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Words of wisdom

The November 2008 issue of the Bar News “On Writing” proves the persuasive pen is mightier than the sword. What Winston Churchill said about dangling prepositions — “This is an effrontery up with which I will not put.” What Oliver Wendell Holmes said about brevity — “I’m sorry I wrote such a long letter, I didn’t have time to write a short one.” And, my all time favorite triple redundancy as seen on a Texas freeway billboard — “Absolutely totally naked girls.”

Clydia J. Cuykendall, Olympia

Claim dispute

I read with interest “Levying on the Opponent’s Claim Against Your Client,” (October 2008 Bar News) which discusses the tactic of executing on the opposing party’s lawsuit against one’s client as a means of enforcing a judgment. As the lawyer representing the plaintiff in the Gada Transportation case, I found a certain irony in the authors’ citation to Paglia v. Breskovich, 11 Wn. App. 142 (1974), the very case on which I relied, without success, in opposing the tactic described in the article. The authors appear to ignore two points made in Paglia which directly bear on the tactic. The first is the admonition to trial judges that “...the court ought to exercise its supervisory power over its own process to prevent one party from obtaining control and management of both ends of one lawsuit.” 11 Wn. App at 147. Indeed, the court described the result obtained by the tactic as “grossly inequitable.”

The authors are also mistaken in their belief that the rule of Paglia applies only to lawyers, even though the bad actor in that case was a lawyer, because nothing in the decision limits the rule to the facts before the court. For that reason, the authors’ effort to distinguish their use of the disapproved tactic in Gada Transportation appears to protest too much: “...counsel for our clients did not levy on the plaintiff’s claim; rather, our clients did so.” I confess to lacking the hermeneutic skills necessary to grasp this distinction, vis-à-vis considerations of equity. I will, however, represent that all the defendants’ filings in Gada Transportation, in the trial court and in the Court of Appeals,
We acknowledge Mr. Cowan’s arguments, which were made to the trial and appellate courts and not accepted.

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sanction for the misconduct in question was a suspension.

After weighing the aggravating circumstances (dishonest or selfish motive, pattern of misconduct, and vulnerability of victims), and the mitigating circumstances (absence of a prior disciplinary record), the hearing officer departed from the presumptive minimum six-month suspension, deciding that a substantial suspension was warranted. The hearing officer recommended imposition of a three-year suspension from the practice of law, the maximum suspension authorized by Washington’s Rules for Enforcement of Lawyer Conduct (ELC). The hearing officer further recommended that, as a condition of reinstatement to practice, Burgess undergo an independent examination by a licensed clinical psychologist or psychiatrist for the purpose of establishing that Burgess is currently fit to practice law. Upon reinstatement, Burgess is subject to two years of probation, including the condition that he comply with all treatment recommendations of the evaluating psychologist or psychiatrist.

As required by the ELC, the hearing officer’s decision was reviewed by the Disciplinary Board, an independent volunteer panel of 10 lawyers, and four non-lawyers. On June 11, 2008, the Disciplinary Board unanimously adopted the hearing officer’s recommendation. The Supreme Court subsequently reviewed the hearing officer’s decision and the Disciplinary Board’s order. The Court determined that the Disciplinary Board’s order should be entered and accordingly ordered that Burgess be suspended from the practice of law for three years, effective July 8, 2008.

For copies of the decision papers in this case, contact the clerk to the Disciplinary Board at 206-733-5926. The complete official files, to the extent they are public, can be reviewed by making an appointment during normal business hours with the Disciplinary Board staff at the number above.

More on marriage

I am informed that the WSBA Board of Governors has unanimously endorsed same-sex marriage. I profoundly disagree with that decision for a host of practical, political, and moral reasons. And while I believe that everyone who participates in our justice system should be treated with respect by the bar and by our courts, I do not believe that bar and its representatives should take positions on political and social issues. Did the Board of Governors also endorse presidential and gubernatorial candidates? I certainly hope they did not.

While I know that the individual members of the WSBA Board of Governors will have their own positions on issues, public policy, and candidates, I would not expect that they would attempt to speak for me. The bar is a professional organization which has compulsory membership requirements. Therefore, I do not have the luxury of resigning in protest over actions taken which I object to. On the other hand, I would have the luxury of resigning from the Seattle King County Bar, WSTLA, WACDL, or the ABA, if, as a member, I no longer wish to voluntarily associate with those entities.

The Board of Governors did a tremendous disservice to their fellow Christian, Mormon, Jewish, Muslim, Catholic, and Republican members who don’t support same-sex marriage. The fact that there was not a dissenting vote among the members of the Board of Governors suggests a lack of diversity on the Board, as well as the fact that the Bar is far ahead of the curve of public opinion. While many people may be open to the idea of civil unions, the majority of people in our state do not support same-sex marriage, especially outside of the Seattle-King County area.

If the Bar Association wishes to be an advocacy organization, then perhaps its membership would be better served if the State Department of Licensing took over its licensing and disciplinary functions. However, this seems to be an area where the Bar functions well. So, perhaps the Bar should focus on serving the public and its own membership, and avoid taking positions on social and political issues, which are out of step of public opinion, especially the issue of same-sex marriage.

Patrick D. McBurney Jr, Richland

I was disappointed to read the glowing report of the Board of Governors’ passage of the resolution supporting same-sex marriage. Nowhere does the report recognize the substantial opposition to the resolution coming from many members of the bar.

Instead of acknowledging the strong opposition to the Board’s position, the article includes only the apologia of President-Elect Mungia accompanying his vote. He mischaracterizes the opposition to this resolution as coming from WSBA members for whom the resolution “goes against their personal views of what is moral.” On the contrary; many of us who wrote to the Board of Governors in opposition to this resolution objected to the WSBA’s abandonment of the rights and needs of children who deserve the best chance to be brought up by their biological mother and father committed to each other for life. This is not a personal view of what is moral, but a differing view of the proper role of the bar association in addressing issues of public policy. The resolution was couched in the language of promoting “predictability,” but as the recent vote in California demonstrates, the only thing predictable from such actions is continuing legal and cultural chaos. The WSBA Governors abused their position as stewards of a compulsory bar to advance a “personal view of what is moral,” and I for one protest.

David K. DeWolf, Spokane

Our Board of Governors showed wisdom and courage when adopting a resolution supporting equal access for same-sex couples to civil marriage (November 2008 Bar News). As explained by Mark Johnson and Salvador Mungia, the Board was not only authorized to take this stand, but had a duty to do so.

Some members of the Bar may say they oppose the resolution on religious grounds. However, the resolution concerns only “civil” marriage, which has always been a secular institution in Washington. The resolution has no bearing on the solemnization of marriages within the context of a religious faith. Unfortunately, some may argue their religious or moral beliefs allow or even compel them to withhold rights from gays and lesbians in all areas of life, civil or otherwise. It is gratifying to know our leadership takes a different view.

Having sworn to uphold the rule of law, we cannot remain silent when faced with pernicious and wholly unjustified discrimination against gays and lesbians who merely want to enjoy the same benefits of marriage that are or can be enjoyed by the rest of us. I hope other Bar Associations follow our lead and adopt similar resolutions.

David A. Summers, Seattle

Correction: In the October 2008 Bar News, it was stated that Leonard J. Feldman, one of the authors of “How to Write, Edit, and Review Persuasive Briefs,” is an attorney at Heller Ehrman LLP. He now works as a member of the appellate group at Stoel Rives LLP.
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Equitable Interest Rates and IOLTA

The emergent need for an IOLTA account interest rate comparability rule

There are certain well-known casualties of our very difficult economic climate: homes, jobs, savings, and pensions lost; businesses, banks, and other financial institutions failed. Probably entirely off the damage assessment inventory of the general public, and perhaps most lawyers, is that IOLTA revenues, a significant source of support for our civil indigent legal service system, have been devastated by the poor economy. Set out below is a comparison, by month, of IOLTA revenues from 2006 through September 2008:

<table>
<thead>
<tr>
<th>Month</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan.</td>
<td>739,399</td>
<td>854,781</td>
<td>543,333</td>
</tr>
<tr>
<td>Feb.</td>
<td>345,908</td>
<td>508,529</td>
<td>609,627</td>
</tr>
<tr>
<td>Mar.</td>
<td>743,368</td>
<td>907,659</td>
<td>464,803</td>
</tr>
<tr>
<td>Apr.</td>
<td>667,439</td>
<td>803,866</td>
<td>513,618</td>
</tr>
<tr>
<td>May</td>
<td>752,112</td>
<td>768,388</td>
<td>418,087</td>
</tr>
<tr>
<td>Jun.</td>
<td>684,993</td>
<td>814,756</td>
<td>368,547</td>
</tr>
<tr>
<td>Jul.</td>
<td>878,784</td>
<td>951,038</td>
<td>366,074</td>
</tr>
<tr>
<td>Aug.</td>
<td>739,877</td>
<td>815,819</td>
<td>323,217</td>
</tr>
<tr>
<td>Sept.</td>
<td>766,798</td>
<td>738,869</td>
<td>311,389</td>
</tr>
<tr>
<td>Oct.</td>
<td>856,885</td>
<td>529,831</td>
<td></td>
</tr>
<tr>
<td>Nov.</td>
<td>755,642</td>
<td>869,576</td>
<td></td>
</tr>
<tr>
<td>Dec.</td>
<td>736,899</td>
<td>616,765</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>8,668,106</td>
<td>9,179,877</td>
<td>3,918,696</td>
</tr>
</tbody>
</table>

It is a certainty that IOLTA revenues for 2008 will fall millions of dollars below those of the past two years and, as a result, civil legal aid programs will face significant cuts.

While IOLTA losses resultant from the poor economy, primarily the petrified real estate market, will take some time to recover, the losses are compounded by the woeful interest rates that banks pay on IOLTA accounts — some as low as .10 percent.

Twenty states and the District of Columbia have IOLTA “comparability” rules, RPCs which require lawyers to deposit trust account funds only in banks which treat IOLTA account deposits equally to other accounts of the same type. The Legal Foundation of Washington (LFW), a 501(c)(3) corporation established by order of the Washington State Supreme Court in 1984, and which has the authority to collect IOLTA funds in Washington state and to distribute those funds to grantees providing civil legal aid services, is preparing a proposed amendment to RPC 1.15A to require lawyers to do so.

According to a GR 9 cover memo prepared by the LFW, states with comparability rules have experienced a 50–100 percent increase in IOLTA revenues. The memo also provides that not a single bank in any of the states that have enacted comparability rules have thereafter declined to participate in the IOLTA program; a recognition of the economic power that lawyers have with financial institutions — they want to keep our business.

Caitlin Davis Carlson, the executive director of the LFW, stressed the importance of a comparability rule, particularly given our present financial circumstances: “The current economic environment has sharply reduced IOLTA revenue, thus jeopardizing the Legal Foundation’s ability to provide stable support for civil legal aid programs in Washington state. A comparability rule would ensure that IOLTA accounts are treated equitably by financial institutions, thus maximizing the IOLTA revenue available to help meet the critical legal needs of low-income people.”

The IOLTA money distributed by the LFW goes to providing direct legal services to the economically disadvantaged. Last year, according to the LFW’s annual report, it distributed 8.3 million dollars in grants to 32 recipient organizations, including Columbia Legal Services, the Northwest Immigrant Rights Project, and pro bono legal aid programs in multiple counties. Given the remarkable downturn in the economy, cuts in legal services grants are inevitable.

IOLTA revenues are indispensable for civil legal aid, and the interest rates paid on the accounts are not fair. Access to civil legal aid for the economically disadvantaged has never been more important, and the poor economy has devastated IOLTA revenues. A comparability rule for IOLTA accounts will raise interest rates to a fair level, and the WSBA should support the LFW’s comparability rule.

WSBA President Mark Johnson can be reached at 206-386-5566 or mark@johnsonflora.com.
New questions and information about the death penalty have been coming from many different quarters. Last year, New Jersey repealed the death penalty after a legislative study found it to be ineffective and more costly than a life sentence without parole. Bills to repeal the death penalty passed one house of the New Mexico and Montana legislatures and fell one vote shy of passing the Nebraska Legislature. Citing racial disparities, inadequate indigent defense, and other irregularities identified in its studies of death penalties in eight states, the American Bar Association called for a nationwide moratorium on executions last October and for state-by-state reviews of the death penalty.1 Reflecting opinion from around the world, the United Nations General Assembly passed a resolution in December by a two-to-one margin asking all governments to impose “a moratorium on executions with a view to abolishing the death penalty.” In Washington, the State Supreme Court tossed to the Legislature the moral question: Should the State of Washington execute another defendant when it has declined to execute the Green River Killer, who murdered 48 women in the most horrific criminal career in state history? Now is the time for Washington to answer this and other new questions about the death penalty and decide its course for the future.

How has the death penalty worked in Washington?
Last year, the Washington State Bar Association published the most comprehensive study to date on the application of the death penalty in Washington and its costs to state and county governments.2 Here, then, is a brief history of the death penalty in Washington since it was re-introduced in 1981. The death penalty may be sought in Washington in aggravated murder cases as an alternative to a sentence of life imprisonment without parole, except where the defendant is a minor or mentally retarded. Between 1981 and 2006, there were 254 aggravated murder cases where the death penalty could have been sought. Prosecutors elected to seek the death penalty in 79 of those cases. Juries returned death sentences in 30 cases. Of the 30 death sentences handed down, 20 have been reversed on appeal. Six defendants are on death row pending appeal and clemency proceedings. Four cases have resulted in executions. Three of the four executions have involved “volunteers” — defendants who have waived appeals and allowed themselves to be executed.

Has the death penalty been fairly and evenly applied?
This question was at the heart of State v. Cross,3 in which the defendant challenged...
the imposition of the death penalty on him when it was not imposed on the Green River Killer, Gary Ridgway. In a plea bargain, which had broad support among law-enforcement officials and the families of his victims, Ridgway was allowed to avoid death in exchange for information, which resolved all the unsolved Green River murders. In light of the life sentence given the state’s worst murderer, Mr. Cross argued that it would be unfair and unequal treatment to execute other defendants who were not serial killers and had no information about unsolved murders with which to bargain away a death sentence. In upholding his death sentence, the majority opinion of the State Supreme Court characterized Cross’s argument as a moral issue to be decided by the people and not grounds to rule the death penalty unconstitutional. The dissenting opinion, signed by four justices, reviewed the sentences in aggravated murder cases and found no rational explanation for why some defendants have received death sentences and others have not. The dissent further observed that the worst mass murderers in the state’s history have escaped the death penalty — Ridgway (48 murders), Yates (15 murders), Mak (13 murders), Ng (13 murders), and Rice (4 murders). The dissenting justices asked, if the death penalty is not imposed in these cases, “on what basis do we determine on whom it is imposed?” That weighty question the Court has left for the Legislature to decide.

Is it evenly applied across racial lines?
The apparent racial disparities in the application of the death penalty was one of the major reasons cited by the American Bar Association for its call for a moratorium on execution. Nationally, 42 percent of the individuals who received a death sentence between 1977 and 2005 were black, while blacks comprised less than 10 percent of the population. Since 1981, 18 percent of the defendants in death penalty cases in Washington have been black, yet blacks have comprised only 3.2 percent of the population in the state. These statistics are alarming and should trigger further inquiry into whether the race of the defendant and/or the victim impacts the application of the death penalty.

Is it applied evenly across the state?
Many smaller counties in the state are in precarious financial condition, and a prosecutor’s decision to pursue very costly death penalty litigation could cripple other programs in the county. At least one small county prosecutor is on record as stating that he would not seek the death penalty, because his county could not afford it. There are six smaller counties where there have been aggravated murder cases, but where the death penalty has never been sought. Are we developing a system in which the death penalty will be applied only to defendants in larger, well-heeled counties? To avoid such an uneven system, the WSBA Committee on Public Defense Death Penalty Subcommittee and Board of Governors both unanimously recommended that the Legislature provide state funding of all prosecution, defense, and court costs in aggravated murder cases, so that county finances would have no influence on whether or not the death penalty is sought in any case in the state. Without that state commitment, a two-tier system is likely to develop, if it has not already.

What does it cost to litigate death penalty cases?
Of necessity, death penalty cases are costly. In a country founded on the rule of law and the right of the individual to life and liberty, the greatest injustice would be the execution of an innocent individual by the state. The challenge then is whether the death penalty can be administered without error. Unfortunately, the criminal justice system is dependent entirely on the honesty, competence, and judgment of fallible humans who are the witnesses, jurors, lawyers, and judges in capital cases. The fallibility of the criminal justice system is demonstrated to us regularly by the news stories of exonerations through DNA testing of persons wrongfully convicted of serious criminal charges. The Innocence Project reports that more than 200 convictions across the country have been overturned through DNA testing, including 15 death sentences. In his new book, The Innocent Man, John Grisham describes the chilling, true story of Ron Williamson, an innocent man who came within hours of execution. The tragedy of Mr. Williamson’s wrongful conviction was a deadly confluence of local politics, bad police practices, an overzealous prosecutor, and an incompetent judge and defense attorney. To safeguard against a wrongful conviction, elaborate rules and procedures have been developed for death penalty cases. The special procedures and the costs of death penalty litigation are described in detail in the WSBA Death Penalty Report. My conclusion from the report is that it costs an extra one million dollars, or more, to litigate a case to obtain a death penalty, rather than a sentence of life without the possibility of parole. Based on the results over the last 27 years, the prosecutor who pursues that expensive alternative has about a six percent chance of success.

Does the death penalty serve a significant public good, which justifies its costs?
This question may be answered by an examination of the possible public benefits of executing a defendant. The death penalty may be thought to be the ultimate punishment, but in testimony before the State House Judiciary Committee, Mark Prothero, who represented Gary Ridgway, questioned the function of the death penalty as a form of punishment. He described Mr. Ridgway’s solitary confinement in a windowless, six feet by 10 feet cell, where he serves his life sentence without possibility of parole. Twice a week he is taken to a larger, windowless room for an hour of exercise. He has no human contact, except when the guards bring him food or take him to exercise. He has no hope of this routine changing. Mr. Prothero asked: “Is the death penalty really the worst punishment?” He suggested that the answer to that question may lie in the fact that three of the four executions in Washington over the last 27 years have been “volunteers” who waived their appeals and apparently preferred death to a life in prison.

Indeed, the number of the “volunteers” for execution raises the question whether sometimes the death penalty functions not as punishment, but as a form of state-assisted suicide. Particularly bothersome is the case of James Elledge. He killed a Lynnwood woman. He then told the police that he wanted the death penalty and instructed his trial attorney to tell the sentencing jury that he did not deserve leniency. In the mandatory review before the State Supreme Court of the jury’s death sentence, he directed his attorney to tell the prosecutor in asking that the sentence be upheld. He wrote from his cell that he hated himself and did not want to go on living. His sentence was upheld and he was executed.

Some may think that the death penalty is intended to benefit the families of the
victims of aggravated murder. If that is the goal, millions of dollars have been spent in Washington on death penalty litigation over 27 years, and only four families have received whatever benefit the death penalty provides. Certainly, those millions could have been better spent by providing services and support directly to families of murder victims, if the public objective is to provide benefits to these grieving families. Moreover, the connection between the death penalty and benefit to the victim’s family is uncertain. There is no provision in the statute giving the victim’s family any say in whether the death penalty is sought. Victims’ families who find no benefit in the death penalty cannot stop it. In the Elledge case, the victim’s brother told a reporter he had confused feelings about the death penalty, because Elledge got the death he sought.8

One may expect that the broader public benefit of the death penalty would be deterrence of murder through the threat of the death penalty. However, the deterrent effect of the death penalty is hotly debated. If the death penalty has a deterrent effect, death penalty opponents argue, then deterrence is achieved. However, the evidence that executions deter future crimes is less than clear.9 Together, these two states have accounted for 45 percent of the executions in the country since the U.S. Supreme Court allowed the reinstatement of the death penalty in 1976. Yet, both Texas and Virginia had a murder rate of 6.1 per 100,000 population in 2005, which was 10 percent above the national rate.10 By comparison, death penalty opponents point out, the average murder rate in states without a death penalty was 2.8 per 100,000, which was half the national rate. Of the 12 states without a death penalty, 11 had murder rates below the national rate, including the three states with the lowest rate of 1.3 per 1,000.11

Proponents of the death penalty point to several recent statistical studies which find a deterrent effect. One study concludes that each execution deters five murders,12 while another says 18 murders are deterred by an execution.13 These studies have been sharply criticized by other scholars, who point to flaws in the data and methodology and the problem with drawing conclusions across the nation when a large portion of the data comes from Texas.14 One critical study not only debunks a finding of a deterrent effect by such studies, but uses their data to demonstrate that executions may possibly lead to more homicides.15 Perhaps most interesting to Washington may be the new study by Joanna Shepard, who co-authored a famous, earlier study finding a deterrent effect. In a new state-by-state data analysis, she finds that executions have deterred murder in six states, which have conducted a large number of executions. However, Washington is among 13 states with few executions where her study finds that executions have resulted in an increase in murders under what she calls the brutalization effect. She observes that the occasional state-sponsored killing incites private killings and increases, rather than deters, murder. She advises that “to achieve deterrence, states must generally execute many people. If a state is unwilling to establish such a large execution program, it should consider abandoning capital punishment.”16 Professor Fagan of Columbia University, another death penalty expert, has stated it more bluntly, “A death penalty that is almost never used serves no deterrent function, because no would-be murderer can expect to be executed.”17 While Professor Shepherd and Professor Fagan have been on opposite sides of the deterrence debate, they would likely agree that Washington, which conducts an execution on average once every seven years, should not expect to deter murder through its death penalty.

The foregoing questions deserve in-depth study. The WSBA has recommended that the Legislature fund a thorough, multi-disciplinary study of the death penalty. Bills to fund such a study passed out of the judiciary committees of both the State House and Senate in 2007, but died in the House Appropriations Committee. Those study bills need to be re-introduced and passed in the next legislative session. An in-depth study by experts in the many fields touching on the death penalty would greatly inform a public discussion on whether the death penalty should be continued. It would help us answer the essential questions of whether the death penalty serves a public good, whether it can be fairly applied, and whether it is the best use of tax dollars. Unless the Legislature can answer these questions clearly in the affirmative, it should not waste tax dollars on death penalty litigation or ask jurors, judges, and lawyers to spend their time and energies on this most difficult endeavor. Indeed, without a sound rationale for the death penalty, the State of Washington may be engaged in occasional, ritualistic killing only to satisfy the dictate of a prior generation that there be a death penalty. It is time for the current generation to answer the hard questions arising from the application of the death penalty over the last 27 years and decide the course of the death penalty in Washington for the 21st century. µ
practices civil law with Davidson, Czeisler & Kilpatrick, P.S. in Kirkland.

NOTES
2. www.wsba.org/lawyers/groups/committeeonpublicdefense.htm.
6. Supra at note 2.
11. Id.
In 1990, in an attempt to clarify the distinction between client fee payments that must be held in a trust account and those that should not be, the WSBA Board of Governors approved Formal Ethics Opinion No. 186, entitled “The Proper Handling of Advance Fee Deposits and Retainers.” In 2005, Formal Opinion 186 was withdrawn following the Supreme Court’s decision in In re Discipline of DeRuiz, 152 Wn.2d 558, 99 P.3d 881 (2004), in which the Court disciplined a lawyer for failing to return unearned money, rejecting the lawyer’s argument that a flat fee paid in advance for specific services was a “retainer” earned at the point of receipt. The withdrawal of Formal Opinion 186 created a void in guidance for lawyers with respect to the proper handling of advance fee payments. For this reason, in October 2007, the WSBA Board of Governors submitted suggested amendments to RPC 1.5 and RPC 1.15A to clarify these issues.

On October 28, 2008, following a public comment period, the Court adopted amendments to RPC 1.5 and 1.15A. A new paragraph (f) in RPC 1.5 creates two exceptions to the general rule that fees paid in advance of services remain the property of the client and must be kept in trust. The exceptions are: (1) availability retainers, and (2) flat fees for specified services. The rule, for both types of fee agreements, requires a writing signed by the client. Flat fees require an additional disclosure substantially similar to the form set out in the rule, the purpose of which is to advise the client that the fee will immediately be placed into the lawyer’s operating account, that payment of a flat fee in advance does not impair the client’s right to terminate the client-lawyer relationship, and that the flat-fee structure does not extinguish the possibility that the client may, or may not, have the right to a refund. The rule also requires the lawyer to take reasonable and prompt action to resolve a dispute relating to a designated flat fee or retainer. Companion amendments to RPC 1.15A clarify that except for a fee properly characterized as a retainer or flat fee under RPC 1.5(f), a lawyer must deposit fees paid in advance into a trust account, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

The amendments, which were published in the advance sheets on November 18, 2008, became effective upon publication. A link to the complete text of the amendments is available at www.courts.wa.gov/court_rules/?fa=court_rules.adopted.
We the People: Representing the Government

What is unique about government lawyers is that they represent entities that embody the public as a whole, in the case of federal or state lawyers, or a significant part of it, in the case of counsel for local governments.

GENERAL RULES

Conflicts. A cornerstone of all conflict analysis is first to define who your client is, because without multiple adverse clients, a lawyer or law firm cannot, by definition, have a multiple-client conflict. The 2006 amendments to the RPCs brought with it a new rule — RPC 1.13 — that specifically addresses entity representation. It applies to entity representation generally and includes judges and their law clerks.

SPECIFIC RULES

Although RPC 3.8 applies specifically to prosecutors and RPC 1.11 applies specifically to government lawyers, government lawyers are not held to a different standard under the RPCs than lawyers in private practice. See, e.g., In re Bonet, 144 Wn.2d 502, 29 P.3d 1242 (2001). Rather, the RPCs apply equally to all lawyers. What is unique about government lawyers is that they represent entities that embody the public as a whole, in the case of federal or state lawyers, or a significant part of it, in the case of counsel for local governments.

That, in turn, highlights the special responsibilities and obligations of representing the government. As Comment 1 to RPC 3.8 puts it for prosecutors: “A prosecutor has the responsibility of a minister of justice and not simply that of an advocate.”

Prosecutors. RPC 3.8 focuses on six specific areas, all of which are stated as affirmative (i.e., “shall”) obligations: (1) to “refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause”; (2) to “make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel”; (3) “not to seek to obtain from an unrepresented accused a waiver of important pretrial rights, such as the right to a preliminary hearing”; to make timely disclosure of evidence that “tends to negate” or mitigate the guilt of an accused or evidence in mitigation on sentencing; (5) generally (subject to very narrow exceptions) not to subpoena defense lawyers to a grand jury or other criminal proceeding to provide evidence against their current or former clients; and (6) generally refrain from making out-of-court statements that might influence proceedings, except as permitted in RPC 3.6 (governing trial publicity) and the accompanying guidelines for applying RPC 3.6 that are an appendix to the RPCs.

Screening. RPC 1.11 essentially extends the lateral-hire screening rule found in RPC 1.10 to government attorneys. Like its private-practice counterpart, RPC 1.11(a) generally prohibits a former government lawyer from “switching sides” in the same matter if the lawyer moves from the government to a firm representing the opposing party (absent a waiver by the former governmental employer). Again like its private practice counterpart, RPC 1.11(b) also allows a hiring firm to avoid disqualification if it timely screens the lawyer who is joining it from the government. RPC 1.12 takes the same general approach with former judges and their law clerks.
governmental organizations. Defining precisely the identity of the client and prescribing the resulting obligations of such lawyers may be more difficult in the government context and is a matter beyond the scope of these Rules. Although in some circumstances the client may be a specific agency, it may also be a branch of government, such as the executive branch, or the government as a whole.

For outside counsel representing a government agency, RPC 1.13(h) (first adopted in 1995 as RPC 1.7(c)) provides a very useful, Washington-specific corollary that allows agencies and their lawyers to define precisely who the client will be:

For purposes of this Rule, when a lawyer who is not a public officer or employee represents a discrete governmental agency or unit that is part of a broader governmental entity, the lawyer's client is the particular governmental agency or unit represented and not the broader governmental entity of which the agency or unit is a part, unless:

1) otherwise provided in a written agreement between the lawyer and the governmental agency or unit; or
2) the broader governmental entity gives the lawyer timely written notice to the contrary, in which case the client shall be designated by such entity. Notice under this subsection shall be given by the person designated by law as the chief legal officer of the broader governmental entity, or in the absence of such designation, by the chief executive officer of the entity.

In governmental practice, lawyers can face a full spectrum of conflicts: current multiple client conflicts under RPC 1.7 and former-client conflicts under RPC 1.9. RPC 1.11(d)(1) notes that both conflict rules apply to internal government counsel, and Comment 15 to RPC 1.13 essentially does the same for outside counsel. As a practical matter, however, conflict issues arise most often when the agency involved uses outside counsel. In that situation, the agency's outside counsel faces the same range of conflict issues presented by nongovernmental clients. The same token, under Comment 38 to RPC 1.7, conflicts involving government agencies are subject to the same waiver standards as those applying to nongovernmental clients: “In Washington, a governmental client is not prohibited from properly consenting to a representational conflict of interest.”

“No Contact” Rule. The “no contact” rule, RPC 4.2, applies with equal measure in governmental settings. In that context, as with entities generally, the often more difficult question is: Who falls within the scope of entity counsel’s representation? Comment 10 to RPC 4.2 notes that Wright v. Group Health Hospital, 103 Wn.2d 192, 691 P.2d 564 (1984), remains the touchstone on this point. In Wright, the Supreme Court drew a relatively narrow circle of employees who fall within the scope of entity counsel's representation — particularly as it relates to a line employee whose conduct is at issue:

We hold the best interpretation of “party” in litigation involving corporations is only those employees who have
the legal authority to “bind” the corporation in a legal evidentiary sense, i.e., those employees who have “speaking authority” for the corporation. This interpretation is consistent with the declared purpose of the rule to protect represented parties from the dangers of dealing with adverse counsel....We find no reason to distinguish between employees who in fact witnessed an event and those whose act or omission caused the event leading to the action....

We hold current Group Health employees should be considered “parties” for the purposes of the disciplinary rule if, under applicable Washington law, they have managing authority sufficient to give them the right to speak for, and bind, the corporation. Since former employees cannot possibly speak for the corporation, we hold that CPR DR 7-104(A)(1) [the former “no contract” rule] does not apply to them. 103 Wn.2d at 200-01 (emphasis in original).

Senior agency officers, directors, and managers, therefore, are “off limits,” and line-level employees whose conduct is at issue may or may not be “off limits,” depending on their status as “speaking agents” under applicable evidence law. By contrast, line-level employees who are simply occurrence witnesses and former employees of all stripes are “fair game.” In communicating with a former employee, however, RPC 4.4(a) and its accompanying Comment 1 suggest that the contact cannot be used to invade the former employer’s attorney-client privilege.

Mark Fucile, of Fucile & Reising LLP, handles professional responsibility, regulatory, and attorney-client privilege matters and law-firm-related litigation for lawyers, law firms, and legal departments throughout the Northwest. He is a past chair and a current member of the WSBA Rules of Professional Conduct Committee. He is a past member of the Oregon State Bar’s Legal Ethics Committee and is a member of the Idaho State Bar Professionalism and Ethics Section. He is a co-editor of the WSBA’s Legal Ethics Deskbook and the OSB’s Ethical Oregon Lawyer. He can be reached at 503-224-4895 and mark@frrlp.com.
On October 16, guests gathered at the Renaissance Hotel in Seattle to pay tribute to 60 attorneys and judges who celebrate 50 years of WSBA membership in 2008. In appreciation for their half-century of serving the public, WSBA President Mark Johnson and the Board of Governors presented 50-year certificates and lapel pins to the members who joined the Bar in 1958.

Washington State Supreme Court Chief Justice Gerry L. Alexander made brief remarks honoring the 50-year members. In celebrating its 75th year since the passage of the State Bar Act which created the WSBA, the State Bar also recognized the Honorable Albert D. Rosellini as the only member holding an active membership since 1933. In addition to practicing law, Rosellini served as Washington’s governor and is credited with numerous accomplishments including leading efforts to construct the Evergreen Point Floating Bridge, and establishing the University of Washington School of Medicine.

After the presentation of certificates and lapel pins by members of the WSBA Board of Governors, the chair of the WSBA Senior Lawyers Section, Jerome L. Jager, gave a brief address. The luncheon concluded with closing remarks by President Johnson.
50-Year Members in 2008

- Mr. Don Paul Badgley, Seattle
- Mr. Joseph Q. Betzendorfer Jr., Tacoma
- Hon. Mary Wicks Brucker, Mercer Island
- Mr. M. Eugene Butler, Chehalis
- Mr. Robert William Callies, Seattle
- Mr. Allen Lane Carr, Edmonds
- Mr. Robert T. Carter, Oceanside, OR
- Hon. Harold D. Clarke Jr., Spokane
- Mr. Ronald William Coble, Kingston
- Mr. Donald J. Disque, Orient
- Mr. Robert J. Doran, Olympia
- Mr. James John Dore, Kent
- Mr. Malcolm L. Edwards, Seattle
- Mr. Meade Emory, Seattle
- Mr. Robert J. Doran, Olympia
- Mr. James John Dore, Kent
- Mr. Richard Douglas Ford, Seattle
- Mr. George Arthur Kain, Spokane
- Mr. Robert John Hurst, Saint Louis, MO
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- Mr. D. Wayne Gittinger, Seattle
- Hon. Thomas Poole Grieser, New York, NY
- Mr. Gerald Grinstein, Seattle
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- Mr. Ronald L. Hendry, Tacoma
- Mr. Richard M. Holt, Issaquah
- Mr. Robert B. Hughes, Bellingham
- Mr. George C. Inman Jr., Seattle
- Mr. Stanley M. Johnson, Austin, TX
- Hon. Jerome M. Johnson, Seattle
- Hon. Charles Vernon Johnson, Seattle
- Mr. George Arthur Kain, Spokane
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- Mr. Wayne Beale Knight, Tacoma
- Hon. Leonard W. Kruse, Port Orchard
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- Mr. William Farringer Lenihan, Kirkland
- Mr. Thomas D. Loftus, Seattle
- Mr. George M. Mack, Seattle
- Mr. Richard Daniel McWilliams, Spokane
- Mr. Charles Thomas Mertsching, Longview
- Mr. Richard M. Montecucco, Olympia
- Mr. J. Shannon Mullin, Seattle
- Mr. James Alva Noe Jr., Mercer Island
- Mr. Thomas Frank Paul, Seattle
- Mr. G. Eric Pucher, Bellevue
- Hon. Norman W. Quinn, Bothell
- Mr. Mark Dennis Rotchford, Spokane
- Mr. William John Rush, Tacoma
- Mr. James Lee Salley, Kent
- Mr. Albert J. Schauble, Pullman
- Mr. Clark B. Snure, Des Moines
- Hon. Richard P. Thompson, Burien
- Mr. Irwin L. Treiger, Seattle
- Hon. Gary Nicolas Utigard, Burien
- Mr. Robert J. Verzani, Federal Way
- Mr. David Everett Wagoner, Seattle
- Mr. Robert Clifford Williams, Seattle

Above: Honoree Richard Montecucco with his wife, Peggy, and son, Ryan.


Below: Chief Justice Gerry Alexander addresses the luncheon guests.

Left: Honoree Harold Fardal.

Below: The Honorable Leonard Kruse and his wife, Brenda.
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Supporting Our Troops: Providing Pro Bono Service to National Guard Members

BY MONI T. LAW

Washington state has one of the largest concentrations of military families in the nation. Many WSBA members hold two careers, one in a business suit as a lawyer, and the other in a military uniform in the National Guard or the Army Reserves. Some people estimate that at least 100 WSBA attorneys also serve in the National Guard or Reserves in one capacity or another. One such JAG officer, Captain Alex Straub, 81st Brigade for the National Guard, along with recent chair of the WSBA’s Legal Assistance to Military Personnel (LAMP) Section, Adam Torem, helped launch a unique and valuable program. When not deployed to Iraq or on training duty around the country, Adam Torem is an administrative law judge for the State of Washington. A website was designed by volunteer Randall Winn, and military families were informed of the program through the connections of volunteer Anne Marie Leigh. LAMP Section members organized a number of CLEs to train civilian attorneys to provide pro bono services to soldiers and airmen set to deploy to Iraq and Afghanistan, and their families who were left behind. In exchange for agreeing to serve on the referral panel, attorneys are provided malpractice insurance by the Department of Defense from a special provision in federal law, free CLE credits, and the satisfaction of serving those who serve.

In July 2008, the Attorneys Assisting Citizen Soldiers and their Families (AACF) was born out of an urgent need: 3,500 National Guard members of the 81st Brigade were set to deploy to Iraq in August 2008. Many of these men and women were faced with legal problems that arose because of their sudden departure or deployment, or arose during their absence. Captain Straub is one of only two JAG officers for more than 8,500 citizen-soldiers based in Camp Murray/Tacoma area. In an interview with the King County Bar Association, Straub described the ACF program as vital to ensuring access to justice for our service members:

The long-term vision for this program is to continue to ensure that National Guard members, either here or overseas, and their families, are not left to struggle with legal problems which arise as a result of their military service. … While most of the legal assistance provided so far has been in the form of over the phone legal consultations, we hope to have volunteer attorneys and paralegals participate in legal clinics at National Guard armories, as well as take in-person consultations.

LAMP Section members immediately recognized that these soldiers and their families would need legal assistance, especially those with limited financial means. The income of many National Guard members is affected when they have to leave their civilian jobs for full-time duty, and they might not be in the best position to hire an attorney when legal issues arise.

Deployments of National Guard members can require them to be away from their families for long periods of time and can inhibit their ability to assist their families with the many everyday issues that can arise. Legal issues, especially, can seriously impact the citizen-soldier’s family, who often have very limited knowledge of the law and are left to handle the situation themselves. Families of National Guard members, unlike families of active-duty soldiers, live all over Washington and are often not conveniently located near a military legal assistance office. When legal issues arise, such as an eviction of a citizen-soldier’s family, custody disputes, or a creditor attempting to repossess the family car, they can place a tremendous amount of stress and anxiety on the family while the citizen-soldier is serving thousands of miles away in a combat zone.

Many of the soldiers have legal issues arise as a result of their absence for training and upcoming deployment. Several soldiers had issues with their landlord refusing to allow the citizen-soldier and his or her family out of their residential lease early or charging an exorbitant penalty fee for doing so (contrary to federal law, which provides rights to soldiers). Other soldiers have had entire bank accounts garnished, homes foreclosed upon, or the unlawful denial of reduced interest rates. Had it not been for the volunteers of ACF, most of these soldiers would not have had the time or ability to deal with these issues.

According to Captain Straub: “When a soldier came to my office with the problem, I was able to solicit a volunteer attorney to assist the soldier by providing a telephone consultation. In most cases, the volunteer attorney was able to get the...
court to stay the court hearing for a time when the citizen-soldier would be able to attend, or, in the cases of landlord-tenant issues, explain to the landlord that the citizen-soldier was entitled, under law and without penalty, the right to terminate the lease early because of the deployment. This significantly reduced the stress and anxiety these soldiers were facing and allowed them to focus on their training, which could possibly save their lives when they are deployed in a combat zone.

The program has received widespread support and welcomes additional volunteers. Stated Captain Straub: “This program gives attorneys in the community the ability to show their support to the troops in a meaningful way. Even attorneys who don’t necessarily agree with current U.S. foreign policy have stepped up to the plate to serve our citizen-soldiers and their families.” More than 60 attorneys have signed up, and more than 20 citizen-soldiers have been served in a short three-month period. The program thanks Major Matt Cooper, a JAG officer and WSBA member, who negotiated the necessary channels for the National Guard to coordinate the program. Also to be thanked are the following attorneys who have provided advice or representation to these citizen-soldiers, including one high-profile case involving a mother videotaped leaving a baby at a church doorstep late at night (the father of the baby, the woman’s ex-boyfriend, is being deployed to Iraq and now will be represented in family court with the help of an ACF referral). The following lawyers are among those who have volunteered:

Terence Artz
Kurt Bennett
Aaron Christensen
Michael Claxton
Cassie Gorrell (paralegal)
Michelle Hamel
Peter Haroldson
Mary Henderson
Barbara Konior
John Llewellyn
Kenyon Luce
Alisa Maples
Blake Martin
Linda O’Dell
Elizabeth Powell
Jonathan Shaklee
Paul Williams

Attorneys not in the ACF program are also encouraged to show their support for our troops and their families by providing pro bono or low-cost legal services to those financially needy troops or their family members who come to them for help with legal problems. Additionally, the ABA LAMP committee is starting a program similar to ACF that will serve all military members nationwide. Those interested in joining the ACF Program or wanting more information can contact Alex Straub at 253-512-8262 or alexander.straub@us.army.mil. Potential volunteers can also find more information at http://aacf.wordpress.com and sign up online.

WSBA members are also encouraged to join the LAMP Section by going to www.wsba.org/lawyers/groups/lamp. Those interested in joining the ABA Military Pro Bono Project, please contact Project Director Jason Vail at vailj@staff.abanet.org or 312-988-5783.

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Moni T. Law is the WSBA bar leaders program manager and can be reached at moni@wsba.org.
Lawyers Pitch In to Help Flood Victims

by César Torres and Julia Bahner

Last December, Pamela Riley remembers coming home from work. It was a Monday morning and she had just finished her graveyard shift as a cashier at the Centralia Wal-Mart. Ms. Riley is 60 years old and she lives alone with her cat and dog in a mobile home in Centralia. She remembers it had been raining throughout the evening.

“The water was about up to the first step,” said Ms. Riley, describing the entry stairway to her trailer home which sits about four-and-a-half feet off the ground. “At seven that evening, I was told to evacuate.” Ms. Riley packed up some belongings, and headed for higher ground. She would not return for four days.

What happened during those four days was some of the worst flooding in the state’s history. More than 10 inches of rain fell within 24 hours in some areas in western Washington, while 60-to-80-mile-per-hour winds buffeted the landscape. The heavy rain forced many rivers over their banks, flooding towns and closing Interstate 5.

Upon returning home, Ms. Riley found water had reached the home’s floorboards supporting the living area. High winds ripped open the roof, causing water to leak into a spare bedroom. Several rooms suffered significant water damage. In addition, the flooding destroyed her heat pump, and filled her garage with mud. While Ms. Riley could live in her home, winter was approaching and she had no heat, a leaky roof, waterlogged floors and walls, a homeowners’ policy which did not cover flood damage, and few resources to pay for repairs.

Fortunately for Ms. Riley, and many individuals like her, since 1973 the ABA Young Lawyers Division (YLD) has been coordinating legal services for low-income disaster victims with local and state bar associations. And, under a 2007 agreement with the Federal Emergency Management Agency (FEMA), local YLD volunteers have increased access and tools to assist disaster victims in seeking FEMA aid.

Following the December flooding, the federal government eventually declared 12 Washington counties as disaster areas. Immediately upon FEMA’s declaration, the WSBA and the Washington Young Lawyers Division (WLYD) and the Northwest Justice Project (NJP) set up and publicized a bilingual toll-free hotline in the flooded areas. NJP also set up an online registration page for lawyers willing to volunteer their time to help disaster victims.

WSBA President Stanley Bastian quickly issued an urgent call for lawyers to volunteer to help. Many lawyers responded, and the WLYD began matching volunteers with low-income flood victims and coordinating requests for assistance with NJP.

The WLYD and NJP also worked with attorneys Robert Gerard “Jerry” Lutz and Nichole Abbotts and Perkins Coie LLP to put on a free CLE giving volunteer lawyers a crash course in federal laws and procedures addressing federal disaster relief. Well over 100 attorneys signed up for the CLE.

Some lawyers helped low-income homeowners who had questions about their insurance policies or mortgages. Others helped tenants understand their rights and obligations when units became uninhabitable due to water or structural damage. Still others helped redraft personal documents such as wills, which were destroyed in the flooding. In all, WSBA volunteer lawyers handled more than 100 cases of varying complexity.

Many individuals, like Ms. Riley, were involved in relief and assistance issues with FEMA itself. While the agency processed many claims smoothly and efficiently, many others became tangled in a bureaucratic web exacerbated by confusion, inexperienced staff, and an avalanche of claims from disasters not only in Washington, but nearby in Oregon and across the country. In Ms. Riley’s case, FEMA had initially turned down her request for federal assistance, and also denied her appeal. Not knowing what to do, she called the hotline and was assigned a volunteer lawyer. Her lawyer looked into the situation, gathered documents, and filed a request for reconsideration with FEMA. He also arranged for temporary housing assistance, and additional repair estimates which more fully and accurately reflected the damage to her property. After four months of phone calls, letters, faxes, and e-mails, FEMA reversed itself and granted Ms. Riley’s request for home-repair assistance.

The December 2007 flooding was not the first time FEMA has enlisted the WLYD’s help for low-income disaster-related legal assistance. WSBA volunteer lawyers also provided assistance to low-income individuals following previous floods the year before and in 2003, and in the 2002 Nisqually earthquake.

Last December’s disaster has left indelible marks on families and communities throughout western Washington. Overall, the legal hotline was up and running from December through May of this year and received approximately 110 calls from low-income individuals who truly needed legal services.

We especially want to thank the many lawyers and law firms who stepped forward to volunteer time, resources, and staffing to assist the many individuals flooded out of their homes with no place to turn, and the WSBA leadership for its complete support for the effort. On the following page is a list of individuals and law firms who gave generously. Richard J. Busch, an attorney at Graham and Dunn PC, said that his work on behalf of a flood victim was some of the most rewarding work he has done in years. We hope that all Washington attorneys consider taking a case in the event of a future emergency. As you can see from the list of volunteers, they come from all over the state and from all legal backgrounds.

We would also like to thank the various county bar associations which provided valuable assistance to flooded residents in their communities. Everyone truly made a difference in people’s lives, and demonstrated the highest ideals and dedication to the public profession has to offer. ☀️

César E. Torres is the executive director of the Northwest Justice Project, Washington’s publicly funded statewide legal aid program. Julia Bahner is president-elect of the WYLD and is associate claims counsel at LandAmerica Financial Group. She can be reached at bahner@landam.com.

Serving Our Communities
The WSBA extends a special appreciation and recognition to these volunteers. WSBA President Stan Bastian issued a call for help, and Washington lawyers quickly stepped in to help those hurt by the tragedy. Jerry Lutz and Nichole Abbotts, of Perkins Coie, worked closely with Julia Bahner, chair and coordinator of the YLD’s disaster response efforts in Washington and Oregon, and César E. Torres, of the Northwest Justice Project, to hold a Disaster Assistance CLE to recruit and train volunteers. WSBA volunteers handled more than 100 cases, ranging in complexity from wills and landlord tenant to real estate, insurance, and Federal Emergency Management Agency claims.

Thank you to these individuals for their service and dedication to the highest ideals of our profession:

Nichole Abbotts, Perkins Coie LLP (Bellevue)
Jason P. Amala, Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim LLP (Seattle)
Rick Applegate (Tacoma)
Richard J. Busch, Graham & Dunn PC (Seattle)
June K. Campbell, Lane Powell PC (Seattle)
Sharon E. Chirichillo, The Law Offices of Sharon Chirichillo PS (Olympia)
Aaron Christensen (Bellevue)
Bruce H. Conklin (Olympia)
Mark K. Davis, Badgley Mullins Law Group PLLC (Seattle)
Joseph P. Devlin II, Law Office of Joseph P. Devlin II PLLC (Tacoma)
Michael L. Dewitt, Morgan & Bartholomew (Lacey)
Lyndsey M. Downs, Snohomish County Prosecutor’s Office (Everett)
Misty A. Edmundson, Soha & Lang (Seattle)
Raymond V. Gessel, Hanis Irvine Prothero PLLC (Kent)
Abigail A. Goldy, Northwest Justice Project (Seattle)
Jerry M. Gray, Mano, McKerricher & Paroutaud, Inc., P.C. (Chehalis)
Laura J. Hawes, Cozen O’Connor (Seattle)
Gregg H. Hirakawa, Washington State Bar Association (Seattle)
Katherine S. Kameron (Seattle)
Craig G. Kibbe, Crawford, McGilliard, Peterson & Yelish (Port Orchard)
Marcin P. Krupa (Seattle)
Robert Gerard Lutz, Perkins Coie LLP (Bellevue)
Sara J. MacDuff (Preston)
Amy J. McCormick, Wells Fargo Special Needs Trust Group (Seattle)
Amy B. Michael, Foster Law Group PLLC (Bainbridge Island)
Steven A. Miller, Graham & Dunn PC (Seattle)
Donald H. Mullins, Badgley Mullins Law Group PLLC (Seattle)
Theresa Petrey, Law Office of Theresa Petrey PLLC (Ellensburg)
Martin J. Pujolar, Forsberg & Umlauf PS (Seattle)
Marc M. Ramme, Lynnwood Law (Lynnwood)
Paul R. Roesch Jr. (Longview)
Hector Antonio Steele Rojas, Northwest Law Center PLLC (Seattle)
Tracy J. Sarich, Foodista.com (Seattle)
Steven J. Schindler, Perkins Coie LLP (Seattle)
Jeri L. Simmons (Spokane Valley)
Patricia A. Simon (Seattle)
Tammy M. Sittnick, Perkins Coie LLP (Bellevue)
Tim Spellman (Seattle)
Rachel M. Tallon, McDermott Newman PLLC (Seattle)
Gina S. Warren, Perkins Coie LLP (Bellevue)
Robert A. Way Sr. (Tacoma)
Allyssa J. White, Badgley Mullins Law Group PLLC (Seattle)

Each of these firms stepped up and offered the support of their firms, attorneys, and support staff. Thank you to these firms for their service and dedication to the highest ideals of our profession:

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WSBA Announces YouTube Video Contest

The WSBA has announced its first-ever YouTube video contest on the justice system. “Justice for All: A Northwest Perspective” aims to inspire and engage Washington residents, young and old, by asking them to create a video on the theme of “Justice for All.” The contest offers a chance to win $1,000 in two categories: (1) Judged, and (2) People’s Choice. Entrants will create an original video — three minutes or less — about the promise of justice for all. Entries will be accepted between October 15, 2008, and June 15, 2009. All valid entries will be posted on YouTube.

The contest is open to all Washington residents. Rules and an entry form are available at www.wsba.org/justiceforall.htm. The WSBA will announce the contest winners in September 2009.

Reception Held for Foreign Lawyer Hosts

A large group of Washington state attorneys and law students gathered at the Seattle office of Williams Kastner in October for the 2008 Foreign Lawyers Host Reception. The annual event was sponsored by the WSBA International Practice Section. The unprecedented turnout was recognition that Washington state is a global gateway for business and education.

The Foreign Lawyers Host Program matches local attorneys and judges with foreign J.D., LL.M., and Ph.D. candidates.
at Washington law schools. The program commences each year with a reception where foreign lawyers and students meet their assigned “host attorneys,” who will serve as mentors throughout the year. This year’s reception and program was chaired by Randy Aliment of Williams Kastner. Interest in the program led Aliment to open up the reception to members of WSBA sections outside of the International Practice Section, a first in the history of the program. Joel Benoliel, senior vice president for legal and administration and chief legal officer for Costco Wholesale Corporation, was the keynote speaker. Also in attendance were law school representatives Mie Murazumi, Professor Veronica Taylor of the University of Washington, and Professor Mark Chinen of Seattle University, and members of the WSBA International Practice Section’s Executive Committee, including Chair Bernel Goldberg and Anamaria Turlea, of Kroontje Law Office.

Kent Food Bank a Winner in Law-Firm Contest
BY STEVE HUNTER
The competitive food drive between two Kent law firms couldn’t have come at a better time for the downtown Kent Food Bank. Employees from Hanis Irvine Prothero and Curran Law Firm brought in 4,527 pounds of food as part of the fourth annual Kent Food Bank Challenge between the two firms. Hanis Irvine Prothero won the competition for the third time. The firm ran an inter-office competition as well, to help bring in even more donations. “Donations are going down and the number of clients is going up,” said Jeniece Choate, executive director of the food bank. “But food drives really help keep us on track.”

“It’s a friendly competition for a good cause,” said Annette Bolster, a paralegal at Hanis Irvine Prothero, who helped organize the food drive, as she watched the items being delivered to the food bank. “We started to do it at the end of summer so that food is on the shelves for fall and winter.” Members of the Curran Law Firm donated money and then sent three employees on a shopping spree.

“People asked us who we were shopping for,” said Susie Paepke, an administrative assistant with Curran, who participated on the shopping trip. “When we told them it was for the food bank, they were very appreciative.”

2008 Race Judicata 5K a Great Success
One hundred and thirty five runners and walkers participated in the WYLD-sponsored 2008 Race Judicata 5K in October. The event, held at Seward Park in Seattle, was also sponsored by the University of Washington School of Law Alumni Association, Student Bar Association, Public Interest Law Association, and Student Health Law Organization. The race raised $3,000 to support students working in public-health related legal externships. WYLD members interested in helping to plan next year’s Race Judicata 5K should contact race coordinator Megan Vogel at meganvogel@dwt.com.

Snippets

Jennifer K. Wyatt, an attorney in the Seattle office of regional law firm Schwabe, Williamson & Wyatt, was appointed to
the Mother Attorneys Mentoring Association of Seattle (MAMAS) Board Of Directors. MAMAS was founded in 2006 in an effort to empower mother attorneys and encourage them to succeed while celebrating their dual roles.

Littler Mendelson, P.C. is pleased to announce that Doug E. Smith, office managing shareholder of Littler’s Seattle office, has been recognized by the Association of Washington Business with its 2008 Heavy Lifter Award. This award, presented at the Association’s annual September Policy Summit, recognizes members who have most effectively volunteered their skills and time toward the development of a flourishing business climate in Washington.

Jim McNeill, member in Foster Pepper’s Municipal Government and Public Finance practice groups, was presented with the Partnership of the Year Award by the Granite Falls School District. The award recognizes Jim’s work with the district over many years. “His professional standards and ethics are indisputable. Jim consistently protects the district while accepting suggestions and applying those suggestions only when all legal aspects are proven to be solid. He will take the extra step to consult with colleagues in his office and does not hesitate to contact state officials for legal opinions prior to committing the district to any particular course of action,” said a Granite Falls School District representative.

In October, the South Asian Bar Association of Washington awarded its President’s Award to the Rule 6 Law Clerk Committee for encouraging diversity within the legal profession and its alternative learning methodology. This program has allowed many to find a way to take the bar and flourish within the legal profession.

The Legal Foundation of Washington will present the 2009 Charles A. Goldmark Distinguished Service Award to recognize Bradley C. Diggs and Washington Appleseed at the 23rd Annual Goldmark Award Luncheon. Mr. Diggs’ leadership spearheading pro bono projects designed to aid low-income Washingtonians has been critical to the development and success of Washington Appleseed. The creative, innovative work being done on behalf of the poor by Washington Appleseed and its volunteers exemplifies the commitment the Goldmark Award honors. This recognition allows the Foundation to simultaneously pay tribute to lawyers who perform public service to provide meaningful access to our civil justice system to low-income people in different ways. The Goldmark Award honors the memory of Charles A. Goldmark, a Seattle attorney, community leader and ardent supporter of access to justice. Mr. Goldmark served as the Legal Foundation’s president at the time of the tragic assault that led to his death in 1986. The luncheon will be held February 13, 2009. Register online at www.legalfoundation.org.
Foster Pepper PLLC announced that **John Tayloe Washburn**, member in the firm’s Land Use and Environmental practice groups, has been inducted as chair of the Greater Seattle Chamber of Commerce. Washburn has a lengthy record of service on issues including education, housing, transportation, growth management, and the environment. Along with the Greater Seattle Chamber, he serves on the Washington State Climate Action Team and is on the Board of Trustees for the Urban Land Institute and the Cascade Land Conservancy.

American Bar Insurance (ABI) Plans Consultants, Inc. has named Seattle lawyer **J. David Andrews** as president. As ABI president, Andrews will oversee the organization's strategy for a one-year term, including continuing to serve ABA member lawyers with insurance programs customized to their needs.

The American Chamber of Commerce (AmCham) in Shanghai has named Davis Wright Tremaine China practice partner **Ron Cai** as chair of its Legal Committee. AmCham Shanghai’s Legal Committee is responsible for keeping AmCham and its members informed of current legal development in China.

**Susan Drummond**, co-chair of Foster Pepper’s Sustainable Development/Green Building industry group, was appointed by Seattle Mayor Greg Nickels to the City’s newly formed Green Building Task Force. Drummond is the only attorney on the 50-member task force, which also includes representatives from Seattle’s real estate, building operations, environmental, business, affordable housing, and labor communities. It serves as an advisory panel to provide recommendations on strategies to make buildings more energy-efficient and climate-friendly.

**K&L Gates LLP** has launched a Construction Law Blog focusing on legal issues, news, and regulations concerning the construction industry. Maintained by members of K&L Gates’s construction and engineering practice, www.klconstructionlawblog.com includes lawyer-authored articles, analyses of cases, current and proposed regulations, and state-specific resources.

Vancouver attorney **Phillip Haberthur**, an associate with Schwabe, Williamson & Wyatt, was honored by the Vancouver Business Journal as a recipient of the paper’s Accomplished and Under 40 award. “I am honored to be associated with so many other accomplished professionals in the community,” said Haberthur. “I look forward to continuing the civic and professional activities that allowed me to gain such a wonderful recognition.”

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Looking Back on the Rewards of a Dynamic Year

BY JEFF TOLMAN

2008 is nearly done. What a year it’s been. Certainly the most unsettled, and unsettling, in my five-and-a-half decades of life. So what have I learned this year? What holiday gifts have I received over the past 12 months that changed me?

Early on in the financial crisis, I was riding in a cab to the ferry. “What do you think of all the economic chaos?” I asked the cab driver. He cautiously checked me out in the rear-view mirror, deciding how much to say. Finally he said, “I work 12 hours a day, seven days a week, to pay for my cab and feed my family. The stock market has nothing to do with me.” I was reminded that owning securities and investments and a (hopefully someday) retirement portfolio is a blessing, even when it’s tumbling down a financial cliff.

Some years ago I gave a public speech. A woman glared at me the entire time. My sense was that she had been through an awful divorce and truly hated lawyers. After my remarks I asked, “Are there any questions?” She immediately raised her hand. When I called on her she said, “Mr. Tolman, in essence you make your living on your mastery of the English language, don’t you?” “Sure, I guess,” I said, waiting for the trap to close. “Then,” she responded, “what are the two most beautiful phrases in the English language?” “That’s easy,” I said. “ ‘I love you, Dad’ and ‘I’d like you to meet my lawyer, Jeff Tolman.’” Recently, I’ve come to question my answer. A new beautiful phrase has crept into the Tolmans’ conversation this fall. A 2009 moniker I will cherish: Grandpa.

The moving-truck driver called my son, Andy. He was three miles from Andy and Lindsey’s new apartment. They would be outside waiting for him, he said. As they waited, two of their new neighbors stopped and were welcoming them to the complex when they received another call from the driver. The moving truck had missed a corner, crashed, and destroyed almost everything Andy and Lindsey owned. They had an empty apartment, a few clothes, two cats, some golf clubs and hockey gear, and new jobs that were to start in three days. For a moment, the world seemed pretty dim for the kids. Then neighbors fed them and they became friends. My wife, Laurie, flew out to help refurnish an apartment. The renters’ insurance company responded quickly and advanced the kids money for some basic immediate needs. Now, five months later, Andy and Lindsey have realized that material things are just things. No one was badly hurt. The people around them who scrambled to help these strangers are now friends.

A dear friend of ours, a gifted tradesman, called our house. Some months before I had mentioned, as an aside at a lunchtime discussion, that we were interested in some work being done at our home. He asked if we were still interested and, if so, he was available at our convenience. It struck me that as long as I have work on my desk and paying clients coming in the door, life is not too bad.

My client was sitting on a bench outside a shop when a car, out of control, struck her and broke her back. She was born the same week in 1953 as I was. It is easy for me to understand the hopes and dreams and adventures her future held. I have similar aspirations and plans. Now her great hope is that she will be able to get around in a wheelchair someday.
was reminded that good health is a gift. Enjoy life each day you can.

In September, in my part-time judge’s robe, I married the granddaughter of my first next-door neighbor in Poulsbo. I still drink my Sunday morning coffee out of a cup the bride’s grandma gave me nearly three decades ago for my wedding. The bride’s mom, a cancer victim, was a dear friend of mine. It was a great honor to be able to preside over the nuptials. As we went through the ceremony, tears of joy running down the faces of the wedding party (and, a time or two, down the officiant), I told the groom and others assembled what the bride had shared with me the week before — one of the sweetest things I’ve ever heard — how we all should feel as we marry: “If, a week before her wedding, my daughter felt as loved and cared for, as thrilled and excited, as I do today, a week before my wedding, I’d be the happiest mom on Earth.” It doesn’t get better than that.

A client came in to have her signature notarized. We began the usual chit-chat. And on she went. And on. And on. Telling me about how she was doing since her husband’s passing; how she likes her new assisted-care housing; how her kids are. Then she asked about my family. Soon half an hour had passed — a longer notarization period than I’d expected. Despite the simmering pile of work on my desk awaiting my attention, I realized what had really happened. After 25 years of being her lawyer, I was part of her family. She wanted to tell me about her life. She genuinely wanted to know about mine. Her half-hour notarization reminded me of one of my — and most of my colleagues’ — goals as a lawyer: to affect people’s lives in a positive way, and how, when each of us have such discussions with our clients, we have been successful.

A hotly contested boundary dispute came into the office. The other party was represented by a wonderful local lawyer and good friend of mine. Opposing counsel and I immediately determined what facts were agreed and contested, and created a plan to resolve the dispute quickly and cheaply through binding arbitration. Within three days of presenting the proposal to our clients, both of us were fired. “I need a bad cop,” my client said as he took his file. This year I was reminded that you don’t marry everyone you date. I am certainly not the right lawyer for every client.

On a dark October night, seven “senior” lawyers (and one “junior” lawyer who must carry the tales on to the next generation) met in my office to share a pizza, cold beer, and tales of a combined 250 years of law practice. What a wonderful time it was! We were regaled with the old tales of our profession past. I brought a copy of the 1970 Kitsap Bar Minimum Fee Schedule and we compared our prices then and now on varying legal work. We discussed the changes over three decades in law as a business. Though certainly “road-worn” from the stressful work, each lawyer present had lived a varied, interesting professional career. Most of all, we were reminded that among the advocacy, lawsuits with and against each other, the colorful clients we’ve had, the judges and lawyers who taught us our craft, practicing law is, really, a pretty good way to spend your work life. What a nice present to receive any year.

Happy holidays!

Jeff Tolman is a former member of the WBSA Board of Governors and practices in Poulsbo. He can be reached at jefft851@aol.com.

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Diversity on Campus —

An Interview with Seattle University School of Law’s Dean Kellye Testy

by Wilberforce Agyekum

On a recent fall afternoon, I had the distinct honor of interviewing Kellye Testy, dean of Seattle University School of Law (SU), about her views on diversity in the legal profession. To be in Dean Testy’s presence is overwhelming, because her aura is one of greatness — a true leader in the profession. Her passion, and perhaps the defining issue of our time now facing our profession, is: How can the profession better mirror the society we serve? Dean Testy has already accomplished much on this issue. For example, Dean Testy co-founded the Seattle University School of Law’s Access to Justice Institute, and founded both the Seattle Journal for Social Justice and the Center on Corporations, Law, and Society. On campus, she “walks the talk” by allowing diverse students, faculty, and staff opportunities to achieve to their fullest potential in the spirit of supporting diversity in the legal profession.

For example, under Dean Testy’s leadership, SU’s international human rights clinic is launching a new program with the University of the Witwatersrand, focusing on global social justice in Johannesburg, South Africa. Another example involves Laurel Oates, director of the school’s acclaimed legal writing program, who was interested in supporting legal writing in Africa. Oates and Legal Writing Professor Mimi Samuel spent a half year in Uganda, Kenya, and South Africa, training with lawyers, judges, and academics in the art of legal writing. Dean Testy also supports SU’s commitment to public service. For example, when Professor Tayyab Mahmud discovered the Student Hurricane Network, a law student organization providing Katrina relief in the Gulf Coast, he energized students to help and, within a few short months, 25 SU students had committed to volunteer to rebuild in New Orleans, during their summer breaks and using their own travel money.

When Dean Testy and I sat down to speak of diversity, she shared her vision and her thinking. Here is some of what we talked about.

Agyekum: Our current statistics on diversity in the Washington state legal profession, are: 90 percent Caucasian, 2 percent African-American, 2.7 percent Asian/Pacific Islander, 1.8 percent Latina/Latino, .8 percent Native American/Alaska Native, 1.7 percent multi-racial, and 37.2 percent women. What do those numbers mean to you, and how do we move forward?

Dean Testy: Well, let me start first by saying that those statistics aren’t good news, and I am sorry to hear them, because those kinds of numbers don’t mirror our society, and law needs to serve society and all the people in it. So there is improvement to be made in order for the legal profession to be truly diverse. One of the things that immediately strikes me about those statistics is that Seattle University School of Law, for instance, has 33 percent — so about a third — students of color this year, the highest ever in the law school’s history. We have been making strides for a number of years, and for many years, we have averaged 25–30 percent students of color. I think we are leaders in this regard, but I know that a lot of law schools have made progress in this area. What we are seeing is that although the law schools have made progress, that
progress is not now being reflected in the legal profession. There is a gap there that we need to be paying attention to.

Agyekum: What is Seattle University School of Law’s approach to diversity under your administration?

Dean Testy: Seattle University School of Law is committed to diversity among students, faculty, and staff. Having a broad mix of students and faculty from different ethnic, racial, and social backgrounds creates a richer atmosphere for everyone. First and foremost, you have to be really serious in your admissions efforts in wanting to have a diverse student body, and your admissions team has to be deeply committed to that goal. One of the best ways to ensure that is to make sure that the values of your organization are shared widely by everyone and that you “walk your talk” in that your own staff and faculty members are diverse. Our staff is diverse, including Associate Dean for Students Donna Deming and Assistant Dean for Admission Carol Cochran, who are both African-American. Our diverse staff certainly helps us make our commitment more real. The second part is ensuring a diverse faculty. I think our faculty is one of the most diverse in the country. That is so important, not only to make students comfortable in coming here, but also to help them succeed. Diversity in a law school’s faculty is key to the quality of the educational experience for all students. Faculty and staff need to work together to attract diverse students and make the law school successful not just in “talking” diversity, but in truly being diverse and engaging our diversity inside and outside of the classroom.

Agyekum: What advice would you offer to law firms with respect to hiring and retention of diverse attorneys?

Dean Testy: Two things. First, firms need to be committed to having a diverse workforce in more than just word. What that means is that it cannot be “business as usual.” Firms really must take proactive steps, such as prioritizing on-campus recruiting at schools with diverse student bodies. I too often hear people say, “Well, we would hire more diverse lawyers but there aren’t any to choose from.” That’s just not so. I know that is not true because I have talented, wonderful students graduating from this school every year who will add to the productivity and diversity of firms. So, I think that the firms need to make that commitment in word and deed.

At Seattle University we draw from the top quarter of applicants nationwide, so there are many diverse, wonderful “soon-to-be lawyers” that firms will find on our campus. The second thing that firms can do is to look beyond just one measure of excellence, such as GPA or class rank. Instead, firms need to value the whole person, and look for broad indicia of future success. Traditional law school exams test only a narrow range of skills, whereas success in the legal profession requires excellence in a wide range of skills. Law school tests some of those skills well and some of them not so well. Finally, firms need to look broadly at a student, and be willing to invest time to develop and mentor that person. That investment will aid retention, and will ensure that a firm is broadly diverse. In short, firms need to truly commit beyond the “token” representation from any ethnic group, and commit to real diversity.

Seattle University School of Law graduate Wilberforce Agyekum and Assistant Attorney General Maureen Mannix edit this column.

1. Providing ethnicity and gender information to the WSBA is voluntary. These statistics are based on 73 percent of WSBA members reporting ethnicity and 78 percent reporting gender.
The Board’s Work

BY MICHAEL HEATHERLY

WSBA Board of Governors Meeting September 18–19, 2008 — Seattle

At the final meeting of the fiscal year, the WSBA Board of Governors dug into a full platter of issues, including a resolution on marriage and the law, the proposed legal technician rule, and the 2009 fiscal year budget.

In concluding a year-long discussion on marriage and the law, the Board unanimously approved a resolution supporting same-sex marriage in Washington. (The text of the resolution and commentary from WSBA President Mark Johnson and President-elect Salvador Mungia appeared in the November Bar News on pages 11–13.) The resolution is advisory only, documenting the BOG’s support for allowing same-sex couples to marry and have the same rights and responsibilities as married heterosexual couples. To date, no legislation has been proposed to extend marriage to same-sex couples in the state.

In lengthy discussion preceding the vote, governors acknowledged that some WSBA members oppose the organization’s taking a stand on the issue because WSBA membership is mandatory and members are divided in their personal views on same-sex marriage. However, in drafting the resolution, the governors took the position that the issue of extending marital rights to same-sex couples affects the practice of law and the administration of justice, which justifies WSBA in taking a position under General Rule 12.1.

In voicing their support for the resolution, some governors lamented that bar associations in the past were sometimes slow to support efforts to protect and expand civil rights. President-elect Salvador Mungia cited anti-miscegenation laws and the internment of Japanese-Americans during World War II as examples. “We should be in the vanguard, not the rear guard,” he said. Kristal Wiitala described the denial of marital rights to same-sex couples as “discrimination, pure and simple,” and praised the Board’s passage of the resolution as “an awesome thing.” Pete Karademos, representing District 5, the easternmost portion of the state, conceded that the majority of his constituents who commented were opposed to the Board’s adopting the resolution. Nevertheless, he voted in favor because “separate but equal is not good enough,“ alluding to domestic-partnership law in Washington that provides some but not all of the legal protections afforded by marriage.

The BOG also took on what was perhaps the next most controversial issue of the year, a proposal to allow a new class of legal technician to carry out certain family law tasks that only licensed attorneys can perform under current law. The proposal was drafted by the Practice of Law Board, created in 2001 by the Washington State Supreme Court. The Court must decide whether to institute the proposal, but the WSBA was to evaluate the proposal and present its recommendation on passage or rejection to the Court. The issue is now before the Court for final decision. Proponents of the proposal maintain that it would make basic family law services available to a significant number of people who cannot afford normal lawyers’ fees. Opponents counter that emphasis and greater support of existing access to justice programs would accomplish the same end without having to establish a new class of professional. Opponents question whether enough people would complete the proposed legal technician training and licensing requirements to make the program worthwhile. Some also warn that such a program would be vulnerable to unscrupulous or incompetent practitioners. The issue has been discussed throughout the year and was the subject of special reports in the Bar News. After hearing testimony from both sides at the meeting, the BOG voted 9–3 to recommend the Court reject the proposal. Governors Doug Lawrence, Brenda Williams, and Eric de los Santos cast the dissenting votes.

Regarding finances, the Board approved a fiscal year 2009 budget that includes approximately $15.5 million in general-fund revenue and expenses, with a projected general-fund deficit of $285,867. The anticipated deficit is considerably smaller than the $1 million loss initially contemplated. The projected net cash flow is $379,239.

Besides fallout from the sagging national economy, a key budget concern among WSBA staff and BOG members is that the current below-market lease for the organization’s headquarters ends in 2016. The WSBA will then need to either relocate or negotiate a new lease for the current space. Either option is expected to result in significantly higher rent as well as moving or remodeling expenses.

To help maintain sufficient fiscal reserves, the BOG voted to recommend an increase in annual license fees for 2010 and 2011. For each of those years, the proposed fee is $450 for a regular WSBA member with six years or more of membership. This represents just over an eight percent increase from the 2009 fee of $415. Fees are lower for members with fewer years of service as well as those on inactive or emeritus status, although all include slight increases from 2009. The fee proposal will be submitted in December to the Supreme Court, which has final approval on fees.

In another budget-related measure, the BOG voted to recommend an increase in the application fee for the bar examination beginning with the July 2009 exam. WSBA expenses for the exams have escalated and will rise further when the Spokane site is added in 2010. WSBA policy is to keep the bar exam program financially self-supporting. Based on anticipated costs for 2009–2011, WSBA staff calculated that the fee for general applicants (those not already admitted to practice in any jurisdiction) would need to be increased from the current $460 to $585 for each of the three years in order to cover expenses. The fee for attorneys already licensed elsewhere, including those seeking Bar admission under reciprocity agreements, would be $620 (up from $485), while the fee for the two portions of the exam if taken separately would be $450 for the substantive section and $300 for the ethics section (up from $360 and $235, respectively). The examination fee does not include the background-screening fee also required of already-licensed applicants ($500 for foreign applicants and $250 for others). As with the annual license fee, the examination application fee must be approved by the Supreme Court.

In other business, outgoing WSBA President Stan Bastian swore in Jaime Hawk as president of the Washington Young Lawyers Division for 2008–2009. Hawk, based in Spokane, is an assistant federal public defender for the Eastern District of Washington. She has been involved in numerous service projects, including programs for the WSBA and the WYLD, as well as for the American Bar Association and its Young Lawyers Division.

The BOG voted to disband the WSBA Civil Rights Committee at the end of 2008 with the expectation that the group will be reconstituted as the Civil Rights Law Section at the start of 2009. As a section, the group would have greater flexibility in conducting programs and the capacity for a larger number of members to be directly involved.

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/info/bog.
This In Memoriam section contains brief obituaries of WSBA members. The list is not complete and contains only those notices that the WSBA has learned of through newspapers, magazine articles, trade publications, and correspondence. Additional notices will appear in subsequent issues of Bar News. Please e-mail notices or personal remembrances to inmemoriam@wsba.org.

Anthony, Jon, M.
Jon Anthony was a graduate of Michigan State University and the University of Puget Sound Law School. His wit, memory for detail, and love of debate led him to his career as a lawyer. He was a solo practitioner in Olympia focusing on real estate and taxation. Jon Anthony died August 14, 2008, aged 57.

Bell, Malcolm J.
Born in Los Angeles, Malcolm Bell grew up in Burien and was a World War II veteran. He earned his law degree from the UW School of Law on the G.I. Bill. He was a Seattle Court commissioner and a pro tem judge serving the Airport District Court. He was an avid hiker, climber, and world traveler. Malcolm Bell died August 6, 2008, aged 82.

Blair, Tara Dee
A graduate of Nathan Hale High School in Seattle, Tara Blair went on to earn her J.D. from Seattle University School of Law and a L.L.M. in tax from UW School of Law. She had vast experience in the areas of child welfare, community relations, tribal courts, and Indian law. She was an Inupiaq Eskimo and served as a policy analyst at the Governor’s Office of Indian Affairs. Among her positions, she worked as an assistant attorney general, a tribal attorney, and a court administrator/pro tem judge. She served as chair of the WSBA Indian Law Section and as treasurer for the Northwest Indian Bar Association. She enjoyed long-distance running, jazz music, and golfing. Tara Dee Blair died on October 6, 2008, aged 54.

Brown, Lindsay
As a teenager, Lindsay Brown sailed around the world with family members — a life-defining journey for her. She attended UW and went to law school at the University of California, Berkeley. She moved to New York and worked for the district attorney’s office. Returning to Seattle, Brown discovered a passion for helping children with dyslexia. She opened a tutoring practice at her home. She was also active in her community working with Washington Middle and Garfield High schools, as president of the Magnolia Community Club, and with Childhaven. Lindsay Brown died August 31, 2008, aged 50.

DeVore, Cameron
Cam DeVore grew up in Spokane, attended Yale and Cambridge universities, and graduated from Harvard Law School. He was a nationally known expert on First Amendment law, which was his focus during the four decades he worked at Davis Wright Tremaine. He successfully argued that advertising, too, could be protected by the First Amendment. DeVore was involved with the American Bar Association’s forums on communications law; served as corporate secretary of the Seattle Art Museum; and served on the boards of the Children’s Hospital Foundation, Lakeside and Bush schools, and Seattle Community College. He was an avid fly-fisherman. Cameron DeVore died October 26, 2008, aged 76.

Dickinson, Calhoun
Calhoun Dickinson attended Harvard University, served in the Navy, and graduated from Harvard School of Law. He worked for Perkins Coie in Seattle for more than 40 years, focusing on workers’ compensation cases. As a Seattle Parks Board commissioner, Dickinson helped develop some of the city’s best-loved parks: Discovery, Gas Works, and Freeway. He lobbied Senator Henry Jackson to fight a federal plan to build an anti-ballistic-missile site at Fort Lawton and instead to develop the land for public use as Discovery Park. He served on the Lakeside School Board and the Washington State Board of Industrial Insurance Appeals. Calhoun Dickinson died October 3, 2008, aged 77.

Hallowell, Alan R.
Judge Alan Hallowell served on the Washington State Superior Court for 21 years before retiring in 1991. He attended the University of Illinois, Clark College, and Willamette University where he earned his J.D. at the college of law. He served in the Army and was an avid golfer and sports enthusiast. Alan Hallowell died September 4, 2008, aged 78.

Hansen, Mark B.
Mark Hansen was born in South Dakota. He attended the University of Iowa, earned an M.B.A. from Washington State University, and graduated from the Lewis and Clark School of Law. He practiced law in Bend, Oregon, for the past seven years and previously practiced in Long Beach, Vancouver, and Oak Harbor. He was inspired by nature, liked to hike, and thoroughly enjoyed the outdoors. Mark Hansen died on February 22, 2008, aged 51.

Harp, John N. Jr.
John Harp was born in Portland, Oregon. He served in the United States Air Force from 1966–1970, and was an alumni of Portland State University. He graduated from Willamette University Law School in 1986 and was in private practice in Oregon and Washington since 1993. Prior to establishing his own practice, he worked as a deputy for Multnomah County Sheriff’s Department and as a prosecutor for the Marion County District Attorney’s Office. John N. Harp Jr. died September 5, 2008, aged 60.

Harrison, William A.
Judge William A. Harrison earned his bachelor’s degree in business administration from the University of Michigan and his law degree from Wayne State University. He was proud of his 25 years with the Environmental Hearings Board and as an administrative law judge with the Industrial Insurance Appeals Board. He traveled to almost every continent and was planning his next hunting trip to Europe. A member of the Safari Club Northwest, Bill played an instrumental role in establishing a permanent educational exhibit at the Washington State School for the Blind in Vancouver. He died September 27, 2008, aged 61.

Hatten, Canterbury Theodore “Barry”
Canterbury Theodore “Barry” Hatten was born August 24, 1917, in Indiana, and grew up in Alaska, where his missionary parents ran an orphanage. Despite a childhood case of tuberculosis of the bone in one leg that prevented him from enlisting in World War II, he was a longshoreman in Alaska and San Francisco and worked on the railroad in Alaska. He studied at DePauw University in Indiana and the University of Washington, and practiced union, civil rights, and criminal law for 50 years before retirement. Canterbury Hatten died on August 17, 2008, aged 90.
In 1950 was over he returned to Shelton, where he interrupted by his service as a U.S. Navy dean, Frank went to work for the Mason of Law, and with the encouragement of the on November 18, 1913. Upon his graduation Judge Benjamin H. Settle

James Sawyer remembers seeing Frank years. Mason County Superior Court Judge James Sawyer remembers seeing Frank serve as a proctor when he was taking the bar examination. He recalls his first glimpse of Frank and thought his imposing and somewhat intimidating visage as exacerbating an already intense experience.

Frank was always interested in teaching and mentoring young people in general and young lawyers in particular. He sacrificed his time to impart his considerable knowledge and experience whenever there was someone willing to learn, whether the subject was the law or mountaineering. Frank was an accomplished mountain climber and skier. His love for being in the mountains continued right up until last year. He worked on a trail maintenance crew many hours a week and for many years in the southern Olympic Mountains. He died at the age of 94 on June 30, 2008, survived by his wife, Jeanne, three children, nine grandchildren, and 12 great-grandchildren.

Lee Johnson graduated from Iowa State University with a degree in chemical engineering and received his law degree from Georgetown University Law Center. He worked at the patent law firm of Christensen, O’Connor, Johnson, Kindness, where he was senior managing partner. Johnson was a gourmet cook, liked classical music, and enjoyed spending several weeks each year cruising the waters of Washington state and British Columbia. Lee Johnson died August 18, 2008, aged 65.

Irving Kator founded the firm of Kator, Parks & Weiser in 1975, where he represented several memorable clients, including a Catholic chaplain who successfully sued the National Institutes of Health Clinical Center after being fired for his religious beliefs, and a Federal Aviation Administration employee who charged that he had been exiled to Seattle as retribution for claiming the agency had ignored key safety issues. Before going into private practice, Kator was assistant executive director of the U.S. Civil Service Commission, where he was responsible for implementing the Equal Employment Opportunity Act of 1972. Irving Kator died June 3, 2008, aged 88.

John Kirschner was admitted to practice in 1951. He was the first president of the U.S. Civil Service Commission, where he represented the Office of the Attorney General (AGO) until he was 83.

Lee Johnson was responsible for implementing the Equal Employment Opportunity Act of 1972. Irving Kator was assistant executive director of the U.S. Civil Service Commission, where he was responsible for implementing the Equal Employment Opportunity Act of 1972.
in the hospital two days later.

John was appointed assistant attorney general by Slade Gorton in 1975, and assigned to the Transportation and Public Construction Division of the AGO. In 1984, John transferred to the Seattle office of the AGO Torts Division, and practiced there until his recent death. During his service with the Torts Division, John handled some of the most difficult cases filed against state agencies and officials, including cases involving severe emotional injury, such as child abuse; and catastrophic physical injuries, including quadriplegia, brain injury, and death. In defending these cases, John faced some of the most capable and accomplished members of the plaintiffs’ bar.

John was a no-nonsense individual. He practiced law with efficiency and integrity, never asking for anything unnecessary in discovery, never making any motion that was not well-founded, and never offering an argument at trial that was not worthwhile.

John had a dry and sharp sense of humor. Like many smart people who speak quietly and rarely, John always had an attentive audience when he did talk. Delivered usually only with a hint of a smile and a pronounced twinkle in his eyes, John’s jokes were devastatingly funny and always on the mark.

No one who does trial work could expect to win all of their cases, and John was no exception. When that happened, John assessed the case for error and, if appropriate, pursued an appeal on behalf of his client. John did not dwell long on trials or appeals that were lost. He simply moved on to the next very difficult case, applying the same energy and skill that he had put into the last one. John’s ability to move on was due to his unwavering trust in the judicial system. While he genuinely tried to settle cases, he never regretted trying to try them. When he and an opponent could not agree on the settlement value of a case, John would say “that’s what trials are for” — and mean it.

Although a man of few words, John was very proud and willing to speak freely of his family. He was devoted to them. John married his wife, Kathy, in 1971, and together they raised five sons. Each of John’s sons spoke at his funeral, which was held to a standing room only audience at Immaculate Conception Church in Seattle. In their remarks, John’s sons provided heartfelt, honest, and funny remarks about their dad.

John’s formidable work ethic, legal skill, and professional demeanor served as an example to his colleagues in the AGO, members of the Washington tort defense and plaintiff bars, and the other people of the legal community with whom he had contact. While John will be sorely missed, his contribution to the practice of law here will last many, many years after his passing.

Koop, Mark Alan

Mark Alan Koop was born in Vancouver, Washington, and graduated from Reed College, the University of Washington, and UCLA School of Law. He was known for his depth of knowledge in diverse areas such as classical music, opera, literature, and church history. He died on August 20, 2008, aged 59.

Magee, James Laign

James Magee was born in Wisconsin and graduated from the University of Wisconsin before joining the U.S. Air Force — where he rose in the ranks from jet pilot to intelligence officer in the Strategic Air Command. He graduated from Harvard Law School and moved to Bellevue to work as a trial lawyer, spending most of his career with the firm of Graham & Dunn. He was elected a fellow of the American College of Trial Lawyers and the International Society of Barristers.

He was an avid skier and loved outdoor activities with his family. James Magee died October 24, 2008, aged 74.

Treadgold, Alva

Alva Treadgold graduated from the University of Oregon in pre-law and economics, where she was president of the senior class. She graduated first in her class at the University of Oregon Law School and was a student editor on the Law Review. She served as president of the UW Faculty Auxiliary, and was the paralegal manager at Lane Powell for 10 years. She was a co-founder of the UW Retirement Association and was proud of her role in lobbying efforts in Olympia to create pensions for retirees and spouses. Alva Treadgold died August 22, 2008, aged 84.

Wilkinson, Jeffrey Brian

Jeffrey Brian Wilkinson graduated from Metropolitan State University in Colorado and Willamette University College of Law. He was a trial lawyer who represented large construction contractors throughout his 20-year career. He was a talented woodworker and carpenter and enjoyed preparing holiday meals for his family for many years. He died September 1, 2008, aged 47.
Opportunities for Service

WSBA Chief Hearing Officer
Application deadline: January 15, 2009

The WSBA Board of Governors invites applications from members interested in serving as chief hearing officer (CHO) pursuant to Rule 2.5(f) of the Rules for Enforcement of Lawyer Conduct. The CHO, with support from the Office of General Counsel, is responsible for assigning hearing officers to cases, monitoring and evaluating the performance of hearing officers, establishing and supervising hearing officer training, hearing pre-hearing motions when no hearing officer has been assigned, and performing other administrative duties necessary for an efficient and effective hearing system. Applicants should be familiar with the disciplinary system and have excellent legal reasoning skills, management aptitude, appellate practice experience, judicial hearing, an impartial demeanor, and a commitment to public service. Candidates with experience as a WSBA hearing officer will be given the strongest consideration. The position is on a one-year independent contractor basis, with compensation to be determined. Interested members should submit a letter of interest, signed Authorization to Release Confidential/Non-Public Information Form (available at www.wsba.org/info/forms.htm), references, and résumé to: Office of General Counsel, WSBA, 1325 4th Ave., Ste. 600, Seattle, WA 98101-2539 not later than January 15, 2009.

The Defender Association Board of Directors
Application Deadline: January 8, 2009

The Defender Association, a nonprofit and local government contractor providing indigent defense to individuals in King County and the City of Seattle in felony, misdemeanor, juvenile, family advocacy, and civil commitment cases, sexual offender commitment, and appeals at all levels of the state courts, seeks one member to serve a three-year term on its Board of Directors. The incumbent is eligible to apply. The term will commence upon appointment and expire December 31, 2011. The board generally meets 10 times per year. Women and minorities are urged to apply. Please submit a letter of interest and resume to: Bar Leaders Division, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101, or e-mail barleaders@wsba.org.

Washington State Access to Justice Board
Applications accepted until position is filled

The Washington State Access to Justice Board (ATJ Board) announces two vacancies: one for an existing term starting immediately upon appointment and ending May 2010; the other for a regular term beginning May 2009. At least one of these positions must be filled by a non-lawyer. Details about the positions and the work of the ATJ Board can be found online at www.wsba.org/atj.

The Washington State Supreme Court established the Access to Justice Board in 1994 to assure equal access to the civil justice system for those facing economic and other significant barriers. The ATJ Board works to achieve this mission through the oversight of its State Plan for Delivery of Civil Legal Aid; coordinating and implementing statewide initiatives for improving access for unrepresented and underrepresented populations in Washington state; and building leadership, funding, and other support for equal access to the civil justice system.

The ATJ Board consists of nine members, including up to two lay members, selected on the basis of a demonstrated commitment to, and familiarity with, access to justice issues. Board members may serve up to two three-year terms. The ATJ Board has approximately seven full-day meetings throughout the year in Seattle. Additionally, the Board has an annual retreat and meets at the annual Access to Justice Conference. Travel expenses are reimbursed.

Responsibilities of ATJ Board members include attending Board meetings and the annual planning sessions; serving as liaison to at least one Board committee; and actively participating in Board initiatives. A demonstrated commitment to equal justice principles and an enthusiastic commitment to serve in equal justice community leadership are required, as are strong communication skills and an ability to see the “big picture.” Courage, compassion, consideration, patience, humility, passion, and humor are all valuable traits in ATJ Board members. The ATJ Board strives to have a membership that reflects inclusion, diversity (including geographic diversity), and cross-cultural competence. Please submit letters of interest and résumés, including a summary of qualifications, to: Bar Leaders Division, WSBA, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539; or e-mail barleaders@wsba.org. For more information about the Access to Justice Board or this position, contact WSBA Justice Programs Manager Joan Fairbanks at 206-727-8282, 800-945-9722, ext. 8262, or joan@wsba.org or visit www.wsba.org/atj.

Office of Public Defense Advisory Committee
Application deadline: December 31, 2008

The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving a three-year term on the Office of Public Defense Advisory Committee. The three-year term will commence upon appointment and run through December 31, 2011. A written expression of interest and résumé are also required in the event that the incumbent seeks reappointment.

The Office of Public Defense Advisory Committee meets quarterly to set policies for appellate indigent-defense funding, approve legislative and rule requests, review budgetary matters, oversee new programs, and consider appeals of billing decisions. During the term of appointment, no appointee may: (a) provide indigent defense services except on a pro bono basis; (b) serve as an appellate judge or an appellate court employee; or (c) serve as a prosecutor or prosecutor employee. Committee members receive no compensation for their services as members of the Committee, but may be reimbursed for travel and other expenses in accordance with rules adopted by the Office of Financial Management.

Please submit a letter of interest and résumé to: Bar Leaders Division, WSBA, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539; or e-mail barleaders@wsba.org.
**Seeking Questionnaires from Candidates for Judicial Appointments**

**Deadlines:** January 29, 2009, for March 12, 2009, interview; April 30, 2009, for June 11, 2009, interview

The WSBA Judicial Recommendation Committee (JRC) is accepting questionnaires from attorneys and judges seeking consideration for appointment to fill potential Washington State Supreme Court and Court of Appeals vacancies. Interested individuals will be interviewed by the Committee on the dates listed above. The JRC’s recommendations are reviewed by the WSBA Board of Governors and referred to the Governor for consideration when making judicial appointments. Materials must be received at the WSBA office by the deadline listed above. To obtain a questionnaire, visit the WSBA website at www.wsba.org/lawyers/groups/judicial recommendation or contact the WSBA at 206-727-8212 or 800-945-9722, ext. 8212, or barleaders@wsba.org.

**2009 Licensing Information and Changes**

**Licensing Forms Changes.** In an effort to control costs and simplify renewal, the 2009 licensing forms have been condensed into one double-sided form or two forms for those reporting MCLE credits this year. One change to note: The form(s) will be mailed the first week of December in a standard-size envelope. Instructions are available online at www.wsba.org/licensing.

**February 2, 2009, deadline.** Payment may be made online; however, even if payment is made online, all active members must return the A1 licensing form, completed on both sides and signed on the back.

**Verify your address in the online lawyer directory** (http://pro.wsba.org). You are required to keep your contact information current; see Admission to Practice Rule 13. If you have not received the 2009 licensing forms by mid-December, you may print them online or call the WSBA Service Center.

**WSBA Bylaw Section I.E.1.b. on Armed Forces Fee Exemption** provides for a fee exemption for eligible members of the Armed Forces whose WSBA membership status is active. The WSBA will accept fee exemption requests from December 1, 2008, until March 2, 2009, for the 2009 licensing year.

**“Foundations of American Democracy” Civics Pamphlet Now Available**

The WSBA now 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.wsba.org/foad.htm. Requests for copies should be directed to Pam Inglesby, WSBA public legal education manager, at pami@wsba.org.

**Thinking of Changing Your WSBA Membership Status? Consider Emeritus.**

**Training and Orientation: January 29, 2009**

As the 2009 WSBA licensing period approaches, you may be thinking of changing your membership status to accommodate your current career or lifestyle. If you no longer need your active WSBA license, here's...
why you should consider emeritus status.

APR 8(e) creates a limited license status of emeritus for attorneys otherwise retired from the practice of law, to practice pro bono legal services through a qualified legal services provider. A qualified legal services provider is a "not-for-profit legal services organization whose primary purpose is to provide legal services to low-income clients." There are no MCLE requirements (although you may attend optional CLE seminars at no cost so that you are aware of changes in the law). The 2009 license fee for emeritus is $120. This is a significant savings in time and money if you are paying for an active license that you no longer need. Under most circumstances, emeritus attorneys can remain in emeritus status indefinitely without having to re-take the bar exam if/when returning to active status. Most qualified legal services providers provide malpractice insurance for emeritus attorneys. There is no age requirement for emeritus status. Most qualified legal services providers also allows for pro bono services for criminal cases through some public defender agencies. Many of these organizations offer training for their volunteers. We will do our best to find a niche to fit your legal expertise, interests, and schedule.

An emeritus training and orientation session is scheduled for Thursday, January 29, 2009, at the WSBA office in Seattle. This training is a requirement for changing to emeritus status and will provide an opportunity for you to meet representatives from qualified legal services providers. Travel expenses will be reimbursed. For more information about the emeritus program, registration for the training session, and the logistics of changing your WSBA status to emeritus, please contact Sharlene Steele, WSBA access to justice liaison, at 206-727-8262, 800-945-9722, ext. 8262, or sharlene@wsba.org. You can review APR 8(e) at www.wsba.org/lawyers/licensing/faq-rule8e.htm.

WSBA-CLE Annual Onsite Bookstore runs December 15–31
No time to attend live seminars to get all of your required end-of-the-year CLE credits? Visit the WSBA-CLE Bookstore at the WSBA office, 1325 Fourth Ave., Ste. 600, Seattle, and purchase recorded seminars, good for A/V credits, to listen to at your convenience. The sale runs weekdays from December 15 through December 31 (excluding December 25 and 26, when the store will be closed). Hours are 9:00 a.m. to 4:30 p.m. except for December 24 and December 31, when hours will be 9:00 a.m. to noon. A limited supply of selected recorded seminars with coursebooks are for sale, approved for MCLE A/V credit. (You may claim up to 15 total A/V credits for the current reporting period. All six ethics credits can be acquired using approved A/V self-study.) Payment may be made by cash, check, MasterCard, or Visa, and there are no shipping and handling charges for members who take their purchases with them. For members outside the Seattle area, shop online at www.wsbacle.org and order in-stock recorded seminar products by December 8 to ensure delivery by December 31. (After December 8, contact us at orders@wsba.org for express delivery options.)

Monthly Lawyer Discussion Roundtable
Hosted by the WSBA Law Office Management Assistance Program (LOMAP), this roundtable is useful for meeting other members and WSBA Lawyer Services Department staff who will answer questions on ethics, practice, and substantive law. We meet the second Tuesday of the month from noon to 1:30 p.m. December 9 is the next scheduled meeting date. Walk-ins are welcome! The roundtable is held at the WSBA office.

Computer Clinic
The WSBA offers a hands-on computer clinic for members. Learn what programs such as Outlook, PowerPoint, Excel, Word, and Adobe Acrobat can do for a lawyer. Are you a total beginner? No problem. The clinic teaches helpful tips you can use immediately. Computers are provided, and seating is limited to 15 members. There is no charge, and no CLE credits are offered. The December 8 clinic will be held from 10:00 a.m. to noon at the WSBA office and will focus on using Outlook and practice-management software. The December 11 clinic will meet from 2:00 to 4:00 p.m. and will focus on using Excel and Word. For more information or to RSVP, contact Julie Salmon at 206-733-5914, 800-945-9722, ext. 5914, or juliesa@wsba.org.

LAP Solution of the Month: Financial Stress
How fiscally sound is your law practice? Do you struggle with untimely billing or failure
to collect your receivables? Financial distress can wreak havoc with a law practice. For help with getting your firm onto a stable financial footing, call the Law Office Management Assistance Program at 206-733-5914, or 800-945-9722, ext. 5914.

Job Seekers Discussion Group
Looking for a job or making a transition? Join us at the Job Seekers Discussion Group the second Wednesday of each month from noon to 1:30 p.m. The next meeting is December 10 at the WSBA office. The group discusses where to look for jobs, how to grow your network of contacts, strategies for résumés and cover letters, and how to keep yourself organized and motivated. Exchange information and ideas with other lawyers looking to make a change. Come as you are — no need to RSVP. Bring your business cards and practice networking skills. For more information, call 206-727-8269, 800-945-9722, ext. 8269, or e-mail rebeccan@wsba.org.

Facing an Ethical Dilemma?
The WSBA Ethics Line can help members analyze a situation involving their own prospective conduct, apply the proper rules, and reach an ethically sound decision. Calls made to the Ethics Line are confidential, and most calls are returned within one business day. Any advice given is intended for the education of the inquirer and does not represent an official position of the WSBA. Call the Ethics Line at 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://pro.wsba.org/io/search.asp, or from a link on the WSBA homepage, www.wsba.org. 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.

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. The 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
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/info/bog/schedule.htm.

Usury Rate
The average coupon equivalent yield from the first auction of 26-week treasury bills in November 2008 was 1.122 percent. Therefore, the maximum allowable usury rate for December is 12 percent. Information from January 1987 to date is on the WSBA website at www.wsba.org/media/publications/barnews/usury.htm.

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Congratulations to the 688 candidates who passed the Summer 2008 Bar Exam! The exam was administered in July 2008, at Meydenbauer Center in Bellevue. Of the 962 candidates who took the exam, 71.5 percent passed.

<table>
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<tr>
<th>Candidate Name</th>
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<tr>
<td>Barrett, Nicholas Brooks</td>
<td>Carmel, CA</td>
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<td>Bartow, Victoria Rivers</td>
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<td>Bashaw, Bradley Michael</td>
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O'Connell, Laura Jean, Seattle
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Offenbecher, Cooper David, Seattle
Olivers, Colin A., Everett
Olsen, Tenyuki S., Seattle
Ondo, Crystal Megan, Woodinville
O'Neill, Ramie Natalie, Durham, NC
Oshima, Allan, Fircrest
Otten, Matthew A., Kirkland
P

Pagan, Ruben Bolivar, Iowa City, IA
Papahronis, Jennifer, Chicago, IL
Parker, Brian, Hillsboro, OR
Parkinson, Jamie K., Maple Valley
Parvin, S. Kameron, Issaquah
Pauley, Ryan, Seattle
Pearson, Tracy J., Redmond
Pearson, Dustin D., Seattle
Peek, Amanda Marie, Spokane
Perez, Carla, Seattle
Perry, Armand M., Seattle
Perez, Carla, Seattle
Peek, Amanda Marie, Spokane
Pyatt, Roy D., Vancouver
Quincey, Charlene Amanda, Loretto,
Quigg, Matthew F., Aberdeen
Quinney, Charlene Amanda, Loretto, ON

R

Ramsey, Erin Nicole, Seattle
Randisi, Judith A., University Place
Redinger, Denise P., Kirkland
Ressler, Jeffrey, Sherwood, OR
Rice, Jeff David, Auburn
Ridgeway, Amy Linn, Lacey
Robbins, Jennifer L., Seattle
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Roberts, Bret Allen, Spokane
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Rosales, Kathleen Sui Lin Ho, Newberg, OR
Rose, Rachael Suzanne, Seattle
Roslaniec, Christopher, Seattle
Roth, Malia Elizabeth, Seattle
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Rowles, Kevin C., Seattle
Rowton, Kara Christine, Seattle
Russell, Barbara D., Spokane
Russell-Martin, Kimberly G., San Diego, CA
Rykeils, Matthew, Kent

S

Sampath, Suresh, Valencia, CA
Sample, Margaret Bridget, Seattle
Sander, Andrea Michelle, Seattle
Sander, Christopher D., Seattle
Sander, Christine D., Seattle
Santosaroa, Michael Joseph, Sacramento, CA
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Sieffken, Brendan Michael, Seattle
Silton, Daniel J., Chicago, IL
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Skrobonja, Snezana, Seattle
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Snyder, Jeanne M., Santa Monica, CA
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Spears, Courtney A., Woodinville
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Spencer, Merwin Moe, Vancouver
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Stafford, Holly Michelle, Bellingham
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Staples, Jeff, Camas
Stark, Emily Suzanne, Seattle
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Steed, Jared Berkeley, Kenmore
Stevens, Hazley, Seattle
Stevenson, Jordan C., Spokane
Stodola, Rebecca, Seattle

Stroment, Suzanna, Seattle
Strachan, Susan D., Seattle
Stuvick, Katie Jean, Seattle
Su, Lee Wen, Issaquah
Sullivan, Matthew S., Seattle
Sullivan, Emily Kay, Reno, NV
Swanson, Dean Forrest, Allston, MA
Swehnam, Darcy Ann James, Anacortes
Sybor, Evelyn W., Seattle

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Tadano, Nicole Mikiko, Seattle
Tague, Brendon K., Seattle
Taleb, Farshad M., Seattle
Tam, Roxanne, Seattle
Tan, Jalane Christie U., Seattle
Tarr, Emily Caroline Marie, Gloucester, MA
Taylor, Jerry Lincoln, Federal Way
Taylor, Katherine Lee, Seattle
Tewell, Candice M., Mercer Island
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Thomson, I. Christian, Seattle
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Tolemen, Shelley, Seattle
Touchstone, Elizabeth S., Akron, OH
Tran, Thanh Thi Phuong, Seattle
Trujillo, Eric J., Tacoma
Trumbull, Joshua Bruce, Marysville
Tyree, Katharine M., Seattle

U

Udo, Chandler H., Seattle
Unrein, Havila, Shoreline

V

Vahala, Alayna Lyn, Spokane
Vakil, Zahra Amin, Kirkland
Vallaas, Ryan S., Everett
Van Winkle, Matthew Robert, Bainbridge Island
Varriano, Erin J., Seattle
 Vasavada, Jasmine, Chicago, IL
Veitl, Emily Rose, Bellevue
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Vernon, Paul F., New Haven, CT
Vigontia, Amy Cybele, Issaquah
Vo, My, New York, NY
Vogel, Megan Alicia Skjel, Lynnwood
Vondra, Adria, Carnation
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Wade, Justin Price, Seattle
Wagner, Bradley William, Seattle
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Wisniew, Lauren Giles, Bainbridge Island
Woldseth, Dane Michael, Bellevue
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Wong, Christopher Alfred Jun Quon, Seattle
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Wright, Brooke, Holland, MI
Wright, Kathleen, Livermore, NY
Wu, Alexander Martin, Mercer Island
Wyman, James Orlando, Red Deer, AB
Wyne, Michelle Marie, Bellingham

XYZ

Yoshizawa, Kris, Issaquah
Yu, Jessica Nayoung, Seattle
Zabel, Andrew L., Seattle
Zarowski, Lara, Olympia
Zehnder-Wood, Karen, Seattle
Zelen, Benjamin J., Pasco
Zing, Ina, Edmonds
Zinter, Tiffany Heather, Seattle
Zoltani, Anne, Craig, CO
Suspended

Charles E. Marunde (WSBA No. 16036, admitted 1986), of Port Angeles, was suspended for six months, effective September 10, 2008, by order of the Washington State Supreme Court following a default hearing. This discipline is based on conduct in two matters involving failure to act with reasonable diligence, lack of communication, charging unreasonable fees, failure to terminate representation when a mental condition impaired his ability to represent the client, failure to protect a client’s interests, failure to expedite litigation, and violation of the Rules for Enforcement of Lawyer Conduct.

Matter No. 1: In May 2006, “Mr. and Mrs. H” hired Mr. Marunde to file a lawsuit on their behalf alleging misrepresentation in the purchase of residential real estate. Mr. and Mrs. H paid Mr. Marunde $2,500. Mr. Marunde filed the lawsuit, and a trial was set for December 7, 2006. Mr. Marunde failed to advise Mr. and Mrs. H that the case was set for trial or of the trial date. He failed to advise Mr. and Mrs. H of developments in the litigation, including that they had been countersued. Mr. Marunde failed to provide Mr. and Mrs. H timely notice of the discovery requests being made of them, failed to comply with the case scheduling order, and failed to comply with the defendants’ requests for discovery. On or about November 8, 2006, Mr. Marunde advised Mr. and Mrs. H that he would withdraw from their case due to emotional problems. He did not withdraw from the case. On November 15, 2006, defense counsel filed a motion to exclude evidence based on Mr. Marunde’s failure to comply with discovery. The motion was set to be heard on December 1, 2006, one week before the scheduled trial. Mr. Marunde failed to advise Mr. and Mrs. H of the motion.

In late November 2006, Mr. H contacted another lawyer (Lawyer B) about representing them. Mr. and Mrs. H retrieved their file from Mr. Marunde and learned for the first time about the trial date and pending motion. On December 1, 2006, Lawyer B moved to continue the trial date and presented a declaration from Mr. Marunde in which he stated that he had been unable to attend to Mr. and Mrs. H’s case because of emotional problems. The court denied the defendants’ motion in limine without prejudice, granted the motion to continue conditioned on the payment of sanctions, and issued a new case scheduling order. The parties agreed to sanctions in the amount of $1,500, thereby obviating the need for another hearing, and Mr. and Mrs. H paid the sanctions.

Matter No. 2: In December 2005, a married couple (Mr. and Mrs. S) hired Mr. Marunde to represent them in an action against their neighbors. They paid Mr. Marunde $5,000. There was no written fee agreement. In January 2006, Mr. Marunde filed a complaint on Mr. and Mrs. S’s behalf. He did some work on their legal matter over the next two months, then stopped work on the case. Mr. S called Mr. Marunde repeatedly about the status of the case, but Mr. Marunde failed to return his calls. In July 2006, Mr. S went unannounced to Mr. Marunde’s home. Mr. Marunde told him he was experiencing personal problems and was depressed. As a result of his problems and resulting inability to handle his cases, Mr. Marunde asked a non-lawyer friend to act as an intermediary between him and some of his clients. Through the friend, Mr. S sought information from Mr. Marunde about his case and demanded a refund of his fees. Mr. Marunde has not refunded any fees to Mr. S.

In March 2007, Mr. S hired another lawyer (Lawyer C) and paid him $3,000. The trial was set for early 2008. Mr. S filed a grievance against Mr. Marunde with the Bar Association. In April 2007, disciplinary counsel asked Mr. Marunde to provide a written response to the grievance. Between May and June 2007, the Association sent three additional letters requesting his response to the grievance. Mr. Marunde failed to file a written response. In August 2007, an investigator with the Bar Association interviewed Mr. Marunde about the grievance. Mr. Marunde agreed to provide the Bar Association with his billing statements and copies of documents, which he stored on his computer. In November 2007, after disciplinary counsel sent Mr. Marunde the analysis letter in this case recommending a hearing, Mr. Marunde provided information and documents in response to the grievance.

Mr. Marunde’s conduct violated RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; RPC 1.4(a), requiring a lawyer to keep a client reasonably informed about the status of a matter and to promptly comply with reasonable requests for information; RPC 1.4(b), requiring a lawyer to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation; RPC 1.5(a), prohibiting a lawyer from making an agreement for, charging, or collecting an unreasonable fee or an unreasonable amount for expenses; RPC 1.6(a)(2), prohibiting a lawyer from representing a client if the lawyer’s physical or mental condition materially impairs the lawyer’s ability to represent the client; RPC 1.6(d), requiring a lawyer, upon termination of representation, to take steps to the extent reasonably practicable to protect a client’s interests; RPC 3.2, requiring a lawyer to make reasonable efforts to expedite litigation consistent with the interests of the client; and RPC 8.4(l), prohibiting a lawyer from violating a duty or sanction imposed by or under the Rules for Enforcement of Lawyer Conduct [here, ELC 5.3(e)].

Joanne S. Ahelson represented the Bar Association. Mr. Marunde represented himself. William S. Bailey was the hearing officer.

Reprimanded

Kevin L. Cathcart (WSBA No. 32458, admitted 2002), of Portland, Oregon, was ordered to receive a reprimand, entered on May 20, 2008, by order of the Washington State Supreme Court imposing reciprocal discipline in accordance with an order from the Supreme Court of the State of Oregon following approval of a stipulation. This discipline is based on conduct in a malpractice matter involving a misrepresentation made to a tribunal. For more information, see the Oregon State Bar Bulletin (January 2008), available at www.osbar.org.

Mr. Cathcart’s conduct violated Oregon’s RPC 3.3, prohibiting a lawyer from knowingly making a false statement of fact or law to a tribunal; and Oregon’s RPC 8.4(a)(3), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation that reflects adversely on the lawyer’s fitness to practice law.

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

Reprimanded

John A. Cimino (WSBA No. 11698, admitted in 1981), of Denver, Colorado, received a reprimand, entered September 15, 2008, by order of the Washington State Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of Colorado following approval of a stipulation. This discipline was based on conduct in two matters involving failure to act with reasonable diligence and failure to properly supervise a nonlawyer assistant. For more information, see The Colorado Lawyer (March 2007), available at www.cobar.org/tcl.

Mr. Cimino’s conduct violated Colorado’s RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing

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 discipline reports should be read carefully for names, cities, and bar numbers.

December 2008 | Washington State Bar News 51
a client; Colorado’s RPC 5.3(a), requiring the lawyer, with respect to non-lawyers employed or retained by or associated with a lawyer, to make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person’s conduct is compatible with the professional obligations of the lawyer; and Colorado’s RPC 5.3(b), requiring a lawyer having direct supervisory authority over the non-lawyer to make reasonable efforts to ensure that the person’s conduct is compatible with the professional obligations of the lawyer.

Joanne S. Abelson represented the Bar Association. Mr. Cimino represented himself.

**Reprimanded**

Martin E. Nwizubo (WSBA No. 27883, admitted 1998), of Tukwila, was ordered to receive a reprimand on June 19, 2008, by order of the chief hearing officer approving a stipulation. This discipline was based on conduct involving disclosure of a client’s confidential information.

“Mr. J” came to the United States on December 9, 2001, from his home country of Gambia. He met with Mr. Nwizubo on September 16, 2002, and November 1, 2002, to discuss filing a petition for asylum. Mr. J was accompanied to each of these appointments by his friend. Mr. J told Mr. Nwizubo that, while living in Gambia, he was arrested and beaten because of his political beliefs. After the first meeting, Mr. Nwizubo asked Mr. J to bring back evidence to corroborate his claim that he had been persecuted in Gambia. Mr. J collected declarations and other evidence. Mr. J states that Mr. Nwizubo then told him that he had too many cases and could not represent him. Mr. J and his friend both state that Mr. Nwizubo never informed Mr. J that there was a one-year deadline in which to bring an asylum petition. Mr. J went to see another lawyer (Lawyer B) to help him with his asylum petition; however, by that time over one year had passed since Mr. J had entered the United States and his petition was time-barred. Lawyer B requested an exception to the one-year requirement based on changed circumstances, but the request was denied.

Mr. J hired a new lawyer (Lawyer C), who determined that Mr. Nwizubo’s failure to advise Mr. J about the one-year rule could be the basis to request an exception to the one-year deadline. Lawyer C contacted Mr. Nwizubo on April 11, 2007, and asked him if he remembered Mr. J ever coming in to see him in 2002. At first, Mr. Nwizubo had no memory of Mr. J ever coming into the office. Mr. Nwizubo later recalled meeting with Mr. J and remembered that he decided not to represent Mr. J because he did not believe Mr. J was being truthful with him about his basis for asylum. On April 19, 2007, Lawyer C sent Mr. Nwizubo a letter with a copy of an affidavit from Mr. J. In her letter, Lawyer C said that Mr. J’s affidavit would be submitted to the immigration court in support of a motion to re-open the immigration proceedings based on Mr. Nwizubo’s ineffective assistance of counsel. She also told Mr. Nwizubo that the affidavit would be submitted to the Washington State Bar Association. The affidavit stated that Mr. Nwizubo had not told Mr. J about the one-year deadline for filing a petition for asylum. On April 23, 2007, Lawyer C brought a motion to re-open Mr. J’s case based upon both Mr. Nwizubo’s and Lawyer B’s ineffective assistance of counsel. The same day, Mr. Nwizubo filed his own affidavit with immigration court. This affidavit stated that he did not trust the facts as presented by Mr. J. Mr. Nwizubo states that he disclosed that he believed Mr. J’s asylum claims to be untrustworthy in order to rebut a statement in Mr. J’s affidavit that Mr. Nwizubo did not take his case because he was too busy. The court granted Lawyer C’s motion to reopen and granted asylum to Mr. J on August 24, 2007.

Mr. Nwizubo’s conduct violated RPC 1.6(a), prohibiting a lawyer from revealing confidences or secrets relating to representation of a client unless the client consents after consultation, except for disclosures that are implicitly authorized in order to carry out the representation. Francesca D’Angelo represented the Bar Association. Leland G. Ripley represented Mr. Nwizubo.

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has joined the firm as an associate.

Ms. Tolman is a 2007 summa cum laude graduate of Arizona State University College of Law, where she was an editor of the Law Journal and a member of the Order of the Coif.

Ms. Tolman was formerly an associate attorney with Day Casebeer Madrid & Batchelder in Cupertino, California. Ms. Tolman’s practice will focus on complex litigation and construction law.

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Athena Dickerson

has become a partner of the firm. Ms. Dickerson’s practice continues to focus on real estate, business litigation, and estate planning.

We are also pleased to announce that

Tristen U. Lee

has joined the firm as an associate. Ms. Lee will continue her practice in the areas of family law and criminal law.

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is pleased to announce that

Annie N. Bernhard

has joined the firm as an associate.

Ms. Bernhard is a graduate of Gonzaga University Law School.

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Koegen Edwards LLP

is pleased to welcome

Erik J. Lamb

as a new associate with the firm.

Mr. Lamb previously interned with the City of Spokane Valley and is a magna cum laude graduate of Gonzaga University School of Law.

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Mills Meyers Swartling

is pleased to announce that

Marc Cote
and
Eric Robinson

have joined the firm as associates.

Mr. Cote’s practice emphasizes employment law and also includes commercial litigation and municipal law.

Mr. Robinson’s practice includes business organizations and transactions, commercial law, dispute resolution, financial institutions, and real estate.

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The Washington State Bar Foundation would like to thank the following contributors to various funds and programming in the Foundation between October 1, 2007, and the present.

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

**Business Law**

**2008 Commercial Law Developments**
December 5 — Spokane. 3 CLE credits WA and ID. Gonzaga University School of Law. Contact Vicky Daniels at vdaniels@lawschool.gonzaga.edu or 509-313-3920. www.law.gonzaga.edu/about-gonzaga-law/commercial-law-center/continuing_legal_education.asp.

**Ethics for Business Law**
December 9 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Creditor-Debtor Law**

**Liens on Real Estate and on Personal Property: How to Perfect. How to Enforce.**
December 2 — Seattle. 6.75 CLE credits pending. By the WSBA Creditor-Debtor Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Liens on Real Estate and on Personal Property: How to Perfect. How to Enforce.**
December 9 — Spokane. 6.75 CLE credits pending. By the WSBA Creditor-Debtor
Elder Law

Elder Law Essentials: The Critical Foundation for Your Elder Law Practice
January 23 — Seattle. 6.5 CLE credits, including .75 ethics credit pending; application will be made for Washington Certified Professional Guardian credit. By the WSBA Elder Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

Family Law

Discovery in Family Law
December 8 — Seattle. 6 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

Law of Lawyering — Day Two
December 4 — Seattle. 6 CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

Law of Lawyering — Day One
December 3 — Seattle. 3.25 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

Family Law Update
January 14 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

13-Hour Introductory Collaborative Law Training
February 6–7 — Seattle. 13 CLE credits, including 1.5 ethics pending. By The Collaborative Law Offices of Rachel L. Felbeck, Holly M. Hohlbein, and Joseph Shaub: 425-822-0280 (Rachel); rachel@felbecklaw.com.

Environmental Law

KCBA Fourth Annual Environmental Law: What You Need to Know for 2009

Ethics

Washington and Oregon Continuing Legal Education Forum Legal Ethics Seminar

Ethics for Employment Lawyers
December 1 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

Legal Ethics and Literature
December 3 — Seattle. 3.25 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

Ethics for Business Law
December 9 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

WSTLA Ethics

Law of Lawyering — Day One
December 17 — Seattle. 6 CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

Law of Lawyering — Day Two
December 18 — Seattle. 6 CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

Gaming Law

6th Annual Northwest Gaming Law Summit

13-Hour Introductory Collaborative Law Training
February 6–7 — Seattle. 13 CLE credits, including 1.5 ethics pending. By The Collaborative Law Offices of Rachel L. Felbeck, Holly M. Hohlbein, and Joseph Shaub: 425-822-0280 (Rachel); rachel@felbecklaw.com.

General

7th Annual Washington CLE Bootcamp

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WSTLA Ethics

Law of Lawyering — Day One
December 17 — Seattle. 6 ethics credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

Law of Lawyering — Day Two
December 18 — Seattle. 6 ethics credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

Top Lawyers: Learn from Some of Washington’s Best
December 10 — Seattle. 6 CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

Best of CLE — Seattle
December 12 — Seattle. 6.25 CLE credits, including up to 3 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

Law of Lawyering — Day Two
December 18 — Seattle. 6 ethics credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

Law of Lawyering — Day One
December 17 — Seattle. 6 ethics credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

Law of Lawyering — Day Two
December 18 — Seattle. 6 ethics credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

Movie Magic with Steven O. Rosen
December 19 — Seattle. 6 CLE credits, including 2 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

Last Chance Video Roundup
December 29 — Seattle. 5.5 ethics credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

Insurance Law

WSTLA’s Annual Insurance Law Seminar

WSTLA’s Annual Insurance Law Seminar

Intellectual Property Law

Licensing Essentials
December 15 — Seattle. 6 CLE credits pending. By the WSBA Intellectual Property Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbaCLE.org.

Labor and Employment Law

Ethics for Employment Lawyers
December 1 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-
Public notice regarding reappointment of incumbent part-time United States Magistrate Judge Dean Brett in the Western District of Washington at Bellingham — The current four-year term of office of part-time United States Magistrate Judge Dean Brett is due to expire on June 22, 2009. The United States District Court is required by law to establish a panel of citizens to consider the reappointment of the Magistrate Judge to a new four-year term. The duties of the part-time Magistrate Judge position include the following: (1) trial and disposition of petty and misdemeanor cases arising from Whidbey Island Naval Air Station; (2) conduct of regular calendars involving charges of traffic offenses and violations of park regulations in Mt. Baker National Park, and in other areas within federal jurisdiction; (3) conduct of various preliminary proceedings in criminal cases. The jurisdiction of the part-time Magistrate Judge is specified in 28 U.S.C. 636(a). Comments from members of the bar and the public are invited as to whether the incumbent Magistrate Judge should be recommended by the panel for reappointment by the court and should be directed to: Bruce Rifkin, District Court Executive, United States Courthouse,
700 Stewart St., Lobby Level, Seattle, WA 98101 or by e-mail at brett_reappoint@waw.uscourts.gov. Comments must be received no later than December 31, 2008.

**Positions**

**Seattle** four-attorney firm with established litigation/general practice is seeking an experienced attorney to join its downtown office. The successful candidate will have superior credentials, a strong commitment to client service, a healthy client base, and a desire to work as part of our team to build and enhance our existing practice. Submit résumé and work history to Managing Partner, 819 Virginia St., Ste. C-2, Seattle, WA 98101.

**Criminal defense attorneys needed** to defend offenders under the jurisdiction of the Indeterminate Sentence Review Board (ISRB) who have allegedly violated the conditions of their release. The ISRB needs attorneys in every county in the state. ISRB pays $60/hour up to $600 for each violation hearing. To obtain the contractual agreement or request more information, e-mail isrb@doc1.wa.gov or call 360-407-0671. www.srb.wa.gov.

**Family law attorneys**, Morris-Sockle PLLC, an Olympia-based law firm doing business as Divorce Lawyers for Men, is seeking to associate with an attorney or law firm in the areas of Tacoma, Kent/Renton, Seattle, Everett, and Bremerton/Gig Harbor to jointly represent family-law clients in each area. The attorneys must be aggressive litigators skilled in providing full-service representation to family law clients. Please contact Fran Norris at 877-866-7393 or e-mail Jeanne@Morris-Sockle.com.

Robert A. Friedman & Associates, P.S., a Seattle-area firm, seeks fifth attorney to join well-established Social Security disability practice. We provide high-quality representation from initial application through federal court. No billable hours. The ideal candidate will have at least two years’ experience with Social Security or workers’ compensation cases. Competitive salary and comprehensive benefits package. Submit letter of interest and résumé to michaelc@rafalaw.com.

Jager Law Office PLLC is seeking an associate to join its litigation practice. New admittee applicants should have litigation intern experience, with insurance defense, construction defect, and/or complex case exposure a plus. We are strong mentors, have a family-like environment, compatible personnel, and value bright and motivated self starters. Demonstrable research, writing, and communication skills a must. Salary DOE. Competitive benefits plus downtown parking. Please send résumé, writing sample, and references to Jager Law Office PLLC, 600 Stewart St., Ste. 1100, Seattle, WA 98101.

Tousley Brain Stephens PLLC, an AV-rated, 13-attorney law firm in Seattle, is seeking a litigation associate for its commercial litigation practice. Qualified applicants will have a minimum of one to three years of litigation experience, excellent academic credentials, superior writing and analytical skills, ability to perform complex legal research, and the demonstrated aptitude to excel in a fast-paced, client-focused environment. Tousley Brain Stephens offers a competitive salary and exceptional bonus program. Please send cover letter, résumé, and writing sample to Julie Livengood, Executive Director, Tousley Brain Stephens PLLC, 1700 Seventh Ave., Ste. 2200, Seattle, WA 98101 or e-mail to jlivengood@tousley.com.

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Nationwide Trial Division, with offices across the United States serving Allied, Nationwide, Scottsdale, Titan, and Victoria Insurance Companies, will be opening a new Trial Division office in the metropolitan Seattle area during the first quarter of 2009. Openings are available for the following positions — **Managing attorney:** The managing attorney is the on-site person responsible for leading the delivery of legal services to clients and claims customers, and will directly supervise attorneys and paralegals in the trial office. **Trial attorney:** This is a high-profile, litigation-intensive position requiring considerable initiative, legal creativity and the ability to relate with business clientele. Washington licensure in good standing, eight years’ litigation experience, and prior management experience are prerequisites. Proven knowledge of litigation practices and procedures, claim processes, and management principles and practices are also required. **Paralegal:** This position seeks a detail-oriented individual to perform various duties unique to a legal environment. Knowledge of PC operations, legal concepts, legal and medical terminology, as well as jurisdictional litigation protocols with

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a high-school diploma/equivalent, and at least 3–5 years’ experience in a law office are required. Excellent communication skills and professional demeanor are essential. Paralegal certificate preferred. Legal secretary: This position seeks a detail-oriented individual to perform various duties unique to a legal environment. Knowledge of PC operations, legal concepts, terminology, processes, best practices and guidelines with a HS diploma/equivalent, as well as two years’ experience in a law office are required. Excellent communication skills and professional demeanor are essential. We offer challenging opportunities, competitive salaries and benefits packages. Interested candidates should fax their résumé to Mark R. Rudoff at 314-966-2904 and/or apply online at www.nationwide.com.

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**Attorneys. Quid Pro Quo** — global executive and legal search — has current openings in Seattle for partners, of counsel, contract attorneys, and associates, including positions for: (1) an in-house corporate contract attorney with five-plus years of experience for high-tech company managing outside counsel in Europe involving a variety of transactions; (2) IP/trademark partner; (3) associates with three-plus years in patent prosecution; (4) business and real estate transactions partners; and (5) commercial litigation partners with a portable book of business. We also have an in-house director, legal counsel position for a high-tech company in Silicon Valley. For initial inquiries, please contact Jean Seidler Thompson, Esq., in confidence, at 206-224-8269 or at SearchTeam@QPQLegal.com. For over 13 years, Quid Pro Quo, the executive and attorney placement division of Law Dawgs, Inc., has operated as the leading provider of quality attorney recruitment for direct hire and contract attorney placement in the Puget Sound. Please visit our website at www.QPQLegal.com for details about our opportunities.

**In-house corporate counsel: Quid Pro Quo** — global executive and legal search — has two new in-house openings for: (1) a corporate counsel with seven-plus years of experience in IP licensing and commercial transactions in a newly created position for a technology company in Northern California; and (2) a European general counsel based in Brussels with at least 12 years of experience in healthcare law and strong business acumen who will provide leadership to the European business division for a healthcare company in Europe. For immediate and serious consideration, contact Joanne S. Beeson, Esq., in confidence, at 206-224-8269 or JB@QPQLegal.com at Quid Pro Quo, attorney search consultants. All inquiries are held in the strictest confidence.

**Partner opportunities** — Do you need a law firm that will provide greater support for your practice? Are you seeking a firm with an enhanced platform of expertise or with more flexible billing rates? We have been exclusively retained by a highly regarded law firm in Seattle with its search for lateral with expertise in the following: (1) business law with a transactional emphasis, supporting private or public companies and holding businesses; (2) commercial litigation; (3) real estate transactions; and (4) trademark and IP transactions. The attorneys at this firm enjoy a cooperative work environment and are focused on strategic growth and development. Additionally, the firm has an attractive rate structure that enables it to maintain and attract clients. Initial inquiries welcome. All inquiries are held in the strictest confidence. We are seeking partners with over 10 years of experience and a portable book or portfolio of business. Quid Pro Quo delivers discreet, highly personalized service. You may contact Jean Seidler Thompson, Esq. at JT@QPQLegal.com or 206-224-8270.

**Paralegal needed for Seattle law firm**, part-time or full, family law and/or bankruptcy law experience, must have minimum two years’ paralegal experience in either or both divorce and bankruptcy procedures. For more information, please visit: www.starklawoffices.com.

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Will Search

Will or trust search for Mary C. Canavan — died May 17, 2002, or Anna T. Johnson — died October 21, 2008. Contact Shaun at 360-861-8102 or barryj_s@hotmail.com.
North Pole, PLLC

I was wracking my brain for an appropriate holiday Bar Beat when I ran into a law school classmate, Joy Tinsel, who was in town for a CLE on winter-wonderland-use law. For the past 17 years, Joy has been in-house counsel for Santa Claus International, PLLC, under which St. Nick and his toy factory operate. Joy was kind enough to grant me an interview.

MH: How did you come to be in-house counsel for Santa?
JT: When I graduated from law school, I was looking for something out of the ordinary. I saw a notice in the career center for an in-house position involving varied practice areas, including employment, aviation, and animal law. I was fascinated and sent in my résumé. I guess they liked me.

MH: Does the employment aspect of the job involve managing the elf work force?
JT: Yes, but we don’t use the “e” word. As specified in their union contract, they are “vertically compact gift-processing professionals,” or GPPs.

MH: Do tensions develop between management and labor during what must be a hectic holiday season up there?
JT: There’s always something. Last year a disgruntled GPP tried to leak the “who’s been naughty and nice” list to the tabloids. We nipped it in the bud, but can you imagine the liability we would have faced if that list had gotten out: invasion of privacy, breach of confidentiality, libel? It kept me up a few nights.

MH: You mentioned animal law was involved in your work, too. That has to do with the reindeer, I assume?
JT: Right. A few years ago we had a little dustup. PETA filed a petition alleging we were abusing the reindeer. They sent a half-dozen B-list actresses in reindeer costumes up to picket. We invited them inside to inspect our facility, and they saw there was no abuse involved. In fact, 364 days a year, the reindeer have the easiest life you could imagine, hanging out in our state-of-the-art indoor grazing facility. To keep everyone happy, we allow an SPCA representative to ride along every Christmas Eve.

MH: With all the strife in the world today, does Santa get nervous flying across so many international borders in an unarmed sleigh?
JT: That issue keeps us busy all year. We have to get advance clearance to fly into the airspace of every Santa-compatible nation in the world. One mistake and a heat-seeking missile could end Christmas for good.

MH: Most of the gifts kids get today are name-brand items. Do you manufacture that stuff under license, or how does that work?
JT: Well, we try not to publicize this too much, but we buy a lot of merchandise wholesale and we outsource manufacturing of the rest. Santa resisted it for years, but the truth is we just can’t compete on manufacturing costs with the rest of the world. Of course, at the North Pole we still have a huge gift-wrapping and distribution center, which keeps the GPPs busy full-time.

MH: It was great seeing you, Joy. Thanks for taking the time to answer my questions.
JT: It was my pleasure, and please pass along Santa’s best holiday wishes to our friends in WSBA.

Michael Heatherly practices up north in Bellingham and can be reached at 360-312-5156 or barnewseditor@wsba.org.
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