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WSBA should have stuck to its knitting

This is to express my support and agreement with Roger Ley, Alan M. Singer and the Washington Defense Trial Lawyers as stated in the November 2005 Bar News regarding I-330 and I-336.

Professor George Bell did not teach ethics at the University of Idaho College of Law, but the one statement I heard him make on the subject has always remained with me: “Attorneys should bend over backwards to be ethical in everything they do. The trust and respect of the public and their clients will repay them far beyond measure.”

The Washington State Bar Association should have recused itself from the I-330/336 debate. George Bell’s approach to ethics certainly demanded it if not the RPCs.

Carleton B. Waldrop, Pullman

A plague on all your houses

Dear WSBA: Who you gonna call?

Well, you went ahead and did it. Took sides on the I-330 Initiative. Although the November 8th election will have come and gone by the time you read this letter, I think you still need to defend yourself based on all those angry letters to the editor published in the last issue of the Bar News chastising you for taking sides. If, for one, however, do not want one dollar of my bar dues to be spent on defense of your actions. Maybe you can get some “pro bono” help with your defense. Here are some suggestions.

Your taking sides on the I-330 Initiative was perceptively framed as a “political” issue in one letter to the editor. Clearly, Republicans are for I-330 and Democrats against I-330. Your stand against I-330 makes it apparent WSBA and its Board of Governors is dominated by Democrats. Why don’t you call the Washington State Democratic Party Executive Committee for help? Hopefully, it won’t matter that I-330 did not come into being by legislative bill drafted and sponsored by a legislator affiliated with a political party. Hopefully it won’t matter that the legislature held their respective partisan noses on this initiative when it was filed in 2004 as an initiative to the electorate for voting in the November 2005 election.

If your fellow Democrats won’t help you, maybe some liberal defense lawyer will. Let’s see . . . you need a lawyer referral. Despite that fact that Washington Defense Trial Lawyers (WDTL) wrote a
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letter to the editor critical of your taking sides on the I-330 Initiative, their concern seemed focused on the noble cause of preservation of “collegiality” among WSBA members. As friendly and fair minded as WDTL appears to be, I would think that WDTL would accept you with open arms and find a member lawyer to zealously defend you. A check of their website indicates that WDTL’s mission goals apparently focus on defense lawyer betterment, without other agendas. A review of WDTL’s lawyer practice sections, unfortunately, reveals no lawyer practice section devoted specifically and on point to issues regarding potential WSBA defense. Looking at WDTL’s website, I don’t see any practice sections devoted to such areas as defense of free speech and other constitutional rights, debtor defense, environmental defense, DUI defense, etc. Seems like most of WDTL’s practice areas are devoted to insurance defense and related areas. Gosh! Insurance companies like I-330 don’t they? Geez . . . maybe WDTL should change their name to Washington Insurance Defense Trial Lawyers (WIDTL)? Sure would help to avoid confusion and a lot of misdirected lawyer referral calls. Oh boy . . . looks like WDTL even has a professional lobbyist whose bread is ostensibly buttered by the insurance industry. Maybe this isn’t such a good idea to seek help from WDTL.

I know! How about contacting the “No on I-330” group? Maybe they have campaign contribution money left over to pay for your defense. They may not have a lot though. The Public Disclosure Commission indicates that sponsors and proponents of I-330 have raised contributions nearly two times that of the “No on I-330” group. Talk about David and Goliath! You really should pick your battles more wisely, WSBA. Doesn’t look like this suggestion is going to be of much help to you. Sorry.

It is funny, though. Many of the major contributors of money to the I-330 Initiative were insurance companies and doctors. I thought they were so poor because of huge medical malpractice insurance premiums and medical malpractice jury awards being paid in Washington State? Golly, I hope the insurance companies and doctors don’t add the cost of their campaign contributions to my insurance premiums and medical bills next year! Looks like the “No on I-330” group is no match for our “poor” insurance companies and doctors. If I ever sponsor a citizen’s initiative petition, I want the support of insurance companies, doctors and other underdogs rather than having to rely on those cheap and greedy plaintiffs PI firms that Bar News letter writers assert are the real backers of the “No on I-330” group. Rest assured, my initiative petition will implement the best law money can buy!

Well, I am out of suggestions. Maybe you should just take your lumps on this one. Next time WSBA, just keep your mouth shut . . . please! Let’s just all be friends and talk about the weather or some other non-controversial subject. Remember, no more opinions from now on . . . just the facts.

Gary Smith, Port Orchard
Civil liberties at issue, but the wrong steps are being taken

I was appalled by President Taylor’s essay claiming that someone who publishes a message of hate and violence — “praising the mission of the terrorist mastermind (Bin Laden),” and publishes it by defacing public property, has a “fundamental privacy right guaranteed by the First Amendment” to avoid disclosure of their identity in the face of a grand jury subpoena. Anyone can distinguish between a broad sweep of all those who check out a particular book at a library versus tracking down someone who has defaced public property with a message of violence and hate.

Cities across Europe are in flames because of Bin Laden’s ilk. When one of them steps forward with “disturbing” public praise of Bin Laden, and commits a crime doing it (RCW 27.12.330), that is enough to justify some sort of government investigation. One wonders whether the President or the U.S. Attorney would declare a privacy interest in surveillance videos that captured a jihadist spray-painting praise of Bin Laden on a downtown building.

It is disturbing to see our President and the Office of the U.S Attorney for the Western District of Washington unwilling, or unable, to make fundamental distinctions in the scope of privacy rights, for on those distinctions our future freedoms depend. Finding a privacy interest in criminal conduct merely because expressional elements are present lends credence to a rising chorus that claims that “liberalism is a mental disorder.” As the First Amendment is spread thinner and thinner to protect the politically correct, we are losing our most important civil liberties and even public support for their very existence (cf., e.g., the intrusive- ness of sobriety checkpoints).

James Buchal, Portland, OR

Defining fisc and fora

I salute Bob Cumbow (“The Language of the Law,” December 2005 Bar News). I can only imagine how difficult it must be to stay on the right side of the line between amusing or elucidating and ponderous or tedious, which he so far has managed to do. A significant accomplishment in the language of the law by Spokane lawyer Milt Rowland deserves recognition. Milt managed to work into a single amicus brief (Cowles Publishing Company v. Spokane School District No. 81) both “fisc” and “fora.” Traditional dictionaries have of course been superseded in this millennium by the Google “define:” function. When you type “define:fisc” in Google, you quickly learn that it means “a state treasury or exchequer or a royal treasury; originally the public treasury of Rome or the emperor’s private purse” (worldnetprinceton.edu/perl/webwn). “Fora” gets no hits on websites in the English language (it is evidently a Portuguese word however), but what lawyer would not recognize it as the plural of “forum”? So to Bob and Milt, I say “Keep up the good work!” We all need something that makes us grin from time to time.

Pat Anderson, Snoqualmie
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An Open Letter to Physicians — We Need to Talk

S. Brooke Taylor, WSBA President

To my medical colleagues: I realize this is a legal journal, but it is the only stump I have. I am hoping that some copies of this invitation will find their way into your hands. We need to talk.

Like most of my colleagues in the legal community, I have the utmost admiration and respect for physicians. I particularly like and trust my own. Many others are friends. My career as a lawyer has brought me in contact with dozens of others, and most have come across as competent, conscientious, and committed to their patients. As with all professions, there have been some exceptions, but these have been few and far between. It has been my experience that in the medical/legal context, those who have a basic understanding of what lawyers do are the most pleasant to deal with, and those who don’t have a clue the most difficult. (Your experience with lawyers has probably been similar.) With that experience in mind, I have usually attributed the occasional disagreement to a lack of understanding and let it go at that.

I’ll have to admit that the recent initiative campaigns have given me pause. Our members in the Washington State Bar Association were subjected to the most vicious, mean-spirited, and reprehensible attack on an entire profession ever seen in this state, all in support of I-330, and the campaign was sponsored and financed by physicians and their insurers. I know you didn’t write the television ads — I’m sure that was delegated to marketing experts who knew that attacks on “trial lawyers” had worked in other states — but you sponsored and paid for TV ads that engaged in the most negative stereotyp-

ing imaginable. By election day, all 29,000 individuals licensed to practice law in this state were simply referred to collectively as “the liars.” And I don’t know if you noticed it, but no matter how ugly the ads supporting I-330 got — and they got really ugly — the opponents of I-330 never responded in kind. The opponents focused on those extreme provisions that made the measure unacceptable to a majority of voters. There was no attack on physicians, individually or collectively, even though injury-causing medical negligence is at the core of this debate.

... it is clear that our citizens want meaningful reform in the medical-malpractice litigation arena.

I expected most physicians to support I-330, and I expected most lawyers to oppose it, and that appears to have been the case, even though it is impossible to know how any individual or group actually voted. Based on the many letters and e-mails I received from our members regarding I-330, I know that some supported it, and I would guess that we had far more diversity in opinion on the subject in the medical community than was experienced in the legal community. This is not surprising, since very few lawyers are actually involved in medical-malpractice cases in any way, and our members therefore tend to base their analysis on policy issues rather than financial issues or turf protection. I was hoping some of you would stand up and say, “I support I-330, but I reject an advertising campaign which has as its theme the demonization of the entire legal profession, rather than the merits of the initiative.” Regrettably, it never happened.

But it’s time to bury the hatchet and move forward, because one thing that came through loud and clear on election day was that more than 40 percent of the voters supported one or both initiatives, and I think it is clear that our citizens want meaningful reform in the medical-malpractice litigation arena. I think it is equally clear that the voters rejected both initiatives because of provisions in each that were perceived as extreme.

Insurance Commissioner Mike Kriedler is an optometrist by training and has 16 years of experience in the state Legislature, and when he appeared before a meeting of our Board of Governors in June 2005 to inform our discussion of the competing initiatives, he gave us some advice which now, after the election results are known, seems even more appropriate than it did then. He told us that the competing initiatives involved very complex public-policy issues which did not lend themselves to the initiative process and should be debated and decided by our elected representatives in Olympia with input from all stakeholders. He urged the WSBA to support a legislative solution. I have talked to legislative leaders who tell me that, as a result of this last election, a critical window of opportunity now exists in the forthcoming legislative session, and meaningful reforms may be achievable.

So where does that leave us? As physicians and lawyers, we need to talk. We
have so much in common, and so much to gain through working together. Members of both professions are required to go through rigorous training and testing; are required to continue their education and abide by very specific rules of conduct to maintain their license; make a living providing professional services to our customers; and are legally responsible for injury-causing mistakes, which motivates most of us to carry expensive malpractice insurance. We assume huge responsibilities on behalf of our customers, worry about untoward results, and grieve deeply when those occur. We have so much in common professionally, that for the good of the order, we should be collaborating rather than fighting.

There exists a very recent model of collaboration which shows that our professions can work together effectively to achieve a common good. In 2001, the WSBA and the King County Bar Association collaborated with the Washington State Medical Association, the King County Medical Association, and the Washington Pharmacy Association in support of legislation to reduce incarceration periods for minor drug offenders and to dedicate the resulting savings to meaningful treatment. I am sure that many legislators were astonished to see lawyers and physicians standing shoulder-to-shoulder in support of reform legislation, but the bill passed with overwhelming support, became law, and is working.

There is no reason why we cannot bring the same level of cooperation and collaboration to examining those issues raised by the competing initiatives, and work toward meaningful reform. There already exists a piece of compromise legislation that was considered during the 2005 session of the Legislature, had broad support, and was commonly referred to as "Plan B." Some of the skilled lawyers who represent you in medical malpractice cases had a significant hand in drafting this legislation. It focuses on the core issues of patient safety, insurance reform, avoidance of frivolous claims, and the efficient resolution of doctor-patient disputes. It is devoid of the extreme provisions which lead to the downfall of both I-330 and I-336. It is, at least, a reasonable starting point.

I would like to explore the possibility of collaboration with the leadership of the medical community, and hereby extend an open invitation. I would like to sit down with a group of thoughtful and reasonable lawyers and doctors to discuss "Plan B" as a starting point, with the goal of making joint recommendations to the Legislature just as we did during the 2001 session. If this invitation is accepted, and such a meeting occurs, all those with an axe to grind will have to remain in the hallway. I want to deal only with those who are serious and open-minded about what it will take to bring significant improvements to the way we resolve these disputes. We need to talk, and time is of the essence. My contact information is below.

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

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The WYLD is coming! The WYLD is coming!
by Bar News Editor Lindsay Thompson

When I came back to these pages, I thought it would be a good thing to introduce different parts of the WSBA to each other. We are a big organization doing many things. We get divvied up by what side of PI cases we’re on; whether we work for government or not; whether we are young lawyers or not, and so on.

So this month I have dropped an issue of De Novo, the Washington Young Lawyers Division (WYLD) publication, into Bar News. Since their publication goes only to their members, I thought it would be interesting for the general readership to get a snapshot of what our 6,000-member-strong WYLD is up to. Look over your shoulder: every year the WSBA gains about a thousand new members, and they all become WYLD members.

President Noah Davis and President-elect John Brangwin; Editorial Advisory Board members Mark O’Halloran, Julia Bahner, and Jennifer Brugger; De Novo Editor Jason Vail and Associate Editor Shelley Ajax; a number of other contributors to this issue; and Staff Liaison Amy O’Donnell (a former Bar News editor who’s gone up in the world) have worked hard to provide us with an interesting cross section of what goes on.

WYLD is no Seattle-centric operation. They reach out statewide. They work to build collegiality, a concept that gets talked about a lot in other sectors of the Bar in a furrowed-brow, hand-wringing sort of way. They bring in judges and more senior lawyers for CLEs they hold in fun places, and along with the learning bits they actually seem to have fun.

I admire WYLD because they are reaching back to advance the sort of professional values once taken as givens, but in ways that speak to their membership with currency rather than sepia-toned nostalgia. They are adaptable. Diversity is a fully inclusive idea in the WYLD. They recognize the makeup of our membership is changing, and fast. They welcome everyone.

On a slender budget, the WYLD does a remarkable business in Useful Activities Beneficial to the Public. There never seems to be enough time to do justice to their work when the trustees come to report to the Board of Governors. I’ve often thought it would be interesting for the Board of Governors to reverse the order of things and call on the WYLD trustees for a change.

In the meantime, you can read more about what’s afoot in the WYLD at their website: www.wsba.org/lawyers/groups/wyld.

The growing role of the WYLD is evidenced in the Board of Governors’ 2001 decision to create a WYLD seat. Since then WYLD members have won election to other BOG seats as well. The WSBA Leadership Institute has graduated its first class of new lawyers and is underway with a second batch. It’s gratifying to see the WSBA finding a place for all its members, and to welcome the WYLD to Bar News.

WYLD = Washington Young Lawyers Division

- Any active member of the WSBA is automatically a member of the WYLD until the 31st day of December of the year in which such member reaches the age of 36 or until the 31st day of December of the fifth year in which any such member has been admitted to practice in any state, whichever is later.

- Approximately 6,000 members

- Website: www.wsba.org/lawyers/groups/wyld

- WYLD committees and programs: ABA Committee, Aspiring Youth Program, Continuing Legal Education Committee, Editorial Advisory Board, Equality in Practice Committee, Greater Access and Assistance Project (GAAP), Long-Range Planning Committee, Membership Committee, Practice Conditions Committee, Pre-Law Student Leadership Conference, Pro Bono/Public Service Committee, Trial Advocacy Program, Youth and Law Forum, Youth Scholarship/Mentorship Program, YMCA Mock Trial

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

by Noah Davis, 2005-2006 WYLD president

This edition of Bar News is a very special one indeed, having opened its pages to the WSBA Young Lawyers Division, absorbing the regular edition of De Novo, and permitting the WYLD word to reach an even broader, more diverse, and exceptionally wonderful-er audience — ahem — that's you, of course.

For some, your time as a new lawyer undoubtedly seems like only yesterday (and really, for people like our former WYLD Prezzes J.D. Smith and Steve Marsalis, it really was). For others, as you look back over your longer careers, perhaps the feeling is more like yester-centennial. But regardless of how much of a generational separation from the WYLD each of us may have, one of the more unique and cherished aspects of our fraternity of lawyers is that once in, we're all in together — all joining the same vessel, and all becoming, in some way at least, responsible to keep this big ship we call "The Law" afloat (and, hopefully, headed in the right direction).

As for our navigational part, we (the WYLD) are the public-service arm of the WSBA. Many of the programs and activities of the 6,000-member-strong WYLD are geared toward a public good, a commitment that renews annually to local and state communities through such programs as family law, immigration and tent city clinics (where volunteer lawyers, both new and more experienced, provide free legal services to those in need); partnership projects with such entities as Habitat for Humanity, the YMCA (mock trial program), and Seattle University’s Access to Justice; the Greater Access and Assistance Project (GAAP, providing low-cost legal services); and our at-risk youth programming in grade schools and high schools (where we bring young lawyers and contemporary legal issues into the classroom).

The WYLD has offered public-service programming in such locales as Bellingham, Olympia, Spokane, Yakima, and King County, while continuing to expand to other Washington cities and counties with the dedicated support of a vigorous Board of Trustees (representing 11 districts and including our Prez-elect John Brangwin and law student trustees from each of the three Washington law schools). Through our Board, the WYLD is wholly committed to reaching out to young lawyers all across Washington state (including current outreach attempts in Kitsap and Clark counties). With the help of our Board, all throughout the year (and on into the next), the WYLD will be working hard to be more inclusive, more representative, and more fun than ever before.

As we embark on this course, and as I look around, I am proud to see so many of our young lawyers either rising to positions of leadership or having already acceded to those positions all throughout our legal communities, including, to name only a few, Tisha Pagailauan with the Washington Women Lawyers, Joaquin Hernandez and Lael Echo-Hawk with the WSBA Committee for Diversity, Dianhka Linear with the Loren Miller Bar Association, and Kim Tran with the Asian Bar Association of Washington. Young lawyers are truly seizing the day. And, that’s not to mention the hundreds of young lawyers who serve on WYLD and "Big Bar" committees, or who are involved in other county, minority, and specialty Bar positions of leadership (and trust me, there’s aplenty).

But, we have not gone at it alone. We’ve had great role models and wonderful Bar leadership behind us. While each one of the WSBA presidents I’ve met have been warm and welcoming towards young lawyers, our most recent four — Dave Savage, Ron Ward, Brooke Taylor, and President-elect Ellen Conedera Dial — have been magnificent. From the WSBA Leadership Institute, to President Taylor’s goal of returning civics to the classrooms, to the defense of the independence of the judiciary, our Bar leadership has been remarkable.

Even beyond these individuals, it is you (the Bar as a whole) that has provided young lawyers the greatest opportunity to flourish. By including us, by recognizing us, and by giving us the forum to speak, it is you, the Bar membership, who have provided young lawyers the guidance, leadership, and inspiration they so sorely need. And it is you, the Bar membership, to whom we say “thank you.”

We thank you for your unending commitment to young lawyers and your unabashed dedication to our legal and social communities. We thank the state’s judges for being so available and so helpful. And we thank all of you for your specialized attention and much-needed mentorship.

As the WYLD works to engage our membership during the year with our theme, “WyLD About You,” we will be grounded in one additional theme: our unending gratitude to the “Big Bar” for lending its ears and its wisdom. Whenever you help one young lawyer with rules and procedures, or whenever you assist our outreach attempts in Kitsap and Clark counties. We thank the state’s judges for being so available and so helpful. And we thank all of you for your specialized attention and much-needed mentorship.

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Noah Davis is managing member of In Pacta PLLC in Seattle. He can be reached at nd@inpacta.com.
In this, my first column as editor of this special Bar News edition of De Novo, I have the opportunity to introduce myself and talk about my goals as the new editor. However, this presents a particular challenge for me, as I must begin with a confession: I am really quite bad at introductions.

I could blame this peculiar character flaw on a natural tendency toward introversion, but I believe the sources are more numerous. For example, growing up in the backwoods of northeast Washington, I had few occasions in which to learn lessons on the finer points of social etiquette. Compounding this problem is the fact that I’m an Eastern Washingtonian transplanted to the opposite side of the state; when I tell people over here that I grew up near the town of Colville in Stevens County, I’m typically met with blank stares, as though I’d said I was raised in Bulgaria.

But while my background makes for challenging introductions, I’m always reminded that this is a big, diverse state. Statewide organizations like the Young Lawyers Division have a membership that mirrors this diversity, and I will ensure that De Novo continues to reflect this statewide perspective, an approach that is enhanced by the support I receive in my editorial duties by the new assistant editor, Shelley Ajax, a solo practitioner from Kennewick.

There are still other reasons for my struggle with introductions, like the minor hesitation I feel when called upon, in social settings, to identify myself as a lawyer. Though it has been more than four years since I graduated from Gonzaga Law School, I still feel like the title of “attorney” fits me like a slightly too-big suit that I haven’t yet grown into. I’m sure this feeling will dissipate over time, but I’m grateful for the opportunities available as a member of the WYLD for professional training and social interaction with other young lawyers. These numerous programs help to ease the transition from law student to lawyer, and thereby lend a greater feeling of authenticity to introducing oneself as an attorney. I am pleased to have a role in ensuring De Novo remains an important vehicle for conveying these opportunities to my fellow young lawyers.

However, introductions tend to be no easier for me among groups of lawyers. The work I do as a staff attorney with Northwest Justice Project is best described as “poverty law” and is fairly broad and hard to explain in a pithy way, which makes introductions a bit awkward. Of course I’m extremely proud of the work I do for this statewide civil legal-aid program; after all, a practice in public-interest law was my goal when I gave up a career working in the advertising industry as a graphic artist to go to law school, and now I’m extremely fortunate to do this work every day.

Thus, I have no simple answer to the question: What type of law do you practice? I consider myself a general civil practitioner, and my work has ranged from providing legal advice over a statewide telephone hotline to appellate advocacy, and everything else in between. Having worked legal jobs entirely in the nonprofit realm, it may not be surprising that I intend to make a specific effort to ensure that De Novo continues to reflect the wide range of practices found in the WYLD membership, which includes those of us who work in public-interest law.

Outside the practice of law, I find countless other contexts in which introductions are necessary, and each is uniquely challenging. For example, I teach legal ethics and legal writing for paralegal students at Highline Community College, and every quarter I face a new group of students whose collective expressions of skepticism and suspicion make initial introductions all the more formidable, even though I know I will eventually win them over. Then there’s my role as a husband and the father of a wonderful son and daughter. With children aged 12 and four, I find myself associating with fellow parents in the two very different environments of preschool and junior high. And there are numerous other groups with which I associate on a daily basis, from my fellow bicycle commuters on the Bainbridge Island ferry, to online virtual communities where we discuss topics both serious and trivial.

My point is this: All of us are more than just attorneys, and we all have interesting experiences, backgrounds, and perspectives that influence the way we practice law. I encourage readers to submit articles for De Novo, on substantive legal matters, and I also hope you will look to your lives outside the practice of law and write about how your individual interests and passions enhance your work as attorneys.

In closing, I must apologize if you leave this column knowing little about me; after all, I’m bad at introductions. Nevertheless, I look forward to serving as De Novo editor and making it an interesting, fun, and relevant publication for the WYLD.

Jason T. Vail is a staff attorney with the Seattle office of Northwest Justice Project. He can be reached at 206-464-1519 or jasonv@nwjustice.org.
WYLD Overview:
What’s Happenin’ in Washington

WYLD Express: Round Four — WyLD about Walla Walla

by Julia Bahner

Round four of the WYLD’s Young Lawyer Express was aptly titled “WyLD about Walla Walla” and took place on the weekend of September 17-18. More than 30 lawyers from around the state gathered for the free CLE credits, which covered diverse topics such as advising wineries on business matters, efficient small office management, and a “View from the Bench” covering professionalism and courtroom conduct.

The site of the presentation was the conference room at the Three Rivers Winery.

The “View from the Bench” session covered professionalism and courtroom conduct and was taught by Judge Donald Schacht, a Walla Walla County Superior Court judge since 1989. Judge Schacht shared humorous stories from the time he has spent both in practice and as a judge, and he focused on 12 areas of professionalism in the courtroom.

Steven Frol of Reese Baffney Schrag & Frol P.S., spoke about his work advising local wineries. His burgeoning practice has grown along with the local wine market. Since Frol moved to Walla Walla in 1996, the number of local wineries has increased from seven to more than 70, and many of them are now Frol’s clients. In addition to his law degree, Frol holds an LLM in tax and accounting degree. His presentation covered diverse issues that arise when advising wineries, such as entity formation and distribution agreements.

Dan Roach, president of the Walla Walla County Bar Association, offered valuable insights on effective and efficient law office management.

As with every WYLD Express event, the weekend involved more than just free CLE credits. After the CLE concluded at the Three Rivers Winery, participants and their guests took a tour of the winery and attended a concert and barbecue on the lawn as part of the “Music on the Lawn” summer concert series. Local musician Kate Bray performed, and the Three Rivers host made an announcement before the performance, welcoming the WYLD lawyers from across the state.

Most participants stayed overnight...
in Walla Walla. After a group breakfast the next morning, the WYLD group headed over to the Dunham Cellars winery for a special no-cost tour and tasting at Dunham Cellars. The father-and-son owners of the Dunham Cellars winery were charming and gracious. They opened limited edition wines, spoke about the prominently displayed artwork throughout the winery, and introduced the winery’s three-legged dog, whose picture is displayed on the winery’s “Three Legged Red” wine bottle. The group then continued on to the L’Ecole Winery, one of Walla Walla’s oldest wineries. L’Ecole also waived its customary charge for the WYLD group and explained the history of the region and gave a presentation on the winery while we enjoyed samples of their many fine wines.

Overall, the event was a rousing success, and for many it was their first visit to this part of the state. The WYLD CLE and Membership committees continue to host these social and CLE events across the state. The program started last year with the “Ski and CLE” in Bellingham and Mt. Baker, followed by the “CLE by the Sea” in the San Juans, the “SkiLE” in Wenatchee, and the latest “Wyld about Walla Walla” event. Each event has been a smashing success, so look for round five to be held somewhere in Washington this winter. As always, it will provide fun social events, free or low-cost CLE credits, and the chance to meet WYLD members from all over the state. WYLD President Noah Davis and the WYLD Membership Committee started the WYLD Express. The Membership Committee thanks everyone involved, especially CLE Committee Co-chair Allison Williams and Membership Committee members Adrienne Keith, Eric Lewis, Dubs Herschlip, and Lisa Ellis for their tireless efforts in organizing this event.

Julia A. Bahner is a WYLD King County Trustee and an associate at Lane Powell PC. She can be contacted at 206-223-7436 or bahnerj@lanepowell.com.

Greater Access and Assistance Program

by Rachelle Anderson, WYLD Spokane County trustee

The Greater Access and Assistance Program (GAAP) is designed to bridge the gap for low-income clients to low-cost legal services. This program was started by the WSBA and the WYLD in conjunction with the Washington State Access to Justice Board approximately four years ago. With help and oversight from the WSBA and the ATJ Board, our first pilot site in Spokane got up and running, and is now operating on its own! Since September 2004, GAAP continues to thrive thanks to the local young lawyers in Spokane County, along with much help from the executive director of the Spokane County Bar Association, Penny Youde. The WSBA Family Law Section generously donated our funding for 2004-2005.

We are proud of local support from new and experienced attorneys alike who have signed up to be on our panel to accept cases. All we ask is that the lawyers charge a reduced rate of $50 per hour for client assistance. Our clients cannot otherwise afford direct legal representation, nor do they qualify for traditional pro bono help from other local programs due to incomes only slightly higher than the federal poverty level.

Future plans for GAAP include expansion to other areas across the state. If you are interested in finding out more about the program, or if you are living in Spokane and would like to sign up as a panel attorney, please contact Rachelle Anderson at 509-328-5550.

CLE Committee Update

by Kellea Williams

Even though 2005 is over, the work of the WYLD CLE Committee continues! In addition to our Halloween CLE on bankruptcy law, WYLD CLE hosted a Valuing Medical Claims CLE November 14. Please check the WYLD website at www.wsba.org/lawyers/groups/wyld for dates and times for all upcoming CLEs, and stay tuned in early 2006 as we are working to get the reciprocity CLE set for those attorneys who would also like to be licensed in

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Oregon. We are also working on seminars covering arbitration and construction law. If you are interested in becoming a member of the WYLD CLE Committee or have topic suggestions that you'd like to present, please contact Allison Williams at allison@flfdm.com or Stephanie Henderson at stephanie.henderson@roberthalfflegal.com.

**WYLD Presents CLE on the New Bankruptcy Act**

*by Julia Bahner*

On Halloween, more than 80 attorneys attended the WYLD CLE Committee-sponsored CLE on the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) in Seattle. The WYLD was fortunate to have two experts in the field, Mark H. Weber, assistant U.S. Trustee for the Seattle office of the U.S. Trustee’s office, and Martin L. Smith, trial attorney for the U.S. Trustee’s office, as the speakers.

The CLE was only an hour and a half, and though this was certainly not enough time to cover all of the new provisions in the Bankruptcy Code, the speakers did a remarkable job of covering the salient points and touching on highlights of the new Bankruptcy Act and how it affects the practitioner. Special attention was paid to the ethical considerations applied to lawyers under the BAPCPA, as well as some of the new requirements under the Code, and the new national and local rules under the BAPCPA. One of these new requirements is that all debtors must first participate in credit counseling before filing for bankruptcy. The CLE provided information on which credit-counseling agencies have been approved to offer credit-counseling advice. The CLE also addressed how the "means test" applies to debtors, and the additional documentation now required from the debtors in order to qualify for the all-important discharge. As one attendee commented: “They did a great job of making something terribly complicated seem much clearer.” WYLD thanks our speakers and the CLE Committee.

**WYLD Across the State**

Greater Spokane District Trustee Rachelle Anderson reports that the **Spokane County YLD** is beginning a new year of activities under the watch of new President Lisa Dickinson. November saw the Spokane YLD presenting its annual New Lawyer Orientation CLE, a day and a half of hands-on learning for the county’s newest lawyers. This CLE offered everything from courthouse tours to practice tips from judges in district court, superior court, and federal court. Spokane County was presented the award for Outstanding Affiliate Organization of the Year from WYLD President-elect John Brangwin for its outstanding efforts in member service and public service in 2005. Spokane County YLD continues to have monthly meetings the second Thursday of the month, at rotating locations. For more information, contact Rachelle Anderson at 509-328-5550.

Greater Olympia District Trustee Michael DeWitt reports that the **Thurston County Young Lawyers** have regular meetings at Apollo’s Restaurant in Olympia on the third Wednesday of each month. President Melissa Goldmann arranges for a guest speaker to attend most of the meetings. Recently, Scott Douglas from the Volunteer Legal Clinic spoke. In related news, the county’s collaborative law organization, Sound Collaboration, has young lawyer Kristen Bishopp as its president, and on October 20, the group held its first annual meeting at Falls Terrace in Tumwater. Several young lawyers are members.

North Central District Trustee Martha Grant reports that her district has undergone some recent changes. John Brangwin, a partner at the law firm of Woods & Brangwin, PLLC, and past WYLD North Central District trustee, has been elected WYLD president-elect. Additionally, Brandon Redal, associate attorney for the firm Kottkamp & Yedinak, PLLC, has begun organizing a local association of young lawyers. As for recent events and activities, the North Central District has resumed its monthly CLE luncheons, which take place at the Wenatchee Country Club. Most recently, Paul Kube discussed the proposed updates to the Rules of Professional Conduct. The North Central District is also working with Eastmont High School to prepare for its mock trials. For the mock trials, local attorneys assist the high school students by serving as judges for the trial, and giving the students pointers and other practical advice regarding trial practice. Local attorneys Dan Gasperino, Paul Kube, Mike Arch, Martha Grant, Amee Tilger, Gar Jeffers, Allen Blackmon, and others have volunteered their time.

Snohomish District Trustee Kari Petrasek reports that the **Snohomish County Young Lawyers Division** (SCYLD) has regular meetings at The Flying Pig Restaurant in Everett on the
second Monday of each month at 5:30 p.m. A guest speaker is invited to most of the meetings. Most recently, Commissioner Jacalyn Brudvik from the Snohomish County Superior Court spoke. On March 3, 2006, the WYLD Membership Committee/SCYLD will cosponsor an event featuring an Everett Silvertips hockey game.

Southwest Trustee Christopher Veley is excited to announce the formation of the Clark County Young Lawyers’ Section (CCYLS), which was recently officially recognized by the Clark County Board of Directors. The CCYLS has scheduled its first annual meeting on January 24 at 11 a.m. The section’s initial officers will be nominated and elected, and general plans will be made for the coming year. The meeting will be held at Friends & I catering in downtown Vancouver, WA. Membership in the section is open to all young lawyers who are also members of the Clark County Bar Association.

Pierce County Trustee Heather Young reports that the Tacoma-Pierce County Young Lawyers (TPCBA-YLD) meet monthly on the first Tuesday of each month, at 7:30 a.m. at Tully’s Coffee on 9th and Broadway in Tacoma. The TPCBA-YLD recently hosted a Halloween party/networking event at the Chalet Bowl in Tacoma on October 26. The YLD also recently elected new officers and held the “Judicial Skit Night” on December 8, to benefit the Tacoma-Pierce County Bar Association.

Steve King, chair of the Kitsap County Young Lawyers (KYLD), reports that the group recently organized a revival of the “Kitsap County Bar Picnic” with financial assistance from the local bar association. The YLD section was in charge of all aspects of the picnic, from location to advertising and catering. The picnic was held at the lakeside home of local bar member Larry Little and his wife, Kathy. The late September day was perfect, and the turnout was very encouraging. The KYLD is planning to help out with next year’s picnic and hopes for an even bigger turnout. The last meeting of the KYLD was held on October 20 at Campana’s in Poulsbo. The agenda included discussion of the new proposed rule for legal technicians, fundraising ideas, finalization of the new Kitsap Courthouse Directory, and the planning of a bowling meeting/social. The KYLD also had a great evening of fun back in August with the WYLD folks from the big city who came over for dinner and a night of gambling and dancing at the Clearwater Casino. Thanks to everybody who came over and helped make it a fun evening — this event has made it to the list of annual events. The KYLD continues to look for new faces to join the group. Meetings are held around the county to encourage as many young lawyers as possible to get involved. Contact Stephen T. King at kinglaw@qwest.net, or Jennifer Brugger, WYLD trustee for the Peninsula District, at jbrugger@wapa-sep.wa.gov for more information on how to get involved with the KYLD.
WYLD Membership Committee: We Hope to See You Soon

by Adrienne Keith

With round five of the WYLD Express just around the corner, it’s a busy time for the WYLD Membership Committee. The Membership Committee first combined free CLEs and social and networking opportunities in 2004, and we’re improving with each round. As in the past, we’re hoping to draw from many regions of the state to provide an opportunity for young lawyers to learn about the profession and to get to know each other. Round five will be a “Ski and CLE” event near Crystal Mountain.

The WYLD Express events are just one way in which we coordinate efforts with other WYLD committees to actively recruit members and to provide frequent networking opportunities for law students, young lawyers, and senior members of the Bar. On a weekly basis, the Membership Committee makes it possible for Young Lawyers to come together by organizing social events. Our social chairs (Fred Arcala, Polly Peshtaz, Vanessa Schiodtz, and Bita Soltan-Qurraie) organize and announce the event via the e-mail list, which now includes more than 250 lawyers. Some of our past events have included a Seattle Seahawks game, mushroom foraging, and events cosponsored with local young lawyers divisions, such as horse racing at Emerald Downs and a dinner and casino night. Each event draws both new and familiar faces!

In addition to our weekly events, we always offer a networking opportunity on the first Thursday of the month at the Seattle Art Museum. The event is a chance for young lawyers to meet with their peers and enjoy the relaxed early-evening atmosphere of the SAM. Because it’s the first Thursday of the month, admission is free (except for special exhibits). The next event will be Thursday, February 2.

Our Membership Committee meetings are open to all WYLD members, and for those who are not in Seattle, we offer a call-in number to encourage statewide participation. Membership Committee meetings are a great way for young lawyers to become more involved and a way to make more connections. The Membership Committee is made up of a great group of people and we are always happy to expand. Please join us at one of our meetings, held at 6 p.m. on the third Tuesday of each month at the WSBA office. Upcoming meetings will be held on January 17, February 21, and March 21. Please contact Amy O’Donnell at amy@wsba.org to get added to the Membership Committee e-mail list. We hope to see you soon.

Adrienne Keith is the chair of the WYLD Membership Committee and practices law in the Seattle area. She can be reached at 206-709-8281 or ak@inacta.com.

Practice Conditions Forum 2006

by Stephen T. King

The Practice Conditions Committee’s task organizes and presents the Practice Conditions Forum, a biennial, half-day event designed to help young lawyers and more experienced practitioners excel at the practice of law while maintaining balance in their personal lives. Historically, the forum has presented a range of topics, including how to succeed as an associate, telecommuting in your practice, getting and keeping clients, and balancing personal and family life with career. The 2004 forum included topics on managing student-loan debt, civility in the courtroom, and essential skills. Speakers have included members of the Bar staff, practicing attorneys, and professionals from other disciplines. In addition, the forum has been held at locations that are more interesting than traditional meeting areas, including the REI flagship store, the Museum of Flight, and the Columbia Winery. CLE credit has been given for the forum.

This year, the committee is being co-chaired by Stephen T. King and Kristen Guberman. The liaison from the WYLD Board of Trustees is Jennifer Brugger.

Stephen T. King is co-chair of the WYLD Practice Conditions Committee. He can be contacted at kinglaw@qwest.net.
Public Service Committee Allows Students, Lawyers Opportunities for Outreach

by Mark O’Halloran and Tiffany Tull

Coming off an election cycle that saw the worst of public perceptions about lawyers being aired in support of Initiative 330, it is nice to draw attention to a dedicated group of lawyers and law students bearing the banner of justice and reminding us of the ideals that led many of us to this profession. Since partnering with the Seattle University School of Law Access to Justice Institute (AtJI) in 2003, the WYLD Public Service Committee has organized four free immigration law clinics and one free family law clinic to address the needs of the underserved communities in the greater Seattle area. In addition to these services, the Committee has taught a professionally packaged, interactive, and educational program on the evolution and current responsibilities of the American jury system in various high-school classrooms.

During the most recent clinic, held on September 29, 2005, more than 40 families received free legal services from more than 20 experienced immigration attorneys at Seattle’s Rainier Community Center. Additional attorneys and students provided support and assistance during the clinic. The collaborative effort has been successful under the attentive leadership of Public Service Committee Chair David East. Committee Co-chair Erin Hall was instrumental in recruiting the attorneys to volunteer their time for the clinic. Sudha Shetty’s AtJI staff worked diligently on advertising the clinic through broadcast radio, flyers, and local newspapers. The AtJI’s Language Bank, along with Alan Lai of the Chinese Information Center, contributed to reach Spanish, Chinese, Russian, Amharic, and Vietnamese speaking communities. AtJI volunteer law students from Seattle University School of Law provided client intakes and exit interviews for the clinic participants, many of whom reported they received the help they needed and appreciated the service. Thanks to the AtJI’s Carrie Gargas, Endu Hailu, Ahoua Kone, and Tiffany Tull for coordinating the clinic services.

The WYLD Public Service Committee and AtJI are very appreciative of the time and expertise that their volunteers have
brought to the clinics and programs. To become a member of the Public Service Committee, or to volunteer for a future event, please contact David East at deast@mcnaul.com, or Erin Hall at erin@aoki-sakamoto.com.

Mark O’Halloran is an associate at the Gosanko Law Firm and a WYLD King County trustee. He can be reached at mark@gosankolaw.com. Tiffany Tull is a staff attorney for the Access to Justice Institute at Seattle University School of Law and a member of the WYLD Public Service Committee.

WYLD Seahawks Game Event

by Eric Lewis

On Sunday evening, October 16, 27 intrepid WYLD members gathered in their seats high, high up in Qwest Field to watch the Seattle Seahawks battle the Houston Texans. It was a perfect fall evening for a football game, cool and dry. The lawyers were rewarded with a spectacular game in which the Seahawks trounced the Texans by a score of 42 to 10.

Many in the group attending the game were new to the WYLD, and we hope to see them again at future events. While most of the attorneys were from the Seattle area, a few came from Tacoma and Port Orchard to enjoy an evening of professional football in the company of their peers.

The evening began at Contour in Seattle, where a few of the attorneys gathered to enjoy happy-hour prices on beverages and appetizers. The group then tromped a few blocks to the stadium and up several flights of stairs to arrive at their seats. This was my first visit to Qwest Field, and I was pleased to discover that I had been informed correctly: there isn’t a bad seat in the stadium. The view from the upper decks was clear, unobstructed, and was an excellent vantage to see each play unfold.

Late in the fourth quarter with victory assured, the fans in the stadium, and many of the young lawyers, began to make their goodbyes, reluctantly acknowledging the reality of a Sunday evening with the prospect of a full work week to come. I am sure the memories of that crisp October evening and the camaraderie shared will be treasured by all who attended the game. As a wise man once told me, no one on his deathbed ever wished he had worked more.

For those who were at the Seahawks game, as well as those who wanted to but were unable to make it, please note that there will soon be an announcement about another upcoming sporting event, this time a Sonics game in the Spring. We hope to see you there!

Eric Lewis is the vice chair of the WYLD Membership Committee. He can be reached at eric.l.lewis@guycarp.com.
WYLD Trial Advocacy Program

by Dubs Herschlip

Word is spreading that the Bar Association’s Trial Advocacy Program (TAP) is offered to all lawyers, particularly to members of the Young Lawyers Division. TAP has run for almost a decade and has gone through many changes. Last year was a huge success, with triple the number of participants and masterful speakers. The mock trials took place at the King County Courthouse in front of real judges and live juries. Now we must get ready for next year. How do you know if you need TAP? Do you want good exposure in front of real judges? Do you need practice working in front of a jury? Do you want to know how to build a better case? TAP may be for you.

The best way to describe TAP is that it is an opportunity for an aspiring litigator to borrow from the trial masters’ toolboxes. TAP offers a sanctuary for learning, helping a trial lawyer connect the left brain with the right brain. TAP provides training on professional behavior inside and outside the courtroom, scripting of openings and closings, exploring the physical aspects of the courtroom as a theater, communicating with witnesses and jurors, and backward-mapping from beyond the end of trial to give our participants a view of the big picture.

Last year, some of the state’s most exceptional professionals offered their tools and knowledge including: Cynthia Estes of The Defenders Association on informal discovery; Robert Gellatly of Luvera Barnett Brindley Beninger et al. on discovery rules and pre-trial preparation: case analysis, motions, issue-spotting, themes, theories, and jury instructions; Timothy L. Ashcraft of Williams Kastner & Gibbs on evidence: admitting exhibits and technicalities; William S. Bailey of Fury Bailey Trial Lawyers on deposition techniques; Mike Wampold of Peterson Young Putra on experts: selecting, using, and deposing, and ethical issues; Charles Wiggins of Wiggins & Masters PLLC on objections and building record for appeal; James F. Williams of Perkins Coie on jury selection, voir dire, challenges and ethical issues; Karen Koehler of Stritmatter Kessler Whelan et al. on opening statements; Scott O’Toole of the King County Prosecuting Attorney’s Office on direct examination; Francisco Duarte of Fox, Bowman & Duarte on cross examination and re-direct; John R. Connelly Jr. of Gordon Thomas Honeywell et al. on closing argument and damages; Connie Miller of Miller Communications on communication skills in the courtroom; Judge Richard McDermott Jr. of King County Superior Court on view from the bench including ethical considerations and courtroom behavior; and Judge Mary Yu of King County Superior Court and Michael Iaria of Cohen and Iaria, who presented a dynamic and humorous demonstration on the use of technology in the courtroom.

There were some major changes last year. First, we changed the location, and we thank Perkins Coie LLP for hosting our presentations on November 4 and 5 for free. Second, we changed the TAP format. We wanted to increase participation in TAP by lawyers statewide and we wanted participants to come ready to work, be engaged, and do some mental heavy lifting. We reduced the total time commitment from three months to two weekends.

One thing has not changed: the Attorney Tourney. Participants successfully conducted their own trials in front of real judges and live juries in the King County Courthouse. Repeating these successes depends upon volunteer judges, jurors, and members of the TAP planning committee. Members of the planning committee can attend the CLE for free and receive CLE credits, including ethical credits.

Dubs Herschlip is chair of the WYLD Trial Advocacy Program and an associate at the Newton Kight firm in Everett. He can be contacted at 425-259-5106 or dubs_ari_herschlip@yahoo.com.

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The WSBA Leadership Institute Experience

by Tracy S. Flood

The WSBA Leadership Institute was created as a tool to recruit, train, and retain young lawyers from traditionally underrepresented groups for leadership positions. The WSBA Leadership Institute is organized over eight months and is composed of one- and two-day sessions. The classroom time emphasizes subjects relevant to enhancing our skills as new leaders.

As a fellow in the inaugural class of the WSBA Leadership Institute, my experience has been immeasurable. Twelve of the most talented new lawyers in Washington shared eight months of classroom time on subjects that benefit all attorneys, from the private practitioner to the government lawyer. Thanks to WSBA 2003-04 President David Savage, 2004-05 President Ron Ward, WSBA Leadership Advisory Board Chair James Williams, WSBA Diversity Advocate Joslyn Donlin, and all of the Advisory Board members for rising to the challenge of bringing a program to the WSBA that acknowledges the need for diversity in the Bar and developing quality leaders throughout the state.

Each session started with what became known to the fellows as “check-in.” During check-in, the fellows, advisors, and speakers would take the time to introduce themselves and share the events that transpired in their lives since the last session. Our first session was filled with faculty that included Judge Ricardo Martinez of the U.S. District Court Western District, Justice Mary Fairhurst of the Washington State Supreme Court, and Jeffery Robinson of Schroeter Goldmark & Bender. WYLD members J.D. Smith of Gordon Thomas Honeywell, Malanca, Peterson & Daheim, LLP; Gabriel Galanda of Williams, Kastner & Gibbs, PLLC; and Roxanne Rarangol of Grant & Associates spoke at the second session about ways for the fellows to become involved in Bar committees and organizations.

Sessions for the WSBA Leadership Institute were organized to include different locations throughout the state. The “Meet the Bench” session was held at the U.S. District Courthouse, and the “Legislative Process” session was held in Olympia. These sessions included faculty from municipal courts and tribal courts. In Olympia, we were hosted by Justice Owens, and we were given a tour that included an up-close and personal view. The session on “Executive Action” was held in Spokane.

In addition to classroom training, one of the ways the fellows developed leadership skills was the Community-Service Project. For the inaugural class, our project was the creation of “Profiles of Diversity and Leadership,” located on the WSBA website at www.wsba.org/diversityprofiles.htm. This site includes inspirational profiles of diverse Washington attorneys and judges, a roadmap for law school students, and resources for attorneys in Washington state. As a continuance of the development of leadership skills after completion of the program, each fellow will become involved in service in the WSBA for one year.

As a graduate of the WSBA Leadership Institute, I am proud to say that I was in the inaugural class. There is no other setting where a group of new lawyers are exposed to legal-profession leaders from the judiciary, government agencies, and law firms in this fashion.

The second class of the WSBA Leadership Institute will begin on January 20.

Tracy S. Flood is a 2005 graduate of the WSBA Leadership Institute and a member of the Kitsap County Young Lawyers. She can be reached at 360-895-2400 or fltraclylaw@aol.com.
Rig Ship for Dive


reviewed by Lindsay Thompson

Retired from a 45-year legal career, Tacoman Claude Pearson has turned his talents to writing. *Gunfish*—which Pearson describes as “pure fiction intended for adults”—appears nonetheless to draw on Pearson’s own experiences on the submarine Pogy between June 1944 and January 1946.

More than anything, *Gunfish* reminded me of Noel Coward’s World War II film *In Which We Serve* (1942). In both film and novel, vessels go out on patrols, are damaged by enemy fire, and retreat to base for repairs and refits. Captains change hands. Crewmembers are killed, or transferred to new assignments, and others replace them. Relationships back home thrive, or fail.

Pearson’s central character is Ensign Charley Jason, who arrives with a university ROTC course and four months of sub officer training. Seasickness whacks him before the boat leaves San Francisco Bay. He’s heartsick, too. His squeeze, back in Frisco, is both fabulously wealthy and fabulously talented in bed. By day she takes over the running of her family’s company, China Bank, while her mom fills the family’s 101-room mansion with submariners and their families.

Guys on subs, by the way, thought a lot about sex back in the day. Cram 80 men into what Pearson calls “a steel tube, 311 feet long,” intermix career Navy men with green reservists, and you’ve got a simmering pot of ambition, frustration, boredom, and intrigue, all of which Pearson capably chronicles.

Fleet subs of the Gunfish type worked mainly on the surface; rescuing downed pilots and attacking enemy ships were their mandates.

Everyone on board wants action (the war, not the girl problems), but getting it is a story of long stretches of routine punctuated by sudden calls to quarters, electric torpedo malfunctions, and heavy enemy fire.

Where Pearson excels is in describing life on a sub: operating a big, complex,
yet primitive machine in circumstances where a single error could be fatal to all. Surfacing, diving, maintaining trim all required elaborate and swift shifts of air between tanks on the sub. There’s the fear of fire, and the curse of a scheming land-bound supply officer who stuffs Gunfish with enough fruit cocktail for three global wars. The book’s style is informative but not didactic, and I learned a lot more about submarine warfare than I got from the movies.

We all know, for example, in a general way, that America’s World War II effort was breathtakingly enormous, straining the productive capacity of the nation to its limits and then some. But Pearson brings to life how no corner of the country seemed to escape notice by military planners. Gunfish, as well as Pearson’s sub, Pogy, were built on Lake Michigan. The Manitowoc Ship Building Company produced 27 of them in all. Each was floated through downtown Chicago on the Chicago River, then down the Mississippi to be put into service at New Orleans.

Entries in the captain’s Day Order Book create a sense of anticipation as they advance into spring 1945. Then, as Pearson tells it, “Burleigh Roby came into the wardroom. He puzzled over a message he had just decoded. He laid it on the table. ‘What the hell is an atomic bomb?’ he asked.”

So the war ended. Charley Jason, having found his niche in submarines, comes home on leave and gets Dear Johned by the banker sex kitten. Life moves on as everyone tries to adjust to a postwar world.

Pearson includes a helpful — and extensive — glossary of submarine terminology at his novel’s end, along with some personal notes about his service and that of the submarine fleet in World War II. Gunfish is an entertaining adventure tale as well as a survivor’s tribute to colleagues, now long gone, in an epic struggle. He has done them proud.

Lindsay Thompson practices in Ballard and edits Bar News. For more information on Gunfish, the author’s website is www.claudempearson.com.
The Board’s Work

BY LINDSAY THOMPSON

Vancouver, WA, October 28-29, 2005

A short meeting, this. The Board met in open session for three-and-a-half hours Friday, and an hour-and-a-half Saturday morning. I had to attend to the Annoying Day Job, and passed on the excursion.

On the routine matters front, the Board approved a variety of appointments, and proposed Bylaw changes for the Real Property, Probate and Trust Section.

The WSBA Amicus Committee asked the Board to approve Bar Association participation in three appeals as amici. In State v. Athan, the issue was whether the police could pose as a law firm and send a fake letter inviting a suspect to join a class-action suit in order to snag DNA from the saliva on the return acceptance envelope. The integrity of the attorney-client privilege, whether the police can avoid claims of unauthorized practice of law, and other related issues were cited as concerns warranting WSBA weighing in.

Defense lawyer John Muenster argued for the brief. King County Prosecuting Attorney Norm Maleng contended the case didn’t rise to the level of WSBA’s standards for filing amicus briefs, didn’t represent a public harm, and wasn’t the right case for having the courts clarify whether the police can pretend to be lawyers.

Governor Stan Bastian moved to table the matter until the Supreme Court decides whether to accept review, and then decide whether to participate, and to what extent. The motion passed, 12-0.

The committee recommended that the WSBA not get involved in another case, Puget Sound Title Co. v. North Crescent, LLC, where the question was something about a limited practice officer exceeding her authority under the court rules. The Board agreed, 12-0.

In Tingey v. Haisch, the issue was whether RCW 4.16.040(2), setting a six-year statute of limitations for accounts receivable, applied to lawyer bills. Division II of the Court of Appeals called the question into more question. This time Governor Johnson moved to table ‘til the Supreme Court decided whether to accept review. On this one the Board tied, 6-6. The president broke the tie, voting nay. A motion not to file a brief then passed, 10-2.

The Rules of Professional Conduct Committee, through member Art Lachman, presented new Formal Opinion 198 to replace 1990’s Opinion 186 regarding engagement retainers and advance payments. The law and the old opinion had drifted apart over time. There was debate between the BOG and criminal defense and family law attorneys about how sometimes advance fees should, in fact, be considered earned upon payment. Governor Davis moved to table the matter to December to allow time for some input from the Legal Foundation of Washington, which gets the interest on lawyer trust accounts and spends it on legal services programs in the state. Davis also wanted to give an ad hoc work group...
chaired by Chief Disciplinary Counsel Joy McLean time to work on the issue. The motion passed, 12-1.

Governor Mark Johnson’s nomination to be WSBA treasurer was not tabled. He was elected on a 13-0 vote.

Chief Disciplinary Counsel Joy McLean brought the BOG up to date on her department’s operations and the interworkings of the lawyer discipline process. Jim Bamberger, director of the State Office of Civil Legal Aid, reported on its work. President-elect Ellen Conedera Dial reported on the progress of plans to move the WSBA’s offices to new space in Seattle at the end of 2006.

Governor Doug Lawrence brought up a King County Bar Association idea for a commission to study different regulatory approaches to the production and distribution of psychoactive substances. After what reads like a Dogs v. Cats debate (prosecutors adamantly against; permissive addict-coddlers saying, What the hell, let’s study it), a motion to table was defeated and an amended resolution in favor was adopted roundabouth.

WSBA Legislative Director Gail Stone gave the Board a Lobbying 101 session. She also presented a resolution supporting the Public Criminal Defense budget request for additional money for parent representation and general local defense costs. It passed, 13-0.

There being nothing left to approve or table, the Board adjourned. This month they’re in Olympia, details at www.wsba.org/info/bog.
Keeping Counsel: The Attorney-Client Privilege Within Law Firms

BY MARK J. FUCILE

Imagine this scenario: You are handling a hard-fought case. The client begins to question your decisions as things don’t go the client’s way. You start to suspect that the client may be considering a malpractice claim if the case doesn’t turn out to the client’s liking. You discuss the case with one of your partners who is designated as your firm’s inside claims counsel. The two of you prepare a series of memos analyzing and documenting your firm’s position vis-à-vis the client while you continue to handle the case. The case resolves, but the client isn’t happy and later sues your firm. During discovery, the client learns about the memos and moves to compel their production. Does the attorney-client privilege apply to those memos and, if so, does your firm’s fiduciary duty to your client “trump” the attorney-client privilege?

In a case that is drawing increasing national attention, the Washington Court of Appeals ruled in VersusLaw, Inc. v. Stoel Rives LLP, 127 Wn. App. 309, 111 P.3d 866 (2005), that the attorney-client privilege does attach to communications with in-house claims counsel, but the firm’s fiduciary duty to the client can “trump” the privilege and require disclosure of internal law-firm communications that took place while the firm was still representing the client.

In VersusLaw, the law firm was handling litigation that arose over a set of agreements it drafted for the client that contained an agreed limitation period for claims that was shorter than the time otherwise permitted by statute. A question arose during the litigation over whether the law firm had asserted a counterclaim within the contractual limitation period. One of the lawyers involved discussed the case with the firm’s in-house claims counsel, and two memos resulted. VersusLaw later sued the law firm for malpractice. During the lawyer’s deposition, the two memos came to light. VersusLaw sought the memos, but the law firm resisted their production under the attorney-client privilege. VersusLaw’s motion to compel was pending at the point the trial court granted the law firm’s summary judgment motion. The Court of Appeals reversed and in remanding the case addressed VersusLaw’s motion to compel.

The Court of Appeals began by affirming that the attorney-client privilege applies to internal law-firm communications with claims or ethics counsel: “Lawyers in a law firm seeking legal advice from another lawyer in the same firm can assert the attorney-client privilege.” 127 Wn. App. at 332. Consistent with privilege law generally, the Court of Appeals put the burden of showing the privilege applies on the defendant law firm. Id. At that point, the Court of Appeals turned to the nub of VersusLaw’s argument: the firm’s fiduciary and ethical duties to its client “trumps” the attorney-client privilege if the communications took place while the firm was representing the client. The question is whether a law firm can maintain an adverse attorney-client privilege against an existing client. Stoel Rives cites a number of cases where the attorney-client privilege applies to in-house law firm communications. But while these cases recognize the attorney-client privilege can apply to intra-firm communications, none of the cases Stoel Rives cites and relies on address whether the attorney-client privilege can be asserted against a law firm’s then-current client. In addition, Stoel Rives does not cite any case where the attorney-client privilege protects communications in these circumstances. VersusLaw, however, cites authority from other jurisdictions that communications between lawyers in a firm that conflict with the interest of the firm’s client may not be protected from disclosure to the client by the attorney-client privilege.” Id. at 333-34 (citations omitted).

In applying VersusLaw, it is important to keep two key points in mind.

First, VersusLaw involved a situation where the memos analyzing the law firm’s position regarding that client were written while the law firm was representing the client. VersusLaw does not suggest that it would extend to attorney-client communications or work product materials developed after the client terminated its relationship with the firm.

Second, the lawyer being consulted in VersusLaw was the firm’s designated internal claims counsel. The Court of Appeals noted that the privilege applies only (subject to possible “trumping” by the law firm’s fiduciary duties to its client) to communications involving lawyers seeking legal advice from another lawyer in the same firm. It is unlikely, by contrast, that the privilege would apply to contemporaneous communications between lawyers simply working on a matter that later became the subject of a legal malpractice claim.

Since it was released, VersusLaw has generated considerable discussion in law-firm risk-management circles and was recently cited in a New York State Bar Association ethics opinion. The New York opinion, No. 789, distinguished VersusLaw by reasoning that the consultation with in-house claims or ethics counsel in and of itself does not necessarily trigger disclosure obligations to a client (although the conclusions reached may) and is consistent with other provisions in the professional rules requiring firms to take reasonable efforts to ensure that firm lawyers and staff meet ethical standards. Even the New York opinion concedes, however, that in the final analysis the application of the attorney-client privilege is for the courts and not bar associations to decide.

VersusLaw puts law firms in a quandary. Cases involving “difficult” clients are precisely the situations where law
firms can benefit most from internal counsel’s advice. At the same time, memos and e-mails generated in providing that advice may now be subject to discovery if a claim arises later.

Mark J. Fucile is a partner at Fucile & Reising LLP, where he 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 is a member of the Idaho State Bar Professionalism & Ethics Section, and is a coeditor of the WSBA's Legal Ethics Deskbook and the Oregon State Bar's Ethical Oregon Lawyer. Mark contributes this column quarterly to Bar News. He can be reached at 503-224-4895 and mark@frllp.com.

NOTES

1 See, e.g., U.S. v. Rowe, 96 F3d 1294 (9th Cir. 1996).
4 New York State Bar Ethics Opinion 789 is available on the New York State Bar’s website at www.nysba.org.
5 See, e.g., RPCs 5.1-5.3.
6 For another recent Northwest case involving internal law-firm ethics memoranda that became an issue — and were eventually produced — during the course of a subsequent legal malpractice case, see Spar Products Corporation v. Stoel Rives LLP, ___ Idaho ___, ___ P.3d. ___, 2005 WL 2398275 (Sept. 30, 2005).
Child Abuse Cases

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New postings include...

Illinois & Wash. Courts Diverge on Crawford

By Robert Welden

Note: This is part one of a two-part report. Part two will appear in February's Bar News.

The Lawyers' Fund for Client Protection Committee meets quarterly to review applications for gifts from the Fund. The Committee is authorized to make gifts of up to $25,000 to eligible applicants. On applications for more than $25,000 the Committee makes recommendations to the Board of Governors who are the Fund's trustees. At their meeting on November 18 the Committee took the following actions:

David A. Ambrose (WSBA No. 21764; suspended) — Ambrose stipulated to a two-year suspension. Reinstatement will require meeting several conditions, including restitution to various parties.

Applicant A: Applicant hired Ambrose regarding a boundary and easement dispute she had with a neighbor. She paid him $500 for a "site visit." He came to look at the boundaries, and said he needed $2,000, which she paid. After that, Applicant had difficulty reaching Ambrose, and when she did, he told her he had not filed her case because of illness, vacation, holidays, and other excuses. When Ambrose had done nothing by February, Applicant wrote him asking him to return her money. She received no response. The Committee approved payment of $2,000.

Applicant B: Applicant paid Ambrose $750 to seek a permit to dig a well. Ambrose did nothing. Applicant left messages that were never returned. He filed a grievance with the WSBA and was advised by the Office of Disciplinary Counsel that Ambrose was suspended. The Committee approved payment of $750.

Terry O. Forbes (WSBA No. 5626; suspended pending discipline; disbarment recommended) — Forbes abandoned his law practice and disappeared. Pursuant to ELC 7.7, an attorney was appointed custodian to protect Forbes's clients' interests. The appointed attorney took custody of Forbes's trust account, which contained $71,603.37. Because of the state of Forbes's trust account records, a WSBA auditor was unable to determine the ownership of those funds. The Supreme Court authorized the bank holding those funds to transfer them to the Lawyers' Fund for Client Protection, and all known clients are being advised that if they believe Forbes was to have been holding their funds, they may make an application to the Fund.

Applicant was selling his house, and Forbes agreed to represent him. Forbes deposited into his trust account a check payable to Applicant from a title insurance company in the amount of $86,380.45. Forbes made three payments to Applicant from his trust account totaling $13,800. At that point, Forbes should have been holding $72,580.45 in his trust account on behalf of Applicant. About this time, Forbes abandoned his law practice and disappeared. Applicant hired a new lawyer who tried unsuccessfully to contact Forbes. In August 2005, the Board of Governors approved an emergency payment to Applicant of $3,000. The Committee recommended and the Board approved an additional payment to Applicant of $69,580.45.

Todd H. Hutchinson (WSBA No. 1438; disbarred) — Applicant's mother established a trust shortly before she died. Applicant and her children were the beneficiaries. Applicant paid Hutchinson $1,000 to represent her to seek an accounting for their funds from the trustee. The attorney representing the trustee met one time with Hutchinson. Hutchinson proposed that a bank be substituted as the trustee. He said he would draft a letter formally setting forth this proposal. He did nothing and Applicant never heard from him again. The Committee approved payment of $1,000.

Michael Johnson-Ortiz (WSBA No. 23580; disbarred) — Johnson-Ortiz abandoned his high-volume immigration practice in January 2004, and left more than 300 open files. The Committee has previously approved 66 applications totaling $100,420.31.

Applicant A: Applicant was arrested and placed in removal proceedings in 1997. He paid Johnson-Ortiz $2,500 to file an application for adjustment of status. Johnson-Ortiz filed the petition, and an INS interview was held, at the conclusion...
of which Johnson-Ortiz was sent a letter directing Applicant to submit various financial records relating to his sponsor. On June 11, 2001, the INS wrote to Johnson-Ortiz that the documents were never submitted, and that the INS intended to deny the application for adjustment unless, within 30 days, he submitted the documents. Johnson-Ortiz did not file them and Applicant was not aware that Johnson-Ortiz had not filed these documents until May 2004, when he received a notice to appear for a removal hearing. Applicant’s current lawyer filed a new application for adjustment to status in January 2005, and Applicant was granted permanent residency status on July 18, 2005. He accomplished in seven months what Johnson-Ortiz failed to do in seven years. In addition, for reasons that are not clear, Johnson-Ortiz advised applicant to file for marriage dissolution. Applicant paid Johnson-Ortiz $1,500 plus costs. Johnson-Ortiz filed a summons and petition and did nothing more. The petition was dismissed on the clerk’s motion. The Committee approved payment of $8,214.84.

Applicant B: Applicant was a Polish seaman who entered the United States as a crewman in 1990 and stayed. He applied for asylum, which was denied. In 1997 he was ordered to appear for hearing. He appeared, and the hearing was continued to allow him to obtain counsel. He was given notice that the new hearing date was September 19, 1997. He failed to appear in court, and he was ordered removed. Applicant moved to reopen on September 9, 1998, arguing that he was eligible for benefits under the Nicaraguan Adjustment and Central American Relief Act (NACARA). The motion was denied on the grounds that as an arriving crewman, Applicant was not eligible for an adjustment of status. That decision was affirmed by the Board of Immigration Appeals.

On June 18, 2002, Applicant paid Johnson-Ortiz $4,000 to represent him. Johnson-Ortiz filed a application for adjustment to status, for which Applicant paid $1,425 in filing fees, even though the 1999 decision determined that Applicant was not eligible for an adjustment to status. Johnson-Ortiz also filed a new motion.
Johnson-Ortiz also applied for a work authorization permit for Applicant in which he failed to disclose that Applicant had a removal order, which made him ineligible. The Committee determined that Johnson-Ortiz did nothing of value for Applicant and he filed false information in connection with the work permit application. The Committee approved payment of $4,000.

**Applicant C:** Applicant hired Johnson-Ortiz to file a motion to reopen his removal proceedings. Applicant documented payment of $2,000. Johnson-Ortiz never filed the motion to reopen. The Committee approved payment of $2,000.

**Kevin M. Kopra** (WSBA No. 29651; suspended) — Applicant paid Kopra $1,500 to file a lawsuit against his father and a finance company regarding a dispute over a piece of real property. Applicant kept contacting Kopra and Kopra always promised he was about to file suit. Finally, Kopra told Applicant that he could not do it, and that he would refund Applicant’s money. Kopra sent Applicant a check for $250 which bears the notation “No. 1 payment — Bal. Due $1,250.” That was the only payment Applicant received. The Committee approved payment of $1,250.

**Donna J. Light** (WSBA No. 22465; suspended pending discipline; disbarment recommended) — Light was suspended from practice pending the outcome of disciplinary proceedings. The petition for interim suspension says that she posed a threat to the public because, among other things, she engaged in a pattern of charging clients flat fees for legal work, failed to perform the work, and failed to return unearned fees.

**Applicant A:** Applicant paid Light $1,200 to appeal a decision of the Employment Security Department finding that he had been overpaid by $947. Light filed a two-page petition for review. She received a scheduling order setting the hearing date and other deadlines. After August 2003, Applicant was unable to reach Light. Light failed to prepare for or appear at the hearing. The court entered findings presented by the department, and a copy was sent to Light. She never advised Applicant of entry of the findings or took any action regarding them. The hearing officer found that Light charged Applicant an unreasonable fee, and she was ordered to pay restitution of $1,200. The Committee approved a payment of that amount.

**Applicant B:** Applicant paid Light
$1,500 to file a Chapter 13 bankruptcy. Light prepared a bankruptcy petition which Applicant signed. Between October 2003, and October 2004, Light did not respond to messages from Applicant regarding the status of his bankruptcy. The petition was not filed until June 12, 2004. Light did not pay the filing fee, and did not file the required schedules, statement of financial affairs, Chapter 13 plan, list of creditors, and other documents. Light did not tell Applicant the petition had been filed. Light received several notices from the court that the petition would be dismissed for deficient filing unless she filed the required documents. She took no action in response to the notices. Subsequently, Light was notified that the petition had been dismissed. She never told Applicant, and took no remedial action. Applicant learned for the first time from a loan officer that his bankruptcy had been dismissed. Applicant contacted Light and demanded the return of his fee. Light told him she did not have the funds to repay him, but that she would refile the bankruptcy. She never refiled and never returned any of Applicant’s money. The Hearing Officer ordered restitution of $1,500 and the Committee approved payment of that amount.

Applicant C: Applicant paid Light $300 to file a Chapter 13 bankruptcy, and agreed to pay an additional $250 and the filing fee. The bankruptcy petition and schedules Light filed did not disclose a previous bankruptcy as required; falsely stated that Applicant was employed; falsely certified that Applicant had not paid any fees to Light, so that she could qualify to pay the filing fee in installments; and showed that she had negative income after paying expenses, which meant that she could not confirm a Chapter 13 plan. The Hearing Officer found that Light’s falsifications on the bankruptcy filings were false and misleading, and the Committee approved payment of $300.

Applicant D: Applicant hired Light to file a pro se petition for modification of child support. The petition was denied. Applicant paid Light $500. Light told her she could have the support lowered to $25 per month. Light told her to start making payments of only $25 per month, saying “What can they do?” Applicant followed Light’s advice and never heard from her on the matter again. As a result, Applicant was found in contempt of court and her driver’s license was suspended for nonpayment of support.

Applicant met with Light at her home to discuss seeking modification of her parenting plan. She gave Light a check for $1,500 and heard nothing further.

Applicant paid Light $200 regarding a protective order against her former husband. She was to meet Light at the Regional Justice Center in Kent. Applicant purchased the necessary forms. Light arrived late and filled out the forms incorrectly. Applicant’s former husband appeared, and a temporary restraining order was entered and a hearing for a permanent order was set. At that hearing, Light arrived late, claiming she had misplaced a supporting doctor’s note. The motion was denied. That evening, Light faxed Applicant a “Declaration in Support of Civil Contempt” and said she wanted an additional $1,100. Applicant says that after looking over her work, she discharged
Light as her lawyer. Applicant asked Light about the $1,500 she had paid for modification of her parenting plan that Light had failed to prosecute. Light told her she had spent it but that she would pay it back. Applicant went to Light’s office to seek return of her files and documents and the $1,500. All of Light’s clothing, furniture and client records were on her front porch, and a notice of eviction was posted on the front door. Light never returned any of Applicant’s fees. The Committee approved payment of $2,000 representing the fees paid in the child support and parenting plan matters.

**Applicant E:** Applicants paid Light $1,500 to file a Chapter 13 bankruptcy. They signed a petition prepared by Light, and Light had them also sign a number of blank pages, including the signature pages for the bankruptcy schedules and statement of financial affairs. For several months, Light failed to respond to numerous messages from the Applicants regarding the status of their case. Later, Applicants advised Light that they were no longer employed and thus not eligible to file a Chapter 13 proceeding. Light said she would file a Chapter 7 petition. She didn’t file. A few weeks later, Applicants told Light they were employing a new lawyer, and requested return of their $1,500. Light said she would file the Chapter 7 petition immediately, and schedule a meeting of creditors prior to Applicants’ planned move to Florida. She also said she would return $900 unearned fees. Light never returned the promised $900 to the Applicants. The Hearing Officer ordered $900 restitution and the Committee approved payment in that amount.

**Applicant F:** Applicants paid Light $800 plus $209 in costs to file a Chapter 7 bankruptcy. Their mortgage holder was threatening foreclosure. Light filed the bankruptcy petition without having it reviewed by Applicants. The hearing officer found that Light knew or should have known that the bankruptcy schedules contained many errors, including failing to list any exemptions; failing to list any assets; and listing the market value of the Applicants’ home as zero when its true market value was $210,000. The mortgage company filed a motion for relief from stay to pursue foreclosure. Light told the Applicants that she would file a response to the motion, but did not. She also told the Applicants that they did not need to attend the hearing on the motion. Light did not attend the hearing and the court granted the mortgage company’s motion. Light took no remedial or corrective action. When the Applicants received a copy of the order, they asked Light what it meant. She told them not to worry, because she was going to convert the bankruptcy from Chapter 7 to Chapter 13.

The meeting of creditors was set and Light told Applicants that they did not need to appear, because of her plan to convert the bankruptcy from Chapter 7 to Chapter 13. Light filed a motion to convert the proceeding, but did not file the required new schedules. She did not attend the meeting of creditors, and the Chapter 7 petition was dismissed. Light continued to claim that she was filing a Chapter 13 proceeding, and told the Applicants that the plan would require monthly payments of $1,825. At her direction, they gave her a cashier’s check in that amount. Light
falsely told them the Chapter 13 petition had been filed, but it would not show up on the court’s records the following Monday. Applicants checked with the court and were told nothing had been filed. They contacted a new lawyer who agreed to represent them on the condition that they discharge Light. They went to her office and discovered she had moved out. Then they went to Light’s apartment and the Applicants gave her a letter discharging her. Light gave them her file and a handwritten note reading, “I agree to a refund of some of your money.” She also returned the cashier’s check. She never refunded any of their fees. The Committee approved payment of $800.

Applicant G: Applicant paid Light $2,500 for representation in a marriage dissolution proceeding filed by his wife. Applicant called Light several times, but she did not file a Notice of Appearance until more than one month after she was hired. He says that he continued to have difficulty reaching Light. In May, he received a letter from Light saying that a mediation was scheduled at her office. Applicant and his wife entered into counseling, and he told Light to hold off on the mediation. They reached an agreement, and Applicant called Light and told her that his wife’s lawyer would send her a stipulation to dismissal and that he would expect a portion of his fee returned. Light never responded and never returned the stipulation. Applicant wrote a letter discharging Light, and he signed the stipulation pro se. The Committee approved payment of $2,500.

Applicant H: Applicants paid Light $750 to file a Chapter 7 bankruptcy. She filed the petition but failed to appear for the first meeting of creditors. The trustee continued the meeting date and told Applicants that the schedules and statements of financial affairs Light had filed were inaccurate and incomplete. At the continued meeting of creditors, Light brought amended schedules and statements. However, because they were not filed prior to the meeting, it was again rescheduled. Before the next creditors’ meeting, the Applicants discharged Light and contacted the trustee to determine which documents were still needed. They provided them, and a discharge of debtor was entered. The trustee wrote Light a five-page letter relating the history of her representation of the Applicants, describing Light’s representation as “horrible” and “worthless.” He directed her to refund the $750 fee to the Applicants. Light never returned the fee. The Committee approved payment of $750.

Restitution: Before payment is made to an Applicant, the Applicant must sign a subrogation agreement with the Fund, and the Fund seeks restitution from the lawyers. Because in most cases those lawyers have no assets, the chief avenue of restitution is through court-ordered restitution in criminal cases. Prosecuting attorneys cooperate with the Fund in getting the Fund listed in restitution orders. As of November 2005, seven lawyers were making regular restitution payments to the Fund.

The Committee chair is Tacoma attorney Sarah Richardson. WSBA General Counsel Robert Welden is staff liaison to the Committee.
The Court of Appeals of the State of Washington
Division One

will conduct a
MEMORIAL SERVICE
in honor of
Judge Faye Collier Kennedy
December 10, 1941 – September 16, 2005

JANUARY 25, 2006
3:00 p.m.
to be held in the
United States Courthouse
700 Stewart Street, Seattle, WA
(Phot ID required for building entry)

Reception following service

In Memoriam

Judge Faye C. Kennedy
A reminiscence by Victor B. Flatt

Judge Faye C. Kennedy, a judge on the Court of Appeals, Division I, passed away on September 16 after a long illness.

Judge Kennedy was a remarkable woman, and I was privileged to know her as one of her first law clerks after she came to the Court of Appeals in 1990. She was a singular person. She was born in a time when few women were professionals, let alone attorneys and judges — she did not let these limitations restrict her, and through work and study she was able to take advantage of changing times to be in the first wave of women who have forever altered the legal profession. She also was in the forefront with her husband, Dr. Bruce Kennedy, of those couples who redefined how family life could be lived with the changing role of women. She chose to work in the field of family law, a difficult field as any legal person will attest, and was part of the revolution that occurred in that field regarding the changing rights of women, men, and children.

Her professional accomplishments are legion. She clerked for Judge Robert Finley of the Washington State Supreme Court, and was one of the first women attorneys in Everett. She was instrumental in changing many of the policies of the local bar association that limited the roles for women. As a member of the court, Judge Kennedy proved to be an incomparable jurist. It is impossible to do justice to her, but there are a few particular features that make Judge Kennedy’s service on the court unforgettable. First would be her attention to detail, hard work, and the resulting well-written products she penned. Judge Kennedy had an exceptional devotion to getting an opinion just right, and she spent a great deal of time with her clerks and colleagues probing, questioning, and researching what went in to her opinions. Not only was the public the beneficiary of a well-thought-out and carefully reasoned result, but all who worked with her benefited from her example and practice of analytical thinking.

I remember so well her modesty and willingness to listen. Despite her years of training and experience and her quick legal mind, she was also more than willing to listen to the opinions of others. Pride of authorship or hard work did not keep her from abandoning a position if she was convinced that another was better. To her colleagues, this was assuredly a welcome collegiality and give and take that was necessary for a court to produce the best possible opinions, and for her clerks and the attorneys who appeared before her, it was encouraging and stimulating.

But the most important aspect of Judge Kennedy’s success on the court was her concern for others. It was this concern that propelled her into a family law practice devoted to helping those in need. It was this concern that led her to work with and encourage her law clerks to do what was the best thing for them and not what was easiest for her. It was this concern that led her to long discussions about the real people behind a case record — it wasn’t just about finality or formal procedure for Judge Kennedy, it was about real justice for real people.

I and many others were privileged to have known Judge Kennedy — to have discussed matters of politics, art, misbehaving dogs, law, and ethics. The entire state of Washington was privileged to have the service of Judge Kennedy’s fine mind and spirit working in the public interest for so many years. Judge Kennedy’s influence will be sorely missed.

Victor B. Flatt, formerly of Seattle, is the A.L. O’Quinn Chair in Environmental Law at the University of Houston Law Center. He worked with Judge Kennedy at the State Court of Appeals, Division I, from 1990 until 1993.

George W. Christnacht
George W. Christnacht was a graduate of Gonzaga Law School, a member of the American College of Trial Lawyers, and recognized as a “founder” by the Washington State Trial Lawyers Association. He was a founding partner of the Tacoma firm Troup, Christnacht, Ladenburg, McKasy and Durkin, Inc. PS where he practiced for almost 50 years. Joining him in his practice of law for many years was his son, James.

Known for his wit and keen sense of humor, Christnacht served as a mentor for many attorneys in the Tacoma area. He was a former president of the Tacoma-Pierce County Bar Association, where he would liven up meetings with his jokes. Although presenting a “Columbo” appearance in his wrinkled raincoat, George was a fearless and accomplished litigator. He was recognized as a products liability pioneer and had tremendous success with juries. His passion for his clients and attention to factual detail were incessant.

George W. Christnacht was born on April 6, 1928, and died in an automobile accident October 10, 2005, aged 77.

James Vernon Abbott
A reminiscence by his son James W. Abbott

Dad received his law degree from the University of Washington School of Law, and was admitted to the Bar in 1945. He received his certification to practice
before the U.S. Supreme Court on June 11, 1962, an event attended by his two sons. Dad practiced law for more than 50 years in the Greenlake and Ballard areas of Seattle. He was the attorney for Presbytery for Washington, Idaho, and Alaska for many years. He was a member of the judicial body of the Presbyterian Church. He tried cases before the Washington Supreme Court. The case of See v. Seattle went all the way to the U.S. Supreme Court and made new law. He truly loved the law and his profession.

Dad enjoyed all sports (including horseshoes) and pitched for the Seattle P-I softball team in the 1930s. Dad helped organize and start Bethel Presbyterian Church, where he was a member and elder for many years. He was also a member of University Presbyterian Church. Dad was an active member of North Central Kiwanis and participated in the Cerebral Palsy Camp on Whidbey Island each year. Dad also became a member of Sand Point Country Club and enjoyed golf each week. Dad was not a good golfer, but he played for the camaraderie and competition. Dad was a true Renaissance man. He had a lifelong love of reading. He also loved to write and quote poetry, argue politics and religion, and listen to music from classical to country. He delighted in beating his grandchildren at Trivial Pursuit well into his 80s. He had a great sense of humor, a dry wit, and a biting tongue. He was at home hiking in the Olympics and Cascades for more than 60 years. Dad climbed Mt. Rainier and reached the summit in his late 50s, and he climbed Mt. Adams and Mt. Fuji. Dad traveled the world with his beloved wife, Tyra.

James Vernon Abbott was born November 10, 1914, in Spokane and died May 29, 2005, in Seattle, aged 90.

Daniel C. Smith
Daniel C. Smith grew up on a dry wheat farm with no electricity or running water, homesteaded by his Irish immigrant grandfather. His father lost the farm to the bank and died when Smith was 11 years old. His mother returned to Chicago to raise her three children while working as a high-school teacher. All three children earned scholarships to the University of Chicago. Smith studied philosophy with Mortimer Adler, loved the camaraderie of his fraternity, and embraced the ideals of University of Chicago President Robert Maynard Hutchins — liberal education, critical thinking, and active citizenship. He graduated from the University of Chicago Law School in 1940.

Smith came to Tacoma in 1950 to join the Weyerhaeuser law department, where he served for 25 years. In 1975 he moved to Chicago to become general counsel and VP of FMC Corporation. After retirement from FMC he moved back to Tacoma, taught at the UPS Law School, and founded the firm of Smith Alling Lane.

Smith found many ways to contribute to the community — as a leader in great books discussion groups, the Tennis Club, the Tacoma Club, the Eliot Club, the Pierce County Mental Health Association, the Washington State Historical Society, Bellarmine Prep, The Food Connection, and St. Leo Parish.

Donations in memory of Smith are suggested to St. Leo’s Church for The Food Connection, 710 S. 13th St., Tacoma, WA 98405 or the University of Chicago (memo line Louise & Daniel C. Smith Scholarship Fund), 5801 S. Ellis, Chicago, IL 60637.

Daniel C. Smith died September 25, aged 89.

Vincent L. Gadbow
Vincent L. Gadbow attended Jamestown College in North Dakota on a football scholarship, and earned All-America honors. He joined the U.S. Marine Corps in 1942 and was commissioned as a second lieutenant. He served in World War II, stationed in northern China after the Japanese occupation. He received his B.A. and M.A. in English from the University of Montana. Gadbow was a founding member of the Tacoma firm Davies Pearson, P.C. He focused on commercial litigation, commercial transactions, and business organizations. At the end of his career, he remained active as a mediator-practitioner with the Pierce County Center for Dispute Resolution. Gadbow loved fly fishing and golf and was a lifelong student of those pursuits.

Memorials may be directed to prostate cancer research or sent to the Franciscan Hospice, PO Box 1502, Tacoma, WA 98401-9836.

Vincent L. Gadbow was born June 22, 1924, in Devils Lake, North Dakota, and died May 29, 2005, in Gig Harbor, aged 80.

James Edward Cufley Jr.
As remembered by his wife, Christy

Jim Cufley was a true native of the Northwest. He worked for the Social Security Administration before joining the U.S. Air Force in 1963, serving in Korea and Thailand, and attaining the rank of captain. He obtained his J.D. from the University of Washington School of Law followed by a master’s degree in law and marine affairs. He served as a respected administrative law judge for the state for 20 years. A rugged individual, he found deep satisfaction in fishing, hiking, flying, gardening, and making lumber. An avid reader, Jim retained a keen intellectual curiosity about the world around him. He was a compelling storyteller, and whether relating a “fish tale” or extemporaneously composing a “Fred the Duck” bedtime story, his tales were engaging and often accompanied by unforgettable hearty bursts of robust laughter. For 12 years he helped coach his daughter’s soccer team, the Shooting Stars. A totally devoted parent, his true legacy is the bottomless love for, and the enormous pride in, his three outstanding children.

James Edward Cufley Jr. was born February 21, 1939, and died September 24, 2005, from a heart attack while on board a sailboat surrounded by his beloved sea, aged 66.

Duane C. Frisbie
Duane Frisbie was a graduate of Harvard Law School, a 65-year member of the WSBA, and owner of Western Motor Association until he retired.

Duane C. Frisbie was born January 1, 1913, in Stevensville, Montana and died May 11, 2005, in Seattle, aged 82.

Jennifer Ann Hedgcock
Jennifer Hedgcock was a graduate of Willamette University and Seattle Uni-
versity School of Law. She was a member of the King County Bar Association, Willamette Choir, and Northwest Girls Choir. Memorials are suggested to the American Diabetes Association.


**Hon. Thomas Swayze Jr.**
Thomas Frances Swayze's 26th District seat in the Washington State House of Representatives in 1965 and became speaker of the house in 1968 and 1969, and served as Speaker of the House in 1971 and 1972. Swayze retired from the Legislature in 1973, and joined the Pierce County Superior Court bench in 1975, remaining there until 1996. During that time, he was the presiding judge, the president of the Superior Court Judges' Association, and a board member of the judges' foundation. His colleagues and the attorneys who appeared before him respected him for his hard work and his gentleness.

Thomas Swayze Jr. died October 16, 2005, aged 74.

**Alan Merson**
Rev. Alan Merson graduated from Harvard University in 1952 with a degree in political science. After serving in the U.S. Navy, he graduated from Harvard Law School and practiced law in Alaska. He founded a legal services program for the poor, mostly native Alaskans. He taught poverty law at the University of Denver Sturm College of Law. He lived in Colorado in the 1980s where he assisted farmers facing bankruptcy and worked in New Mexico in the Attorney General's Office on land fraud cases.

He moved to Seattle to study theology at Seattle University in 1996. He graduated with a master's degree in pastoral studies. In 2001, after having a stem-cell transplant to fight bone cancer, he went on a two-week, 250-mile walk from the Canadian border to Oregon to draw public attention to the nation's healthcare coverage crisis. He was known as a valued political activist and had a vision of a better world. Memorial contributions may be made to the American Diabetes Association, the Group Health Hospice, and the Group Health Community Foundation.

Rev. Alan Merson was born February 7, 1934, in New York, New York, and died October 4, 2005, in Bainbridge Island.

**Hon. Walter A. Stauffacher**
Judge Walter A. Stauffacher was a lifelong Yakima Valley resident. He served in the U.S. Army and attended the University of Puget Sound and Willamette University College of Law. He and his wife, Shirley, moved to Yakima in 1956 where Stauffacher served as deputy prosecuting attorney for Yakima County. In 1969, he was appointed as a superior court judge for the county, where he served for 36 years. In 1981, he became the judge for the landmark Aquavella water-rights case. His work on this case became the benchmark for many other western states. One of the great joys of his judicial duties was presiding over the naturalization ceremonies welcoming new citizens to the United States. Stauffacher's family would like to acknowledge a 25-year friendship and lunchtime tradition with the late Judge Ray Munson, and retired Judge Bruce Hansen — thank you to all those who served and prepared their lunches over all those years!

Memorials may be made to the Walter A. Stauffacher Memorial Scholarship Fund in care of Bank of America.

Judge Walter A. Stauffacher was born July 24, 1927, in St. Paul, Minnesota, and died November 8, 2005, in Grandview, aged 78.

**Hon. C. Brent Nevin**
Judge C. Brent Nevin received his law degree from Willamette University College of Law and served in the U.S. Navy as a legal assistant. He worked as a deputy prosecutor and prosecutor for Clark County. He became a district court judge and served for 12 years until his retirement.

Judge C. Brent Nevin was born August 24, 1927, in Ocean Falls, Canada, and died September 8, 2005, in Vancouver, WA, aged 78.

**Frederick E. Woeppe**
Frederick Woeppe graduated from the State University of New York at Buffalo Law School and served in the Army as a base legal officer in California, Washington, and Hawaii. His career spanned 65 years. He loved his family, the law, and his church, and his playground was his basement workshop.

Frederick E. Woeppe died July 19, 1915, in Buffalo, New York, and died August 31, 2005, in Spokane, aged 90.

**E. Frederick Velikanje**
Frederick Velikanje was the son, nephew, brother, father, and grandfather of Yakima County lawyers. He was a graduate of the University of Washington School of Law. After law school, he joined his father and brother in law practice in Yakima. Their firm grew to be the second-largest law firm in central Washington. He was a tireless worker for the WSBA and the American Bar Association. He served on the WSBA Board of Governors from 1956 to 1959 and became WSBA president in 1971. Velikanje served as WSBA delegate to the ABA for six years. He participated on many bar committees and in many CLE programs. He was elected a fellow in the American College of Trust and Estate Counsel and served on its board of regents and executive council. He practiced law until he was 90.

Velikanje was active in his community and organized many local charitable organizations and served on the boards of these and numerous other organizations. He helped found the Bank of Yakima. He had a passion for gardening and did all the flower arrangements at his office.

E. Frederick "Fred" Velikanje died October 20, 2005, in Yakima, aged 93.

*Bar News has also been informed of the deaths of Daniel S. Bigelow of Olympia on July 26, 2005, and Marcelle E. Mihaila of Seattle on July 11, 2005.*
**Commission on Judicial Conduct**

*Application Deadline: January 31, 2006*

The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving the remaining two years of a four-year term on the Commission on Judicial Conduct, with the ability to reapply for a full four-year term. The goal of the Commission is to maintain confidence and integrity in the judicial system by preserving judicial independence and public accountability. The public interest requires a fair and reasonable process to address judicial misconduct or disability separate from the judicial appeals system that allows individual litigants to appeal legal errors. The Commission reviews new complaints, discusses the progress of investigations, and takes action to resolve complaints. The Commission consists of 11 members who serve four-year terms — six nonlawyers, three judges, and two lawyers. The lawyers must be admitted to the practice of law in Washington and are selected by the WSBA. The term will commence upon appointment. Please submit a letter of interest and résumé to: Bar Leaders Division, WSBA, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330, or e-mail barleaders@wsba.org.

**ABA House of Delegates**

*Application Deadline: March 31, 2006*

The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving on the ABA House of Delegates representing Washington state. There are four positions available (three incumbents are eligible for reappointment) commencing in August 2006. A written expression of interest and a résumé are required for incumbents seeking reappointment.

The control and administration of the ABA is vested in the House of Delegates, the policymaking body of the ABA. The House, composed of approximately 500 delegates, elects the ABA officers and board and meets out of state twice a year. Delegate attendance is required. The WSBA's allowance is $800 per year per delegate. Members appointed to the House of Delegates serve a two-year term, with the opportunity to reapply to serve a maximum of three consecutive terms. Please submit a letter of interest and résumé to: WSBA Bar Leaders Division, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330, or e-mail barleaders@wsba.org.

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**Washington Attorneys Assisting Community Organizations (WAACO)**

WAACO is a statewide organization that matches volunteer attorneys with charitable and community-based nonprofit organizations in need of business-related *pro bono* legal services. Volunteer lawyers are needed. Those interested in volunteering are encouraged to attend a training seminar on January 24 in Seattle and in February in Spokane (date pending). For more information, e-mail contact@waaco.org or call 866-288-9695.

**YMCA Mock Trial Program Seeks Volunteers**

The YMCA Youth and Government Mock Trial Program allows high-school students to participate in a “true-to-life” courtroom drama. Each team of attorneys and witnesses prepares the case for trial before a real judge in an actual courtroom. A “jury” of attorneys rates teams on their presentations, while the presiding judge rules on the motions, objections, and ultimately the merits. Participants develop critical-thinking and analytical skills, learn the art of oral advocacy, and gain a respect for the law and the judiciary. The state championship competitions will be held Friday, March 24 through Sunday, March 26, 2006, at the Thurston County Courthouse in Olympia. Volunteer attorney raters and judges are needed. To volunteer, please contact Janelle Nesbit at 360-357-3475 or e-mail youthandgovexec@qwest.net. For details, visit www.youthandgovernment.org.

**Washington Attorneys with Disabilities Bar Association Kick-off Reception**

The new Washington Attorneys with Disabilities Bar Association will hold a kick-off reception on Friday, January 27, from 2 to 5 p.m. at the WSBA Conference Center. This will be an organizational meeting and reception for members who want to get involved, meet other attorneys with disabilities, and learn more about ADA and other topics. Attorneys with disabilities and those interested in disability issues are encouraged to attend. In addition to regular meetings, planned activities include CLE seminars and a survey of Washington attorneys with disabilities. For more information, please contact Shawn Murinko at smurinko@spokanecity.org or 509-835-5988, or WSBA Diversity Advocate Joslyn K.N. Donlin at joslynd@wsba.org or 206-727-8216. Please RSVP by January 18 to Brenda Jackson at brendaj@wsba.org or 206-727-8252.

**2005 WYLD Awards**

The Washington Young Lawyers Division (WYLD) is proud to announce its 2005 awards recipients. Seattle attorney Soojin E. Kim of The Adolph Law Group received the Outstanding Young Lawyer of the Year Award for her exceptional leadership and contributions to the profession and her community. The Thomas Neville Pro Bono Award went to Silverdale attorney Stephen T. King for his tireless service to Kitsap Legal Services and his dedication to providing *pro bono* legal representation to senior citizens, victims of domestic violence, people with disabilities, and others. Seattle attorney Tisha Pagalilauan...
WSBA Arbitration Program

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

Notice of Intent to Form Juvenile Law Section

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

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

Section Purpose. The Juvenile Law Section will provide a forum for juvenile-law issues and improve the law and practice related to civil and criminal matters involving children and youth in Washington. The section will welcome advocates from all disciplines and fields of law, including juvenile justice, child welfare, and those who represent youth in civil legal practice. For more information, contact Kim Ambrose at kambrose@u.washington.edu.

Estate Planning Seminar Celebrates Golden Anniversary

WSBA-CLE and the Estate Planning Council of Seattle presented the 50th Annual Estate Planning Seminar at the Washington State Convention and Trade Center on November 7 and 8. This milestone event — for one of the largest estate-planning seminars in the country — involved 994 program registrants, 39 exhibit booths, and two days of noteworthy presentations from 31 nationally and regionally recognized experts.
estate-planning professionals. The event also recognized University of Washington School of Law Professor Emeritus John R. Price and Professor of Law Thomas R. Andrews, editors-in-chief of the new WSBA-CLE Estate Planning Deskbook and Probate Deskbook, and Seattle University School of Law Professor Emeritus Mark Reutlinger, author of the second edition of Washington Law of Wills and Intestate Succession, also published by WSBA-CLE.

Books for Belarus
WSBA members can once again help law students and faculty in Belarus by donating your books. We are collecting new and old legal texts, journals, and dictionaries from Washington attorneys for donation to Belarusian law-school libraries through March 31, 2006. Although all areas of practice are welcome, resources in trade law, business, taxation, international public law, trust and estates, and property law are especially needed. Due to shipping costs and regulations, no sets or series can be accepted. The WSBA will accept donations during regular business hours. Include your name and address with all donations so we can acknowledge your contribution. Materials will be shipped and distributed with help from the U.S. Embassy in Minsk. Donations can be delivered to: WSBA, Member and Community Relations Dept., 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330.

North Columbia Volunteer Legal Services
North Columbia Volunteer Legal Services (NCVLS) is a pro bono organization that provides free legal services to low-income residents of Grant, Adams, and Lincoln counties. Beginning in January 2005, this program has provided half-day clinics once a week in which clients meet with volunteer attorneys. In 2005, more than 30 attorneys volunteered to assist 117 people through NCVLS, which also provided direct representation to eight low-income clients. NCVLS is funded through the North Columbia Community Action Council, which provides staff, office, and facilities. NCVLS is governed by a board of attorneys from Grant County. Brian Dano served as president from the inception of NCVLS until September 2005. Julie Harper is the current president. Other board members are George Ahrend, Judge John Antosz, Mitchell Heaps, Robbie Scott, and Ted Vanden-Bosch.

WSBA Holds Employee Charity Auction
WSBA employees’ Eighth Annual Holiday Auction raised more than $5,400 for charity, an increase of a third from last year. The two charities chosen by the WSBA staff this year were the Make-A-Wish Foundation and Treehouse. This year’s top item was a week-long trip to Whistler, British Columbia, which went to a lucky staff member for $550 after a spirited round of bidding. Items included handmade crafts, event tickets, and hotel stays donated by local businesses and the WSBA staff.

WSBA Receives United Way Award
United Way Campaign Manager Stephen Deal presents WSBA Executive Director Jan Michels with the 2004-2005 Outstanding Employee Campaign Award for the WSBA’s notable support to United Way. Also pictured is WSBA Human Resources Manager Frances Dujon-Reynolds.

Seeking Applications From Judicial Candidates
Application Deadline: February 28, 2006
The WSBA Judicial Recommendation Committee is accepting applications from attorneys and judges seeking consideration for appointment to fill potential vacancies on the Washington State Supreme Court and Court of Appeals. Candidates will be interviewed by the Committee in March 2006. Applications must be received at the WSBA office by 5 p.m., February 28, 2006. The Committee’s recommendations are reviewed by the WSBA Board of Governors and then referred to the state governor, who then reviews the recommendations when making judicial appointments. If you are interested in scheduling an interview, please contact the WSBA at 206-727-8239, or e-mail barleaders@wsba.org for an application. Please specify whether you need an application for a judge or an attorney.

Board of Governors Election
Three positions on the WSBA Board of Governors will be up for election in 2006: governors representing the 1st, 5th, and 7th-West Congressional Districts. These positions are currently held by Kristin G. Olson (1st District), Michael Pontarolo (5th District), and Mark Johnson (7th-West District).

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.

Nomination forms are available from the Office of the Executive Director, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330, or by calling 206-727-8244, or at www.wsba.org. The WSBA executive director must receive nomination forms by 5 p.m. on Wednesday, March 1, 2006.
The Board of Governors determines the official dates of the election. Ballots will be mailed on or about April 15.

*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 2006, the west sub-district (zip codes: 98013, 98070, 98106, 98107, 98116, 98117, 98119, 98121, 98126, 98133, 98136, 98146, 98160, 98177, 98190, 98195, 98199) will elect a new governor.

PILA Benefit Auction
The Public Interest Law Association (PILA), a nonprofit organization run by University of Washington law students, is hosting a benefit auction to help fund a loan repayment assistance program and a summer grant program for law students who accept unpaid legal internships. Since 1995, PILA has awarded over $320,000 in grants supporting work at a wide range of public-interest organizations, including the Northwest Justice Project, the Unemployment Law Project, and Columbia Legal Services. The benefit will be held on February 10, from 5 to 10 p.m. at the W Hotel in downtown Seattle. For more information, contact Katie Meyer at 206-543-8899 or katie@uwpila.org.

Labor and Employment Law Section Joins in Support of The Docket
The Labor and Employment Law Section has joined the Family Law; Real Property, Probate and Trust; and Senior Lawyers sections in helping the WSBA support TVW’s new legal-affairs program The Docket, which airs the first Sunday of every month at 8 p.m. with frequent rebroadcasts.

Formerly the Legal Affair of the Month section of the WSBA's newsletter, The Docket is a magazine-style program that offers in-depth views, reviews of recent Supreme Court decisions, and features intercasts. Thanks to these sections for their help in highlighting the work of legal educators and legal interns. The Docket also features interviews with recent Supreme Court cases, and educational programs. Twelve programs will be produced in 2006.

Judge James P. Swanger Receives WSBA Local Hero Award
County District Court Judge James P. Swanger received the WSBA’s Local Hero Award, presented to members who have made noteworthy contributions to their communities. WSBA President S. Brooke Taylor presented the award to Judge Swanger at the WSBA Board of Governors meeting in Vancouver on October 28.

From his earliest days as an intern in the Clark County Prosecuting Attorney’s Office, Judge Swanger has dedicated himself to improving the justice system, establishing several programs to improve the courts and better serve the community, including the Fort Vancouver Student Traffic Court, Mitigation by Mail, Deferred Findings, and Small Claims Mediation. Judge Swanger is also a generous legal educator and mentor. He teaches a “Street Law” class at Hudson’s Bay High School, his alma mater, and since 1994, has been an adjunct faculty member of Clark College.

It is in recognition of this distinguished service to public legal education and for displaying extraordinary dedication to the judicial branch of government that the WSBA is proud to call Judge Swanger a local hero.

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

WSBA Court Rules and Procedures Committee to Review General Rules
The WSBA Board of Governors has authorized the Court Rules and Procedures Committee to undertake a comprehensive evaluation of the General Rules (GR) in 2005-2006. This will be the first time the General Rules have been included in the Committee’s quadrennial cycle of review of the Washington Court Rules. The Committee invites interested persons to submit suggestions for adoption, amendment, or repeal of a General Rule. Please address suggestions to Douglas Ende, staff liaison to the Committee, at 206-733-5917 or WSBACourtRules@wsba.org. More information about the Committee is available at www.wsba.org/lawyers/groups/courtrules.

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

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

WSBA Emeritus Training
If you are considering changing your WSBA status in 2006, you might want to consider emeritus. APR 8(e) creates a limited-license status of emeritus for attorneys otherwise retired from the practice of law to practice pro bono legal services through a qualified legal-services provider (QLSP). A QLSP is a nonprofit legal-services organization whose purpose is to provide legal services to low-income clients. There are no MCLE requirements for Emeritus attorneys. The next Emeritus training session will be held on January 18. To register or for more information, contact Sharlene Steele at 206-727-8262 or sharlene@wsba.org.

Casemaker Now Available
Casemaker — a powerful online research library provided free to WSBA members — is now available. To access Casemaker, go to the WSBA website at www.wsba.org and click on the Casemaker logo on the right sidebar to access the Casemaker homepage. Click on the Casemaker button to begin. For help using Casemaker, call Barbara Konior at the WSBA Casemaker help desk at 206-733-5983 between 8 a.m. and 2 p.m., or e-mail bararak@wsba.org. You can also contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or e-mail questions@wsba.org.

2006 License Fee Packets
License fee packets were mailed in early December. The packet includes your license fee invoice, trust account declaration form, and if applicable, the MCLE certification form. If you have not received your license fee packet, please call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or e-mail questions@wsba.org to request a duplicate. It is your responsibility to pay your annual license fee regardless of whether you receive the license packet.

Mailing Your Forms and Payment. The return envelopes for your forms and payments have instructions on the reverse side. Review them carefully before mailing your forms and payment.

Paying Your Fees Online. To pay your fees online, go to pro.wsba.org, click on the “For Lawyers” tab, and see “Pay License Fee Online.” Log in with your WSBA number and password. Prompts will lead you through the process of paying your 2006 license fees by MasterCard or Visa. The system allows payments only for the full amount billed (no Keller deductions or status changes). You do not need to return the A2 form if you pay online. Active members have other forms in their packets that must be postmarked or delivered to the WSBA office by the due date. There may be other voluntary forms in the packet that you may want to complete and return to the WSBA.

Payment Deadline. 2006 license fees are due no later than February 1. If your payment is postmarked or delivered to the WSBA office after March 1, WSBA Bylaws require that a 20 percent penalty be assessed and a pre-suspension notice mailed. A 50 percent penalty will be assessed if your payment has not been postmarked or delivered to the WSBA office by April 3.

Paying Your Fees. If your license fee, late fee, or the Lawyers’ Fund for Client Protection assessment (for active members) remains unpaid two months after the mailing of the pre-suspension notice, the delinquency will be certified to the Supreme Court, which will enter an Order of Suspension from the practice of law.

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

New MCLE Compliance Report in 2006 License Packets
All active members who were not due to report MCLE compliance at the end of 2005, including new admittees, will receive a new report — the C4/C5 form — in their 2006 license packets. APR 11.6(a)(3) requires that the WSBA provide an annual report to all active members regarding the credits and courses posted to their MCLE online rosters. This new report will help non-reporting active members to better track their credits, ensuring correct reporting and compliance at the end of their reporting period. If you receive the new C4/C5 form in your 2006 license packet, it is for your information only. No action needs to be taken.

If you need to make corrections to your WSBA MCLE roster, go to pro.wsba.org. Click on the “Member” tab, and then on “Member Login.” The online instructions will lead you through the process of creating a password and using the system. Help is available online. You can also contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or e-mail questions@wsba.org to have corrections made or request an MCLE system instruction booklet.

Estate Planning and Probate Titles Coming from WSBA-CLE Publications
WSBA-CLE is releasing three new titles providing definitive coverage of estate planning, probate, and wills in Washington. These are the Washington Estate Planning Deskbook and Washington Probate Deskbook, and a new revised edition of Professor Reutlinger’s popular Washington Law of Wills and Intestate Succession. To view complete tables of contents or to order online, go to store.yahoo.com/wsbastore. To order by phone, call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA.
MCLE Certification for Group 2 (2003-2005) Due February 1

Active WSBA members in MCLE Reporting Group 2 (2003-2005) should have received their Continuing Legal Education Certification (C2) forms in the license packets mailed in early December. The deadline for returning the C2 form to the WSBA is February 1. If you did not receive your packet or the C2 form, please contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA or e-mail questions@wsba.org.

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

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

All WSBA-approved courses that you list on your C2 form must have an Activity ID number. This number is listed on your online MCLE profile and is assigned at the time that the Form 1 for each course is reviewed. If you have taken courses that have not yet been approved by the WSBA, please submit Form 1s for these courses immediately to ensure that they are approved before your C2 is due. Due to high volumes, Form 1s submitted electronically (at pro.wsba.org) could take up to four weeks or more to process if they are submitted in October through February. Paper Form 1s may take up to six weeks or more to process during the same period. If you submit a paper Form 1, you will be notified by mail of its Activity ID number.

The deadline for completing the C2/C3 form and returning it to the WSBA is February 1, 2006. All active members must send in a completed C2/C3 form.

If you were not able to meet the credit requirement by December 31, 2005, and need more time to complete your credits, an automatic extension will be granted until May 1, 2006. There’s no need to apply for it. However, a late fee will be imposed if you took any courses after December 31 that were needed for compliance or if your C2 form is submitted late. If this is the first reporting period in which you have not met MCLE compliance requirements, the late fee is $150. The late fee increases by $300 for each consecutive reporting period you are late in meeting MCLE requirements.

If you have questions about the Form 1 process or MCLE compliance, please contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or e-mail questions@wsba.org.

MCLE Certification for Active Members — General Information

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


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

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

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

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

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

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

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

**MCLE System — Course Listing and Member Profiles.** Members can use the online MCLE system at pro.wsba.org to:

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

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

**Resources Directory**

The 2006 Resources Directory will print the contact information in the WSBA membership database on February 1, 2006. Now is the ideal time to check that the WSBA has your correct contact information. You can check by going to the online lawyer directory on the WSBA website at pro.wsba.org. If your contact information has changed, please complete and return the Contact Information Change form included in your license packet to the address shown on the form, or fax it to 206-727-8319, or e-mail the changes to questions@wsba.org. Update your information no later than January 31 for inclusion in Resources.

**New Sexual Orientation and Gender Identity Section Considered**

This notice is posted pursuant to Article IX of the WSBA Bylaws regarding a six-month prior notification of intent to establish a new Sexual Orientation and Gender Identity Legal Issues Section. For more information, please contact Rachel da Silva at 360-943-6260, ext. 203, or e-mail rachel.dasilva@columbianalegal.org.

**Assistance for Law Students**

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

**Computer Clinic**

The WSBA offers a hands-on computer clinic for members wanting to learn more about what Microsoft Office programs — such as Outlook, PowerPoint, Excel, and Word, as well as Adobe Acrobat — can do for a lawyer. Are you a total beginner? No problem. The clinic teaches helpful tips you can use immediately. Computers are provided, and seating is limited to 15 members. There is no charge, and no CLE credits are offered. The next clinic will be held on January 9, from 10 a.m. to noon at the WSBA office. For more information, contact Pete Roberts at 206-727-8237 or peter@wsba.org.

**Learn More About Case-Management Software**

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

**Job Seekers Discussion Group**

Looking for a job or making a transition? Join us at the Job Seekers Discussion Group the second Wednesday of each month from noon to 1:30 p.m. The group discusses where to look for jobs, how to use your network of contacts, strategies for résumés and cover letters, and how to keep yourself organized and motivated. Exchange information and ideas with other lawyers looking to make a change. Come as you are — no need to RSVP. For more information contact Rebecca Nerison, Ph.D. at 206-727-8269 or rebeccan@wsba.org.

**LAP Solution of the Month: The “Blues” or Depression?**

Many lawyers are depressed but don’t realize it. Symptoms include depressed mood, loss of pleasure or interest in activities, weight gain or loss, sleep problems, feeling restless or slowed-down, fatigue, and trouble thinking or concentrating. Depressed lawyers may procrastinate, avoid answering phone messages and
opening mail, or abuse alcohol in order to feel better. Untreated, depression can cause serious work dysfunction and other problems. Talk to your doctor, or call the WSBA Lawyers’ Assistance Program at 206-727-8268.

**Random Acts of Professionalism Program**
The WSBA Professionalism Committee has created a way for lawyers and judges to recognize their colleagues who have conducted themselves in a professional manner consistent with the Creed of Professionalism. Through the Random Acts of Professionalism Program, lawyers and judges may nominate their colleagues for the award. Nominating a lawyer or judge is easy: Simply send his or her name, along with a brief description of why you are nominating the person, to Judy Berrett, staff liaison to the Professionalism Committee, at judithb@wsba.org, or fax to 206-727-8319. That’s all there is to it! The nominee will receive a letter, a certificate, and a copy of the WSBA Creed of Professionalism.

**20th Annual Goldmark Award Luncheon**
The Legal Foundation of Washington (LFW) will present the 2006 Charles A. Goldmark Distinguished Service Award to the Washington State Supreme Court at the 20th Annual Goldmark Award Luncheon. The luncheon will be held February 17, at the Washington State Convention & Trade Center in Seattle from noon and 1:30 p.m. The Goldmark Award honors the memory of attorney Charles A. Goldmark — a community leader and ardent supporter of access to justice. Goldmark was serving as the LFW’s president at the time of the tragic assault that led to his death in 1986. The program will include remarks from Goldmark’s brother to commemorate the 20th anniversary of this award. The public is invited to attend the luncheon, where tribute will be paid to all the volunteer lawyers and legal-aid providers in Washington. A registration form appears on this page. Visit [www.le-egalfoundation.org](http://www.le-egalfoundation.org) for more information.

**Usury Rate**
The average coupon equivalent yield from the first auction of 26-week treasury bills in December 2005 was 4.335 percent. Therefore, the maximum allowable usury rate for January is 12 percent. Information from January 1987 to date is on the WSBA website at [www.wsba.org/media/publications/barnews/usury.htm](http://www.wsba.org/media/publications/barnews/usury.htm).
We are pleased to announce the January 1, 2006, opening of our law firm Halvorson Saunders & Willner, PLLC.

Labor and employment attorneys

Seattle
999 Third Avenue
Suite 3800
Seattle, WA 98104
206-849-1066 (Halvorson)
206-386-7789 (Saunders)
Fax: 206-386-7856

Bellingham
Crown Plaza Bldg., Fl. 4
114 W. Magnolia St.
Bellingham, WA 98225
360-392-3995 (Willner)
Fax: 360-392-6005

Larry Halvorson, Mike Saunders, and Jennifer Willner will continue to serve clients in the areas of labor law, employment litigation, and employer counseling.

TERRY CULLEN
Named WDTL’s Outstanding Defense Attorney

Forsberg & Umlauf shareholder, Terry Cullen, was recently named WDTL’s Outstanding Defense Attorney in 2005 at the Annual Judicial Reception hosted by the Washington Defense Trial Lawyers. The reception was held at the law firm of Preston, Gates & Ellis and attended by 26 judges from the Washington State Supreme Court, Federal Court of Appeals, State Court of Appeals, Federal U.S. District Court and County Superior Courts.

Cullen, a 1978 graduate of the University of Illinois College of Law, has litigated cases for over 25 years and currently serves as managing shareholder and unofficial ethics counsel at the Seattle law firm of Forsberg & Umlauf, P.S. A tenacious advocate for his clients, he strives to be reasonable, approachable and fair to co-defendants and adversaries alike in all dealings. The award presented to Terry reflects his unsurpassed ethical standards, professionalism, and dedication to the practice of law. Remarkably, upon receiving the award, Terry stressed the importance of attorneys maintaining a healthy balance between their professional and personal lives. Present for the award were his two biggest fans, wife Sandy and son C.J.

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206-689-8500
www.forsberg-umlaufl.com

GORDON, THOMAS, HONEYWELL, MALANCA, PETERSON & DAHIEM LLP is proud to announce that

Jason Amala
Erik Grotzke
and
M. Lorena González
have joined our firm as new associates in the Tacoma office.

Terry Cullen

GORDON, THOMAS, HONEYWELL, MALANCA, PETERSON & DAHIEM LLP
1201 Pacific Ave., Suite 2100, Tacoma, WA 98402
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Erin M. Karp

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• corporate management and operations

Ms. Karp is a 1999 magna cum laude graduate of Seattle University School of Law. She was previously with the firm of Steiner Norris PLLC.

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Disbarred

Allen C. Jorgensen (WSBA No. 23671, admitted 1994), of Redlands, CA, was disbarred effective May 11, 2005, by order of the Washington State Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of California. This discipline was based on his conduct in 2004 involving willful violation of an order directing his compliance with the California Rules of Court.

In 2003, Mr. Jorgensen was disciplined by order of the Supreme Court of California. The order required, inter alia, Mr. Jorgensen's compliance with Rule 955(c) of the California Rules of Court (CRC) (requiring the filing of an affidavit of compliance with the duties of disbarred, resigned, or suspended attorneys) no later than April 12, 2004. In December 2003 and March 2004, a deputy from the State Bar of California's Office of Probation sent Mr. Jorgensen letters reminding him that a CRC 955(c) affidavit was due in April. Mr. Jorgensen did not file the affidavit required by CRC 955(c) and, subsequent to the filing of a notice of disciplinary charges, offered no explanation to the State Bar Court of his failure to do so.

Mr. Jorgensen’s conduct violated California Business and Professions Code § 6103, prohibiting willful disobedience or violation of an order of the court requiring a lawyer to do or forbear an act connected, with or in, the course of the lawyer’s profession, which the lawyer ought in good faith to do or forbear.

Felice P. Congalton represented the Bar Association. Mr. Jorgensen did not appear in the proceeding either personally or through counsel.

Suspended

Kevin M. Myles (WSBA No. 24987, admitted 1995), of Portland, OR, was suspended from the practice of law for 60 days effective July 22, 2005, by order of the Washington State Supreme Court imposing reciprocal discipline based on an order of the Supreme Court of the State of Oregon approving a stipulation for discipline. This discipline was based on his conduct in 1999 involving a misrepresentation to a tribunal.

In April 1999, Mr. Myles represented a client in an administrative appeal of the denial of unemployment insurance benefits. At issue in the proceeding was whether the client had wrongfully
failed to return to his employment after his employer had determined that his work-related injuries had resolved. In connection with the claim, a physician had rendered an opinion that the client’s injury had been resolved, after which the physician had released the client to return to his employment. Expecting the employer to introduce the physician’s records at the hearing, Mr. Myles executed and submitted as a potential exhibit an affidavit stating that he had personal knowledge of the physician’s reputation for untruthfulness. Mr. Myles did not in fact have information supporting his representation concerning the physician’s reputation for untruthfulness.

Mr. Myles’s conduct violated Oregon DR 1-102(A)(3), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Felice P. Congalton represented the Bar Association. Mr. Myles did not appear in the proceeding either personally or through counsel.

Reprimanded
Jerry K. Brown (WSBA No. 14946, admitted 1985), of McMinnville, OR, was ordered to receive a reprimand effective July 1, 2005, by order of the Washington State Supreme Court imposing reciprocal discipline based on an order of the Supreme Court of the State of Oregon approving a stipulation for discipline. This discipline was based on his conduct in 1999 through 2003 involving the failure to act with reasonable diligence in representing the personal representative of an estate.

Commencing in May 1998, Mr. Brown represented the personal representative in the probate of an estate. Between March 1999 and February 2001, Mr. Brown took no substantial action to administer or close the estate. Between February 2001 and March 2003, when he terminated the representation, Mr. Brown engaged in a course of neglectful conduct that included the following: failing to timely provide sufficient information to the estate’s accountant; mailing documents to the personal representative at an address Mr. Brown knew was not current; failing to promptly effect the transfer of property in another state or initiate an ancillary probate; misplacing the estate’s tax refund checks; and failing to close the estate.

Mr. Brown’s conduct violated Oregon DR 6-101(B), prohibiting a lawyer from neglecting a legal matter entrusted to him or her.

Felice P. Congalton represented the Bar Association. Mr. Brown did not appear in the proceeding either personally or through counsel.

Reprimanded
John Luke McKean (WSBA No. 13294, admitted 1983), of Moses Lake, was ordered to receive a reprimand on May 25, 2005, following a stipulation approved by a hearing officer. This discipline was based on his conduct between 1998 and 2001 involving failure to keep a client informed about the status of a matter, failure to render appropriate accounts to the client regarding distribution of client funds, and failure to supervise nonlawyer assistants.

A client hired Mr. McKean to represent him in reopening an industrial insurance claim before the Washington State Department of Labor and Industries (L&I). The client agreed to pay Mr. McKean attorney fees in the amount of 30 percent of any recovery. The fee agreement, however, was inconsistent with the initial agreement, specifying an amount of 33 1/3 percent of any recovery.

The application to reopen the claim resulted in the client receiving $34,856.69 in back time-loss compensation. Mr. McKean retained 33 1/3 percent of that award as attorney fees. The client thereafter received biweekly time-loss compensation benefits. Between September 1998 and September 1999, Mr. McKean withheld 33 1/3 percent from each of the client’s biweekly payments. The calculation of the fee paid to Mr. McKean was performed by Mr. McKean’s office staff, Mr. McKean was not aware that the client was being overcharged, but he did not make reasonable efforts to ensure that the work of his office staff was correct. In September or October 1999, Mr. McKean began charging the client 30 percent rather than 33 1/3 percent. At that point, the client had already been overcharged $1,576.18. Mr. McKean did not inform the client that he had been overcharged and that he was entitled to a refund, nor did Mr. McKean refund the difference between the fee charged and the correct amount.

In June 2001, L&I issued an order denying responsibility for the client’s injury. The client’s time-loss payments terminated, and his L&I claim was closed. Mr. McKean sought reconsideration of that decision, but it was affirmed in December 2001. Mr. McKean appealed the decision to the Board of Industrial Insurance Appeals, but after a hearing it was determined that the client had not suffered a compensable injury. In March 2003, Mr. McKean’s office staff filed a notice of appeal of the Board’s order in Grant County Superior Court. That filing did not comply with a statute requiring a petition for review to be filed with the Board of Industrial Insurance Appeals. As a result, the client’s claim became final and unappealable.

Mr. McKean’s conduct violated RPC 1.4, requiring a lawyer to keep a client reasonably informed about the status of a matter; RPC 1.14(b)(3), requiring a lawyer to maintain complete records of all funds coming into the lawyer’s possession and to render appropriate accounts to the client regarding them; RPC 5.3(b), requiring a lawyer with direct supervisory authority over a nonlawyer to make reasonable efforts to ensure that the nonlawyer’s conduct is compatible with the professional obligations of the lawyer; and RPC 5.3(c)(1), holding a lawyer responsible for the conduct of a nonlawyer assistant that would be a violation of the RPCs if engaged in by a lawyer in circumstances where the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved.

Debra Slater represented the Bar Association. Mr. McKean represented himself. Lewis W. Card was the hearing officer.

Reprimanded
John A. McKerricher (WSBA No. 8488, admitted 1978), of Chehalis, was ordered to receive a reprimand on May 23, 2005, following a stipulation approved by a hearing officer. This discipline was based on his conduct in 1992 and 1993 involving conflicts of interest.

In 1992, one of Mr. McKerricher’s existing clients received a summons and complaint arising out of a California lawsuit. Mr. McKerricher incorrectly advised the client that there were 60 days to an-
In April 1995, Mr. McKerricher notified his firm releasing all claims that the client had against Mr. McKerricher and his firm arising out of the California lawsuit in exchange for the firm's payment to the client of $2,500, satisfaction of all of the client's accounts receivable with the firm, and a credit for future legal services in the amount of $2,294.83, for a total settlement of approximately $10,000 on the property now owned by Mr. McKerricher.

In June 1993, the client signed an agreement with Mr. McKerricher and his firm releasing all claims that the client had against Mr. McKerricher and his firm. The agreement was negotiated by another member of Mr. McKerricher's firm. The client was not represented by independent counsel in connection with the release, and Mr. McKerricher and his firm did not advise the client that independent representation was appropriate. In April 1995, Mr. McKerricher notified the client that the firm would no longer represent him and that the client would have to pay off the $10,000 lien on Mr. McKerricher's Mossyrock property to avoid Mr. McKerricher's purchase of the lien and execution against another parcel of property owned by the client.

Mr. McKerricher did not obtain the client's written consent to any potential conflict of interest with respect to any of these transactions.

Mr. McKerricher's conduct violated RPC 1.7(b), prohibiting a lawyer from representing a client if the representation of that client may be materially limited by the lawyer's own interests, unless the lawyer reasonably believes the representation will not be adversely affected and the client consents in writing after a full disclosure of material facts; and RPC 1.8(h), prohibiting a lawyer from settling a claim for malpractice liability with an unrepresented client or former client without first advising that person in writing that independent representation is appropriate in connection therewith.

Sachia Stonefeld Powell represented the Bar Association. Mr. McKerricher represented himself. Moses F. Garcia was the hearing officer.

Admonished
Robert R. Cossey (WSBA No. 16481, admitted 1986), of Spokane, was admonished following a stipulation approved by a hearing officer. The admonition was based on his conduct in 2003 in two matters involving failure to act with reasonable diligence and promptness in representing a client and failure to adequately supervise a nonlawyer assistant.

Matter I: On September 2, 2003, Client A hired Mr. Cossey to represent her in a dissolution matter that was set for trial on September 16, 2003, in Idaho. The client informed Mr. Cossey that she would be unavailable to attend the September 16 trial because she was pregnant with a due date of September 13. Not being licensed to practice in Idaho, Mr. Cossey informed the client that he could represent her by associating with his former law partner, who was admitted to practice in Idaho. Mr. Cossey knew that a continuance would be necessary. He delegated the task to his legal assistant, who had little experience with family law matters and no experience with the Idaho court system. Owing to his legal assistant's representations, Mr. Cossey assured Client A that he was obtaining a continuance of the trial date. Mr. Cossey did not diligently obtain a continuance, did not provide his former law partner with information relating to the matter, and did not promptly file and serve a notice of appearance in the case.

On September 16, 2003, the court found Client A in default and orally awarded sole custody of Client A's child to her ex-spouse. Client A learned about the court’s action from her ex-spouse.

On September 24, 2003, Mr. Cossey referred the matter to an Idaho lawyer and sent the $1,000 fee paid by Client A to the Idaho lawyer, believing that the Idaho lawyer could assist Client A in taking corrective measures regarding the default.

On October 8, 2003, the court entered a decree of dissolution granting Client A's ex-spouse all the relief requested, including child custody with no visitation rights, child support, and the marital property. The Idaho lawyer entered an appearance on October 15, 2003, and moved to set aside the default and decree. The lawyer requested a supporting declaration for the motion. Mr. Cossey's legal assistant provided a declaration that contained, unbeknownst to Mr. Cossey, false and misleading statements.

In December 2003, the court set aside and modified the decree provisions regarding child custody, visitation, and child support, but Client A remained responsible for the monetary obligations imposed in the October 8 decree and was required to pay $1,567.50 in attorney fees to opposing counsel. When Client A was unable to satisfy these monetary obliga-
tions, a motion for contempt was filed. Client A incurred $3,581 in attorney fees in vacating the default and defending the contempt motion. Mr. Cossey voluntarily paid $2,600 to Client A to cover back child support owed as a consequence of the default and paid $3,581 (plus interest) in restitution to Client A.

**Matter 2:** In October 2003, Client B hired Mr. Cossey to represent him in a dissolution proceeding and paid Mr. Cossey $1,000. The fee agreement, which was prepared and signed by Mr. Cossey’s nonlawyer assistant, was contradictory and ambiguous about the nature of the fee. Mr. Cossey assigned nonlawyer staff to perform a substantial amount of the work in the case. Under the terms of the fee agreement, the hourly rate for legal assistants was $45.00. Unbeknownst to Mr. Cossey or Client B, Client B was incorrectly billed at an hourly rate of $65.00 for work performed by legal assistants, and Client B was billed for work that was unnecessary, for services that were not performed, for nonlegal services, and for services that provided no benefit to Client B.

Eventually, Client B became dissatisfied with Mr. Cossey’s representation. Client B terminated Mr. Cossey and hired another lawyer. Mr. Cossey charged Client B a total of $1,566.40 for legal services and costs advanced. Client B paid Mr. Cossey a total of $1,286.15. The actual value of the legal services and costs advanced was $636.45. Mr. Cossey refunded $649.70 to Client B.

Mr. Cossey’s conduct violated RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; RPC 5.3(b), requiring a lawyer with direct supervisory authority over a nonlawyer to make reasonable efforts to ensure that the nonlawyer’s conduct is compatible with the professional obligations of the lawyer; and RPC 5.3(c), holding a lawyer responsible for the conduct of a nonlawyer assistant that would be a violation of the RPCs if engaged in by a lawyer in circumstances where the lawyer orders or ratifies the conduct or fails to take reasonable remedial action.

Jonathan H. Burke represented the Bar Association. Mr. Cossey represented himself. Dennis W. Morgan was the hearing officer.
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— Francesco di Marco Datini — Florentine businessman, letter to his wife, 14th century.

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KELLER ROHRBACK, LLP
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