Safeguarding Your Clients and Your Practice

PLUS

WSBA Takes On the Civics Crisis

“Crossing the Room” by Salvador A. Mungia

“Telling the Bad News” by Jeff Tolman

Briefly About Me
The humiliation and stress that accompany a DUI or other serious driving charge can be overwhelming. Fear of conviction, and the devastating consequences upon one’s personal and professional life, can be immobilizing.

At Callahan Law, we are the calm in the storm for our clients. Our goals are twofold: to leave no stone unturned, no thread unraveled in their defense, and to do so with compassion and concern for the client’s unique circumstances.

Ms. Callahan, author of the widely acclaimed Washington DUI Practice Manual, part of the Washington Practice Series™, believes that knowledge of the science and law of DUI cases is merely the foundation upon which a successful trial strategy is built. These difficult cases can be won, but first, must be mastered.

If someone you know needs us, we are right here. Day or night, every day of the year.

CALLAHAN LAW
DRIVEN... IN DEFENSE OF THOSE WHO DRIVE
877.384.2679 | dui-defender.net | callahan@dui-defender.net
Hall-Conway-Jackson, Inc. has been providing insurance service for over 70 years. We are one of the northwest’s oldest and largest independently owned insurance brokerage firms, doing business in 50 states.

For over 40 years our Professional Liability Department has provided attorneys, accountants and engineers with insurance services to protect their firms.

Our dedicated staff are able to offer a full range of coverages through a variety of carriers:

- Lawyers Professional Liability is our specialty
- All areas of practice, including Intellectual Property and Class Action Practices
- Employment Practices and Fiduciary Liability
- Directors and Officers Liability
- Guardians Liability
- Business Owners: Property-Liability and Automobile
- Personal Lines: Homeowners-Auto-Boat and Specialty Coverages
- Surety and Bonding Services
- Employee Benefits: Health, Disability and Life Insurance

_For a quote or to learn more, contact:_

Scott Andrews
sandrews@hallcj.com
P.O. Box 8010
Mill Creek, WA 98082
(425) 368-1262
(425) 368-1200 (Main)
(800) 877-8024
Think Outside the Clause.

Choose an arbitrator from JAMS, no matter which provider is administering your case.

HIGHLY SKILLED JAMS NEUTRALS frequently sit in arbitrations administered by other providers at the request of both parties or their appointed arbitrators. JAMS neutrals keep you on time and on budget.

JAMS SEATTLE
RESOLUTION CENTER
800.626.5267
600 University Street
Suite 1910 • Seattle, WA 98101

Visit our new, enhanced website for unrestricted access to our national roster of more than 250 neutrals and their bios:
WASHINGTON STATE BAR ASSOCIATION'S MISSION IS TO SERVE THE PUBLIC AND THE MEMBERS OF THE BAR, ENSURE THE INTEGRITY OF THE LEGAL PROFESSION, AND TO CHAMPION JUSTICE.
Practice limited to defense of DUI and other serious traffic offenses

theDUIfirm.com

425.450.6800
Letter of the Editor:

Members. (inquiries about pending orders: 206-733-5918 or 800-945-9722, ext. 5918)

WSBA and Bar News Contact Information

WSBA SERVICE CENTER
800-945-WSBA (9722) | 206-443-WSBA (9722) | questions@wsba.org

General inquiries; address changes; current WSBA CLE seminars and CLE products
(information or seminar registration); MCLE credits and course accreditation; licensing; Office of Disciplinary Counsel (complaints about lawyers); order placement for all WSBA products
(inquiries about pending orders: 206-733-5918 or 800-945-9722, ext. 5918)

WSBA Admissions: 206-727-8209 or 800-945-9722, ext. 8209
WSBA Ethics Line (for lawyers only): 206-727-8284 or 800-945-9722, ext. 8284
WSBA Fax: 206-727-8320 or 206-727-8319
WSBA Lawyer Services (for lawyers only): 206-727-8268 or 800-945-9722, ext. 8268
Voluntary fee arbitration; mediation; Lawyers’ Assistance Program; Law Office Management Assistance Program

WSBA Website: www.wsba.org
Bar News Around the State Submissions: aroundthestate@wsba.org
Bar News Article Submissions: barnewsarticles@wsba.org
Bar News General Comments: barnewscomments@wsba.org
Bar News In Memoriam Submissions: inmemoriam@wsba.org
Bar News Letters to the Editor: letterstotheeditor@wsba.org
Bar News Online: www.wsba.org

Submission Guidelines: WSBA members and nonmembers are invited to submit articles of interest to Bar News readers. Send articles via e-mail to barnewsarticles@wsba.org or provide on a disk with a hard copy and mail to: WSBA, Bar News Editor, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539. Articles should not have been submitted to any other publications and become the property of the WSBA. Articles typically run 1,500 to 3,500 words including endnotes. Citations should be formatted as endnotes. Please include a brief author’s biography including contact information at the end of the article. High-resolution graphics and photographs are welcome. Authors are encouraged to send a high-resolution digital photo of themselves with their submission. The editor reserves the right to edit articles as deemed appropriate. The editor may work with the writer, but no additional proofs of articles will be provided. The editor reserves the right to determine when and if to publish an article. Bar News is published on or about the first day of the month, 12 times a year. The current circulation is near 30,000.
Two words will sum up your next meeting at Tulalip Resort: Truly successful. With 30,000 square feet, our meeting and event spaces are orchestrated to ensure productive, efficient and trouble-free sessions, whether for a committee of ten or a conference for one thousand. Rooms combine Coast Salish art with complimentary state-of-the-art presentation technology to offer distinctly elegant, highly functional spaces. With outstanding catered meals, luxurious rooms, spa and gaming facilities, and nearby shopping, golf and entertainment, it's easy to see why Tulalip Resort is regarded as one of the most outstanding meeting venues in the Pacific Northwest. And make no mistake. Tulalip Resort will cause another word to reside on your lips countless times during your stay: **Wow!**

Contact Resort Sales at 1-866-716-6570, sales@tulalipresort.com
www.tulalipresort.com | 10200 Quil Ceda Blvd. Tulalip, WA 98271
On I-5 Exit 200 Between Seattle & Vancouver, BC
Crossing the Room

We were at the Flying L Ranch — somewhere in southwest Washington. Twenty-four of us — not quite strangers, not yet friends, having come together as a group only a few months earlier and now on a week-long retreat. We were part of a leadership training program and our goal at the Flying L was to learn to work as a team, to develop trust in one another. To that end, we engaged in a variety of exercises.

Bill, our facilitator, had everyone stand on one side of a large room. He directed those who identified themselves as male to walk across the room, look to see who was with them, who was not, then return. I walked. I looked. I saw all the men with me, all the women on the far side of the room. We returned. Bill then directed those who identified themselves as women to do the same. The exercise continued involving a variety of traits. Each time, those crossing the room would see who was with them, and who was not.

Like a character out of the Twilight Zone, I had no idea what was waiting for me around the corner.

Bill asked all who identified themselves as Asian descent to cross the room. I walked. I saw who was with me, who was not. With me was only Richard. The others were not. They were at the far side of the room — seemingly miles from the two of us.

The loneliness of being different as a young child returned home. The burn of others teasing me about eating raw fish, raw eggs, tofu, seaweed was rekindled. The pain I felt seeing embarrassment upon my mom’s flushed face during those back-to-school nights when teachers couldn’t understand her because of her Japanese accent found its way back to my stomach. The memory of the yearning to have white skin so I could be like the other kids found its mark. I was different.

The one friend I had during those early childhood years who shared my experiences was Scott. He, like me, was half-Asian. He, like Richard, was of Chinese descent. Once again, I found myself separated from the majority with one person beside me: my new friend, Richard, now the embodiment of Scott.

The return of these feelings, these memories, was too much. I felt sucker-punched — kicked like a mule from childhood scars. I had not yet bonded with the other twenty-three — we had just started getting to know one another a few months earlier. At that time in my life I didn’t cry at all, much less in front of twenty-three virtual strangers. But I cried. And it wasn’t one of those muted cries — it was a cry that only comes about when childhood scars are torn open again.

Richard, of very large understanding and even larger heart, embraced me and just let me sob.

When I had managed to somewhat control my sobbing, Richard and I crossed over the breach to the other side of the room — back to the others.

I am a lawyer — a member of the legal profession.

After law school, I clerked at the State Supreme Court, where I was the only non-white law clerk. I now practice in a firm that is overwhelmingly white. I practice in a profession that is overwhelmingly white. I practice in a state where there are no non-whites on our highest court. Of the twenty-two judges on the Court of Appeals, only two are non-white.

I am the 119th president of our state bar association — only the third non-white attorney to hold that position.

Compared with the other professions, ours is the worst in attracting, and retaining, those from diverse backgrounds.

And yet I was accepted into the profession. The attorneys at my firm fully accepted me: we golfed, bowled, ran, played racquetball, worked out at the gym, dined, and drank with each other. The attorneys and judges in my community, the Tacoma-Pierce County Bar Association, fully accepted me. But then again, other than my name, and my skin color, I was a lot like them — we shared many of the same life experiences and we had some common culture.

It’s easier striking up friendships, or even conversations, with others who have the same background as you: same religious beliefs, same schooling, same tastes in food, fashion, arts, sexual orientation, the same experiences. It gets tougher when others see God differently than you do, or don’t see God at all. It gets tougher when others have names that are not only different than what you are used to, but also the pronunciation of those names, and the names of their family members,
It’s easy to accept diversity — when diversity looks a lot like you. But then again, that’s not really diversity, is it?

When you are in the majority, never underestimate the lasting impact you can have by simply accepting a person for who they are, by taking what is a minimal amount of effort to get to know them. I asked a few attorneys of color their experiences, both good and bad, about being accepted, or not accepted. I want to share a couple — of the good.

Thuy Nguyen-Leeper is a good friend of mine whom I’ve known since she spent a summer at my firm after her first year of law school. She related the following to me:

Having not spent much time around lawyers growing up and having moved to the big Seattle city from my small 5,000 population town in Arkansas, my initial impressions of attorneys were that they were very large (especially from the vantage point of someone that is 5’2”) and intimidating. My first law firm experience was interning at Gordon Thomas Honeywell as a first-year law student in 1999. I was worried about whether I looked right (did I look like a lawyer?) and talked right (was I smart enough to jump into a heated debate about Scalia?). What I found at Gordon Thomas Honeywell was a group of associates, partners, and staff who made me feel welcome. No one accosted me on Day One for my opinion of Scalia. And no one judged me on my appearance. I felt welcomed by their genuine interest in wanting to get to know me and wanting me to feel a part of the firm. Two attorneys stood out in particular: Dale Carlisle, with his warm smile and the time he spent telling me about his practice, and Al Malanca, with his always present but unlit cigar and the many war stories he would share with me. That summer experience at Gordon Thomas Honeywell as a first-year law student made me feel more courageous to walk up to anyone at a bar event or committee meeting and say hello and to say hello to that someone that is standing by themselves (just don’t ask me for my opinion on Scalia).

Another good friend, Diane Clarkson, related another example of acceptance:

When I came to Tacoma from D.C., I was taking the BARBRI study course and was surrounded by promising attorneys who all knew each other from local law schools. I was one of two minorities in the course. I did not know anyone and, on the surface, had nothing in common with anyone there. During one of the breaks from our prep, the lecturer took questions. I stood in line with others to get some clarity on a subject and in that line was David Ladenburg — a name I knew nothing about at the time. As I stood waiting my chance to speak with the professor, David initiated some small talk with me as we waited. I took note of his name because he was the only one in the entire class who said anything to me during the entire course. It meant the world to me and to this day I am a fan of David Ladenburg because of his small gesture some 16 or 17 years ago.

I won’t share the bad, because you already know how those go: no one speaks to you, people don’t accept you, you are reminded that you are “the other.” Eventually, you leave firms, you leave communities, you leave the practice of law.

It is important for all of us to remember that when we are in the majority, we need to accept differences. Better yet, we should relish those differences, revel in otherness — finding commonality in places not yet explored.

We cannot afford, as a profession, to have lawyers walking across that metaphorical room, looking around to see who is with them, and finding no one. Following that path will deprive us, as a profession, of diversity of ideas, the richness that each culture has to offer, and such a path will only cause us to be less relevant to the community at large.

The question is: Will you walk with others? #
JAMES A. WEXLER
Attorney-at-Law
Washington State Bar Association
Since 1977

Arbitrator
Chambre Maritime Arbitrale de Monaco
Since 1997

Partner
Chairman, Maritime & International Practice Groups
Williams Kastner & Gibbs
Seattle
1989-1995

Chairman, CEO and General Counsel
Multi-National Corporations
Worldwide
Since 1977

Director
Department of Natural Resources
Economic Development Council of Puget Sound
1979-1982

Co-Founder & Chairman
Seattle-King County Bar Association
Maritime & Fisheries Section
1982

Regional Counsel
Office of General Counsel
U.S. Department of Commerce
National Oceanic & Atmospheric Administration
1977-1982

Commissioned Officer
LCDR NOAA Corps
U.S. Department of Commerce
National Oceanic & Atmospheric Administration
1971-1979

United States Merchant Marine Academy
Kings Point (1971)

206.849.9455
Direct
wex@seanet.com

ACCEPTING REFERRALS
There has been much literature in recent years about the “graying” of the bar. We know in the next 10 years, baby boomers across the nation will begin to retire in large numbers, and that trend is no different here in Washington (see chart below). This massive shift in the composition of our membership will impact the profession, individual attorneys, and clients and their families in many different ways. But perhaps the biggest concern that may arise from this trend is the potential for clients to be inadvertently left with no representation due to a lawyer unexpectedly being unable to continue practicing.

In order to prepare for and minimize the potential difficulties that might result in such situations, the WSBA has launched a program that provides materials and other support to encourage and help attorneys to develop succession plans. At its July 2009 meeting, the Board of Governors also approved a resolution presented by the Planning Ahead Committee that urges all lawyers to develop, adopt, promote, and implement programs and procedures that assist in the transfer of client matters in the event the lawyer dies or becomes unable to continue his or her practice. The full text of the resolution can be found at http://tinyurl.com/planaheadres.

We hope the following articles will assist you in beginning your own planning ahead program. A special thanks to Steve Crossland, Kari Petrasek, and members of the Planning Ahead Committee for not only raising the visibility of this issue but also helping lawyers in Washington to stay ahead of the curve, rather than running to catch up when the wave hits. — WSBA Executive Director Paula Littlewood
As Benjamin Franklin said, “Nothing in this world is certain but death and taxes.” Although we don’t like to think about it, none of us will live — or practice law — forever. About half of the WSBA’s 28,350 active members practice in firms of five or fewer attorneys, including approximately 25 percent who are solo practitioners. Thousands of lawyers in our state depend on themselves or a few colleagues to manage their clients’ files. When these lawyers die or become disabled, their clients face not only an interruption in legal service but potentially the loss of their files and original documents. The aging “baby boomer” demographic in the legal profession creates a looming disaster in this regard. But we can protect against it through the relatively simple process of succession planning.

As I pondered the notion of having so many solo or small-firm lawyers in the bar, I tried to comprehend the implications of succession planning. To get a handle on the impact to clients this might have statewide, I started by surveying my own office. I went to my file cabinet and counted the open and active files and estimated how many original client documents I retain in my file safe. I was somewhat surprised to learn that, as a sole practitioner, I have more than 150 open and active files and more than 700 clients for whom I am storing original documents. Even if my figures are higher than what is typical for solo practitioners, the number of clients who are depending on us to protect their files and their legal rights could easily be in the millions, a significant proportion of the state’s population.

When one of us dies or becomes unable to practice law, someone must deal with all these files and documents in addition to winding up the business affairs of the practice, answering mail, and selling the books, tables, computers, and other office equipment. For those who rent office space, the lease will need to be terminated or otherwise handled. For those who own their offices, the property will need to be sold or leased. Court dates and scheduled meetings will need to be addressed. All of this must be handled in the context of the grief the lawyer’s family or office staff will be enduring.

Although we all know that planning for these events is a good idea, I am almost certain that most of us have not taken the necessary steps to provide for a prompt and business-like transition of our practices to avoid disaster for our clients and families.

There are horror stories about this process. One example: A while back, the WSBA received a phone call from the owner of a storage facility who said he was placing hundreds of boxes of an attorney’s client files on the curb because the attorney was deceased and the storage unit rent was in default. In another case, a deceased lawyer’s personal representative who lived in North Carolina threatened to remove the lawyer’s files to that state and destroy them.

In 2007, then-WSBA President Ellen Dial observed that lack of lawyer planning in the event of death or disability was a potentially serious problem. At the time, RPC 1.15A required that lawyers annually notify each client in writing that they were holding original documents on behalf of the client. Many practitioners felt this was an unreasonable and onerous burden on lawyers, with little benefit to clients. President Dial felt there existed larger issues regarding not only what happens to original documents, but — more importantly — what happens to clients’ matters in general in the event of the death or disability of a lawyer. She asked that a committee address the issue and report back to the WSBA Board of Governors.

One may trace this looming problem to my generation of baby boomers, now reaching our sixties and facing the naturally increased likelihood of death or disability in the coming years. Indeed, nearly half of WSBA members are over 51 years of age. But death and disability can visit all ages and demographic groups. This is a problem — or, rather, a responsibility — for all of us to face.

In January 2009, the Board of Governors adopted what we call the “Planning Ahead” program — materials created by a committee of seven solo and small-firm lawyers. Few bar associations nationwide have undertaken such an effort. Our materials borrowed liberally from one that has — the Oregon State Bar. The materials include a booklet that identifies and attempts to resolve some of the issues that a solo or small-firm lawyer faces in dealing with succession planning.

Generally, “Planning Ahead” offers information and numerous forms a lawyer may use to create a succession plan in conjunction with an assisting lawyer. The assisting lawyer is someone the affected
JUDICIAL DISPUTE RESOLUTION

ALTERNATIVE DISPUTE RESOLUTION SOLUTIONS

- Mediation, arbitration, hearing officer, special master and litigation consultation services.
- 14 comfortable mediation/arbitration rooms and a large formal arbitration/trial room.
- All panelists are former judicial officers.
- Talented staff coordinates scheduling and other support.
lawyer chooses to notify the affected lawyer’s clients of the transition and wind up the affected lawyer’s business. The materials offer suggestions, and the plan for each lawyer will necessarily be tailored to that lawyer’s and his or her assisting lawyer’s unique situation. What’s critical is simply to have a plan. The core of any plan is for the affected lawyer to have organized his or her practice in such a fashion as to make it possible — if not exactly easy — for the assisting lawyer to step in at the moment of need to begin the process. The “Planning Ahead” materials include a checklist suggesting issues that should be addressed within the first week or two and then less critical issues that would be addressed in the next month or so.

The State Supreme Court is considering adopting a comment to RPC 1.3, which reads as follows:

In complying with the duty to act with reasonable diligence, a lawyer should plan for protecting client interests in the event of the lawyer’s death, disability, impairment, or incapacity. The plan should be in writing and should designate a competent attorney who has agreed to make arrangements for the protection of client interests in the event of the lawyer’s death, disability, impairment, or incapacity. Such arrangements will typically consist of reviewing client files; notifying each client of the lawyer’s death, disability, impairment, or incapacity; returning client property; and determining whether there is a need to take other immediate protective action.

If adopted, this would serve as guidance for a lawyer to help the lawyer in making decisions about managing his or her practice in a manner that protects his or her client’s interests.

I would implore you (especially if you are a sole practitioner, but really for any lawyer, regardless of age or firm size) to make certain you have a plan in place to deal with your practice in the event of your inevitable death or disability. In other words, my deeply felt request of each of you is to not consider creating a plan but in fact to create a plan. I consider this an imperative. My personal belief is that each of us has an ethical responsibility to have such a plan. As lawyers, we are an independent bunch and resist being told what to do, much less be required to do things. However, I firmly believe that the Board of Governors and the Supreme Court should seriously consider making it a requirement of all lawyers to have a succession plan to ensure clients’ interests are protected.

Stephen Crossland is a sole practitioner who lives and practices in Cashmere. His practice mainly focuses on real estate, estate planning/probate/trusts, business, and mediations. He can be reached at 509-782-4418 and steve@crosslandlaw.net.

NOTE
1. Members provide firm size on a voluntary basis. These figures are based on the 55 percent of active members who provided firm-size information as of January 2010.
Succession Planning
WHO IT’S FOR, AND WHY IT’S IMPORTANT

by Kari Petrasek

Succession planning is a difficult topic to face, regardless of age. No lawyer likes to contemplate becoming disabled or otherwise unable to practice. But an accident, illness, even death, can happen to anyone at any time. Young attorneys — many of whom choose to practice solo these days — may not stop to think about what would happen should they be rendered unable to practice. Likewise, attorneys at small firms might not consider the effect of a colleague’s sudden disability. Although most attorneys hope to practice law until they choose to retire, having a succession plan protects their practices and clients in the event that they become disabled or die unexpectedly.

Consider this example: The senior attorney in a small firm with no succession plan in place is seriously injured while skiing and unable to return to work for an extended period. The firm’s remaining attorneys are busy with their own work and unfamiliar with the injured attorney’s files. They stumble in their efforts to keep the missing attorney’s cases on track. By the time the injured attorney returns, several of her clients have defected, leaving a gaping hole in the firm’s expected fee revenue for the coming months. One disgruntled client has filed a claim with the attorney’s malpractice carrier for failing to properly handle their matter. Had a succession plan existed, the firm would have been able to make arrangements with another attorney or other qualified individual to handle trust moneys, protect confidential information, and perhaps take over representation of the clients, should assure your clients that you are looking out for their long-term interests.

You might be wondering: What exactly is involved in succession planning? In order to implement a succession plan, you must first find at least one attorney to close or take over your business or caseload in the event of death, disability, or incapacity. When arranging for the closing or taking over of your business, the necessary documents (e.g., powers of attorney, an updated will) should be drafted, authorizing one of the attorneys you select to handle the transferring of client files and administering of your practice. The next step is to authorize someone to handle your trust account. If something happens to you, your clients’ money will be tied up, which could lead to an ethics complaint. This can be avoided by simply having another lawyer added to the signature card related to the trust account.

Finally, you want to make sure your clients are aware of the plan now and that they will be kept informed of the status of their legal matters should you become incapacitated. The easiest way to inform clients of your succession plan is to include information about the arrangements you have made in your fee agreement and/or letter of engagement. When the day comes that you are no longer able to practice law, the attorney you have appointed to handle the closing or taking over of any remaining business will need to inform the clients of the transition.

Other steps you can take to help aid in the smooth closing or transitioning of your practice include:

• making sure your office manual explains all day-to-day functions of the office and how to access client information;
• maintaining a system to provide alerts of deadlines affecting client matters;
• keeping billing records up to date;
• making sure the assigned attorney is familiar with your computer applications and programs; and
• renewing your agreement with the assigned attorney each year.

Developing a succession plan is important for lawyers of every age. Obviously, as attorneys get older and start thinking about retiring, it is important for them to create a plan to help ease the stress of having so much to accomplish in the last weeks and months before retirement. However, it is equally important, regardless of your years in practice or age, to pause a moment and think about your future. It takes so little time to prepare for the unexpected but it gives your clients, now and in the future, comfort in knowing you care about them.

Additional information and resources on this topic can be obtained from the WSBA Law Office Management Assistance Program (LOMAP; www.lomap.org) or from the American Bar Association (www.abanet.org).

Kari Petrasek is an attorney at the Carson Law Group, P.S., in Everett and is president-elect of the WSBA Young Lawyers Division. She can be contacted at kari@carsonlawgroup.com.
WSBA Takes On the CIVICS CRISIS

BY PAM INGLESBY

Last year, retired U.S. Supreme Court Justice Sandra Day O’Connor appeared on “The Daily Show” to discuss her new civic education website, www.ourcourts.org, with host Jon Stewart:

O’Connor: Only one-third of Americans can even name the three branches of government, much less say what they do.

Stewart: That’s not good. I thought you were going to say only one-third can name the Supreme Court justices . . . . Can they name, let’s say, an American Idol judge?

O’Connor: Yes, 75 percent can name at least one American Idol judge.

Stewart: We’re gonna need more than a website.¹

The research O’Connor cites here has been replicated in Washington, with similar results. In a statewide public opinion poll conducted in 2006, barely one-half of those surveyed understood what “separation of powers” means and almost one-third didn’t understand the concept of an “independent judiciary.” And these were registered voters!

Stewart’s point is also relevant. We need the public to learn about civics in all kinds of ways and places: when they turn on the radio in their car, when they stop in the library to pick up the latest potboiler, when they attend a PTA or Rotary meeting, and when they go online looking for advice about how to get out of a traffic ticket.

Being able to name the three branches of government is not a trivial achievement. A healthy democracy requires citizens who understand how and why it functions, or they will not be able to participate in a meaningful way — as jurors, voters, community leaders, and citizen lobbyists. As John Dewey said: “We have taken democracy for granted; we have thought and acted as if our forefathers had founded it once and for all. We have forgotten that it has to be enacted anew in every generation, in every year, in every day.”

WSBA’s New Public Legal Education Focus

As an outcome of the comprehensive program review undertaken in 2009, the WSBA Board of Governors determined our Public Legal Education Division will focus solely on tackling this civics crisis in Washington state.

The crisis is largely due to the steady decline of civic education in K–12 schools, which began in the 1960s and has been exacerbated more recently by federal legislation promoting “basic” subjects such as math and writing. The influential 2003 Civic Mission of Schools report, co-sponsored by the Carnegie Corporation, points out that civic education was the primary goal of public schools when they were first created, and that “schools can help address disturbing trends related to youth civic engagement, including a decrease in young people’s interest in political discussion and public issues; their tendency to be more cynical and alienated from formal politics, more materialistic, and less trusting; and a decline in their voter participation rates.”

Part of the solution to public ignorance of civics is thus getting it back into schools, either as a stand-alone class or integrated

A decade of PLE

The Council on Public Legal Education celebrates its 10-year anniversary this month. A report on the Council’s history and achievements is available online at www.wsba.org/ple.

¹ Judge Leila Mills leading a lesson at Central Kitsap High School.
into other subjects. The WSBA's Council on Public Legal Education (CPLE), which has been working on this problem since 2000, helped change state law so that civic learning is now assessed annually at three grade levels. The CPLE also trains teachers on the separation of powers, judicial review, and other basic civics concepts; supports youth courts across the state; and matches up volunteer judges with high schools where they co-teach an introductory law class.

The WSBA plans to continue these efforts aimed at youth, but also increase civic education for the general public. We are launching a civics speakers bureau, and working with other organizations that bring civics speakers to town to increase their visibility. (For example, when Justice O'Connor came to Seattle last fall to lead a forum on judicial selection at the Seattle University School of Law, she also spoke in the evening at Seattle's Town Hall to a sellout audience and appeared the following morning on KUOW radio's "Weekday" program.)

Further information about the WSBA's public legal education efforts, including volunteer opportunities for lawyers and judges, is available online at www.wsba.org/ple.

Pam Inglesby is the WSBA's public legal education manager. Portions of this article previously appeared in the August 2009 issue of the King County Bar Association Bar Bulletin.

NOTE
1. For the complete interview, see http://tinyurl.com/dacxq5.

Seven years ago, a board member of the Washington Judges Foundation (WJF) came up with a simple idea to address the civic education crisis: judges could co-teach an introductory law class in high schools around the state. Since then, approximately 2,000 students have benefited from this innovative program funded by the WJF and administered by the WSBA's Council on Public Legal Education.

Inspiration came from long-standing programs at the law schools of the University of Washington and Seattle University, in which students co-teach the semester-long Street Law curriculum one day a week in nearby high schools. Street Law covers the basics of the U.S. system of government and justice, as well as practical law, such as contracts and student rights.

In the judicial Street Law program, the volunteer judge is paired with a teacher in his or her community who has been assigned to teach a class (such as law and society or civics) compatible with the Street Law curriculum. Both the judge and teacher attend a day-long training taught by Margaret Fisher, a member of the CPLE and a nationally recognized expert in law-related education for youth.

At the training, the judge and teacher learn interactive teaching strategies such as role plays, mock hearings, and case studies that make Street Law a popular class with students. “There are so many

What can you do?
There are many ways lawyers and judges can volunteer to educate the public about civics. A list of opportunities is available online at www.wsba.org/ple.

A useful handout
The WSBA publishes a basic civics brochure, “The Foundations of American Democracy,” available for free to lawyers, teachers, libraries, community groups, and anyone else willing to distribute it. A downloadable version and ordering information is located at www.wsba.org/foad.htm.
different approaches to the delivery of the material that it makes it easy for teachers to address multiple learning styles and keep the students actively engaged,” says Stacy Delcour, of West Valley High School in Spokane.

The content of the class also attracts students. Sue Bergman, of Todd Beamer High School in Federal Way, notes that it “deals with real issues that directly and indirectly affect my students. They are more engaged and attendance is usually pretty good. This class is a great way to motivate students and give them hands-on experience.”

The judges who participate in the program also see an effect on students. “Each semester I’m impressed with the ways in which quiet students are transformed into students who can communicate effectively, reason, and participate in problem-solving,” notes Judge Jim Swanger, of Vancouver. As evidence, he cites two former Street Law students who married, with Swanger performing the ceremony. He claims the Street Law class motivated the couple to research Washington’s marriage laws. “They attended various court proceedings in Family Court, picked up brochures regarding consumer and landlord-tenant laws, and spoke with pre-marriage counselors.”

Teachers enjoy the program because it gives them training in a subject area often overlooked, it improves their teaching, and they enjoy working with a judge one day a week. “One of the best parts of the program has been the partnership with Judge Rick White,” says Delcour. “His presence in the classroom adds another dimension of relevance for the students. He has established great rapport with them, and they look forward to his visits and his mentorship.”

The volunteer judges have their own reasons for participating. Judge Swanger sees Street Law as a way he can address the decline in basic civic knowledge among young people he has observed for many years. “Street Law seems like the perfect vehicle not only to teach about law, but to motivate students to have a greater understanding of their rights and to become knowledgeable, active citizens in our law-saturated society,” he says, adding that “being involved in Street Law is the most fun I’ve had in 11 years on the bench.” (Swanger’s enthusiasm was recognized by the national Street Law organization, which named him Educator of the Year in 2008.)

Judge David Larson, of Federal Way, sees the Street Law program as “demystifying the law to the next generation.” Larson feels that judges are “too mysterious to the public ... the program helps us as judges become more approachable without losing the decorum that needs to surround our office.”

W
E RETURN YOUR CLIENTS

WE DEAL WITH HEALTH INSURANCE COMPANIES
so you and your clients don’t have to. We complement your role as primary counsel, then send your client safely back to you.

JEFF COOPERSMITH - Former
Chief Counsel and Director of
Enforcement, Office of the
Insurance Commissioner
jeff@coopersmithlaw.com

coopersmith
health law group
(206) 343-1000 - www.coopersmithlaw.com
Judge Rick White, of Spokane, who was a juvenile probation officer before attending law school, enjoys working with young people because they are very interested in the justice system, perhaps because so many television shows are about the law and the courts. “I consider myself to be a very fortunate person,” he says. “Going to classrooms is one of the ways that I express my gratitude for the job.”

The Street Law program has become so popular with judges that there is now a long waiting list of those wishing to participate. The CPLE is considering ways to reduce costs or increase funding that will allow more students to benefit.

Many of the WSBA’s efforts to increase civic education involve training individuals — lawyers, judges, and teachers — to carry the message to students and the public. The Council on Public Legal Education is now taking this approach one step further by encouraging communities around the state to create their own local PLE councils.

These councils bring together anyone interested in increasing civic education in their area, including both individuals and representatives of organizations such as the League of Women Voters and the YMCA. The local PLE council might start a new initiative (e.g., a youth court) or expand an existing program (e.g., a Law Day celebration).

CPLE members and staff are eager to help convene local PLE councils and to provide ongoing guidance and support. For further information, see www.wsba.org/ple or contact Pam Inglesby at pami@wsba.org.

Spotlight

Planting Civics Seeds Around the State
O reader wrote me recently in response to my previous column on pleonasm (Bar News, October 2009). He offered me a couple of puzzlements to ponder arising from the world of baseball. Well, not baseball, exactly — more the world of baseball broadcasting. You know, where you have these two guys, one of whom — the play-by-play man — tells you what’s going on in the game, while the other one — the “color commentator” — tries to come up with interesting things to say when nothing is happening. Except that a lot of the time the color commentator insists on filling in the gaps where there ain’t no gaps, and ends up preempting the play-by-play man’s description of an exciting moment with some far less urgent rumination of his own.

Anyway, my faithful reader and correspondent wrote to complain of the inconsistent and apparently interchangeable use of the terms “control” and “command” when describing the achievements of a pitcher. He had, he said, asked baseball fans, sportswriters, and sportscasters to explain the difference between “control” and “command,” only to learn that no one seems to know what the difference is, or if there even is one.

Now, I never even knew this was a problem. All these years, I thought those guys actually knew what they were talking about. I took “control” to refer to the pitcher’s management of the baseball, and “command” to refer to his management of the batter. “He has great control” doesn’t mean he always puts the ball over the plate, but that he always puts it where he wants it. His ability to do so gives him command over the batter — that is, the ability to fool the batter into striking out or popping up. The great left-hander Warren Spahn of the pre-Atlanta Braves (both Boston and Milwaukee) said, “Batting is timing; pitching is upsetting timing.” (That sentence is a great lesson in both baseball and writing.)

This distinction between “command” and “control” seemed so self-evident to me that I never questioned it. So I was shocked to learn that, apparently, the commentators themselves made no such distinction, and I’d only been fooling myself all these years thinking that there was one. Nevertheless, it works for me — just as does a distinction I’ve been making for 35 years between a “paper bag” and a “paper sack,” which apparently has no connection with the way the words are actually used. To me, a bag has a flat bottom, a sack a tapered seam at the bottom. It’s a useful distinction, it seems to me — but it’s one with no connection to reality.

The point of this — if there is one — is that the way we use, interpret, and continually re-invent language both reflects and creates the way we see the world. That’s the most exciting thing about language.

The Quality of “Quality”

My friend’s other observation on baseball talk had to do with the all-too-frequent comment that a particular pitcher delivered a “quality start.” This apparently is a euphemism for a pitcher who tires or loses control comparatively early in the game, but gets his team off to a good start by pitching two or three fine innings. My friend’s concern, though, was not the euphemism but the use of the word “quality.” The word “quality,” he suggested, doesn’t have any inherent meaning. Rather, something may be of very good, or high, quality, or of very low, or poor, quality, or anywhere in between. To say a pitcher’s start was a “quality start” doesn’t tell us anything; what kind of quality did the start embody?

Looked at in that way, this use of the word “quality” seems to be the opposite of a pleonasm. (Finally you can stop wondering how this all relates to my previous column.) Where pleonasm is the inclusion of unnecessary words, this usage of “quality” seems to exemplify the exclusion of seemingly essential words. Don’t just tell me “quality,” tell me what quality. Of course, the use of the word “quality” alone to mean “high
WHO’S WATCHING YOUR FIRM’S 401(k)?

- Is your firm’s 401(k) subject to quarterly reviews by an independent board of directors?
- Does it include professional investment fiduciary services?
- Is your firm’s 401(k) subject to 23 contracted service standards?
- Does it have an investment menu with passive and active investment strategies?
- Is your firm’s 401(k) sponsor a not-for-profit whose purpose is to deliver a member benefit?
- Does it feature no out-of-pocket fees to your firm?
- Is your firm’s 401(k) part of the member benefit package of 33 state and national bar associations?

If you answered no to any of these questions, contact the ABA Retirement Funds to learn how to keep a close watch over your 401(k).

The American Bar Association Members/State Street Collective Trust (the “Collective Trust”) has filed a registration statement (including the prospectus therein [the “Prospectus”]) with the Securities and Exchange Commission for the offering of Units representing pro rata beneficial interests in the collective investment funds established under the Collective Trust. The Collective Trust is a retirement program sponsored by the ABA Retirement Funds in which lawyers and law firms who are members or associates of the American Bar Association, most state and local bar associations and their employees and employees of certain organizations related to the practice of law are eligible to participate. Copies of the Prospectus may be obtained by calling (877) 947-2272, by visiting the Web site of the American Bar Association Retirement Funds Program at www.abaretirement.com or by writing to ABA Retirement Funds, P.O. Box 5142, Boston, MA 02206-5142. This communication shall not constitute an offer to sell or the solicitation of an offer to buy, or a request of the recipient to indicate an interest in, Units of the Collective Trust, and is not a recommendation with respect to any of the collective investment funds established under the Collective Trust. Nor shall there be any sale of the Units of the Collective Trust in any state or other jurisdiction in which such offer, solicitation or sale would be unlawful prior to the registration or qualification under the securities laws of any such state or other jurisdiction. The Program is available through Washington State Bar Association as a member benefit. However, this does not constitute an offer to purchase, and is in no way a recommendation with respect to, any security that is available through the Program.

Phone: (877) 947-2272 • Web: www.abaretirement.com • email: abaretirement@us.ing.com
quality” is well established in American English (probably thanks to advertising). When we hear that something has “quality,” we simply assume that what is meant is “high quality.”

But why is that? Does anyone question this increasing tendency of American English to take a standard or clichéd phrase and shorten it, making the unspecified part stand for the whole, in a sort of diabolical synecdoche that degrades rather than enriches meaning?

Back in the ’70s, the term “male chauvinism” was coined. For a century and half before that, the term “Chauvinism” had existed in English. Derived from the surname of the fanatically patriotic (and possibly legendary) Nicolas Chauvin, it was used to characterize an extreme and demonstrative devotion to a particular cause (in Chauvin’s case, Napoleonic France). The term “male chauvinism” was adopted by the American feminist movement of the ’70s to identify the dark side of chivalry, an exaggerated attention to and politeness toward women that suggested they were weaker and less independently capable than men. This useful phrase came to be used so widely that it was frequently shortened to “chauvinism” — ultimately depriving the language of a term that used to be useful in many contexts. For most of today’s Americans, the term “chauvinism” is synonymous with “sexism,” utterly missing the point and seriously impoverishing the language.

Does anyone question this increasing tendency of American English to take a standard or clichéd phrase and shorten it, making the unspecified part stand for the whole, in a sort of diabolical synecdoche that degrades rather than enriches meaning?

A more recent example: Someone who in the ’50s or ’60s might have been described as having a bad attitude or a rebellious attitude now simply has “attitude.” The non-specific has swallowed up the specific, more’s the pity. Just as everything has quality, but the quality it has may be good or bad, high or low, desirable or revolting, every person also has an attitude, and probably several different attitudes, depending upon context. But now, the single word “quality” is taken to mean “high quality,” and the single word “attitude” is taken to mean ... I’m not sure what; not “bad attitude” exactly, but more of a kind of in-your-face sassiness — the kind of thing that better generations than ours have may be good or bad, high or low, desirable or revolting, every person also has an attitude. The non-specific has swallowed up the specific, more’s the pity. Just as everything has quality, but the quality it has may be good or bad, high or low, desirable or revolting, every person also has an attitude, and probably several different attitudes, depending upon context. But now, the single word “quality” is taken to mean “high quality,” and the single word “attitude” is taken to mean ... I’m not sure what; not “bad attitude” exactly, but more of a kind of in-your-face sassiness — the kind of thing that better generations than ours have.

So when you spot these trends in contemporary American usage, always question whether they are valuable ways of coloring our language or are potentially aberrations may be more readily forgiven if they can be described as “attitude.” He’s not a criminal, your honor — he’s just got attitude. (If you’re a criminal defense lawyer, let me know how well that argument works in your next sentencing hearing.)

**Figuring with Figures of Speech**

Well, I sort of stepped into it awhile back by using the term “synecdoche,” so I’d better explain what I mean. From a Greek word meaning “simultaneous understanding,” synecdoche is a figure of speech in which any of the following may occur (courtesy of our friends at Wikipedia, the _OED_, and other resources):

(a) A term denoting a part of something is used to refer to the whole thing, such as the nickname “Fingers” for someone who can crack a combination lock or fit an entire basketball into the palm of his hand.

(b) A term denoting a thing is used to refer to only a part of it, which we do constantly in law by referring to the city, the state, or the law as the personification of a particular policy or (dare I say) attitude.

(c) A term denoting a material is used to refer to an object composed of that material, such as “plastic” for credit cards or “iron” for a clothing press.

Synecdoche is thus frequently defined as a species of metaphor characterized by the substitution of a part for whole. As such, it is a good thing to know about and use, since it makes writing colorful, interesting, and expressive. But when a broad word comes to stand for only one narrow sense of that word, language can become a tool of deception and even oppression.

So when you spot these trends in contemporary American usage, always question whether they are valuable ways of coloring our language or are potentially ambiguous or downright dangerous ways of diluting it by concealing rather than illuminating meaning.

**Walking on Eggs**

It’s fun to speculate about how certain expressions that we use frequently and unquestioningly came to be. In her September 30, 2009, blog entry, _comrade-in-arms_ Martha Brockenbrough over at the Society for the Promotion of Good Grammar (www.spogg.org), noted that her optometrist had...
joked with a breakfast server by ordering his eggs "over easily," rather than "over easy." Ms. Brockenbrough, author of the delightful and useful book Things That Make Us [Sic], used this story as the starting point of an inquiry into whether, in the expression "over easy" as applied to eggs, the word "easy" is an adjective describing the eggs or an adverb describing the manner in which they are prepared.

You can read her discussion yourself — and I commend her blog to you as essential daily reading — but she concluded that the optometrist was merely being funny by being "hypercorrect." However, I thought the situation invited further analysis. People sometimes order their eggs "over hard" instead of "over easy," and these two terms are generally understood to indicate the desired texture of the yolk. Now we speak of boiled eggs as either hard-boiled or soft-boiled, using the term "hard" or "soft" to refer to the resulting texture of the egg. But for some reason we refer to fried eggs not as "hard" or "soft" but as "hard" or "easy." Why should this be? Using the term "easy" would seem to suggest that we are concerned with the difficulty of the process of frying the egg, not with the texture of the finished product. But just as "right" is the opposite of both "left" and "wrong," "hard" is the opposite of both "easy" and "soft." I suspect that "over easy" is a product of restaurant slang — that "Adam 'n' Eve on a raft" stuff. I'm betting that some waggish diner waiter long ago adopted the whimsy of calling for fried eggs as "easy" or "hard" instead of "soft" or "hard," and from that we get "over easy." If my suspicion — which I haven't been able to verify — is correct, then "easy" (not "easily") would indeed be the correct word, since it would be an adjective referring to the texture of the finished egg, not an adverb describing the process by which it was achieved.

And the point of all this? We invent and expand language as we go. It's up to us whether the ways in which our language evolves will ultimately enrich or impoverish our ability to communicate with color and precision. So we should always be thinking about the words we choose.

Robert C. Cumbow, a shareholder at the Seattle firm of Graham & Dunn PC, contributes occasional columns on language and writing to the Bar News. He teaches at Seattle University School of Law, writes on law, language, and movies, and is grateful to Patrick Judd Murray and Martha Brockenbrough for dialogues that led to this latest column.
Civil Legal Representation and Access to Justice in Washington —
An Invitation to an Important Conversation

by Dean Kellye Y. Testy

You have the right to remain silent. Anything you say or do can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney, one will be appointed to you.

These are familiar words; a refrain many people recognize, if not from a difficult personal experience, then from its too-common invocation in television and movies. Despite its familiarity — perhaps even because of it — the scope of its application is widely misunderstood. Many non-lawyers do not understand that the “right to an attorney” extends only to criminal matters. Currently, there are few civil proceedings in which indigent litigants have the assistance of counsel provided by public funding. That is so even for civil matters with enormously serious consequences. For instance, tenants face represented landlords in eviction proceedings, survivors of domestic violence face their represented abusers in custody battles, and homeowners facing foreclosure must navigate its complex processes (and the myriad of bank, collection agency, and mortgage company attorneys) without the benefit of counsel.

A national discussion on expanding the right to counsel for indigent persons to civil cases has emerged under the leadership of the American Bar Association as part of its mission of expanding access to justice. In 2006, the ABA House of Delegates unanimously passed a resolution urging local, state, and national governments to recognize such a right in civil proceedings where “basic human needs are at stake,” including safety, health, sustenance, shelter, and child custody.1 Both the Washington State Bar Association...
and the King County Bar Association co-sponsored this resolution. To further this discussion in Washington, the state’s three law schools — Gonzaga University, Seattle University, and the University of Washington — are collaborating to organize a February 19 symposium on this urgent topic.

This discussion is a timely one. In the present economic climate, the number of persons facing serious civil legal matters (including foreclosure) is on the rise at the same time that the number of persons with access to legal representation is on the decline. That decline is not only due to the economic strife being faced by many individuals, but also by limited public funding for legal aid programs. In short, it is a perfect storm that is drowning the poor.

That is not to say that there are not many worthy efforts being made to provide lifelines. For instance, in Washington, initiatives such as the WSBA Home Foreclosure Legal Aid Project and the Housing Justice Project provide low-income individuals facing foreclosure and eviction with highly trained and competent pro bono attorneys. The lawyers in our legal services organizations work tirelessly with too-few resources, the law clinics of the state’s three law schools all contribute substantial numbers of hours to help close this gap through the work of their faculties and students, and many lawyers contribute generous pro bono services. Yet the unmet legal needs of low-income individuals remain vast. In 2003, the Supreme Court’s Washington State Civil Legal Needs Study found that approximately 87 percent of low-income households in Washington experience a civil legal problem and of that group, 88 percent are forced to navigate their way through the judicial system without the benefit of a lawyer. Today, these numbers are even starker when we consider the subsequent deterioration of our state’s economic health, the historic rise in unemployment, and the significant increases in the poverty rate.

Particularly in this time of economic crisis, how do we address the needs of Washington’s most vulnerable citizens? Should the “right to an attorney” extend to civil cases? Which ones? Should what some see as a limited extension to cases in which critical interests such as familial and education matters are at stake be expanded? What does it say about our system of justice if 80 percent of low-income persons are effectively denied access? Does this lack of access undermine the public’s respect for law and lawyers? If the legal
profession wants to address this issue, how can it be funded and implemented? What lessons can we take from the system of public defense in criminal matters — a system straining under the burden of too many cases and too few lawyers?

In tackling these issues, Washington can learn from projects underway elsewhere; other states are addressing this issue, too. For example, the California Legislature recently passed a bipartisan bill that creates pilot projects throughout the state to appoint counsel for indigent litigants involved in civil proceedings where basic human needs are at stake. Despite the severe budget crisis, lawmakers were able to secure funding for the projects not by raising taxes, but by introducing a nominal (no more than $10) increase to court fees imposed on prevailing parties. The bill has garnered widespread media attention, including an op-ed in the New York Times, articles in the Los Angeles Daily Journal and the Wall Street Journal, and countless legal blogs. In addition to providing representation for persons who might otherwise be without it, the pilot projects are aimed at evaluating the social and economic benefits of providing representation in civil cases. Similar studies have occurred in limited settings and have shown that having representation makes a positive difference in the outcome for the poor. That result is not surprising, and it contains both good and bad news. Lawyers make a difference, but we have to be there to do so.

**Symposium on February 19**

The planned symposium, entitled “Civil Legal Representation and Access to Justice: Breaking Point or Opportunity for Change?” will be held at Seattle University School of Law on February 19, 8:00 a.m. to 5:00 p.m., in Room C5. The symposium will bring together bar leaders, academics, and social justice advocates with national and state experts who have studied the origins of the right to counsel movement and who have developed standards and implemented systems in Washington and elsewhere. On behalf of all three law school co-sponsors — GU, SU, and UW — please join us for a critical examination of how best to meet the promise of equal justice for all. Online registration is available at www.regonline.com/feb192010.

Kellye Y. Testy is the dean of the University of Washington School of Law.

**NOTES**

2. Information can be found at www.mywsba.org/default.aspx?tabid=161; King County Housing Justice Project information can be found at www.kcba.org/legalhelp/hjp/clients.aspx.
5. For a more complete list of the bill coverage, see www.civilrighttocounsel.org/news/recent_developments/32.
6. Stanford Professor Rebecca Sandefur completed a meta-analysis of studies on the effects of representation in a variety of civil proceedings. The report may be found at www.allacademic.com//meta/p_mla_apa_research_citation/0/2/1/1/8/pages21185/p21185-1.php. Carroll Seron conducted a randomized study of New York housing courts and determined that represented tenants experienced better outcomes than unrepresented tenants in eviction proceedings. Carroll Seron et al., “The Impact of Legal Counsel on Outcomes for Poor Tenants in New York City’s Housing Court: Results of a Randomized Experiment,” 35 Law and Society Review, 419 (2001).
Telling the Bad News

BY JEFF TOLMAN

As a young lawyer, I represented a client I particularly wanted to impress. I liked her. She and her husband were well connected in the community, great potential ambassadors for my practice.

Her case, though, had some problems. Rather than trouble her with the blemishes on her case, I stayed mute, hoping the issue would go away — or the other lawyer wouldn’t see it — or somehow I would “pull a rabbit out of a hat.” Well, the issue didn’t go away, the lawyer saw the defense and vigorously asserted it, and my professional repertoire included no hats or long-eared animals. In the end, we resolved the case in a fair way, considering all of the strong and weak points.

At the exit interview, as we signed the settlement checks, I asked my client, “Do you have any questions about what we’ve been through?”

“Yes,” she calmly responded. “Did you not see this issue — and are incompetent? Or did see it and not tell me — and are dishonest?”

It was a knife to my heart, a haymaker, one of those pivotal moments when you are defenseless, at the mercy of another.

“I saw the issue, but didn’t want to give you bad news. I like you and your spouse very much and want to be your lawyer for a long time. I’m sorry.”

“You are my lawyer, but Jeff, never do that again. Your clients want from you what the law asks of all witnesses: the truth, the whole truth, and nothing but the truth.”

My practice changed immediately.
From me, and most lawyers, clients get the good and bad news, the strengths and weaknesses in their cases, the defenses that will be raised, and the points the opposition will make with the fact-finders. The truth, the whole truth, and nothing but the truth.

Pointing out the weaknesses in a case is difficult. Some clients will wonder if you are totally on their side. That’s when I tell them the story of my old client and how her remarks changed me, personally and professionally.

Some issues to always discuss include:

- Prior medical care of the same type. For example, pre-collision “maintenance” chiropractic care. I remember well (though I grimace to think about it even now) my opponent, a wonderful insurance defense lawyer, telling the jury: “Now the plaintiff wants you to believe that she didn’t have significant back problems prior to the collision — though she had been adjusted by Dr. Jones 43 times. That was ‘maintenance,’ you were told, not the same treatment as occurred after the collision. The 43-times-manipulated-back was fine, just well maintained, according to the plaintiff, her lawyer, and chiropractor, until this collision caused a permanent back injury...” His argument gave me a pain in the back ... and a little further down.
- Minimal vehicle damage. There is an entire cottage industry of experts who testify that without some significant amount of car damage, you can’t be hurt. They make gobs of money and juries often believe them.
- Clients who are out of normal limits in some way. Years ago at a deposition, my client was asked her name. She burst into tears. After a couple of breaks and three quarts of tears, we got her name. Her address took another few minutes. By the time we got through her education and marital status, the two hours defense counsel had allotted for the deposition was long gone. Sure, I would argue that she was weepy as a result of the trauma she had been through as a result of the collision. There is a risk, though, that a jury might determine that a person who is unable to state her name and address without bawling is an over-reactor.

Recently I had another client who was so literal she couldn’t answer a question.

Attorney: “Please state your name.”
Client: “I'm sorry, I can't answer that question. It is too vague.”
Attorney: “Let’s try again. Please state your name.”
Client: “Which one?”
Attorney: “Do you have more than one name?”
Client: “Yes.”
Attorney: “Please state them all.”

Despair Defined

There is no event more joyful than the birth of a healthy child and none more devastating than when a baby is neurologically damaged during labor or delivery. We have extensive experience in birth injury cases. We would appreciate the opportunity to work with you to help your client.
Client: “I was born Jillian Sue Smalling. I married John Jones. My name is now Jillian Sue Jones.”

Attorney: “Do you recall the day of the collision that brings us together today?”

Client: “Yes.”

Attorney: “What day did the collision occur?”

Client: “I’m sorry. I can’t answer that question. It is too vague.”

Attorney: “What is vague about my question?”

Client: “Do you mean which day by number, the first through the 31st? Or do you mean which day, Sunday through Saturday?”

Juries hate people who can’t, or won’t, answer simple questions.

Another issue is a client (almost always female) who (before she hired you) has spoken several times with the case adjuster.

Women are just tough. They tend to their families even if they are sicker than two dogs. Thinking of themselves, or complaining, is almost a sin. They may have two broken arms, but when the adjuster calls, the dialogue goes something like this:

“Hello, Mrs. Smith. This is Emily Peterson, the adjuster in your injury claim. How are you feeling?”

A simple, straightforward question that the injured person should respond by screaming, “Your drunk insured has changed my life. Both of my arms are broken. I can hardly do anything around the house. I can’t dress myself, drive, or hug my children. I am in pain, housebound, and grouchy all the time.” Aside from hiring counsel, who is here asking you for money, what could have deteriorated her condition so suddenly and profoundly?

Thanks to my client long ago, I discuss these issues, and other problems with a case, right up front. I tell my potential client that he may not want to hear about the weaknesses in his case and I may not be the lawyer for him. I always tell my new clients, too, about never wanting a client to ask me again if I was incompetent or dishonest with her — even if I want her to be my client long-term and know that she would be a good ambassador for my practice.

Jeff Tolman has practiced law in Poulsbo for more than 30 years. He has served on the WSBA Board of Governors, in the ABA House of Delegates, and is the part-time Poulsbo Municipal Court judge. He can be reached at tolman@tolmankirk.com.
Rob McKenna  
*Washington State Attorney General*

- I became a lawyer because lawyers are problem-solvers who serve others.
- The future of the practice of law is headed toward more mediation, less litigation.
- This is the best advice I have been given: Work hard, strive for excellence.
- I would share this with new lawyers: Immerse yourself in your legal practice.
- Traits I admire in other attorneys: Honesty, professionalism, modesty.
- I would give this advice to a first-year law student: Prepare for each class and take good notes — they're more valuable than making outlines for exams.
- People living or from the past I would like to invite to a dinner party: Abraham Lincoln, Winston Churchill, Sandra Day O'Connor.
- I am most proud of this: Arguing two cases successfully before the U.S. Supreme Court.
- I am the most happy when I’m with my family.
- My favorite non-job activity: Any activity with my wife and four children.
- On television, I try not to miss "CBS Sunday Morning."
- Best stress reliever: Exercise and a good night’s sleep.
- What I had for lunch: Salad — always trying for more greens in my diet!
- I would never eat: Liver and onions.
- I am currently reading *No Ordinary Time* by Doris Kearns Goodwin and *Hot, Flat, and Crowded* by Thomas L. Friedman.
- My favorite vacation place: Lake Wenatchee.
- One of the greatest challenges in law today is coping with electronic discovery.
- If I were not practicing law, I would teach high school or college.
- Technology is more of a blessing than a curse, if you can avoid the temptation to work 24/7.
- Currently playing on my iPod/CD player/record player: Dave Matthews Band; Nickelback; Plain White T's.
- If I could live anywhere, I would continue to live in Washington state, based on my experiences living in Europe, Asia, and elsewhere in the United States.
- I can't live without my wonderful wife of 23 years, Marilyn.
- What keeps me awake at night: Coping with state budget cuts without layoffs and furloughs.
- If I could change one thing about the law it would be the tendency of some lawyers to forget their obligation is to the law, not just their clients.
- This is the best part of my job: Fantastic colleagues; fascinating legal issues; interesting clients.

I’m Rob McKenna, Washington’s 17th attorney general. I lead our state’s largest law office, with more than 500 attorneys and 700 professional staff, representing more than 200 state agencies, boards, and commissions on behalf of the people of Washington.

*Briefly About Me* gives you a glimpse into the thoughts of your fellow WSBA members. If you would like to be featured in *Briefly About Me* or know someone who would, please visit www.wsba.org/lawyers/brieflyaboutme.doc.
There are 1,180,386 attorneys in the US

And only 275,000 Legal secretaries

After benefits and time off the average Legal secretary costs $65,301

The average in-house secretary works 225 days a year

SpeakWrite - 1.5 cents per word, 365 days a year

What is your word processing costing you?

Find out at www.speakwrite.com/WABJ

SPEEDING TICKET?
TRAFFIC INFRACTION?
CRIMINAL MISDEMEANOR?

Keep it off your record, Keep insurance costs down

JEANNIE P. MUCKLESTONE, P.S.
PO BOX 565
Medina, Washington 98039
(206) 623-3343
jeannie@mucklestone.com
www.mucklestone.com

• Successful Results
• Extensive experience
• Former Judge Pro Tem in King County
• Featured in Vogue magazine May ‘03 as a top lawyer for women in Washington
• Front page of Seattle Times “Drivers fighting tickets and winning” June 1, 2006
• Visa/Mastercard accepted

Advice is a dangerous gift.

Who are you getting yours from?

• Experience
• Expertise
• Professionalism

TSONGAS LITIGATION CONSULTING, INC.
711 Fifth Avenue, Suite 250
Seattle, Washington 98104
1-888-852-8019
One SW Columbia Street Suite 680
Portland, Oregon 97238

See what our clients think at www.tsongus.com/excellence/excellence.cfm
Advantages of advertising in Bar News:

► Bar News circulation is more than 30,000.
► Nearly 75 percent of the WSBA’s active members always or usually read Bar News.
► Washington state lawyers and judges read Bar News more than any other legal publication.
► Bar News is the only legal magazine received monthly by every practicing attorney in Washington state.
► Bar News is published 12 times a year with more than 750 pages reaching readers.

To place an ad, contact WSBA Advertising Manager Jack Young at 206-727-8260 or e-mail jacky@wsba.org.
Saying Goodbye: The Withdrawal Rule

BY MARK J. FUCILE

The withdrawal rule, RPC 1.16, has long played a key role in the relationship between lawyers and their clients. It sits directly on the fault line between the two when they part ways short of the conclusion of the case or transaction that brought them together. The recent tremors running through the economy have created significant financial tensions in many lawyer-client relationships that, in turn, have led to withdrawal in many instances. In this column, we’ll examine the four basic component parts of the withdrawal rule with a special emphasis on its role in a down economy.

Mandatory Withdrawal
RPC 1.16(a) addresses three situations when a lawyer must withdraw. Although they are not related directly to the economy, financial pressures can sometimes lurk behind them in unpredictable ways.

RPC 1.16(a)(1) requires withdrawal if continuing a representation will result in violation of the RPCs. If, for example, a nonwaivable conflict develops between jointly represented clients, a lawyer must withdraw even if the lawyer has invested substantial time in the matter. This result is dictated by both the conflict rule (RPC 1.7) and the withdrawal rule. See, e.g., In re Carpenter, 160 Wn.2d 16, 155 P.3d 937 (2007) (lawyer disciplined for failure to withdraw when conflict developed between jointly represented clients).

RPC 1.16(a)(2) requires withdrawal if the lawyer develops a physical or mental impairment that prevents the lawyer from continuing to represent the client competently. In re Cohen, 150 Wn.2d 744, 82 P.3d 244 (2004), emphasizes that the medical condition must truly affect the representation rather than simply offer a convenient excuse for withdrawal.

RPC 1.16(a)(3) requires withdrawal if the lawyer is discharged — even if the client owes the lawyer for services provided to date. As the Supreme Court in In re Kagele, 149 Wn.2d 793, 820, 72 P.3d 1067 (2003), observed: “Clients have an unfettered right to terminate an attorney’s representation when conflict developed between jointly represented clients.”

RPC 1.16(a)(4) requires withdraw even if the lawyer has invested substantial time in the matter. This result is dictated by both the conflict rule (RPC 1.7) and the withdrawal rule. See, e.g., In re Carpenter, 160 Wn.2d 16, 155 P.3d 937 (2007) (lawyer disciplined for failure to withdraw when conflict developed between jointly represented clients).

The ability to withdraw for nonpayment is subject to two caveats. First, in a litigation matter, RPC 1.16(c) requires the lawyer to obtain court permission if the rules of the forum require it. Second, RPC 1.16(b)(5) requires the lawyer to give the client “reasonable warning” of the lawyer’s intent to withdraw if the client does not make good on the amount owed.

Court Permission
In litigation matters, RPC 1.16(c) requires court permission to withdraw if, as noted, the rules of the forum require it:

A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

CR 71(c)(4) requires court permission to withdraw in a state civil case if the client has objected. CrR 3.1(e), in turn, requires court permission in a state criminal case if the case has been set for trial. In Washington’s federal courts, Western District GR 2(g) (4) requires leave of the court to withdraw in all cases, as does Eastern District LR 83.2(d)(5).

Court permission can often pose two issues: how do you tell the court without revealing confidential information and what if you are close to trial?

On the former, Comment 3 to RPC 1.16 acknowledges the concern and suggests the answer:

The court may request an explanation for the withdrawal, while the lawyer may be bound to keep confidential the facts that would constitute such an explanation. The lawyer’s statement that professional considerations require termination of the representation ordinarily should be accepted as sufficient.

If the court requires more, filing under

On the latter, “timing is everything.” Ordinarily, most courts will permit a lawyer to withdraw for nonpayment. But, that can change if the lawyer waits until the eve of trial. Kingdom v. Jackson, 78 Wn. App. 154, 158, 896 P.2d 101 (1995), examines the interplay between CR 71 and the withdrawal rule at length and concludes that among the factors trial courts should consider is whether “withdrawal will delay trial or otherwise interfere with the functioning of the court[.]” A lawyer who waits too long may find that the court orders the lawyer to see the case through trial.

Assisting the Client
RPC 1.16(d) requires lawyers to “take steps to the extent reasonably practicable to protect a client’s interests” when withdrawing. The steps will vary with the situation, but RPC 1.16(d) mentions “giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned or incurred.” Comment 9 to RPC 1.16 underscores that lawyers may take such steps regardless of the particular circumstances that led to the withdrawal: “Even if the lawyer has been unfairly discharged by the client, a lawyer must take all reasonable steps to mitigate the consequences to the client.”

One particular flashpoint can be the lawyer’s file. RPC 1.16(d) recognizes that a lawyer may have possessory lien rights over a file for unpaid fees: “The lawyer may retain papers relating to the client to the extent permitted by other law.” At the same time, WSBA Formal Ethics Opinion 181 concludes that the lawyer’s continuing fiduciary duty to the client during a transition “trumps” the lawyer’s possessory lien rights and requires the lawyer to provide the client with the file if the client needs it.

The consequences of failing to meet the obligations imposed by RPC 1.16(d) can be severe. Lawyers have been disciplined for failing to promptly deliver client papers (see, e.g., In re Eugster, 166 Wn.2d 293, 209 P.3d 435 (2009)) and client funds (see, e.g., In re Perez-Pena, 161 Wn.2d 820, 168 P.3d 408 (2007)). Further, our responsibilities to clients under the RPCs reflect our underlying fiduciary duties. Although the former may not directly provide a basis for a civil claim, the latter clearly do under Eriks v. Denver, 118 Wn.2d 451, 824 P.2d 1207 (1992). A client who was injured by a lawyer’s failure to transfer a file might well raise a breach of fiduciary claim. Similarly, the Consumer Protection Act (CPA) applies to the business aspects of law practice under Short v. Demopolis, 103 Wn.2d 32, 691 P.2d 163 (1984). Again, a client harmed by a lawyer’s failure to transfer a file might also contend that the CPA was triggered because fee issues go directly to the business elements of law practice. These possible civil remedies can also become legal and practical impediments to a subsequent collection action by the lawyer.

Summing Up
Withdrawal can be — and very often is — a difficult time for both lawyers and clients. Natural emotions when a close relationship is unwound can easily combine in the present economic climate with difficult financial tensions on both sides of the lawyer-client relationship. Given those tensions and the potential “hard-dollar consequences” of a withdrawal done poorly, lawyers need to handle their responsibilities under RPC 1.16(d) as professionally as possible.

It’s no secret that many lawyers and clients are under severe economic pressure in today’s economy. That, in turn, has caused lawyer-client relationships to fray in some cases and end in others. Given the economic times, understanding the practical contours of the withdrawal rule has become an increasingly important lesson for many lawyers.

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, a past member of the Oregon State Bar’s Legal Ethics Committee, and a member of the Idaho State Bar Professionalism and Ethics Section. He is a co-editor of the WSBA Legal Ethics Deskbook and the OSB Ethical Oregon Lawyer. He can be reached at 503-224-4895 and mark@frllp.com.
SEX OFFENSES REQUIRE A DEDICATED DEFENSE

The Best Defense. Always.

Refer with Confidence.

THE LAW OFFICES OF

James Newton, PLLC

THE LAW OFFICES OF JAMES NEWTON IS A FULL SERVICE, CRIMINAL DEFENSE FIRM.

JimNewtonLaw.com

Call Us.
S King County 253-859-4600
Seattle 206-264-1200
Tacoma 253-383-1300
Using mywsba, you can:

- View and update your profile, which includes address, phone and fax, e-mail, website, etc.
- View your current MCLE credit status and access your MCLE page where you can update your credits
- Complete all of your annual licensing forms (skip the paper!)
- Certify your MCLE reporting compliance
- Pay your annual license fee using MasterCard or Visa
- Make a contribution to LAW Fund as part of the licensing renewal process using MasterCard or Visa
- Join a WSBA section
- Access Casemaker free legal research
- Register for a WSBA CLE seminar
- Shop at the WSBA store (order CLE recorded seminars, deskbooks, Resources, etc.)
- Voluntarily report your pro bono hours under RPC 6.1
- Sign up to volunteer for the Home Foreclosure Legal Aid Project
- Access CourtTrax docket research service
Laura Caryne Dunlop was born in California and received her undergraduate degree from the University of Michigan. She received her master’s degree in healthcare administration from the University of North Carolina and her law degree from the University of Washington. She was a healthcare attorney at King & Spalding, in Georgia. A frequent traveler, Dunlop went to Europe several times and enjoyed backpacking with her family in British Columbia. She was an avid tennis player and enjoyed spending time with her beloved dog, Heinz.

Laura Caryne Dunlop died on October 5, 2009, at the age of 31.

Joseph Harold Gordon Sr.
Joseph Harold Gordon Sr., a Tacomian for 100 years, graduated from Stanford University and the University of Washington School of Law. He began his law career in 1935 with his father as Gordon & Gordon, now known as Gordon Thomas Honeywell Malanca Peterson & Daheim LLP. Gordon was president of the Pierce County Bar Association, president of the Western States Bar Conference, treasurer and member of the Board of Governors of the American Bar Association, and president and lifetime delegate of the American Bar Endowment. He served as president of the University Union Club and Tacoma Rotary No. 8. He served on the Board of Visitors of the Stanford Law School and was active in the First Presbyterian Church.

Joseph Harold Gordon Sr. died on October 21, 2009, at the age of 100.

Mary Ellen Hanley
Mary Ellen Hanley was born in Massachusetts and received her undergraduate degree in physics from Brown University. She received her law degree from the University of Washington School of Law. During the Korean War, she served as a commissioned officer in the United States Marine Corps; while serving, she graduated with honors from the Naval Justice School in Rhode Island. From 1963 until her retirement in 1988, she was a member of the Seattle firm of Karr, Tuttle, and Campbell. She served on the American Bar Association Committee on Legal Services for Military Personnel. A pioneer for women in the law and in the military, she was awarded the Department of Defense Distinguished Service Medal and was a Tudor Scholar of the United States Army Judge Advocate School. She sailed around the world 18 times and set foot on 92 countries during her lifetime; her hobbies included knitting, crocheting, and needlepoint for family, friends, and charities.

Mary Ellen Hanley died on August 17, 2009, at the age of 80.

John L. Jarrett
John L. Jarrett was a graduate of Washington State University and Gonzaga University School of Law. He practiced law in the Olympia area for more than 30 years. In addition to his practice, Jarrett served as a judge pro tem for Thurston County Family Court and volunteered with Thurston County Volunteer Legal Services. His eclectic interests ranged from creating metal sculpture to online shopping on craigslist.org. He enjoyed morning coffee each day with his father-in-law.

John Jarrett died on October 14, 2009, at the age of 61.
Edward J. Leary
Edward J. Leary was born in Montana and attended the University of Montana. He received his law degree from Gonzaga University School of Law. Leary was the senior vice president of legal and administration at American Sign & Indicator Corporation. He was also the first in-house attorney for Avista (formerly Washington Water Power). He served on the boards of the Spokane Chamber of Commerce, Forward Spokane, Park Board, Rotary Club 21, and the Association of Washington Business. He was an avid golfer and Zags fan.

Edward J. Leary died on February 22, 2009, at the age of 61.

Judge John O. Linde
Judge John O. Linde received his law degree from Willamette University College of Law. After serving as a San Juan County District Court judge for 21 years, as well as court commissioner and Superior Court judge pro tem, he became the first full-time judge to exclusively serve San Juan County in 2008; previously, San Juan and Island counties shared judges. Prior to that, he was principal in the Law Offices of John O. Linde in Friday Harbor since 1987. His community involvement included service on the boards of the Inter Island Medical Center, San Juan Community Theatre, and San Juan Little League.

Judge John O. Linde died on December 3, 2009, at the age of 62.

Carol Marshall
Carol Marshall was born in Ohio and received her law degree from the University of Toledo College of Law. She began her legal career in 1981 with the Lockheed Corporation, where she was one of the first female attorneys at the company. Following Lockheed’s 1986 merger with Martin Marietta, she became vice president of ethics and business conduct, where she used the comic strip “Dilbert” to create a mandatory ethics-awareness program that received the American Business Ethics Award and was recognized by the federal government as an industry standard. Later, she was senior vice-president of ethics and business conduct at MCI, and in 2006 formed her own company, the Marshall Group, assisting companies that did business with the federal government. Marshall was involved in a number of civic and charitable activities; she served on the boards of Community Bible International, the Lockheed Federal Credit Union, and the Business School Advisory Board at Georgetown University.

Carol Marshall died on September 21, 2009, at the age of 56.

Dennis E. McLean
Dennis E. McLean was born in Portland, Oregon, and grew up there and in Los Angeles. After graduating from the University of California Hastings College of Law in San Francisco, he joined the Seattle firm of Davis Wright Tremaine in 1980, where he became partner. His practice focused on commercial real estate, including Russell Investment’s recent relocation from Tacoma to Seattle, and Seattle Children’s Hospital’s acquisitions to improve and expand its facility. In addition to his work, McLean also volunteered his time to personal causes such as Seattle Habitat for Humanity, where he assisted with contracts and acquisitions, served on the board, and raised funds, and the Multiple Sclerosis Society.

Dennis McLean died on November 29, 2009, at the age of 55.

Joe Pemberton Jr.
Joe Pemberton Jr. studied philosophy at Antioch College in Ohio and received his law degree from Gonzaga University School of Law. He came from a family tradition of legal service; his grandfather, William, was nicknamed “the fighting judge,” and his father, Joe Pemberton Sr., was elected city attorney in Bellingham. He was passionate about providing free civil legal aid for low-income individuals, and received an ABA Pro Bono Publico Award in 1989 for his work in establishing LAW Advocates, which provides legal help to about 900 Whatcom County residents each year. He also helped to establish Whatcom Dispute Resolution Center, an organization to mediate conflicts and train people and groups in conflict resolution.

Joe Pemberton Jr. died on November 21, 2009, at the age of 57.

Evelyn Lamotte Foster Read
Evelyn Lamotte Foster Read was born in Helena, Montana, and moved to Olympia in 1940. She received her B.A. and J.D. from the University of Washington. She married Stanbery Foster in 1941 when they were both assistant attorneys general for the state of Washington, and eventually they practiced privately together as Foster & Foster until Mr. Foster died in 1970. The firm continues as Foster, Foster & Schaller.

Evelyn married Vancouver lawyer Dale W. Read in 1979. They retired from their respective law practices in the 1980s. Read was an avid tennis player for over 70 years and was the winner of numerous tennis tournaments in the Puget Sound area. She also received awards and honors, including the Thurston County Bar Association’s Daniel Bigelow Award for Lawyer of the Year in 2000.

Evelyn Lamotte Foster Read died October 26, 2009, at the age of 92.

Judge Stephen Martin Reilly
Judge Stephen Martin Reilly was born in Seattle and left Seattle University during World War II to serve as a bombardier in the Army Air Corps. He graduated from Gonzaga University School of Law, and worked as an assistant attorney general at the state Department of Fish and Game. He was an attorney at the Walthew Law Firm until appointed to the King County Superior Court in 1977, where he served until his retirement in 1989. He loved to fish and took great pride in his Irish heritage.

Judge Stephen Martin Reilly died on November 8, 2009, at the age of 86.

Theodore “Ted” Thomsen
Theodore Thomsen was born in Iowa and loved the small-town atmosphere of his childhood. He attended the University of South Dakota and Iowa State College before enlisting in the United States Navy in 1945, where he was commissioned as an ensign and served in carrier-aircraft maintenance in Hawaii and the Philippines. He received his law degree from Harvard Law School. He moved to Seattle in 1950 to join the law firm now known as Perkins Coie, and made partner in two years. A seasoned world traveler, Thomsen and his wife climbed Kilimanjaro, hiked in the Himalayas, backpacked for four months in Southeast Asia, and bicycled in China and Vietnam; they also enjoyed skiing, hunting, and fishing trips throughout the Pacific Northwest. Thomsen helped to establish the Mountains-to-Sound Greenway Trust, a nonprofit organization that stewards undeveloped land stretching along 100 miles of Interstate 90 from Seattle to central Washington; he also served as founding secretary and as a member of the executive committee.

Theodore Thomsen died on September 19, 2009, at the age of 85.
WSBA Board of Governors Meeting: December 4–5, 2009 — Tacoma

BY MICHAEL HEATHERLY

At the December 4–5, 2009, meeting in Tacoma, the WSBA Board of Governors continued debate over a possible switch to a uniform bar exam and voted to support legislation that would reduce low-level marijuana possession to a civil infraction.

Regarding the bar exam, the governors had begun discussion at their October meeting regarding the possible shift from Washington’s all-essay, state-specific test to a standardized, multistate test, perhaps the Uniform Bar Examination (UBE) organized by the National Conference of Bar Examiners (NCBE). Proponents of such a change cite a national trend toward standardized, multistate material for bar exams. Washington is the only state whose exam contains no such component for either substantive law or ethics.

Representatives of the NCBE — a nonprofit organization based in Madison, Wisconsin — presented information regarding the UBE and faced sometimes challenging questions from BOG members. NCBE President Erica Moeser told the Board that her organization had no interest in denigrating Washington’s existing bar exam or supplanting the state’s own Board of Bar Examiners. While acknowledging that multiple-choice, uniform exams are “hard to love,” Moeser contended that such tests are effective at measuring examinees’ knowledge of law. Adopting a uniform exam across the nation will bring legal practice into line with most other licensed professions, she added.

Moeser summarized other arguments in favor of uniform testing, which include the globalization of legal practice and the necessity for law school graduates to seek employment across state lines in tough economic times. Meanwhile, she addressed concerns about such issues as whether uniform testing would affect the pass rate and restrict what topics can be included on the exam. Washington, like all states, would be free to set the passing score at whatever level it saw fit, she said, and the state could add supplemental tests for topics that are not included in the UBE, such as Indian law.

Another NCBE representative, Susan Case, director of testing, described details of the UBE, which includes multiple-choice questions on general legal principles, as well as essay and performance components. However, much of the discussion among BOG members and staff focused on concerns that the UBE format might unfairly discriminate against women and members of racial or ethnic minorities.

Statistics from past MBE testing (the multiple-choice component of the UBE that already is used in many states) show that over many years members of racial/ethnic minorities consistently score lower than Caucasian examinees (roughly two to eight percentage points lower, according to figures from some recent tests). Women tend to score a few points lower than men, on average, although women do slightly better than men on the essay testing component of the exam.

Some BOG members and others — including WSBA staff and representatives of minority bar associations — questioned whether the NCBE has done enough to ensure that its tests are non-discriminatory. In response, Case argued that the figures show not that the test is discriminatory but that minority test-takers are at a disadvantage to begin with because of disparities throughout the educational system and society in general. Similar disparities appear in testing for other professions, Case said, as well as in undergraduate grade point averages and graduate-school entrance testing, including the Law School Admissions Test.

Because demographic data are not compiled in conjunction with the Washington bar exam, Executive Director Paula Littlewood reported that she is working with the law schools to gather the information so some statistics can be made available for the Washington exam. Some BOG members expressed the opinion that the more flexible scoring used in the all-essay format may be less inherently discriminatory than the absolute scoring used in the multiple-choice MBE.

Also at the December meeting, the BOG voted 9–0 (with two abstentions) to support a bill expected in the 2010 Legislature that would reduce adult possession...
of 40 grams or less of marijuana from a misdemeanor to a class 2 civil infraction carrying a $100 fine. Proponents argue that the change would save $16 million in costs to the criminal justice system annually, while the $100 civil fine will raise nearly $1 million in new revenue.

In previous debate on the issue, some WSBA staff and BOG members had raised concerns that taking a stand on what might turn out to be a sensitive social issue could undercut the bar’s political credibility in Olympia. In debate before the vote, Governor David Heller took that position, adding that he doubted WSBA’s support would be decisive in the bill’s chances of passage by the Legislature.

Other BOG members, however, argued that the bill addressed legitimate concerns regarding not only preservation of the justice system but access to justice. Proponents of the bill contend that the savings it offers will help maintain court services that have been gutted by budgetary cutbacks. Governor Carla Lee asserted that the legislation would further the cause of equal justice, in that criminal prosecution for such acts has historically been pursued disproportionately against members of racial and ethnic minorities.

Meanwhile, the BOG gave a unanimous go-ahead at the December meeting for a build-out and five-year lease of a webcasting studio at a facility about a block from the WSBA office in Seattle. The WSBA will use the studio to broadcast and record CLE programs produced for online viewing by members. Possible future uses include conducting BOG meetings and other WSBA events at the studio and broadcasting them live via the Internet. Thanks in part to reduced rents in the area, WSBA expects to save approximately $28,000 per year on CLE operations by conducting the seminars in its own studio rather than renting hotel space, hiring outside providers to do the recording, etc. Eventually, WSBA plans to webcast substantially more of its CLEs.

In other business at the December meeting, the BOG:

• Voted to sponsor several pieces of state legislation to be introduced in 2010. Legislative Committee Chair Kathleen Kim Coglian and WSBA Director of Justice and Diversity Initiatives Gail Stone presented details of the proposed bills. The Committee received nine requests to sponsor legislation and recommended that WSBA support seven of them, including bills related to the Service Members’ Civil Relief Act; calculation of child support; updating the Washington Limited Liability Company Act; Uniform Trust Code updates; updating exemptions for Retirement and Educational Savings Accounts; receivership statute updates; and increasing personal property exemptions.

• Passed a proposal that encourages and establishes guidelines for WSBA and related entities to participate in social media — including blogs and networking services such as Facebook and Twitter. WSBA and its volunteers, sections, committees, boards, divisions, panels, and related programs could use social media to communicate with Bar members and promote WSBA services and activities.

• Approved supporting proposed court rule GR 35, which would effectively prohibit county courts from imposing their own “user fees” on litigants in addition to the fees authorized by statute or the Supreme Court. Some county clerks and others had opposed the rule, noting that it doesn’t apply to charter counties — including two of the largest counties, King and Pierce — and that it could stifle creation of worthwhile courthouse services. The BOG’s support will be transmitted to the Supreme Court, where the proposed rule is currently pending.

• Postponed until the January meeting a vote on several changes in WSBA membership rules proposed by the Bylaw Review Committee. The set of revisions focus on membership status, the resignation/reinstatement process, and a recommended hardship exemption that would allow waiver of the annual license fee in extreme cases.

• Continued discussion of proposed court rules that would establish specific procedures for discovery and handling of potential evidence defined as Electronically Stored Information (ESI), primarily records and communication created as digital files and saved on computers and similar devices. No action was taken. The Court Rules and Procedure Committee and ESI Subcommittee will continue work on the proposals.

• Heard a presentation by the WSBA Leadership Institute regarding the public-service project created by the 2009 class, a booklet entitled “Your Guide to Turning 18.” The publication provides individuals turning 18 with a basic understanding of legal issues they may encounter as adults. The booklet is being promoted through electronic media and posted on MySpace and Facebook. In addition, it will be distributed to school districts and youth organizations across the state.

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. For more information on issues addressed by the Board, visit the WSBA website at www.wsba.org and click on “News Flash” under “WSBA News and Information.”
The WSBA Board of Governors invites applications for appointments to WSBA committees, boards, and panels. Appointments are limited, and only active WSBA members may be appointed. However, committee meetings are open to the public and may be attended by any member. More information is on the WSBA website at www.wsba.org/lawyers/groups/committees.htm. Brief descriptions of the committees, boards, and panels can be found on page 43. Please note that the WSBA will send appointment letters by September 2010.

Deadline: Completed applications and materials must be received at the WSBA office by March 12, 2010.

You may submit your application online by logging on to myWSBA: www.mywsba.org.

1) Please provide your name, WSBA number, and indicate up to three committee(s), board(s), and/or panel(s) for which you are applying. See page 43 for available committees, boards, and panels.
2) Tell us why you would like to serve, and describe all relevant skills or experience.
3) Attach a résumé or C.V. (strongly encouraged but not required, except for the Hearing Officer Panel). Also, you may, but are not required to, submit up to three letters of recommendation to support your application.
4) Complete the demographic information. Please note that this section is required. If you prefer not to provide this information, please check “Choose not to respond” next to the applicable question.
5) Sign the waiver. Your application will not be processed without your signature.

Materials must be received by March 12, 2010, to be considered for appointment.

Step 1: Provide your name, WSBA number, and committee(s), board(s), and/or panel(s) choices.

Your Name (print) __________________________________________
WSBA number ______________

Indicate which committee(s), board(s), and/or panel(s) you are applying for:

1st choice __________________________________________________________
☐ Check here if you have served on this committee previously. Approximate years of service: ____________
☐ I am interested in serving as chair.

2nd choice __________________________________________________________
☐ Check here if you have served on this committee previously. Approximate years of service: ____________
☐ I am interested in serving as chair.

3rd choice __________________________________________________________
☐ Check here if you have served on this committee previously. Approximate years of service: ____________
☐ I am interested in serving as chair.

Step 2: Describe why you would like to serve, and any relevant skill(s) you may possess.

Why would you like to serve on a particular committee, board, or panel?
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Describe your relevant skills or experience.
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
Step 3: Attach a résumé or C.V. and/or letters of recommendation (optional).

Note: This is optional except for applicants for the Hearing Officer Panel, who are required to submit a résumé or C.V. and a letter of interest.

Step 4: Provide demographic information (required).

The WSBA promotes diversity, equality, and cultural competence in the courts, legal profession, and the bar. In so doing, the WSBA is committed to ensuring that its committees, boards, and panels reflect the diversity of its membership. Please check all boxes that apply.

Ethnicity:  □ American Indian/Native American/Alaskan Native  □ Asian  □ Black/African descent  □ Caucasian/White  □ Pacific Islander  □ Spanish/Hispanic/Latina/o  □ Multi-racial  □ Other __________________
□ Choose not to respond

Gender:  □ Male  □ Female  □ Choose not to respond

Disability:  □ Yes  □ No  □ Choose not to respond

Sexual orientation: Do you openly identify as a sexual minority, to include the following: gay, lesbian, bisexual, or transgender?  □ Yes  □ No  □ Choose not to respond

Number of years in practice: ____________  □ Choose not to respond

Employer:  ______________________________________________________  □ Choose not to respond

Area(s) of practice:  ______________________________________________________  □ Choose not to respond

Number of lawyers in law firm:  □ solo  □ 2–5  □ 6–10  □ 11–20  □ 21–35  □ 36–50  □ 51–100  □ 101+  □ Choose not to respond

Step 5: Sign the waiver.

I understand and agree that as part of the application process, the WSBA routinely checks the grievance and discipline files for any records related to applicants. Thus, I waive confidentiality of these materials to WSBA staff and the Board of Governors.

Signature __________________________  Print name __________________________

E-mail __________________________  Daytime phone __________________________

Please mail, fax, or e-mail (PDF or Word document) to:

Washington State Bar Association
Bar Leaders Division
1325 Fourth Ave., Ste. 600
Seattle, WA 98101
Fax: 206-727-8319
E-mail: barleaders@wsba.org

Application Deadline: March 12, 2010

Log on to myWSBA.org to apply online. Thank you for your interest in serving!
**STANDING COMMITTEES**

**Amicus Curiae Brief Committee**
Reviews all requests for amicus curiae participation by the WSBA, and provides a recommendation to the Board of Governors pursuant to the WSBA Amicus Curiae Brief Policy.

**Continuing Legal Education (CLE) Committee**
Provides policy guidance for the WSBA CLE Department in fulfilling its mission of serving the ongoing education needs of Washington lawyers. Has four subcommittees: quality control, technology, section relations, and programming.

**Court Rules and Procedures Committee**
Studies and develops suggested amendments to designated sets of court rules on a regular cycle of review. Performs the rules study function outlined in GR 9 and reports its recommendations to the Board of Governors. The Evidence Rules (ER) and Infraction Rules for Courts of Limited Jurisdiction (IRCLJ) will be reviewed in 2010–2011. Lawyers with experience or interest in these areas are encouraged to apply.

**Committee for Diversity**
Works to increase diversity within the membership and leadership of the WSBA; promote opportunities for appointment or election of members to the bench; support and encourage opportunities for minority attorneys; aggressively pursue employment opportunities for minorities; and raise awareness of the benefits of diversity.

**Editorial Advisory Committee**
Acts mainly in an advisory capacity, supervising the publication of Bar News, including the recommendation of finalists for the editor position for selection by the Board of Governors, and the establishment of guidelines for format, content, and editorial policy.

**Judicial Recommendation Committee**
Screens and interviews candidates for state appellate court and Supreme Court positions. Recommendations are reviewed by the WSBA Board of Governors and referred to the governor for consideration when making judicial appointments.

**Legislative Committee**
Reviews proposals from WSBA sections for state legislation that relate to the practice of law and the administration of justice, and makes recommendations to the Board of Governors for appointments to the panel. In addition to the WSBA, and pursuant to the Rules for Enforcement of Lawyer Conduct adopted by the Supreme Court. The full board meets at least six times a year, reviewing hearing officer decisions and stipulations. Three-member review committees meet at least an additional three times a year and review disciplinary investigation reports and dismissals. Considerable reading and meeting preparation are required. Four positions are available, one which must be filled by a member from District 1, one by a member from District 2, one by a member from District 4, and one by a member from District 6. Members must have been an active member of the WSBA for at least seven years.

**Pro Bono and Legal Aid Committee**
Deals with questions in the fields of pro bono and legal aid, with respect to: (1) supporting activities that assist volunteer attorney legal services programs and organizations, and encouraging pro bono participation to meet the aspirational goals in RPC 6.1, Pro Bono Publico Service; (2) addressing the administration of justice as it affects indigent persons; and (3) cooperating with other agencies interested in these objectives.

**Professionalism Committee**
Recommends programs to increase professionalism by assisting attorneys in fostering better client relations; improving civility among attorneys; and creating and promoting educational opportunities focusing on issues related to professionalism, ethics, and civility.

**Rules of Professional Conduct Committee**
Considers and responds to inquiries arising under the Rules of Professional Conduct (RPC) and may, upon request, express its opinion to the Board of Governors concerning proper professional conduct.

**REGULATORY BOARDS**

**Board of Bar Examiners**
Prepares the questions and grades the papers for the bar examinations under the direction of the Board of Governors, in accordance with the Admission to Practice rules as approved by the Supreme Court.

**Character and Fitness Board**
Deals with matters of character and fitness bearing on qualifications of applicants for admission to practice law in Washington; conducts hearings on the admission of any applicant; makes recommendations to the Board of Governors and Supreme Court; and considers petitions for reinstatement after disbarment. Three positions are available, one which must be filled by a member from District 1, one by a member from District 3, and one by a member from any district. Members must have been an active member of the WSBA for at least seven years.

**Disciplinary Board**
Carries out the functions and duties assigned to it according to the Rules for Enforcement of Lawyer Conduct adopted by the Supreme Court. The full board meets at least six times a year, reviewing hearing officer decisions and stipulations. Three-member review committees meet at least an additional three times a year and review disciplinary investigation reports and dismissals. Considerable reading and meeting preparation are required. Four positions are available, one which must be filled by a member from District 1, one by a member from District 2, one by a member from District 4, and one by a member from District 6. Members must have been an active member of the WSBA for at least seven years.

**Lawyers' Fund for Client Protection Board**
Pursuant to APR 15, reviews claims for reimbursement of financial loss sustained by reason of an attorney's dishonest actions or failure to account for client funds; decides claims up to $25,000; and makes recommendations to the Board of Governors on claims for greater amounts. Meets four times a year.

**PANELS**

**Adjunct Investigative Counsel (AIC) Panel**
Assists the Office of Disciplinary Counsel as needed pursuant to Rule for Enforcement of Lawyer Conduct 2.9. AIC volunteers may be asked to investigate a grievance against a lawyer; assist staff disciplinary counsel with a portion of an investigation; serve as special disciplinary counsel and represent the Association in the prosecution of a disciplinary case; provide staff disciplinary counsel with an outside opinion on an area of law; serve as a probation monitor following imposition of a disciplinary sanction; serve as a file custodian when a lawyer dies, disappears, or otherwise becomes incapable of protecting clients' interests; or serve as a limited guardian or guardian ad litem for an incapacitated lawyer. Members must have been an active or judicial member of the WSBA for at least seven years with no record of disciplinary misconduct. Appointment is for a five-year term.

**Hearing Officer Panel**
Panel members serve as hearing officers for lawyer disciplinary matters and are expected to make evidentiary rulings, rule on motions, and prepare written findings of fact, conclusions of law, and (as necessary) sanction recommendations according to strict deadlines. Attendance at annual training is required. Hearing officers may not serve as expert witnesses on professional conduct issues, represent respondents in disciplinary matters, or serve as special disciplinary counsel or adjunct investigative counsel. Please review the Rules for Enforcement of Lawyer Conduct, particularly ELC 2.5 to 2.6 and ELC Title 10, prior to applying. A hearing officer must be an active member of the WSBA, have been an active or judicial member of the WSBA for at least seven years, have no record of public discipline, and have experience as an adjudicator or advocate in contested adjudicative hearings. The Hearing Officer Selection Panel reviews applications and makes recommendations to the Board of Governors for appointments to the panel. In addition to the application form, first-time applicants are required to submit a letter of interest (highlighting relevant skills and experience) and resume to the Hearing Officer Selection Panel, WSBA, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539 or elizabethb@wsba.org. Initial appointment is for one year commencing October 1, 2010, and may be followed by reappointment for five-year terms. All application materials and requested information must be submitted in order to be considered for appointment, and the Selection Panel may request additional information during the evaluation process.
Civil legal aid programs currently are experiencing a flood of clients facing homelessness due to foreclosures, a skyrocketing need for bankruptcy assistance, and other serious legal problems as a result of the economic downturn.

Please join us in donating the equivalent of at least one billable hour to the legal community’s annual Campaign for Equal Justice. Your charitable contribution to the Campaign gives our state’s 26 legal aid programs the ability to address critical survival needs of Washington’s most vulnerable.


2009–2010 Campaign Co-chairs Paula Boggs & Bill Neukom

CAMPAIGN FOR
EQUAL JUSTICE

It’s not justice if it’s not equal.
WSBA Presidential Search
Application deadline: May 3, 2010
The WSBA Board of Governors is seeking applicants for the position of WSBA president for 2011–2012. Pursuant to Article IV (A)(2) of the WSBA Bylaws, the primary place of business of candidates for president for 2011–2012 must be Eastern Washington. The WSBA member selected to be president will have an opportunity to provide a significant contribution to the legal profession.

Applications for 2011–2012 WSBA president will be accepted through May 3, 2010, and should be limited to a current résumé, a concise application letter stating interest and qualifications, and no fewer than five or more than 10 references. The Board of Governors will consider endorsement letters received by May 17, 2010. Applications and endorsement letters should be sent to the WSBA Executive Director, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101.

Direct contact with the Board of Governors is encouraged. All candidates will have an interview with the full Board of Governors in open session at the June 4, 2010, Board of Governors meeting in Wenatchee. Following the interviews, the Board will select the president.

Although prior experience on the WSBA’s Board of Governors may be helpful, there is no requirement that one must have been a member of the Board of Governors or had previous experience in Bar activities. The candidate must be willing to devote a substantial number of hours to WSBA affairs and be capable of being a positive representative for the legal profession. The position is unpaid. Some expenses, such as WSBA-related travel, are reimbursed.

The commitment begins in June 2010, following selection. A one-year term as president-elect will begin at the Annual Business Meeting on September 23, 2010. The president-elect is expected to attend the two-day board meetings held approximately every five to six weeks, as well as numerous subcommittee, section, regional, national, and local meetings. In September 2011, at the WSBA Annual Business Meeting, the president-elect will assume the position of president. During his or her service, the president-elect and president will also be required to meet with members of the Bar, the courts, the media, and public and legal interest groups, as well as be involved in the Bar’s legislative activities. Appropriate time will need to be devoted to communication by letter, e-mail, and telephone in connection with these responsibilities.

The duties and responsibilities of the president are set forth in the WSBA Bylaws. The Bylaws can be found at www.wsba.org/info/bylaws.

2010 Notice of Board of Governors Election
Application deadline: March 1, 2010
Four positions on the WSBA Board of Governors will be up for election this year. These are the governors representing the 2nd, 7th Central, and 9th Congressional Districts, and one at-large position. These positions are currently held by G. Geoffrey Gibbs (2nd District), Lori S. Haskell (7th Central District), David S. Heller (9th District), and Brenda E. Williams (at-large).

The WSBA Bylaws provide that any member in good standing, except a member previously elected to the Board of Governors, may be nominated for the office of governor from the congressional district (or geographical region within the 7th District*) in which such member is entitled to vote. Nominations are made by filing a statement of interest and a biographical statement of 100 words or less.

Generally, members are entitled to vote in the congressional district in which the member resides. All out-of-state active WSBA members are eligible to vote in the district of the address of their agent within Washington for the purpose of receiving service of process as required by APR 5(e), or, if specifically designated to the executive director, within the district of their primary Washington practice. However, the member must reside in the congressional district to be eligible for election.

Nominations forms are available from the Office of the Executive Director, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539; by phoning 206-239-2125; and on the WSBA website at www.wsba.org/info/bog/2010bogelections.htm. The WSBA executive director must receive nomination forms by 5:00 p.m. PST on March 1, 2010. The Board of Governors determines the official dates of the election. Paper ballots will be mailed on or about April 15 and must be returned by 5:00 p.m. PDT on May 15. For the second year, the WSBA will also use an electronic voting system. Members with e-mail addresses on file with the WSBA will not receive a paper ballot unless requested. All electronic voting will begin on or about April 15 and must be completed by 5:00 p.m. PDT on May 15.

The at-large governor will be elected by the Board of Governors at its June meeting. See “Call for Applications for One of Two WSBA Board of Governors At-Large Positions.”

Note: Biographical statements of nominated candidates will be published in the May issue of Bar News.

*The 7th Congressional District is divided into three sub-districts: East, Central, and West. These sub-districts are distinguished by zip codes, and each has one elected governor. For the coming year, a governor from the Central sub-district (zip codes are 98101, 98102, 98103, 98104, 98108, 98110, 98111, 98112, 98114, 98124, 98134, 98138, 98148, 98154, 98158, 98161, 98164, 98166, 98168, 98174, 98181, 98184, 98188, 98191) will be elected.

Call for Applications for One of Two WSBA Board of Governors At-Large Positions
Application deadline: March 1, 2010
To increase member representation on the Board of Governors, the WSBA Bylaws provide for two at-large seats. The full text of the Bylaws can be reviewed at www.wsba.org/info/bylaws. One of these seats is up for election to a three-year term commencing at the close of the annual meeting in September 2010.

Persons interested in filling an at-large position should submit a letter of application and current résumé. The Board of Governors will elect the at-large governor at their meeting on June 4, 2010. The application should include a statement addressing how the applicant believes he or she meets the intent specified in Article III, Section N. There is no intent that these seats are dedicated or rotationally filled by any one element of diversity or group of members.

(Excerpt from the WSBA Amended Bylaws, Article III, Section N)
N. ELECTION OF AT-LARGE GOVERNORS. Any active member of the Bar, except a member previously elected to the Board of Governors, may apply for the office of At-Large Governor. Filing of applications shall be in accordance with Section C of this Article.

At the regularly scheduled June meeting of the Board of Governors following the regular election of Governors from Congressional Districts, or at a special meeting called for that purpose, the Board of Governors shall elect additional Governors from the active membership at-large. Election may be by a secret written ballot. There shall be two at-large Governor positions to be filled with persons who, in the Board’s sole discretion, have the experience and knowledge of the needs of those lawyers whose membership is or may be historically under-represented in governance, or who represent some of the diverse elements of the public of the State of Washington, to the end that the Board of Governors will be a more diverse and representative body than the results of the election of Governors based solely on Congressional districts may allow. Under-representation and diversity may be based upon the discretionary determination of the Board of Governors at the time of the election of any at-large Governor to include, but not be limited to, age, race, gender, sexual orientation, disability, geography, areas and types of practice, and years of membership, provided that no single factor shall be determinative.

Members interested in the at-large position on the Board of Governors should submit a letter of application and résumé to the WSBA Office of the Executive Director, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101; or call 206-239-2125 for more information.

Bench-Bar-Press Committee of Washington
Application Deadline: February 12, 2010
The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving on the Bench-Bar-Press Committee of Washington. Two positions are available. A written expression of interest and a résumé are also required for any incumbent seeking reappointment. The term will commence on upon appointment and expire December 31, 2012.

The Bench-Bar-Press Committee was formed in 1963 to foster better understanding and working relationships among judges, lawyers, and journalists. Its mission is to seek to accommodate, as much as possible, the tension between the constitutional values of free press and fair trial through educational events and relationship building. The committee is chaired by the chief justice of the Washington State Supreme Court and includes representatives from the legal profession, judiciary, law enforcement, and news media. The committee meets as a whole once or twice each year. Subcommittees of volunteers are organized on an ad hoc basis to plan and execute events. Further information regarding the committee can be found on the Court’s website at http://tinyurl.com/yfuw6f.

Please submit a letter of interest and résumé to: WSBA Bar Leaders Division, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539 or e-mail barleaders@wsba.org.

Law Clerk Board
Application Deadline: March 12, 2010
The Law Clerk Board is a regulatory board composed of seven lawyers who are appointed for six-year terms. Members are appointed with consideration for the geographic distribution of the law clerks in the program. There are two positions starting October 1, 2010; one will serve primarily Eastern Washington and one Western Washington. The Board is composed of both law school graduates and those who completed the Law Clerk Program; a balance of experience is sought.

Each Board member acts as liaison for an average of seven law clerks enrolled in the program. Liaisons receive monthly exams and certificates to review and assess the law clerks’ progress. At quarterly meetings, liaisons make recommendations to the Board on petitions of enrolled law clerks and on the admission of new law clerks and tutors to the program, as well as other issues. Screened applicants to the program are required to meet in person with a liaison, so liaisons must be willing to host meetings in their offices or travel to the potential tutors’ offices. The time commitment is generally four to eight hours per month in addition to the quarterly six-hour meetings and possible special meetings and projects.


To apply for appointment to the Law Clerk Board, submit a letter of application and résumé to: WSBA Bar Leaders Division, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539.
Oregon Supreme Court Approves Amendment to Reciprocal Admissions Rule
On December 2, 2009, the Oregon Supreme Court approved an amendment to the reciprocal admissions rule. The new rule, effective January 1, 2010, will greatly expand the number of jurisdictions from which lawyers can be licensed in Oregon without having to take and pass the Oregon bar exam. Likewise, Oregon State Bar members will now be eligible to become licensed in these jurisdictions without an exam, making it easier for Oregon lawyers to work with clients whose legal matters and business crosses state lines. Although the rule would require proof of active practice for five of the seven preceding years, Washington (and other current reciprocity states) will retain the three-of-five year rule until December 31, 2015. Read the full text of the rule at www.osbar.org/_docs/admissions/15.05final.pdf.

Seeking Questionnaires from Candidates for Judicial Appointments
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 date 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/judicialrecommendation or contact the WSBA at 206-727-8212 or 800-945-9722, ext. 8212; or e-mail judithb@wsba.org.

MCLE Certification Information for Active Members
Due date for MCLE credit completion and certification
WSBA members are divided into three MCLE reporting groups based upon year of admission. (Newly admitted members are exempt. See “Newly Admitted Members,” below.)


Newly admitted members
If you are a newly admitted member, you are exempt from reporting CLE credits for the year of your admission and the following calendar year. For example, if you were admitted in 2008, you will not report for this reporting period (2007–2009) even though you are in Group 3. You will first report and certify credits at the end of the 2010–2012 reporting period. For your first reporting period, you may claim all CLE credits earned on or after your date of admission to the WSBA.

Credit requirements
• At least 45 total credits of MCLE Board-approved CLE activities must be taken,

Online Licensing for 2010
Deadline: February 1, 2010. If any portion of your license fee or late fee remains unpaid, or if you are on Active status and haven’t paid your Lawyers’ Fund for Client Protection assessment or filed your Professional Liability Insurance Disclosure after two months’ written notice of your delinquency, a recommendation for suspension will be submitted to the Supreme Court. You may file the disclosure either online at www.mywsba.org or on the A1 License Renewal form. Check www.wsba.org/licensing for detailed instructions.

MCLE Certification for Group 3 (2007–2009)
Active WSBA members in MCLE Reporting Group 3 (2007–2009) received Continuing Legal Education Certification (C2/C3) forms in license packets mailed in mid-October. Lawyers in Group 3 include active members who were admitted to the bar in 1984 through 1990, 1993, 1996, 1999, 2002, and 2005. Members admitted in 2008 are also in Group 3 but are not due to report until the end of 2012. Their first reporting period will be 2010–2012; any credits earned on or after the day of admission may be counted for compliance.

To avoid late fees, Group 3 members who are due to certify compliance should have completed required credits by December 31, 2009; and should have certified compliance by February 1, 2010.

See the “MCLE Certification Information for Active Members” article below for important information about the MCLE compliance process. If you have questions, please contact the WSBA Service Center at 800-945-WSBA (9722), 206-443-WSBA (9722), or questions@wsba.org.

Attention: Class Action and Personal Injury Attorneys
Reach people who need your services now!
Grow your local client base with targeted online advertising that showcases your competitive edge.

Call Today
206.819.4247
253.365.3354

Attention: Class Action and Personal Injury Attorneys
Reach people who need your services now!
Grow your local client base with targeted online advertising that showcases your competitive edge.

Call Today
206.819.4247
253.365.3354

PUGET SOUND DIGITAL NETWORK
In partnership with YAHOO!
including a minimum of 22.5 live credits and a minimum of 6 ethics credits.

- Credits required for compliance must be completed by December 31 of the last year of your reporting period.
- Courses must meet the requirements of APR 11 to be accredited, but they do not need to be taken in Washington state. Many courses are offered around the world which meet the requirements of APR 11.
- “Live” courses are held at a specific time; they are not pre-recorded. During the course, attendees have the opportunity to ask questions of the instructor(s) and hear the questions of others in real time. Live courses include teleconferences, webinars, and webcasts as well as traditional in-person events.
- “A/V” courses are pre-recorded. These courses are the only type that can be used for earning “self-study” credits. A/V courses include audio and video tapes, compact discs, DVDs, archived webcasts, and other media that include the soundtrack of an MCLE Board-approved course presentation. These programs cannot be more than five years old from the date of recording, except MCLE Board-approved “skills-based” courses. Written materials must be included with the A/V program and reviewed by the applicant to earn credit. Written materials must be purchased by each member, when required by the sponsor, to claim CLE credit for listening to or viewing an A/V program borrowed from another party.
- “Ethics” courses, and sessions of larger courses devoted exclusively to ethics, must meet the specific requirements of APR 11 Regulation 101(g) to be considered for ethics credit.
- “Read-only” and “read-and-test” courses are not accreditable in Washington.

**MCLE compliance certification requirement**

All active members due to certify MCLE compliance are required to: (1) complete the credit requirements, and (2) certify the credits taken for MCLE compliance. Your online roster showing credit compliance is not a substitute for certifying MCLE compliance (APR 11.6(b)). You must complete the online certification process or submit a completed CLE Certification (C2/C3) form.

**Online certification**

If you are credit-compliant, online certification is available for the first time this year through www.mywsba.org. Go to www.mywsba.org (Note: You must have a valid e-mail address on file with the WSBA to log in. If this is your first time accessing your MCLE roster through www.mywsba.org, you must use the “Reset password” link to set up a new password. Your user name will still be your Bar number. If you do not have a valid e-mail address on file, contact the Service Center at questions@wsba.org or by phone at 800-945-9722 or 206-443-9722 to have an e-mail address added to your records.) Log in and click on the “MCLE Reporting — C2/C3” link to access your online MCLE certification form.

**Paper certification**

If you do not want to certify online or are not credit-compliant, you can file a Continuing Legal Education Certification (C2/C3) form listing all CLE courses taken for credit compliance. Note:

- C2/C3 forms are included in the license packets mailed in mid-October to all members due to report and certify credits (Group 3 members this year).
- The data printed on the C2/C3 form is taken from your online MCLE roster in mid-September.
- If you earn more credits after the C2/C3 form was printed, add them to the form.
- All courses you list on the form must be approved by the MCLE Board. Approved courses have an Activity ID number. (See the “Course approval” section.)
- You must verify that the credits listed on the C2/C3 form are accurate. The credits for CLE courses you took should reflect your actual attendance. Credits on your online MCLE roster may be edited by clicking on the “edit” link next to each course. Credits on the C2/C3 form may be corrected manually.
- If you do not want to handwrite the additional credits you earned on the back of the C2 form, you may print a copy of your online MCLE roster and attach it to your C2/C3 form. State on your C2/C3 form that the attached roster printout is a true and correct statement of the CLE courses taken for credit compliance. Alternatively, you may print an updated C2/C3 form from the link on your mywsba home page. The C3 side should include all courses that are on your online roster as of the date of printing.

- The C2/C3 form is a declaration and must be signed and dated, and the location where signed must be identified.

**Deadlines**

All required credits must be completed by December 31 of the last year of your reporting period. All credits must be certified by February 1 of the year following the end of your reporting period (or the next business day, if February 1 is on a weekend) (APR 11.2(a)).

**Grace period elimination**

There is no grace period for certifying compliance. You must complete the online MCLE certification process (if you are credit-compliant) at www.mywsba.org or postmark or deliver your C2/C3 form by February 1 (APR 11.6(b)).

**Credits not complete — no automatic extension until May 1**

There is no automatic extension. If your credits are not complete by December 31 of the last year of your reporting period, you must complete these requirements by the following February 1: File a C2/C3 form listing the credits taken to date even though you have not completed the credit requirements. Then file a Supplemental Declaration form for all subsequent credits earned for compliance (APR 11.6(b)). Submit a petition to the MCLE Board. Provide a complete explanation as to the reason that you need an extension. The Board will consider factors of undue hardship, age, or disability in determining whether an extension will be granted (APR 11.6(c)(4) and APR 11 Regulation 107(a)).

**MCLE late fees**

Late fees are assessed when credits are not completed by December 31 of the last year of your reporting period and/or credits are not certified by February 1. Credits may be certified online, or postmark or deliver the
C2/C3 certification form to WSBA by the deadline. The late fee for the first reporting period of non-compliance is $150 and increases by $300 for each consecutive reporting period of non-compliance.

**MCLE comity**
If you are an active member of the WSBA and your primary office for the practice of law is outside of Washington and if you are a member of the Oregon, Idaho, or Utah state bars (“comity” states), you may meet your Washington mandatory CLE requirements by providing proof of current MCLE compliance from your comity state bar. Only a Certificate of MCLE Compliance — from your comity state bar office — sent with your WSBA C2/C3 form will satisfy your MCLE requirements in Washington. The forms must be postmarked or delivered by February 1.

Note: A “Certificate of Good Standing” or a list of courses taken to meet your comity state’s credit compliance requirements is not acceptable for fulfilling the comity requirements. Your Washington state and your comity state reporting periods do not need to be identical. To meet compliance requirements in Washington, your Certificate of Compliance from the comity state just needs to show that you met the MCLE compliance requirements for your most recent comity state reporting period.

**Course approval**
All courses that you list on your C2/C3 form must be Washington MCLE-Board approved and have an Activity ID number. This number is listed in your online MCLE roster and is assigned at the time of application. A “Certificate of Attendance” or other sponsor-provided certification is not sufficient for receiving course credit.

If you have taken courses that are not yet approved by the MCLE Board, submit Form 1s for these courses immediately to ensure that they are approved before your certification is due. See www.wsba.org/lawyers/groups/mcle/mcleboardform1.htm for information about submitting a Form 1.

Each Form 1 application must include a full agenda in order to receive credit. The agenda must include the start and end times for each session and break. Because of high volumes from October through February, Form 1s submitted online could take up to four weeks or more to process. Paper Form 1s may take up to six weeks or more to process. If you submit a paper Form 1, you will be notified by mail of its Activity ID number.

**Pro bono credits**
Six pro bono credits can be earned per year (APR 11 Regulation 103(f)). Of the six credits, two are for the required annual pro bono training. Four credits may be earned per year for pro bono service credits if at least four hours of pro bono work were provided through a qualified legal services provider and if two credits of approved pro bono training were completed within the same calendar year.

**New MCLE rule and regulation amendments**
New MCLE rule and regulation amendments went into effect on January 1, 2009. The amendments include: the number of live credits required was reduced from 30 to 22.5; the number of A/V credits allowed (of the 45 required) was increased from 15 to 22.5; there is no longer an automatic extension; and a member may earn no more than eight credits per day taking courses. See www.wsba.org/lawyers/groups/mcle/apr11review07.html for more information.

**In-house CLEs**
Beginning with the 2007–2009 reporting period, there are no restrictions on the number of in-house credits that a lawyer may claim for compliance. However, lawyers associated with or employed by a private law firm or corporate legal department that maintains an office within Washington state may not apply to receive credit for a continuing legal education course sponsored by that private law firm or corporate legal department. The sponsor must apply for accreditation. (APR 11 Regulation 104(b)(2)).

**MCLE system**
You may use the online MCLE system to review and edit courses taken and credits earned; apply for course approval; apply for prep time, pro bono, moot court, or writing credit; and search for upcoming approved courses.

**Questions**
If you have any questions about using the MCLE system or about the MCLE compliance requirements, see www.wsba.org/lawyers/licensing/faq-mcle.htm, www.wsba.org/lawyers/licensing/faq-mcle-courses.htm, and www.wsba.org/lawyers/licensing/faq-mcle-credits.htm, or contact the WSBA Service Center at 800-945-WSBA (9722), 206-443-WSBA (9722), or questions@wsba.org.

**Changes Regarding IOLTA Accounts**
The Washington State Supreme Court issued an order on November 5, 2009, which became effective on December 1, 2009, that amends the Rules of Professional Conduct (RPC) and Rules for Enforcement of Lawyer Conduct (ELC) governing the Washington IOLTA (Interest on Lawyers’ Trust Accounts) program. RPC 1.15A and ELC 15.4 were amended, and a new ELC 15.7 was created. These changes affect your bank’s current IOLTA account policies.

Under the rule changes, banks offering IOLTA accounts are required to comply with a new “comparability rule.” Comparability means that IOLTA accounts must earn a comparable rate of interest with non-IOLTA accounts of similarly sized demand accounts. In other words, IOLTA accounts must earn the same level of interest as non-IOLTA accounts.

Within the next few months, the Legal Foundation of Washington (LFW) will be working with financial institutions to comply with the new rules. These changes should not impact lawyers. If a financial institution decides to stop offering IOLTA accounts, it will notify its customers accordingly (although in experience nationwide this has not occurred).

Additionally, under the rule changes, the LFW, rather than the Washington State Bar Association, will maintain the list of financial institutions that are authorized to offer IOLTA accounts. These financial institutions must comply with the comparability rules and report overdrafts on lawyer trust accounts to the WSBA.

The list of approved banks can currently be found at www.wsba.org/info/operations/finance/iolta.htm. Once the transition has been made, the list will be posted on the LFW’s website and a link will be provided on the WSBA website.

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

LAP/LaSD Statewide Conference
The WSBA Lawyer Services Department (LAP and LOMAP) presents its 13th annual Statewide Conference, “Creating Extraordinary Effectiveness in Your Law Practice,” April 16–18, 2010, at Campbell’s Resort on Lake Chelan. Registration is $140 and includes nine CLE credits (pending) and all meals. Room rates are $98–118 (to be paid by attendees). This year’s presentations will explore “Fostering Positive Intergenerational Understanding: Professionalism, Civility, and Cooperation,” “Setting the Tone for Effective Client Relations,” “The Role of Effective Communication and Emotional Intelligence in Practicing Law: How It Makes a Difference,” “How to Communicate Your Practice Through Your Website,” “Protecting Client Interest in Case of the Disability or Death of a Lawyer,” and “An Update on Issues and Rule Changes in the Past Year.” To register before the April 2 deadline, visit www.wsbalap.org or call 206-733-5914.

New from WSBA-CLE Publications: “The Trilogy” Updated through 2009
Save on three updated motor vehicle deskbooks from WSBA-CLE Publications. If your practice involves motor vehicle accidents and insurance issues, you’ll want to have a trusted resource to guide you. The Washington Motor Vehicle Accident Deskbook, Washington Motor Vehicle Accident Insurance Deskbook, and Washington Motor Vehicle Accident Litigation Deskbook are written by Washington lawyers for Washington lawyers and have all been updated through 2009. Order all three and save $60. Go to www.wsbacle.org and select “Deskbooks” and “Litigation” to review full tables of contents and order.

CourtTrax Court Docket Research Service
CourtTrax is a web-based court docket research service available to WSBA members at a discounted price. Using CourtTrax, you can search court records across the country, and download or order any available court documents. For more information, see the WSBA website at www.wsba.org (click on CourtTrax FAQ in the right sidebar). Based in Bellevue, CourtTrax has been providing online court information search and retrieval services since 2004.

55 and Over?
WSBA’s Lawyers Assistance Program sponsors the “Lawyers in Transition: Attorneys 55 and Over” group. A range of topics will be covered, such as making changes in one’s career, nurturing interests outside of the law, and giving and receiving support to fellow lawyers. The group meets at the WSBA offices the first and third Tuesday of each month from 10:30 to 11:45 a.m. The cost is $10 per session. If you are interested in taking part or have questions or recommendations, please contact Dr. Dan Crystal at 206-727-8267 or danc@wsba.org.

Casemaker Online Research
Casemaker is a powerful online research library provided free to WSBA members. To access Casemaker, go to the WSBA website at www.wsba.org and click on the Casemaker logo on the right sidebar or go to www.mywsba.org and click on Access Casemaker in the left sidebar. Click on the Casemaker button to begin. For help using Casemaker, contact Julie Salmon at 206-733-5914, 800-945-9722, ext. 5914, juliesa@wsba.org, or call the WSBA Service Center at 800-945-WSBA (9722) or 206-443-WSBA (9722).

Lawyer Services Solution of the Month: Stress Reduction
Sometimes it’s tempting to reduce stress by over-doing alcohol, prescription drugs, food, sex, gambling — even work. These methods often provide short-term relief and long-term pain, effectively giving you another problem to cope with down the road. Learn to reduce your stress without self-harm. If you need a hand, call the Lawyers Assistance Program at 206-727-8268 or 800-945-9722, ext. 8268.

Get More Out of Your Software
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 February 8 clinic will be held from 10:00 a.m. to noon at the WSBA office and will focus on using Outlook and other practice management software. The February 11 clinic will meet from 2:00 to 4:00 p.m. and will focus on using Adobe Acrobat Professional (not the Reader). For more information or to RSVP, contact Julie Salmon at 206-733-5914, 800-945-9722, ext. 5914, or juliesa@wsba.org.

Monthly Job Search Session
Join us February 10 to discuss the nuts and bolts of the job search process. These meetings take place the second Wednesday of each month from noon to 1:30 p.m. at the WSBA sixth floor conference center. For more information, call 206-727-8267 or e-mail danc@wsba.org. Come as you
are — no need to RSVP unless you would like to attend the meeting by telephone (RSVP by February 9 at 206-727-8268).

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

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

**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.

**Speakers Available**
The WSBA Lawyers Assistance Program offers speakers for engagements at county, minority, and specialty bar associations, and other law-related organizations. Topics include stress management, life/work balance, and recognizing and handling problem-personality clients. Contact Barbara Harper at 206-727-8265, 800-945-9722, ext. 8265, or barbara@wsba.org.

**Assistance for Law Students**
The Lawyers Assistance Program offers counseling to third-year law students attending Washington schools. Sessions are held in person or by phone. Treatment is confidential and available for depression, addiction, family and relationship issues, health problems, and emotional distress. A sliding-fee scale is offered ranging from $0–30, depending on ability to pay. Call 206-727-8268, 800-945-9722, ext. 8268, or visit www.wsba.org/lawyers/services/lat.htm.

**Weekly Job Finders Strategy and Support Group**
Unemployed? Discouraged — or trying not to be? Our weekly job group focuses on job search basics such as résumés, cover letters, and informational interviewing. The group meets on Monday mornings from 10:30 to noon, and new groups begin every eight weeks. Contact Dr. Dan Crystal at 206-727-8267, 800-945-9722, ext. 8267, or danc@wsba.org if you are interested in this group.

**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.

**Northwest Justice Project — Notice of Public Meetings**
Year 2010 quarterly meetings of the Board of Directors of the Northwest Justice Project, a 501(c)(3) not-for-profit organization which provides civil legal services to eligible low-income clients, will be held on the following dates: January 30, 2010; April 17, 2010; July 17, 2010; and October 23, 2010. The Northwest Justice Project receives primary funding from the state and through the federal Legal Services Corporation and maintains 13-plus offices throughout Washington state. These public meetings generally commence at 9:00 a.m. While they are usually held in Seattle for cost economy reasons, and to accommodate Board member travel, specific meeting sites may vary from meeting to meeting based on space availability or other program purposes. All meetings are open, except that limited portions may be closed, pursuant to a vote of a majority of the Board of Directors, to hold an executive session. In such sessions, the Board reviews, considers and, in some cases, votes upon matters related to: 1) litigation to which the program is or may become a party; or 2) internal personnel, operational, investigative, and sensitive labor relations matters. Any such closed sessions will be as authorized by pertinent laws and regulations and will be duly noted, in summary form, in open session and corresponding minutes. Closed sessions will also be formally certified by the program’s executive director or general counsel as authorized. A copy of the certification will be maintained for public inspection at the program’s main office located at 401 Second Ave. S., Ste. 407, Seattle, WA 98104, and will be otherwise available upon request. For specific meeting site information or the need for any reasonable accommodations for disabilities or non-English language assistance, call Lisa Giuffré at 206-464-1519 or 888-201-1012.

**Upcoming Board of Governors Meetings**
**March 5–6, Bremerton • April 23–24, Port Angeles • June 4, Wenatchee**
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 January 2009 was 0.183 percent. Therefore, the maximum allowable usury rate for February is 12 percent. Information from January 1987 to date is on the WSBA website at www.wsba.org/media/publications/barnews/usury.htm.
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.

### Disbarred

**Ellen J. Hong** (WSBA No. 33632, admitted 2003), of Seattle, was disbarred, effective November 16, 2009, by order of the Washington State Supreme Court following approval of a stipulation. In stipulating to disbarment, Ms. Hong affirmatively admitted that there was a substantial likelihood the WSBA could prove by a clear preponderance of the evidence sufficient violations of the Rules of Professional Conduct supporting disbarment, but did not affirmatively admit all the facts and misconduct. This discipline resulted from conduct involving the commission of a criminal act and dishonesty.

The misconduct described in the Findings of Fact and Conclusions of Law for In re the Estate of Elizabeth L. King (attached and incorporated into the stipulation but not affirmatively admitted by Mr. King) are as follows:

Between December 2006 and August 2008, Ms. Hong received settlement funds on behalf of 31 separate clients, each of which Ms. Hong was representing in personal injury actions. Ms. Hong received and deposited into her trust account settlement funds for each client ranging from between $1,100 and $120,000. Ms. Hong failed to pay the entire balance of settlement funds belonging to clients pursuant to the fee agreements that Ms. Hong had with each of the clients. The unpaid balance of settlement funds for each client ranged from $733 to $26,511.72. In three of these personal injury actions, the clients involved did not agree to the settlements and did not endorse the settlement checks. In all but five of these personal injury actions, some or all of the unpaid settlement funds should have been paid to the clients’ insurance companies, each of which had unpaid subrogation claims on the settlement funds.

Ms. Hong’s conduct violated RPC 8.4(b), prohibiting a lawyer from committing a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects; and RPC 8.4(c), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Christine E. Gray represented the Bar Association. Kurt M. Bulmer represented Ms. Hong.

### Disbarred

**Philip M. King** (WSBA No. 1470, admitted 1969), of Mercer Island, was disbarred, effective October 30, 2009, by order of the Washington State Supreme Court following approval of a stipulation. In stipulating to disbarment, Mr. King affirmatively admitted that there was a substantial likelihood the WSBA could prove by a clear preponderance of the evidence sufficient violations of the Rules of Professional Conduct supporting disbarment, but did not affirmatively admit all the facts and misconduct. This discipline resulted from conduct involving the commission of a criminal act and dishonesty.

The misconduct described in the Findings of Fact and Conclusions of Law for In re the Estate of Elizabeth L. King (attached and incorporated into the stipulation but not affirmatively admitted by Mr. King) are as follows:

Mr. King’s mother died on May 19, 2002. Her will was admitted to probate and Mr. King was appointed personal representative of her estate, with non-intervention powers, in June 2002. Mrs. King’s will provided for distribution of her estate into three equal parts: one-third to her son, Phillip King; one-third to her daughter; and the remaining one-third in equal parts to each of her six grandchildren, the descendants of a deceased son. On January 22, 2003, Mrs. King’s daughter filed and served a Request for Special Notice under RCW 11.28.240. Mr. King failed to comply with his fiduciary duties and provide petitioner with written notice before making distributions to himself or others from estate funds and assets after January 23, 2003.

For at least five years before his mother’s death, Mr. King served without compensation as Mrs. King’s attorney-in-fact under a General Power of Attorney, but did not file her personal tax returns for the time period 1997–May 19, 2002. In the two years before her death, Mr. King transferred via check and wire transfer over $300,000 from Mrs. King’s accounts to his personal bank account for his personal use. Upon Mrs. King’s death and Mr. King’s subsequent appointment as Personal Representative, Mr. King disclosed only $65,000 of his debts to the estate. Mr. King concealed, and made no attempts to disclose, account for, or recoup or repay his remaining debt to the estate totaling $236,173.24. The net value of the estate as of Mrs. King’s death was $818,349.53. Mr. King significantly underrepresented the value of the estate in three filings, under oath, with the court. Mr. King commingled estate funds with his personal funds and used estate funds to pay his personal expenses. Mr. King over-distributed estate funds to himself and left insufficient funds to pay the amount due to other beneficiaries.

In April 2007, Mr. King placed funds in an IOLTA account opened and controlled by his lawyers, including $10,000 as a reserve to pay his sister’s attorney’s fees and costs. That amount was deficient by at least $169,538.27 to pay remaining outstanding distributions to beneficiaries of the estate. In addition, his failure to timely file individual tax returns for Mrs. King (1997–May 19, 2002) until September 11, 2007, resulted in overpayment of approximately $18,000 that would have been refunded to Mrs. King during her lifetime or, subsequently, to her estate. Mr. King did not timely file estate tax returns and failed to comply with the court’s April 13, 2007, Preliminary Order directing “[w]ithin sixty (60) days after entry of this Order, the Personal Representative shall file all tax returns related to the Estate.” The estate tax returns for the year ending April 30, 2006, were not filed until September 11, 2007. Mr. King’s non-intervention powers were restricted by the court on April 13, 2007 and suspended on September 14, 2007.

Mr. King’s conduct violated RPC 8.4(b), prohibiting a lawyer from committing a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects; and RPC 8.4(c), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Erica Temple represented the Bar Association. Mr. King was represented by Leland G. Ripley and by himself.

### Suspended

**S. Richard Hicks** (WSBA No. 6612, admitted 1976), of Normandy Park, was suspended for two years, effective August 27, 2009, by order of the Washington State Supreme Court following an appeal. This discipline resulted from conduct involving trust account irregularities, failure to maintain complete records of all client funds coming into his possession, and misrepresentation. For further information, see In re Disciplinary Proceeding Against Hicks, 166 Wn.2d 774, 214 P.3d 897 (2009). S. Richard Hicks is to be distinguished from Judge Richard David Hicks of Olympia.

Following a series of overdrafts on his trust...
account between May and June 2005, the Bar Association audit manager conducted an audit of Mr. Hicks's trust account, covering the time period June 2004 through June 2006. During the audit period, Mr. Hicks was found to have failed to maintain adequate records regarding client funds in his possession, failed to deposit and maintain all client funds in trust (by failing to deposit into trust advance fees or cost deposits, and by having a shortage in the account), and deposited lawyer funds into his pooled IOLTA trust account.

In 1994, Mr. Hicks entered into a contingent fee arrangement with client S.E.; the terms of the agreement were one-third of the recovery plus costs. S.E.'s matter was settled for $10,000 in 1995 and the case was dismissed. In 1999, Mr. Hicks entered a judgment in favor of S.E. in the amount of $126,612.95. From 1998 until November 2004, Mr. Hicks collected sporadic payments, from which he disbursed two-thirds to S.E. and retained one-third for his fees. On an isolated occasion, in November 2004, client S.E. offered to let Mr. Hicks keep the entire payment of $600 received as his fees (two-thirds of which would be $400). In March 2005, Mr. Hicks received an additional payment and informed S.E., who informed Mr. Hicks that he wanted to return to the original payment arrangement; Mr. Hicks disbursed the payment per the agreement, two-thirds to S.E. and one-third as his own fees. In his March 29, 2005, letter to S.E., Mr. Hicks stated, inter alia: "Normally in a settlement such as this, the attorney deducts the whole fee at the front end...." In the same letter, Mr. Hicks disbursed a check representing two-thirds of the most recent payment. RPC 1.5(c) prohibits a lawyer from deducting the whole fee at the beginning of a series of payments. Mr. Hicks was unaware of RPC 1.5(c) in November 2004. During the course of the audit, Mr. Hicks was made aware that, despite the voluntary offer of client S.E., the retention of the $400 violated RPC 1.5(c). Mr. Hicks repaid the $400 at 12 percent interest to S.E. on December 16, 2006.

The Bar Association's Office of Disciplinary Counsel (ODC) opened a grievance against Mr. Hicks as a result of a January 14, 2005, overdraft of his trust account. The Bar Association requested that Mr. Hicks provide an explanation of the overdraft. In response, Mr. Hicks provided a letter dated January 28, 2005, in which he stated that the overdraft occurred "as a result of an oversight, in failing to record into the computer a check drawn against the account and thereafter making a separate check payment to a client...." At the time of the overdraft, the only funds in the account belonged to one client (S.B.) and all payments were to or for the benefit of that one client. Also, Mr. Hicks did not record trust account transactions in the computer at that time and, by the January 14, 2005, overdraft or January 28, 2005, letter, there were no client funds in Mr. Hicks's trust account. The funds in the trust account were Mr. Hicks's own funds. The funds given to S.B. were unrelated to Mr. Hicks's representation of her, and were paid as a result of Mr. Hicks's personal obligation to S.B., not as payments to a client. At a deposition taken by disciplinary counsel on December 18, 2006, in connection with this grievance, Mr. Hicks testified that he "fudged things" when he responded to the Association's inquiry in January 2005. By "fudging[ ] things," Mr. Hicks meant that the information was inaccurate and that "the reading of [the letter is] different than, you know, the facts." At hearing, Mr. Hicks acknowledged that he "wasn't being fully cooperative" when he wrote the letter. Based on the January 2005 letter, the Association dismissed the pending grievance, which it would not have done if the auditor was aware that Mr. Hicks had no client funds in his account at the time of the overdraft.

Mr. Hicks's conduct violated former RPC 1.14(a), requiring that all funds of clients paid to a lawyer or law firm be deposited into one or more identifiable interest-bearing trust accounts and no funds of the lawyer be deposited therein; RPC 1.14(b)(3), requiring a lawyer to maintain complete records of all funds, securities, and other properties of a client coming into possession of the lawyer and render appropriate accounts to his or her client regarding them; RPC 8.4(c), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; and ELC 5.3(e)(1), requiring a lawyer to furnish in writing, or orally if requested, a full and complete response to inquiries and questions [made under these rules for information relevant to grievances or matters under investigation].

Sachia Stonefeld Powell represented the Bar Association at hearing. Scott G. Busby represented the Bar Association on appeal. Mr. Hicks represented himself. Susan H. Amini was the hearing officer.

Suspended

Michael Ray Karber (WSBA No. 24044, admitted 1994), of Phoenix, Arizona, was suspended for 21 months, effective July 28, 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 Arizona. This discipline is based on conduct involving failure to act with diligence, failure to communicate, failure to protect clients' interests, failure to cooperate with a bar association investigation, commission of a criminal act, and engaging in conduct prejudicial to the administration of justice. For more information, see Arizona Attorney (December 2009), available at www.azabar.org.

Mr. Karber's conduct violated Arizona's ER 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; Arizona's ER 1.4, requiring a lawyer to promptly inform the client of any decision or circumstance with respect to which the client's informed consent is required by the rules, reasonably consult with the client about the means by which the client's objectives are to be accomplished, keep the client reasonably informed about the status of the matter, promptly comply with reasonable requests for information, consult with the client about any relevant limitation on the lawyer's conduct, explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation, and, in a criminal case, promptly inform a client of all proffered plea agreements; Arizona's ER 1.16(d), requiring a lawyer, upon termination of representation, to take steps to the extent reasonably practicable to protect a client's interests; Arizona's ER 8.1(b), prohibiting a lawyer, in connection with a disciplinary matter, from failing to disclose a fact necessary to correct a misapprehension; Arizona's ER 8.4(b), prohibiting a lawyer from committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; and Arizona's ER 8.4(d), prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice.

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

Suspended

Larry A. Neal (WSBA No. 15644, admitted 1986), of Vancouver, was suspended for six months, effective November 13, 2009, by order of the Washington State Supreme Court following approval of a stipulation. This discipline is based on conduct involving the commission of a felony.

On or about March 12, 2009, law enforcement officers searched Mr. Neal's house in connection with an investigation of a family member. During the search, they seized approximately 160 grams (approximately five ounces) of marijuana from Mr. Neal's bedroom. On March 27, 2009, the Clark County Prosecutor filed an Information charging Mr. Neal with violating RCW 69.50.4013(1), possession of over 40 grams of marijuana. This offense is a felony. On May 28, 2009, Mr. Neal pleaded guilty to the Information.

Mr. Neal's conduct violated RPC 8.4(b), prohibiting a lawyer from committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; and RPC 8.4(i), prohibiting a lawyer from committing any act involving moral turpitude, or corruption, or any unjustified act of assault or other act which reflects disregard for the rule of law, whether the same be committed in the course of his or her conduct as a lawyer, or otherwise.

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

Suspended

Brian J. Sunderland (WSBA No. 22665, admitted 1993), of Clackamas, Oregon, was suspended for three years and nine months, effective August

February 2010 | Washington State Bar News  53
advice of a previous lawyer. Although Mr. Nuamah was aware of the circumstances, he did not advise Client B to raise an ineffective assistance of counsel claim. When the matter came on for hearing, Mr. Nuamah did not prepare Client B to testify regarding the former counsel. When the immigration judge indicated he was denying the asylum request, he inquired whether Client B would consent to waiving the right to appeal. Without fully explaining to Client B the significance of such a waiver, Mr. Nuamah informed the judge that Client B had consented to waiving the right to appeal. Client B hired a new attorney, who brought a motion to reopen the matter based on ineffective assistance of counsel.

Mr. Nuamah’s conduct violated RPC 1.1, requiring a lawyer to provide competent representation to a client; RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; and 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.

Leslie C. Allen represented the Bar Association. William L. Cameron represented Mr. Nuamah. David A. Summers was the hearing officer.

Reprimanded

T. Reinhard G. “Ron” Wolff (WSBA No. 4146, admitted 1970), of Conway, was ordered to receive a reprimand on November 14, 2008, following approval of a stipulation. This discipline is based on conduct involving failure to act diligently, failure to communicate, and conflicts of interest.

In April 2006, Clients hired Mr. Wolff to represent them in foreclosing on a second Deed of Trust they held on a piece of real property. The holder of the first Deed of Trust was in the process of foreclosing on its note. Mr. Wolff arranged for the sale of the Clients’ note to one of his longtime friends, who Mr. Wolff had also represented in a number of matters, for the purchase price of $15,000. Mr. Wolff drafted a new promissory note memorializing the terms of the deal between the Clients and the buyer. The new note provided that the Clients would be paid after the first Deed of Trust was foreclosed. The new note did not provide a payment due date in the event the foreclosure by the first Deed of Trust holder did not take place. Mr. Wolff neglected to explain the terms of the transaction to the Clients such that they understood that they would not be getting paid until the foreclosure by the first Deed of Trust holder took place, and that they risked receiving nothing if the foreclosure did not take place. Mr. Wolff did not consult with the Clients and fully disclose the facts relating to his relationship with, and past representation of, the buyer and the potential disadvantages of his representation of all parties, and did not get the Clients’ informed consent in writing to the conflict of interest. While the Deed of Trust and foreclosure did not in fact take place, the Clients received payment when the property was sold.

Mr. Wolff’s conduct violated former RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; former 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; and former RPC 1.7, prohibiting a lawyer from representing a client if the representation will be materially limited by the lawyer’s responsibilities to another client, a third person, or the lawyer’s own interests, unless (1) the lawyer reasonably believes the representation will not adversely affect the relationship with the other client, and (2) each client consents in writing after consultation and a full disclosure of the material facts.

Debra J. Slater represented the Bar Association. Lowell Ashbach Jr. represented Mr. Wolff. Octavia Y. Hathaway was the hearing officer.

Admonished and Reprimanded

Gary C. Hugill (WSBA No. 4713, admitted 1972), of Kennecwick, was ordered to receive an admonition, a reprimand, and probation on August 19, 2009, following approval of a stipulation. This discipline is based on conduct involving disclosure of client information without consent, trust account irregularities, and failure to maintain complete records of client funds.

On March 7, 2007, Mr. Hugill was appointed to represent a client who had been charged in Superior Court with two counts of assault in the first degree and one count of burglary in the first degree. Mr. Hugill represented the client at the trial that began on June 4, 2007. The client failed to appear in court for the second day of trial and the judge asked Mr. Hugill if he knew where the client was. In response to the question, Mr. Hugill revealed the contents and circumstances of communications he had with the client the day before. Among other things, Mr. Hugill revealed that the client had asked him what would happen if he did not “show up” for trial. The disclosure in the preceding sentences was of information relating to the representation of a client, was not impliedly authorized in order to carry out the representation, and the client did not give his informed consent to reveal that information.

On April 4, 2005, the Association received notice from Mr. Hugill’s bank that a check drawn on his client trust account had been presented for payment against insufficient funds. The Association’s audit manager conducted an audit of Mr. Hugill’s client trust account covering the period between January 1, 2005, and February 28, 2006. During the audit period, Mr. Hugill failed to maintain a check register for his client trust account with a running balance, failed to maintain client ledgers, and failed to maintain records from which it could be determined on which client’s behalf certain deposits were made. During the audit period, Mr. Hugill also failed to reconcile his client trust account bank statements, failed to deposit some client funds into his client trust

Nicholas A. Nuamah (WSBA No. 25010, admitted 1995), of Seattle, received a reprimand on February 23, 2009, by order of the hearing officer. This discipline was based on conduct in two matters involving lack of competent representation, failing to act with reasonable diligence, and failure to communicate.

Matter No. 1: In 2001, Mr. Nuamah represented a client seeking asylum in the United States. Based on erroneous advice he had previously received from a non-lawyer legal representative, Client A failed to timely seek asylum status. Although Mr. Nuamah was aware that Client A had acted on the erroneous advice, he failed to advise Client A to raise the issue of ineffective assistance of counsel to excuse the untimeliness of his asylum application. After his application for asylum was denied, Client A subsequently dismissed Mr. Nuamah and hired a new attorney, who successfully argued Client A’s matter based on ineffective assistance of counsel.

Matter No. 2: In 2003, Mr. Nuamah undertook the representation of Client B, whose asylum application was not timely filed due to inadequate
account, and deposited funds belonging to him in his client trust account. Mr. Hugill disbursed more funds on behalf of some clients than he held in trust for those clients.

Mr. Hugill's conduct violated RPC 1.6, prohibiting a lawyer from revealing information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted under the rules; former RPC 1.14(a), requiring that all client funds paid to a lawyer or law firm be deposited into one or more identifiable interest-bearing trust accounts and no funds of the lawyer be deposited therein; and former RPC 1.14(b)(3), requiring a lawyer to maintain complete records of all funds, securities, and other properties of a client coming into possession of the lawyer and render appropriate accounts to his or her client regarding them.

Scott G. Busby represented the Bar Association. Mr. Hugill represented himself. Linda D. O'Dell was the hearing officer.

Non-Disciplinary Notices

Suspended Pending the Outcome of Disciplinary Proceedings

Michael A. Hecht (WSBA No. 19165, admitted 1989), of Tacoma, was suspended pending the outcome of disciplinary proceedings, pursuant to ELC 7.1 (Conviction of a Crime), effective November 23, 2009, by order of the Washington State Supreme Court. This is not a disciplinary sanction.

Suspended Pending the Outcome of Disciplinary Proceedings

John R. Scannell (WSBA No. 31035, admitted 2001), of Seattle, was suspended pending the outcome of disciplinary proceedings, pursuant to ELC 7.2(a)(2), effective November 24, 2009, by order of the Washington State Supreme Court. This is not a disciplinary sanction.

Terrell Marshall & Daudt PLLC

is pleased to announce that

Marc C. Cote

has joined the firm as an associate.

Marc concentrates his practice on employment law and consumer class actions. He was recently selected to the Washington Rising Stars list after his first year of practice. Marc graduated with high honors from the University of Washington School of Law and served as a law clerk for Justice Walter L. Carpeneti of the Alaska Supreme Court.

Terrell Marshall & Daudt PLLC
3600 Fremont Ave. N., Seattle, WA 98103
Tel: 206-816-6603 • Fax: 206-350-3528
www.tmdlegal.com

Lawyers’ Malpractice Insurance

Daniels-Head wants to team up with your firm to help customize insurance coverages and provide risk management solutions. We are a leading professional liability agency with many insurance products that should be of interest to your organization. We understand the needs of law firms. This understanding comes from serving professionals for more than 50 years, and is reflected in the quality carriers we represent and services we provide.

Daniels-Head Insurance Agency, Inc.
www.danielshead.com
800-848-7160
LAWSUIT DISCIPLINE AND LEGAL ETHICS

Former Chief Disciplinary Counsel

Anne I. Seidel

represents lawyers in bar grievances and lawyer disciplinary proceedings and advises on legal ethics issues.

1817 Queen Anne Ave. N., Ste. 308
Seattle, WA 98109
206-284-2282
anne@walegalethics.com
www.walegalethics.com

PERSONAL INJURY TRIALS

Debora A. Dunlap

Debbie is available for consultation, referral, and association in cases of personal injury trials (both plaintiff and defense).

25 Years’ Experience

MCGAUGHEY BRIDGES DUNLAP, P.L.L.C.
325 118th Avenue S.E., #209
Bellevue, WA 98005
425-462-4000
debora@mcblaw.com

CIVIL APPEALS, DIV. III

ROB LAWRENCE-BERREY

An appellate court reviewing a case sees issues for the first time. The trial lawyer, having spent years with the case, often misses these issues. There is value in referring an appeal to new counsel. Mr. Lawrence-Berrey has more than 20 years of appellate experience, and has assisted numerous trial counsel on appeal.

FINNEY, FALK, LAWRENCE-BERREY & NAUGHT, PLLP
117 N. Third St., Ste. 201, Yakima, WA 98907
509-453-5604 • rob@fflaw.biz
www.fflaw.biz

CIVIL APPEALS

David J. Corbett

Focused on the clear presentation of compelling legal arguments for civil appeals and summary judgment motions. Available for association or referral.

DAVID CORBETT PLLC
www.DavidCorbettLaw.com
253-414-5235

MEDIATION

Mac Archibald

Mac has been a trial lawyer in Seattle for almost 40 years. He has tried a wide range of cases including maritime, personal injury, construction, products liability, consumer protection, insurance coverage, and antitrust law.

Mac has 15 years of mediation experience. He has mediated over 1,000 cases in the areas of maritime, personal injury, construction, and commercial litigation.

Mac has a reputation as not only being highly prepared for every mediation, but also for providing as much follow-up as is necessary to settle a case.

LAW OFFICES OF EDWARD M. ARCHIBALD
Mediation Services
601 Union Street, Suite 4200
Seattle, WA 98101
Tel: 206-903-8355 • Fax: 206-903-8358
E-mail: mac@archibald-law.com
www.archibald-law.com

RESULTS COUNT!
NURSING HOME NEGLIGENCE AND ELDER ABUSE

Michael J. Fisher

Proven results and experience in handling injuries and wrongful death arising out of nursing home negligence and elder abuse. Available for referral or association.

RUSH, HANNULA, HARKINS & KYLER, L.L.P.
4701 South 19th Street, Suite 300
Tacoma, WA 98405
253-383-5388
E-mail: mfisher@rhhk.com
www.rhhk.com

ARIZONA LAWSUITS?

William Rinaudo Phillips

available as 25-year experienced trial lawyer licensed in Washington (#12200) and Arizona (#19949).

602-271-7700
wrp@bowllaw.com

CIVIL APPEALS

Debora A. Dunlap

Debbie is available for consultation, referral, and association in cases of personal injury trials (both plaintiff and defense).

25 Years’ Experience

MCGAUGHEY BRIDGES DUNLAP, P.L.L.C.
325 118th Avenue S.E., #209
Bellevue, WA 98005
425-462-4000
debora@mcblaw.com

CIVIL APPEALS

David J. Corbett

Focused on the clear presentation of compelling legal arguments for civil appeals and summary judgment motions. Available for association or referral.

DAVID CORBETT PLLC
www.DavidCorbettLaw.com
253-414-5235

MEDIATION

Mac Archibald

Mac has been a trial lawyer in Seattle for almost 40 years. He has tried a wide range of cases including maritime, personal injury, construction, products liability, consumer protection, insurance coverage, and antitrust law.

Mac has 15 years of mediation experience. He has mediated over 1,000 cases in the areas of maritime, personal injury, construction, and commercial litigation.

Mac has a reputation as not only being highly prepared for every mediation, but also for providing as much follow-up as is necessary to settle a case.

LAW OFFICES OF EDWARD M. ARCHIBALD
Mediation Services
601 Union Street, Suite 4200
Seattle, WA 98101
Tel: 206-903-8355 • Fax: 206-903-8358
E-mail: mac@archibald-law.com
www.archibald-law.com

RESULTS COUNT!
NURSING HOME NEGLIGENCE AND ELDER ABUSE

Michael J. Fisher

Proven results and experience in handling injuries and wrongful death arising out of nursing home negligence and elder abuse. Available for referral or association.

RUSH, HANNULA, HARKINS & KYLER, L.L.P.
4701 South 19th Street, Suite 300
Tacoma, WA 98405
253-383-5388
E-mail: mfisher@rhhk.com
www.rhhk.com
NEED EXPERTISE IN ATTORNEY’S FEES?

The need for expert testimony in litigation grows every year. From the typical fee dispute, to disciplinary matters, to attorney’s fee awards, litigators need an experienced expert to prove their case. Mike Caryl has broad expert witness experience in the field of attorney’s fees, including:

- Reasonableness of fees
- Supporting and opposing fee-shifting motions
- Fee agreements, RPC 1.5(b) disclosure, intake, and billing practices
- RPC violations on attorney’s fees and breach of fiduciary duty
- Lindy/Bowers “multipliers” in contingent fee cases.

Mike has served in a consulting and testifying capacity in 29 cases, and has offered testimony in 16 of those cases. Let Mike assist you with your expert needs.

MICHAEL R. CARYL P.S.
18 West Mercer Street, Suite 400
Seattle, WA 98119
206-378-4125
www.michaelcaryl.com

ATTORNEY FEES/ADR

Phil Talmadge and Tom Fitzpatrick are available to assist you in all aspects of disputes relating to attorney fees. This includes serving as counsel, or providing expert witness testimony, in these matters. Both can also provide alternative dispute resolutions services as a mediator or arbitrator. With the WSBA ADR program ending, Talmadge/Fitzpatrick can provide an ADR alternative to litigating attorney fee disputes. Both are A/V-rated and have over 30 years of experience as lawyers.

Phil is a former justice of the Washington Supreme Court and a co-author of “Attorney Fees in Washington.” Tom has extensive experience as a professional responsibility lawyer, including the ethical and legal requirements relating to fee agreements and fees.

TALMADGE/FITZPATRICK
18010 Southcenter Parkway
Tukwila, WA 98188-4630
Tel: 206-574-6661 • Fax: 206-575-1397
www.talmadgelg.com

APPEALS

Charles K. Wiggins
Kenneth W. Masters
and
Shelby Frost Lemmel

We handle or assist on all types of civil appeals in state and federal courts, from consulting with trial counsel to post-mandate proceedings.

WIGGINS & MASTERS PLLC
241 Madison Avenue North
Bainbridge Island, WA 98110
206-780-5033
www.appeal-law.com

CLAUDE MUSKMANA
EMPLOYMENT LAW
Employment Investigations
Management Assessments
Harassment Prevention Training
Expert Witness

- Over 25 years’ litigation experience.
- Ten years with the United States EEOC.
- Recent graduate of the Seattle University School of Business Executive Leadership Program.

When faced with a discrimination issue or complex employment problem, Claire has the experience, judgment, and impartiality both sides seek.

Contact Claire at: claire@ccordonlaw.com • 206-284-7728
www.ccordonlaw.com

CLAIRE CORDON
EMPLOYMENT LAW
Employment Investigations
Management Assessments
Harassment Prevention Training
Expert Witness

- Over 25 years’ litigation experience.
- Ten years with the United States EEOC.
- Recent graduate of the Seattle University School of Business Executive Leadership Program.

When faced with a discrimination issue or complex employment problem, Claire has the experience, judgment, and impartiality both sides seek.

Contact Claire at: claire@ccordonlaw.com • 206-284-7728
www.ccordonlaw.com

INSURANCE BAD FAITH
EXPERT TESTIMONY
MEDIATION

- Insurance Fair Conduct Act
- Coverage Denial and Claim Handling
- Reservation of Rights Defense

Bill Hight has 28 years of experience in insurance coverage/bad faith litigation.

Please visit www.HightLaw.com for details of experience and credentials.

WILLIAM P. HIGHT
E-mail: wph@HightLaw.com
Tel: 206-374-3200
www.HightLaw.com
# CLE Calendar

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

**WSBA Bar News CLE Calendar**

1325 Fourth Ave., Ste. 600
Seattle, WA 98101-2539
Fax: 206-727-8319
E-mail: comm@wsba.org

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

## Business Law

**Understanding and Managing High-Conflict Personalities in Legal Disputes**

February 19 — Seattle. 6 credits, including 1.5 ethics pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; [www.wsbcle.org](http://www.wsbcle.org).

**30th Annual Northwest Securities Institute**

March 5–6 — Seattle. 10 credits, including 1 ethics credit pending. By WSBA-CLE and WSBA Business Law Section; 800-945-WSBA or 206-443-WSBA; [www.wsbcle.org](http://www.wsbcle.org).

## Environmental Law

**Pacific Northwest Timberlands Conference**


**Land Use and Environmental Due Diligence, Including Acquisition of Distressed Properties: A Checklist Approach**

March 31 — Seattle. 6 credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; [www.wsbcle.org](http://www.wsbcle.org).

## 7th Annual Trust and Estate Litigation Seminar

March 12 — Seattle. 6.75 credits, including 1 ethics credit pending. By the WSBA Real Property, Probate and Trust Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; [www.wsbcle.org](http://www.wsbcle.org).

## Ethics

**Professionalism in Practice: Ethics in Action**

February 5 — Seattle. 6 ethics credits. By UW School of Law; [www.uwcle.org](http://www.uwcle.org); 206-543-0059.

**2009 Washington Judicial Highlights — Ethics**

February 24 — Teleconference with online PowerPoint. By Rubric CLE; 1 credit pending; [www.rubriccle.com](http://www.rubriccle.com); 206-714-3178.

**The Initiative for Diversity Governing Council (IDGC) and the Minority Report Card: “How Are We Doing and Where Are We Headed?”**

February 25 — See the Continuing Legal Education link at [www.law.seattleu.edu](http://www.law.seattleu.edu); 206-398-4233.

## Family Law

**Understanding and Managing High-Conflict Personalities in Legal Disputes**

February 19 — Seattle. 6 credits, including 1.5 ethics pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; [www.wsbcle.org](http://www.wsbcle.org).

**Tough Talk with Family Law Clients: Practical Tips from the Trenches**

February 24 — Seattle. 6 credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; [www.wsbcle.org](http://www.wsbcle.org).

## General

**Superior Legal Writing: Winning with Words, Featuring New York Times Bestselling Author William Bernhardt**

February 11 — Seattle. 6.75 credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; [www.wsbcle.org](http://www.wsbcle.org).

**Mobile Commerce in a Wireless Data World**

---

**ATTORNEY FEE DISPUTE ARBITRATION**

Camden M. Hall, former Seattle Municipal Court Judge *pro tem* and King County Superior Court Judge *pro tem* and member of the Washington State Bar Association’s former Fee Arbitration Panel, is available to assist attorneys and clients in the arbitration of their attorney fee disputes.

**CAMDEN M. HALL, PLLC**

1001 Fourth Avenue, Suite 4301
Seattle, WA 98154-1142
Tel: 206-749-0200
E-mail: chall@camdenhall.com
Web: [www.camdenhall.com](http://www.camdenhall.com)

---

**INSURANCE AND CLAIMS HANDLING**

Consultation, testimony, mediation, and arbitration in cases involving insurance or bad faith issues. Adjunct Professor Insurance Law. 25 years’ experience as attorney in cases for and against insurance companies. Developed claims procedures for major insurance carriers.

**IRVING “BUDDY” PAUL**

221 N. Wall Street, #500
Spokane, WA 99201
509-838-4261
bpaul@ewinganderson.com

---

**APPEALS**

Anne Watson, former law clerk to the Washington State Supreme Court, welcomes consultation, association, or referral of appellate cases.

**LAW OFFICE OF ANNE WATSON, PLLC**

360-943-7614
anne@awatsonlaw.com

Understanding and Managing High-Conflict Personalities in Legal Disputes
February 19 — Seattle. 6 credits, including 1.5 ethics pending. By WSBA-CLE; 800-945-WBWA or 206-443-WSBA; www.wsbcyle.org

The Legal Team
February 19 — Seattle. By WSAJ; 206-464-1011; www.washingtonjustice.org

Discovery: It’s Elementary

Civil Legal Representation and Access to Justice: Breaking Point or Opportunity for Change
February 19–20 — By Seattle University School of Law and the University of Washington School of Law; www.law.seattleu.edu 206-398-4233.

Basic Collaborative Law Training
February 25–26 — Seattle. 13 credits, including ethics pending. By Seattle Collaborative Law Training and Learning Center; 425-822-0283; rachel@felbecklaw.com; www.collabtraining.com

Legal Implications of Social Media

Sex Offense Defense

Immigration Law
AILA’s Comprehensive Annual Northwest Regional Immigration Law Conference
February 11–12 — By Seattle University School of Law; www.law.seattleu.edu 206-398-4233.

Intellectual Property
15th Annual Intellectual Property Institute

March 11 — Seattle. 6.25 credits, including 1.5 ethics credit pending. By the WSBA Intellectual Property Law Section and WSBA-CLE; 800-945-WBWA or 206-443-WSBA; www.wsbcyle.org

Litigation
Understanding and Managing High-Conflict Personalities in Legal Disputes
February 19 — Seattle. 6 credits, including 1.5 ethics pending. By WSBA-CLE; 800-945-WBWA or 206-443-WSBA; www.wsbcyle.org

Evidence and Objection Boot Camp
February 25 — Seattle. 6 credits pending. By WSBA-CLE; 800-945-WBWA or 206-443-WSBA; www.wsbcyle.org

7th Annual Trust and Estate Litigation Seminar
March 12 — Seattle. 6.75 credits, including 1 ethics credit pending. By WSBA-CLE; 800-945-WBWA or 206-443-WSBA; www.wsbcyle.org

Personal Injury Boot Camp
March 17 — Seattle. 6 credits pending. By WSBA-CLE; 800-945-WBWA or 206-443-WSBA; www.wsbcyle.org

DUI Boot Camp
March 26 — Seattle. 6 credits pending. By WSBA-CLE; 800-945-WBWA or 206-443-WSBA; www.wsbcyle.org

Mediation
40-hour Professional Mediation Training
March 11–13 and 18–20 — Olympia. 37.5 credits, including 5.25 ethics. By the Dispute Resolution Center of Thurston County; onlewis@mediatethurston.org or www.mediatethurston.org

Mediation Training
March 22, 24, 25, 31, and April 1 — Seattle. 34.25 credits, including 1.75 ethics. By Dispute Resolution Center of King County; kaseya@kcdrc.org; www.kcdrc.org

Real Property, Probate, and Trust
Residential Landlord Tenant Law Seminar
February 10 — Seattle. 6 credits. By WSBA-CLE; 800-945-WBWA or 206-443-WSBA; www.wsbcyle.org

Real Estate Mortgage Market Litigation

7th Annual Trust and Estate Litigation Seminar
March 12 — Seattle. 6.75 credits, including 1 ethics credit pending. By WSBA-CLE; 800-945-WBWA or 206-443-WSBA; www.wsbcyle.org

Solo and Small Practice
Understanding and Managing High-Conflict Personalities in Legal Disputes
February 19 — Seattle. 6 credits, including 1.5 ethics pending. By WSBA-CLE; 800-945-WBWA or 206-443-WSBA; www.wsbcyle.org

The Cost-Effective Small Practice
March 19 — Seattle. Credits pending. By WSBA Solo and Small Firm Section and WSBA-CLE; 800-945-WBWA or 206-443-WSBA; www.wsbcyle.org

Tele-CLEs/Webinars/Webcasts
Residential Landlord Tenant Law Seminar
February 10 — Seattle. 6 credits. By WSBA-CLE; 800-945-WBWA or 206-443-WSBA; www.wsbcyle.org

2009 Washington Judicial Highlights — Civil
February 17 — Teleconference with online PowerPoint. 2 credits pending. By Rubric CLE; www.rubriccle.com; 206-714-3178.

Understanding and Managing High-Conflict Personalities in Legal Disputes
February 19 — Seattle. 6 credits, including 1.5 ethics pending. By WSBA-CLE; 800-945-WBWA or 206-443-WSBA; www.wsbcyle.org

2009 Washington Judicial Highlights — Ethics
February 24 — Teleconference with online PowerPoint. 1 credit pending. By Rubric CLE; www.rubriccle.com; 206-714-3178.

Evidence and Objection Boot Camp
February 25 — Seattle. 6 credits pending. By WSBA-CLE; 800-945-WBWA or 206-443-WSBA; www.wsbcyle.org
to incorporate the use of a learning management system (LMS) and learning content management system (LCMS) which must combine elements that effectively impart the desired knowledge and enhance the experience for all involved. This position leads a significant effort of advancing NLE and CLE programs into an e-learning environment with an eye towards creating robust and interactive online learning experiences utilizing multimedia components, i.e., interactive elements such as videos, webcasts, downloadable content, learning activities, animations, games, etc. This position also manages the CLE Department’s “mini-CLE” programming working jointly with department staff and provides support for department initiatives. The development of online programming will include supporting the department in selecting and utilizing appropriate software systems and contracting with vendors to develop the actual online electronic programming for delivery of those programs. For more details and to apply, visit [www.wsba.org/jobs](http://www.wsba.org/jobs).

**T-Mobile has a great opportunity** for a senior corporate counsel in Bellevue, Washington. If interested, please apply online at [www.tmobile.jobs](http://www.tmobile.jobs) and search for Req #239782. EOE.

**Lasher Holzapfel Sperry & Ebberson, PLLC** has an opening in its Business Department for a motivated associate attorney. The firm is accepting résumés from Washington attorneys with at least three years of experience in general business, corporate, estate planning, and real estate. Candidates should have excellent academic credentials and work well with clients, as well as demonstrate an entrepreneurial spirit. Additional consideration given to candidates with an LL.M. (tax) or with a partial book of business. This is a great opportunity to grow a practice recognized and well-respected 27-attorney law firm in downtown Seattle. Please visit [www.lasher.com](http://www.lasher.com) for additional information. Interested candidates should submit a cover letter and résumé to Carol Hill at [hill@lasher.com](mailto:hill@lasher.com).

**Small, AV-rated Seattle law firm** looking for partner and senior associate level attorneys. Small, AV-rated downtown Seattle law firm with a diverse practice including business, estate planning, and a variety of business and tort litigation, looking to add one to two partner-level and one to two senior associate attorneys to join our team. We are a congenial group of established and technically proficient attorneys with great reputations in the legal community. Our firm culture emphasizes an exceptional quality of work in a relaxed atmosphere. We have a great staff and a great practice and are looking to expand by bringing on some like-minded lawyers. We are looking for attorneys who will complement our practice. The ideal candidates will have experience in business law, real estate, estate planning, or litigation (tort or commercial), but we are open to exploring other successful practice areas if they are consistent with our firm’s goals and culture. We are looking for one to two partner-level attorneys with at least 10 years of experience and a portable book of business to join our team. We are also looking for one to two senior associates in the same fields with a minimum of five years of experience who have an emerging practice and a partial book of portable business. If you are interested in potentially joining our team, please send your current résumé and a summary of your interest to [BPeterson@HRGroupInternational.com](mailto:BPeterson@HRGroupInternational.com).

**Northwest Immigrant Rights Project**, a non-profit immigration legal services organization, is hiring a bilingual (Spanish) staff attorney for its Moses Lake office. Salary $43k+ DOE and benefits package. To see the complete job description, please see our website: [www.nwirp.org](http://www.nwirp.org).

**Seattle, 10-attorney firm**, AV-rated, with general civil practice and areas of emphasis within firm, seeks associate attorney with at least two years’ experience in civil litigation and trials. Prefer candidates with some existing practice. Please e-mail résumé referencing Job Code #720 in the subject line to classifieds@wsba.org or mail to: WSBA Bar News Classifieds, Job Code #720, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539.

**Securities litigation associate** — Seattle office of Orrick, Herrington & Sutcliffe LLP. Orrick is looking for an associate to join its nationally recognized Securities Litigation and Regulatory Practice Group, to begin immediately. The ideal candidate will have at least one year of civil litigation experience, preferably with a top-caliber
诉讼律师，或者最近完成了在第九巡回法院的实习。经验和与联邦证券和公司治理相关的工作是加分项。除学术成就外，写作和沟通能力是必要的。当前华盛顿州律师协会的成员优先。Orrick的西雅图办事处提供创新性工作的组合，对法律从业者在成功的、合作的环境中工作有兴趣。如果您对加入Orrick的团队感兴趣，请访问www.orrick.com（Careers）或回复（保密）附信、简历、学校成绩单、参考信息，以及乐手写作样本。理想的申请人将对商业交易有扩展的经验，包括合并和收购、企业组织、公司治理。我们的团队为我们的客户在商业、房地产、劳动法、知识产权、税法，以及其他专业领域提供额外的支持。某些候选人需要经验，如在税法、商业交易、非营利组织、或继承规划方面。申请在税法、商业交易、非营利组织，或继承规划方面的优先权将是额外的。请提供一份申请信、简历、学校成绩单，并提供书面样本至www.millernash.com/careers，或电子邮编michele.baird-johnson@millernash.com。EOE。

Tacoma area family law attorney: McKinley Irvin is a 10-attorney law firm focused on divorce and family law matters. We are seeking an attorney to work primarily in our Tacoma/Pierce County offices. The position could be associate level, of counsel, or partner, depending on qualifications of the applicant. Candidate must have a minimum five years of broad-ranging experience in family law matters, including primary responsibility for cases and significant litigation experience in Pierce County and/or King County. Estate-planning experience is not required but would be a plus. A commitment to excellence, professionalism, and client service is a must, along with the desire to work in a well-managed organizational environment. We offer a competitive salary and benefits package, excellent administrative support, an outstanding group of professionals to work with, and the opportunity for advanced training and career growth. Please forward cover letter, transcript, résumé, writing sample, and three professional references to tgilbertson@mckinleyirvin.com. All contacts will be kept in strict confidence. Please visit our website at www.mckinleyirvin.com for more information about our firm.

Patent licensing director — HTC America, Inc. is looking for a patent professional to join its growing legal team. Experience drafting patent licenses, patent negotiation, and knowledge of mobile device technology required. Willingness to travel required. Degree in engineering preferred. Must have solid patent licensing experience of at least four years with a strong knowledge of patent licensing terms and cross-licenses. If you are interested in this position, please apply online at www.htc.com/us/about/careers/patent-licensing-director/9.

The Law Office of Gress and Clark, LLC, a workers' compensation defense firm located in southwest Portland is looking for an associate to assist in the representation of employers in Washington workers' compensation cases. Candidate must have at least three years' experience in the area of workers' compensation. This is an outstanding opportunity for the person who is interested in personal and professional growth in a collegial working environment and is willing to commit to helping our practice continue to grow. We offer a competitive compensation and benefits package. If you have a drive to succeed, forward your résumé, cover letter, and references to Jim Gress at The Law Office of Gress and Clark, LLC, 9020 SW Washington Square Rd., Ste. 560, Portland, OR 97223. E-mail submissions can be directed to Jim@GressandClarkLaw.com.

Internship overview — As part of the American Recovery and Reinvestment Act of 2009, the Department of Information Services (DIS) has been awarded an exciting opportunity to identify broadband availability in the state of Washington. Working with the broadband policy and programs manager and the communications analyst, this internship includes opportunities for you to apply and build your skills by collecting and organizing policy, legislative, and regulatory data from various states and countries; analyzing and identifying trends and best practices; reviewing and analyzing previously conducted surveys. If you are interested, please visit http://broadband.dis.wa.gov for in-depth information. To apply, please go to http://dis.wa.gov/jobs/announcements/intern_broadband.pdf. A copy of your letter and résumé should also be sent to Misha Reitan@dis.wa.gov.

Family law attorney: McKinley Irvin is a 10-attorney law firm focused on complex divorce and family law matters. We are seeking an attorney with a minimum
three years’ family law experience in King and/or Pierce County. The right attorney would possess actual hands-on experience as described below, observe the highest standards of professionalism, produce exceptional work product, and deliver attentive client service. The right personality would be a bright, confident, friendly self-starter who is comfortable working in a team environment. A commitment to excellent work product and client service is a must. The following hands-on experience is required: research and drafting motions, legal memoranda, witness declarations, mediation materials, discovery, and trial briefs. ER 904 preparation, working knowledge of state and local court rules, some court experience, and working directly with clients and witnesses. Position offers the right candidate an opportunity to practice law that is both interesting and challenging, and also makes a difference in the lives of real people and their families. We offer a competitive salary and benefits package, an outstanding group of professionals to work with, and the opportunity for mentoring, advanced training, and career growth. Please forward cover letter, transcript, résumé, writing sample, and three professional references to tgilbertson@mckinleyirvin.com. Please visit our website at www.mckinleyirvin.com for more information about our firm.

Busy two-attorney Kennewick litigation firm seeks to add a third attorney. Work includes personal injury, criminal defense, family law, estate planning, and general civil litigation. Please fax résumé and cover letter to 509-734-2591. Bolliger Law Offices.

Positions Wanted

Position wanted: attorney or paralegal with at least 30 years’ experience, most in government, some in civil practice. Full-time or part-time. Admitted in Washington and Oregon. Within reasonable driving distance from Cheney or Spokane. 509-290-5397.

Services


Virtual Independent Paralegals, LLC provides full-range comprehensive legal and business services at reasonable rates. Due diligence document review/databasing, medical summarization, transcription, legal research and writing, pleading preparation, discovery, motions, briefs, and in-person trial support. Because we’re 24/7/365 we’re able to bridge the 9-to-5 gap. The hours we produce contain no overhead costs, and are thus, all billable. We hit the ground running, providing highest quality results. We’re just a phone call or email away. www.viphelpmecom.

Experienced nurse-attorney available for litigation support. Ten years’ medical-negligence/personal-injury litigation experience, both plaintiff and defense, added to 15-plus years of ED/critical-care nursing. Five years’ experience as mediator. Expert medical records review, organization, and analysis; medical/legal research; and obtaining experts, drafting case-specific discovery and briefs. Hourly or flat-rate basis. Contact PJH Litigation Support at hanlon.pj@gmail.com or 206-307-5654.

Résumé/career consultations for attorneys — 30-minute sessions — $65. Lynda Jonas, Esq., owner of Legal Ease L.L.C. — Washington’s Attorney Placement Specialists since 1996 — works with attorneys only, in Washington state only. She has unparalleled experience counseling and placing attorneys in our state’s best law firms and corporate legal departments. It is her opinion that more than 75 percent of attorney résumés are in immediate, obvious need of improvement. Often these are quick, but major, fixes. Lynda is uniquely qualified to offer résumé assistance and advice/support on best steps to achieve your individual career goals within our local market. She remains personally committed to helping attorneys land the single best position available to them. All sessions are conveniently offered by phone. Please e-mail legalease@legalease.com or call 425-822-1157 to schedule.

Experienced trial attorney available for contract work. Very skilled at legal research and writing. 25 years of writing pleadings, motions, and briefs before trial and appellate courts. Full access to research resources. G. Kent Thorsted 425-462-2552, kenthorstted@comcast.net.

Clinical psychologist — competent forensic evaluation of individuals in personal injury, medical malpractice, and divorce cases. Contact Seattle office of Gary Grenell, Ph.D. 206-328-0262 or e-mail@garygrenell.com

Experienced, efficient brief and motion writer available as contract lawyer. Extensive litigation experience, including trial preparation and federal appeals. Reasonable rates. Lynne Wilson, 206-328-0224, lynnewilsonnatty@gmail.com.


Oregon accident? Unable to settle the case? Associate an experienced Oregon trial attorney to litigate the case and share the fee (proportionate to services). OTLA member, references available, see Martindale, AV-rated. Zach Zabinsky, 503-223-8517.

Experienced contract attorney: 18 years’ experience in civil/criminal litigation, including jury trials, arbitrations, mediations, and appeals. Former shareholder in boutique litigation firm. Can do anything litigation-related. Excellent research and writing skills, reasonable rates. Peter Fabish, pfab99@gmail.com, 206-545-4818.
Downtown Seattle executive office space: Full- and part-time offices available on the 32nd floor of the 1001 Fourth Avenue Plaza Building. Beautiful views of mountains and the Sound! Close to courts and library. Short- and long-term leases. Conference rooms, reception, kitchen, telephone answering, mail handling, legal messenger, copier, fax, and much more. $175 and up. Serving the greater Seattle area for over 30 years. Please contact Business Service Center at 206-624-9188 or www.bsc-seattle.com for more information.

Kent — spacious, fully furnished office(s) in very elegant, newly constructed building. Gated entrance with parking. Totally turn-key. All amenities included. Highly visible location on Meeker Street within walking distance of RJC. Possible referrals. Contact 206-227-8831 or jonkron1@msn.com.


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


Pioneer Square (Seattle) firm offering sublease for two professional offices and one staff office. For details, see Craigslist ad titled “3 Offices Available (Pioneer Square).” Contact Griff Flaherty at 206-682-2616.

Tacoma office space for rent. Large office space that is a block from the Pierce County Courthouse. Includes ample parking, reception area with receptionist, use of law library, conference room, kitchen, copy room, storage room, local telephone and fax. $850 per month. Fully furnished secretarial space is also available for rent. Call Terry McCarthy at 253-272-2206.

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

Pioneer Square (Seattle). Congenial, full service offices available (Maynard Building). Walking distance to courthouse. Includes receptionist, conference room, messenger service, library, DSL, fax, copier with e-mail scanner, kitchenette. Steve, 206-447-1560.

Downtown Seattle/Pike Place Market office space. Sound view office to share with established practitioners. Adjacent to Pike Place Market and Seattle Athletic Club, includes secretarial station, shared receptionist, conference room. Parking available. Contact Gil Levy at 206-443-0670.


To Place a Classified Ad

Rates: WSBA members: $40/first 25 words; $0.50 each additional word. Nonmembers: $50/first 25 words; $1 each additional word. Blind-box number service: $12 (responses will be forwarded). Advance payment required; we regret that we are unable to bill for classified ads. Payment may be made by check (payable to WSBA), MasterCard, or Visa.

Deadline: Text and payment must be received (not postmarked) by the first day of each month for the issue following, e.g., March 1 for the April issue. No cancellations after the deadline. Mail to: WSBA Bar News Classifieds, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539.

Qualifying experience for positions available — state and federal law allow minimum, but prohibit maximum, qualifying experience. No ranges (e.g., “5-10 years”). Ads may be edited for spelling, grammar, and consistency of formatting. If you have questions, please call 206-727-8213 or e-mail classifieds@wsba.org.
out, before he was married, Smooth fancied himself a bit of a ladies’ man. I suspected Woods’s situation would strike a chord with him.

“I know just what Tiger’s going through,” Smooth said, twirling a ribbon of fettuccine onto his fork. “Guys who practice law have the same problem, right? It’s like with the professional athletes and the rock stars, there’s an aura about us that women find intoxicating.”

“Well, I don’t know if that’s a problem across the board,” I said.

“Listen, I’ve been a beacon of fidelity since I tied the knot,” Smooth went on. “But the temptations are always there. Just the other day, I was in the county clerk’s office and the young lady at the counter called me by name. The thing is, I’d never met her before. She must have seen me in court and checked me out online or something. ”

“Well, you do wear your courthouse security badge with your name on it everywhere you go,” I said.

“Yes,” Smooth said. “But then she asked, ‘Is there anything else I can do for you, Mr. Muverson?’ What was I supposed to make of that, huh?”

“Maybe she was being polite,” I said.

“Well, you never know,” Smooth said, wiping a dribble of Bolognese from the corner of his mouth. “But I’ll tell you this: I can identify with someone like Tiger Woods. Away from home all the time, flitting from one heady event to another. It’s easy to lose a sense of normalcy. It was like me last week.

Wednesday, I was up all night at a planning commission meeting testifying about a re-zone. I barely had time to sleep before I was off for a full day at the hearing examiner’s office in the next county Thursday. Then I just had time to check my e-mail before packing and heading off for an out-of-town CLE Friday. When I graduated from law school, I never imagined what an untamed lifestyle I was going to lead.”

“I’m surprised I haven’t seen your name in the tabloids,” I said.

“Seriously! The crowd I run with can get a little wild,” Smooth said, rattling his glass of iced tea. “Over the holidays, I went to a party thrown by some title insurance company and things got a little crazy. There I am talking to a guy about short plats, and the next thing I know, this young woman I’ve never seen before comes right up and offers me a platter of crème puffs. Then, a minute later, another one comes out of nowhere and hands me a glass of champagne.”

“I think caterers hire people to do that,” I said.

“Really? All I know is that wherever I go, as soon as I start talking about, say, conditional use permits, the females give me that look,” Smooth continued. “You know what I’m saying? I mean, I can’t help it. Variances, nonconforming uses, takings — they can’t resist that kind of talk. I spoke at the Rotary Club a while back and afterward a woman comes up and says, ‘I liked your talk, Mr. Muverson. Do you do condemnations?’ From the look on her face, I think she had something kinky in mind, like . . . .”

“Well, it depends, Smooth,” I said. “You know, appearances can be deceiving.”

“Oh, appearances, right. I see where you’re going, Heatherly,” Smooth said. “Listen, I realize a lot of this is kinda superficial. It’s like with Tiger: Some of those women didn’t care about him as a person. They were just drawn by the excitement of being seen with a prominent individual. I know that happens with me, too. It’s not necessarily the real me they’re responding to, it’s the ambiance that surrounds me because of my position. I mean, the courthouse badge and the mysterious all-access privileges it implies — that’s like the whole ‘I’m with the band’ thing, right?”

“So you’re beset with lawyer groupies?” I said.

“Well, yeah, you could put it that way,” Smooth replied. “And I admit I play it up a little, you know. I don’t mind leaving my briefcase open to reveal the vintage Federal Rules of Evidence I picked up a while back.”

“You don’t even practice in federal court, do you?” I said.

“No. But this volume is leather-bound, dude. Real leather,” Smooth said, his voice dropping to a whisper. “It’s a 400-page babe magnet. Not that I actually take advantage of the situation, of course.”

As we finished the last bites of lunch, our server came by and Smooth handed her his credit card. “I’ll take care of that for you, Mr. Muverson,” she said.

“See that little look she gave me?” Smooth said as soon as she walked away. “Happens every time I whip out the old American Bar Association Visa Signature Card. Same look Tiger used to get in the VIP room at the Bellagio, I bet.”

A moment later the server returned. “I’m sorry, Mr. Muverson, but this card has been declined,” she said, barely suppressing a smirk.

“No problem. This one’s on me,” I said, handing her my credit union debit card.

As she turned and left, I whispered to Smooth, “Did you see that look she gave you when she handed back your card? That’s the same look Tiger gets now, I bet.”

Appeal Denied

Coincidentally, right after the Tiger Woods scandal broke, I had lunch with an old friend, Paul “Smooth” Muverson, a land-use lawyer. Back when we hung...
WITH DUI CASES, MOST PEOPLE JUST WANT THEIR LIVES BACK.

WE HOLD THE KEY.

Fox Bowman Duarte is Washington’s largest DUI defense firm. With more than 100 years of combined legal experience, our eight trial lawyers have an encyclopedic knowledge of DUI law. On a regular basis, we’re called upon to educate judges and other attorneys about our state’s complex DUI laws and procedures. Find out how we can help your clients at foxbowmanduarte.com.
 WHEN THE STAKES ARE HIGH...

McKINLEY IRVIN

Family Law Solutions.

Since our founding in 1991, we have focused on one priority: successfully representing our clients. Our attorneys are among the best family law strategists, negotiators, and litigators. Given our size and depth of experience, we can assemble a team best suited to the facts and needs of each client’s case – no matter how simple or complex.

WWW.McKINLEYIRVIN.COM

COMPLEX LITIGATION. FAMILY LAW FOCUS.

WWW.McKINLEYIRVIN.COM