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Steve Hayne has practiced criminal law for over 30 years and for over 20 years has limited his practice to defense of DUls and serious traffic offenses. He offers personal attention, sincere compassion, and extraordinary experience to clients facing the devastating impact of a DUI charge.

In 2003, Mr. Hayne was awarded the highest honor accorded by the Washington Association of Criminal Defense Lawyers; The William O. Douglas Award “For extraordinary courage and dedication to the practice of criminal law.” He has been named one of “Seattle’s Best Lawyers” by Seattle Magazine, one of the state’s “Ten Best Trial Lawyers” by the Washington Law Journal, and a “Super Lawyer” every year since inception by Washington Law & Politics. His cases of significance include lead counsel/of counsel in State v. Straka, State v. Brayman, State v. Scott, State v. Ford, State v. Franco, Seattle v. Box and Seattle v. Allison.

Mr. Hayne is a past President of WACDL and has chaired the Criminal Law Sections of the WSBA, WSTLA and KCBA. He has taught trial practice at the University of Washington and Seattle University Schools of Law, the National Institute of Trial Advocacy and the Trial Masters Program. He has been a featured speaker at over 80 CLE programs in the U.S. and Canada and has published articles in the Bar News, Trial News, Defense and Overruled magazines. Mr. Hayne is also a founding member of the Washington Association of Criminal Defense Lawyers, the National College for DUI Defense, and the Washington Foundation for Criminal Justice.
Bar News

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Paula Littlewood
Executive Director
206-239-2120; paulal@wsba.org

Michael Heatherly
Editor
360-312-5156: barnewseditor@wsba.org

Judith M. Berrett
Director of Member and Community Relations
206-727-8212; judithb@wsba.org

Todd W. Timmcke
Managing Editor/Graphic Designer
206-727-8214; toddt@wsba.org

Jack W. Young
Advertising Manager
206-727-8260; jacky@wsba.org

Stephanie Perry
Communications Specialist/Website Editor
206-733-5932; stephaniep@wsba.org

Pamela Wuest
Classifieds and Subscriptions/Bar News Online
206-727-8213; pamelaw@wsba.org


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Happy New Year!

from the

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A timely issue

To WSBA President Salvador Mungia:

The November edition of the Bar News is, as always, an impressive publication. The time and resources committed are clearly evident. From the President’s Corner to the Bar Beat, the articles are compelling and thought-provoking.

We are extremely grateful for WSBA’s willingness to show your support for the goal of a stable, adequate and long-term funding of Washington’s trial courts by devoting this edition solely to the Justice in Jeopardy Initiative. The value in reaching out to more than 30,000 members of the State Bar cannot be overestimated. We are also forwarding the additional copies you provided us to city and county executive officials and to all members of the Legislature.

We plan to use this special edition of the Bar News as a core document of the Justice in Jeopardy effort, something to be used as a handy reference in upcoming sessions of the Legislature not only this year as we seek to preserve the progress we’ve made since 2005 but also in the future when we can resume this effort with the vigor it deserves and see it to fruition.

The Washington State Bar Association is a key partner in the success of the Justice in Jeopardy Initiative and your continued support is truly valued.

Chief Justice Gerry Alexander and Judge Deborah Fleck

No child left behind

I am writing in response to an article published in the November 2009 issue of Bar News titled “New Funding Benefits Courts and Customers.” I would like to clarify a statement made in the section headed Guardians Ad Litem and Court Appointed Special Advocates (CASAs).

In the article, I am quoted as saying that “For us, (Lewis County) the new funding was vital.”

This quote is accurate but the article goes on to say that “Lewis County has no paid guardians ad litem or staff attorneys to speak for some 242 children who are subjects of dependency petitions each year.” I would like to assure your readers that Lewis County provides a GAL/CASA for every child in dependency from 0 to 18 years of age. Lewis County is committed to providing quality representation for all of its dependent children.

The National CASA Association takes the position that a volunteer GAL/CASA is the best advocate for a child. Lewis County has embraced that model and we have operated a volunteer GAL/CASA program in Lewis County since 1995. Ninety-eight percent of our dependent children are represented by a volunteer GAL/CASA and in unusual situations a paid attorney GAL is appointed. If indicated, there is legal representation...
available for our volunteer GAL/CASAs. In all cases, Lewis County dependent children have an advocate to speak for them in court.

Holli Jo Spanski, Lewis County Juvenile Court Administrator, Chehalis

Spirited discourse over Keller deduction

I feel a chill in the air. I disagree with those who demand a Keller deduction because the Bar News takes a position on political and ideological issues [Letters to the Editor, December 2009 Bar News]. That may have a chilling effect on editorial writing. For my money all issues presented in the Bar News improve the quality of legal services. I prefer the warmth and heat of spirited discourse with professionals who have something to say. We all have a duty to speak on important issues of the day. We are Americans and we are lawyers. We are leaders in politics and social policy. Who are we and what are we if our professional news is dry and silent on social and legal issues? I want ideas in my professional journal to be published among the brightest and most meaningfully involved thinkers in our community. This is what we do: we speak out with every pleading we file; we speak out with advice we give; we speak out as we breathe. It is natural, it is good and it is necessary. The Bar News is a wonderfully appropriate forum for us to exchange ideas on important issues. Frankly I couldn’t care less about the Keller deduction. I don’t think it should have anything to do with whatever opinions are published in the Bar News. We are lawyers and we are Americans. Therefore we speak our opinions. That is who we are and that is what we do.

Kenneth Knox, Spokane

EDITOR’S NOTE: While Bar News encourages open debate of issues, we take no position on issues. Positions and opinions expressed in articles or letters are those of the authors.

Choosing your battles in the war on drugs

I congratulate President Mungia for bringing the issue of de-criminalizing possession of small amounts of marijuana up for consideration by the WSBA [President’s Corner, December 2009 Bar News]. As someone who has practiced criminal law for 34 years, I can say with confidence that most police officers, prosecutors, and lower court trial judges consider such prosecutions a huge waste of time and effort. They contribute to court congestion, waste law enforcement resources, and promote disrespect for the judicial system, especially among young people. No one can seriously argue that treating those who possess small amounts of pot as "criminals" has aided in the war on drugs. I hope the WSBA will take the correct and courageous stand by supporting legislation making possession of small amounts of marijuana a civil infraction.

Steve Hayne, Bellevue

A doggone good column

I just finished reading your recent Bar Beat article ["Dog Tales" by Michael Heatherly] in the December 2009 Bar News. I must say thank you for this. Your article has meant a great deal to me on a personal level. I too lost an old canine friend this year and in fact only two weeks ago. His name was Doi Doi and at the time of his death he was 16 years old. It is so helpful to hear from someone in our profession who has experienced a similar loss and has continued with the daily work as we all must do. In addition to the loss of our dogs, we share another difficulty as I also am experiencing a difficult period in my marriage. So once again I appreciate your treatment of the loss of these critical support networks in your life. Since the beginning of law school I remember seasoned attorneys warning that we must always maintain priorities between our personal and professional lives. As a practicing attorney though it is often difficult to maintain focus and these things become blurred and confused. Your article reminds us that the simplest things in life, family and pets, are critical for stability and happiness and in truth from those relationships we can derive the strength to “rise and stumble around the block once more.” Again thank you, your article has helped this attorney to feel less alone in my loss.

Michael J. Edwards, Shelton
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So You Say You Want a Revolution

There are those, such as Mao Tse-Tung, who see revolutions as insurrections that begin with violence. And who can forget Stalin’s characterization that you can’t make a revolution with silk gloves? But seeing that the WSBA’s stockpile of weapons-of-even-limited destruction are in short supply (just a couple of old audio tapes of Past-President Mark Johnson lecturing at a CLE), I’m following the lead of that famous American, Otter:1

Now we could do it with conventional weapons that could take years and cost millions of lives. No, I think we have to go all out.2

I’ve gone all out — I’ve called in the judges. Of course, I didn’t know whether the judges were interested in a revolution. But I was willing to take my chances. On the first Monday of October (which has a certain judicial ring about it), I spoke to the judges attending the fall judicial conference. I explained to the judges that I’d like every single judge in this state to participate in the Campaign for Equal Justice — the statewide campaign that raises donations for the various civil legal aid programs operating throughout the state — in whatever amount that they could afford. The key was 100 percent participation — no exceptions. I told them the fact of their participating was more important than the dollar amount of their participation. I explained that judges are at the center of our system of justice — they are the ones who apply the law, decide issues, in short, dispense justice. However, they are about as useful as a wetsuit in the Sahara if people can’t get past the courthouse doors because they lack the price of admission. In our society, if you have a contract dispute, you can’t resolve it by pistols at 20 feet; if you have a landlord/tenant dispute, high card won’t decide who is right; if you’ve been denied government benefits, rock/paper/scissors with the government official won’t carry the day. No, you have to see the judge — but if you can’t see the judge because you are poor, the system isn’t working.

I explained to the judges that if they would do this, I would not only sing their praises but also use the judges’ actions to get my brothers and sisters in the bar to realize the importance of having every attorney in our state participating in the Campaign for Equal Justice. Attorneys would realize that contributing to civil legal aid isn’t just a nice thing to do, isn’t just the right thing to do, but is part of who we are as attorneys.

As is often the case when I am waiting for a judge’s ruling, my heart does the samba, my sweat glands think it’s time to go into extra innings, and my blood pressure rises faster than the national debt. Well, the rulings came fast.

As soon as I had finished, Judges Fleck (King Superior) and van Doorninck (Pierce Superior) came up to see me. Judge Fleck suggested, in the way that only Judge Fleck can do, that I follow up with a letter to all the judges right away. When Judge Fleck suggested something, there is only one answer and it has three, not two, letters. Judge van Doorninck then asked whether we could make it easier for the judges to contribute by having a direct transfer from their paychecks. Sounded good to me. She then grabbed Judge Eitzen (Spokane Superior), the president of the Superior Court Judges’ Association, and made that same suggestion. Judge Eitzen got on board faster than Don Horowitz saying “yes” when asked if he will sing a song. We were off to the races.

Following Judge Fleck’s suggestion, I e-mailed all the judges in the state asking them to participate in the Campaign. I immediately received responses from many saying they were happy to do so. When I attended the Board for Judicial Administration meeting in October Judge Baker (Ferry, Stevens, and Pend Oreille Superior) reminded those present about the need for all the judges to participate in the Campaign. Judge Eitzen followed up and told the BJA participants what the Superior Court Judges’ Association was doing both in terms of asking all of its members to contribute and also establishing direct contributions from their paychecks. The District and Municipal Court Judges’ Association reported that they were working to have a similar system by which their members can have a direct contributions made. My head was spinning faster than Linda Blair’s.
The WSBA Board of Governors has now followed the judges’ lead. The Board, for the first time in its history, has all governors and officers participating in the Campaign for Equal Justice. 100 percent. No exceptions.

We all need to follow the judges. We need to fulfill our duties as guardians of the justice system to ensure that each one of us, regardless of the amount, participates in ensuring that all are given the opportunity to access the justice system.

We don’t, as a profession, accept that this value extends to all of us: those in private practice and those in public service; those in large firms and those practicing on their own; those who are just starting out and those who are well-established. We don’t, as a profession, yet feel it in our collective bones, hearts, and souls. What we need is a revolution.

With your whole body, your whole heart, with your whole conscience, listen to the Revolution. This is the music everyone who has ears should hear.

WSBA President Salvador Mangia can be reached at smungia@gth-law.com.

NOTES
1. See “Animal House.”
2. Just so the record is clear, and I don’t get disbarred, the next line from the movie does not apply.
3. Russian poet Alexander Blok.
Vulnerable Adult Abuse: What You Need to Know

As an attorney, you have special responsibilities towards the elderly and persons with disabilities

BY CATHERINE HOOVER, AILEEN MILLER, AND PAGE ULRAY

Abuse and neglect of the elderly and persons with disabilities occurs far more frequently than any of us would like to believe. Each year, millions of vulnerable adults in this country are physically and sexually assaulted, neglected, and financially exploited. Despite how vulnerable these populations are, the laws of our state don’t do nearly enough to protect them. As an attorney, you have special responsibilities towards the elderly and persons with disabilities.

During this winter’s legislative session, the Attorney General’s Office, the Washington State Department of Social and Health Services (DSHS), and their allies aim to fix legal loopholes that expose our state’s growing population of vulnerable adults to abuse and neglect.

Who is being victimized and why?
As we age, all of us — whether we have disabilities or not — become increasingly vulnerable to physical and sexual abuse, neglect, and financial exploitation. Criminals understand this all too well — in Washington state in 2007, DSHS received more than 13,000 reports of abuse, abandonment, neglect, self-neglect, or financial exploitation of vulnerable adults in private-home settings, as well as 29,000 in long-term care settings. State and federal government data show that from 1986 to 1996, there was a 150 percent increase in reports of elder abuse in domestic settings (National Center on Elder Abuse National Incidence Summary, September 1998).

Women with disabilities are victimized at rates almost twice that of other women (Bureau of Justice Statistics). It is estimated that 83 percent of women with a disability will be sexually assaulted (Stimpson, L. & Best, M., 1991, Courage Above All: Sexual Assault Against Women with Disabilities, Toronto: DisAbled Women’s Network).

Civil authority — The Abuse of Vulnerable Adults Act
Sadly, the vast majority of perpetrators of vulnerable-adult abuse are family members of the victim. Income levels don’t determine risk: victims living on less than $1,000 per month in Social Security benefits appear to be just as likely targets as the wealthy. The perpetrators run the gamut: a caregiver who systematically drains an elder’s bank accounts; an adult child who physically and emotionally abuses an aging parent; or a family “friend” who sexually assaults an adult with a disability living in a care facility. The list goes on.

The Department of Social and Health Services is charged with responding to allegations of abandonment, abuse, exploitation, and neglect (collectively referred to herein as “abuse”)...
of vulnerable adults under the Abuse of Vulnerable Adults Act, Chapter 74.34 RCW (the “Act”). The majority of allegations concern victims living in their own homes and are investigated by DSHS’s Adult Protective Services (APS). DSHS’s investigations concern victims living in their own homes, spending most of their time at casinos and shopping malls.

Imagine a 90-year-old woman being cared for in her home by a paid caregiver. Her husband had died several years earlier and she had no children or family in the area. Several weeks before her death, her caregiver gained access to her checking account. From that point on, the caregiver showed up only periodically at the woman’s home, spending most of her time at casinos and shopping malls.

Residential Care Services (RCS) investigates allegations of abuse and neglect of victims living in residential care facilities or institutions such as nursing homes.

People who routinely work with vulnerable adults, including healthcare providers and EMTs, are mandatory reporters of adult abuse and neglect. This means they must report abuse and neglect to DSHS and, in some cases, to law enforcement. All others are considered “permissive reporters,” who may (but are not required) to report such allegations. The Act protects from liability permissive and mandatory reporters who act in good faith. It allows them to report and testify about abuse without violating any confidential-communication privileges.

If DSHS substantiates an allegation and issues an initial “finding,” the alleged perpetrator may challenge it in an administrative hearing. DSHS maintains a list of findings upheld through the administrative process and uses them to screen those who apply for DSHS-issued licenses or contracts, and those who work in agency-licensed facilities. For example, an applicant for a nursing home license must pass a DSHS background check, as must all employees who have unsupervised access to nursing home residents.

DSHS has no authority to impose civil fines or sanctions against perpetrators. It may extend “protective services” to vulnerable adult victims, but generally only with their consent. Unlike CPS, APS may not take custody of vulnerable adult victims without their consent. However, if victims lack capacity, DSHS may petition for the appointment of legal guardians to manage their affairs and protect them from further abuse even without their consent.

APS may also seek injunctive relief on behalf of victims. The Act authorizes the victim of abuse, any other interested party, or APS to petition for a “Vulnerable Adult Protection Order” (VAPO).

In recent years, the need for injunctions and VAPOs in APS cases has increased dramatically, particularly in cases involving gross neglect, financial exploitation, and exposure to methamphetamine labs.

The Vulnerable Adult Bill
An omnibus bill written by the Attorney General’s Office was submitted during the 2009 Legislative Session. Unfortunately, the legislation died in committee. A streamlined bill will be re-introduced to the Legislature in 2010. The proposed legislation strengthens criminal and civil laws protecting vulnerable adults in three ways. First, it creates a mandatory sentencing enhancement for crimes against vulnerable adults. Similar to other sentencing enhancements, this one will be added to the sentence for the underlying crime and will run consecutively to all other sentences. The length of the enhancement is linked to the class of the crime: 1) five years for a class A felony; 2) three years for a class B felony; and 3) 18 months for a class C felony.

These enhancements provide a useful negotiating tool for prosecutors handling difficult cases. They also ensure that perpetrators receive sentences that are commensurate with the nature of their crimes. Further, they protect victims by keeping their abusers behind bars for a longer period of time.

The second goal of the bill is to expand the ability of banks and financial institutions to prevent the financial exploitation of vulnerable adults. Because banks and other financial institutions are often the first to become aware of unusual activity in a vulnerable adult’s account, they are essential to the early identification, reporting, and prevention of financial exploitation. The proposed legislation would:

- Provide standard training to financial institution employees about recognizing and detecting financial exploitation;
• Authorize financial institutions to temporarily “freeze” a transaction for up to three business days when financial exploitation is suspected; and

• Expand the ability of financial institutions to share information with APS, law enforcement, and the prosecuting attorney’s office.

Under current law, banks are almost powerless to stop financial exploitation, forced to bide their time while they attempt to contact a victim’s family or wait for APS or law enforcement to take action. This can be extremely frustrating to bank employees who are trying to protect a valued customer’s assets.

The third provision of the proposed legislation requires mandatory reporters to report the death of a vulnerable adult to the appropriate county coroner or medical examiner and to law enforcement when there is reason to suspect the death was caused by abandonment, abuse, or neglect. The bill dovetails with HB 1103, sponsored by Representative Jim Moeller, of Vancouver, which precludes anyone whose abuse caused or contributed to a vulnerable adult’s death from inheriting from the estate of the victim.

**How current law allows vulnerable-adult victimizers to escape prosecution**

Imagine a 90-year-old woman being cared for in her home by a paid caregiver. Her husband had died several years earlier and she had no children or family in the area. Several weeks before her death, her caregiver gained access to her checking account. From that point on, the caregiver showed up only periodically at the woman’s home, spending most of her time at casinos and shopping malls. One Friday afternoon, the caregiver returned and found the woman near death. She had multiple, serious pressure sores on the back of her body and was malnourished and dehydrated — a victim of obvious neglect. At 5:15 p.m., the caregiver called 911. The responding EMT, a mandatory reporter of adult abuse and neglect, transported the victim to the hospital. As required, he called DSHS to report the situation. Since the hotline is staffed from only 8:00 a.m. to 5:00 p.m., he left a detailed message. At 6:00 the next morning, the woman died. After discussing the case with nurses and physicians, the emergency room social worker called the DSHS hotline and left a message regarding the case. Meanwhile, the in-home caregiver cleaned up. She took the bedding, covered with body fluids and waste, to a dumpster. She washed the victim’s clothes and scrubbed down every surface of the house. She bought groceries to stock the refrigerator, bought Depends and medication to stock the bathroom, and created false entries in the woman’s check register to explain the numerous withdrawals she had made from the account.

On Monday morning, DSHS hotline staff received the messages and notified law enforcement. When law enforcement arrived at the hospital, the victim’s body had been cleaned up, her nails trimmed, her hair and skin spotless. They photographed her pressure ulcers, then went to the residence, where they found no signs that the victim had been cared for improperly. Based on the lack of evidence of neglect, they closed the case.

The King County Prosecutor’s Office sees numerous cases of neglect, similar to the hypothetical scenario above, that aren’t reported to law enforcement until days after the victim is removed from the crime scene.

Were the Vulnerable Adult Bill already in effect, the EMT and hospital social

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worker in this scenario would have been required to report the case to law enforcement as well as to DSHS. Law enforcement would have gone to the victim’s residence to photograph the filthy living conditions, the empty refrigerator, and the lack of medications. Law enforcement would have arrived at the hospital before the victim was cleaned up. There, they would have been able to photograph the many signs of neglect, and interview the social worker, nurses, and doctors while the incident was still fresh in their minds.

Neglect is the form of elder abuse most often reported to Adult Protective Services in Washington. And yet, only a handful of these cases are prosecuted. One reason is that neglect is so rarely reported to law enforcement in a timely manner. Our proposal serves to remedy a problem that has contributed to countless wrongful deaths of vulnerable adults going uninvestigated and unpursued.

What you can do
Every attorney needs to be aware of the prevalence of vulnerable-adult abuse, how to report it, and how to avoid inadvertently assisting perpetrators. APS has seen a number of cases in which attorneys have unwittingly assisted those abusing or exploiting vulnerable adults. The majority of family members, caregivers, and others involved in the lives of the elderly or persons with disabilities have the best of intentions. However, when working with an elderly client, particularly if you are contacted by someone purporting to act on his or her behalf, you should keep a few things in mind:

▶ Inquire about changes or declines in your client’s behavior, mental state, or physical condition, as well as signs of physical and mental abuse (tips available at www.adsa.dshs.wa.gov/pubinfo/aps/abusetypes.htm).

▶ Evaluate proposed transactions from the client’s perspective — regardless of pressure from a third party. APS sees many cases in which attorneys prepare deeds transferring property owned by a vulnerable adult client to a family member at the family member’s direction, ostensibly to make the client eligible for Medicaid. However, such transfers actually harm the client because they almost always disqualify them from receiving Medicaid for a period under federal and state eligibility laws. In some cases, family members who have orchestrated these transfers have, after learning that the elder was disqualified from receiving Medicaid as a result, refused to reverse it, leaving their vulnerable relative with no means of support.

▶ If a transaction, in full or in part, falls outside of your practice area, speak with qualified co-counsel or decline representation. APS recently had a case in which a real estate attorney submitted a declaration about a deed transferring his elderly client’s real property to the client’s adult guardian. He said it was done to accelerate Medicaid eligibility and remove the property from the state’s reach after the client’s death. However, the attorney
unwittingly perpetrated Medicaid fraud. Under federal and state Medicaid estate-recovery laws, the state was able to lien the property after the client’s death. The guardian was required to repay the state in order to avoid civil penalties.

- Speak with your client directly — without interference from others — to gauge his or her capacity and determine whether he or she is acting voluntarily. It may be cause for concern if a relative or caregiver speaks for the client or prevents private access to the client, particularly if the client appears confused or fearful.

- Recognize indicators of abuse. The most common indicators are: direction from someone other than the client; confusion, disorientation, or fear exhibited by the client; a request to substantially alter a will, trust, power of attorney, or other legal document (particularly if the identity of principal or beneficiary will change substantially); or direction to prepare documents to convey property to family members or others for inadequate or no consideration. In many cases of exploitation, the attorney is directed by a person only recently involved in the client’s life, such as a new caregiver, “sweetheart,” or family member who has recently moved into the client’s home. Several of the websites listed below provide additional detail on these indicators.

- Report possible abuse and neglect. Call 911 and DSHS at 866-END-HARM (866-363-4276). As permissive reporters, attorneys reporting in good faith are immune from liability and may provide the information without violation of the attorney-client privilege. 

- Seek appointment of a guardian ad litem and/or petition for a Vulnerable Adult Protection Order. Under RPC 1.14, an attorney may seek appointment of a guardian ad litem for a client with diminished capacity if the lawyer reasonably believes that the client “is at risk of substantial physical, financial, or other harm unless action is taken.” The lawyer has implied authority under RPC 1.6(a) to reveal client information “to the extent reasonably necessary to protect the client’s interests.” Thus, for example, an attorney representing an elderly client appearing to suffer from dementia or other cognitive impairments causing significant confusion and short-term memory loss could petition for the appointment of a GAL and include information in the petition concerning the client’s perceived
difficulties. An attorney may also petition for a VAPO under RCW 74.34.110. Standardized VAPO pleadings are on the Washington state courts website at www.courts.wa.gov/forms/?fa=forms.contribute&formid=70. 

Cathy Hoover is an assistant attorney general in Olympia representing the Department of Social and Health Services, including the department’s Adult Protective Services. Aileen Miller is an assistant attorney general in Washington’s Medicaid Fraud Control Unit, where she prosecutes provider fraud committed against the Medicaid program. Page Ulrey is a senior deputy prosecuting attorney with the King County Prosecutor's Office, where she focuses on the prosecution of cases of vulnerable adult abuse and neglect.

NOTES
1. RCW 74.34.035(1)–(4).
2. RCW 74.34.035(5).
3. RCW 74.34.050.
4. WAC 388-71-01235.
5. WAC 388-71-01280; RCW 74.39A.050(8).
6. RCW 74.34.067(6).
7. RCW 74.34.067(5).
8. RCW 74.34.150.
9. RCW 74.34.050

We thought our practice could use a little Popp! PYP welcomes Ana-Maria Popp.

Resources

DSHS Abuse Reporting Hotline
866-END-HARM (866-363-4276, voice/TTY) (report suspected abuse of a person living in his or her own home); www.aasa.dshs.wa.gov/pubinfo/aps.

DSHS Complaint Resolution Unit
800-562-6078 (TTY); 800-737-7931 (report suspected abuse of a person living in a licensed long-term care facility).

Washington State Long-Term Care Ombudsman Program
800-562-6028 (King County: 206-623-0816); www.ltcop.org.

Disability Rights Washington
800-562-2702 or 206-324-1521; 800-905-0209 or 206-957-0728 (TTY); www.disabilityrightswa.org/about/services-eligibility.

Washington State Medicaid Fraud Control Unit

Attorney General Consumer Protection Division
800-551-4636 or 800-833-6384 (TTY); www.atg.wa.gov/fileacomplaint.aspx.

King County Prosecuting Attorney’s Elder Abuse Project
Cowan Kirk Gaston is proud to welcome Ted Vosk as Of Counsel to our DUI defense team.

When it comes to scientific challenges to the reliability of breath testing in the state of Washington, Ted Vosk has established himself as the “Lawyer’s Lawyer.” Leading the charge in exposing the sub-standard work and dishonest practices of our State Toxicology lab, Ted was responsible for the suppression of thousands of breath tests in just the last two years. But his expertise is not limited to DUI. While attending graduate school in physics at Cornell University, Ted decided to become a lawyer and received his degree from the Harvard Law School. Accordingly, Ted’s background in both science and the law make him uniquely qualified for consultation on scientific issues facing both the criminal and civil practitioner and we feel privileged to welcome him as the newest member of our firm.

Refer with Confidence
Members Honored for Five Decades of Service in the Law

The WSBA Class of 1959 is recognized for a half-century of dedication.

On November 3, 2009, guests gathered at the Renaissance Hotel in Seattle to pay tribute to 50 attorneys and judges who celebrated 50 years of WSBA membership in 2009. WSBA President Salvador A. Mungia welcomed all and proudly expressed heartfelt gratitude to those 50-year members present for their decades-long work in the law. In appreciation, President Mungia and members of the Board of Governors presented 50-year certificates and lapel pins to the members who joined the Bar in 1959.

Washington State Supreme Court Chief Justice Gerry L. Alexander made remarks honoring the 50-year members. After the presentation of certificates and lapel pins, the chair of the WSBA Senior Lawyers Section, Stephen DeForest, gave an address. The luncheon concluded with closing remarks by President Mungia.

Those honored at the luncheon became WSBA members in 1959. Fifty years ago, the average house cost $30,000; a postage stamp was 4 cents; a loaf of bread cost 20 cents; and a gallon of gas was just a quarter. In January 1959, Alaska was admitted as the 49th state, and in August, Hawaii became the 50th. "Rawhide," "Bonanza," and "Twilight Zone" all debuted on TV that year. New products in stores included the Bic ballpoint pen, the Barbie doll, Jiffy Pop, and pantyhose. Amazingly, the billionth can of Spam was sold, and Coors introduced the aluminum beer can. Notable inventions in 1959 included the internal pacemaker and the Ski-Doo snowmobile. In the spring of 1959, pioneering cardiovascular surgeon Lester R. Sauvage established the Reconstructive Cardiovascular Research Laboratory, precursor to the Hope Heart Institute, in Seattle. The space race continued as Luna 2 was launched by the U.S.S.R. and became the first spacecraft to impact the moon. In sports, the American Football League (AFL) was formed with eight teams: the Boston Patriots, Buffalo Bills, Dallas Texans, Denver Broncos, Houston Oilers, Los Angeles Chargers, New York Titans, and Oakland Raiders. In the late 1960s, it merged with the NFL. At the WSBA, 111 people passed the bar exam in 1959, compared with 935 in 2009.

The WSBA class of ’59 has seen many changes — cultural, political, and societal — during their years in the legal profession. Those who have joined the Bar since owe these individuals a debt of gratitude for their inspirational work, achievements and half-century of serving the public in their careers.

50-Year Members in 2009

Mr. Eugene I. Annis, Spokane
Mr. Philip Holmes Austin, Olympia
Mr. William Frederick Baldwin, Wenatchee
Ms. Gayle Barry, Medina
Mr. Douglas P. Beighle, Seattle
Mr. Richard A. Bromley, Alamo, CA
Hon. Robert J. Bryan, Tacoma
Mr. Richard Lee Cleveland, Seattle
Mr. Brian L. Comstock, Bellevue
Mr. Kenneth O. Eikenberry, Olympia
Mr. Bennett Feigenbaum, Morristown, NJ
Mr. Rafael George Ferrer, Seattle
Mr. Robert Wallace Fetty, Woodinville
Mr. James Bryson Finlay, Long Beach
Mr. Richard M. Foreman, Bellevue
Mr. Mark R. Fortier, Yakima
Mr. James Bryson Finlay, Long Beach
Mr. Richard M. Foreman, Bellevue
Mr. Kenneth O. Eikenberry, Olympia
Mr. Bennett Feigenbaum, Morristown, NJ
Mr. Rafael George Ferrer, Seattle
Mr. Robert Wallace Fetty, Woodinville
Mr. James Bryson Finlay, Long Beach
Mr. Richard M. Foreman, Bellevue
Mr. Mark R. Fortier, Yakima
Mr. Douglas M. Fryer, Seattle
Hon. Richard Post Guy, Honolulu, HI
Hon. Donald Dean Haley, Seattle
Hon. Paul Douglas Hansen, Mukilteo
Mr. Bradley Fowlkes Henke, Seattle
Mr. James M. Hilton, Seattle
Mr. William L. Hintze, Seattle
Mr. Michael M. Holmes, Seattle
Mr. Charles Joseph Hunt Jr., Irvine, CA
Mr. Lester Kleinberg, Seattle
Mr. Robert Eugene Kovacevich, Spokane
Mr. Robert Bradley Leslie Jr., Seattle
Mr. Allan D. Loucks, Seattle
Mr. Paul Nicholas Luvera Jr., Seattle
Mr. Donald P. Marinkovich, Seattle
Mr. Richard Almer Mattsen, Lakewood
Mr. Jeremiah Michael McCormick, Seattle
Mr. Floyd Leonard Newland, Yakima
Mr. James V. O’Conner, Seattle
Mr. James N. O’Connor, Bainbridge Island
Mr. William Lincoln Parker, Seattle
Mr. Philip Michael Raekes, Kennewick
Hon. Stephen Richard Schaefer, Seattle
Mr. Robert E. Schillberg, Woodway
Mr. James Stuart Scott, Yakima
Mr. Edward Stephen Singler, Seattle
Mr. Walter John Sinsheimer, Seattle
Mr. William B. Stoebuck, Lake Forest Park
Mr. Duane Sherman Stoebuck, Lake Forest Park
Mr. Patrick A. Sullivan, Spokane
Mr. Ronald E. Thompson, Gig Harbor
Mr. Robert Oscar Wells Jr., Seattle
Mr. David A. Welts, Mount Vernon
Mr. James Rodney Woolston, Mercer Island
Carver Elementary School, speak about child hunger.

The Seattle luncheon began with a rousing performance by the Leschi Elementary School Choir. Arthur Lee, of the Emergency Feeding Program, and Javier Pulido and Ainealem Zerahaimanot, of Seattle’s Summer Food Service Program, then spoke about their programs’ efforts at feeding hungry children in the Seattle area. Nancy Amidei, faculty member at the University of Washington School of Social Work and longtime advocate for changing public policy to better serve the most vulnerable populations, also spoke. Representative Jamie Pedersen (43rd District), a partner at the law firm K&L Gates, was also in attendance. Together, the fundraisers brought in more than $34,000.

**WSBA Staff Charity Auction**

It was another successful year for the WSBA Staff “Homemade” Charity Auction and Talent Contest. $5,640 was raised to benefit Treehouse, an organization “dedicated to giving foster kids a childhood and a future.” The auction featured handmade gifts and baked goods and a talent contest that brought in more than $1,000. The talent contest winners, Home Foreclosure Legal Aid Project Program Coordinator Aline “Crooner” Carton and Intake Disciplin-ary Counsel Bruce “Liberace” Redman, performed “Makin’ Whoopee” in cabaret style. Highlights of the auction included: four jars of Accounts Receivable Bookkeeper Mui Bounyavong’s famous hot sauce fetched a record-breaking $505; a beautiful oil painting by Accounting Manager Maggie Yu’s daughter went for $140; the lucky winner of a “night on the town” with WSBA General Counsel Bob Welden paid $140 for the privilege; and Director of Information Technology Mark McDonald’s “No Big Dill” pickles, a repeat hit from last year, sold for $75.

**Washington State Supreme Court Elects New Chief Justice**

Justice Barbara A. Madsen was elected chief justice of the Washington Supreme Court in November, during a regular administrative meeting of the Court’s nine members in Olympia. Madsen will serve as the Court’s 55th chief justice for a three-year term starting in January. She succeeds Justice Gerry Alexander, the state’s longest-serving chief justice, who announced in September that he will step down from the position at the beginning of 2010. Alexander will continue to serve the last two years of his term as an associate justice, retiring at the end of 2011, the year in which he will reach the mandatory retirement age for judges in Washington.
A native of Renton, Justice Madsen received her undergraduate degree from the University of Washington in 1974 and earned her J.D. from Gonzaga University School of Law in 1977. She will be officially sworn in on January 11, 2010.

was re-elected treasurer. Both Wang and Fox were reappointed to their second two-year terms by Governor Christine Gregoire. Appointed by the WSBA Board of Governors to his second two-year term is Judge Theodore Spearman, Kitsap County Superior Court. Beginning their first two-year terms January 1 are Washington Supreme Court appointee Richard E. Mitchell, Summit Law Group, and WSBA Board of Governors appointees Paul Mack, Law Office of Paul B. Mack, and Martin S. Garfinkel, of Schroeter Goldmark & Bender.

The Legal Foundation of Washington will present the 2010 Charles A. Goldmark Distinguished Service Award to Steve Fredrickson, statewide advocacy coordinator for Northwest Justice Project. 2008–2009 WSBA President Mark Johnson and the 2008–2009 WSBA Board of Governors, along with William H. Gates Sr. and the Bill and Melinda Gates Foundation, will receive the President’s Award. The Goldmark luncheon will be held February 26 at the Red Lion Hotel on 5th Avenue in Seattle. Visit www.legalfoundation.org to register.

Reception Held for UW School of Law Dean Testy

The Seattle firm of Garvey Schubert Barer held a reception in September to welcome Dean Kellye Testy to the UW School of Law. Testy became dean on September 1; she is the first woman dean in the School of Law’s 110-year history. Her appointment was approved by the UW Board of Regents in May. “Kellye Testy has demonstrated broad leadership experience and has successfully led the Seattle University Law School to its current stature,” said UW Provost Phyllis Wise. “We are excited for her to bring her commitment to legal education to our law school to advance it to an even greater level of excellence, gaining even greater national and international recognition and respect.”

Legal Foundation of Washington Elects Officers and Announces New Members and Awards

In November, the Board of Trustees of the Legal Foundation of Washington unanimously elected Rima J. Alaily, Law & Corporate Affairs, Microsoft Corporation, as the Foundation’s president for 2010. Art Wang, Washington Employment Security Department, was elected vice president; Pamela J. DeRusha, United States Attorney’s Office, was elected secretary; and Barbara A. Fox, limited practice officer and escrow officer, made their second two-year term as a director.

Individuals and Families Benefiting from Lawyers’ Generosity

In September, the WSBA Board of Governors made a historic decision to donate $1.5 million to LAW Fund to help with our state’s civil legal aid funding crisis. The Board also voted to establish an alliance with LAW Fund, where the WSBA would assist LAW Fund with raising contributions from the legal community for civil legal aid. The $1.5 million grant from the WSBA will be paid over the course of the year, and with the new year came payment of the first installment. In addition to the WSBA’s $1.5 million grant, hundreds of WSBA members are stepping up and making individual donations through the annual license fee process.

LAW Fund President Dick Manning, in a letter to immediate Past President Mark Johnson, wrote: “We are now able to work together with combined resources to accomplish to a greater degree what we could not before: bringing to lower income families access to civil legal services. Nearly all of us became lawyers to help others in need regardless of their station in life. Thanks to the BOG we have a great opportunity to further pursue that dream — Equal Justice for All!”

Gilmore Elected FBA President

Carl P. Gilmore, a lawyer in K&L Gates LLP’s Seattle office, is the new president of the Federation of the Federal Bar Association (FBA). He assisted in recognizing United States Supreme Court Justice Ruth Bader Ginsburg as an Honorary Life Fellow of the Foundation of the Federal Bar Association during a ceremony in November.

Former WSBA President Dick Manning congratulates Bill Gates Sr., who was honored at National ABA Celebrate Pro Bono Week.

National ABA Celebrate Pro Bono Week

A full-day CLE entitled “Pro Bono Workshops: Hope & Help in Hard Times” was followed by a reception at Seattle University School of Law, co-hosted by Seattle University and the University of Washington School of Law. The reception honored Bill Gates Sr., who recently received the prestigious ABA Medal of Honor, and also featured a keynote presentation by Harry Schneider, of Perkins Coie.

Harper Receives ABA Commission on Lawyer Assistance Programs Distinguished Service Award

Barbara Harper, director of the WSBA Lawyer Services Department, was recently awarded the American Bar Association Commission on Lawyer Assistance Programs (CoLAP) Distinguished Service Award. This is CoLAP’s highest honor, and it is only the second time in CoLAP’s 22-year
history that it has presented this award. Harper has been with the WSBA since 1987 and has chaired many CoLAP committees and task forces, including the Directors’ Work-Life Balance and the Senior Lawyers Committee, and was also a co-creator of Directors’ Day. She served on the Commission on Lawyers Assistance Programs from 2002–2004, as chair of the annual CoLAP conference in 2003 and 2004, and has served on the CoLAP Annual Conference Planning Committee for many years, including 2009. She has written articles and presented trainings on Lawyers Assistance Program-related topics, and has traveled the country helping other directors with their programs.

**MAMAS Leadership and Justice Award**

In October, the Mother Attorneys Mentoring Association of Seattle (MAMAS) presented its annual MAMAS Leadership and Justice Award to the Honorable Debra L. Stephens, of the Washington State Supreme Court. Addressing the crowd of more than 250 attendees, Justice Stephens spoke of her personal experiences juggling her career and role as a mother. She was introduced by Justice Mary Fairhurst, also of the Washington State Supreme Court. MAMAS’s Leadership and Justice Award is given each year to an individual who has paved the way to success for, and served as an inspiration to, other women attorneys striving to excel in their legal careers while balancing family demands.

**Northwest Immigrant Rights Project Wins National Award**

Northwest Immigrant Rights Project has been awarded the 2009 Daniel Levy Award by the National Immigration Project of the National Lawyers Guild. The national recognition comes on the heels of a separate recognition NWIRP received from the city of Seattle and King County for its work on behalf of immigrant survivors of domestic violence. The organization celebrates 25 years working with immigrants across the state.

**Gorton Honored as First Citizen**

In recognition of an exceptional public service career and his dedication to various community and nonprofit interests, former U.S. Senator Slade Gorton will be honored as the 72nd Seattle-King County First Citizen at a banquet in May. The First Citizen Award, created in 1939, celebrates community leadership, volunteerism, and public service. Past recipients hail from humanitarian organizations, charitable and educational institutions, arts groups, environmental causes, and other civic endeavors. Gorton’s dedication to public service dates to 1959 when he began a 10-year stint in the Washington State House of Representatives. In 1969, Gorton was sworn in as the state’s attorney general, a post he would
hold for three terms. During his tenure, he argued 14 cases before the U.S. Supreme Court, prompting commendations from the Chief Justice. “[Slade Gorton] makes the best arguments before the Supreme Court of any Attorney General in America,” Chief Justice Warren Burger stated. During his 18 years in the U.S. Senate (twice as both senior senator: 1983-1987, 1993-2001, and junior senator: 1981-1983, 1989-1994), Gorton was considered to be the region’s “go-to guy” because of his unique ability to get things done for the state and the Pacific Northwest region. He currently serves in an of counsel position with K&L Gates, having joined the firm in 2001.

Gonzaga “Color of Justice” Law Day

The Gonzaga “Color of Justice” event will not soon be forgotten by the 56 GEAR UP and “Outreach” students who attended in October in Spokane. West Valley and North Central were among the high schools represented. These committed students showed their passion to learn about the law and meet lawyers and judges from across the country. Dozens of professionals spent the day mentoring the students and participating in four mock trials. West Valley’s own Justice Debra Stephens was one of the judges present.

Haberthur Receives George C. Marshall Public Leadership Award

Phil Haberthur, an associate in the Vancouver office of the regional law firm Schwabe, Williamson & Wyatt, was named the 2009 recipient of the prestigious George C. Marshall Public Leadership Award. “This is such an exciting accomplishment for Phil,” said Mark Long, managing partner at Schwabe. “He has worked very diligently within the local community to become..."
an influential voice and the entire firm is proud of his accomplishments." Active in the local community, Haberthur was appointed to the Battle Ground City Council in 2008 and prior to that, he served two years on the city’s planning commission. He is a member of the Leadership Clark County Class of 2008 and is also an ad hoc board member of the Battle Ground Chamber of Commerce. The George C. Marshall Public Leadership Award is presented annually to encourage and recognize the leadership potential of the next generation. Selection for this award is based on demonstrated leadership abilities, commitment to public service, academic achievement, and the potential for ongoing leadership roles in public service.

LAW Fund Receives Gates Foundation Grant
In the wake of the recession, the number of low-income families needing legal aid to help prevent injustices has skyrocketed. At the same time, traditional revenue streams for civil legal aid programs have greatly diminished. The Bill & Melinda Gates Foundation has pledged $3 million over the next three years to sustain critical legal help for the poor throughout Washington. Without this grant, drastic funding cuts would have left Washington’s nationally recognized legal aid system unable to meet the pressing needs of struggling families across the state. "The Gates Foundation’s grant is preserving our state’s extraordinary legal aid system and meeting the urgent legal needs of its most vulnerable people during this difficult time," says Karen Falkingham, director of Legal Aid for Washington Fund (LAW Fund), the fundraising entity that applied for the grant on behalf of more than 20 programs.

Crowd of 150 Raises Over $15,000 for QLaw Foundation
An enthusiastic crowd of GLBT attorneys and supporters packed the Greg Kucera Gallery in November for an evening of great food, art, and entertainment to support the GLBT Bar Association of Washington Foundation (QLaw Foundation) and to celebrate the approval of Referendum 71. With the support of firm sponsors and individual donors, including an anonymous donor offering $2,500 in matching funds, the event raised over $15,000 to support QLaw Foundation programs. James McGuire, QLaw Foundation president, and other board members highlighted the Foundation’s work on behalf of at-risk youth, the funding of law student internships serving the GLBT community, and the formation of the new GLBT Legal Clinic.

Moore Selected as Member of DirectWomen Institute
Portia Moore was recently selected as a member of the 2009 DirectWomen Board Institute, a program designed to identify and promote women lawyers to serve on corporate boards of public companies. The DirectWomen Board Institute is an initiative of the American Bar Association’s Business Law Section and Catalyst, Inc. It supports accomplished women lawyers for service on U.S. corporate boards, while also promoting the independence and diversity required for good corporate governance. Moore is a member of Lane Powell’s Labor and

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To access mywsba, see the link on the WSBA homepage (www.wsba.org) or go there directly (www.mywsba.org).

If you have questions or don’t have a valid e-mail address on file, help is only a phone call or e-mail away. The WSBA Service Center is staffed Monday through Friday, 8:00 a.m. to 5:00 p.m., with friendly, knowledgeable representatives eager to be of assistance.

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- View and update your profile, which includes address, phone and fax, e-mail, website, etc.
- View your current MCLE credit status and access your MCLE page where you can update your credits
- Complete all of your annual licensing forms (skip the paper!)
- Certify your MCLE reporting compliance
- Pay your annual license fee using MasterCard or Visa
- Make a contribution to LAW Fund using MasterCard or Visa
- Join a WSBA section
- Access Casemaker free legal research
- Register for a WSBA CLE seminar
- Shop at the WSBA store (order CLE recorded seminars, deskbooks, Resources, etc.)
- Voluntarily report your pro bono hours under RPC 6.1
- Sign up to volunteer for the Home Foreclosure Legal Aid Project
- Access CourtTrax docket research service
Employment group, where she focuses her practice on complex litigation with an emphasis on wrongful termination, and race and sex discrimination claims.

MacDonald Recognized for Lifelong Commitment to Justice

Seattle attorney Kenneth A. MacDonald was presented with the Washington State Association for Justice (WSAJ) Lifetime Achievement Award in September. MacDonald was presented the award by WSAJ President-elect Carol Johnston. "Ken deserves this award for his lifelong commitment to protecting the civil rights of Washington citizens and eliminating discrimination against Washington workers," Johnston said. "He has dedicated 60-plus years of his life to protecting civil liberties and fighting for the working person."

González Receives National Latino Judge of the Year Award

Latina/o Bar Association of Washington (LBAW) member and King County Superior Court Judge Steven C. González was the recipient of the Hispanic National Bar Association’s (HNBA) Latino Judge of the Year award. The award was presented at the HNBA’s Annual Convention in September. "We promote justice, hope and civility through respect for the rule of law," explained Judge González. "I want to congratulate LBAW for the honor they bring to our profession and to the community through their good works. I accept this recognition on behalf of LBAW and the Access to Justice Movement."

Smith Selected for Spirit of Excellence Award

Brad Smith, senior vice president and general counsel of Microsoft, whose personal leadership in diversity efforts have ranged from the company’s Department of Legal and Corporate Affairs, to bar organizations, educational institutions, and community groups, was one of five leaders selected to receive the 2010 Spirit of Excellence Award given by American Bar Association Commission on Racial and Ethnic Diversity in the Profession. The recipients hailed from a wide spectrum of societal leadership, but with a shared commitment to advancing a diverse legal profession. Under Smith’s leadership, Microsoft has instituted diversity “pay for performance” incentives and penalties, both in-house at Microsoft and in dealings with outside law firms; supported scholarship programs; and created networking and mentoring opportunities among minority law students and lawyers, Microsoft lawyers, and lawyers from other corporations and law firms.

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Left to right: Washington State Association for Justice President-elect Carol Johnston, Ken MacDonald, and Washington State Association for Justice Executive Director Gerhard Letzing.
Inter Alia

Linda B. Eide, senior disciplinary counsel for the WSBA, has been elected president of the National Organization of Bar Counsel (NOBC), a nonprofit organization whose members enforce ethics rules that regulate the professional conduct of lawyers practicing law in the United States, Canada, and Australia. Eide took office on August 1, 2009, at the NOBC’s annual meeting in Chicago.

The Executive Committee of the Pacific Northwest International Section (PNWIS) of the Air and Waste Management Association (A&WMA) has awarded Foster Pepper environmental lawyer Maggie Yowell with a Certificate of Appreciation. Yowell was recognized for her volunteer work and years of service to PNWIS. She has been a member of A&WMA since 1996, served on the Puget Sound Chapter Board as a director, and has presented at a number of events, including the Environmental Bootcamp and workshops on MTCA, climate change, and animal feeding operations.

Lisa Lowe, from the Vancouver office of Schwabe, Williamson & Wyatt, was appointed to the board of the Humane Society for Southwest Washington. “The Humane Society fulfills a critical mission in our local community and I am very excited to know that Lisa will be joining the board of such a wonderful organization,” said Mark Long, managing partner at Schwabe.

Randy Aliment, a partner at Williams Kastner PLLC, is the new vice-chair of the American Bar Association Tort Trial & Insurance Practice Section (TIPS). He will become chair-elect of the section at the close of the 2010 Annual Meeting. Aliment serves on the WSBA International Law Section Executive Committee and is a fellow of the American Bar Foundation.

He has been TIPS financial officer and a council member and serves on the steering committee for the TIPS Leadership-Diversity Initiative.

Greg Clark, of Foster Pepper, has been recognized for his contributions to the Washington Defense Trial Lawyers (WDTL) with the organization’s 2009 President’s Award. The award recognizes Clark’s efforts to improve WDTL’s standing with the state Legislature, helping to assure that the organization’s mandate of seeking justice and balance in the civil courts is maintained. As chair of WDTL’s Legislative Committee, he coordinated and often participated in providing input to the Legislature.

Bryan Kelley, of Oles, Morrison, Rinker & Baker LLP, has been appointed to the Contract Documents Committee for The Associated General Contractors of America (AGC). His appointment came upon recommendation of the AGC’s Washington Chapter. The Contract Documents Committee is tasked with creation and improvement of nationally used construction contract documents, including the ConsensusDOCS series.

Hal White, 1995–97 Bar News editor, has written a collection of short-story mysteries, entitled The Mysteries of Reverend Dean. Publishers Weekly wrote: “White successfully creates a modern-day Father Brown in this outstanding collection of six impossible crime tales that fans of classic puzzles will hope is but the first of many .... Effortlessly crafting intriguing situations, the author matches the premises with satisfying solutions while gently and unintrusively weaving questions of faith into the plot lines.” More information can be found at www.halwhitebooks.com.

Thomas M. Fitzpatrick has been appointed by the KCBA Board of Trustees to serve as the King County Bar Association delegate to the American Bar Association for a two-year term from 2009–2011. Fitzpatrick has served in the ABA House of Delegates for more than 20 years in a variety of capacities, including as a member of the ABA Board of Governors. He currently serves as a delegate at large. 

Stokes Lawrence congratulates its former colleagues and Seattle’s new civic leaders

Mike McGinn | Seattle Mayor
Stokes Lawrence Attorney and Shareholder 1993-2006

Mike O’Brien | Seattle City Council Member
Stokes Lawrence Chief Financial Officer 1998-2008

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

Daniel James Brown
Daniel James Brown was born in New York and attended the University of Notre Dame. Prior to his legal career, he was an English teacher, and football, track, and cross-country coach in Jacksonville, Florida. In 1984, he began attending Gonzaga University School of Law, and later moved to Spokane, where he taught at a local high school and practiced law. Brown was active in the Catholic Lawyers Guild, the community of San Juan Del Rio Catholic Church, and many charitable organizations. In 2004, he returned to Jackson-ville, but loved the Pacific Northwest and frequently returned for camping, backpacking, and hiking trips.

Daniel James Brown died on August 22, 2009, at the age of 59.

Patrick A. Geraghty Jr.
Patrick A. Geraghty Jr. was born in Seattle and grew up in Seattle's Magnolia neighborhood. He received his law degree from the University of Washington School of Law. He devoted his legal career to helping those in need. In addition to his work, Geraghty was a dedicated supporter of Catholic Community Services in the areas of foster care, adoption, and protecting the legal rights of abused children. He enjoyed spending time with family and friends, reading, and nature.

Patrick A. Geraghty Jr. died on August 2, 2009, at the age of 73.

F. James Gray
F. James Gray was born in South Dakota and received his law degree from Hamline University School of Law in Minnesota. He also received his CLU from the American College of Life Underwriters. During his 25-year career in the insurance industry, Gray worked in advanced sales and was a regional general counsel for several major insurance companies. He was a senior advanced sales consultant and marketing counsel for the UNIFI Companies in the Bethesda offices of Acacia Life Insurance Company. He was an active member of his church.

F. James Gray died on July 3, 2009, at the age of 68.

James Daniel McMannis
James Daniel McMannis was born in Tekoa. After serving during World War II as an artillery instructor, he received his law degree from Gonzaga University School of Law and set up a law practice in Colfax, serving Whitman County residents until his retirement in 1984. McMannis was active in many community groups, including Kiwanis, Rotary, and the Colfax Jaycees; he was also a volunteer firefighter and a long-time Mason. His many interests included caring for his rose gardens, hiking, boating, photography, painting, playing bridge, and traveling.

James Daniel McMannis died on August 17, 2009, at the age of 88.

Stephen M. Moriarty
Stephen Michael Moriarty grew up in the Queen Anne area of Seattle and was a lifetime Seattle resident. A trial attorney, Moriarty was experienced and at ease in the courtroom. He was a soccer player and an enthusiastic soccer coach, but most important to him was spending time with his family.

Stephen M. Moriarty died on August 1, 2009, at the age of 59.
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On August 6, 2009, the United States Senate voted to appoint Sonia M. Sotomayor as associate justice to the United States Supreme Court, causing Washington’s Latino legal community to identify with her and celebrate the milestone. She had, after all, lived the quintessential American success story, becoming just the third female, and the first Latina, in our country’s history to be appointed to the United States Supreme Court. She had given years of service to the underrepresented in her community. She had struggled as an accomplished Latina attorney to reach the top of her profession as a judge and a leader. Yet, until recently in Washington state, Latinos practicing law mostly kept their ethnic identity hidden. While Sotomayor’s appointment is cause for celebration, it also raises questions. This landmark appointment brings into sharp relief the visible lack of Latina/o judicial officers on the bench in Washington state. With Justice Sotomayor’s appointment, our celebration must be tempered with an acknowledgment that we must do more as a community. Our court system needs to reflect the diverse communities it serves. To do that, we need to do more to encourage minority lawyers to seek to become judges.

Retired Washington State Supreme Court Justice Charles Z. Smith remembers the “early years” as a Latino attorney in Washington state

On September 16, 2009, the Latina/o Bar Association of Washington (LBAW) and the Washington Women lawyers (WWL) hosted “A Celebration of Extraordinary Judges” event at Taberna del Alabadero in Seattle.

Like a typical Latino family celebration, the attendees included all sorts of friends. In this case, those friends included lawyers, judges, and supporters of the LBAW and the WWL. We told stories, talked about current events, laughed, and also honored extraordinary judges of color, including Justice Sotomayor. One of the most respected leaders in the Washington Latino legal community was on hand to celebrate — retired Washington State Supreme Court Justice Charles Z. Smith. It was fitting that Justice Smith shared with me his personal memories as one of the first Latinos practicing law in Washington.

Justice Smith recalled a time when attorneys of Latino heritage would never have publicly shared their ethnic identity. He called those days “the early years” and recounted that “until recent years, ethnic identification was not particularly recognized.” In fact, he said, “How one identified one’s ethnic background, either as Hispanic or Latino, had always been a difficult subject for some in the Latino community.” I was curious and asked why. He continued: “Sociologists, anthropologists, and government officials (who tracked demographics) were concerned only with identifying whites (Caucasian), blacks (then referred to as Negro), and Asians (then referred to as Mongolian). The result was that ‘race’ was determined by blood lines, physical characteristics, arbitrary classification, government decree, or (to some extent) by personal choice.” Identification as an “Hispanic” or “Latino” was, at that time, largely a matter of personal choice.

Justice Smith, a Latino of mixed race, described his own experience as others grappled to “identify” him. He said, “A person such as me [having an African-American mother and a Cuban father] would have been generally identified by other people as being black [African-American]. I have always been proud of my Cuban ancestry, but never considered it of particular relevance until years later, when Latinos in our great country emerged with a new-found pride in our culture. I have always been comfortable identifying myself in a generic sense as ‘a person of color’ or a ‘non-white’ person.”
As Justice Smith recounted his memories, he recalled Washington’s Latino attorneys from “the early days.” They were so few in number and Justice Smith wondered aloud with me about who had been the very first Latino attorney admitted to practice in Washington state.1 “Perhaps it was Daniel Riviera?” Justice Smith said. “He had practiced before me when I was on the King County Superior Court … or was it Ramón Brown? Ramón Brown was one of the first Latino attorneys practicing in the Seattle area in the 1960s.” It struck me that the so-called “early days” were as recent as the 1950s and 1960s, and that we had blazed the trail so recently.

The current snapshot of Latino attorneys and judges in Washington state

The current lack of Latino representation on the bench is glaring. There are currently no Latinos on the Washington State Supreme Court. There are none on the three State Courts of Appeal. Of the 188 Washington state superior court judges, only two — King County Judges Mary I. Yu and Steven C. González — are of Latino heritage. Of the 97 Municipal Court judges, only four are Latina/o, including: Judge Michael S. Hurtado, Seattle Municipal Court; Judge Terry L. Jurado, Renton Municipal Court; Judge Gregory M. Gonzales, Battleground Municipal Court; and Judge Veronica Alicea-Galván, Des Moines Municipal Court. Of the 112 district court judges in Washington, none are Latino. At the federal court level, the Honorable Ricardo S. Martinez serves as a United States District Judge for the Western District of Washington.

According to the February 2009 WSBA report, approximately 419 members of the Washington Bar (or 1.26 percent) self-identified as Latino.2 Yet the latest United States Census Bureau statistics show the number of Latino origin in Washington is 9.8 percent.3 The Latina/o Bar Association of Washington consisted of 130 Latino attorneys, judicial officers, paralegals, law students, and friends in 2008.

The Sotomayor effect in Washington state

The Latina/o community is delighted to see Justice Sotomayor recognized for an outstanding legal career. Yet we Latina/o students, attorneys, and judges want to be judged on the merit of our work, while fully identifying with a rich culture and proud tradition with deep familial ties. It is a pride that resonates within the entire legal community. University of Washington Law School student Alena Suazo beamed with pride at the Sotomayor appointment and noted: “The appointment of Sonia Sotomayor is one of the most exciting things that has happened to me since I made the decision to go to law school. When my father called me on the phone [to discuss it] he said, ‘Alena, that could be you,’ and it made me realize just how significant her appointment really was.”

We celebrate Justice Sotomayor’s appointment and our own extraordinary judges of color, but our celebration must be tempered with the commitment to do more to diversify the bench in Washington state. Our court system needs to reflect the community it serves. Fair and diverse judicial representation matters to students like Alena Suazo, to retired Justice Smith, to the LBAW, to the Washington state Latino community, and to all of us.  

Nicole McGrath serves as the current LBAW president and can be reached at lmcgrath@lbaw.org. The 2009 LBAW mandate is to educate and advocate about the disproportionate rates of Latino youth representation in the juvenile justice, foster care, and school systems, and advocate for systematic changes. McGrath works as a staff attorney for TeamChild and is a proud 2001 Gonzaga University School of Law graduate. Her previous work affiliations include the Lawrence & Versnel law firm and The Defender Association. Attorney Wilberforce Agyekum and Assistant Attorney General Maureen Mannix edit this column.

NOTES

1. The names of the first Latino and Latina attorneys in our state are not available from the WSBA. Although the WSBA collects this information, it has only done so recently and not throughout the history of the organization. Members provide this information on a voluntary basis and the WSBA keeps it confidential, using the data only in the aggregate for demographic analysis.


The Board’s Work

Board of Governors Meeting
October 23–24, 2009 — Pullman

BY MICHAEL HEATHERLY

T
he Board of Governors meeting in Pullman on October 23 and 24, 2009, featured debate over the format of the state bar examination, discussion of proposals to modify WSBA membership criteria, and consideration of whether the BOG should weigh in on state legislation to reduce penalties for low-level marijuana possession.

Bar Exam
As part of a long-range project by the Program Review Committee to evaluate all WSBA operations, the BOG heard a report on the Bar Exam/Admission to Practice Program. The report addressed the possibility of shifting from Washington’s all-essay, state-specific exam to a standardized, multistate test, perhaps the Uniform Bar Examination (UBE) which many states are considering. The UBE is composed of the multistate Bar Exam (MBE), the Multistate Essay Exam (MEE), and the Multistate Performance Test (MPT). Some jurisdictions may adopt the UBE as soon as 2010, although it likely would take a couple of years to institute the exam in Washington if such a decision were made.

WSBA Executive Director Paula Littlewood noted that WSBA is considering a possible change to the UBE due to a number of factors: a review of WSBA admissions and the current bar exam is taking place as part of the WSBA’s systematic review of all its programming, and while the Program Review Committee did not make a specific recommendation with respect to the current exam, it did urge the BOG to consider all options including the UBE; the Supreme Court has been asking the WSBA to evaluate possible adoption of the multistate bar exam as they are concerned about the increasing cost of admissions for bar applicants; and there is a national trend by jurisdictions across the nation to consider adoption of the UBE.

Adopting a standardized format would reduce the cost and complexity the WSBA faces each year to administer the exam program. Drafting questions and scoring the all-essay exam requires maintenance of a 100-member Board of Bar Examiners. The board has an annual budget of $172,000, not including additional WSBA staff time and resources needed to carry out the exam process. Scoring the multiple-choice exam is simpler and is done by the National Conference of Bar Examiners (NCBE), and the scoring of other components of the UBE would be done at the state level, at least to start. Meanwhile, standardized exams offer “portability” of test scores from state to state. For example, a state adopting the UBE could consider an applicant’s UBE score in deciding whether to admit the applicant to practice in that state, regardless of where the exam was taken. Each state, however, would be able to set the level of a passing score as it saw fit.

In testimony to the BOG, Board of Bar Examiners Chair Joseph Nappi Jr. discussed Washington’s existing exam system, saying he believes the experience and dedication of the examiners makes it the fairest test in the country. Other states would adopt our system if they could get enough qualified people to do the examiner work as Washington does, he said.

Governor Loren Etengoff noted that because of the struggling economy, it might be helpful for new lawyers to have the portable scores from a standardized exam in order to seek bar membership and employment in more than one state. President-elect Steven Toole asked rhetorically whether Washington’s adoption of the UBE might lead to more or fewer people taking the bar exam here and what effect it would have on the WSBA.

Governor Roger Leishman questioned whether moving toward a multiple-choice format rather than essays would adversely affect female applicants, who have sometimes been found to do better than men on essay tests but worse on non-essay formats. Governor Brenda Williams added that data from California, which incorporates multi-state material in its bar exam, shows that non-white applicants have a lower pass rate than white applicants. They asked that more data be sought in that regard.

The governors were scheduled to hear a presentation on the UBE from the NCBE at the December 4–5, 2009, BOG meeting. The Board is then expected to take action on the matter at the January 21–22, 2010, meeting. Additional information on the issue is available at www.wsba.org/info/bog/oct09tab9.pdf.
Membership Criteria
The Board discussed a first set of changes in WSBA membership criteria proposed by the Bylaw Review Committee. The committee will submit proposals to the BOG throughout the year regarding various bylaws. Those addressed at the October meeting focused on such areas as WSBA membership status, the resignation/reinstatement process, and a recommended hardship exemption that would allow waiver of the annual license fee in extreme cases.

Under the proposals, the four categories of WSBA membership would be retained, although changes regarding some criteria for the categories are proposed. The categories are 1) active, 2) inactive (inactive-lawyer, inactive-disability, and inactive-honorary), 3) judicial, and 4) emeritus/pro bono.

Some of the Bylaw Review Committee’s proposals reflect the slow economy and changes in bar demographics. For example, the committee recognized a need to make it easier for bar members to voluntarily leave the profession temporarily — unemployed or underemployed lawyers forced to seek work in other occupations, for example — and return without penalty.

Under the current Bylaws, voluntarily withdrawing from the Bar is classified simply as “resignation,” and a member who resigns must pass the bar exam again to apply for reinstatement as an active member. Under the proposed change, a member’s choosing to leave the Bar would be classified as “voluntary resignation” to avoid any suggestion that the departure was related to disciplinary action. Members wishing to return to active status within six years of resignation would not be required to retake the bar exam, although they would need to earn MCLE credits and take a 15-credit readmission course.

Another proposed change prompted by members’ economic concerns would establish a hardship exemption from the annual WSBA license fee. The current Bylaws contain no hardship exemption from the fee, although BOG policy allows for waiver of late charges and penalties in certain situations. Under the proposed new Bylaw, a member could request an exemption from the fee itself in the case of a proven extreme hardship arising from physical or mental disability combined with extreme financial adversity. The exemption would apply for one license period only. A member seeking the exemption would need to apply for it on or before February 1 of the year for which it was requested. Acceptance or denial of the request would be made at the sole discretion of the WSBA executive director, and no appeal would be allowed.

The text of all the proposed changes as well as background material can be found at www.wsba.org/info/bog/october09bogbook.htm. A PowerPoint presentation on key portions of the proposal can be found at www.wsba.org/info/bylaws.

Marijuana Legislation
The BOG debated whether to support a bill expected in the 2010 Legislature that would reduce possession of 40 grams or less of marijuana from a misdemeanor to a class 2 civil infraction carrying a $100 fine. Proponents of the bill include the King County Bar Association Drug Policy Project and the ACLU of Washington. They argue that removing small-scale marijuana possession from the criminal justice system will save $16 million in costs, while the $100 civil fine will raise nearly $1 million in new revenue.

Some BOG members voiced support of the legislation, and WSBA President Salvador Mungia argued in favor of it in his December Bar News column. Others, however, raised concerns that because the legislation involves the traditionally controversial subject of drug policy, WSBA might damage its credibility in Olympia by taking an official position on the subject.

Director of Justice and Diversity Initiatives Gail Stone cautioned that legislators and others who oppose the Bar’s taking a stand on politically charged issues have already expressed displeasure at the prospect of WSBA’s involvement, as a mandatory bar, in the marijuana legislation. WSBA’s involvement in past controversial issues, such as its support of expanding rights for same-sex couples, prompted a backlash among some WSBA members and legislators. Stone stated that as WSBA becomes increasingly perceived as partisan on politically charged issues, it could affect WSBA’s lobbying efforts regarding legislation in traditional areas of bar involvement, such as legal procedure and the practice of law. Stone noted that in 2009 legislators introduced a bill to dissolve the WSBA as a mandatory bar association. The BOG took no action on the marijuana issue but may do so at the December 4-5, 2009, meeting.

In other business, the Board:

- Heard a report from Executive Director Littlewood regarding mywsba.org, the online membership account management tool that debuted in October. After less than a month in service, mywsba.org was attracting more than 6,000 hits per day, she said. More than 600 members had used the program to renew their licenses and pay fees online. Forty-six percent of those members also took the opportunity to voluntarily contribute to LAW Fund, raising $14,000 in the first week after going live, Littlewood added.
- Gave the go-ahead to President Mungia’s mentorship program, under which lawyers will volunteer to assist with instruction of low-income children in the early grades regarding basic skills and civics.
- Heard a report from Assistant Dean John Sklut concerning diversity efforts at Gonzaga University School of Law. He emphasized the school’s ongoing commitment to recruit diverse students living in Eastern Washington.
- Received an update from President Mungia regarding proposed court rule GR 35, which would effectively prohibit county courts from imposing their own “user fees” on litigants in addition to the fees authorized by statute or the Supreme Court. The Supreme Court is soliciting comments on the proposal by January 10, 2010. The BOG was expected to vote at its December 4-5, 2009, meeting on whether to support the proposed rule.
- Passed a resolution proposed by Governor Carla Lee urging counties to continue funding of their local law libraries, which are being jeopardized by the weak economy and resulting shortfall in county budgets.

Michael Heatherly is the Bar News editor and can be reached at barnewseditor@wsba.org or 360-312-5156. For more information on the Board of Governors and Board meetings, see www.wsba.org/info/bog. For more information on issues addressed by the Board, visit the WSBA website at www.wsba.org and click on “News Flash” under “WSBA News and Information.”
Civil legal aid programs currently are experiencing a flood of clients facing homelessness due to foreclosures, a skyrocketing need for bankruptcy assistance, and other serious legal problems as a result of the economic downturn.

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


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

Campaign for Equal Justice
It’s not justice if it’s not equal.
The WSBA Board of Governors invites applications for appointments to WSBA committees, boards, and panels. Appointments are limited, and only active WSBA members may be appointed. However, committee meetings are open to the public and may be attended by any member. More information is on the WSBA website at www.wsba.org/lawyers/groups/committees.htm. Brief descriptions of the committees, boards, and panels can be found on page 41. Please note that the WSBA will send appointment letters by September 2010.

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

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

1) Please provide your name, WSBA number, and indicate up to three committee(s), board(s), and/or panel(s) for which you are applying. See page 41 for available committees, boards, and panels.

2) Tell us why you would like to serve, and describe all relevant skills or experience.

3) Attach a résumé or C.V. (strongly encouraged but not required, except for the Hearing Officer Panel). Also, you may, but are not required to, submit up to three letters of recommendation to support your application.

4) Complete the demographic information. Please note that this section is required. If you prefer not to provide this information, please check “Choose not to respond” next to the applicable question.

5) Sign the waiver. Your application will not be processed without your signature.

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

---

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

Your Name (print) ____________________________  WSBA number ________________

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

1st choice ____________________________________________  
   □ Check here if you have served on this committee previously.  Approximate years of service: __________

2nd choice ____________________________________________  
   □ Check here if you have served on this committee previously.  Approximate years of service: __________

3rd choice ____________________________________________  
   □ Check here if you have served on this committee previously.  Approximate years of service: __________

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

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

_________________________________________________________________________________________________
_________________________________________________________________________________________________
_________________________________________________________________________________________________
_________________________________________________________________________________________________

Describe your relevant skills or experience.

_________________________________________________________________________________________________
_________________________________________________________________________________________________
_________________________________________________________________________________________________
_________________________________________________________________________________________________
Step 3: Attach a résumé or C.V. and/or letters of recommendation (optional).

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

Step 4: Provide demographic information (required).

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

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

Gender: □ Male □ Female □ Choose not to respond

Disability: □ Yes □ No □ Choose not to respond

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

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

Employer: ____________________________ □ Choose not to respond

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

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

Step 5: Sign the waiver.

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

Signature ____________________________________ Print name ________________________________

E-mail ________________________________________ Daytime phone ____________________________

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

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

Application Deadline: March 12, 2010

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

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

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

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

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

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

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

Legislative Committee
Reviews proposals from WSBA sections for state legislation that relate to the practice of law and the administration of justice, and makes recommendations to the Board of Governors for consideration.

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

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

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

REGULATORY BOARDS

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

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

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

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

PANELS

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

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

2010 Notice of Board of Governors Election

Application deadline: March 1, 2010

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

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

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

Nomination forms are available from the Office of the Executive Director, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539; by phoning 206-239-2125; and on the WSBA website at www.wsba.org/info/ bylaws. One of these seats is up for election to a three-year term commencing at the close of the annual meeting in September 2010.

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

(Excerpt from the WSBA Amended Bylaws, Article III, Section N)

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

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

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

Court Interpreter Certification Advisory Commission

Application deadline: January 4, 2010

The WSBA Board of Governors will be nominating one member to be appointed by the Washington State Supreme Court to serve a three-year term on the Washington State Court Interpreter Certification Advisory Commission. The term will commence upon appointment and expire September 30, 2012.

The Commission, which operates under Supreme Court rule, has three standing committees to maintain critical operations of the interpreter program: the Issues Committee, the Disciplinary Committee, and the Judicial and Court Administration Committee. Please submit a letter of interest and résumé to: WSBA Bar Leaders Division, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539 or e-mail barleaders@wsba.org.

Bench-Bar-Press Committee of Washington

Application Deadline: February 12, 2010

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

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

Further information regarding the committee can be found on the Court’s website at [http://tinyurl.com/yfnuwfx](http://tinyurl.com/yfnuwfx).

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

**Supreme Court Ethics Advisory Committee**

**Application Deadline: February 12, 2010**

The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving on the Ethics Advisory Committee. The Board of Governors will nominate one member who is appointed by the Washington State Supreme Court. The term will commence upon appointment and expire October 31, 2011. The incumbent is eligible for reappointment and must submit a written expression of interest and a résumé if interested in reappointment.

The Committee is designated as the body to give advice with respect to the application of the provisions of the Code of Judicial Conduct to officials of the Judicial Branch as defined in Article 4 of the Washington Constitution, and shall from time to time submit to the Supreme Court recommendations for necessary or advisable changes in the Code of Judicial Conduct (GR 10). The Committee communicates regularly by e-mail regarding opinion requests. The Committee also meets from time to time in person, although such meetings are infrequent.

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

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**Seeking Questionnaires from Candidates for Judicial Appointments**

**Deadlines:** February 1, 2010, for March 1, 2010, interview; April 30, 2010, for June 11, 2010, interview

The WSBA Judicial Recommendation Committee (JRC) is accepting questionnaires from attorneys and judges seeking consideration for appointment to fill potential Washington State Supreme Court and Court of Appeals vacancies. Interested individuals will be interviewed by the Committee on the dates listed above. The JRC’s recommendations are reviewed by the WSBA Board of Governors and referred to the Governor for consideration when making judicial appointments.

Materials must be received at the WSBA office by the deadline listed above. To obtain a questionnaire, visit the WSBA website at [www.wsba.org/lawyers/groups/judicial](http://www.wsba.org/lawyers/groups/judicial) or contact the WSBA at 206-727-8212 or 800-945-9722, ext. 8212; or e-mail judithb@wsba.org.

**Notice of Continuation of Hearing on Petition for Reinstatement of Donald B. Kronenberg, WSBA No. 13979**

A petition for reinstatement after disbarment has been filed by Donald B. Kronenberg, who was suspended pending discipline on February 25, 2004, and disbarred on August 18, 2005. See, *In the Matter of Disciplinary Proceeding Against Donald B. Kronenberg*, 155 Wn.2d 184, 117 P.3d 1134 (2005). At the time of his suspension and disbarment, Mr. Kronenberg practiced in King County, Washington.

The hearing on Mr. Kronenberg’s petition to be conducted before the Character and Fitness Board has been continued to Friday, January 15, 2010. Not later than January 14, 2010, anyone wishing to do so may file with the Character and Fitness Board a written statement for or against reinstatement, setting forth factual matters showing that the petitioner does or does not meet the requirements of Admission to Practice Rule 25.5(a). Except by its leave, no person other than the petitioner or petitioner’s counsel shall be heard orally by the Character and Fitness Board.

Communications to the Character and Fitness Board should be sent to Robert D. Welden, General Counsel, WSBA, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539, or to [bobw@wsba.org](mailto:bobw@wsba.org). This notice is published pursuant to APR 25.4(a).

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**Online Licensing for 2010**

License renewal is now available online! For the first time, you can complete your license renewal entirely online at [www.myswsba.org](http://www.myswsba.org). License renewal forms and the section membership form were mailed together in mid-October. WSBA Bylaws require a 30 percent late-payment fee if the annual license fee remains unpaid after February 1, 2010. Check [www.wsba.org/licensing](http://www.wsba.org/licensing) for detailed instructions.

WSBA Bylaw Section I.E.1.b on Armed Forces Fee Exemption provides for a fee exemption for eligible members of the Armed Forces whose WSBA membership status is active. The WSBA will accept fee exemption requests until March 1, 2010, for the 2010 licensing year.

**MCLE Certification Information for Active Members**

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


**Newly admitted members**

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

**Credit requirements**

- At least 45 total credits of MCLE Board-approved CLE activities must be taken, including a minimum of 22.5 live credits and a minimum of 6 ethics credits.
• Credits required for compliance must be completed by December 31 of the last year of your reporting period.
• Courses must meet the requirements of APR 11 to be accredited, but they do not need to be taken in Washington state. Many courses are offered around the world which meet the requirements of APR 11.
• “Live” courses are held at a specific time; they are not pre-recorded. During the course, attendees have the opportunity to ask questions of the instructor(s) and hear the questions of others in real time. Live courses include teleconferences, webinars, and webcasts as well as traditional in-person events.
• “A/V” courses are pre-recorded. These courses are the only type that can be used for earning “self-study” credits. A/V courses include audio and video tapes, compact discs, DVDs, archived webcasts, and other media that include the soundtrack of an MCLE Board-approved course presentation. These programs cannot be more than five years old from the date of recording, except MCLE Board-approved “skills-based” courses. Written materials must be included with the A/V program and reviewed by the applicant to earn credit. Written materials must be purchased by each member, when required by the sponsor, to claim CLE credit for listening to or viewing an A/V program borrowed from another party.
• “Ethics” courses, and sessions of larger courses devoted exclusively to ethics, must meet the specific requirements of APR 11 Regulation 101(g) to be considered for ethics credit.
• “Read only” and “read-and-test” courses are not accreditable in Washington.

Carry-over CLE credits
Carry-over credits from the previous reporting period may be used to meet the requirements of the current reporting period. If the total of your current reporting period credits exceeds 45, you may carry over a maximum of 15 credits to your next reporting period. Of these 15 credits, up to 2 can be ethics credits and up to 5 can be A/V credits. No credits will be carried over if a Certificate of Compliance from a comity state is used for compliance certification (See “MCLE comity,” following).

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

Online certification
If you are credit-compliant, online certification is available for the first time this year through www.mywsba.org. Go to www.mywsba.org (Note: You must have a valid e-mail address on file with the WSBA to log in.

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

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

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

**Grace period elimination**

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

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

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

**MCLE late fees**

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

**MCLE comity**

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

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

**Course approval**

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

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

Each Form 1 application must include a full agenda in order to receive credit. The agenda must include the start and end times for each session and break. Because of high volumes from October through February, Form 1s submitted online could take up to four weeks or more to process. Paper Form 1s may take up to six weeks or more to process.

If you submit a paper Form 1, you will be notified by mail of its Activity ID number.

**Pro bono credits**

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

**New MCLE rule and regulation amendments**

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

**In-house CLEs**

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

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

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

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

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

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

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

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

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

**Annual WSBA training and orientation: January 12**
As the 2010 WSBA licensing period approaches, you may be thinking of changing your membership status to accommodate your current career or lifestyle. If you no longer need your active WSBA license, here’s why you should consider emeritus status.

APR 8(e) creates a limited license status of emeritus for attorneys otherwise retired from the practice of law, to practice pro bono legal services through a qualified legal services provider. A qualified legal services provider is a “not-for-profit legal services organization whose primary purpose is to provide legal services to low-income clients.” There are no MCLE requirements (although you may attend optional CLE seminars at no cost, so that you are aware of changes in the law). The 2010 license fee for emeritus is $200. This is a significant savings in time and money if you are paying for an active license that you no longer need. Under most circumstances, emeritus attorneys can remain in emeritus status indefinitely without having to re-take the bar exam if/when returning to active status. Most qualified legal services providers provide malpractice insurance for emeritus volunteers. There is no age requirement for emeritus attorneys. Volunteering for a “qualified legal services organization” allows you to control your own schedule. Most importantly, the Emeritus Program provides an opportunity for attorneys to give something back to their communities by helping those who are less fortunate.

One or more qualified legal service organizations are present in most Washington state counties. These include Columbia Legal Services, a statewide legal services program; Northwest Justice Project, a central statewide point of access for clients; specialized legal services programs (such as Unemployment Law Project and Northwest Immigrant Rights Project); and county volunteer attorney programs. These organizations offer a wide variety of volunteer opportunities such as direct representation, mentoring, advice clinics, self-help clinics, board membership, telephone advice, and document preparation. Emeritus also allows for pro bono services for criminal cases through some public defender agencies. Many of these organizations offer training for their volunteers. We will do our best to find a niche to fit your legal expertise, interest, and schedule.

An emeritus training and orientation session is scheduled for January 12 in Seattle at the WSBA office. This training is a requirement for changing to emeritus status and will provide an opportunity for you to meet representatives from qualified legal services providers. Travel expenses will be reimbursed. For more information about the Emeritus Program, registration for the training session, and the logistics of changing your WSBA status to emeritus, please contact Sharlene Steele, WSBA access to justice liaison, at 206-727-8262 or sharlene@wsba.org. You can review APR 8(e) at [www.wsba.org/lawyers/licensing/faq-rule8e.htm](http://www.wsba.org/lawyers/licensing/faq-rule8e.htm).

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

**55 and Over?**
WSBAs Lawyers Assistance Program sponsors the “Lawyers in Transition: Attorneys 55 and Over” group. A range of topics will be covered, such as making changes in one’s career, nurturing interests outside of the law, and giving and receiving support to fellow lawyers. The group meets at the WSBA offices on Tuesdays at 10:30 a.m. The cost is $10 per session. If you are interested in taking part or
Many lawyers are depressed but don’t realize it. Symptoms include sad mood, loss of pleasure or interest in activities, weight gain or loss, sleep problems, feeling restless or slowed-down, fatigue, trouble thinking or concentrating, and thoughts of death. Untreated, it can cause serious work dysfunction and more. Talk to your doctor, or call the Lawyers Assistance Program at 206-727-8268 or 800-945-9722, ext. 8268.

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

Weekly Job Finders Strategy and Support Group
Join us January 13 to hear guest speaker Karen Summerville of Legal Career Management. These meetings take place the second Wednesday of each month from noon to 1:30 p.m. at the WSBA sixth floor conference center. For more information, call 206-727-8267 or e-mail danc@wsba.org. Come as you are — no need to RSVP unless you would like to attend the meeting by telephone (RSVP by January 12 at 206-727-8268).

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

Usury Rate
The average coupon equivalent yield from the first auction of 26-week treasury bills in December 2009 was 0.167 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.

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

Computer Clinic
The WSBA offers a hands-on computer clinic for members. Learn what programs such as Outlook, PowerPoint, Excel, Word, and Adobe Acrobat can do for a lawyer. Are you a total beginner? No problem. The clinic teaches helpful tips you can use immediately. Computers are provided, and seating is limited to 15 members. There is no charge, and no CLE credits are offered. The January 11 clinic will be held from 10:00 a.m. to noon at the WSBA office and will focus on using Word. The January 14 clinic will meet from 2:00 to 4:00 p.m. and will focus on using Casemaker, CourtTrax, and other online research resources. For more information or to RSVP, contact Julie Salmon at 206-733-5914, 800-945-9722, ext. 5914, or juliesa@wsba.org.

 FYInformation

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Monthly Board of Governors Meetings
January 21–22, Olympia • March 5–6, Bremerton • April 23–24, Port Angeles
With the exception of the executive session, Board of Governors meetings are open, and all WSBA members are welcome to attend. RSVPs are appreciated but not required. Contact Margaret Shane at 206-727-8244, 800-945-9722, ext. 8244, or margarets@wsba.org. The complete Board of Governors meeting schedule is available on the WSBA website at www.wsba.org/info/bog/schedule.htm.

Newport attorney Douglas Lambarth was nominated for the Random Acts of Professionalism award. Mr. Lambarth has served as a district court pro tem judge for Pend Oreille County over the past five years. He was nominated for the professionalism he routinely demonstrates on the bench when he serves as Pend Oreille County District Court pro tem judge. Pend Oreille County District Court Judge Philip Van de Veer wrote that "Mr. Lambarth is a careful and competent pro tem judge." Mr. Lambarth also “provides his pro tem judicial services to the county and his local community without charge." Mr. Lambarth largely practices civil law with the occasional criminal cases. He has been involved in various local civic organizations, as well as various WSBA committees.

The WSBA Random Acts of Professionalism Award is given from lawyers to lawyers to recognize and encourage professionalism among the members of the Bar. Neither the Committee nor the WSBA Board of Governors explicitly endorses a selection; the award is simply from one professional to another. Look for the best among your peers and nominate them. Visit www.wsba.org/professionalism to learn more.
These notices of imposition of disciplinary sanctions and actions are published pursuant to Rule 3.5(d) of the Washington State Supreme Court Rules for Enforcement of Lawyer Conduct, and pursuant to the February 18, 1995, policy statement of the WSBA Board of Governors. For a complete copy of any disciplinary decision, call the Washington State Disciplinary Board at 206-733-5926, leaving the case name, and your name and address.

Note: Approximately 30,000 persons are eligible to practice law in Washington state. Some of them share the same or similar names. Bar News strives to include a clarification whenever an attorney listed in the Disciplinary Notices has the same name as another WSBA member; however, all discipline reports should be read carefully for names, cities, and bar numbers.

Reprimanded

Bakary Conteh (WSBA no. 35098, admitted 2004), of Seattle, was ordered to receive a reprimand on May 28, 2009. This discipline was based on conduct involving misrepresentations before a tribunal.

On November 28, 2005, Mr. Conteh prepared an Application for Asylum and for Withholding of Removal (Application) on behalf of a client. Mr. Conteh signed the Application, attesting that it was based on information of which he had knowledge or which was provided to him by the client. Mr. Conteh also acknowledged that he would be subject to civil penalties for knowingly providing false information. In the Application, Mr. Conteh falsely represented that the client had resided at Mr. Conteh's residence in Everett since June 2004. The client had never resided with Mr. Conteh.

Mr. Conteh filed the Application with the United States Department of Homeland Security. On March 22, 2006, Mr. Conteh represented the client at an interview with an asylum officer. Consistent with the misrepresentations in the Application, the client told the asylum officer, in Mr. Conteh's presence, that he had resided with Mr. Conteh since June 2004. The asylum officer concluded that the client was prohibited from applying for asylum and referred the Application to an immigration judge for hearing.

Before the hearing, Mr. Conteh received the Government's Prehearing Statement, which included a copy of the asylum officer's Assessment to Refer. After he read the Assessment, Mr. Conteh recognized that his prior misrepresentation concerning the dates of the client's residence with him could result in a denial of the Application.

On July 31, 2006, Mr. Conteh represented the client at a hearing before an immigration judge. The Application that Mr. Conteh had prepared was admitted into evidence at the hearing. At the hearing, Mr. Conteh made a "correction" to the Application concerning the dates of the client's residence with him. Mr. Conteh falsely represented to the immigration judge that the client had actually resided with him since June 2005. At the hearing, Mr. Conteh also offered false evidence through the testimony of the client that the client had resided with him since June 2005.

Mr. Conteh's conduct violated RPC 8.4(c), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Scott G. Busby represented the Bar Association. Mr. Conteh represented himself. David A. Summers was the hearing officer.

Reprimanded

Mary Ruth Mann (WSBA No. 9343, admitted 1979), of Seattle, was ordered to receive a reprimand on June 23, 2009, by order of the Disciplinary Board. This discipline was based on conduct in two employment discrimination claims involving failure to act with reasonable diligence, failure to expedite litigation, and violation of court orders with respect to discovery and case scheduling deadlines.

**Matter No. 1:** On March 31, 1998, Ms. Mann filed a complaint on behalf of Client A against a contractor's association and others in King County Superior Court, and the court issued a Case Schedule. Ms. Mann failed to comply with the Case Scheduling Order by failing to timely file a Confirmation of Service, a complete Confirmation of Joinder, a disclosure of primary witnesses, or a joint status report. The factual history is set forth in *Rivers v. Washington State Conference of Mason Contractors*, 145 Wn.2d 674, 41 P.3d 1175 (2002). The plaintiff appealed the dismissal. The trial court had dismissed the case with prejudice as a sanction for plaintiff's failure to comply with a discovery order and case schedule deadlines. The Supreme Court reversed and remanded, directing the trial court to explicitly state on the record how the defendants were prejudiced by the discovery and scheduling order violations and whether it considered alternative sanctions less severe than dismissal. The Court also ruled that "party's disregard of a court order without reasonable excuse or justification is deemed willful." On July 2, 2002, the trial court entered the required findings and again dismissed the case. The plaintiff appealed. On July 1, 2003, the parties filed a Stipulation Dismissing Appeal.

**Matter No. 2:** Ms. Mann agreed to represent Client B in his race discrimination and harassment claim against a hospital. The complaint was filed in King County Superior Court on September 26, 1997. Ms. Mann took "at least 54 depositions." The defendant moved for summary judgment based on the statute of limitations and the merits of Client B's claims. A hearing date on the defendant's motion was set for September 17, 1999. At 4:30 p.m. on September 16, 1999, Ms. Mann filed a motion for voluntary dismissal without prejudice. The presiding judge dismissed the case and reserved the issue of sanctions if Client B refiled his claims.

On July 25, 2000, Ms. Mann filed a new discrimination case in King County Superior Court alleging that the defendant hospital discriminated against Client B based on disability and that his termination violated his free speech rights. The Court issued a Case Schedule. Ms. Mann failed to file a Confirmation of Service by January 2, 2001, as required by the scheduling order. On November 6, 2000, the defendant served interrogatories and requests for production. Ms. Mann did not produce any responsive documents or answers by the deadline, despite being granted two extensions of the deadlines. The defendant moved to compel. In response, Ms. Mann offered to pay $200 and promised responses by February 20, 2001. The trial court signed an order to compel, imposed a $350 sanction against Client B, and required responses by February 21, 2001. Ms. Mann delivered the responses on February 20, 2001.

On the morning that defense counsel had scheduled to review documents at Ms. Mann's office, they were advised that the documents were off-site and otherwise unavailable. About three weeks later, defense counsel did review documents. On October 5, 2001, the defendant filed a second motion to compel. Client B had not paid the $350. Ms. Mann had repeatedly rescheduled and canceled the discovery conference. After the deadline, Ms. Mann filed a response to the defendant's motion. The Court refused to consider Ms. Mann's late response. On October 15, 2001, the court granted the defendant's Motion to Compel, ordered Client B to pay another $500, and set an October 22, 2001, deadline for compliance with outstanding discovery requests. Client B provided supplemental responses. However, citing continuing deficiencies in ordered discovery, on October 23, 2001, the defendant filed a motion for sanctions and asked the court to dismiss the case. On November 1, 2001, while Ms. Mann was in court on another matter, the Court set a hearing on the defendant's motion for sanctions for November 2, 2001. Ms. Mann did not appear on November 2, 2001, due to a conflicting hearing in another county, but arranged for an associate to cover the hearing. The court required Ms. Mann to appear; by the time she called in from her vehicle en route to the other hearing, the court had granted the motion for sanctions and dismissed Client B's case. He appealed. The Court of Appeals reversed and remanded for additional findings in light of the recent decision in *Client A* matter. On June 20, 2003, the trial court made the required findings and entered a second order dismissing Client B's case. Client B appealed again. The Court of Appeals affirmed in an unpublished decision and the Supreme Court denied review.

Ms. Mann's conduct violated RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; RPC 3.2, requiring a lawyer to make reasonable efforts to expedite litigation consistent with the interests of the client; RPC 3.4(c), prohibiting a lawyer from knowingly disobeying an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists; and current RPC 8.4(j), prohibiting a lawyer from willfully disobeying or violating a court order directing him or her to do or cease doing an act which he or
she ought in good faith to do or forbear [former RLD 1.1(b)].

Joanne S. Abelson represented the Bar Association. Thomas M. Fitzpatrick, Philip A. Talmadge, and Phillip A. Ginsberg represented Ms. Mann. Margarita V. Latsonova was the hearing officer.

Reprimanded

Kyle W. Nolte (WSBA No. 27073, admitted 1997), of Spokane Valley, was ordered to receive a reprimand on June 18, 2009, following approval of a stipulation by a hearing officer. This discipline was based on conduct involving failing to disclose a prior disciplinary sanction on his applications to serve as a Rule 9 supervising lawyer.

On December 3, 2004, Mr. Nolte received a reprimand from the Association for his misconduct while serving as an officer in the United States Air Force Judge Advocate General Department. In 2006, 2007, and 2008, Mr. Nolte signed a Declaration of Supervising Lawyer and agreed to act as the supervising lawyer for a legal intern under Rule 9(d) of the Admission to Practice Rules (APR). Mr. Nolte’s declarations were forwarded to the Association as part of the admission process for a Rule 9 legal intern. At all relevant times, APR 9 (Legal Interns) subsection (d) (Supervising Lawyer) included the provision: “If a disciplinary sanction has been imposed upon the lawyer within the 5 years immediately preceding approval of the application, the Board of Governors shall have the discretion to accept or reject the lawyer as a supervising lawyer.”

The Declaration of Supervising Lawyer that Mr. Nolte signed in 2006, 2007, and 2008, included the following paragraph: “I, ___, Bar No. ___, hereby certify as follows: (1) I am an active member in good standing of the Washington State Bar Association and have had no disciplinary sanctions imposed in the last five years.”

Before Mr. Nolte completed the 2006 declaration, he called and asked the Association whether he could serve as a supervising lawyer and if so, how he should complete the Declaration of Supervising Lawyer. Mr. Nolte was advised to indicate he had received prior disciplinary action on the declaration form. On May 19, 2006, Mr. Nolte signed, under penalty of perjury, a Declaration of Supervising Lawyer to act as the Rule 9 supervisor by filling in his name and number and altering paragraph (1) by crossing out the word “no” and adding his initials. The Association’s Regulatory Services Department (RSD) approved the application, and Intern A worked in Mr. Nolte’s law office as a Rule 9 legal intern.

On March 6, 2007, Mr. Nolte signed a second declaration under penalty of perjury to serve as a Rule 9 supervising lawyer for Intern B. On this declaration, he failed to cross out the word “no” or otherwise indicate that he had a disciplinary sanction imposed in the last five years. RSD approved the application, and Intern B worked in Mr. Nolte’s law office as a Rule 9 legal intern.

On July 23, 2008, Mr. Nolte signed a third declaration under penalty of perjury to serve as a Rule 9 supervising lawyer for Intern C. Again, on this declaration he did not cross out the word “no” or otherwise indicate he had a disciplinary sanction imposed in the last five years. In August 2008, RSD denied Mr. Nolte’s request to serve as Intern C’s Rule 9 supervising lawyer and referred the matter to the Association’s Office of Disciplinary Counsel.

Mr. Nolte’s conduct violated RPC 8.1, prohibiting a lawyer in connection with a bar admission or reinstatement application from knowingly making a false statement of material fact or failing to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter.

Linda B. Eide represented the Bar Association. Kurt M. Bulmer represented Mr. Nolte. David Laurence Broom was the hearing officer.

Reprimanded

Mark Stansfield (WSBA No. 11356, admitted 1998), of Quincy, was ordered to receive two reprimands on July 17, 2008, by order of the Washington State Supreme Court following an appeal. This discipline was based on conduct involving purporting to represent a person’s estate without authorization and conflicts of interest. For more information, see In re Disciplinary Proceeding Against Stansfield, 164 Wn.2d 108, 187 P.3d 254 (2008).

In May 2003, a two-car accident in Quincy resulted in the death of three people. The police report stated that there was probable cause to believe that the collision was due to the driver of one of the vehicles (Mr. V) operating his Lexus “while under the influence of intoxicating liquor or any drug” Mr. V was uninsured. In May 2003, the widow of the driver of the other vehicle (Mrs. U) and her daughter hired Mr. Stansfield to file an insurance claim on her husband’s behalf and to probate his estate. Mrs. U also asked Mr. Stansfield about suing Mr. V for wrongful death of her husband, which Mr. Stansfield counseled her against because Mr. V lacked assets.

Around the same time, Mrs. U informed Mr. Stansfield that the widow of the passenger in her husband’s car (Mrs. C) lived in Guatemala and had given her authority to act as personal representative for Mr. C’s estate. Mr. Stansfield had Mrs. U sign a retainer agreement and other documents as personal representative of Mr. C’s estate. He then notified Mr. U’s insurance company that he represented the estates of both Mr. U and Mr. C and requested that they communicate directly with him. Mr. Stansfield wrote two letters to Mrs. C, translated into Spanish, asking whether she wanted him to handle her husband’s estate. He received no response. In fact, Mrs. C had authorized a relative who lived in Washington to hire another lawyer (Lawyer B) to represent their family. When Lawyer B contacted the insurance company, he was told that Mr. Stansfield claimed to represent Mr. C’s family. He wrote to Mr. Stansfield and requested that he cease his representation. Mr. Stansfield promptly filed an attorney’s lien for $2,299.32 against Mr. C’s estate, which delayed the family’s receipt of the insurance funds. Mr. Stansfield sent a formal notice of vacation of his lien in November 2005.

In September 2003, approximately two weeks after Mr. Stansfield concluded matters regarding the insurance claim and estate probate for Mrs. U, Mr. Stansfield agreed to represent Mr. V, who was charged with three counts of vehicular homicide and two counts of vehicular assault from the motor vehicle collision. Although the two representations were substantially related and the two clients had materially adverse interests, Mr. Stansfield neither informed Mrs. U of his representation of Mr. V nor obtained her consent thereto. On September 22, 2003, before the arraignment, Mr. Stansfield had Mr. V sign a fee agreement and received a $10,000 nonrefundable flat fee. Mr. Stansfield represented Mr. V at his arraignment, where Mr. V pleaded not guilty. On the same day, Mr. Stansfield filed a notice of appearance, a notice of demand for discovery, a demand for preservation of evidence, a demand for jury trial, and a demand for a bill of particulars on behalf of Mr. V. Mrs. U attended the arraignment and was shocked and extremely upset to see Mr. Stansfield representing Mr. V. After the arraignment, Mrs. U expressed her concerns to the prosecutor. Mr. Stansfield decided to withdraw from the case and transferred all but $250 of the $10,000 to substitute counsel.

Mr. Stansfield’s conduct violated former RPC 1.2(f), prohibiting a lawyer from willfully purporting to act as a lawyer for any person without the authority of that person: and former RPC 1.9(a), prohibiting a lawyer who has formerly represented a client in a matter from representing another client in the same or a substantially related matter in which that person’s interests are materially adverse to the interests of the former client unless the former client consents after consultation and a full disclosure of the material facts.

Natalaia Skvir represented the Bar Association. Leland G. Ripley represented Mr. Stansfield. Paul M. Larson was the hearing officer.

Non-Disciplinary Notices

Suspended Pending the Outcome of Disciplinary Proceedings

Kristopher A. Kinkade (WSBA No. 25666, admitted 1996), of Alpine, Utah, was suspended pending the outcome of disciplinary proceedings, pursuant to ELC 7.1 (Conviction of a Crime), effective November 17, 2009, by order of the Washington State Supreme Court. This is not a disciplinary sanction.

Suspended Pending the Outcome of Disciplinary Proceedings

Martha G. Zwicker (WSBA No. 18038, admitted 1988), of Renton, was suspended pending the outcome of disciplinary proceedings, pursuant to ELC 7.2(a)(3), effective November 6, 2009, by order of the Washington State Supreme Court. This is not a disciplinary sanction.

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WASHINGTON STATE BAR FOUNDATION

The Washington State Bar Foundation is a nonprofit organization whose mission is to foster leadership to further social justice. The Foundation has established the Presidents’ and Governors’ Diversity Scholarship fund to benefit law school students and continues to administer grants and donations in support of Washington State Bar Association programs and services.

In furtherance of the Washington State Bar Association’s Guiding Principles, the Foundation supported various public legal education initiatives as well as diversity outreach this past year. The Foundation continues to develop avenues for advancing these priority efforts.

The Washington State Bar Foundation would like to thank the following contributors to various funds and programming in the Foundation between October 1, 2008, and September 30, 2009.

**Presidents’ and Governors’ Diversity Scholarship Fund**
- Loren S. Etengoff
- Ron and Kiti Ward
- Johnson Flora PLLC

**WSBA Leadership Institute General Support**
- Ronald J. Knox
- Ron and Kiti Ward

**Unrestricted**
- Carla Lee
- Patrick Palace
- Steve Toole
- Anonymous

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MAZZONE AND CANTOR, LLP

The firm of Mazzone and Markwell, Lawyers, has changed its name to Mazzone and Cantor, LLP

The firm continues to practice in the following areas: Criminal Defense and Personal Injury

We appreciate your referrals.

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EISENHOWER & CARLSON, PLLC

is pleased to announce that

**Gary S. Stirbis**

formerly with Moss Adams LLP and the Office of Chief Counsel, Internal Revenue Service, has joined the firm as a Member in the Tacoma office.

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Attorneys at Law

is pleased to announce that

Andrew R. Buffington

has become an associate of the firm practicing in immigration, criminal defense, and civil litigation.

Mr. Buffington graduated from Seattle University School of Law, *cum laude*, in 2009. He received his Bachelor of Arts degree from University of Washington in 2002.

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**Spencer | Anderson | Buhr PLLC**

is proud to announce

Teebah Alsaleh

has joined the firm as an associate.

Ms. Alsaleh's practice will focus on family law and estate planning.

The firm also announces its relocation to

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**The Law Firm of Etter, McMahon, Lamberson, Clary & Oreskovich, P.C.**

is pleased to welcome

Courtney A. Garcea

as a new associate with the firm.

Ms. Garcea is a 2009 honors graduate of Gonzaga University School of Law and practices civil litigation and criminal defense in Washington.

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**Campbell, Bissell & Kirby, PLLC**

is pleased to announce that

Erik H. Thorleifson

has joined the firm as an associate and

Roderick C. Bond

has joined the firm of counsel.

Mr. Thorleifson will emphasize his practice in the areas of construction, employment and labor, and commercial litigation.

Mr. Bond will emphasize his practice in the areas of construction contracts and litigation, commercial litigation, general business, contract negotiation and drafting, appeals, FINRA, and AAA Arbitration.

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Patrick C. Sheldon, former member of the Washington State Bar Association Disciplinary Board, is now accepting referrals for attorney disciplinary investigations and proceedings.

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

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

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Stephen C. Smith, former Chairman of the Washington State Bar Association Disciplinary Board, is now accepting referrals for attorney disciplinary investigations and proceedings in Washington, Idaho, Hawaii, and Guam.
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Emmelyn Hart-Biberfeld,
Former Law Clerk, Washington State Supreme Court;
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Please check with providers to verify approved CLE credits. To announce a seminar, please send information to:

WSBA Bar News CLE Calendar
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E-mail: comm@wsba.org

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

Animal Law

Animal Law 2010
January 22 — Seattle. By UW School of Law.
Credits pending. 206-543-0059; www.uwcle.org/schedule.htm

Business Law

Advising Business Clients in a Struggling Economy: Prepare to Field the Tough Questions
January 27 — Seattle/live webcast. 6.5 credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org

Elder Law

The Nuts and Bolts of an Elder Law Practice: Elder Law 101
January 22 — Seattle. 6.5 credits, including 1 ethics. Approved by the Washington Professional Guardian Certification Board for 6.5 hours. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacl.org

Ethics

Visioning a Practice You’ll Love
January 30 — Seattle. 6 ethics credits. By Betsy Gutting: 206-605-2900; betsy@betsygutting.com; www.betsygutting.com/section_events/index.html

Professionalism in Practice: Ethics in Action
February 5 — Seattle. 6 ethics credits. By UW School of Law; www.uwcle.org. 206-543-0059.

Environmental Law

Land Use 2010: Earth, Wind, and Fire (and Water)
January 28 — Seattle. 6.75 credits, including 1 ethics credit. By UW School of Law; www.uwcle.org. 206-543-0059

Family Law

Tough Talk with Family Law Clients: Practical Tips from the Trenches
February 24 — Seattle. 6 credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org

General

7th Annual Northwest Gaming Law Summit

The Justice for Washington Future of Freedom Conference
January 9 — Seattle. By Seattle University School of Law. 4.25 credits, including 1 ethics. 206-227-9948; www.justiceforwashington.org/index.php

Superior Legal Writing: Winning with Words Featuring New York Times’ Bestselling Author William Bernhardt
February 11 — Seattle. 6.75 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacl.org

Managing High Conflict Personalities in Legal Disputes
February 19 — Seattle. 6 credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacl.org

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

Basic Collaborative Law Training
February 25–26 — Seattle. 13 credits, includ-
Tribal gaming attorney — Seeking attorney with tribal gaming experience to represent the Colville Tribal Gaming Commission which regulates three small tribal casinos in north central Washington. Complete job listing at www.colvilletribes.com. Additional information: dannise.davisson@colvilletribes.com; 509-422-7716.

Notice of part-time law lecturer positions: Health law. The University of Washington School of Law invites applications for the appointment of part-time lecturers in the law school’s graduate program in health law. Our Health Law LL.M. program attracts a diverse group of attorneys seeking advanced education on an array of health law topics, including but not limited to health organization transactions, medical malpractice, fraud and abuse, antitrust, FDA law, public health law, international/global health law, medical products liability, law and biotechnology, and bioethics and law. Teaching opportunities include traditional law courses, seminar courses, and more informal tutorial sessions. Qualifications: J.D. degree and a minimum of three years of practice experience are required; teaching experience and an interest in working with motivated students seeking careers in health law is strongly preferred. The University of Washington is building a culturally diverse faculty and strongly encourages applications from women and minority candidates. The University encourages applications from women and minority candidates. The University encourages applications from women and minority candidates.


Gordon & Rees LLP, a national firm of 400 attorneys in 16 offices, seeks to expand the employment law group in its growing Seattle office. We are looking for a partner-level employment law attorney, preferably with commercial litigation experience. Tremendous opportunity to develop or expand an existing book of business. Admission to Oregon bar a plus. Friendly business environment with competitive salary and benefits package. Please e-mail résumé and cover letter to searecruiting@gordonrees.com.

Events

Classifieds

Positions Available

Real Property, Probate, and Trust

Residential Landlord Tenant Law Seminar
February 10 — Seattle. 6.25 credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbackcle.org.

Tribal gaming attorney — Seeking attorney with tribal gaming experience to represent the Colville Tribal Gaming Commission which regulates three small tribal casinos in north central Washington. Complete job listing at www.colvilletribes.com. Additional information: dannise.davisson@colvilletribes.com; 509-422-7716.

Notice of part-time law lecturer positions: Health law. The University of Washington School of Law invites applications for the appointment of part-time lecturers in the law school’s graduate program in health law. Our Health Law LL.M. program attracts a diverse group of attorneys seeking advanced education on an array of health law topics, including but not limited to health organization transactions, medical malpractice, fraud and abuse, antitrust, FDA law, public health law, international/global health law, medical products liability, law and biotechnology, and bioethics and law. Teaching opportunities include traditional law courses, seminar courses, and more informal tutorial sessions. Qualifications: J.D. degree and a minimum of three years of practice experience are required; teaching experience and an interest in working with motivated students seeking careers in health law is strongly preferred. The University of Washington is building a culturally diverse faculty and strongly encourages applications from women and minority candidates. The University encourages applications from women and minority candidates.


Gordon & Rees LLP, a national firm of 400 attorneys in 16 offices, seeks to expand the employment law group in its growing Seattle office. We are looking for a partner-level employment law attorney, preferably with commercial litigation experience. Tremendous opportunity to develop or expand an existing book of business. Admission to Oregon bar a plus. Friendly business environment with competitive salary and benefits package. Please e-mail résumé and cover letter to searecruiting@gordonrees.com.

Events
tions include J.D. degree from an accredited law school, license to practice law in the state of Washington, membership in the Washington State Bar Association, and eight years’ experience as a practicing attorney or judge. Experience as a court commissioner, municipal/district judge, or judge pro tem preferred. For consideration, send letter of interest and résumé to Jenna Young, City of Bonney Lake, PO Box 7380, Bonney Lake, WA 98391; or e-mail youngj@ci.bonney-lake.wa.us. Position will remain open until filled; applications will be accepted through January 15, 2010. All applications submitted prior to and by 1/15/10 will be considered. For more information, visit www.ci.bonney-lake.wa.us.

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

**Bankruptcy associate sought** for sole practitioner in downtown Seattle. Prior bankruptcy experience helpful, but not required. Please send résumé to Jeffrey B. Wells, 502 Logan Building, Seattle, WA 98101; fax to 206-624-0086; or e-mail to dwelllaw@aol.com.

**Staff attorney.** Two attorney positions — Confederated Colville Tribes, licensed at least five years. Required: experience/expertise in natural resource and water law, and/or health care, education, social services, business/economic development law, and thorough working knowledge of Indian law. Tribal government experience preferred. Salary DOE, begins mid-$70K. Generous insurance and retirement. Open until filled; application review begins November 6. Submit cover letter with detailed résumé and work history for at least past 10 years, current contact information for at least five references, including two current/former immediate supervisors, and writing sample. Send to Alice Koskela, Managing Attorney, ORA, PO Box 150, Nespelem, WA 99155. ORA is an Indian Preference employer. Native American applicants encouraged.

**The Shiers Law Firm**, a well-established, general practice law firm founded in 1916, seeks to bring aboard another capable and motivated lawyer to assist with our transactional and probate practices, as well as our civil, commercial, and personal injury litigation practices. Candidates shall have strong interpersonal skills and outstanding academic credentials. Please send résumé, law school transcript, and brief writing sample to Cynthia Samuels, Shiers Law Firm, 600 Kitsap St., Ste. 202, Port Orchard, WA 98366, or via e-mail to samuels@shierslaw.com.

**Corporate counsel** — F5 Networks, Inc., the global leader in Application Delivery Networking, has an immediate opening for an experienced business attorney. This position will work closely with F5 Networks’ sales, marketing, professional services, IT, and product development teams on the drafting, review, and negotiation of various commercial, services, licensing, and other technology-related agreements. Qualified candidate should have experience negotiating complex commercial agreements, minimum of three years’ business law experience, J.D. from an ABA accredited law school, and excellent academic credentials. License to practice law required; WSBA membership preferred. F5 Networks, Inc. is an equal opportunity employer and strongly supports diversity in the workplace. View full job description and apply: Job ID: MS12098; www.f5.com/about/careers/us-openings.html.

**Roy, Simmons & Parsons**, an established Bellingham firm, is accepting applications for an associate attorney position. Excellent academic credentials required. Experience in municipal and/or injury litigation preferred. Please send a cover letter, résumé, and references to Jeff Brown at 1223 Commercial St., Bellingham, WA 98225.

**Small AV-rated Kennewick law firm** with a practice focused on the representation of claimants/plaintiffs in workers’ compensation, Social Security disability, and personal injury seeks a litigation associate. This associate would be assisting in handling existing case load of workers’ compensation and Social Security disability claims with the opportunity to develop and grow a practice. We are seeking an attorney who is interested in a long-term, stable relationship in a friendly and collegial work environment, and who is dedicated to protecting the rights of injured workers. A minimum of three years’ experience in handling workers’ compensation claims at the department and board levels is preferred, along with strong analytical, writing, and communication skills. Please submit a cover letter, résumé, and writing sample to the attention of Robert Merriman, Flynn Merriman McKennon, 8203 W. Quinault, Ste. 600, Kennewick, WA 99336. E-mail replies will also be accepted and can be directed to merriman@fmm-law.com.

**Associate general counsel** — PeaceHealth, Bellevue. The associate general counsel utilizes legal skills to assist the business operations of the organization including contracts, transactions, employment, and other matters, working with four senior attorneys and two paralegals in the system legal department. Qualifications: Bachelor’s degree and Juris Doctor or equivalent degree from an accredited law school. Superior academic performance; graduated in top half of class; five years of legal experience in health law (e.g., tax-exemption issues, clinical trial and IRB issues, Stark II, fraud and abuse). Knowledge of reimbursement rules helpful, but not required; proficient in Microsoft Word and PowerPoint software; other technical proficiencies helpful (e.g., Westlaw, Excel, contract database management). Please apply online at www.peacehealth.org.

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

Request for proposals (RFP) for Island County hearing examiner — Island County requests proposals from individual attorneys or law firms for a land use hearing examiner, beginning April 1, 2010. The hearing examiner conducts administrative and quasi-judicial hearings on appeals of departmental decisions, SEPA determinations, and a variety of land use permits within unincorporated Island County. Compensation is to be determined, subject to contract negotiation. A per-hour basis, a lump sum amount, or combination of both may be considered. The initial contract will be an annual contract. Island County reserves the right to contract with more than one hearing examiner. An application packet may be obtained from the Island County Planning and Community Development Department, www.islandcounty/planning.net; questions may be directed to Robert H. Pederson at 360-679-7344.

Positions Wanted

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

Services


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Experienced contract attorney loves legal research and writing. WSBA member with 28 years of experience writes trial briefs, motions, and memos, using UW Law Library and Lexis Internet libraries, state and national. Tell me about your case! Elizabeth Dash Bottman, 206-526-5777, bjelizabeth@qwest.net

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

**Experienced contract attorney:** 18 years’ experience in civil/criminal litigation, including jury trials, arbitrations, mediations, and appeals. Former shareholder in boutique litigation firm. Can do anything litigation-related. Excellent research and writing skills, reasonable rates. Peter Fabish, pfab99@gmail.com.

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**Space Available**

<table>
<thead>
<tr>
<th>Downtown Seattle executive office space</th>
<th>Top floor suite in Melbourne Tower</th>
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<tbody>
<tr>
<td>Full- and part-time offices available on the 32nd floor of the 1001 Fourth Avenue Plaza Building. Beautiful views of mountains and the Sound! Close to courts and library. Short- and long-term leases. Conference rooms, reception, kitchen, telephone answering, mail handling, legal messenger, copier, fax, and much more. $175 and up. Serving the greater Seattle area for over 30 years. Please contact Business Service Center at 206-624-9188 or <a href="http://www.bsc-seattle.com">www.bsc-seattle.com</a> for more information.</td>
<td>Approximately 107 sq. ft. unfurnished office, $800. Suite has reception area, conference room, kitchen, and file storage. For details, see Craigslist ad titled “3 Offices Available (Pioneer Square).” Contact Griff Flaherty at 206-682-2616.</td>
</tr>
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</table>

**Kent** — Spacious, fully furnished office(s) in very elegant, newly constructed building. Gated entrance with parking. Totally turn-key. All amenities included. Highly visible location on Meeker Street within walking distance of RJC. Possible referrals. Contact 206-227-8831 or donkron1@msn.com.

<table>
<thead>
<tr>
<th>Bellevue office space</th>
<th>To Place a Classified Ad</th>
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<tbody>
<tr>
<td>Two offices available for sublease in downtown Bellevue. Rent includes shared use of conference rooms, small law library, and kitchen. Options include use of copier and covered parking. Please contact <a href="mailto:asakai@jgslaw.com">asakai@jgslaw.com</a>.</td>
<td>Rates: WSBA members: $40/first 25 words; $0.50 each additional word. Nonmembers: $50/first 25 words; $1 each additional word. Blind-box number service: $12 (responses will be forwarded). Advance payment required; we regret that we are unable to bill for classified ads. Payment may be made by check (payable to WSBA), MasterCard, or Visa.</td>
</tr>
</tbody>
</table>

**Belltown (Seattle) law firm offering turn-key sublease.** Corner lot building with large windows and beautiful cherry wood interiors. Two professional offices (18’ x 14’ and 14’ x 10’), plus one paralegal office, and one staff work station. Shared office facilities include furnished reception room with working fireplace, built-in reception desk, conference room, library, kitchen, working file room with high-speed copier/fax/printer, and large basement file storage. Administrative support of high-speed Internet, cable, and VoiceIP is available. Contact accounting@hikenbrownlaw.com or see Craigslist “Seattle Professional Sublease Available,” for more details.

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

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

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

**Professional Chinatown (Seattle) office space.** 2,000 sq. ft. of street-level space includes up to three offices, conference room, and waiting area. Rent one to three offices and/or conference room. Rent includes phone, fax, DSL, and copier. Full- and part-time available.

<table>
<thead>
<tr>
<th>One to two attorney offices available</th>
<th>Belltown (Seattle) law firm offering turn-key sublease</th>
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<tbody>
<tr>
<td>for rent in Logan Building, downtown Seattle. Reasonable rates. Contact Jeffrey Wells at 206-624-0088.</td>
<td>Corner lot building with large windows and beautiful cherry wood interiors. Two professional offices (18’ x 14’ and 14’ x 10’), plus one paralegal office, and one staff work station. Shared office facilities include furnished reception room with working fireplace, built-in reception desk, conference room, library, kitchen, working file room with high-speed copier/fax/printer, and large basement file storage. Administrative support of high-speed Internet, cable, and VoiceIP is available. Contact <a href="mailto:accounting@hikenbrownlaw.com">accounting@hikenbrownlaw.com</a> or see Craigslist “Seattle Professional Sublease Available,” for more details.</td>
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<tr>
<th>Kent office for rent</th>
<th>Top floor suite in Melbourne Tower</th>
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<tr>
<td>— perfect for solo practitioner, 11’ x 14’ windowed office in existing suite in Centerpoint Office Complex, reception area, conference room, high-speed copier, fax, scanner, messenger service, space for receptionist/legal assistant. Call Mike, 253-398-2600.</td>
<td>— Approximately 107 sq. ft. unfurnished office, $800. Suite has reception area, conference room, kitchen, and file storage. For details, see Craigslist ad titled “3 Offices Available (Pioneer Square).” Contact Griff Flaherty at 206-682-2616.</td>
</tr>
</tbody>
</table>

| Turn-key — new offices available for immediate occupancy and use in downtown Seattle, expansive view from 47th floor of the Columbia Center. Office facilities included in rent (reception, kitchen, and conference rooms). Other administrative support available if needed. DSL/VPN access, collegial environment. Please call Amy, Badgley Mullins Law Group, 206-621-6566. | Rates: WSBA members: $40/first 25 words; $0.50 each additional word. Nonmembers: $50/first 25 words; $1 each additional word. Blind-box number service: $12 (responses will be forwarded). Advance payment required; we regret that we are unable to bill for classified ads. Payment may be made by check (payable to WSBA), MasterCard, or Visa. |


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

**Professional Chinatown (Seattle) office space.** 2,000 sq. ft. of street-level space includes up to three offices, conference room, and waiting area. Rent one to three offices and/or conference room. Rent includes phone, fax, DSL, and copier. Full- and part-time available.

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<th>One to two attorney offices available for rent in Logan Building, downtown Seattle. Reasonable rates. Contact Jeffrey Wells at 206-624-0088.</th>
<th>Belltown (Seattle) law firm offering turn-key sublease</th>
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<td>Kent office for rent — perfect for solo practitioner, 11’ x 14’ windowed office in existing suite in Centerpoint Office Complex, reception area, conference room, high-speed copier, fax, scanner, messenger service, space for receptionist/legal assistant. Call Mike, 253-398-2600.</td>
<td>Corner lot building with large windows and beautiful cherry wood interiors. Two professional offices (18’ x 14’ and 14’ x 10’), plus one paralegal office, and one staff work station. Shared office facilities include furnished reception room with working fireplace, built-in reception desk, conference room, library, kitchen, working file room with high-speed copier/fax/printer, and large basement file storage. Administrative support of high-speed Internet, cable, and VoiceIP is available. Contact <a href="mailto:accounting@hikenbrownlaw.com">accounting@hikenbrownlaw.com</a> or see Craigslist “Seattle Professional Sublease Available,” for more details.</td>
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<th>Top floor suite in Melbourne Tower</th>
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<td>— approximately 107 sq. ft. unfurnished office, $800. Suite has reception area, conference room, kitchen, and file storage. For details, see Craigslist ad titled “3 Offices Available (Pioneer Square).” Contact Griff Flaherty at 206-682-2616.</td>
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| Turn-key — new offices available for immediate occupancy and use in downtown Seattle, expansive view from 47th floor of the Columbia Center. Office facilities included in rent (reception, kitchen, and conference rooms). Other administrative support available if needed. DSL/VPN access, collegial environment. Please call Amy, Badgley Mullins Law Group, 206-621-6566. | Rates: WSBA members: $40/first 25 words; $0.50 each additional word. Nonmembers: $50/first 25 words; $1 each additional word. Blind-box number service: $12 (responses will be forwarded). Advance payment required; we regret that we are unable to bill for classified ads. Payment may be made by check (payable to WSBA), MasterCard, or Visa. |

| Mill Creek office space for rent — Offices: large executive space. Cubicles: ideal for support staff/newly practicing attorney. Conference room: hourly rates available. Call 206-999-7433. | Deadline: Text and payment must be received (not postmarked) by the first day of each month for the issue following, e.g., February 1 for the March issue. No cancellations after the deadline. Mail to: WSBA Bar News Classifieds, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539. |

| Downtown Pike Place Market office space — two Sound-view offices to share with established practitioners. Adjacent to Pike Place Market and Seattle Athletic Club, includes secretarial station, shared receptionist, and conference room. Parking available. Contact Gil Levy at 206-443-0670. | Qualifying experience for positions available — state and federal law allow minimum, but prohibit maximum, qualifying experience. No ranges (e.g., “5-10 years”). Ads may be edited for spelling, grammar, and consistency of formatting. If you have questions, please call 206-727-8213 or e-mail classifieds@wsba.org. |
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my thoughts in haiku
to amuse and enlighten
your 2010

new clients, fresh shoots of
green grass, sometimes grow to stain
the attorney’s pants

travel-worn lawyer
lands in most desolate place:
room with no wi-fi

preserve trust account
like new-fallen snow, or bar
license melts away

write brief, answer mail,
phone conference in sweatpants
love the home office

good lawyers follow
law, ethics, heart, conscience, and
Bar Beat on Twitter

compose your own verse
I will contemplate and choose
for a future use

put five syllables
on the first line, seven next
then five on the last

bonus points for a
seasonal reference in
the composition

images valued
as are comparisons and
clever twists of phrase

Bar News Editor
Michael Heatherly
practices in Bell-
ingham. He can be
reached at 360-312-
5156 or barnews
editor@wsba.org.

gusts chill an office
as solemn client appears
to discuss the fee

most sublime logic
wise bench preferred to ignore,
a motion denied

my affordable
expert collapses on stand
got what I paid for

brilliant advocate
never an antidote for
the vanished witness

review firm accounts
to ensure flowing of funds
is more in than out

berate staff today
revolution tomorrow
answering own phone

three years of learning
a crash like house of cards, the day
after bar exam

dream of retiring
head held high, name never on
bar discipline list

switch text to image
before sending, or face scourge
of metadata

young associate
offer homage to mentor
kiss posterior

partner: nurture your
associates lest they quit
compete against you

shorter brief better?
doesn’t matter, judge isn’t
buying anyway

in restroom visit
take care — iPhone, BlackBerry
not good in water

for every thousand
words lawyer speaks, client gets
25 or so

possess competence,
honesty, efficiency,
and good insurance

in litigation
all evil springs from one well
opposing counsel

legal research feels
like hunting prey that pauses
never a second

the clever lawyer
hides like a jungle cat on
Friday afternoon

learned counselor
knows believing own B.S.
path to disaster
A GOOD DUI DEFENSE CAN HELP YOUR CLIENT GET THEIR SPACE BACK.

WE HOLD THE KEY.

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

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