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Letters to the Editor

Bar News welcomes letters from readers. We do not run letters that have been printed in, or are pending before, other legal publications whose readership overlaps ours. Letters should be no more than 250 words in length, and e-mailed to letterstotheeditor@wsba.org or mailed to WSBA, Attn: Letters to the Editor, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330. We reserve the right to edit letters. Bar News does not print anonymous letters, or more than one submission per month from the same contributor.

Is WSBA sitting on sackfuls of cash?

Recently, WSBA published its financial report for the year ending September 30, 2005. This report shows that general revenues for the year exceeded expenses by over $1 million. These excess funds are added to WSBA’s existing net assets resulting in a new total of nearly $4 million. The Board has wisely established a policy of creating an operating reserve, as well as a capital reserve for the upcoming move to new offices. That still leaves a balance of over $1.8 million as an unrestricted surplus. A similar situation exists for the “self-funded” CLE programs with a surplus of over $1.5 million.

Since general revenues continue to greatly exceed expenses resulting in another increase to WSBA’s surplus, even after prudent provisions are made for contingencies, perhaps now is the time to consider a reduction in bar dues. The WSBA is a nonprofit organization and there is little need to continue to build unrestricted surpluses.

Joseph H. Langjahr, Seattle

WSBA EXECUTIVE DIRECTOR JAN MICHELS responds: Mr. Langjahr has correctly read and interpreted WSBA’s 2005 financial report. The surplus of revenue over expenses in 2004 and 2005 are primarily attributable to two factors: (1) unanticipated growth in miscellaneous revenue sources such as pro hac vice filing fees, reciprocity admissions, interest income, recovery of discipline costs, Bar News advertising, and diversion fees; and (2) deliberate under-expenditures in direct expenses. In these years, WSBA budgeted conservatively and was concerned about projected significant increases in expenses in the construction trade that would impact WSBA’s December 2006 relocation to Puget Sound Plaza.

There was an unrestricted surplus of $1.8 million at the end of 2005. However, the Board of Governors’ Budget and Audit Committee projects that approximately half of this unrestricted surplus will be required for the December 2006 relocation. The remaining unrestricted surplus may be needed in the next few years to fund capital acquisitions such as technology projects, office equipment, and an electronic records system. Any surpluses will also be considered when we set license fees in the future.

We appreciate Mr. Longjahr’s observations and certainly agree that the WSBA need not develop large or growing unrestricted surpluses without a specific purpose.

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our consent. Washington’s “all party” consent rule for recordings does not seem to apply to federal court proceedings at all. In a recent federal trial in Washington, a prior illegal recording that was taken in Washington without the other party’s consent years before any indictment was issued was used as substantive evidence against the defendant over defendant’s objection. In the same case, the government initiated a call in Washington to the defendant in Washington where the government had a person record his conversation with the defendant without defendant’s consent. That recording too was substantive evidence in the trial over defendant’s objection under the 9th and 10th amendments. (The 9th Circuit finds no Fourth Amendment problem). It appears to me that there is a sovereignty issue especially when the federal law (one party consent) has not preempted the “all party” consent states.

Glen Prior, Fife

A magistrate is a magistrate is a magistrate judge

I read with interest the article by attorney Robert A. Medved regarding e-discovery in your June issue. All should heed his concluding advice. His reference to Judge Hedges as a “U.S. Magistrate” should be revisited.

I write as chair of the executive board for the 9th Circuit Conference of United States Magistrate Judges. In 1990, Congress expanded the duties and responsibilities of judicial officers who until that time had been known as “magistrates.” The 1990 amendment to 28 U.S.C. 631 changed the position title to that of United States Magistrate Judge. Although the change has been noted in the Associated Press Stylebook, it seems that the media, and oddly the bar, have had difficulty recognizing this 16-year-old redesignation.

This is not a matter of arrogance or ego on the part of our judges. It is simply a request that the judicial position be recognized for what it is. To refer to a magistrate judge as a “magistrate” is akin to referring to a district judge as a “district” or a bankruptcy judge as a “bankruptcy.”

Outside the courtroom and my official responsibilities, I prefer to be called “Kelley.”

J. Kelley Arnold, Chief United States Magistrate Judge, U.S. District Court, Western District of Washington

Time to invest in a tumbrel factory?

“What judge in his or her right mind would stay on to the bench in a system where unhappy litigants have such a
remedy at their disposal?” asks Washington State Bar Association’s president, S. Brooke Taylor.

This reaction is typical of the opposition — those for whom the initiative applies — and it is flagrantly disingenuous and deceptive. As was quoted in the article, the proposed Amendment E reads clearly, “No immunity shall extend to any judge of this State for any deliberate violation of law, fraud or conspiracy, intentional violation of due process of law, deliberate disregard of material facts, judicial acts without jurisdiction, blocking of a lawful conclusion of a case, or any deliberate violation of the Constitutions of South Dakota or the United States, notwithstanding Common Law, or any other contrary statute.”

The amendment provides no remedy for unhappy litigants. None. That is neither the intent nor the effect. On the contrary, the intent and effect of this amendment is strictly law enforcement, and the screeching objections by the members of the bar are highly indicative of the very problem that prompted so many tens of thousands of South Dakota citizens to put the J.A.I.L. initiative on the ballot. Where there is intimidation to me.

So what lies ahead? You say that legislation was the job of Congress. Immunity isn’t found in the preamble of our constitution of South Dakota. Nor the Constitution of the United States of America. “Judicial Immunity.” That is something that judges gave themselves. It is not in the Constitution.

So how was this judicial immunity created? Not by God. By judicial legislation. And you thought that legislation was the job of Congress. Only in those “fine members” of the Bar Association. What is the remedy? Certainly not the courtroom. They own the place.

You say, “Why is this happening, and why in South Dakota? Curiously, there is nothing of note going on in South Dakota judicially or politically that would encourage this effort. There have been no incidents of conspicuous judicial misconduct, nor any decisions that have sparked public outcry.” Just because the media does not want to get involved, and bite the hand that feeds it, does not mean it is not and has not been going on. Not only judges, but Legislators also need to be held accountable. Any departments of Government need to be held accountable.

Yes, as you say, the South Dakota Legislature took the extraordinary step of passing a resolution unanimously (not true) imploring its citizens to oppose the ballot measure. Before the citizens even had a chance to vote on it, as it already was on the ballot. That is violation of Constitutional law and statutory law. There needs to be a lawsuit here. Also there is a big push to replace lots of legislators, while the legislators want their “term limits” back again after being voted on by the people. They think they need to be there for the state to operate and probably to keep the people under their thumbs.

Who are the “many South Dakotans” who are joining the legal community to oppose this measure? I have not heard that. Sounds like more intimidation to me.

Sorry, I do not buy your story. It sounds like the same one the South Dakota Legislature has used.

Lawrence C. Schroeder, Coordinator, CURE, S.D., Sioux Falls, South Dakota

I want to express my gratitude for the articles you have written concerning J.A.I.L. at the same time, wanting to say thank you to the guilty dog that barked loudest, who sits in the legislature, and violated the law, spending the peoples money to oppose the will of the people, and put the word out to vote no on Amendment E.

I remember a man who once said, “Give me good publicity, give me bad publicity, it matters not, publicity is what we need.” We will have J.A.I.L. not just in South Dakota, but in every state.

It’s time for the Bar to get out of the other two branches of government.

Sherree Lowe, Oregon J.A.I.L. (no city given)
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Equal Time

S. Brooke Taylor, WSBA President

My June column, titled “South Dakota Heads for J.A.I.L.” apparently struck a nerve, and the response has been fast and furious. After one angry call and numerous e-mails taking me to task, it did occur to me that the column presented only one side of the story, and perhaps it would be fair to give “equal time” to the proponents of the South Dakota initiative.

Therefore, I am providing here some messages received within a few days after that issue of Bar News was distributed. (The messages are presented here as they were received and have not been edited.) Mr. Tony DiGiesi, of the “New Jersey Citizens for Justice,” in commenting on the doctrine of judicial immunity, had the following to say:

It makes no sense “Common or Horse”, for such a Policy to ever have seen the Light of day except for the EGG HEADS of Society in the Legislatures and the Judicials.. It is unheard of in the annals of a Free Society to endow Immune any Individual who knowingly and disregards the Mores of Fair Play and the Laws the States and is encouraged to do so.. by the Doctrine of Judicial Immunity where the Idea ever originated I wish I knew…perhaps it could have been nipped in the Bud. Often this things sneak into being without consent of the Governed a precept of the Documents this Nation was founded upon..When the Law is not respected only another “Revolu- tion” by the people can redress this out of Control Judiciary and Government...It gives one Pause when wonder why Na- tions of the World now disrespect America to such an extent that they Fly plane into our ICONS...in disrespect a Notion who’s blood had freed the Word of Fascism and Communism and now espouses Luciar- visum which is an OFFENSE to ALL “free thinking Individuals” Shame on them all for this SIN against Humanity...

Vashon, Washington, resident David Estes provided the following appraisal:

I have read your article on the J.A.I.L. initiative in South Dakota. I see that you are trying to distort the purpose of the initiative as the bar has done in South Dakota. I hope that you do not think that J.A.I.L. will not be coming to the State of Washington. I am a member of JAIL and plan on organizing an attempt to put J.A.I.L. on the ballot here. Your turn is coming.

K. Reile, whose name appeared above the title “We the People” on the e-mail, apparently agrees that there is no particular case in South Dakota that is attracting attention, but agrees with very little else:

After reading your article about “J.A.I.L. for judges” in the recent June 2006 Presidents Corner section, we have come to the sad conclusion, that possibly, you are actually unaware that events are happening EVERYDAY in courtrooms, not only South Dakota but New York, Ohio, Illinois and every other state in the union, that would encourage this effort. If you would review a local city court case, a circuit court case, an appeals court case, just pick one, it really does not matter, you will find SO many judicial improprieties going on that the people are simply getting fed up with it. The days of judges denying due process, jury nullification, evidence and witness tampering are over. Simply because there is no high profile media case in SD to pin this on, makes you think this is some lone nut pushing an agenda. Pretty typical coming from the Bar, and pretty pathetic.

E. Motta of Montana was quite succinct in thanking me for providing unintended ammunition for his movement:

I will pass it around to everyone I know. You just made the reason and need stronger FOR J.A.I.L!
Finally, Jeff Coder finds the members of the judicial branch of government at fault for allowing a situation to occur where such an initiative is necessary. He is amused by this behavior:

*I find it amusing that lawyers and judges here in Washington State are scrambling like cockroaches under a spotlight to stop any such JAIL initiatives from happening in this state. The question I would have to ask you guys is why did you allow the system to deteriorate to the point where “we the people” had no other recourse than to take matters into our own hands. The Bar Associations don’t do an effective job of policing their lot, so what other recourse is there? The system is broke. Even a blind man can see that! Why is it that there is such a high percentage of politicians who are also lawyers? You guys have cut deals behind our backs for years and now our once proud Republic has slowly been transformed into a 3rd world police state. The people in our judicial system sat by and allowed this to happen while their cronies stole our liberty like a thief in the night. Personally I think the JAIL concept is long over due and a house cleaning is in order. After all you guys were unable or unwilling to clean your house so we will clean it for you.*

I cannot quarrel with the contention that my column did not present both sides of the story. However, these responses do support my conclusions that “the proponents are dead serious” and “Mr. Branson claims to have organizations in all 50 states ready to march ahead.” Those assertions do appear to be true.

The proponents of the JAIL initiative have now had equal time, and this will conclude the dialogue. I have not changed my opinion, and I make no apology for the column. But I do feel better now.

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

- Father died when he was two, and mother waitressed at a dime-store luncheonette.
- At age 10, helped support the family by catching a 4:30 a.m. bus to pick strawberries.
- After high school, enlisted in the Air Force but missed out on the GI Bill.
- Worked his way through college as a janitor, then landed at Yale Law School.
- Unsure about practicing law until taking on a suit with his wife Peggy and himself as plaintiffs. Argued the case before the Washington State Supreme Court—and won!
- After 30 years, still finds joy in helping victims of negligence and having lunch with his partners.
- Adopted four of the five children in his multi-racial family, ensuring lively dinner conversations.
- Bears an uncanny resemblance to PBS’s Red Green but handler with duct tape.

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A New Era Deserves a New Divorce Model

Achieving equitable divorce settlements means understanding modern social and economic trends

by Janice Reha and Kathleen Miller

Two-and-half decades ago, the United States was at the tail end of the Manufacturing Age. At that time, most people worked in one company for the duration of their work lives. During the height of the Manufacturing Age, one person (usually male) could support three or four other people in a household. Women traditionally raised children and kept up the home. If they did work outside the home, it was generally in lower-paying jobs than their husbands. For example, nearly half of women graduating from college in 1960 became teachers.

Twenty-five years ago, life planning was simple and much more defined in linear terms. In 1978, author Richard Bolles defined life planning in his popular book *Three Boxes of Life* in terms of education, work, and retirement. Times have changed dramatically. Education, work, and retirement may remain the pillars for life planning, but the lines of the boxes have blurred as society and the economy have become more complex than ever before.

Today, the United States participates in the Global Age. Technology has produced new occupations, many of which have no defined titles. People change jobs seven to nine times in a lifetime due to restructuring, technology, and economic concerns. The United States has moved from a more predictable, consistent workplace to one that is constantly forming, dismantling, and reforming to compete internationally. Yet, we are still using the same mindset of 25 years ago when addressing divorce and implications of dividing property. This macro shift requires a new, more dynamic, multifaceted, and individualized model for divorce settlements that reflects current social and economic trends.

New Era = New Model

Our colleague Hank Fields points out in his article in this issue of *Bar News* (pp. 22-29) that the courts have for too long applied a one-dimensional model for maintenance awards and property settlements. The courts tend to base these settlements on the assumption, often false, that both spouses can be equally self-sufficient. In reality, marriage creates economic inequality. Consider the following research:

- Mothers typically experience a sharp decline in economic status and often descend into poverty with their children following divorce. Nearly 40 percent of divorced mothers are poor. And even if the children of divorce do not end up in literal poverty, they are less likely to reach their parents’ social and economic level or obtain a college education (*Unbending Gender: Why Work and Family Conflict and What to Do About It*, Joan C. Williams, American University, 2003).
- Women who interrupted their careers or were full-time homemakers and didn’t create their own retirement accounts, and are divorced at an older age with a longer life expectancy, often have inadequate financial resources during the most vulnerable time in their lives.

A new divorce settlement model needs to focus more on the division of income for a longer period of time, taking into account the career assets rather than simply the length of marriage. To divide marital property equitably, the major breadwinner’s career and the associated earnings that go with it must be acknowledged as property by the courts. Assets including salary, stock options, health and disability insurance, vacation and sick pay, education, and
potential earning power are all assets that were earned during the marriage and should be accounted for during a divorce settlement.

Of course, assessing the economic value of career assets and forecasting their value to both parties is a much more difficult task than simply applying a length-of-marriage test. Under this divorce settlement model, every divorce negotiation requires a unique and innovative approach, given the career and

52 percent of women's first marriages may end in divorce by this age. There is also research indicating that people in second and third marriages are even more prone to divorce.

As a result, many women enter their senior years divorced. For women who were born between 1951 and 1955, a projected 20 percent will be divorced by age 67, according to a study published by the University of Michigan ("The Economic Status of Elderly Divorced

Women also are at a disadvantage when it comes to saving enough for retirement. Social Security is still a mainstay of their financial security. Women earn less than men, save less than men, and are less likely to have a pension than men — but are likely to outlive men. Earnings are what make retirement savings possible, and these earnings are the yardstick used to calculate Social Security benefits. With a history of unemployment or underemployment, women are stuck in a cycle where they will have less Social Security and retirement income and yet have a greater need.

**Workplace Trends**

Outsourcing of jobs from the United States is accelerating. According to *Outsourcing Times* newsletter, 406,000 U.S. jobs were outsourced in 2004. This acceleration is expected to continue for years to come. Job losses also have occurred due to mergers and acquisitions, many of which have occurred in Washington state where the unemployment rate has been one of the highest in the nation.

Meanwhile, the weakness in the labor market means growing numbers of temporary jobs. Temporary staffing practices that were considered temporary fixes in the early 1990s are now commonplace in many businesses, according to Peter Cappelli, of the Wharton School of Business in Philadelphia. Cappelli’s research shows there are 24.2 million part-timers in today’s workforce of 131.5 million people, up from 23 million when the expansion began in November 2001. The number of temporary workers, meanwhile, rose by 309,000, to 2.6 million. These “just-in-time” practices make it easier to hire and fire, saving employers the cost of paying healthcare and other benefits of full-time employees.

Health-insurance benefits also have decreased in coverage. Employers are transferring more of the costs of healthcare to the individual worker, including the premium cost and payment of out-of-pocket expenses and prescriptions.

Another trend, which becomes more apparent when job loss occurs, is the increase of small businesses or self-

economic circumstances of the parties involved.

It also requires a more sophisticated understanding of the employment, retirement, and investment trends in the 21st century workplace and economy. Our goal is to outline some of the driving social and work trends of our time, and illustrate through case studies how understanding the trends can help divorce attorneys deepen their ability to represent their clients and lead to more equitable settlements for both parties.

**Social Trends**

Despite a growing female workforce and increased education, women are still at an economic disadvantage when compared to men, particularly following a divorce. The divorce rate has not declined, and multiple marriages mean more divorces. According to the *Journal of Family Issues*, approximately 50 percent of first marriages for men under 45 may end in divorce. Between 44 to
employment. According to the Small Business Administration (SBA), small firms employ half of all private-sector employees and generate 60 to 80 percent of new jobs annually.

Also, a declining proportion of workers can count on defined-benefit payments to see them through lengthy retirements. Pensions are being replaced with self-funding plans, such as 401(k) plans that may have a profit-sharing or matching component. The risk of the investments has been transferred to the employee from the employer. The problem is that many people mismanage these assets.

The soaring stock market of the late 1990s lulled many workers into complacency with regard to saving in their 401(k) plans for retirement. The bull market of the 1990s fueled a crazy kind of optimism regarding retirement, but the first four years of the millennium offered the first back-to-back declines of the S&P 500 Index since 1973-74. Those invested heavily in technology and the stock market in their 401(k) plans have seen the erosion of 50 to 70 percent of their retirement savings. The decline in stock prices then, and the outlook for only modest returns going forward, have caused baby boomers and other workers to reassess whether they really have enough saved for retirement. Most have not. With job security and benefits less concrete than in the past, divorcing parties need to realize that the income they relied on during their married life is more at risk than ever before.

**Longevity Trends**

The American worker is aging, and life expectancy continues to increase the danger of outliving one's asset base. For many years, the economy, pension plans, and the government supported the concept of a mid-60s retirement. But over time, demographics, economic forces, and divorce will make this standard harder to achieve, leaving it increasingly up to the individual to build a nest egg large enough to avoid the late-retirement trend.

In 1940, when Social Security was initiated, the average life span for a male at 65 was 77.7 years; today it is greater than 80. The average life span for a 65-year-old woman in 1940 was 79.7 years, and in 2004 it was nearly 84, according to the Social Security Administration. As a result, the government is enacting pension reforms. It is delaying the age at which one can receive full Social Security benefits and Medicare, sharing Medicare premium payments between the government and the retiree, increasing the restrictions with Medicaid, and encouraging the older worker to self-fund and stay in the job market longer.

Demographic changes also will drive up the cost of home healthcare. The number of people needing help from family caregivers is expected to skyrocket in the next few decades. Leading the change will be the baby boomers looking for help with their parents and, later on, for themselves.

**Retirement Trends**

As the fear of being broke in the later years increases for today's mid-career workers, the genesis of a solution is emerging: Many baby boomers simply won't retire or will retire later than they expected to. For many decades, rising affluence allowed the average age at retirement to fall. Since the mid-1980s however, this trend has reversed, with the
labor-force participation among older American workers rising dramatically.

In 1984, just 27 percent of the income of people aged 65 to 74 came from wages and salaries. By 2002, this had jumped to 37 percent. This surge in the older work force has continued unabated in the last few years, even as other age groups have pulled back from the labor market in reaction to a sluggish economy.

More importantly, companies will need to utilize baby boomers, due to their growing number in the population and the much smaller number of younger people who follow them. The exodus of baby boomers will start in 2009, when the oldest of the group turn 63. As there will be a dwindling number of younger workers, there will be fewer workers to fill jobs, and there will be more job opportunities for older workers in the workforce.

The implications of these work and aging trends are several. First, divorce attorneys and their clients need to become better at estimating how much they will need in retirement, based on how long they expect to live. Workers facing much weaker job security than ever before need more education and flexibility in career choices. They will also need to take a closer look at their medical expenses and long-term care, as well as any obligations they may have to care for aging parents. Most divorcing spouses will not have any choice — the majority of them will need to work longer to pay for the costs of dividing the household assets and income as well as supporting their children.

Housing Trends: Sell the Family Home?
This area of post-divorce financial planning warrants particular attention, because it is a flashpoint for tension and controversy. For most married couples, the family home is the highest valued asset they will divide in their divorce. Its division is usually fraught with controversy for various reasons — it is difficult to value, is not readily converted to cash, costs a substantial amount of money to maintain, and has federal- and state-tax liability implications. Add to that all of the emotional attachments.

Home prices nationwide have climbed an average of 40 to 75 percent in some areas over the past five years. Homeowners have tapped into low-interest home-equity loans to take vacations, remodel, purchase second homes — even for cash. Many banks have allowed homebuyers to get loans when their mortgage payments total as much as 50 percent of their monthly income, up from the more customary limit of about one-third in past cycles. This debt eventually needs to be paid off. And if the home equity has aggressively been tapped, there is less to divide between the spouses at the time of divorce.

Often, the spouse who gets the house can’t afford to maintain it. This is known as being “house poor.” Child support and maintenance can help for a time, but if all of the money is going into the house and little to savings and to a career plan, the end result is not good.

Securing an Equitable and Stable Post-Divorce Life
The two case studies on pages 20 and 21 were developed with the help of attorney Hank Fields. The studies are representative of the complex social, financial, and career situations we are seeing in modern divorce cases. Under the old model, length of marriage and age were given the most weight. A modern settlement should bring greater balance, yet address the unique circumstances of each couple. Each scenario considers:

- Salary and wage information
- Education levels
- Occupational choices and trends
- Age
- Dependent children
- Length of marriage
- Remarriage patterns
- Longevity

Each scenario is also tailored to the individual needs of the divorcing couple. The cases show how — with the help of a team including an experienced divorce attorney, a career counselor, and a certified financial planner experienced with divorce cases — the parties can achieve an equitable settlement that is fair to both and meets the needs of their children as well.

As our society continues to change and evolve, we must broaden the way we look at divorce and the financial implications for all parties involved. Our hope is that attorneys and their clients will realize that equitable divorce settlements can be achieved for both parties when they are willing to address the significant social and economic changes of our time.

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John is a 52-year-old mid-level manager at a manufacturing company that has just merged with a larger company. He has an MBA with a specialty in finance completed 12 years ago. He makes $125,000 plus a $10,000 bonus per year. His employer matches three percent of his income in a 401(k) profit-sharing plan.

Jane, his wife, is 51 and has been a stay-at-home wife and mother for the length of the marriage. She has an AA degree and was an administrative assistant at the same company where they met 19 years ago.

John and Jane have two children, ages 15 and 13. Jane has been raising the children and helping to coordinate her elderly parents’ care as they have moved to assisted-living facilities. Jane’s mother is 77 and her father is 84, and they live in a small town 30 miles away. Her father’s health has been declining and she is in the early stages of Alzheimer’s disease. He will require more care than her mother. Jane’s parents sold their home and used the $175,000 equity to maintain herself for approximately four years in an apartment. John’s sister lives near their mother and helps to coordinate her elderly parents’ care.

John’s widowed mother is 78 and lives out of state. She is in an interim-care facility after having hip surgery. She will not be able to return to living in her former home, and John is planning to have her move to an assisted-living apartment. John’s sister lives near their mother and has provided help with the physical care of their mother in lieu of giving money, and she works full-time.

John and his sister agreed that he will pay for domestic help and she will give more time to their mother, who has sufficient assets to maintain herself for approximately four years in the retirement home. If her health deteriorates more rapidly, assets from the sale of her home will have to be used to provide care. The family expects to net approximately $200,000 from the sale of her home.

Jane had been previously married at age 22 for three years with no children — a “starter marriage.” She had no separate assets at the start of her marriage to John. This is John’s first marriage, and he has separate assets from a previous 401(k) rollover retirement account. He used $8,000 in funds from the sale of his first house before marriage to purchase the current residence in joint name.

• Both John and Jane must reduce living expenses.
• Because Jane gave up a career to be the primary caregiver to their children, she will need to increase her education in order to support herself over the long term; however, she is also competing for education funding with her soon-to-be college-age children.

• Both Jane and John will have to work longer and retire later.
• Neither Jane nor John participates in a pension plan — only a profit-sharing plan for him and a Roth IRA for her.
• The Social Security life-expectancy table updated June 2004 gives Jane a life expectancy of 81.7 years and John 77.9 years.

• Based on their mutual experiences with aging parents and the trend of employers passing more responsibility for healthcare costs to workers, the increasing cost of medical care is a concern for both Jane and John.

Jane will need two years of financial maintenance while attending college full-time. An additional three years of maintenance will be required, with the last year at a reduced rate for her to promote her business and work part-time. The career and financial plan will afford Jane the flexibility to attend to her teenage children’s needs.

**Finances/Maintenance**

The couple enlisted the help of a certified financial planner to help them divide their assets. They will sell the family home, and each party will downsize to a $200,000 home or condo with a $100,000 mortgage. Jane will rent a home at first, because she will earn more over the long-term by investing in education rather than investing in a home and foregoing her education.

They have agreed to live in the same neighborhood near the children’s schools and share caring for the children. John will pay child support of $600 per month per child until they are age 18 or graduated from high school, whichever is longer.

Jane will file her taxes as head of household, and John will file as single. They will each claim one child as a deduction.

College funding will be split between the parties based on their pro rata share of earned income when the children are enrolled in a community and/or state college. They would like the children to go to the community college for two years, work during the summer, and use school loans for the difference.

John will provide healthcare coverage for the children. Jane will fund her health coverage with an individual policy based on her health. Otherwise, she will take COBRA coverage under John’s plan. This is typically more expensive coverage, and she will apply for healthcare coverage with AARP. They are each planning to purchase a minimum long-term nursing care policy and will jointly apply before the divorce is final to qualify for preferred health and couples discount. They anticipate an annual premium of $1,500 per year for each policy.

Their investment assets in the retirement plans and individual holdings were depleted by more than 50 percent during the 2000-2002 market decline. After meeting with their financial advisor, they have each created a disciplined asset-allocation plan with their remaining assets. Their diversified equity portfolio is limited to a maximum of 75 percent of the investment assets.

John and Jane will divide their retirement assets evenly, and the overall division of property will be 55 percent to Jane and 45 percent to John. Meanwhile, John will have significantly more in his Social Security plan at full retirement — age 67 under the current rules. Jane will fund a Roth IRA while receiving maintenance to offset this difference. John will contribute three percent into his 401(k) plan for the next five years rather than the maximum allowed contribution. As a result, both Jane and John will have to work into their early 70s to fund their retirement.

**Discussion**

The Social Security life-expectancy table updated June 2004 gives Jane a life expectancy of 81.7 years and John 77.9 years. Jane will file her taxes as head of household, and John will file as single. They will each claim one child as a deduction.

College funding will be split between the parties based on their pro rata share of earned income when the children are enrolled in a community and/or state college. They would like the children to go to the community college for two years, work during the summer, and use school loans for the difference.

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Divorce Settlement Analysis: 6-Year Marriage

Scenario

Andy is 44 and was a staff accountant in a national manufacturing firm earning $55,000 per year. Due to the outsourcing of tax returns to India, there has been a squeeze on wages and actual jobs for his department in the United States. Since losing his job 18 months ago, Andy has been trying to find a position with a local accounting firm. This has proven to be difficult because he does not have a client base, it has been more than 10 years since he has worked with individual clients in an accounting firm, and he is not a CPA.

Andy has not had any success finding another position in a mid- to large-sized firm as a staff accountant. He has found that any new openings in accounting firms are going to young CPAs who are willing to prospect and bring in new business and work 60 to 80 hours per week at a starting salary of $36,000.

Andy’s wife, Barbara, is 45 years old, a patent attorney, and a partner in a mid-sized legal firm earning $150,000 per year — the “alpha earner” in their marriage. Barbara became a partner two years ago.

Because Barbara has a stable and high-paying position, and the costs of full-time daycare were too expensive with Andy not working outside the home, they agreed that he would seek employment while helping the family as a stay-at-home dad to their preschool-aged daughter. However, both Barbara and Andy are unhappy with this arrangement.

Due to Barbara’s need to put even more hours into her practice now that she is a partner and primary wage earner for the family, she has spent even less time with her daughter and feels that Andy could find work if he wanted to. She has too much pressure and resents having less high-quality time with their daughter. Barbara has always wanted a career and was happy with the marriage when they were a dual-career couple. She now knows that she wants a financial partner in marriage. Thinking Andy would find another job soon, they did not change their lifestyle while he was out of work and drew down their assets to cover expenses.

Their daughter will start school full-time in the next year, and her daycare needs will be reduced to after-school care five days a week. Each parent plans to share the evening and weekend care of their daughter after the divorce is final. They have seen a mediator and have negotiated a flexible temporary parenting plan.

The family home is valued at $450,000, with a $350,000 mortgage and fixed interest rate of five percent over 28 years remaining on the loan. They each have separate property, and each will keep this money separate from their overall property division.

Discussion

• Non-traditional marriage — Barbara is the higher earner while Andy needs career counseling and further education.

• Offshoring of jobs and self-employment model changes educational and career plan.

• Andy chooses to invest in education and a new business instead of buying a new home.

• Their six-year marriage would qualify as short marriage under the currently accepted legal definition of marriage. However, they will focus on the need for a career change and support of their child rather than the length of marriage when coming up with the division of assets and the amount and duration of maintenance.

• Barbara and Andy will need to reduce living expenses and will work past their traditional retirement age to 70 or beyond.

Solutions

Career Plan

Andy has always had an interest in investments and personal financial planning and would like to earn his CFP and open his own financial-planning practice to provide him with the opportunity to own and control his own business and have the potential for more earning capacity. Andy chooses self-employment over a corporate position because, even if he could find corporate work, he does not want to face downsizing. He also has been envious of his wife’s career advancement and her ownership in the law firm.

Upon completing his career assessment with a career counselor, Andy confirmed his career direction. One recurring career theme was his strong sales orientation. Therefore, Andy is entertaining the possibility of starting his own financial business. He will enroll in an intensive CFP correspondence program and a tax course, which will take one and a half years to complete. Andy will create an intense flexible study schedule for the next two years that will allow him to drive their daughter to and from school and provide three days of after-school care.

Once Andy completes his CFP, it will take him two to three years to build up his practice. It is assumed that he will make net earnings after expenses of $20,000 his first full year and $45,000 the second. Andy believes that he will be earning $100,000 net within five years of completing his education.

Finances/Maintenance

After discussing their assets with a certified financial planner, Barbara agrees to pay Andy maintenance of $4,000 per month for two years, and Andy will pay Barbara $300 per month for child support, which will be reviewed every two years with mediation if needed. Barbara will also pay a reduced maintenance of $2,000 per month for an additional one year, to get Andy to the point in his new business where he is making close to his previous salary. Andy will use investment assets to fund his education over and above the maintenance or supplement with part-time work, as his schedule permits.

Barbara will keep 29 percent of their joint retirement assets and Andy will take the remaining 71 percent. They will retain separately the retirement assets they had prior to the marriage.

Barbara will keep the family home in lieu of more current retirement assets and have primary custody of their daughter. Andy will rent instead of buying a home, and invest in his career. A vacation home they own jointly will be sold, and they will split the proceeds evenly.

They will renegotiate child support in three years after Andy has completed his education and started to develop his business. By agreement, they will adjust the child support annuity based on the historical Consumer Price Index for the next three years and beyond. (This has averaged 3.16 percent over the past 20 years, through the end of 2003.)

Barbara will file as head of household and keep their daughter as a deduction. Andy will file as single with one deduction. Barbara will self-fund his medical-coverage benefits package by purchasing an individual health-insurance policy, which is less expensive than going on COBRA coverage with her employer plan. Their daughter will be covered on Barbara’s medical plan at work. They will share the medical costs for their daughter 50/50 after insurance payments.

Andy does not anticipate funding any money toward his retirement for at least three years. Barbara plans to contribute to a Roth IRA vs. her 401(k) plan for the next three years. Neither has a pension plan and they have always self-funded their retirement through retirement plans at work.

Barbara and Andy plan to work to age 70 or beyond, although under the current Social Security rules based on their ages, the full retirement age is 67 for each of them.
Divorce Settlements: Shedding New Light on Old Assumptions

An overdue look at Judge Winsor’s 1982 marriage dissolutions article: Does it apply today?

BY HANK FIELDS

RCW 26.09.090 requires trial courts to consider a number of factors in determining the amount and duration, if any, of spousal maintenance, including “. . . the duration of the marriage” (see RCW 26.09.090 (1)(d)). However, the extent to which consideration of the length of marriage would constitute an abuse of judicial discretion in fixing the duration of spousal maintenance is unclear.

There is not a single published appellate decision that discusses the relationship between the length of a marriage and the length of a spousal maintenance award. Retired King County Superior Court Judge Robert Winsor wrote an article on the subject in Bar News 24 years ago ("Guidelines for the Exercise of Judicial Discretion in Marriage Dissolutions," January 1982). Judge Winsor’s article has been referenced in the dicta of case law on property division. Judge Winsor’s suggestions appear to have become an unstated, and sometimes an inaccurately understood, unwritten litmus test impacting trial decisions and mediated settlements.

The article was written so long ago and references to it have been so common for so long, that, at least in my experience, it is often paraphrased for things it does not say. The article was written at a time when formal mediation was a glimmer on the horizon. Now, with formal mediation an integral part of the marital-dissolution process in several counties, the Winsor article often serves as a guide to mediators who cite it, sometimes even for principles it does not advocate, in an effort to break through negotiating impasses. This occurs because experienced family law practitioners and mediators alike retain impressions of an article they have not read in a long time.

With respect to what Judge Winsor has defined as mid-range marriages — those from seven to 25 years — his suggestions warrant more careful scrutiny in light of significant economic and sociological changes and trends that simply did not exist, except in rare instances, 24 years ago.

I hope that, in the context of those changes and developments, a reexamination of the conclusions of Winsor’s article will aid both lawyers and judges in fashioning more creative and equitable decisions in the future as they pertain to spousal maintenance as well as property awards. Toward that end, I begin with a brief summary of the suggestions and premises of the article.

Premises of the Winsor Article

Judge Winsor suggested, on the exercise of judicial discretion as to the length of maintenance based on the duration of the marriage: "Presumably in a short marriage maintenance would not be paid, except in extraordinary circumstances or perhaps for a very brief adjustment where necessary, e.g., if one of the parties gave up a job to relocate or otherwise accommodate to the marriage, that would be an extraordinary reason to . . . allow brief maintenance during a relocation period."

He defined short marriages as marriages of seven years or less, and suggested the court should look “backward” to put the parties where they would have been had they not been married, since “. . . the marriage has in fact not been the significant event that normally is presumed. Particularly, there has not been a long reliance on the marital relationship.”

After a discussion of long marriages, Judge Winsor defined mid-range marriages as between seven and 25 years.
He suggested that the court should “. . . partake more or less of the long or short marriage considerations and goals as set forth above, depending primarily upon the length of the marriage and the necessaries. Maintenance, where appropriate, is likely to be used only for fixed terms of months or years in these settlements. The term ‘rehabilitative maintenance’ applies most generally to mid-range cases.” Notice, he does not suggest what the maximum duration, the “fixed term” should be. However, it is on this point that the thrust of the article has been largely misunderstood and misapplied.

As to long marriages, which Winsor defined as 25 years or longer, he observes: “. . . one of the spouses usually is stranded in a situation where she (sometimes he) is very much behind the other in earning capacity. The judge should redress the balance.” He goes on to point out that maintenance in such cases may be permanent depending on the disparities, or not at all, depending on the size and nature of the property division.

The article suggests that rehabilitative maintenance would not be appropriate in a short marriage, except in exceptional circumstances. Would a situation in which a spouse who gives up a career to be a stay-at-home parent for five or six years and whose employment skills may be outdated be considered an exceptional circumstance?

The article also suggests that the economic disparities that may well exist in a mid-range marriage of 20 years, more or less, would not warrant the same duration of maintenance as in a long marriage of 25 years. Would this be true even if the economic disabilities and the prospects of the future earnings prospects may otherwise be exactly the same? The answers are not clear. It is clear, however, that Judge Winsor never expected his article to be as dispositive or conclusive as it has come to be treated in practice.

Instead, his intent was to generate a discussion of the relationship between the length of a spousal maintenance award relative to the length of the marriage. Case law was virtually devoid of any informative guidelines to aid trial courts in the appropriate exercise of discretion. Thus, Winsor concluded his article by emphasizing: “. . . I know of no comprehensive statement of the goals that are to be achieved. There will doubtless be considerable disagreement with the specific examples and perhaps the goal as I have stated them, but at least it may be a beginning that may be helpful in searching for a consensus (emphasis supplied).”

Unfortunately, over the course of the last 24 years, the article, far from launching the discussion, appears to have put an end to it. I take Judge Winsor up on his suggestion, by turning to an analysis of the case law that has evolved since his article was published.

The article was written so long ago and references to it have been so common for so long, that, at least in my experience, it is often paraphrased for things it does not say.

The State of the Law and the Duration of Spousal Maintenance

Spousal maintenance is a creation of common law. The principles that governed the division of property, with its focus on the economic disparities of the parties as they face the future being the paramount consideration, is the common link that guided the exercise of judicial discretion, both with respect to property divisions and as to the amount and duration of spousal maintenance (see § 5723 Bal. Code, In re Cave, 26 Wash. 213 at 217 (1901)).

Washington’s most notable case on duration has nothing to do with the length of the marriage. After a 25-year marriage, a 49-year-old wife who had limited potential for any kind of career development was awarded spousal maintenance for 10 years. Pointing to the trial court’s observation that “her age, lack of training and qualifications will tend to confine her employment of low income and uncertain tenure,” as well as the burdens of child care of their last remaining child at home, a 10-year-old, the award of maintenance for 10 years was deemed an appropriate exercise of the trial court’s discretion. See In re the Marriage of Nicholson, 17 Wn. App 110, 561 P.2d 116 (1977).

The court also noted that the duration was particularly reasonable given the fact that maintenance, under certain circumstances, is subject to modification under RCW 26.09.170: “. . . and that is a factor which we have considered in reviewing the discretion which the trial court exercised in fixing the term of the maintenance award.”

There is still no published case law that discusses the relationship between the duration of the marriage and the duration of spousal maintenance. Nor does case law define short, mid-range or long marriages. References to those terms, here, are merely as defined by Judge Winsor in his 1982 article.

The first case to deal with the duration issue created the concept of compensatory maintenance where one spouse worked while the other attended professional school, and upon separation there is little property and significant debt. The
working spouse may even be self-supporting. In speaking to the propriety of maintenance in that context, the Washington State Supreme Court made it clear that the determination of the amount and duration of spousal maintenance is not a simple matter of need versus ability to pay, nor of some knee-jerk formula rendering the duration of the maintenance as some fraction of the duration of the marriage: "...[U]nder the extremely flexible provisions of RCW 26.09.090 . . . maintenance is not just a means of providing bare necessities, but rather a flexible tool by which the parties' standard of living may be equalized for an appropriate period of time (emphasis supplied). RCW 26.09.090 (1) (c), RCW 26.09.090 (1) (d). Moreover, the factors listed in the statue are not exclusive." In re the Marriage of Washburn, 101 Wash. 2d 168 at 178-179, 677 P.2d 152 (1984). Here the length of the marriage had no bearing on the duration issue.

Lifetime maintenance is appropriate "...when it is clear the parties seeking maintenance will not be able to contribute significantly to his or her own livelihood." In re the Marriage of Sheffer, 60 Wn. App. 51 at 56-58, 802 P.2d 817 (1990). In re the Marriage of Bulicek, 59 Wn. App. 630, 633-34, 800 P.2d 394 (1990). Each of these cases involved long-term marriages. However, in neither case did the duration of the maintenance turn on the duration of the marriage.

"Although it is generally not the policy of the state to place permanent responsibility for spousal maintenance upon a former spouse (citation omitted) there are circumstances which require a continuing obligation." In re the Marriage of Coyle, 61 Wn. App. 653 at 657, 811 P.2d 244 (1991). This was noted in a post-decree modification case.

In reliance on the principles announced in Sheffer and Bulicek, a permanent award of maintenance was reversed. The case involved a 25-year marriage, but the length of the marriage had nothing to do with the duration of the maintenance. The reversal occurred because the trial court did not find that the health problems of the wife "prevented her from working." See In re the Marriage of Mathew, 70 Wn. App. 116 at 124, 853 P.2d 462 (1993).

A 1995 case out of Division III is the only case that contributes some guidance. The parties had a mid-range marriage of 24 years, in which they lived together as husband and wife only during the first three years. Since they lived in separate bedrooms in the same house for the next 21 years, the trial court treated it as a short marriage and awarded the wife one year of maintenance. The case was reversed and remanded with specific directions: "...[W]e direct the trial court to treat this marriage as long-term . . . . Maintenance may be utilized to more nearly equalize the post dissolution economic conditions of the parties, especially considering Robert's superior earning capacity." See In re the Marriage of Terry, 79 Wn. App. 866 at 870-71, 905 P.2d 935 (1995).

More recently, in In re the Marriage Spreen, 107 Wn. App. 341, 28 P.3d 769 (2001), the parties had been involved in a mid-range marriage of 17½ years. The wife was originally awarded four years of maintenance. She later petitioned to modify, claiming that her mental-health problems had worsened since the divorce. The trial court, during the modification proceeding, limited an extension of her maintenance to one ad-
Kyle C. Olive

has joined us in representing individuals and families who have been wrongfully injured or killed.

Kyle has deep roots in the Puget Sound region, having grown up in the area and having attended the University of Washington and the Seattle University School of Law.

He comes to Fury Bailey following a judicial clerkship with the Honorable Tom Chambers at the Washington Supreme Court.

We welcome his arrival.
ditional year. That decision was reversed. The Court of Appeals, in coming to that determination, noted that both amount and duration are driven by all relevant factors under RCW 26.09.090\(^1\) and emphasized that the duration “...be just...” with primary consideration being “...the parties’ economic position following the dissolution.” More particularly, as to the duration, it noted: “What is a reasonable length of time for a divorced spouse to become employable and provide for his or her own support, so that maintenance can be terminated, depends on the particular facts and circumstances of each case. (Citation omitted.) In some cases a lifetime award of maintenance may even be just.” See In re the Marriage of Spreen, at 348 (2001).

The Spreen case is the one and only reported decision that suggests the possibility of permanent maintenance in what Judge Winsor’s article has described as a mid-range marriage, even though the duration of the marriage played no role.

These are the only reported decisions since the writing of the Winsor article that remotely deal with the question of the duration of maintenance. None of them provide any guide as to the appropriate weight that the duration of the marriage should play as it may impact the duration of the spousal maintenance award.

There is one unpublished decision coming out of Division I involving a short-term, six-year marriage in which the wife had HIV. In that case she was awarded “possible lifetime maintenance.” After citing Bulicek, Spreen, and Terry, the court, in its dicta, merely resorted to an observation of practice that maintenance is not generally awarded in short marriages, citing Kenneth W. Weber, Washington Practice: Family and Community Property Law, Section 34.7 at 358 (1997).

The court appropriately came to the conclusion that lifetime maintenance is proper when it is clear that the party seeking maintenance will not be able to contribute significantly to his or her own livelihood, citing In re the Marriage of Mathew, but held that the record before the trial court did not support such a conclusion because the wife had a continuing ability to work. As it bears on the issue of the relationship between the duration of marriage and the duration of maintenance, even if the case had been published, it would be of little precedential value, since it largely turned on the facts and not the length of the marriage (see DKRVVVRR, unpublished Number 50183-6-I, March 31, 2003).

Application or Misapplication of Winsor’s Premises

Given the lack of clarity as to what role the duration of the marriage plays, it is not surprising that the only attempt to draw some kind of rational linkage between the duration of the marriage and the duration of maintenance, even if the case had been published, it would be of little precedential value, since it largely turned on the facts and not the length of the marriage (see DKRVVVRR, unpublished Number 50183-6-I, March 31, 2003).

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Application or Misapplication of Winsor’s Premises

Given the lack of clarity as to what role the duration of the marriage plays, it is not surprising that the only attempt to draw some kind of rational linkage between the duration of the marriage and the duration of the maintenance award are the suggestions contained in Judge Winsor’s 24-year-old article on the subject. How then to gain perspective on what the article suggests?

Judge Winsor’s article does not advocate a formulaic approach to the duration of the maintenance award, such as one year of maintenance for every four years of marriage. In the experience of this author, I have actually heard the article cited for that proposition by implication. Not only does the article not suggest such an approach, but, if in the interest of predictability and uniformity of decisions such an approach were to be used
by a trial judge open enough to express conclusion, the decision might well be reversed on appeal, because it would fail to take into consideration all of the other factors that the statute requires, including the age and financial sources of the party seeking maintenance. See RCW 26.09.090 (1) (b).

The article’s suggestion that maintenance should be viewed as strictly rehabilitative in mid-range marriages, and how the article defines mid-range marriages, ignores significant sociological and economic changes, some of which

. . . another major sociological change, which is not the rule, but certainly is not the exception that it was 24 years ago, is that people more commonly marry and have children later in life than they did then. That means that after 15 or 20 years of marriage, the spouse who has played the role of homemaker and divorces with the primary responsibility of teenage children may have to face the prospect of retraining at an advanced age.

have already been addressed above. These developments require a harder look at the issue. The data summarized by Rhea and Miller in their article in this issue of Bar News (pp. 16-21) reveal a number of challenges that policy makers within the legislative and judicial branches have not historically had to face.

One is that solutions not yet found to correct an increasingly bankrupt Social Security system in the face of a baby-boomer generation that drains the system in higher numbers and for a longer period of time than the system was designed to accommodate.

A second is that the number of single parents not trained to realize their full economic potential also placed a greater challenge to a welfare system already scaled back. There is no safety net at the bottom under current law, and there is no opportunity to climb up and out. That was not the case when the Winsor article was written. It has been historically a policy underpinning the awards of spousal maintenance that the purpose of such an award is to make sure that society at large does not become responsible for supporting an adult divorced spouse. In fact, just as the Legislature was changing our law of marital dissolution from a fault to a no-fault system, in 1973 the Washington State Supreme Court observed: “Alimony’ is required by a public policy which has in mind not only the needs and equitable rights of the formal marriage partner, but also the concern that the burden of supporting that person should not fall upon the public (emphasis supplied).” See Thompson v. Thompson, 82 Wash. 2d 352 at 357, (1973). We now have a healthcare system in economic crisis, which creates potential challenges for spouses whose COBRA coverage runs out after 36 months.
Finally, another major sociological change, which is not the rule, but certainly is not the exception that it was 24 years ago, is that people more commonly marry and have children later in life than they did then. That means that after 15 or 20 years of marriage, the spouse who has played the role of homemaker and divorces with the primary responsibility of teenage children may have to face the prospect of retraining at an advanced age. When the Winsor article was written, it was more common for people to be between the ages of 35 and 45 when they would divorce after 15 or 20 years of marriage. However, it is far more common with, as Judge Winsor termed it, mid-range marriages that people are divorcing in their early- and mid-50s, sometimes even in their early-60s, with outdated career skills and no viable market for employment if they retrain, due to their age after retraining would be completed.

These economic and social challenges did not exist 24 years ago. They now require that courts take a more serious look at the principles that have already been established by existing case law rather than some hidden formulaic approach — so many years of marriage, therefore, only so many years of maintenance.

Since the economic considerations that drive maintenance awards are similar to the economic considerations that drive property awards, though they are separate issues governed by separate statutes, they ought not be looked at out of context from one another. That leaves room for the possibility of more creative, balanced resolutions in some cases in which the amount and duration of maintenance is not looked at out of context with the overall property division. There is even established precedent to do so, as articulated by the Washington State Supreme Court in the case of Mayo v. Mayo, 75 Wash. 2d 36, 448 P.2d 926 (1968).

Conclusion
These, and many circumstances like them, present creative challenges to what weight should be given to the duration of the marriage as it relates to the duration of spousal maintenance awards. These are not the kinds of hard choices that Judge Winsor and his colleagues often faced in the '60s.
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Hank Fields graduated from the University of Oregon School of Law in 1973 and has practiced family law exclusively for over 30 years in King and Snohomish counties. He is the author and lecturer at numerous continuing legal education seminars in Washington and will be a co-author of a judge's deskbook for King County. He has co-authored a book for the layman, Divorce in Washington, generally detailing the law on various subjects including property division, custody, child support, and maintenance. Mr. Fields is vice president of the Washington chapter of the American Academy of Matrimonial Lawyers.

NOTES

1. In a modification proceeding, the petitioning party must prove a substantial un-templated change of circumstances since the order fixing the maintenance. See RCW 26.09.170. If that burden is met, the court is then to apply the factors set forth in RCW 26.09.090 to determine further amount and duration.
Children of the Poor: Ensuring a Future for Washington’s Young

It is easier to build strong children than to repair broken men.

— Frederick Douglass

BY JACQUELINE JESKE

It has been 42 years since Lyndon B. Johnson declared “an unconditional war on poverty in America” in his State of the Union Address to the nation. Even longer since Mollie Orshansky, now 91 years old, became the originator of the litmus test of our well-known “poverty line” by publishing an article in the Social Security Bulletin titled “Children of the Poor.” In 1958, she tried to estimate the incidence of child poverty in America, working tirelessly for the government in attempting to quantify the number of poor in our nation of plenty. The number of poor children in our nation has only grown since this first attempt to quantify it by our government. There are many who have written more succinctly and with clarity of purpose and passion on this topic, from Martin Luther King Jr. to Jimmy Carter, Marian Wright Edelman to Hillary Clinton. This is a long-fought battle spanning decades of dedicated public and private service, and it is easy to question what could one more public servant, on the treadmill of bureaucracy, possibly do with only pen and paper to change this overwhelming number.

However, as an individual or in a group, each of us has the ability to play a part in fighting this quiet battle on behalf of our state’s children. You do not have to step outside of your comfort zone to make a difference in this area. Martin Luther King Jr. said it best: “Everybody can be great. Because anybody can serve. You don’t have to have a college degree to serve. You don’t have to make your subject and your verb agree to serve … You only need a heart full of grace. A soul generated by love.” The first step in serving the children of Washington is to recognize that they need our help. The second is to understand that we can make a difference in their lives.

In this affluent land of computer software, airplanes that soar overhead, and pristine beauty, 36 percent of our states’ children live in low-income families, defined as income below 200 percent of the federal poverty line. That is 539,730 Washington children living in poverty, roughly the population of Portland, Oregon. In 1996, about 70 percent of poor children eligible for child support did not receive it. And the fastest-growing segment of poor in our society? Children, the majority under the age of six. Forty-seven percent of them (or about 254,405) live with a parent or caregiver who works year-round, full-time. Only 16 percent do not have an employed parent. They are the children of the working poor, and they are the faces you see and walk past every single day — on our buses, on our sidewalks, and in our grocery store lines. Fifty-two percent of these children live with a single parent. Nor is this a mostly inner city problem. Fifty-four percent of our state’s poor children reside in rural areas and many of them (about 28 percent) had to move in the past year. Many of them are one job or move away from being homeless. The fact is inescapable that children and families are the fastest-growing group in the homeless population, representing 40 percent of homeless people. When studying this same problem in Davis, California, a reasonably affluent college town surrounded by farmland, rice fields, and vineyards, researchers found much to surprise them. After an exhaustive survey completed in Yolo County in 2000 researchers determined that the most common homeless person in the community was a five-year-old child. Washington’s experience is consistent with the national trend. In 2004, U.S. Census Bureau figures reflected that the national poverty rate, as well as the poverty rate among children, increased. According to the U.S. Census, the percentage of people living in poverty in Washington in 2004 was 11.7 percent as compared to children at more than 36 percent. Children represent 35.2 percent of people living in poverty nationwide, while constituting only 25 percent of the total population.

This past year, we have been confronted with images of utter hopelessness and the stark poverty revealed by nature hammering away at our nation’s coast. But this problem is not limited to New Orleans. It is here in our backyard. The connection between single parents and poverty post-dissolution is striking. Since 1996, the passage of welfare-to-work laws at the national level and implemented
in our state has resulted in transitioning many families off public assistance to the working world. Yet even working full-time, parents cannot meet the most basic of expenses for their children, such as healthcare and daycare. Most of us would consider these the most necessary of expenditures and not luxuries, yet they are enough to push parents and children beyond their scarce resources.

**Child Support Is Essential**

One of the changing demographics about our society is what families look like today. No longer an “Ozzie and Harriet” society, many of our children live with a single parent or in a blended family. Many parents are subject to either administrative or judicial orders of child support that require them to provide monetarily for their children who live primarily in the other parent’s care.

When we talk about child support as practitioners or advocates, it is often in the context of what it means to a client or a parent, but there is a third person in this situation — the affected child. Throughout my professional career, I have represented or known many clients and friends who have struggled to meet their monthly obligation to provide support for their children, whether court-ordered or not. They have often taken second jobs, worked endless hours, and scraped through their own budgets to meet this responsibility to their children. Often, as is typical in our legal arena, we hear only about the failures, not about those who day after day, month after month, provide for their children. Yet the vast majority of parents, whether under court order or not, routinely pay their child support. In Washington in 2005, over 40 percent of nonresidential parents paid some child support. This makes a difference to our children. But it is also true that for a large segment of our children, there is no parent willing to meet this obligation without a court order. There is no substitute for economic justice when you are six and staring into an empty refrigerator.

**Child-Support Orders Help Nonresidential Children**

Child support, particularly for single-parent families, is an important source of income. Studies show that, on average, child support received from nonresident parents accounts for approximately 16 percent of families’ total income. Poor children who have received welfare benefits are more likely to receive child support than those who have not. Child support paid by nonresident parents reduces the percentage of children living below the poverty line between eight and 10 percent.

Children with a child-support order are nearly twice as likely to receive financial support from the nonresident parent as children who do not. Of those, on the national level, 44 percent of children who had a support order received the full amount of ordered support. The percentage of support paid for children with nonresident parents varies significantly, depending upon the state in which they reside. For example, Wisconsin and Minnesota have significantly higher percentages of children receiving the full amount of ordered support, whereas California is much lower. It is believed that the former states have very effective support-enforcement programs. Approximately 10 percent of the children who regularly receive child support would fall below the poverty line but for the receipt of child support. Washington consistently ranks in the top third of states for enforcement of child support. The administrative record of our own enforcement system is strong, but even so, in 2005, a little more than 40 percent of nonresidential parents paid some amount of support within the preceding year.

**Child Support Reduces Income Inequality Among Children**

Payment of child support has been instrumental in reducing income inequality among children. Based on the 2004 U.S. Census, children in poverty were more likely to be uninsured than any other group (18.9 percent nationwide) and less able to access regular healthcare as a result. A recent Washington study reflects that the poverty status of custodial parents and their children is much greater than that of nonresidential parents. In fact, the average poverty rate for a single parent and child has a mean of 49 percent, whereas the nonresidential parent’s average poverty rate is 15 percent.

This latter rate is of particularly concern, because the poverty rate of an intact household is 21 percent, which means that the nonresident parent’s rate of poverty actually decreases upon separation, whereas a custodial parent’s dramatically increases. The impact of families separating into two households makes both households worse off. Especially striking is that this impact falls disproportionately on the custodial parents and their children, who face an enormous decline in their standard of living.

**Private and Public Practitioners Can Make a Difference**

How can practitioners make a difference? Several studies paint an important picture. More parents pay support, over the long term after families separate, when their child-support orders are realistic and accurate. Being realistic about an opposing party’s income is important in the context of establishing both current and back support orders. That does not mean one has to sacrifice advocacy on behalf of a client, but one does have to think long term about the client’s concerns and not just about the order one can secure for the client’s benefit today. Good advocacy includes balancing a client’s interests for the long term. What does it gain a client to obtain the highest income calculation against the other parent if it is not realistically based? You may end up with a higher monthly support payment and a poor payment record.
from the other parent, which continually requires enforcement. Obtaining orders of child support that may not be based on realistic income figures may result in a recipient parent being forced to repeatedly bring private contempt motions to obtain compliance. The cost of this process to a client may well outweigh the benefit the additional monthly support amount would contribute to their household.

All practitioners can participate in local and state committees or public forums to voice their concerns, and make recommendations to committees and legislators. We need the best possible input and consensus on how to address this concern in our community. This past year, the Governor’s Task Force on Washington’s State Child Support Schedule and Guidelines worked hard to investigate and consider public input. However, while many dedicated task force members worked tirelessly, obtaining input from private practitioners, despite repeated solicitations, was challenging. Many ordinary citizens attended the public meetings and voiced their concerns. The bill to continue this task force’s important work did not make it through the 2006 legislative session but may be revived in the coming year. If not, some other process, just as valuable, may take the task force’s place. The expertise that our profession can offer to this process is invaluable, and I would encourage practitioners, particularly those who work in family-practice areas, to give of their time and expertise to such groups. These committees value the contributions of those who practice in this area and who can provide information on how to improve the law governing support decisions in our state for both parents and their children.

Enforcement Efforts Across the State
Washington has a variety of laws that enable Division of Child Support (DCS) to collect child support through a variety of administrative methods without the requirement of a court proceeding for each collection action. The funds collected are processed through the Washington State Support Registry. These and other remedies are available without cost to all Washington residents and are provided automatically to those custodians who receive public-assistance payments for dependent children. Collection and enforcement remedies are also available to those who do not receive public assistance, but the recipient parent must request them. When administrative methods of collection prove useless, cases are often referred to local prosecuting attorneys’ offices to initiate contempt-of-court proceedings to enforce a child-support order. As an example, King County currently has more than 4,300 of these cases in the contempt-of-court unit and dedicates significant resources to enforcing child-support orders. Individuals who are referred by DCS for contempt of court are first offered a diversion program in King County, called ACE (Alternatives to Court Enforcement), but if they decline or do not respond, their cases progress to judicial enforcement. Public defenders are available to individuals asserted to be in contempt at any juncture when the state seeks incarceration as a possible sanction. The usual practice is to initially obtain an order that sets a series of hearings and establishes requirements that must be met on a monthly basis (either seeking employment, setting monthly payments, or providing medical or similar verification if payments are to be temporarily excused). Failure to comply may result in a finding of contempt and additional requirements or coercive custody. If a respondent fails to appear as ordered, a bench warrant for his arrest is issued by the court. In King County, for example, about 1,000 such warrants are outstanding at any given time, and the King County Sheriff’s Office works in conjunction with the Family Support Division in a cooperative multi-agency approach to process these cases. Any bail paid as a result of an arrest, whether posted voluntarily or after detention, is generally applied to the respondent’s child-support debt.

Each year, most prosecuting attorneys’ offices across the state, including the King County Prosecuting Attorney’s Office, Family Support Division, make a special effort to encourage individuals in state contempt-of-court cases who are at warrant status to deal with their cases and come in to quash their warrants. Amnesty offers are provided to most individuals that enable them to quash their warrants for reduced amounts once a year. The funds received from this program go to the Washington State Support Registry and are applied as payments to their child-support obligations. Most local prosecuting attorneys’ offices throughout the state and their family support divisions offer similar programs. Public defenders from the local agencies in King and other counties are available to assist individuals. Currently, King County has just more than 1,000 cases at warrant status for contempt related to failure to pay child support. Of those cases at warrant status, some 140 individuals owe more than $40,000...
in unpaid child-support arrearages. Ultimately, it is the application of the court's power to enforce support obligations by finding respondents in contempt that is a recipient parent's last hope of receiving child support. Public defenders play an inestimable role in helping both the state and the court determine which respondents are truly unable to comply because of legitimate health or other challenges, and those who are simply unwilling to meet their children's needs. Currently, the Washington Association of Prosecuting Attorneys (WAPA) is studying how to improve child-support enforcement in the state and is in the information-gathering phase of this project.

“Injustice anywhere is a threat to justice everywhere.”

Martin Luther King Jr. gave voice to the concept that justice is not just about our legal system, but how the real world and economic injustice impact our society as a whole. If we ignore those less fortunate in our neighborhoods, what does it say about us as a community? Taking responsibility for something larger than one's own life means facing the well-being of those around us. If we fail to concern ourselves with the children of this state, we fail the future of our communities. America's story is about how ordinary people can influence their society. I believe our state is strong and healthy and caring. The outpouring of time, funds, and energy demonstrated over the past year to those affected by natural disasters around the world is a good example of the charitable health of our citizenry. But it is time to have this conversation on the homefront and to realize that our own communities in Washington need a higher level of participation and assistance to help those most vulnerable. The legal community can start this conversation. We may not all agree on how to solve the problem, but unless we begin to discuss it, we will continue to deal with the tragedy of those who suffer from our silence.

To find out about enforcement services or amnesty programs being offered in your community, contact your local DCS office or your local prosecuting attorney's office. Additionally, DCS offers a comprehensive website related to child support services provided in a variety of languages at www1.dshs.wa.gov/dcs/index.shtml.

Jacqueline Jeske's practice has emphasized family law and criminal law matters for over 20 years. With a background as a deputy prosecuting attorney, public defender, and private family practice attorney, she has been involved in a number of community and professional groups — she volunteers at the YWCA's Shelter for Homeless Women and King County's Cross Cultural Family Law Clinic; and serves on legislative committees for both the King County Bar Association's Family Law Section and the Northwest Women's Law Center as well as King County's Family Law Section's committee on the child-support guidelines. She is a past president of the Eastside Legal Assistance Program. She can be contacted at jacqueline.jeske@metrokc.gov. The opinions expressed in this article are the author's and not those of any particular organization.

NOTES

5. Ibid.


7. Ibid.


11. Ibid.

12. Ibid. at Shipler.


Random Trust Account Examinations: What to Expect

Many lawyers wonder what to expect when they are chosen for a random examination of their trust account. (For details about the random-examination process, see the “Ethics and the Law” column, “WSBA Random Examination of Trust Accounts,” in Bar News, October 2005.) Having someone examine your trust account can make even the most meticulous bookkeeper a little nervous. You’re not sure what to expect, and it seems you were chosen at the most inconvenient time. The purpose of this column is to let you know what you can expect if you are chosen, and to demystify the random-examination process. The first question that may come to mind is whether you were really randomly selected for the audit, or if you did something to trigger the examination. Rest assured that random examinations are truly random, and no one gets targeted. Now that we’ve settled this misconception, let’s get to what happens during an examination.

What should I do when I receive a letter from the auditor?
The letter from the auditor asks you to call and schedule a date for the examination. You should plan for the auditor to be at your office for the entire day. The letter contains a list of things the auditor will want to see during the examination. You don’t have to make copies of everything — if the auditor needs a copy of something, she will let you know. The auditor may also ask to see other documents during the examination, such as backup for particular transactions. It is very helpful to have the requested documents prepared before the auditor arrives. Feel free to call the auditor if you have any questions regarding the items on the list. It’s not unusual to find bookkeeping errors when preparing for the examination. If this occurs, go ahead and correct the mistakes and discuss them with the auditor during the examination. The auditors are more focused on overall procedures and understand that people make a few mistakes.

What happens the day of the examination?
The auditor needs a place with an outlet for a laptop computer to review records. The examination begins with an interview of the lawyer, the person in charge of the bookkeeping, or both. The interview helps the auditor learn about your practice and accounting procedures. The auditor then spends some time examining the documents you have prepared and asking questions as the records are reviewed. The lawyer or bookkeeper does not have to sit with the auditor during the entire time the records are being reviewed; however, they do need to be available throughout the examination period to answer questions. The auditor will probably ask to see supporting documentation for some transactions, which might include looking at client files. Because auditors are required by Washington State Supreme Court regulations to keep all information obtained during an examination confidential, you will not be violating your ethical duty to preserve your clients’ confidences and secrets by showing the auditors your client files (in fact, you must do so). Even the fact that the random examination is taking place is confidential. At the end of the examination, the auditor reviews any findings with you and makes a plan for completing any follow-up.

What happens after the examination?
If any violations are noted, the auditor generally gives you a reasonable amount of time to correct them and advice on how to do so. After the auditor completes any follow-up work, she prepares a written audit report. The audit report describes the scope of the examination, the auditor’s findings, any recommendations, and corrections you have made. A copy of the report is sent to you and the chair of the Disciplinary Board. The chair reviews the auditor’s findings and recommendations and issues an order on every random examination performed. The chair uses her own judgment in reviewing the audit report so the final order may or may not follow the auditor’s recommendations. The chair may order that no further examinations are necessary, order a follow-up examination to be performed after a stated period of time, or make a referral to the Office of Disciplinary Counsel for a full audit. Once the audit is complete, including any follow-up work or satisfactory re-examinations, the file is destroyed. The Bar keeps track of the fact that your records were examined as well as the date of the examination, so you and other members of your law firm won’t be chosen for at least another two years.

Can a random examination result in discipline?
The focus of the random examination is education. The auditor is there to help...
you understand the rules regarding trust accounts, ensure you are complying with these rules, and make recommendations for improving your trust account or accounting procedures. While a random examination can result in discipline, it is not common. The auditor makes recommendations to the chair of the Disciplinary Board, but doesn’t make the final decision.

If you have any questions about your trust account, or if you have any topics that you would like to see addressed in a future “Ask the Auditor” column, contact WSBA Audit Manager Trina Doty at 206-727-8242 or trinad@wsba.org, Auditor Cheryl Heuett at 206-733-5937 or cherylh@wsba.org, or Auditor Jim Roberg 206-733-5921 or jimr@wsba.org.

Cheryl Heuett is a WSBA auditor. She performs random examinations and educates attorneys about the trust-account rules and regulations.
Have License, Will Travel: A Roadmap to Licensing Around the Northwest

The past few years have seen dramatic changes around the Northwest in our ability to practice seamlessly across state lines. From formal reciprocal admission to enhanced temporary authorization to practice, Washington, Oregon, and Idaho have taken major steps to offering Northwest lawyers the opportunity to work in all three venues with comparative ease. In this column, we'll look at three forms of cross-border licensing: (1) reciprocal admission; (2) in-house counsel admission; and (3) temporary “multijurisdictional practice,” or “MJP.” The oldest form of cross-border practice, pro hac vice admission for trial lawyers, remains alive and well, too, with the only significant change on that front being that the three Northwest bars now require temporary licenses and accompanying fees in addition to the traditional pro hac vice motion.

Reciprocal Admission
Washington, Oregon, and Idaho entered into a novel agreement that went into effect on January 1, 2002, that allows reciprocal admissions among the three states. Although Washington had already adopted a broad “mirror image” reciprocity rule by then, neither Oregon nor Idaho had, up to that point, offered reciprocal admission to any other state. The “Tri-State Compact” was also unique for its time in its coordination of reciprocal admission among three geographically contiguous states.

The specific rules governing the Tri-State Compact are Washington Admission to Practice Rule 18, Oregon Admission Rule 15.05, and Idaho Bar Commission Rule 204A. The text of these rules and accompanying information on admission applications is available at the respective bar websites — Washington, www.wsba.org; Oregon, www.osbar.org; and Idaho, www.state.id.us/ib.

The rules for all three jurisdictions are substantially similar. To be admitted reciprocally in one of the other jurisdictions, a reciprocal applicant must: be a graduate of an ABA-accredited law school; have passed the bar exam in at least one of the three participating states; be an active member of the bar in one of the three participating states; have practiced in one of the three participating states continuously for the three years immediately preceding the application; and show good character.

In addition, lawyers seeking reciprocal admission must complete 15 CLE hours in local practice and procedure. Information about specific CLE courses that satisfy this requirement is available from the individual bars in Washington, Oregon, and Idaho. The timing of the CLE requirement varies somewhat in each state:

- Oregon requires the 15 hours to be completed before admission.
- Idaho requires the 15 hours to be completed no later than six months following admission.
- Washington’s “mirror image” reciprocity rule requires reciprocal applicants to satisfy the same CLE requirements that Washington lawyers would need to meet to be admitted in, as the case may be, Oregon or Idaho.

Finally, Oregon AR 15.05(5) also requires that reciprocal-admission applicants comply with the mandatory malpractice insurance regulations of the Oregon State Bar Professional Liability Fund. Under the PLF, if a reciprocally admitted lawyer maintains his or her principal office in Oregon and is in private practice, then the lawyer must participate in the PLF. If the reciprocally admitted lawyer maintains his or her principal office outside of Oregon and is in private practice, then the lawyer “shall obtain and maintain other malpractice coverage covering the applicant’s law practice in Oregon which coverage shall be substantially equivalent to the Oregon State Bar Professional Liability Fund coverage plan.” More information about the PLF is available from its website at www.osbplf.org.

Once an applicant is admitted reciprocally, the lawyer is a “full-fledged” member of the other bar. Therefore, the lawyer must pay all applicable dues and satisfy all MCLE requirements. The MCLE requirement is tempered, however, by a separate compact under which Washington, Oregon, and Idaho generally accept compliance with one state’s MCLE requirements as satisfying the requirements in the others.

House-Counsel Admission
Washington, Oregon, and Idaho have also adopted a more limited set of reciprocal-admission rules applicable to corporate counsel. Although not integrated with each other like the Tri-State Compact, the house-counsel admission rules in the Northwest states are very similar.

Washington APR 8(f) governs admission as a “house counsel” in Washington. To qualify for admission under this rule, an applicant must: be an active bar member in good standing in any other state or territory or the District of Columbia; be employed exclusively by a “business entity”; pass the Washington Professional Responsibility Exam; and show good character. Other than the WPRE, house-counsel applicants are not required to take any other facet of the Washington bar examination.

A house counsel’s practice must be limited exclusively to the employing business entity. The house-counsel admission
The Oregon and Idaho house-counsel admission rules, respectively Oregon AR 16.05 and Idaho BCR 220, closely parallel the Washington rule in all key respects. Because Oregon does not require in-house counsel to carry malpractice insurance, in-house counsel, whether admitted generally under the reciprocal-admission rule or specially under the house-counsel rule, do not have to obtain insurance.

Temporary Multijurisdictional Practice (MJP)

Although reciprocal admission is a great tool for lawyers who practice regularly in more than one of the three Northwest states, it does not address some identifiable areas of transitory practice in which the lawyers involved are not called into “out-of-state” matters with sufficient frequency or regularity for it to make practical or economic sense for them to become members of the bar in those other states. Until recently, there was no mechanism to authorize the comparatively common case of an out-of-state transactional lawyer who is “in state” on behalf of a “home state” client to negotiate a business transaction involving the “home state” client.

The problems in this “gray area” were illustrated in a pair of California decisions that engendered much discussion of MJP issues nationally. In the first, Birbrower, Montalbano, Condon & Frank, P.C. v. Superior Court, 17 Cal. 4th 119, 949 P.2d 1, 70 Cal. Rptr. 2d 304 (1998), the California Supreme Court, in effect, denied over $1 million in fees to a New York law firm because its lawyers providing services to a California client were not licensed there. In the second, Estate of Condon, 65 Cal. App. 4th 1138, 76 Cal. Rptr. 2d 922 (1998), the California Court of Appeal distinguished Birbrower and upheld the fees charged by a Colorado lawyer who handled a probate matter in California for a Colorado client. Regardless of their relative merits, Birbrower and Condon illustrate the practical uncertainty that the lack of specific rules engenders and the difficulty courts may have in fashioning consistent authority in the absence of specific rules.

To address this uncertainty, both the ABA and the Northwest states moved to create specific categories of “authorized” MJP. The ABA adopted amendments to its Model Rules in August 2002 to authorize MJP. The ABA amended Model Rule 5.5, which governs the authorized and unauthorized practice of law, and Model Rule 8.5, which addresses the disciplinary jurisdiction of individual states. Oregon and Idaho have adopted versions of RPC 5.5 that closely parallel the ABA Model Rule, and a proposed Washington version is pending before the Washington State Bar.
Supreme Court as I write this.

The new Northwest MJP rules recognize six forms of transitory work as the authorized practice of law:
- Out-of-state lawyers are allowed to handle “in-state” matters in association with a local lawyer who participates actively in the representation.
- The practical scope of pro hac vice admissions is extended to work, such as pre-filing witness interviews, that occurs before formal pro hac vice admission is available, and to alternative dispute resolution proceedings that do not have the equivalent of formal pro hac vice admission.
- Out-of-state lawyers are allowed to handle an arbitration, mediation, or similar alternative dispute resolution proceeding if the legal services arise out of or are related to the lawyer’s “home” state.
- Out-of-state lawyers are allowed to handle “in-state” matters that arise out of or are reasonably related to the lawyer’s practice in the lawyer’s “home” state.
- In-house counsel are allowed to provide services to their corporate employers in transitory circumstances that do not otherwise warrant admission under available house-counsel rules.
- Legal work specifically permitted by federal law, such as that of federal prosecutors, now falls within the scope of “authorized practice,” even if the lawyer involved is not admitted in the jurisdiction involved.

Summing Up
The changes to the lawyer-licensing rules around the Northwest have transformed what was once a bumpy road into a comparatively smooth ride to a unified practice in all three states.

NOTES
1. The Northwest pro hac vice licensing rules are Washington Admission to Practice Rule 8(b), Oregon Uniform Trial Court Rule 3.170, and Idaho Bar Commission Rule 222. Lawyers being admitted pro hac vice also need to comply with the requirements of the particular court or agency before which they are seeking admission.
2. Washington and Alaska have reciprocity for experienced lawyers who have taken the bar exam in their respective “home” jurisdictions. More information on reciprocal admission in Alaska is available on the Alaska Bar Association website at www.alaskabar.org. Since the Tri-State Compact, Oregon now has reciprocity with Utah, and Idaho now has reciprocity with Utah and Wyoming.
Congratulations to the 339 candidates who passed the Winter 2006 Bar Exam! The exam was administered February 21-23 at Meydenbauer Center in Bellevue. Of the 452 candidates who took the exam, 75 percent passed.
Napier, Nafisa, Seattle
Lee, Anna, San Jose, CA
Lee, Vanessa Mi-jo, Bothell
Lennox, Lindsay J., Wenatchee
Leone, George A., Coon Rapids, MN
Levin, Shira M. Bayme, Mercer Island
Lilliedoll, Wendy Leigh, Seattle
Lipman, Avi Joshua, Seattle
Livingston, Sengpachahn J., Centralia
Lloyd, Jonathan Mark, Seattle
Loh, Melissa Yuet Meng, Seattle
Lord, Blakely A., Renton
Loring, Kathryn Conrad, Seattle
Love, Suzanne, Seattle
Love, Jon-Landon, Arlington
Lucas, Leanne, Seattle
Lytle, Robert B., Sammamish
MacDougall, Weldon Kale, Bellevue
Macleod, Sarah, Seattle
Maciejunas, John G., Tacoma
Madison, Zebular James, Tacoma
Martin, Blake Allen, Prosser
Martin, Vanessa C., Seattle
Martin, John P., Renton
McClellan, Brian P., Spokane
McCormick, Amy J., Seattle
McDowell, Heather, Billings, MT
McGee, William A., Portland, OR
McGrane, Alison Kate, Spokane
McGee, William A., Portland, OR
McIntosh, David M., Spokane
McKeown, Kevin P., Anacortes
Mcmahan, Jennifer D., Redmond
McPartland, Bryce Patrick, Pasco
McPherson, Robert Bruce, Kennewick
Mechtenberg, Ted David, San Francisco, CA
Menser, Samuel Tye, Fairbanks, AK
Mishoe, Robert Michael, Alexandria, VA
Mishoe, Robert Michael, Alexandria, VA
Moerke, Bradley S., Seattle
Morales, Alice D., Seattle
Moericke, Bradley S., Seattle
Murray, Anna, Seattle
Myers, Stanley B., Kirkland
Napier, David Anthony, Seattle
Neeleman, Angela R., Arlington
Newby, Christine E., Kenmore
Ng, Jamie Kit Wah, Des Moines
Nicacio, Ana Paula Dutra, Portland, OR
Niemeier, Kelly Jean, Portland, OR
Nist, Jean, Tacoma
Nugent, Elizabeth Earhart, Issaquah
Null-Carey, Vicki, Athol, ID
Nyman, Stephanie Ellen Beck, Seattle
Odsather, Jenny MacAulay, Bellevue
O’Keefe, Megan M., Spokane
Olson, Erik, Edmonds
Olson, Jonathan E., Issaquah
Ortmann, David, Seattle
Owen, A.V. Anna Hall, Canon City, CO
Padron, Elvis, Edgewood
Parkin, Lara Elizabeth, Alexandria, VA
Parton, Sarica Elisabeth, Seattle
Paul, Patricia, La Conner
Paul, Sandra Leslie, Tukwila
Payne, Jarrett Keith, Renton
Pearson, Christina, Kirkland
Pelley, Aaron, Salem, OR
Perma, Rhonda, Bellevue
Peters, Barry W., Bainbridge Island
Peters, Amie Christine, Mercer Island
Petersen, Richard K., Ely, NV
Phebus, Robert Michael, Lexington, KY
Phelps, Martha F., Mercer Island
Phily, Amanda G., New Cumberland, PA
Piercy, Elizabeth, Seattle
Pietila, Nathan Reid, Kirkland
Pirtle, James D., Seattle
Platt, Benjamin D., Spokane
Poissant, Andre Courtney, El Paso, TX
Polen, Jocelyn Elise, Spokane
Posadas, Paul Christian, Lynnwood
Potter, Erieh, Washington, DC
Poydras, Jason Charles, Seattle
Qadri, Saad Qamer, Snoqualmie
Quigley, Siril L., Seattle
Ralston, J. Scott, Issaquah
Ravazzini, Tad T., Mill Valley, CA
Reid, Kimberly Susan, Tumwater
Rhoads, Jeffrey Robert, Kent
Rice, Gretchen A., Vancouver
Rogers, Chanda Leigh, Montesano
Rome, Joseph C., Paia, HI
Rosfjord, Christopher Michael, Seattle
Rothwell, Sharon, Seattle
Rule, Timothy Joseph, Astoria, NY
Saigal, Sangeeta, Redmond
Sampson, Rani Kay, Kirkland
Samwel, Kirsten A., Vancouver
Sayess, Antony K., Vancouver
Sayles, Philip G., New Windsor, NY
Schubert, Elizabeth Lynn, Seattle
Schutzer, Aaron Anthony, Seattle
Scott, Kelly Allen, Seattle
Scott, Sandra G., San Francisco, CA
Shafelt, David G., Anchorage, AK
Shelloc, Scott, Seattle
Shin, Sonny Kung, Bellevue
Shin, Timothy S., Seattle
Siddiki, Adil A., Dupont
Smiley, Michael S., Mercer Island
Smith, Jeffrey Ray, Spokane
Smith, Susan A., Seattle
Son, Seong-Chel, Calgary, Alberta
Song, Sam H., Lynnwood
Soon, En-Tie, Mercer Island
Stolowitz, Andrew Mitchell, Seattle
Stone, Hannah Elisabeth, Bellingham
Stone, Thomas Willoughby, Hartford, CT
Strege-Flora, Carson, Seattle
Suh, Hwa Yun, Tacoma
Sund, Julie M., Olympia
Sutton, Joe, Kirkland
Swartz, Jonathan S., Olympia
Symons, Brandt Nathaniel, Davenport, IA
Tadique, Orlando James, Seattle
Tangen, J.P., Anchorage, AK
Taschner, Sean Leslie, Tacoma
Taylor, Leslie A., Seattle
Tedin, Michael J., Seattle
Terry, John Adrian, Edgewood
Teter, Michael Justin, Seattle
Tevin, Connie Vera, Spokane
Thomas, Victoria W., Brandon, MS
Tjerandsen, Karl, San Francisco, CA
Torres, Hugo, Sacramento, CA
Trainer, Amy Elizabeth, Friday Harbor
Tseytlin, Anna B., Bellevue
Turner, Sarah N., Arlington, MA
Turner-Brim, Phyllis T., Snohomish
Uchendu, Clarita U., El Dorado Hills, CA
Unger, Heather, Lacey
Unze, Joanna Meg, Seattle
Valerien, Michael C., Spokane
VanRollins, Patricia A., Iowa City, IA
Vernon, Jo Elizabeth, Austin, TX
Vetter-Hansen, Ann Marie, Bellingham
Vitasovico, Brooke Ann, Reseda, CA
Volpe, Nicole Marie, Sammamish
Wade, Philip Bradley, Bremerton
Wallis, Barry J., Seattle
Weaver, Robyn, Chapel Hill, NC
Weber, Vicki M., Bellevue
Wei, Virginia, Wen Ching, Seattle
White, George H., Veradale
Whitehead, Timothy W., Alamogordo, NM
Widlund, Justin E., Chico, CA
Wiens, Grant David, Seattle
Wilke, Edward M., Spokane
Williams, Sandra Lynnetta, Everett
Wolf, Erica Lynn, Seattle
Wood, Wei-ting Kuan, Seattle
Yang, David Yu-Hung, Seattle
Yao, Wen, Seattle
Yap, Jessen C., Seattle
Yarger, Amy Lynn, Yakima
Young, Christopher J., Everett
Young, Sanderson, Bellingham
Zebyhelm, Mark, Milwaukee, WI
Zhou, Guojun, Portland, OR
Zink, Vanessa, Spokane
Zorea, Moshe Calberg, Anchorage, AK
You are cordially invited to attend

The Washington State Bar Association’s Annual Awards Dinner and Business Meeting

Please join us for an evening of inspiration as we celebrate the accomplishments of the 2006 WSBA award recipients. All members of the legal community are invited to attend.

Name ___________________________________________ WSBA No. __________________
Address ____________________________________________
Phone ______________________________ E-mail ______________________________
Affiliation/organization ____________________________________________

Registration is $75 per person (table of 10 = $750). To make your reservation, please return this form (or a photocopy) with your credit-card information or check payable to WSBA. Space is limited, so please make your reservations early. Reservations and payment must be received no later than September 7, 2006 (refunds cannot be made after September 7). Seating will be assigned.

☐ MasterCard ☐ Visa No. __________________________ Exp. date __________
Name as it appears on card __________________________________
Signature ________________________________________________

_______ (no. of persons) X $ _______ (price per person) = $ ____________ TOTAL

Please list the names of all attendees and indicate meal choices. Be sure to include yourself.

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□ beef □ salmon □ vegetarian
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□ beef □ salmon □ vegetarian
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□ beef □ salmon □ vegetarian

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

Send to: Washington State Bar Association
Annual Awards Dinner
2101 Fourth Avenue, Suite 400
Seattle, WA 98121-2330
Phone: 800-945-WSBA • 206-443-WSBA • Fax: 206-727-8319

☐ If you need special accommodations, please check here and explain below.
________________________________________________________________________
Please join us as we celebrate the accomplishments of the 2006 WSBA 50-year members. All members of the legal community are invited.

Name ____________________________________________ WSBA No. __________________
Address _______________________________________________________________________
Phone ___________________________ E-mail _________________________________
Affiliation/organization _______________________________________________________

Registration is $45 per person (table of 10 = $450). To make your reservation, please return this form (or a photocopy) with your credit-card information or check payable to WSBA. Space is limited, so please make your reservations early. Reservations and payment must be received by September 22, 2006 (refunds cannot be made after September 22).

☐ MasterCard  ☐ Visa  No. ____________________________ Exp. date ________________
Name as it appears on card ____________________________________________________
Signature ___________________________________________________________________
(No. of persons)  X  $ _______ (Price per person)  =  $ ____________ TOTAL

Please list the names of all attendees and indicate meal choices. Be sure to include yourself.

____________________________________________________________________________
☐ chicken  ☐ salmon  ☐ vegetarian
____________________________________________________________________________
☐ chicken  ☐ salmon  ☐ vegetarian
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☐ chicken  ☐ salmon  ☐ vegetarian
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☐ chicken  ☐ salmon  ☐ vegetarian
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☐ chicken  ☐ salmon  ☐ vegetarian
____________________________________________________________________________
☐ chicken  ☐ salmon  ☐ vegetarian
____________________________________________________________________________
☐ chicken  ☐ salmon  ☐ vegetarian

Send to:  Washington State Bar Association
50-Year Member Tribute Luncheon
2101 Fourth Avenue, Suite 400
Seattle, WA 98121-2330
Phone: 800-945-WSBA or 206-443-WSBA • Fax: 206-727-8319

☐ If you need special accommodations, please check here and explain below.
____________________________________________________________________________
FYI

Information

BOG Election Results

Congratulations to new WSBA President-elect Stanley A. Bastian, who was unopposed for the office and will serve as the WSBA’s 117th president beginning in 2007. Mr. Bastian will take office as president-elect for one year at the close of the September 14, 2006, annual business meeting, when President S. Brooke Taylor will pass the gavel to current President-elect Ellen Conedera Dial.

Congratulations to the following WSBA governors-elect:

1st District
Russell M. Aoki is the governor-elect for the 1st District.
Russell M. Aoki: 281 votes, 56 percent; James S. Fitzgerald: 97 votes, 19 percent; Gail B. Nunn: 125 votes, 25 percent. (Eligible voters: 2,850; Ballots cast: 503; Return rate: 18 percent; Invalid: 12.)

5th District
Peter J. Karademos, unopposed, is the governor-elect for the 5th District.

7th-West District
Anthony Butler, unopposed, is the governor-elect for the 7th-West District.

WYLD
On June 9, Jason T. Vail was elected governor-elect for the WYLD at-large position by the Board of Governors in accordance with WSBA Bylaws Article III, Section M, “Election of At-large Governors.”

The governors-elect will take office at the close of the WSBA annual meeting on September 14, 2006, and will hold office for three-year terms.

BOG 4th District Election

An amendment to the WSBA Bylaws was approved by the Board of Governors on June 9, 2006, that moves the 4th Congressional District governor election to August 2006 (and every three years thereafter). This position is currently held by Stanley A. Bastian, who will take office as president-elect for a one-year term beginning at the close of the September 14, 2006, annual business meeting.

The WSBA Bylaws provide that any active member, 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 resides. Applications are made by filing a nomination form and a biographical statement of 100 words or less. (Candidates may nominate themselves.)

Generally, members are entitled to vote in the congressional district in which they reside. All out-of-state active WSBA members are eligible to vote in the district of the address of their primary Washington practice.

Nomination forms are available from the WSBA Office of the Executive Director, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330 (206-727-8244) or by visiting the WSBA website at www.wsba.org/info/bog. The executive director must receive nomination forms and biographical statements by 5 p.m. on Tuesday, August 1, 2006. Ballots will be mailed on or about August 4 and must be returned no later than August 21.

*The 7th Congressional District is divided into three sub-districts, East, Central, and West. These sub-districts are distinguished by zip codes, and each has one elected governor. For the coming year, the 7th-West Sub-district (zip codes: 98013, 98070, 98106, 98107, 98116, 98117, 98119, 98121, 98126, 98133, 98136, 98146, 98160, 98177, 98190, 98195, 98199) will elect a new governor.

Three WSBA Members Receive Children’s Alliance Award

At its 14th annual Voices for Children Celebration and Luncheon on June 1, the Children’s Alliance honored three WSBA members with its Attorneys for the Children Award. Tim Farris, of Bellingham, and Casey Trupin and John Midgley, of Columbia Legal Services in Seattle (along with Bill Grimm and Bryn Martyna of the Oakland-based National Youth Law Center), were recognized for their nearly eight years of work on Braam v. State of Washington, a class-action lawsuit on behalf of foster children who had been moved repeatedly from home to home, some as many as 34 times. With the settlement of this landmark case, Washington state now has an enforceable blueprint for change that will help improve the lives of thousands of children in the foster-care system.

This award is noteworthy in that it was given to attorneys by a non-legal organization specifically for accomplishments achieved through litigation, and it recognizes an innovative partnership between a lawyer in private practice and...
two legal-aid lawyers, who, by working together, helped better the lives of countless Washington children.

**Historic Franklin County Courthouse Reopens**

After two years and almost $12 million, a newly refurbished Franklin County Courthouse was recently rededicated in Pasco. Dozens of craftsmen from as far as England worked on the project, taking great pains to match the original architect’s 1912 plans. Marble from Italy was brought in to replace the cracked steps of the historic grand stairway, and the beautiful Tiffany glass dome with its five-foot medallion-shaped centerpiece was disassembled and cleaned.

**Suspension Recommendations Sent to the Supreme Court**

The WSBA has sent a list of members with outstanding license fees, penalties, or assessments as of March 17, 2006, to the Washington State Supreme Court, and the Court has entered an order suspending these members from the practice of law in Washington. Full explanations of license fees, forms, policies, and deadlines are on the WSBA website at www.wsba.org/lawyers/licensing/annuallicensing.htm. For more information, contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or questions@wsba.org.

**Armed Forces Fee Exemption**

WSBA Bylaw II.E.1.b., which provides for a fee exemption for eligible members of the armed forces, was amended on March 29, 2006. As amended, this section of the WSBA Bylaws states: “An active member of the Association who is activated from reserve duty status to full-time active duty in the Armed Forces of the United States for more than sixty days in any calendar year, or who is deployed or stationed outside the United States for any period of time for full-time active military duty in the Armed Forces of the United States shall be exempt from the payment of membership fees and assessments for the Lawyers’ Fund for Client Protection upon submitting to the Executive Director satisfactory proof that he or she is so activated, deployed or stationed. All requests for exemption must be postmarked or delivered to the Association offices on or before March 1st of the year for which the exemption is requested. Eligible members must apply every year they wish to claim the exemption. Each exemption applies for only the calendar year in which it is granted, and exemptions may be granted for a maximum total of five years for any member.”

WSBA members whose membership status is active and who are otherwise eligible for the armed forces exemption as described above can apply for a waiver of WSBA license fees beginning in December. WSBA members whose WSBA membership status is inactive or emeritus must still pay the annual WSBA license fees. If you are an active member and believe you are eligible for the fee exemption, contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or questions@wsba.org beginning in December.

**New and Improved Lawyer Directory**

The WSBA’s online Lawyer Directory has been revamped, and now you can search attorneys by area of practice. Whether you’re looking for malpractice attorneys in Aberdeen or bankruptcy attorneys in Yakima, the new online Lawyer Directory is the quick and easy way to find just the attorney you’re looking for. Check out the new Lawyer Directory by visiting http://pro.wsba.org or click on the “Lawyer Directory” link on the WSBA website at www.wsba.org.

**Update Your Contact Information**

It’s always a good idea to check that the WSBA has your correct contact information. APR 13.b requires that address updates be provided to the WSBA within 10 days of a change. To check your current listing, visit the online Lawyer Directory at http://pro.wsba.org. If your contact information has changed, call the WSBA Service Center at 800-945-WSBA, 206-443-WSBA, or e-mail questions@wsba.org.

**WYLD Seeks Award Nominations**

The Washington Young Lawyers Division is accepting nominations for the Thomas Neville Pro Bono Award, Outstanding Young Lawyer of the Year Award, and the Professionalism Award. The WYLD awards recognize lawyers who exemplify...
the best in the legal profession. Nominations are also being accepted for the Outstanding YLD Affiliate or Organization Award, which honors notable public- or member-service programs. If you know of someone deserving of recognition, visit www.wsba.org and click on the "Young Lawyers” link for full details and a nomination form. Award recipients will be determined by the WYLD Board of Trustees at their August 19, 2006, meeting. Recipients will receive awards at presentations to be held in conjunction with events within their law firm or legal community. Self-nominations will not be accepted. A completed nomination form must accompany each nomination in order to be considered. Nominations must be received by August 1, 2006, and should be sent to Amy O’Donnell, WSBA, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121, or amyo@wsba.org.

Lawyers Ensuring Justice for All
Although Washington attorneys volunteered a whopping 70,000 hours of pro bono service last year — the equivalent of $11 million in legal aid — total fundraising for civil legal aid has not kept up with Washington’s growing poor population, placing justice out of reach of most low-income individuals and families in Washington state. To bridge this gap, local bar associations and civil legal aid programs across the state have teamed behind the Campaign for Equal Justice. Co-chaired by Bill Gates Sr. and U.S. Attorney John McKay, the second annual Campaign for Equal Justice aims to gain the backing of at least 10 percent of Washington lawyers. Making a contribution to the Campaign for Equal Justice is a simple way to make a meaningful impact on providing justice for those in need, because a bar united in its support for civil legal aid sends a powerful message to legislators and the public that lawyers are taking the lead to ensure justice for all. For more information about the campaign, or to make a secure online donation, visit www.c4ej.org or call 206-623-5261.

Save the Date: WSBA Annual Awards Dinner and 50-Year Member Tribute Luncheon
The 2006 WSBA Annual Awards Dinner will be held Thursday, September 14 at the Madison Renaissance Hotel in Seattle. The 50-Year Member Tribute Luncheon will be held Friday, September 29 at the Hilton Seattle. All members of the legal community are invited to attend these events. See the registration forms on pages 42 and 43.

Third-Party Liability Information
If your client is involved in a personal-injury case and has received, or is receiving, medical assistance (Medicaid) payments for their medical care, you are required to contact the Department of Social and Health Services (DSHS). RCW 43.20B.060 places a lien against the portion of the settlement or judgment your client receives for medical costs from a third party (including their own insurance coverage) that is responsible for your client’s injuries in order to reimburse the medical bills that have been paid by Medicaid. Before settling your client’s claim with the third party or their insurance company, contact the COB Casualty Unit of DSHS at 800-562-6136 or COB Casualty Unit, PO Box 45561, Olympia,
WSBA Leadership Institute Seeks Fellows for 2007

The Washington State Bar Association seeks applicants for the 2007 WSBA Leadership Institute. The Leadership Institute recognizes that many lawyers, especially those from diverse backgrounds and other underrepresented groups, have not been traditionally recruited for leadership positions or made aware of opportunities for leadership training, skill development, and professional growth available through the WSBA. Ten to 12 attorneys, in practice for three to 10 years, will be carefully selected for the third year of the program. The 2007 program will take place January to August 2007.

The program is a collaborative, experiential, and individualized curriculum that includes eight professional-development seminars. WSBA Leadership Institute fellows will benefit from the latest trends in professional leadership development; exposure to the legislative and judicial systems; interaction with high-level state and local officials and judges; and opportunities to meet high-profile attorneys from the private and public sectors. The program requires a two-year commitment. Following the completion of the first year, fellows are expected to serve on a WSBA section, committee, or bar-related activity. Fellows will earn 30 CLE credits, and the program is free of charge.

To be considered for the program, applicants must: (1) complete an application with cover letter, résumé, and three references; (2) be an active WSBA member; (3) have practiced law in a U.S. jurisdiction for three to 10 years; (4) be nominated by his/her employer, or if self-employed, by another individual; and (5) provide evidence of interest in community and WSBA activities. Applications for the 2007 WSBA Leadership Institute are now available and are due September 1. Application forms and instructions can be found on the WSBA website at www.wsba.org/lawyers/leadership_institute.htm.

WSBA Honors Local Heroes
Walla Walla County Superior Court Judge Donald W. Schacht and Lewis County Superior Court Judge H. John Hall are the latest recipients of the WSBA Local Hero Award, presented to members of the Bar who have made noteworthy contributions to their communities. The WSBA salutes these two distinguished jurors for their commitment and significant contributions to the justice system.

During his distinguished 18-year career on the bench, Judge Schacht has worked tirelessly to improve the justice system in Walla Walla County. He has been a strong advocate for increased court security — an ongoing challenge for rural counties with limited budgets — and, thanks in part to his efforts, Walla Walla County has significantly upgraded security at its courts. Judge Schacht has also championed the increased availability of court services for domestic-violence victims, including making courthouse office space available to advocacy groups.

Judge Hall was instrumental in getting a drug court established in Lewis County and worked tirelessly to raise money for the court. Thanks to his efforts, the court is securely funded through 2008.

WSAMA Elects Officers
The following members of the Washington State Association of Municipal Attorneys (WSAMA) were elected to office for 2006-2007 at the 50th Annual Spring Conference held in Stevenson, Washington, May 3-5.

- President: James Pidduck, city attorney of Ellensburg
- First vice-president: Mike Weight, city attorney of Bothell
- Second vice-president: Loni Lindell, city attorney of Mercer Island
- Immediate past-president: Cynthia McMullen, city attorney of Medical Lake and Sprague

Board members:
- Bruce Disend, city attorney of Sammamish, Duvall, and Maple Valley
- Cynthia Martinez, city prosecutor of...
Yakima
- Gary McLean, city attorney of Puyallup
- Joe Svoboda, city prosecutor of Lacey

WSBA-CLE Member Appreciation Summer Sale July 17-28
Save 50 percent on selected WSBA-CLE recorded seminars and coursebooks during the WSBA-CLE Member Appreciation Summer Sale (sale applies to online purchases only). Visit the newly upgraded WSBA online store at www.wsbacle.org from 8 a.m. July 17 to 5 p.m. July 28 to get great deals on CLE courses. Fifteen CLE credits can be earned from viewing recorded seminars, so beat the December rush and shop in July and save!

Search WSBA Ethics Opinions Online
You can search both formal and informal WSBA ethics opinions at http://pro.wsba.org/io/search.asp. Opinions can be searched by number, year issued, ethical rule, subject matter, or keyword. Ethics opinions are issued by the WSBA to assist members in interpreting their ethical obligations in specific circumstances. The opinions are the result of study and analysis in response to requests from WSBA members. For assistance, call the Ethics Line at 800-945-9722, ext. 8284, or 206-727-8284.

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

LAP Solution of the Month: Take a Vacation!
All work and no play makes you grumpy and inefficient. Vacations are good for you and your family, so plan now to get out of town. And turn off your cell phone while you’re there! If merely contemplating time off makes you feel guilty, call the Lawyers Assistance Program at 206-727-8269.

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

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

Resolving Lawyer Disputes
The WSBA offers two programs to help lawyers resolve disputes. The Fee Arbitration Program focuses on fee disputes between a lawyer and his or her client. To participate, both parties must agree to
be bound by the arbitrator’s decision. The Mediation Program provides a venue for parties to work together to resolve any dispute involving a lawyer, including those between a lawyer and a client, a lawyer and another lawyer, nor a lawyer and another professional. Either party to a dispute may initiate fee arbitration or mediation. Both programs are non-disciplinary, voluntary, and confidential. For more information, visit www.wsba.org/lawyers/services/adr.htm or call 206-733-5923.

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

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

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

Upcoming Board of Governors Meetings
**July 21-22, Port Angeles** • **September 14-15, Seattle**
With the exception of a one-hour executive session the morning of the first day, Board of Governors meetings are open, and all WSBA members are welcome to attend. RSVPs are appreciated but not required. Contact Donna Sato at 206-727-8244 or donnas@wsba.org. The complete Board of Governors meeting schedule is available on the WSBA website at www.wsba.org/info/bog/schedule.htm.

Usury Rate
The average coupon equivalent yield from the first auction of 26-week treasury bills in June 2006 was 5.004 percent. Therefore, the maximum allowable usury rate for July is 12 percent. Information from January 1987 to date is on the WSBA website at www.wsba.org/media/publications/barnews/usury.htm.

Disciplinary Notices

These notices of imposition of disciplinary sanctions and actions are published pursuant to Rule 3.5(d) of the Washington State Supreme Court Rules for Enforcement of Lawyer Conduct, and pursuant to the February 18, 1995, policy statement of the WSBA Board of Governors.

For a complete copy of any disciplinary decision, call the Washington State Disciplinary Board at 206-733-5926, leaving the case name, and your name and address.

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

Resigned in Lieu of Disbarment

Mary Anne Betker (WSBA No. 30429, admitted 2000), of Washougal, resigned in lieu of disbarment, effective February 16, 2006. This resignation was based on her conduct between 2002 and 2005 in multiple matters.

Ms. Betker operated a law firm that focused on employment law and personal injury. Between 2002 and 2005, Ms. Betker had taken on more legal matters than she was capable of handling. Although she was aware that she had accepted too many matters and made some effort to decrease her caseload, Ms. Betker did not substantially decrease the number of legal matters she was handling. Ms. Betker’s lack of legal experience and knowledge substantially contributed to her failure to diligently and competently represent clients in eight matters. Ms. Betker repeatedly missed filing deadlines, failed to perform sufficient review and research of legal matters, and failed to communicate with clients and opposing counsel regarding legal matters being handled by her. Ms. Betker’s conduct establishing grounds for discipline included the following:

- Failing to commence a lawsuit on behalf of a client prior to the expiration of the statute of limitations, failing to effect timely service of process, failing to timely respond to a summary judgment motion, and failing to comply with court-ordered deadlines.
- Failing to be aware of or comply with a statutory pre-filing notice-of-claim requirement prior to filing a lawsuit in a personal injury claim against a local government.
- Advising a client to release all claims in an employment matter and later commencing a lawsuit against the employer without a legal basis to challenge the enforceability of the release.
- Failing to be aware of or comply with statutory exhaustion-of-remedies requirements before initiating a federal lawsuit alleging violations of the Americans with Disabilities Act.
- Depositing an advance payment of fees and costs into a general account instead of a trust account and using the funds to pay her business and personal expenses before providing legal services to the client.
- Representing a client in a bankruptcy proceeding while also
being a creditor of the client, preparing a loan agreement that included provisions that favored the lender to the detriment of the client, and filing a UCC lien on behalf of a lender against the proceeds of the settlement of the client’s claim.

- Commencing an unlawful termination claim on behalf of a client during the pendency of the client’s bankruptcy proceeding without the knowledge, consent, or authority of the bankruptcy court or trustee.
- Assisting her nonlawyer assistant in the unauthorized practice of law and failing to supervise the nonlawyer assistant in the preparation of legal documents in a bankruptcy matter.
- Entering into a contingent fee agreement requiring the client to pay a contingent fee on any offer of settlement if the client terminated her services prior to resolution of the matter, which unfairly affected the client’s right to terminate Ms. Betker’s services, and charging a fee for reviewing a bankruptcy petition that was never reviewed.
- In three instances, failing to inform clients that their lawsuits had been dismissed.
- Failing to respond to client requests for information about the status of their cases, failing to comply with a former client’s request to transmit the client file to a new lawyer, and providing a former client with an incomplete file (in which documents filed after a certain date indicating the case had been dismissed were missing).

Ms. Betker’s conduct violated RPC 1.1, requiring a lawyer to provide competent representation to a client; RPC 1.2(a), requiring a lawyer to abide by a client’s decisions concerning the objectives of representation; RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; RPC 1.4(a), requiring a lawyer to keep a client reasonably informed about the status of a matter and to promptly comply with reasonable requests for information; RPC 1.4(b), requiring a lawyer to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation; RPC 1.5(a), requiring a lawyer’s fee to be reasonable; RPC 5.5(b), prohibiting a lawyer from assisting a person who is not a member of the Bar in the performance of activity that constitutes the unauthorized practice of law; RPC 1.7(b), prohibiting a lawyer from representing a client if the representation of that client may be materially limited by the lawyer’s responsibilities to another client or to a third person or by the lawyer’s own interests, unless the lawyer reasonably believes the representation will not be adversely affected and the client consents in writing after a full disclosure of material facts; RPC 1.14(a), requiring all funds paid to a lawyer or law firm be deposited in one or more identifiable interest-bearing trust accounts; RPC 5.3(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; RPC 8.4(c), requiring a lawyer with direct supervisory authority over a nonlawyer to make reasonable efforts to ensure that the nonlawyer’s conduct is compatible with the professional obligations of the lawyer; RPC 5.3(c), holding a lawyer responsible for the conduct of a nonlawyer assistant that would be a violation of the RPCs if engaged in by a lawyer in circumstances where the lawyer orders or ratifies the conduct or fails to take reasonable remedial action; and RPC 8.4(c), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

Jonathan H. Burke represented the Bar Association. Ms. Betker represented herself.

**Disbarred**

Bruce E. Hawkins (WSBA No. 25414, admitted 1995), of Gig Harbor, was disbarred, effective February 3, 2006, by order of the Washington State Supreme Court following a stipulation approved by the Disciplinary Board. This discipline was based on his conduct between 2003 and 2004 involving businesses that promised, but did not achieve, reduction or elimination of credit-card debt.

Mr. Hawkins became involved with three nonlawyer-operated website businesses that promoted the ability to reduce or eliminate consumer credit-card debt through private arbitrations. At the request of one of the nonlawyers, Mr. Hawkins reviewed materials connected to the debt-elimination program and suggested changes. Mr. Hawkins allowed his name to be used in promotional materials for the program, including a DVD presentation that claimed that Mr. Hawkins “literally has over 98 percent success rate when he goes to arbitration.” In these materials, which were mailed to potential program customers, Mr. Hawkins represented that credit-card debtors were not bound to the arbitration services specified in their cardholder agreements and should not have to repay their debt on a national bank’s credit card because national banks cannot lend credit. Mr. Hawkins knew, however, that arbitration can be required only if both parties agree in advance that a court is the proper forum to resolve issues about the applicability of arbitration or the appropriateness of an arbitrator, and that since 1996 the Department of the Treasury, Office of the Comptroller of the Currency had decided it is “well established” that national banks can issue credit cards. Relying on Mr. Hawkins’s representations, numerous credit-card debtors paid a fee and applied to the program through these websites. The debtors were then referred to a private arbitration service organized to facilitate the program.

In 2003, Mr. Hawkins set up Commercial Arbitration Forum, Inc. (CAFI), a Washington not-for-profit corporation. Mr. Hawkins was CAFI’s sole shareholder and sole arbitrator. CAFI arbitrated matters referred to it by the aforementioned website businesses, which at the time needed a new arbitration service because prior arbitration services used by them had either been enjoined from issuing any further awards or had closed. Mr. Hawkins knew that CAFI would receive cases to arbitrate, because he endorsed the theory that a national banking association could not lend credit. CAFI arbitrations were conducted based only on documents mailed, faxed, or e-mailed to Mr. Hawkins by debtors using paperwork and briefing materials Mr. Hawkins had previously reviewed and modified on behalf of the website businesses. In conducting CAFI
proceedings, Mr. Hawkins did not disclose to the debtors that he had a business relationship with the referring businesses. The first paragraph of each award signed by Mr. Hawkins stated, “no known conflict of interest exists between the Commercial Arbitration Forum . . . and the Claimant or Respondent,” though Mr. Hawkins paid substantial sums to the referring businesses. As CAFI’s arbitrator, Mr. Hawkins found for the debtor 90 percent of the time. In all of those cases, the creditor defaulted. Mr. Hawkins did not disclose to debtors his role in developing the program materials that were submitted to him as arbitrator.

In December 2003, Mr. Hawkins signed a CAFI arbitration award in favor of a claimant whose “claim” against a national bank was based on a debt owed under a line-of-credit agreement that did not contain an arbitration clause. In the arbitration award, Mr. Hawkins stated that “Claimant alleges an agreement was entered into between the Parties to resolve disputes through arbitration.” Mr. Hawkins awarded the claimant $1,500 in attorney’s fees and costs, even though the claimant appeared pro se, and he directed the bank to notify the three major credit bureaus that “there is a zero balance owed” by the claimant to the bank. As in all CAFI arbitrations, Mr. Hawkins relied on the sworn pleadings of the claimants, without either requiring additional proof of proper service of the arbitration demand on the national bank or reviewing the debtor’s agreement with the bank to confirm it included an arbitration clause. He knew of no legal authority to support his position that one may go unilaterally to an arbitrator outside those specified in the credit-card agreement. The bank subsequently successfully sued the debtor on the debt.

In an August 2003 letter, another national bank provided “formal notice” to Mr. Hawkins that they “will not agree to arbitrate disputes before CAFI.” Nevertheless, after August 2003, Mr. Hawkins entered 177 “awards” in favor of the bank’s debtors.

After a debtor received an arbitration “award,” the program materials advised the debtor to confirm the award in court. “Awards” issued by Mr. Hawkins and CAFI were rejected by courts in several instances, and, in at least one case in which a debtor attempted to confirm such an award, the court awarded attorney’s fees and costs to the bank. By the end of 2003, Mr. Hawkins stopped taking new cases for arbitration, although he continued to arbitrate cases already filed. In the end, he arbitrated over a thousand CAFI arbitrations, charging $139 per matter. Mr. Hawkins collected over $100,000 for issuing CAFI arbitration awards.

In November 2003, a financial-services corporation obtained a temporary restraining order against CAFI and one of the corporation’s debtors prohibiting them from conducting any more arbitrations in that debtor’s case. Shortly thereafter, Mr. Hawkins sold the CAFI business and software to a non-lawyer friend, with payments to Mr. Hawkins tied to a percentage of income generated by the business (subsequently renamed “SAG”) for as long as it maintained operations. In September 2004, a national bank filed for injunctive and declaratory relief in a Los Angeles County Superior Court against CAFI, SAG, and other so-called mailbox arbitration forums. CAFI defaulted. Eventually, the bank obtained a permanent injunction against CAFI, SAG, and other mailbox arbitration forums prohibiting any further arbitrations involving that bank’s California customers.

When an Idaho corporation attempted to confirm SAG arbitration awards that it had received through an assignment, a national bank counterclaimed for injunctive relief. In December 2004, SAG and its owner stipulated to and the court entered a permanent injunction in the Idaho case. Among other things, the order enjoined SAG from “attempting in any manner to engage in arbitration or debt avoidance involving [the bank’s] credit card customers through or in conjunction with any other entity or person . . . .”

In 2004, Mr. Hawkins began accepting cases referred to him by the aforementioned website businesses for the purpose of preparing materials for “pro se” debtors from various states. After a debtor submitted the application with a $200 “advance retainer,” he or she would be referred to Mr. Hawkins, who would then enter into a separate fee agreement with the debtor based on a percentage of the debt to be “eliminated” and the number of credit cards. The usual fee was about 10 percent of the amount of the debt. Mr. Hawkins would pay 10 percent of the fee to the referring website business. During 2003 and 2004, Mr. Hawkins collected about $200,000 under such fee agreements.

In one instance, after assuring a debtor in Washington that the program was legal and (according to the debtor) that it was easy to get the awards confirmed in court, a debtor paid Mr. Hawkins over $5,700. Mr. Hawkins did not disclose his financial interest in SAG to the debtor. After receiving a number of SAG arbitration awards, the debtor was unable to confirm the awards in court and did not eliminate any credit-card debt. In at least two other cases in Washington, Mr. Hawkins appeared as the debtors’ lawyer in superior court, attempting to rely on mailbox arbitration awards issued by SAG. Neither client in these two cases succeeded.

Mr. Hawkins did not disclose to program participants his financial interest in SAG. Nor did he disclose that it was very rare for anyone following his program to achieve a zero balance or any reduction on their credit-card debt. Mr. Hawkins did not disclose to program participants that only about five percent of cases achieved the goal of having their accounts closed with a “paid as agreed” notation (and that he considered such cases “a mistake on the part of the bank”). Mr. Hawkins did not disclose to program participants that program arbitrations produced favorable awards only by default, that as an arbitrator he did not review materials to ensure his jurisdiction over matters, or that he knew of no case decided in favor of a debtor when banks challenged the arbitration awards in court.

Mr. Hawkins’s conduct violated RPC 5.4(a), prohibiting a lawyer from sharing legal fees with a nonlawyer; RPC 7.1(a) and (b), prohibiting a lawyer from making a false or misleading communication about the lawyer or the lawyer’s services; RPC 8.4(c), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and RPC 8.4(d), prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice.
Linda B. Eide and M. Craig Bray represented the Bar Association. Mr. Hawkins represented himself. Charles K. Wiggins was the hearing officer.

Suspended

George J. Fair (WSBA No. 2967, admitted 1954), of Bellevue, was suspended for six months, effective December 23, 2004, by order of the Washington State Supreme Court following a stipulation approved by the Disciplinary Board. This discipline was based on his violation of a temporary restraining order in 2003.

In 2003, Mr. Fair’s spouse commenced a dissolution-of-marriage proceeding pending in King County Superior Court. In August 2003, the court issued a restraining order prohibiting Mr. Fair from, inter alia, “molesting or disturbing the peace” of his spouse. Despite his knowledge of the order, Mr. Fair had contact with his spouse in violation of the restraining order. During the incident, Mr. Fair threatened his spouse verbally and punched her in the face. As a result, in June 2004, Mr. Fair was convicted of felony violation of a domestic-violence court order in violation of RCW 26.50.110.

Mr. Fair’s conduct violated RPC 8.4(b), prohibiting a lawyer from committing a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects; and RPC 8.4(i), which prohibits a lawyer from committing any act of unjustified assault, whether committed in the course of his or her conduct as a lawyer or otherwise, and whether the act constitutes a felony or a misdemeanor or not.

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

Reprimanded

Eric C. Hoort (WSBA No. 29360, admitted 1999), of Seattle, was ordered to receive a reprimand on September 2, 2005, following a hearing. This discipline was based on his conduct in 2002 involving failure to commence an action prior to expiration of the statute of limitations.

At a meeting on June 15, 2002, a client hired Mr. Hoort to represent him in a wrongful termination matter. The client’s employment had been terminated for being absent without leave after his arrest and incarceration for attempted murder. The client was ultimately acquitted of the attempted murder charge and released from custody. While still incarcerated, the client had sent a letter to his union explaining that the termination was not justified and requesting that the union file a grievance on his behalf. By letter dated January 15, 2002, the union replied that it would not pursue a grievance relating to the termination. At the June 15 meeting, the client paid Mr. Hoort $200 and gave him a file containing documents relating to the dispute, including a copy of the January 15 letter from the union.

Mr. Hoort knew that the statute of limitations for a “hybrid” action brought against an employer and a union is six months, beginning from when the employee first knew or should have known the union would not file the termination. At the latest, the six-month limitation period on the client’s claim would run no later than mid-July 2002. Mr. Hoort neither clearly advised the client of the date on which the statute would run nor calendared a date for the expiration of the limitation period. Mr. Hoort did not write any letters to the client’s former employer or the union, and he did not file a lawsuit on the client’s behalf. In August 2002, the client sent to Mr. Hoort $500. In September 2002, the client wrote a letter to Mr. Hoort inquiring about the status of the case. By letter dated October 4, 2002, Mr. Hoort replied that, after extensive research, he had determined that the limitation period had lapsed some four months prior to the client contacting his office and, as a result, he would not be able to pursue a wrongful termination action on the client’s behalf. Enclosed with the letter were file materials and a money order for $500. Mr. Hoort’s statement in the October 4 letter about the timing of the expiration of the statute of limitations was incorrect.

Mr. Hoort’s conduct violated RPC 1.1, requiring a lawyer to provide competent representation to a client; RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; and RPC 3.2, requiring a lawyer to make reasonable efforts to expedite litigation consistent with the interests
of the client.

Nancy B. Miller represented the Bar Association. Kurt M. Bulmer represented Mr. Hoort. Teena M. Killian was the hearing officer.

Reprimanded

Priscilla A. Vaagen (WSBA No. 23016, admitted 1993), of Spokane, was ordered to receive a reprimand on November 29, 2005, following a stipulation approved by a hearing officer. This discipline was based on her conduct between 2003 and 2005 involving trust-account irregularities.

In 2002, Ms. Vaagen stipulated to having negligently failed to maintain complete and accurate records of her trust account, depositing earned fees into the account, and failing to properly supervise her staff regarding her trust account. Ms. Vaagen received an admonition and was placed on probation requiring reexamination of her trust-account records by a WSBA auditor. Although Ms. Vaagen made efforts to correct her trust-account records, these efforts were unsuccessful in alleviating the chronically inadequate state of her records. Ms. Vaagen cooperated with a further examination of her trust-account records for 2005. The examination disclosed that at various points in 2003, 2004, and 2005, inadequate trust-account records were maintained, funds held on behalf of clients were advanced on behalf of other clients, funds were disbursed from the trust account before the underlying deposits had cleared the banking system, inactive and unclaimed funds were held in the accounts, and the account was not properly reconciled. As a result of these errors, a July 2005 reconciliation of the client ledgers resulted in a negative balance of $1,528.65. Although no evidence was found of clients losing money or any intentional misappropriation of funds, chronic errors in Ms. Vaagen's trust account records subjected clients to potential harm.

Since June 2005, Ms. Vaagen has worked with a WSBA auditor to identify all funds in the trust account and has resolved all negative balance items in the account. In October 2005, Ms. Vaagen retained the services of an accountant to supervise the maintenance of her trust-account records and to perform on a monthly basis a reconciliation of the check register and the bank balance and a reconciliation of the client ledgers to the reconciled balance. Ms. Vaagen stipulated to a two-year period of probation, which includes periodic monitoring of her trust-account records by a WSBA auditor.

Ms. Vaagen's conduct violated RPC 1.14(a), requiring that all funds of clients paid to a lawyer or a law firm be deposited into an interest-bearing trust account and that no funds belonging to the lawyer or law firm be deposited therein; and RPC 1.14(b)(3), requiring a lawyer to maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to the client regarding them.

Randy V. Beitel represented the Bar Association. Michael J. Beyer represented Ms. Vaagen. James M. Danielson was the hearing officer.

Reprimanded

David E. Vis (WSBA No. 20599, admitted 1991), of Bellingham, was ordered to receive a reprimand following a stipulation approved by a hearing officer. This discipline was based on his conduct in 2003 involving lack of diligence and failure to communicate with clients.

In August 2003, Mr. Vis was hired by a couple who had defaulted on payments to a bank holding a second-position deed of trust on their home. At the clients' request, Mr. Vis agreed to write to the bank to request that it forebear on foreclosing its interest in the property until the couple could sell some real property to satisfy the obligation. Mr. Vis never wrote to the bank. In August 2003, the couple received a summons and complaint in a separate collection action. Mr. Vis agreed to represent the clients and gather more information about the matter. Although he filed a notice of appearance on behalf of the clients in the proceeding, Mr. Vis never filed an answer to the complaint. In October 2003, Mr. Vis spoke with the counsel for the creditor to ask for verification of the debt, which was provided to him in May 2004. Mr. Vis did not provide this information to his clients. In June 2004, the counsel for the creditor filed a motion seeking an order of default and default judgment. The motion was scheduled for July. Mr. Vis was served with these documents, but he did not notify his clients about the motion or the hearing. Neither Mr. Vis nor his clients appeared for the hearing or otherwise responded to the motion. The creditor obtained a default judgment in the amount of $22,436.58 against Mr. Vis's clients.

Mr. Vis's conduct violated RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; and RPC 1.4, requiring a lawyer to keep a client reasonably informed about the status of a matter, promptly comply with reasonable requests for information, and explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Sachia Stonefeld Powell represented the Bar Association. Mr. Vis represented himself. Scott M. Ellerby was the hearing officer.

Reprimanded

Michael J. Wicks (WSBA No. 16950, admitted 1987), of Phoenix, Arizona, was ordered to receive a reprimand, effective January 31, 2005, by order of the Washington State Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of Arizona. This discipline was based on his conduct in 2003 involving trust account irregularities.

In August 2003, the State Bar of Arizona received an insufficient-funds notice from Wells Fargo Bank regarding Mr. Wicks's client trust account. The notice indicated that a check in the amount of $190 had attempted to clear when the balance in Mr. Wicks's client trust account was only $169.55. Wells Fargo paid the check and charged a $29 overdraft fee, thereby overdrafting the trust account by $49.45. The State Bar of Arizona sent to Mr. Wicks a copy of the insufficient-funds notice with a letter requesting that he
submit an explanation. Mr. Wicks explained that the overdraft was a result of a combination of bookkeeping and deposit errors. His explanation disclosed the following:

- Believing that there was a possibility that he could be required to refund fees in three client matters, Mr. Wicks deposited “earned-upon-receipt” fees into his client trust account;
- In one instance, Mr. Wicks erroneously deposited a $1,300 fee into his operating account instead of his client trust account. Mr. Wicks subsequently refunded $300 from the trust account to the client, not realizing that the offsetting funds were not on deposit in the client trust account, resulting in a $300 shortage;
- In one instance, after accepting a $3,000 fee from a client, Mr. Wicks issued a trust-account check in the amount of $140 in payment of costs, but failed to record the disbursement in a check register. Mr. Wicks subsequently issued a partial refund of $1,000 to the client and a check to himself in the amount of $2,000. Mr. Wicks did not remember that he had previously issued a trust-account check for costs, resulting in a shortage of $140.

In October 2003, the State Bar of Arizona requested additional information from Mr. Wicks. Mr. Wicks's response was incomplete, because his bookkeeping system was not properly maintained. Mr. Wicks was unable to completely account for the total balance of funds in the trust account and unclear as to the balance of any personal funds being maintained in the trust account to cover bank service charges. Available records reflected a total balance below what should have been in the account for three clients.

Mr. Wicks's conduct violated ER 1.15 of the Arizona Rules of Professional Conduct, requiring a lawyer to properly safeguard client funds, to keep the lawyer's funds separate from client funds on deposit in the trust account, and to maintain complete trust account records for a period of five years; Rule 43 of the Rules of the Supreme Court of Arizona (Ariz. R. S. Ct.), requiring a lawyer to properly maintain complete trust account records for a period of five years, exercise due professional care and proper internal controls in the maintenance of client trust accounts, to record all transactions to the trust account promptly and completely, and to conduct a monthly reconciliation of the trust account as required by the rule; and Ariz. R. S. Ct. 44, requiring that client funds be held in a trust account as regulated by the rule.

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

**Non-Disciplinary Notice**

**Suspended Pending Outcome of Disciplinary Proceedings**

William Dean Adams (WSBA No. 7565, admitted 1977), of Oak Harbor, was suspended pending the outcome of disciplinary proceedings, pursuant to ELC 7.1, effective April 27, 2006, by an order of the Washington State Supreme Court. This is not a disciplinary action. Mr. Adams is to be distinguished from William Douglas Adams of New Berlin, Wisconsin, and William G. Adams of Carnation.

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**Announcements**

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**Richard Gemson**

After over 52 years of active practice, I have decided to retire, effective August 1, 2006.

During the years I have practiced, I have received nothing but courtesy from both my fellow attorneys and from the judges before whom I have had the privilege to appear.

Thanks to all of you.

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Rylander & Associates PC

is pleased to announce that

Julie Penry

has been registered as a patent attorney with the United States Patent and Trademark Office.

Ms. Penry is a graduate in biology and chemistry from Wake Forest University and in law from Lewis & Clark Law School. An experienced trial attorney, she is licensed to practice in Oregon and Washington, and is now registered as a patent attorney.

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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.

FAIN SHELDON ANDERSON & VANDERHOEF PLLC
Bank of America Tower
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Seattle, WA 98104
206-749-2371
E-mail: patrick@fsav.com

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

WSBA Bar News Calendar
2101 Fourth Ave., Ste. 400
Seattle, WA 98121-2330
Fax: 206-727-8319
E-mail: comm@wsba.org

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

Business Law

Lawyer’s Toolbox: Business Law
August 10 — Seattle. 3.25 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Creditor/Debtor

Lawyer’s Toolbox: Bankruptcy Issues
August 10 — Seattle. 3 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Criminal Law

Lawyer’s Toolbox: Criminal Law Issues
July 26 — Seattle. 3.25 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Elder Law

Alzheimer’s Disease and Other Forms of Dementia: From Diagnosis to Litigation — How to Protect Your Client
July 20 — Seattle. 6.5 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Environmental Law

Renewables & Energy Efficiency

General

Lawyer’s Toolbox: Effective Writing
August 3 — Seattle. 3 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Law Practice Management

Tele-CLE Series: Leaving Your Practice Well #1: The Transition: Considerations, Requirements and Procedures
July 19 — Tele-CLE. 1.5 credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Tele-CLE Series: Leaving Your Practice Well #2: Financial Decision and Resources
July 25 — Tele-CLE. 1.5 credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Lawyer’s Toolbox: Technology and the Law
August 3 — Seattle. 3.25 CLE credits, including .5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Lawyer’s Toolbox: Setting Up Your Practice and Handling Your Trust Account
August 18 — Seattle. 3.5 CLE credits, including 1.5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Litigation

Pre-Complaint & Post-Trial Patent Litigation Strategies

Lawyer’s Toolbox: Civil Litigation
July 26 — Seattle. 3 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Auto Crash Cases — Winning with Cutting Edge Technology

LEGAL MALPRACTICE and DISCIPLINARY ISSUES

Joseph J. Ganz
is available for consultation, referral, and association in cases of legal malpractice (both plaintiff and defense), as well as defense of lawyer disciplinary and/or grievance issues.

2101 Fourth Ave., Ste. 2100
Seattle, WA 98121
206-448-2100
E-mail: jganzesq@aol.com

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Hermes Law Firm, PSC
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Everett WA 98201
425.339.0990
ruhh@hermeslawfirm.com

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Seattle, WA 98109
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Bernard G. Lanz
M. Scott Dutton (of Counsel)

LEGAL MALPRACTICE and DISCIPLINARY ISSUES

Joseph J. Ganz
is available for consultation, referral, and association in cases of legal malpractice (both plaintiff and defense), as well as defense of lawyer disciplinary and/or grievance issues.

2101 Fourth Ave., Ste. 2100
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E-mail: jganzesq@aol.com

Environmental Law

Renewables & Energy Efficiency

General

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Tele-CLE Series: Leaving Your Practice Well #2: Financial Decision and Resources
July 25 — Tele-CLE. 1.5 credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Lawyer’s Toolbox: Technology and the Law
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Lawyer’s Toolbox: Setting Up Your Practice and Handling Your Trust Account
August 18 — Seattle. 3.5 CLE credits, including 1.5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Litigation

Pre-Complaint & Post-Trial Patent Litigation Strategies

Lawyer’s Toolbox: Civil Litigation
July 26 — Seattle. 3 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Auto Crash Cases — Winning with Cutting Edge Technology
August 17 — Seattle. 6 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Four-Day Intensive Mediator Training Program
July 18-21 — Seattle. 41.5 CLE credits, including 4.5 ethics. By Alhadeff & Forbes Mediation Services; 206-281-9950.

WDTL’s Annual Convention
July 13-16 — Whistler, B.C. ByWDTL: 206-749-0319 or info@wdtl.org.

WSTLA & ATLA Convention: Annual Meeting, Golf, Tennis

Practice Development Series: Building Your Real Estate Practice
July 13 — Seattle. 6 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Advanced Commercial Leases
July 13-14 — Spokane. 9 CLE credits, including 1 ethics. By The Seminar Group; 206-463-4400 or 800-574-4852 or info@theseminargroup.net.

The Law of Adjoining Properties
July 26 — Tacoma; July 27 — Seattle. 6 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

2006 CASRIP High Technology Protection Summit
July 21-22 — Seattle. CLE credits pending. By UW School of Law; 800-CLE-UNIV or 206-543-0059.

Emerging Northwest Tribal Economies
July 14 — Seattle. 7 CLE credits. By The Seminar Group; 206-463-4400 or 800-574-4852.

Mediation

Technology

2006 CASRIP High Technology Protection Summit
July 21-22 — Seattle. CLE credits pending. By UW School of Law; 800-CLE-UNIV or 206-543-0059.

Tribal Law

Email: info@theseminargroup.net 206-463-4400 or 800-574-4852.

Large corner office with private entrance in elegant, newly constructed small law building. Possible referrals. All amenities included. Gated entrance with own parking lot. Highly visible location close to RJC. 206-227-8831.


Professional offices available in the Roosevelt (Seattle) area. Large corner office: $575; two medium-sized offices: $435 apiece. Share with friendly attorneys/mediators. Services available: ABC, DSL, fax, copier, executive conference room, parking. Contact: Peggy at 206-624-2242 or e-mail phobanlaw@msn.com.

Kent office space: Large, fully furnished corner office with private entrance in elegant, newly constructed small law building. Possible referrals. All amenities included. Gated entrance with own parking lot. Highly visible location close to RJC. 206-227-8831.

Two Seattle furnished law-firm offices for sublease: 55th floor, Columbia Tower, Lake Union and Cascades views; 177.5 sq. ft. and 115 sq. ft. Includes use of reception area, conference rooms, DSL, phones, and lots of free parking. Contact Peggy 206-244-3200.

One beautiful new office with secretary station. UW area. Includes two large conference rooms, copier, fax, kitchen, shower. Phone system in and network ready. Air conditioned. 206-522-7633.

Normandy Park (Seattle) professional space available: Three spaces available in Class-A new building includes secretary/paralegal space, kitchen, copy room, conference room, DSL, phones, and lots of free parking. Contact Peggy 206-244-3200.

Two light, airy offices available in a shared suite with access to most amenities: receptionist, copy, fax, Internet access, mail, and messenger service. Located in Fisherman’s Terminal (Seattle), on the water, with unlimited free parking. Call Dean or Tarl for details. 206-285-4130.


Congenial downtown Seattle law firm (business, I.P., tax). Spacious offices, staff areas for sublease. Rent includes receptionist, conference rooms, law library, kitchen. Copiers, fax, DSL Internet also available. 206-382-2600.

Flexible sublease space located in Financial Center (Seattle). Short or longer term. Optional shared services (phone, reception, conference, etc.). Sizes ranging from individual offices up to private suite consisting of 1,363 sq. ft. Please contact Derek Hermsen 206-264-6207.


Professional offices available in the Roosevelt (Seattle) area. Large corner office: $575; two medium-sized offices: $435 apiece. Share with friendly attorneys/mediators. Services available: ABC, DSL, fax, copier, executive conference room, parking. Contact: Peggy at 206-624-2242 or e-mail phobanlaw@msn.com.

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Two Seattle furnished law-firm offices for sublease: 55th floor, Columbia Tower, Lake Union and Cascades views; 177.5 sq. ft. and 115 sq. ft. Includes use of reception area, conference rooms, DSL, phones, and lots of free parking. Contact Peggy 206-244-3200.
to provide general legal services to the tribal government. Basic knowledge of federal Indian law is required, as is membership in the Oregon State Bar or admission within six months. Applications accepted beginning June 1. First review of applications on June 30, 2006, but applications received later will be considered until the position is filled. Salary $50,000 and above DOQ. Contact: Human Resources Department, Confederated Tribes of the Umatilla Indian Reservation, 73239 Confederated Way, PO Box 638, Pendleton, OR 97801; 541-276-3570.

Tribal attorney with experience in Indian Law and complex litigation. Seeking an attorney with excellent written, oral, and research skills who can work well with our in-house team. Compensation DOE. Complete job description available on request. Please send résumé, references, and writing sample to Wendy Otto at Swinomish Indian Tribal Community, PO Box 817, LaConner, WA 98257; fax 360-466-5309; e-mail wotto@swinomish.nsn.us.

Small plaintiffs’ personal injury firm located on Mercer Island seeks hardworking, bright, and personable litigation associate with at least one year of personal-injury experience. Non-smoking. Salary DOE, full benefits. Send résumé to Gary Gosanko via fax, 206-275-2207 or e-mail gary@gosankolaw.com.

Washington State Department of Health (DOH) is seeking an experienced litigation attorney or administrative law judge to serve as a health-law judge (hearings examiner 3) in Tumwater, Juris doctorate, admission to WSBA, and one year trial practice experience required. Salary range is $52,212 to $66,852 DOQ. If you are interested, please contact Julie Banks at julie.banks@doh.wa.gov or 360-236-4672 for a copy of the formal recruitment announcement and instructions on how to apply. DOH is an EOE. Job closes July 5.

Senior real estate counsel — Cendant Timeshare Resort Group seeks an experienced (minimum seven years) real estate attorney to join its small legal office in Redmond (Trendwest/Fairfield brands) as in-house counsel. Candidate must have land-use and condominium experience and be able to handle complex commercial real estate acquisitions, including assisting with due diligence and entitlements. Knowledge of the timeshare or hospitality industry and construction transactions is strongly preferred. Must have excellent drafting, negotiating, and interpersonal skills. Competitive compensation and benefits package, including 401(k), annual bonus, and stock plan. Interested and qualified candidates, please submit résumé and cover letter to sheri.saastad@cendant-trg.com. Only qualified applicants will be contacted.

Real estate paralegal — Cendant Timeshare Resort Group seeks a paralegal experienced in commercial real estate to join its small legal office in Redmond (Trendwest). Candidate will be responsible for providing substantive legal work to support senior counsel involved in complex commercial real estate acquisitions. Candidate must have a working knowledge of, and ability to assist in, all aspects of commercial real estate transactions including title insurance, escrow, and lease preparation; be familiar with closing statements; and be able to conduct in-depth and complex title and survey review together with substantive legal research. This person must be Internet savvy, possess superior written and verbal communication skills and exceptional interpersonal skills, adapt to rapidly changing priorities, multi-task, take initiative, work independently, and be comfortable working in a corporate setting. In addition, the person will be responsible for all administrative functions including mail distribution, correspondence, invoice processing, filing, calendaring, expense reports, booking travel, ordering office supplies, and maintaining office equipment. Associate degree or two-year technical certificate in paralegal studies required. College degree preferred. Must have five-plus years’ experience as a paralegal with a strong real estate focus. Interested and qualified candidates, please submit résumé and cover letter to sheri.saastad@cendant-trg.com. Only qualified applicants will be contacted.

Attorney III: The Ohio Casualty Insurance Company is seeking an experienced insurance defense trial attorney to fill a position in Seattle. Selected candidate will perform a variety of moderate to complex legal assignments and projects. Provides legal advice to claims staff on issues relating to suits; litigates cases including construction, construction defect, and catastrophic personal injury loss cases; and tries cases involving a high degree of complexity. Position requires

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Quality attorneys sought to fill high-end permanent and contract positions in law firms and companies throughout Washington. Contact Legal Ease, LLC by phone, 425-822-1157; fax, 425-889-2775; e-mail legalease@legalease.com; or visit us on the web at www.legalease.com.

Minzel and Associates, Inc. is a temporary- and permanent-placement agency for lawyers and paralegals. We are looking for quality lawyers and paralegals who are willing to work on a contract and/or permanent basis for law firms, corporations, solo practitioners, and government agencies. If you are interested, please email your résumé as a Word attachment to resumes@minzel.com. Please visit our website at www.minzel.com.

The Portland office of Miller Nash is seeking to hire a land-use associate with one-plus years’ experience. Our ideal candidate will have prior planning experience. A degree in land-use planning is a plus. This associate will work with our land-use team on permitting, appeals, application preparation, local government relations, and researching all aspects of land-use law. In addition to land use, this associate may assist our real estate practice with matters relating to land use. Real estate experience is a plus. To apply, please submit your cover letter, résumé, law-school transcript, and writing sample (no longer than 10 pages, please) online at www.millernash.com/careers or by e-mail to katie.charlston@millernash.com.

Associate attorney general: The Confederated Tribes of the Umatilla Indian Reservation is hiring an associate attorney general

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law degree from an accredited law school; at least seven years’ legal experience; must be licensed to practice in Washington state; and license in Oregon a definite plus. Position offers competitive compensation and benefit package. Please apply online at www.ucas.com, and reference posting #2305. Ohio Casualty is an EOE.

**Olympia family law firm** seeks associate attorney with minimum of three years’ experience and WA license. Family law expertise a plus, but not required. We are a near-paperless office, with the majority of work performed on an automated case-management and form-generation system. Send résumé to Margaret Brost at mbrost@onlyfamilylaw.com

**Associate attorney** — Dynamic six-attorney firm located in beautiful corporate space in Kent seeks an associate with three-plus years’ experience to work in litigation, business formation, and asset protection. Salary DOQ. Send cover letter, résumé, and writing sample to WSBA Bar News, Box 674, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121 or classifieds@wsba.org.

**ERISA attorney for downtown law firm.** Carney Badley Spellman seeks ERISA and employment associate attorney, part-time or full-time; minimum two years’ experience in employee benefits/ERISA, employment law experience or interest; associate would be working in a growing practice of employee benefit funds, public and private sector; California bar admission or accounting/investment background a plus; travel to California likely. Ideal candidate will have strong academics, proven communication and writing skills, leadership qualities. E-mail cover letter and résumé to dillard@carneylaw.com.

**The Vancouver office of Miller Nash** is seeking an associate with a minimum of two years’ experience to join our real estate, land use, and environmental practice (From the Ground Up). Excellent research, analytical, and writing skills a must, including proficiency with common office software and computerized research. Must have strong problem-solving skills and ability to multitask, prioritize, and work effortlessly with a variety of professional styles. Must be detail-oriented and have an ability and desire to work as a part of a team. A high degree of responsiveness to colleagues and clients is essential. Legal experience in real estate, land use, or environmental practice ideal but not required. Practice will involve researching legal issues associated with all matters related to real estate law and land use/environmental permitting. Associate will be drafting briefs, legal opinions, land use applications, contracts, and other real estate/land use/environmental documentation, and researching factual issues. Practice will evolve into assisting with and handling land use hearings at administrative level and possibly in court. To apply, please submit your cover letter, résumé, law-school transcript, and writing sample (no longer than 10 pages, please) online at www.millernash.com/careers or by e-mail to katie.charlston@millernash.com. EOE.

**Miller Nash** — Seattle. Intellectual property associate. Miller Nash is seeking an intellectual property associate in our Seattle office with a minimum of three years’ experience in trademark prosecution and counseling. Our ideal candidate has experience in domestic and foreign trademark clearance, prosecution and enforcement, resolving *inter partes* disputes, and drafting trademark license and coexistence agreements. A member of the patent bar is preferred, but not required. To apply, please submit your cover letter and résumé online at www.millernash.com/careers or by e-mail to katie.charlston@millernash.com.

**Real estate associate** — Seattle office. Miller Nash is seeking an experienced real estate associate with a minimum of three years’ experience. Our ideal candidate will have experience with real estate transactions and disputes, construction contract drafting, real estate financing, and commercial leasing. Some land-use experience a plus. To apply, please submit your cover letter, résumé, law-school transcript, and writing sample (no longer than 10 pages, please) online at www.millernash.com/careers or by e-mail to katie.charlston@millernash.com. EOE.

**Director of human resources and public relations.** Small law firm based in downtown Seattle with a national health-care practice seeks a dynamic individual with strong interpersonal skills and personnel management experience for a position with responsibility for human-resources and public-relations functions at the firm. This is a newly created position that will have responsibility for recruiting attorneys and staff, managing HR-related issues, and dealing with various PR projects. Salary and hours (part-time versus full-time) are negotiable. Interested candidates should submit a résumé and references to sandyk@nathansongroup.com.

**Litigation associate, Bainbridge, WA.** AV-rated plaintiff medical negligence firm. Small firm, busy practice. Nursing or other medical background strongly preferred. E-mail or fax cover letter and résumé to todd@medicallegal.info or 206-842-3362. No phone calls, please.

**Tacoma firm is seeking** an individual who wants a break from the billable hour, handling telephone consultations on legal issues. Successful candidate must be able to communicate effectively and clearly, have a professional demeanor, and be genuinely interested in assisting people with their legal issues. Must be a member of the WSBA for a minimum of two years to be considered. Looking for full-time; will consider part-time. Possible telecommuting. Salary DOQ. Medical and dental benefits. 401(k). E-mail résumé to: lawfirm@LombinoMartino.com or fax to 253-830-2699.

**Lasher Holzapfel Sperry & Ebberson, PLLC,** is currently seeking an attorney with significant experience (four-plus years) in the areas of estate planning, probate, and estate and trust administration. Exceptional academic, writing, and teamwork skills are required. It’s interesting work and a great firm atmosphere for motivated individuals who desire to build or expand a practice. LLM or comparable degree preferred. Current WSBA membership desired. Send cover letter, résumé, and writing sample to Lisa D. Miner, Firm Administrator, Lasher Holzapfel Sperry & Ebberson, PLLC, 601 Union St., Ste. 2600, Seattle, WA 98101-4000, miner@lasher.com, www.lasher.com.

**Litigation associate with two-plus years of experience sought for Eastside firm.** If you have superior academic credentials and desire to work on quality matters in a first-class environment, then e-mail your résumé to jgraham@washlaw.biz. Competitive salary DOE. All inquiries kept confidential.

**Associate — complex commercial litigation.** Danielson Harrigan Leyh & Tollefson, AV-rated, 11-lawyer, complex commercial
litigation firm, seeks associate with a minimum of two years’ experience or judicial clerkship. Plenty of interesting work for motivated individual who desires challenging but rewarding practice. Candidates should possess excellent interpersonal, writing, and research skills, and academic credentials. Send résumé to Randall Thomsen, 999 Third Ave., Ste. 4400, Seattle, WA 98104. All inquiries kept confidential.

Portland opening — Labor and employment attorney. The labor and employment section at Stoel Rives LLP, an equal-opportunity employer, continues to grow. Our Portland group recently added two partners and two associate attorneys. We are seeking an additional associate to join our team. The ideal candidate has two years of experience in labor litigation and counseling. Experience in labor relations is a plus. Exceptional academic, writing, and teamwork skills are required. Please send a cover letter, résumé, and law-school transcript copy to Michelle Baird-Johnson, Recruiting Manager, Stoel Rives LLP, 900 SW Fifth Ave., Ste. 2600, Portland, OR 97204; e-mail mbjohnson@stoel.com. No calls or search firms please.

Plaintiff personal-injury attorney litigation position: The law firm of Harold D. Carr, PS handles personal-injury cases with a main office located in Olympia/Lacey and satellite offices in Pierce County. An attorney position is now available to handle both arbitration and jury litigation. Please mail résumé to 4535 Lacey Blvd. SE, Lacey WA 98503 or fax to 360-455-0031.

Contract lawyer position: Firm seeks a lawyer with a minimum of two years’ experience to provide the firm’s clients with assistance in family law and immigration matters. Initial contract lawyer position with potential for associate position, depending upon performance. Please send cover letter and résumé to Office Manager, Cascade Law Group PLLC, 1237 S. Jackson St., Ste. D, Seattle, WA 98144. E-mail to pinguyen@cascadelawgroup.com. Please, no telephone inquiries.

Southwest Washington five-attorney firm seeks attorney to handle family law matters. Experience preferred, but will also consider recent graduates. Send résumé to PO Box 1123, Chehalis, WA 98532.

Property law professor: The University of Montana School of Law invites applications for a tenure-track position teaching in the area of property law, to commence in the fall of 2007. More information, including a full position description and the hiring criteria, is available on our website: www.umt.edu/law. Application materials should be submitted by October 1, 2006.

To Place a Classified Ad

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

Deadline: Text and payment must be received (not postmarked) by the first day of each month for the issue following, e.g., August 1 for the September issue. No cancellations after the deadline. Mail to:

WSBA Bar News Classifieds
2101 Fourth Ave., Ste. 400
Seattle, WA 98121-2330

To place classifieds, send text to classifieds@wsba.org with payment enclosed.

Qualifying experience for positions available: State and federal law allow minimum, but prohibit maximum, qualifying experience. No ranges (e.g., “5-10 years”). If you have questions, please contact Dené Canter at 206-727-8213 or classifieds@wsba.org.

DLA Piper Rudnick Gray Cary. We are currently seeking an entry-level corporate and securities associate to join our Seattle office. The ideal candidate will have a strong academic background from a nationally recognized law school. We offer competitive salaries and benefits. Please send cover letter, résumé, and law-school transcript in confidence to Mary Blazek, DLA Piper Rudnick Gray Cary, 701 Fifth Ave., Seattle, WA 98104, or e-mail to mary.blazek@dlapiper.com.

Deputy prosecuting attorney — Grant County. $46,788 plus, DOE/DOQ. Seeking a motivated individual, responsible for prosecuting persons charged with crimes. Candidates must have excellent written and oral communication skills, presentation skills, organization skills, solid legal skills, and have an interest in criminal trial practice. Previous in-court prosecution beneficial. Member of the WSBA required. Must pass criminal background check and possess a valid Washington state driver’s license with no restrictions. Grant County offers a generous benefit package. Application and employment questionnaire available at www.co.grant.wa.us. Submit cover letter, application, résumé, writing example to Grant County Human Resources, Reference: Deputy Prosecuting Attorney, PO Box 37, Ephrata, WA 98823. Open until June 6, 2006, or until filled. Grant County is an Equal Employment Opportunity Employer.

Will Search


Services

Minzel and Associates, Inc. is a temporary- and permanent-placement agency for lawyers and paralegals. We provide highly qualified attorneys and paralegals on a contract and/or permanent basis to law firms, corporations, solo practitioners, and government agencies. For more information, please call us at 206-328-5100 or e-mail mail@minzel.com.

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Hard-working contract attorney helps you meet deadlines. WSBA member with 25 years of experience conducts legal research and writing for attorneys, using UW law library and LEXIS online resources. I draft trial and appellate briefs, motions and memos. Elizabeth Dash Bottman, 206-526-5777, bjelizabeth@qwest.net.


Need help with any legal writing project? Practicing attorney with professional writing and editing experience available for any task, from writing a brief for your motion to editing your autobiography. Fifteen years’ full-time litigation experience and seven prior years as a professional journalist. Legal and writing credentials and samples available. Michael Heatherly, 360-312-5156, northwestdrg@mhpro57.com.

Security consultant — 30 years’ security and police experience focusing on risk and vulnerability assessments, security management, operations analysis, and training. Robert Schultheiss, 509-586-3392, or info@risk-decisions.com.


Contract attorney: All aspects of litigation and appeals, including research. Former name partner in boutique litigation firm. Fourteen-plus years’ experience. Have conducted numerous civil jury trials, including complex litigation. Reasonable rates; variable per type of work. Pete Fabisch, 206-545-4818.

IBA, the Pacific Northwest’s oldest business brokerage firm, sells privately held companies and family-owned businesses. We are professional negotiators/facilitators with more than 4,000 completed transactions. Please contact us if we can be of assistance to you or any of your clients at 800-218-4422 or www.ibainc.com.


Medical malpractice expert witnesses. We have thousands of board-certified doctor experts in active practice. Fast, easy, flat-rate referrals. Your satisfaction guaranteed! Also, case reviews by veteran MD specialists for a low flat fee. Med-mail EXPERTS. www.menalow.net, 888-521-3601.

Hawaii All Islands Real Estate: W. Anton Berhalter (WSBA No. 11310, HRS-65566) offers his services for all Hawaii real estate needs. Real estate purchase, sale, management, rentals, and evaluations. Contact Walt Berhalter, J.D., CLU, MBA, RS, Sales Manager, Century 21 All Islands, PO Box 487, 3254 Waikomo Rd., Koloa, HI 96756. E-mail; walt.berhalter@hawaiimoves.com. Web: www.hawaiimoves.com. Direct: 808-240-2496; fax: 808-742-9293; cell: 808-651-9732.

Bad faith expert witness. Former insurance claims adjuster and defense attorney, over 20 years’ combined experience. JD, CPCU & ARM. Dave Huss, 425-776-7386.

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Troubled over a ringing phone

by Guest Editor Jeff Tolman

Recently it was discovered that, under the guise of national security, the government has been collecting the phone records of average U.S. citizens. The theory, it seems, is that if we determine someone is a terrorist we can then recount their calls and perhaps find other terrorists. This troubles even the most conservative part of me. Doesn’t the First Amendment allow me to talk to whomever I want about whatever I want as long as it’s not something outrageous like yelling “fire!” in a crowded theater?

Count me in as someone who wants terrorists found. But at what cost? Once I heard about calls being collected I began living defensively. No longer was a ringing phone the sound of a friend ready to exchange conversation. Suddenly, picking up the phone could link me unexpectedly to a National Security Agency database.

Dinner time. The phone rings. Caller ID tells me it’s my friend Frank. Probably he’s inquiring if I’m available to play golf tomorrow afternoon. But who knows? Frank is a known Democrat and has expressed some less-than-complimentary opinions about the present administration. Could someone who is trying to get a NASCAR track in our county (what is more American than that?) be a terrorist? I’ve known Frank for 27 years. We’ve golfed and fished and traveled together. Through it all he has come across as a four-star guy. Is that enough, though, to be certain he’s not involved in international terrorism? I let the phone ring till the answering machine picked up his message: “We have a tee time at 3:30. I’ll see you then.”

A few minutes later my pal (at least he seems like a pal — though I haven’t seen his phone records) Dr. Cureusall calls. Again I struggle with whether to pick up the phone. Dr. C, a well-respected local physician, is probably calling to set up the monthly dinner he, his wife, Laurie, and I have. Could someone who heals the sick and injured be a terrorist? Though the odds are slight, I let the answering machine pick up the call.

“Wait,” I think, “the records won’t determine what was said, only who a suspected terrorist called!” Whether I take the call or not is irrelevant. I am part of Frank and Pete’s call lists even though the entire Tolman dialogue was “Hello, this is the Tolmans. We are unable to come to the phone right now. Please leave a message.” (This may be way too passive under the new phone-collection rules, I decide. My next answering machine message will be less oblique: “This is the Tolmans. We do not accept calls from terrorists or solicitors. Please take us off your call list immediately!”)

I am now sweating bullets, wondering if, involuntarily, I have somehow become wrapped in a National Security Agency conspiracy blanket.

Suddenly the phone rings again. Another potential terrorist. The caller ID indicates it is my 76-year-old dad. My guess is he’s calling with a list of groceries he’d like brought to his assisted-living apartment. Dad has always seemed like a patriot. And having been born and raised in Wyoming, a perpetual “red state,” his leanings would seem to be with the administration. My paranoia, though, has me wondering how well I really know him. We were apart when I was in college and most of my married years. Maybe his politics changed then, and he has hidden his subversive roots over the four years he’s lived near me in Poulsbo. Maybe the administration is right: No one is above suspicion.

Just as I am ready to terminate my phone service (no use seeing how close you can stand to the fire), the worst of all possible things happens — the phone rings with an “unknown caller” notation on the caller ID. Could it be Zacarias Moussaoui? Richard Reid? Osama? Who could know? I nearly throw up as I watch the call end without a message being left.

Then my wits return to me. This is outrageous. McCarthyism with newer tools. If they want to put me, and those I speak with, in this pyramid scheme of hysterical, institutional paranoia so be it. In quick succession I call the local U.S. Attorney’s Office, the state Republican Party headquarters, the national Republican Party headquarters, and the White House. Those calls, I hope, like a continually forwarded e-mail, will spread the virus back to its source.

So here we are. In the land of the less free and the home of the monitored. Troubled over a ringing phone.

Jeff Tolman is a former member of the WSBA Board of Governors and practices in Poulsbo. Copyright 2006 by Jeff Tolman. All rights reserved.
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