms. Villager was employed to enforce several hundred judgments and unresolved claims arising from motor vehicle accidents. Between May 2008 and August 2009, Ms. Villager worked on these matters by negotiating lump-sum settlements and establishing payment plans with Insurance Company A’s debtors. During that time, Ms. Villager filed Satisfactions of Judgments in six matters after debtors in those matters delivered to Ms. Villager checks, ranging from between $2,412.38 and $10,000.00, to satisfy the judgments against them. Neither Insurance Company A nor Ms. Villager’s employer received any funds in satisfaction of the judgments and Ms. Villager did not tell them that the matters had been settled.

In late September and/or early October 2008, Ms. Villager met with two different defendants who had separate complaints filed against each of them by Insurance Company A. The defendants each brought to Ms. Villager between $1,000 and $2,900 to settle the cases against them. Ms. Villager provided a receipt to one of the defendants, although she did not use her employer’s receipt book. The court entered an order dismissing that matter with prejudice. Ms. Villager gave the second defendant a proposed dismissal order, which he took to court to get the case against him dismissed. Neither Insurance Company A nor Ms. Villager’s employer received any portion of the settlement funds, and Ms. Villager did not tell them that the matters had been settled.

In January 2009, Ms. Villager filed a lawsuit on behalf of Insurance Company A against Insurance Company B, seeking $16,418.53 in unpaid intercompany arbitration awards. Insurance Company B’s lawyer advised Ms. Villager that it would seek summary judgment. In response, Ms. Villager signed and forwarded a proposed order of dismissal. Insurance Company A had not agreed to any such “settlement.” Ms. Villager did not tell her employer or Insurance Company A that she had dismissed their claim against Insurance Company B.

Ms. Villager’s conduct violated RPC 1.15A, prohibiting a lawyer from using, converting, borrowing, or pledging for their own use property of clients or third persons in a lawyer’s possession in connection with a representation; and RPC 8.4(c), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Linda B. Eide represented the Bar Association. Robert Perez represented Ms. Villager.

Suspended

Sandra L. Ferguson (WSBA No. 27472, admitted 1997), of Seattle, was suspended for 90 days, effective February 3, 2011, by order of the Washington State Supreme Court following an appeal. For more information, see In re Ferguson, 170 Wn.2d 916, 246 P.3d 1236 (2011). This discipline was based on conduct involving failure to disclose relevant facts to the court, appearing ex parte without notice to the opposing party, and obtaining an ex parte order and other relief through deception and misrepresentation.

In spring 2005, Ms. Ferguson’s brother and sister-in-law (Clients) were involved in litigation. Prior to Ms. Ferguson representing them, Clients had given the opposing party equity in a rental house as the down payment toward the purchase of a restaurant. The opposing party took possession of the house and agreed to make the mortgage payments on the house. By 2004, Clients claimed the opposing party was in default on the mortgage payments and, in February 2005, Clients filed a complaint seeking a writ of restitution to regain possession of the house from the opposing party.

On March 18, 2005, the superior court ordered that an additional hearing be scheduled to sort out the parties’ rights, but in the interim the opposing party would need to bring the mortgage payments current by March 28. During the second hearing, on March 30, 2005, both sides argued over whether the mortgage payments had been made. The opposing side explained to the court that if Ms. Ferguson’s clients were given temporary possession of the house, they would “file bankruptcy, immediately claim that they [had] equity in the house....” and then the bankruptcy court would deprive the superior court of jurisdiction and Ms. Ferguson’s clients would be able to retain possession of the house permanently.

Around the time of these hearings, Clients were exploring the option of bankruptcy. They had been told by a bankruptcy attorney that gaining possession of the house prior to bankruptcy would enhance their financial and legal position significantly. The court consolidated the two matters, denied the writ of restitution, and ordered the case set for trial on the merits as soon as possible, deciding “more testimony and comments and study on it” was necessary to determine the rights of each party. The court found the opposing party was entitled to maintain possession of the house to preserve the status quo.

Ms. Ferguson stepped in as counsel for Clients after the March 30, 2005, hearing. On April 11, 2005, without notice to the opposing party, Ms. Ferguson appeared ex parte before the judge who ruled in the two earlier hearings. During these proceedings, Ms. Ferguson presented her pleadings and argued that the opposing party had violated the court’s March 18 order and lied to the court at the March 30 hearing by failing to make the required mortgage payments, yet stating they had done so. Ms. Ferguson did not inform the court of her clients’ intention to file for bankruptcy or that the mortgage company had recently required all mortgage payments to be made with certified funds, which might account for the delay in the mortgage company’s processing of checks. The judge signed Ms. Ferguson’s proposed order holding the opposing party in contempt and granting a writ of restitution for the possession of the house to Ms. Ferguson’s clients as a remedy for the opposing party’s contempt.
When counsel for the opposing party received notice of the ex parte hearing and order approximately two days after the hearing, he called the judge and scheduled a hearing for his motion to vacate the order. The afternoon before the hearing, Ms. Ferguson’s clients filed for bankruptcy using funds provided by Ms. Ferguson. Ms. Ferguson appeared at the hearing on the motion to vacate with notice of the bankruptcy filing that deprived the superior court of jurisdiction. Ultimately, the opposing party’s claim for the house was never heard. When the opposing party received an offer of purchase for the restaurant, the parties settled all claims with respect to both properties.

Ms. Ferguson’s conduct violated former RPC 3.3(f), requiring a lawyer, in an ex parte proceeding, to inform the tribunal of all relevant facts known to the lawyer that should be disclosed to permit the tribunal to make an informed decision; former RPC 3.4(c), prohibiting a lawyer from knowingly disobeying an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists; former RPC 3.5(b), prohibiting a lawyer from communicating ex parte with a judge except as permitted by law; former RPC 8.4(c), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; and former RPC 8.4(d), prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice.

Jonathan H. Burke represented the Bar Association at the hearing. M. Craig Bray represented the Bar Association on appeal. Kurt M. Bulmer represented Ms. Ferguson at the hearing. Timothy S. Newman represented Ms. Ferguson on appeal. Timothy J. Parker was the hearing officer.

Suspended

Douglas Paul Ferrer (WSBA No. 15275, admitted 1985), of Seattle, was suspended for 18 months, effective March 1, 2010, by order of the Washington State Supreme Court following approval of a stipulation. This discipline is based on conduct involving failure to act competently, lack of diligence, failure to communicate, and dishonesty.

In April 1992, Clients were involved in a head-on collision with a drunk driver (opposing party). In August 1992, Clients hired Mr. Ferrer to represent them in litigation against the opposing party. Mr. Ferrer prepared the complaint, but did not file it until April 1995. This was two days before the statute of limitations expired. Mr. Ferrer failed to file additional required pleadings. In June 1995, Clients’ insurance company offered to pay the $100,000 limit on Clients’ uninsured motorist policy. Mr. Ferrer knew about this offer, but did not communicate it to his clients. As a consequence, Clients were not aware of their insurance company’s offer until 2005.

In March 1995, Clients’ case was dismissed by the court for failure to file the required pleadings. On March 15, 1996, Mr. Ferrer appeared in court and requested that the complaint be reinstated, which the court allowed. The trial date was set for March 1997. Mr. Ferrer failed to notify Clients that a trial date had been set and did not appear for trial. By this time, the opposing party had served his prison term, left the state, and could not be located. Mr. Ferrer never sought a default judgment against him. In October 1997, the trial court again dismissed the case due to abandonment. In the following years, Clients placed between 10–15 phone calls to Mr. Ferrer, who continued to tell them their matter was pending even though he knew this was false. In 2005, Clients learned from the clerk’s office that their complaint had been dismissed in 1997 and confronted Mr. Ferrer, who told them that he would seek to have the case reinstated. Mr. Ferrer did not take any further action.

Clients hired new counsel to represent them in a lawsuit against Mr. Ferrer. Their new counsel learned that Mr. Ferrer had taken no action on the insurance company’s payment offer and was able to recover the payment. Clients sued Mr. Ferrer for malpractice and breach of fiduciary duty, and sought damages in the form of the interest on the $100,000. Mr. Ferrer admitted liability, but asked the court to reduce the damage amount based upon his argument that the damages should be reduced by the amount of his original contingency fee, 40 percent. The court held that Mr. Ferrer was not entitled to have the amount reduced. Mr. Ferrer’s conduct in the matter demonstrated that he did not understand the most fundamental legal procedures relating to personal injury cases.

Mr. Ferrer’s conduct violated RPC 1.1, requiring a lawyer to provide competent representation to a client; RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; RPC 1.4(a)(3), requiring a lawyer to keep the client reasonably informed about the status of the matter; and RPC 8.4(c), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Erica W. Temple represented the Bar Association. Phillip H. Ginsberg represented Mr. Ferrer.

Suspended

Charles Price Helm (WSBA No. 7361, admitted 1977), of Shoreline, was suspended for six months, effective March 1, 2011, by order of the Washington State Supreme Court following approval of a stipulation. This discipline is based on conduct involving trust account irregularities.

Mr. Helm’s practice primarily involves debt collection. He maintained two trust accounts, one as the “Operations” account and the other as the “Trust” account, and also had a general business account. Mr. Helm deposited funds that clients advanced for court costs into the “Operations” trust account and deposited funds he collected on behalf of clients into the “Trust” trust account. In July 2007, the Bar Association opened a grievance against Mr. Helm after receiving three notices from his bank regarding overdrafts on the Trust account. During their examination of Mr. Helm’s trust accounts for the period from May 2007 through August 2009, Bar Association auditors found that Mr. Helm failed to:

- Properly reconcile his trust accounts’ check register balances to the bank statement balances and to the combined total of all client ledger records as often as the bank statements were generated;
- Make reasonable efforts to ensure that his non-lawyer office manager did not mishandle or misappropriate client funds, or manage his trust accounts in a manner giving reasonable assurance that his non-lawyer assistant’s conduct was compatible with his professional obligations;
- Take reasonable steps to prevent withdrawals of client funds in excess of the amount the particular client had on deposit, or hold client funds in trust;
- Ensure that client funds remained in his trust account until clients were given prior notice of his intent to withdraw the funds; or
- Identify the client and the client matter for each receipt, disbursement, and transfer of client funds from his trust accounts.

As of February 28, 2010, Mr. Helm was still not properly reconciling his trust account check register balances to his trust account bank statement balances and to the combined total of all client ledger records. The Bar Association auditors were unable to perform a complete reconstruction of Mr. Helm’s trust accounts due to the large number of transactions and clients involved. The auditors were therefore unable to determine the exact amount of any shortages in Mr. Helm’s trust accounts.

Mr. Helm’s conduct violated 1.15A(c)(1), requiring a lawyer to hold property of clients and third persons separate from the lawyer’s own property and deposit and hold in a trust account funds subject to this Rule; RPC 1.15A(h)(3), allowing a lawyer to withdraw funds when necessary to pay client costs and withdraw earned fees only after giving reasonable notice to the client of the intent to do so; RPC 1.15A(h)(6), requiring that trust account records be reconciled as often as bank statements are generated or at least quarterly and that the lawyer reconcile the check register balance to the bank statement balance and
Ms. Pate's conduct violated RPC 8.4(b), prohibiting a lawyer from committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; and RPC 8.4(c), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. Christine Gray represented the Bar Association. Ms. Pate represented herself.

Reprimanded

Melvin H. Champagne (WSBA No. 6680, admitted 1976), of Spokane, was reprimanded following approval of a stipulation on April 13, 2011, by a hearing officer. This discipline was based on conduct involving trust account irregularities.

During the period from May 2008 through April 2009, Mr. Champagne negligently made five disbursements from his IOLTA accounts on behalf of clients when there were insufficient funds on deposit for those clients to cover the disbursements. During the period from December 1, 2008, through May 29, 2009, he routinely failed to maintain a check register or client ledgers for his IOLTA accounts reflecting the client on whose behalf transactions were made. On 12 occasions during the period from February 6, 2008, to June 9, 2009, Mr. Champagne withdrew funds from his IOLTA accounts by signing counter withdrawal slips and not listing a payee. During the period from February 2008 through June 2009, he routinely failed to identify the source of funds deposited into his IOLTA accounts.

Mr. Champagne's conduct violated RPC 1.15A(h)(5), requiring all withdrawals from a trust account to be made only to a named payee; RPC 1.15A(h)(8), prohibiting disbursements from a trust account on behalf of a client or third person from exceeding the funds of that person on deposit; and RPC 1.15B(a) requiring a lawyer to maintain current trust account records.

Jonathan H. Burke represented the Bar Association. J. Donald Curran represented Mr. Champagne. Frederic G. Fancher was the hearing officer.

Admonished

Steven J. Baklund (WSBA No. 29920, admitted 2000), of Seattle, was ordered to receive an admonition on March 18, 2011, by order of a Review Committee. This discipline was based on conduct involving failure to communicate with a client.

In November 2009, Mr. Baklund agreed to represent Mr. W in a domestic-violence charge. The court ordered a stipulated continuance that included filing proof of one year of domestic-violence treatment. On May 6, 2010, the court ordered a compliance hearing for August 2010. On May 26, 2010, the Supreme Court suspended Mr. Baklund's license to practice law for failure to pay license renewal fees. Mr. Baklund notified his active clients of his suspension and distributed files to substitute counsel, but failed to notify Mr. W of his suspension because he had placed Mr. W’s file in storage. Mr. W sent proof of treatment to Mr. Baklund’s office prior to the hearing, but Mr. Baklund did not receive it due to his suspension. Mr. W learned from the court’s website that a bench warrant had been issued for his arrest when proof of compliance was not filed. He then faxed proof of compliance to the court and the bench warrant was quashed.

Mr. Baklund’s conduct violated RPC 1.4(a)(3), requiring a lawyer to keep a client reasonably informed about the status of the matter. Leslie C. Allen represented the Bar Association. Mr. Baklund represented himself.

Admonished

Jeffrey R. Bivens (WSBA No. 34100, admitted 2003), of Washougal, was ordered to receive an admonition on November 22, 2010, by order of a Review Committee. The admonition was based on conduct which involved providing a false statement of material fact on a Bar reinstatement application.
On February 5, 2010, while suspended from practicing law, Mr. Bivens was notified in writing that a grievance had been opened against him. On February 22, 2010, Mr. Bivens called the Bar Association and asked whether a grievance was considered to be a proceeding. The next day, he filed a response to the grievance. On February 26, 2010, Mr. Bivens received a letter notifying him of the disciplinary counsel assigned to complete the grievance investigation.

On March 5, 2010, Mr. Bivens submitted an Application for Change of Membership Status to the Bar Association. On the application, he answered “no” to the question “Is there any disciplinary investigation of any kind now pending concerning you in any jurisdiction?” Mr. Bivens explained that he was advised by the WSBA ethics line that a grievance is not considered to be a proceeding and believed that this justified answering “no” on the application form question regarding a disciplinary investigation. The application question asked about a disciplinary investigation, not a disciplinary proceeding. Mr. Bivens knew that a grievance investigation was pending. APR 19(e)(5) prohibits information relating to ethics inquiries, including responses, from being asserted in responses to grievances or complaints. The grievance under investigation at this time was later dismissed.

Mr. Bivens’s conduct violated RPC 8.1(a), prohibiting an applicant for admission to the bar, or a lawyer in connection with a bar admission or reinstatement application, or in connection with a disciplinary matter, from knowingly making a false statement of material fact.

Erica W. Temple represented the Bar Association. Mr. Bivens represented himself.

Admonished

Patrick T. Cooney (WSBA No. 37594, admitted 2006), of Lakewood, was ordered to receive an admonition on March 18, 2011, by order of a Review Committee. This discipline was based on conduct involving failure to clearly communicate his fee agreement to a client.

In November 2008, Mr. Cooney agreed to represent a client in a family law matter. Mr. Cooney used a pre-printed fee agreement form for hourly fees with a retainer, and filled in a $3,000 retainer with an hourly rate of $150. In the margins of the fee agreement, Mr. Cooney wrote “flat fee for settlement and trial” and “There is a flat fee of $3,000, however $1,000 needs to be present in the trust account due to any unforeseen costs at trial.” The client paid the $3,000, but did not provide the additional $1,000 to be maintained in the trust account for costs. Mr. Cooney withdrew from the case two months before the trial. Later, he agreed to re-enter the case for an additional payment of $1,500. Mr. Cooney believed this $1,500 was payment for past services that were not compensated by the flat fee. The client believed the $1,500 would take the case through trial. Mr. Cooney became ill and withdrew prior to the trial. The client proceeded to trial pro se.

Mr. Cooney’s conduct violated RPC 1.5(b), requiring the lawyer to clearly communicate to the client the scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate, and that any changes in the basis or rate of the fee or expenses also be communicated to the client.

Randy V. Beitel represented the Bar Association. Mr. Cooney represented himself.

Suspended Pending the Outcome of Disciplinary Proceedings

Shannon K. Connall (WSBA No. 33299, admitted 2002), of Portland, Oregon, was suspended pending the outcome of disciplinary proceedings pursuant to ELC 7.1 (conviction of a crime), effective May 31, 2011, by order of the Washington State Supreme Court. This is not a disciplinary sanction.

On February 5, 2010, while suspended from practicing law, Mr. Bivens was notified in writing that a grievance had been opened against him. On February 22, 2010, Mr. Bivens called the Bar Association and asked whether a grievance was considered to be a proceeding. The next day, he filed a response to the grievance. On February 26, 2010, Mr. Bivens received a letter notifying him of the disciplinary counsel assigned to complete the grievance investigation.

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Mr. Bivens’s conduct violated RPC 8.1(a), prohibiting an applicant for admission to the bar, or a lawyer in connection with a bar admission or reinstatement application, or in connection with a disciplinary matter, from knowingly making a false statement of material fact.

Erica W. Temple represented the Bar Association. Mr. Bivens represented himself.

Admonished

Patrick T. Cooney (WSBA No. 37594, admitted 2006), of Lakewood, was ordered to receive an admonition on March 18, 2011, by order of a Review Committee. This discipline was based on conduct involving failure to clearly communicate his fee agreement to a client.

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Randy V. Beitel represented the Bar Association. Mr. Cooney represented himself.

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Skilled contract attorney available for legal research, brief writing, and other litigation matters. Strong academic credentials, law journal editor, and reasonable rates. References available. Rachel Stoker, 360-601-3811; stoker.rachel@gmail.com.

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Why pay rent? Own your law office. Professional suite for sale includes offices, staff space, reception area, kitchen, two bathrooms, level sidewalk entrance, and two private parking places. Ample street parking for clients. Located at 8009—8011 Greenwood Avenue N, Seattle, across the street from Greenwood Library. This location has operated as a neighborhood law office since 1993 and will accommodate your small firm for years to come. Tax assessment is $385K and is offered for $299,000 due to retirement. Call Robert Carpenter, 360-697-3764. Please do not disturb current tenant lawyer.

I am looking for an attorney to share space with my established law practice on the west side of Olympia. Large single office available, with use of reception area and kitchen. Referral or co-counsel opportunities likely. Ideal arrangement for a solo practitioner who wants to create, build, or grow a practice, particularly in the areas of family law and bankruptcy. Please respond in writing to Manager, 1607 Cooper Point Rd. NW, Olympia, WA 98502.

Rental highlands — four Class A office spaces available for sublease. Offices are 11’ x 12’ with large windows and built-in desks. Rent includes conference rooms, Internet, kitchen, copier, scanner, fax, foyer with fireplace, security, and parking. Also available, postage and seven-day/week reception. $800/month. Contact Jason at 206-713-0317 or jmoore@windermere.com.

Seattle office space (Class A): One very cool and colorful office with beautiful views of Puget Sound on 38th floor of Bank of America Plaza (5th & Columbia) available for sublease. Includes one adjacent work station for support staff, use of conference room, reception, kitchen, telephone service, mail, messenger, etc. Bookkeeping, ga-
Furnished Bellevue office spaces — five offices (16' x 11'). Includes shared conference room and kitchen. Support staff space, Internet, receptionist, copier, and furniture also available. $850 to $1,400/month. Nicely decorated. Free parking. Contact Lizanne, 425-883-2883.

Unique space available (Seattle) — Sound view office in Market Place One, to share with established practitioners. North end of the Pike Place Market, adjacent to Victor Steinbrueck Park and the Seattle Athletic Club. Includes a secretarial station, joint use of the receptionist, conference room, and photocopy/scanner machine. Ample parking in the building. Contact Alexandra Fast at 206-728-0996.

Bellevue office space: Two offices available for sublease in downtown Bellevue. Rent includes shared use of conference rooms, small law library, and kitchen. Options include use of copier and covered parking. Please contact asakai@jgslaw.com.

One office in Wells Fargo Center with an established Seattle commercial and technology law firm. Rent includes receptionist, reception area signage, conference rooms, library, kitchen/lunchroom, BW/color copiers, scanners, and fax. High-speed LAN and Internet available. 206-382-2600.

Federal Way office available in newly remodeled building in the heart of Federal Way’s professional district. Rent includes use of shared conference room, kitchen, DSL, copier, fax, and parking. Secretary station also available. Lease terms negotiable. Call 206-399-2046.

Downtown Seattle executive office space: Full- and part-time offices on the 32nd floor of the 1001 Fourth Avenue Plaza Building with short- and long-term lease options. Close to courts and library. Conference rooms and office support services available. $175 and up. Serving the greater Seattle area for over 30 years. Contact Business Service Center at 206-624-9188 or www.bsc-seattle.com for more information.

Turn-key — new offices available for immediate occupancy and use in downtown Seattle, expansive view from 47th floor of the Columbia Center. Office facilities included in rent (reception, kitchen, and conference rooms). Other administrative support available if needed. DSL/VPN access, collegial environment. Please call Amy, Badgley Mullins Law Group, 206-621-6566.

Belltown (Seattle) law firm offering turn-key sublease. Corner lot building with large windows and beautiful cherry wood interiors. Two professional offices (18’ x 16’ and 14’ x 11’), plus one paralegal office and one staff work station. The office facilities include furnished reception room with working fireplace, built-in reception desk, furnished conference rooms, library, kitchen, working file room with high-speed copier/fax/scanner, and large basement file storage. Administrative support of high-speed Internet, cable, and VoiceIP is available. Contact accounting@aiken-lawgroup.com.


Practice for Sale

Established in Freeland, WA — Respected and thriving trust and estate, elder law, and real estate practice drawing from central and south Whidbey Island. Seller price, terms, training, and work for buyer negotiable. Contact: attorney@whidbey.com.

Get out of the rat race and enjoy small-town ambiance and natural beauty. Established successful practice (60 years) for sale in Stanwood/Camano Island, WA. Focus on estate planning, probate, real estate, business, family law, and personal injury. Large, strategically located office space with practice. Please direct inquiries to Frank at PO Box 458, Stanwood, WA 98292.

Will Search

Looking for an attorney in Ballard who wrote a will for Larry and Lups Farley, in approximately 1976 to 1985. Please contact Evelyn Perry at 206-285-5659 or 206-399-0333.
Justin P. Walsh  WSBA No. 40696

- **I became a lawyer because**: I was done with undergrad and didn’t want to go through an MBA program.
- **The future of the practice of law is**, unfortunately, the creation of more mythologies granting human status to corporations, who behave without a shred of humanity. The future should be dismantling that status.
- **If I were not practicing law**, I would open a mixed-age music venue and spend a lot of time putting on bands that I love and playing more music.
- **If I could change one thing about the law**, it would be the sterile nature of law that fails to take into account individual justice, that actively works against justice. I think that makes me a bit post-modern, but there has to be a happy medium between precedent and individual consideration.
- **This is the best advice I have been given**: “It’s just a job. It may be a good job, but at the end of the day, it’s just a job.” — My dad, Bob.
- **I would share this with new lawyers**: It’s easy to get wrapped up in work that you hate, but if you’re doing work that you love, you can pour so much more of yourself into it and get better results, all without feeling like you’ve sacrificed anything.

- **Traits I admire in other attorneys**: How deeply they feel their clients’ cases.
- **I would give this advice to a first-year law student**: Work your butt off. So much depends on your first-year grades. That said, give yourself a routine where you spend a part of each day doing something you love, and a part of the day doing something to keep you healthy. If you develop those habits and stick to them during school, it will stick with you throughout.
- **Someone whose opinion matters to me**: Paul Whelan, an attorney in Seattle who does mainly crashworthiness and medical negligence cases. He has a great grasp on what the law is, what it should be, and I can always turn to him for an honest opinion about a case.
- **People living or from the past I would like to invite to a dinner party**: Jack Kerouac, who I’ve always admired for living his life the way he wanted; Ian MacKaye, the lead singer of the punk band Minor Threat, for the same reason and for his unwavering belief in working for justice at a grass-roots level; and my grandmother, who would have loved the interaction.
- **I am most happy when**: I’m biking through Seattle on a sunny day or playing music with friends.
- **Best stress reliever**: For me, it’s watching something hilarious. Nothing gets me out of my own head quicker than really hilarious cutting-edge comedy. I owe a lot to David Cross and Eugene Mirman.
- **What keeps me awake at night**: The constant fear that I’m not telling my client’s story as it needs to be told on some nights. On others, the constant worry that I’m spending too much time worrying about my client and not enough about myself.
- **Technology is** soon to be consolidated by Apple. Really, you don’t need anything else. I love my Macbook Pro, iPod, iPad, and iPhone. But seriously, it’s essential to create balance. I’m not bound to a desk and can instead get a little bit of work in at a lot of different places.
- **Currently playing on my iPod/CD player/record player**: The Appleseed Cast — Two Conversations (when I want to get lost in ethereal guitar effects and rock out); Death Cab for Cutie — The Photo Album (when I’m feeling a little down); Dirty Beaches — Badlands (a Japanese artist putting out a super-gritty ’50s vibe with growling vocals!); World History — You Can’t Stop Trying (anarchist folk-country duo from Seattle for when I just want to sing along at the top of my lungs).
- **If I could live anywhere**, I would change nothing. I love it in Seattle.
- **The hardest part of my job**: Putting it down at the end of the day, even though not everything I want to do is done.
- **The best part of my job**: Talking to people from various backgrounds and places in life, getting the chance to help them be heard and getting to know them in the process.
Beatitude Adjustment

This is the first and probably last time I will quote Scripture in Bar Beat. But it seemed appropriate for this special edition of Bar News dedicated to professionalism. Most of what I know about that topic I learned from the Beatitudes (Matthew 5:3–12), the eight blessings that open Christ’s Sermon on the Mount. I’m no Bible-thumper, but I went to Catholic school and the Beatitudes have stuck with me. If Twitter had existed, Jesus would have tweeted them. If the apostles had known about screen printing, they would have handed out “Sermon on the Mount Tour” T-shirts with the Beatitudes on the back:

**Blessed are**

- the poor in spirit, for theirs is the kingdom of heaven;
- they who mourn, for they shall be comforted;
- the meek, for they shall inherit the earth;
- they who hunger and thirst after righteousness, for they shall be filled;
- the merciful, for they shall obtain mercy;
- the pure in heart, for they shall see God;
- the peacemakers, for they shall be called the children of God;
- they who are persecuted for righteousness’ sake, for theirs is the kingdom of heaven.

Although this is Christian doctrine, I think the sentiments are palatable to followers of other religions, and even to atheists willing to replace “God” and “heaven” with their ideas of a higher moral authority and ultimate state of peace. Rather than dogma, the Beatitudes are affirmations of what most people would consider essential human values, such as honorable behavior, mercy, humility, and sacrifice.

Of course, these ideas are older even than the Beatitudes. They span all societies and religions. They’re part of our DNA. There is irony in that, because the Beatitudes encourage us to protect those who might otherwise fall by the wayside in the race for survival of the fittest. They bless those who have been shunned or have chosen to subordinate their desires for principles, or for the good of others. The underlying ideas explain our innate urge to root for the underdog or rush to the aid of a fallen child.

I hate to fall into the “kids these days” trap — that people of past generations behaved better than people today. I’m 53, and I’ve encountered self-centered jackasses at every stage. Meanwhile, I’ve met thoughtful, generous people every year. But I have to admit that in the 20 years I’ve been a lawyer, the concepts of professionalism and civility have eroded toward afterthoughts. I worry that by the time I take down my shovel, these notions will be as hollow as the “Thank you” flashing on an ATM screen, as if programmed words could give soul to an assemblage of silicon and steel hanging from the side of a building.

It’s good to remember that the values behind the Beatitudes have been around longer than the laws that constitute our profession’s stock in trade: and far longer than the other things we spend so much time worrying about, like billable hours, technology, and marketing. In fact, many of our most fundamental laws, such as the Bill of Rights, were meant to protect and advance these very values. The values came first, then the laws. Only then, and relatively recently, have procedural and technological complexities taken over our work.

In the face of all that, the Beatitudes remind us to do the right thing. And while we lawyers get paid to argue over what the right thing is, when it comes to our own day-to-day behavior, we probably all would agree about 90 percent of the time on what’s right and wrong. I’ve seen things that are just wrong, like an attorney refusing to reschedule a routine motion when the opposing counsel’s mother died right before the hearing. And I’ve seen things that are just right, like an opposing counsel of mine voluntarily disclosing discovery material he had inadvertently omitted at first, even though he could have hidden it.

So, for this special Bar News I offer a secular version of the Beatitudes, dedicated to lawyers. I’ll get to work on the T-shirt.

**Blessed are the lawyers who**

- are poor because they aren’t doing it for the money, for theirs is the kingdom of fulfillment;
- mourn the loss of professional integrity, for they shall lead the effort to restore it;
- are modest, for they shall be recognized as the true heroes;
- hunger and thirst for fairness under the law, for their work will never be forgotten;
- are merciful, for they shall sleep soundly at night;
- are pure in heart, for they have nothing to hide;
- are peacemakers, for they shall soothe the pains of conflict;
- represent those persecuted for righteousness’ sake, for they know justice is its own reward.

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Washington State Bar Association

Creed of Professionalism

As a proud member of the legal profession practicing in the state of Washington, I endorse the following principles of civil professional conduct, intended to inspire and guide lawyers in the practice of law:

• In my dealings with lawyers, parties, witnesses, members of the bench, and court staff, I will be civil and courteous and guided by fundamental tenets of integrity and fairness.

• My word is my bond in my dealings with the court, with fellow counsel and with others.

• I will endeavor to resolve differences through cooperation and negotiation, giving due consideration to alternative dispute resolution.

• I will honor appointments, commitments and case schedules, and be timely in all my communications.

• I will design the timing, manner of service, and scheduling of hearings only for proper purposes, and never for the objective of oppressing or inconveniencing my opponent.

• I will conduct myself professionally during depositions, negotiations and any other interaction with opposing counsel as if I were in the presence of a judge.

• I will be forthright and honest in my dealings with the court, opposing counsel and others.

• I will be respectful of the court, the legal profession and the litigation process in my attire and in my demeanor.

• As an officer of the court, as an advocate and as a lawyer, I will uphold the honor and dignity of the court and of the profession of law. I will strive always to instill and encourage a respectful attitude toward the courts, the litigation process and the legal profession.

This creed is a statement of professional aspiration adopted by the Washington State Bar Association Board of Governors on July 27, 2001, and does not supplant or modify the Washington Rules of Professional Conduct.
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