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

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

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

It is Saturday morning in the tiny living room of a small one-bedroom home in Stevens County. Mom and Dad are still sleeping. The kids, a six-year-old boy and a girl who just turned five, are sitting in front of a portable TV watching cartoons and eating cereal. It doesn’t matter to the children that they sleep on the floor. They don’t understand that their cereal is from a food bank and their clothes are from a second-hand store. They are fed, warm, and have each other; they feel safe. Their parents feel safe, too, because although the father was laid off from his job at a lumber mill a few months ago, they were able to save their home through the help of a company that had them transfer the deed to the company’s owner who had better credit and could refinance. For now, they are renting the home from the company but once the family gets back on its feet, they can buy the house back and, the parents were told, because the prices of houses are dropping, it might even be less than they originally paid. The father is proud of the deal he made but the mother reminds him that it was she who first saw the company’s flyer, advertising “WE’LL SAVE YOUR HOME AND YOUR CREDIT!” on a bulletin board at a thrift store.

There is a knock at the door and the kids bounce up and race each other to greet the visitor. The boy gets there first and opens the door to a man in a uniform. He looms over the child. The children shrink back a little and the man sees that they are scared. He smiles and asks if their parents are home. The children run to the bedroom: “There’s a policeman at the door!”

Within a few minutes the family is standing out in the front yard of the home. The father is fist-clenched angry at himself — he feels like a complete failure. The mother is trying, unsuccessfully, not to cry. The children do not understand why their parents are loading their clothes into their beat-up station wagon but they no longer feel safe.

The family has been the victim of a rent-to-buy foreclosure rescue scam. Under the pretext of saving the home by deeding it to the owner of the company, the “tenants” are then evicted when they cannot meet the impossibly oppressive terms of the agreement.

In recognition of the real-world hardships resulting from Washington state’s recession-created rising foreclosure rate, and the important need for lawyers to advise families who do not qualify for legal aid but who are facing foreclosure, at a special meeting of the WSBA Board of Governors held on April 9, the Board voted 10–3 to authorize the transfer of $160,000 from the WSBA’s CLE reserve to fund, for one year, a volunteer lawyer Home Foreclosure Legal Aid Project. The program will recruit, train, and mentor a statewide pro bono lawyer housing preservation team to represent people with incomes up to 400 percent of the federal poverty level, focusing on the 200–400 percent level who are facing foreclosure. Lawyer recruiting began in May and the hope is that several hundred of us will volunteer — the need is that great. The first clients will be assigned to volunteer lawyers in June.

Because the WSBA cannot house client files, the program will be operated in conjunction with the Northwest Justice Project (NJP). Some of the money will be used to develop an online training program with the remainder to fund an attorney and a paralegal position at NJP to handle client calls, assess needs, and coordinate with an in-house project manager at the WSBA. No additional employees will be hired by the WSBA to staff the project. Current staff are building dedicated web pages for publicity and recruitment and an attorney database of volunteers. WSBA staff are also providing project-management skills and coordinating this program with the Northwest Justice Project.

A few hours after loading all of their possessions into the station wagon, the family spends their first night … in their car sweet home. He knows that the tricky part will come in the evening when he tries to find a place to park the station wagon for the night. He realizes that, while the nicer neighborhoods are the safest, the residents are also more likely to call the police when they see a strange car or, at least, come out and ask the family if they wouldn’t mind parking somewhere else. He decides on a dark country road and there the family spends their first night … in their car sweet home.

WSBA President Mark Johnson can be reached at 206-386-5566 or mark@johnsonflora.com.

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The Home Foreclosure Legal Aid Project

PROVIDING NEEDED ASSISTANCE — YOU CAN HELP

As we all watched the home foreclosure crisis sweep across the nation last summer and fall, we knew it was only a matter of time before the crisis hit Washington. As we read the paper and listen to the news every day, there is no question Washington is now in the thick of the calamity. Indeed, every month there are more than 3,000 new foreclosure filings in our state. In March, the figure rose to over 4,200 and the problem is getting worse by the day. As a profession defined by an ethic of service to the public, WSBA leadership realized that it was critical to find a way for lawyers in this state to help since only lawyers, with their unique training and skill set, can provide much of the needed assistance in this time of great need for people in Washington.

After discussion and coordination with the various stakeholders in the civil legal aid community and other affected arenas to discern how best the WSBA and our members could be of service, the Board of Governors voted in April to fund the Home Foreclosure Legal Aid Project. Through the Project, WSBA is developing a well-trained and supported “army” of volunteer lawyers who have agreed to provide pro bono representation to clients and funding a legal team to coordinate this assistance to homeowners in need.

This statewide Project provides an opportunity for lawyers to provide meaningful and much-needed assistance. Participating lawyers will receive free MCLE-accredited online training. Ongoing support from fellow members of the Bar who are experienced in housing and foreclosure matters will also be available. The project will last for one year — June 1, 2009, through May 31, 2010 — and has been designed so that lawyers who want to volunteer can give a little or a lot of time. We want to make it as easy as possible for lawyers to be of service to their communities, and fulfill aspirational pro bono obligations.

During the month of May, we began recruitment of volunteer lawyers, and had an overwhelming response to our announcement about the Project, with more than 100 members signing up in the first 24 hours. We continue to need and recruit lawyers for the Project and hope to have 500 lawyers ready and available to serve when we announce the Project to the public this month.

The WSBA, with the support of Governor Chris Gregoire, Chief Justice Gerry Alexander, and Attorney General Rob McKenna, will hold a press conference on June 1st in Seattle to announce the Project’s doors opening to the public.

Importantly, the WSBA could not implement this project without a partner in the civil legal aid community, and we are thrilled to be partnering with the Northwest Justice Project (NJP). This partnership has two components. First, the WSBA has hired a project manager who is coordinating the recruitment and training of volunteer lawyers. Second, the WSBA is funding a lawyer and paralegal who comprise the NJP Home Foreclosure Legal Team who will oversee client intake, case screening and assessment, and referral of appropriate cases to volunteer lawyers.

The Project is being funded through a grant of $150,000 approved by the Board of Governors to fund the NJP Home Foreclosure Legal Team and $10,000 to produce online training materials, both of which will be paid from WSBA CLE reserves (these funds are not member license fees). In addition, the WSBA is providing significant in-kind staffing, particularly the project manager, to support the Project. The WSBA is pursuing federal and state grant money that may be available to help fund this effort as well.

Although there are existing programs already serving homeowners in our state, the need far exceeds the current capacity. Additionally, current legal aid programs are restricted to serve only those whose income is 200 percent or below the federal poverty guidelines. There are currently few free or low-cost services for those whose income exceeds 200 percent of the federal poverty guidelines, so the project will serve those whose income is up to 400 percent of the federal poverty guidelines. Our hope in serving this income range is that if we can help people stay in their homes, it will prevent them...
from falling into the 0 to 200 percent income level.

I believe that lawyers are leaders by virtue of the fact that they’re lawyers. People turn to lawyers as leaders — we’ve all experienced that dynamic in our community service, churches, schools, and families. I hope you’ll take this opportunity to lead in an area where our profession can make a real difference for the people in our state.

To sign up or learn more information about the Project, please visit WSBA’s homepage at www.wsba.org. Paula Littlewood is the WSBA executive director and can be reached at paulal@wsba.org.

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What is the Home Foreclosure Legal Aid Project?

In response to the current foreclosure crisis facing our state, the WSBA is developing, coordinating, and deploying a well-trained and supported “army” of volunteer lawyers who have agreed to provide pro bono representation to homeowners with legal problems related to foreclosure. The WSBA is partnering with the Northwest Justice Project to provide services statewide.

What are the goals of the project?

The project goal is to help Washington homeowners avoid foreclosure and stay in their homes. An important aspect of the project is that it will extend legal services to moderate-income homeowners who are within 200% to 400% of the federal poverty guidelines. By providing legal assistance at a critical time, volunteer lawyers may be able to prevent these individuals from dropping below 200% of the poverty level and ending up with more legal problems than possible foreclosure.

Does it matter where I live or work?

No, there are homeowners in need of help throughout Washington, and lawyers in all areas of the state are needed.

What kind of training is available?

WSBA-CLE is producing MCLE-approved online training modules. The video modules and related printed training materials will be posted online. Training modules will include case assessments, loan workouts, restraint of sale, and other topics. Issue-spotting topics will include bankruptcy, predatory lending, and foreclosure-rescue scams. The training modules will be free to participating lawyers.

How do I sign up?

Please go to the WSBA website at www.wsba.org and click on the link to the Home Foreclosure Legal Aid Project. There is an online sign-up form that includes questions about your experience in housing-related issues, geographical preference, training completed, availability, and other relevant information. It should take less than five minutes to complete the form.
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When a party to a lawsuit makes a motion to compel arbitration and loses, the Rules of Appellate Procedure (RAP) do not expressly provide that party with a right to immediately appeal the trial court’s order. But such a right does exist. The Washington Court of Appeals has repeatedly held that such an order should be deemed a “decision affecting a substantial right . . . that in effect . . . discontinues the action” within the meaning of RAP 2.2(a)(3). Thus, the order denying arbitration is appealable as a matter of right, and is not the subject of discretionary review. But that right comes with a cost. A party who does not immediately appeal such an order, but rather acquiesces to the lawsuit, will likely waive its ability to appeal the issue following a final judgment. In short, Washington litigants have a right to immediately appeal a trial court’s order denying a motion to compel arbitration, and they must use it or lose it.

Motions to Compel Arbitration Generally

The inclusion of mandatory-arbitration clauses is becoming increasingly prevalent in commercial contracts, and in some consumer contracts as well. Such a clause typically requires the parties to submit any and all disputes related to their contractual relationship to binding arbitration, as opposed to resolving those disputes in court. Under the Washington Arbitration Act (WAA), agreements to arbitrate are generally “valid, enforceable, and irrevocable.” Ostensibly, parties prefer arbitration because it offers a faster and cheaper means of dispute resolution than traditional litigation. When a party to a contract containing an arbitration clause is sued, its usual reaction is to invoke the clause through a motion to compel arbitration, oftentimes prior to or in lieu of answering the complaint. The WAA requires a trial court to grant such a motion if the arbitration clause is enforceable and covers the dispute at issue. In resolving the latter issue, the trial court practically presumes arbitrability. “If any doubts or questions arise with respect to the scope of the arbitration agreement, the agreement is construed in favor of arbitration unless the reviewing court is satisfied the agreement cannot be interpreted to cover a particular dispute.” If the motion is granted, the court generally must stay proceedings during the pendency of arbitration.

Although the deck is stacked in favor of arbitration, not all motions to compel are granted. When arbitration is denied, the party seeking arbitration faces the grim prospect of a lengthy and costly lawsuit, oftentimes before a judge (and/or jury) that may be far less neutral than an arbitration panel. And, of course, if the party waits until after final judgment to appeal the arbitration decision, it will be too late to be effective; the party will have already suffered “the serious, perhaps irreparable, consequence of being forced to resolve the dispute by trial rather than by arbitration, a process that the parties . . . had agreed to use.” For these reasons, a party on the losing end of a motion to compel arbitration should — and, indeed, must — consider seeking immediate appellate review of the trial court’s order.

Orders Denying Arbitration Are Appealable as a Matter of Right

In Washington, there are two methods for seeking appellate review. The first permits a party to “appeal” certain trial-court decisions, such as a final judgment or a ruling that effectively terminates an action. When a decision is subject to appeal, review is a matter of right. The second method, which applies to orders that are not appealable as a matter of right, permits a party to seek “discretionary review.” Discretionary review may be accepted only in limited circumstances, and only after a motion for such is granted by the appellate court. These motions are generally unsuccessful. It has been noted by the Supreme Court...
that “discretionary review is not favored because it lends itself to piecemeal, multiple appeals.”

Obviously, a party seeking immediate review of a trial court’s order denying a motion to compel arbitration would prefer to characterize that review as an “appeal.” But none of the 13 types of trial-court decisions delineated in RAP 2.2(a) expressly include such an order. Moreover, and in contrast to the Federal Arbitration Act (FAA), the WAA does not provide parties with a clear statutory right to an immediate appeal. On the surface, then, Washington law would seem to rule out an immediate appeal as a matter of right, and limit interlocutory review to those rare cases where the appellate court finds discretionary review warranted. Of course, the law is not always what it seems.

The Washington Court of Appeals has held that an order denying a motion to compel arbitration is, indeed, appealable as a matter of right under RAP 2.2(a). In *Herzog v. Foster & Marshall, Inc.*, the court ruled that such an order constituted a “decision affecting a substantial right . . . that in effect . . . discontinues the action.” To reach its decision, the court first concluded, without much difficulty, that the right to arbitrate is a “substantial right.” Next, on the dispositive issue of whether a denial of that right “discontinues the action,” the court was more creative:

If the words “the action” are applied to the respondents’ [lawsuit], the trial court’s order is clearly not appealable as of right because the order denying the stay in no way . . . “discontinues” that court action. If the words “the action” are applied to the motion for stay, then the court’s order would be appealable as of right as long as the motion for stay [and to compel arbitration] is itself an “action” within the meaning of RAP 2.2(a)(3).

...Motions to compel arbitration of a dispute are governed by RCW 7.04.040, which is located in the “Special Proceedings” title of the revised code. . . . The statute allows a party to move for an order compelling arbitration even if no action on the merits of the dispute has been filed in court. Thus, a proceeding under the statute to determine whether arbitration should be compelled has a status independent from the underlying cause of action or controversy. . . . In our view, the fact that appellants did not file a separate action to compel arbitration, but instead sought arbitration by motion in the pending lawsuit, is not fatal to their appeal. A motion to stay litigation pending arbitration commences a distinct statutory proceeding which has as its objective the initiation of an action in the forum of arbitration.

In other words, to fit it within the language of RAP 2.2(a), the *Herzog* court likened a denial of a motion to compel arbitration to an “action within an action.” Whether or not one agrees with the court’s analysis, it is hard to argue with the result. The *Herzog* court correctly recognized that there can be no effective review of an order denying arbitration if that review must wait until after final judgment.

As discussed above, “[i]f a court refuses to stay litigation pending arbitration, the party seeking to enforce arbitration will suffer the serious, irreparable consequence of being forced to resolve the dispute by costly and lengthy litigation rather than by arbitration.” Even if the party could successfully appeal the issue after final judgment (which is doubtful; see below), this damage cannot be undone. The *Herzog* decision also brought Washington law on
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this issue in line with federal law, as well as the majority rule among courts in the various states.\textsuperscript{19}

\textit{Herzog} remains good law, and it has been followed over the years in several published Court of Appeals opinions.\textsuperscript{20} These opinions — like \textit{Herzog} itself — are from Division One, but decisions from Division Two and Division Three likewise suggest that these divisions also follow the \textit{Herzog} rule.\textsuperscript{21} Perhaps just as important, it appears that no Washington court has ever taken a contrary position. Therefore, until and unless the Supreme Court overrules \textit{Herzog} (or the issue is clarified by statute or rule), an order denying a motion to compel arbitration must be considered appealable as a matter of right.

**Failure to Immediately Appeal Will Result in Waiver**

Since review of an order denying a motion to compel arbitration is permitted as a matter of right under RAP 2.2(a), review is initiated solely by the filing of a notice of appeal with the trial court within 30 days after the order is entered.\textsuperscript{22} The appellate court “accepts review” when the notice is filed, and the matter then proceeds according to the ordinary appellate process.\textsuperscript{23} Critically, after the notice of appeal is filed, litigation in the trial court generally comes to a halt.\textsuperscript{24} As a practical matter, regardless of the likelihood of success, many defendants will undoubtedly consider immediately appealing an order denying arbitration as a means of forestalling burdensome discovery obligations or to gain some strategic advantage from the ensuing delay.

But what if a party loses a motion to compel arbitration and does not immediately appeal? Can that party take its best shot at winning the lawsuit and then, if it loses, appeal the trial court’s decision after final judgment is entered? No Washington court has addressed this issue, but the answer is probably no — for two reasons. First, if an order denying arbitration is appealable as a matter of right, then, as discussed above, the rules require the party to initiate review within 30 days.\textsuperscript{25} Failure to comply with that deadline renders any subsequent appeal of the issue untimely.\textsuperscript{26} Because \textit{Herzog} and its progeny leave no doubt that an order denying arbitration is appealable under RAP 2.2(a)(3), a party who fails to seek immediate review of such an order should be deemed to have waived its right to appeal that issue altogether.\textsuperscript{27}

Second, even if the rules did not require it, prudential considerations would suggest the same result. As noted above, federal law permits — but does not require — an interlocutory appeal of an order denying arbitration under the FAA. Nevertheless, several circuits of the United States Court of Appeals have held that failure to immediately appeal a denial of arbitration will operate to forfeit a party’s right to raise the issue after final judgment.\textsuperscript{28} “The reason [for the rule] is that it is wasteful to have a full trial and then determine by a post-trial appeal that the whole matter should have been arbitrated and so start again.”\textsuperscript{29} This reasoning is entirely consistent with \textit{Herzog}, and also suggests that the right to immediately appeal an order denying arbitration is a “use it or lose it” proposition.\textsuperscript{30}

It should be noted, however, that the same is not true with respect to orders compelling arbitration. Washington cases, including \textit{Herzog}, establish that such rulings are not considered final, appealable orders under RAP 2.2(a).\textsuperscript{31} As a consequence, if the party resisting arbitration wants to immediately appeal an order granting arbitration, that party must seek discretionary review pursuant to RAP 2.3.\textsuperscript{32} But, by the same token (and unlike the situation discussed above), there is no risk of waiver in failing to do so; the party resisting arbitration can always appeal the
arbitrability ruling, if necessary, when the trial court enters final judgment enforcing the arbitration award. Indeed, nothing prevents that party from taking two bites at the apple — seeking discretionary review and, if review is denied, appealing the issue again after judgment.

**The Need for an Amendment to RAP 2.2(a)**

Although Washington case law may be clear on the issue of appealability, the lack of specificity in the RAPs continues to plague Washington practitioners. It is not uncommon for court administrators to erroneously treat an otherwise proper appeal of an order denying arbitration as a notice for discretionary review, and to refer the matter to court’s motion calendar. Correspondence with the clerk’s office and even formal briefing to a court commissioner are typically necessary to resolve the issue. Not only does this create added and unnecessary legal expense for the appealing party, it also prolongs the length of the appeal.

Court administrators are not to blame. They must process appeals pursuant to the plain language of RAP 2.2(a) without resolving legal issues, and they certainly are not expected to know how the Washington courts interpret the rule in every instance. The Supreme Court should remove the ambiguity regarding orders denying arbitration by promulgating an amendment to RAP 2.2(a) to specifically include these orders in the rule’s extensive list of appealable decisions. Indeed, other states have specifically included reference to orders denying arbitration in their rules of appellate procedure. In the interim, or at the minimum, each division of the Court of Appeals should — for the benefit of litigants, practitioners and court staff — establish a General Order to the same effect.

**Conclusion**

Washington law is well-settled that a party may appeal an order denying a motion to compel arbitration as a matter of right. This common-sense approach correctly recognizes that appellate review of such an order can be meaningful only if it comes before, rather than after, further trial court proceedings. Washington litigants seeking to enforce arbitration agreements must be aware of this right, because it is obvious benefit to them, but also because it presents a potential pitfall. An immediate appeal of the order denying arbitration is the only avenue to appellate review; review cannot wait until after final judgment.

**Ryan McBride is an attorney at Lane Powell PC in Seattle, where he focuses on civil appeals and complex commercial litigation.**

**NOTES**

1. RCW 7.04A.060(1).
2. See Barnett v. Hicks, 119 Wn.2d 151, 160 (1992) (arbitration “avoid[s] what some feel to be the formalities, the delay, the expense and the vexation of ordinary litigation”).
3. RCW 7.04A.070(1).
5. RCW 7.04A.070(6).
7. RAP 2.2(a).
8. RAP 2.1(a).
9. RAP 2.3(a).
10. RAP 2.3(b); RAP 6.2.
13. RCW 7.04A.280 states that “[a]n appeal may be
taken from . . . [a]n order denying a motion to compel arbitration,” but goes on to state that, “[a]n appeal under this section must as from an order or judgment in a civil action.” No Washington court has construed this statute, but the latter provision suggests that the RAPs ultimately dictate the appealability of such orders. It should be noted, however, that courts from other states have interpreted this provision — which was taken from the Uniform Arbitration Act — to permit an immediate interlocutory appeal. See, e.g., Sennett v. National Healthcare Corp., 272 S.W.3d 237, 240 (Mo.App. 2008).

14. RAP 2.2(a)(3).
16. Id. at 440–442 (citations omitted).
17. Id. at 443.
18. Id.
19. See generally Harrison, David B., Annotation, Appealability of State Court’s Order or Decree Compelling or Refusing to Compel Arbitration, 6 A.L.R. 4th 652 (Supp. 2007).
22. RAP 5.1(a); RAP 5.2(a); RAP 5.4(a).
23. RAP 6.1.
24. RAP 7.2(a); but see RAP 7.2(k) (exception allowing trial court to supervise perpetuation discovery under CR 27).
25. RAP 5.1(a); RAP 5.2(a).
27. That is the rule in other states that similarly hold that orders denying motions to compel arbitration are immediately appealable. See Snider v. Production Chemical Mfg., Inc., 191 P.3d 691, 695-96 (Or.App. 2008); Mitchell v. Owens, 185 S.W.3d 837, 841 (Tenn.App. 2005).
30. It is likely possible, however, for a party to appeal a separate and subsequent interlocutory order denying a motion to compel arbitration. For instance, after an initial motion to compel arbitration is denied, discovery may eliminate ambiguity regarding the applicability of the arbitration clause. At that point, the party favoring arbitration should be able to renew its motion and, if it is denied, the party should be able to take an interlocutory appeal of that separate decision.
34. See RAP 2.3(c) (“the denial of discretionary review . . . does not affect the right of a party to obtain later review of the trial court decision or the issues pertaining to that decision”).
35. See RAP 6.2(b) (“If a party files a notice of appeal from a decision which may not be subject to review as a matter of right, the clerk . . . may note for hearing the question whether the decision is reviewable as a matter of right and, if the decision is reviewable by discretion, the question whether review should be accepted.”).
37. See RAP 1.1(i) (permitting Court of Appeals to establish rules called General Orders that may supplement RAPs).
Pennies from Heaven?

Cy pres can provide urgently needed support for legal aid

By Matt Geyman

If there were a simple and nearly effortless way that you could help hundreds or even thousands of families facing foreclosure and eviction and other urgent civil legal troubles, would you do it? Of course. And what if at the same time you could facilitate the resolution of one of your cases? If you are involved in class action litigation, this win-win result not only can, but should, be one that you achieve.

We’ve all read about the growing number of foreclosure “rescue” scams that prey on the most vulnerable, or elderly renters facing eviction and homelessness as landlords increasingly cannot keep up with mortgage payments, or the “newly low-income” who have lost their jobs and are having difficulty getting the unemployment benefits to which they’re entitled. These are just a few examples of the urgent civil legal problems now on the rise and of the unprecedented demand for civil legal aid services in our current economy.

A “Perfect Storm” — the Funding Crisis for Legal Aid Services

Chances are you’ve also read about how legal aid funding in Washington is now facing a “perfect storm” of funding shortfalls, due to state and local budget deficits; plummeting IOLTA revenues; reduced corporate, law firm, and foundation support; and investment losses in reserve funds. The WSBA and its members are working hard to devise new and better ways to generate revenue for legal aid to make up for the millions of dollars being lost as the economy worsens.

There are a number of ways that each of us can help bridge this enormous funding gap — and justice gap — for legal aid to our state’s most vulnerable, including:

- Increasing our charitable giving to the Campaign for Equal Justice (see information at the end of this article).
- Becoming more politically mobilized by supporting the Equal Justice Coalition, our legal community’s unified effort to educate policymakers and the public about the importance of civil legal aid and advocate for sufficient public funding.
- Increasing our pro bono service through local volunteer lawyer programs and other pro bono work.

Cy Pres — Another Funding Source for Legal Services

In these hard times, there is also another way that lawyers involved in class-action litigation can make a major impact on the availability of civil legal aid for those who have nowhere else to turn: Cy pres.

When class actions are settled, it is common, for any number of reasons, to have residual funds that cannot be distributed. In some cases, class members fail to make claims or they cannot be located, despite the best efforts of class counsel. In other cases, the amount of the recovery per class member is so small that the cost of disbursing the funds, including the costs of notice and administration, may exceed the value...
In these situations, courts must determine how to dispose of the residual funds that cannot otherwise be distributed. Courts solve this problem by making cy pres awards that distribute the funds to their next best use (“cy pres” is from the French “cy pres comme possible,” meaning “as close as possible”). Civil legal aid is often an ideal “next best use” of these residual or unclaimed funds in a class settlement.

Since the early 1990s, civil legal aid providers around the country have been promoting the use of cy pres awards to benefit access to justice for low-income people. In Minnesota, Illinois, and Ohio, for example, several multi-million dollar cy pres awards have greatly benefited legal aid in those states in recent years.

Here in Washington, more than a million dollars in cy pres awards have been distributed through LAW Fund and its Campaign for Equal Justice since 1995 to provide statewide civil legal aid with much-needed funding. This provides free legal aid services for low-income families and individuals with urgent legal problems, helping return people to safe, productive lives and avoiding a costly spiral of social problems by reducing homelessness, unemployment, deficient healthcare, domestic violence, and loss of livelihood.

Civil Rule 23(f) Now Requires that at Least 25 Percent of Residual Funds in State Class Actions Be Directed to the Legal Foundation of Washington

There was a major boost for cy pres funding for legal aid in Washington in 2006, when the Washington State Supreme Court codified the common law cy pres practice by amending Civil Rule 23 to require that at least 25 percent of the residual funds in any state class action be directed to the Legal Foundation of Washington (which administers the state IOLTA program and is the “sister” organization to LAW Fund/Campaign for Equal Justice) to support activities and programs that promote access to the civil justice system for low-income residents of Washington.

Advantages of Directing Cy Pres Awards to Legal Aid Services

One obvious advantage of directing cy pres awards to legal aid services is that it supports legal aid offices and programs that are desperately low on funds. Another, less obvious, advantage is that it provides the attorneys in the class action who must devise and recommend to the court an appropriate way to handle residual funds with a neutral organization free from potential conflicts to which cy pres funds can be directed. Designation to legal aid avoids potential tension with the court or opposing counsel, because neither LAW Fund nor the Legal Foundation directly provides legal services, appears in court, or litigates cases.

Designating cy pres awards to legal aid is also a safe and reliable designation, since both LAW Fund/Campaign for Equal Justice and the Legal Foundation have a solid track record of approval by state and federal judges as cy pres recipients, and the legal aid programs that they support are carefully monitored and evaluated by a statewide board of judges and lawyers appointed by the Washington State Supreme Court, the
WSBA, and the Governor.

Finally, the broad and beneficial purposes of LAW Fund/Campaign for Equal Justice and the Legal Foundation of promoting civil legal aid and access to justice for the poorest and most vulnerable families and individuals in our state are generally consistent with the more specific purposes of the underlying class action in the particular case, thus making cy pres awards to LAW Fund/Campaign for Equal Justice and the Legal Foundation an appropriate “next best use.”

Cy Pres Awards Should Be Expressly Addressed in Class-Action Settlement Agreements

Class counsel should make sure that they do not inadvertently give the defendant a reversion of the residual funds in the event that the class recovery cannot be fully distributed under a class action settlement. Settlement agreements should explicitly contemplate and reach agreement regarding what should occur with residual funds.

If, in fashioning a class-action settlement, the parties fail to anticipate the cy pres issue and there are residual funds, the responsibility falls on the court to resolve any ensuing dispute about what should be done. The defendant may then argue that the remainder (either 100 percent in a federal class action or the 75 percent not covered by CR 23( f) in a state class action) should revert to the defendant, which could result in an unintended windfall to the defendant and reduce the deterrent effect of the action. To avoid that result, class counsel should expressly provide in the settlement agreement that any residual funds do not revert to the defendant, and should designate an appropriate cy pres award recipient, such as the Legal Foundation, in the settlement agreement.

Personal Rewards of Designating Cy Pres Awards to Legal Services

My partner, John Phillips, and I have litigated a number of class actions representing vulnerable low-income clients, including uninsured patients, subprime borrowers, and other low-income consumers. In several of these cases, we have specifically negotiated and agreed with defense counsel in the settlement agreements that the defendant had no right to recover residual funds and that any residual would be distributed through cy pres awards to LAW Fund, Campaign for Equal Justice, and other deserving organizations that support or provide legal services. On the three occasions in the last year when we were able to direct cy pres awards under such agreements, we distributed, with the courts’ approval, a total of $41,446 in cy pres awards to LAW Fund/Campaign for Equal Justice, and to the Ronald A. Peterson Law Clinic at Seattle University School of Law, to fund legal aid for low-income people in our state.

While we individually and as a firm make our own contributions to LAW Fund and its Campaign for Equal Justice each year, I can tell you that being able to direct this higher level of support to civil legal aid through cy pres awards is a great feeling. If you or your firm have a practice that involves class-action litigation, whether in state or federal court, I would strongly encourage you to consider directing as much cy pres funding to civil legal aid as possible at this crucial time to help the most vulnerable among us who have urgent civil legal needs and nowhere else to turn.

Matt Geyman is an attorney with Phillips Law Group, PLLC, in Seattle. He serves on the Legal Aid for Washington Fund (LAW Fund) Board, and chairs the Laurel Rubin Farm Worker Justice Project.

Please note: For class actions litigated in Washington state courts, CR 23(f) requires that no less than 25 percent of any residual funding should revert to the defendant.

A Trusted Voice for Medical Negligence

Trusted by Clients; Trusted by Attorneys

“Two years ago, we were looking forward to the birth of our first child, a boy, and it was a perfect pregnancy. But after being in labor for 41 hours, Jessi had an emergency Cesarean section and the baby was airlifted to Seattle Children’s Hospital, where the doctors found he was brain-dead from a lack of oxygen. Three days later, his body shut down.

“We were referred to Paul Chemnick, and he was just awesome. We had a good feeling about working with him from the first moment we talked with him. We completely trusted him with all the details. He was straightforward and a great advocate. We decided to settle because Jessi was in the late stages of another pregnancy, and we wanted to focus on our new baby girl.

“We couldn’t be happier with the settlement. It allowed us to move to a new community and start over with our lives.”

—Jessica and Andrew S., East Wenatchee, WA

Paul Chemnick
2001 - 2008 Super Lawyer

Chennick | Moen | Greenstreet

June 2009 | Washington State Bar News 23
“I have spent the better part of 40 years earning my reputation so you don’t have to worry about yours. Refer with confidence.”
Doug Cowan

The Campaign for Equal Justice

The Campaign for Equal Justice is the Washington legal community’s collaborative annual fundraising drive to benefit our state’s more than 20 civil legal aid programs. The Campaign gives every lawyer in our state the opportunity to help bridge the justice gap. Every attorney throughout the state is encouraged to contribute the equivalent of just one billable hour to the Campaign—a simple way each of us can make an enormous impact on the availability of civil legal aid services to our state’s most vulnerable.

In 2009–2010, Paula E. Boggs and William H. Neukom are co-chairing the Campaign for Equal Justice and are encouraging lawyers and judges to make the Campaign an annual tradition. May marked the official kick-off of the Campaign’s 2009 efforts, so please make your tax-deductible annual donation today. To learn more about the Campaign for Equal Justice, or to make a secure online donation, please visit www.c4ej.org. To mail contributions, make check payable and send to the Campaign for Equal Justice, 1325 Fourth Ave., Ste. 1335, Seattle, WA 98101.

Thanks to these firms

In 2008, LAW Fund and the Legal Foundation of Washington received 13 cy pres awards totaling $348,661 as a result of the new CR 23(f) and attorney-directed awards. The following firms and attorneys were responsible for directing these cy pres awards to benefit more than 25 civil legal aid programs throughout the state:

- Beckett Law Offices PLLC (Warren Martin, Lynn Ellsworth, Salvador Mungia)
- Keller Rohrback LLP (Mark Griffin)
- Merkel Law Office (Joel Merkel)
- Phillips Law Group, PLLC (John Phillips, Matt Geyman)
- Schroeter Goldman & Bender, PS (Martin Garfinkel)
- Schwerin Campbell Barnard Iglitzin & Lavitt LLP
- Tousley Brain Stephens LLP (Kim Stephens, Janissa Strabuk)
- Williamson & Williams (Rob Williamson, Kim Williams)
Should You Blog?

The advantages and pitfalls of blogging for lawyers

I was recently retained as local counsel by an out-of-state law firm after the lead lawyer checked my blog. I was told they chose me because my blog showed I was prepared to think about the issues in the case. In addition, other forms of marketing — seminars, articles, networking, mailings, and newsletters — simply can’t be done as frequently or as quickly.

BY GRACE HEALY

Last year, during a CLE marathon, I listened to a seminar called “Blogs — Wave of the Future for the American Lawyer: Creation, Use, and Ethical Considerations.”1 Frankly, before hearing the presentation, I didn’t know that lawyers had blogs. Well, they do, and within two months of the presentation, so did I.2

It is an understatement to say that blogs have entered the mainstream of legal discussion; as of February of this year, the ABA Journal website listed more than 100 categories of blogs — each of which had multiple blog listings.3 Right now, many bloggers have broadened their blogging presence by adding Twitter, or micro-blogging, to their blogging routine.4 In March 2009, Twitter had 9.3 million visitors in the United States alone, and many of them were seeking information regarding the news of the day.5 Despite the prevalent use of blogs and micro-blogging in general, since I started my blog last August, many of my friends and associates have come to me to ask what blogging is and where it fits into being a lawyer. This article will focus on the “what” and the “why” of legal blogs and present some things to consider in deciding whether to start your own.6

What Is a Blog?
According to Wikipedia, a blog (a contraction of the term “Web log”) is a website that has regular entries of commentary, descriptions of events, or other material, such as graphics or video. A typical blog combines text, images, and links to other blogs, web pages, and other media related to its topic. Though law blogs generate very few comments — and comments should be moderated — the ability for readers to leave comments in an interactive format is an important part of many blogs. In my experience, some readers will call to discuss postings, rather than writing comments. Others use their own blogs to comment on postings that interest them and provide their readers with a link back to the original post. This really helps to increase blog readership.

A law blog, sometimes called a “blawg,” focuses on bringing information to a target audience of potential or current clients or people who may influence potential clients — the media, other bloggers, business associates, other lawyers, and referral sources, to name a few. Usually, it focuses on a particular area of the law or jurisdiction.7 Unlike a general law-firm website, a lawyer’s individual, focused blog might be found by a search engine in response to a query regarding a specific topic or case. A lawyer’s blog can be a complement to a firm’s website, which ideally may be linked to the blog.

Why Write or Read Blogs?
Blogging is good for business. It showcases your legal abilities to a large audience by demonstrating your legal knowledge and thinking. Weekly or twice-monthly blog posts generally involve your discussion and analysis of what other bloggers have blogged and other current content — news, cases, CLEs, other blogs, and commentary. If thoughtfully and carefully prepared, blog posts effectively demonstrate your legal knowledge and thinking to potential clients. In fact, I was recently retained as local counsel by an out-of-state law firm after the lead lawyer checked my blog. I was told they chose me because my blog showed I was prepared to think about the issues in the case. In addition, other forms of marketing — seminars, articles, networking, mailings, and newsletters — simply can’t be done as frequently or as quickly.

A blog will increase the visibility of you and your firm because blogs’ regular updates and up-to-the-minute content regarding current issues draw more traffic than firm websites. More and more often, people do web searches before they select a service or a product, or if they are simply curious about a current legal issue in the
As with everything else that lawyers do, blogs must be done with the Rules of Professional Conduct in mind. You cannot do things in a blog that you couldn't do in other media or other settings. You cannot give specific legal advice. You cannot breach client confidences.

news. In addition, many lawyers do Internet searches in connection with legal research. The stats on my blog have shown that, to my surprise.

Blogs may be subscribed to as RSS feeds (RSS = Really Simple Syndication), via e-mail and through business networking sites, such as LinkedIn, which send your blog posts to your audience automatically. In contrast, a firm's website must be visited. In addition, a blog may open a dialogue with other practitioners, business associates, or the media or with those whose blogs you have provided a link for the reader. Furthermore, a blog is an inexpensive marketing tool. There are professional services that will assist with development and support, software, and free services.

Things to Consider in Blogging
There is no point in having a law blog if you aren't going to do it right, which includes posting high-quality content and making sure ethical and common-sense business rules are followed. Like everything else, what you put into a blog has a direct impact on what you get out of it.

As you have probably gathered, blogs involve a time commitment. Finding and writing good, interesting content takes time. Unlike a law firm's website that you or your marketing team update every now and then, blogs require frequent attention — at least once a week.

As with everything else that lawyers do, blogs must be done with the Rules of Professional Conduct in mind. You cannot do things in a blog that you couldn't do in other media or other settings. You cannot give specific legal advice. You cannot breach client confidences. You must make sure that you are not creating an attorney-client relationship. You cannot make a false or misleading statement about your qualifications or services. You should use a disclaimer.

Likewise, you should follow common-sense rules so that your blog doesn’t inadvertently hurt your business. Although you don’t want to be mined in procedures — blogging is supposed to be agile — you should have controls in place regarding who is posting to the blog and to approve the content that is posted. Prudence dictates that your blog is not overly critical of a judicial opinion or pronouncement of the Bar or government, since you someday might have to represent the interests of a client before that very person or entity.

Conclusion
Law blogging is now mainstream both for business development and legal research. Even if you don’t want to start your own blog, it is advisable to read those written by others. If you don’t, you are excluding yourself from what has become an enormous part of legal dialogue and commentary. And keep in mind, if you start a blog, don’t neglect your professional and business obligations.

Grace Healy has a solo practice in Seattle that focuses on helping businesses and in-house counsel in managing risks, resolving disputes, and litigation. She can be reached at gmhealypllc@comcast.net. You can find her blog at www.outsideinhousecounsel.com. The author expresses her thanks to Kevin O’Keefe of LexBlog, Inc. (www.lexblog.com) whose blog, “Real Lawyers Have Blogs,” (http://kevin.lexblog.com) and webinars served as a valuable resource.

NOTES
1. Presented by the New York City Bar Association and chaired by Kevin O’Keefe, president of LexBlog, Inc., which is located in Seattle.
4. Micro-blogging is another type of blogging, which consists of blogs with very short posts. Twitter posts must be 140 or fewer characters.
6. A more complete definition of law blogs may be found at www.lexblog.com/cat-law-blogs-defined.html.
Around the State

Find out what your fellow attorneys are up to. See www.wsba.org/media/publications/countynewsletters.htm for links to bar publications throughout the state. If you would like to contribute to Around the State on behalf of your county, minority, or specialty bar organization, or if you have a law-related item of interest, send your submissions to aroundthestate@wsba.org. (Photo above: Museum of Glass in Tacoma.)

William H. Gates Honored with Washington Medal of Merit
At a joint session of the Legislature in February, William H. Gates, co-chair of the Bill and Melinda Gates Foundation, was honored with the Washington Medal of Merit. Chief Justice Gerry L. Alexander presented the medal to Gates, who has dedicated his life to public service and is well known for his integrity, compassion, leadership, and generosity. The WSBA congratulates Mr. Gates, a former WSBA president and 59-year member of the Bar, on this well-deserved honor.

The Medal of Merit was created by the Legislature in 1986 and was first awarded in 1987; to date, 30 people have received this prestigious honor. It is inscribed with the recipient’s name and the words: “For exceptionally meritorious conduct in performing outstanding services to the people and state of Washington.”

High School Teacher Honored by WSBA at Mock Trial Event
Former Franklin High School teacher and mock trial coach Rick Nagel was honored by the WSBA’s Council on Public Legal Education (CLE) at the YMCA Mock Trial Awards Breakfast held in Olympia in March. Judith Billings, co-chair of the CPLE, presented Nagel with the “Flame of Democracy” award, created in 2002 to recognize individuals, organizations, and programs that significantly increase the public’s understanding of law, the justice system, and government. Nagel is the first classroom teacher to receive the award. During his 30 years at Franklin, he coached hundreds of students to participate in the YMCA mock trial competition, and the school won the national championship under his guidance in 2000. Nagel was also recognized for his inspiring and enthusiastic teaching at Franklin, where he created a Law and Society class. His former students include a King County Superior Court judge and a clerk to U.S. Supreme Court Justice David Souter. In accepting the award, Nagel told the assembled students that the skills and values they learn from the mock trial competition will benefit them in the future, whether they pursue legal careers or not.

WSBA CPLE HONOREE
CLE Co-chair Judith Billings presents the Flame of Democracy Award to Rick Nagel, former Franklin High School mock trial coach.

Dorsey Symposium Focuses on Corporate Leaders
More than 200 guests attended the first annual Dorsey Symposium for Corporate Leaders in February. General Barry McCaffrey, delivered a keynote speech on the topic of foreign policy and national security challenges under the Obama administration. Also at the event, top Dorsey attorneys presented on current business issues such as the credit crunch, global business law, and data security.

Williams Kastner Announces Its Own “Stimulus Package”
In light of the current economic crisis, Seattle-based law firm Williams Kastner announced that all non-management and non-lawyer employees will receive a special compensation check as part of the firm’s own “stimulus package.” The Williams Kastner “bailout compensation” aims to reward and recognize staff while bolstering the Northwest economy. In a departure from recent precedent established by Wall Street, the firm’s “bailout” recipients include all “staff” employees and exclude management.

Firm Honored for Contributions to Children
The Center for Children and Youth Justice presented the second annual Norm Ma-
Advocate for Youth Award Breakfast, honoring international law firm Perkins Coie, LLP, for its exemplary contributions to children and youth. The event took place on May 13. The keynote speaker was Shay Bilchik, founder and director of the Center for Juvenile Justice Reform at Georgetown University’s Public Policy Institute and former president and CEO of the Child Welfare League of America.

23rd Annual Goldmark Award Luncheon

The Legal Foundation of Washington presented the 2009 Charles A. Goldmark Distinguished Service Award to Bradley C. Diggs and Washington Appleseed at their award luncheon in February. Diggs’s leadership spearheading pro bono projects designed to aid low-income Washingtonians was critical to the development and success of Washington Appleseed. Washington Appleseed strives to provide creative, innovative work on behalf of the poor by its volunteers. WSBA Executive Director Paula Littlewood accepted the award on behalf of Washington Appleseed in her role as president of the Appleseed Board of Directors. Matthew and Benjamin Diggs accepted the award on behalf of their late father, while their mother, Peggy Diggs, and her brother, National Appleseed Board member Steven Hut, looked on. Linda Greenhouse, of Yale Law School, gave the keynote address, “What Judges Know.”

Paula Boggs and William Neukom to Chair Campaign for Equal Justice

Two legendary figures from the Washington state legal community will be at the helm of an important effort to help bridge the state’s “justice gap.” Paula E. Boggs and William H. Neukom will serve as the 2009–2010 co-chairs for the Campaign for Equal Justice, Washington state’s annual drive raising charitable support for the state’s 25-plus civil legal aid programs that provide free non-criminal legal assistance to low-income families and individuals with urgent legal problems and limited assistance.

Boggs and Neukom, both known for their deep commitment to access to justice and the essential role lawyers play in our society, will be leading the Campaign at a time when its success has never been more critical. As the financial meltdown forces more people into poverty for the first time, legal aid programs are experiencing an unprecedented demand for assistance. As the lead in Starbucks’ Law & Corporate Affairs Department, Boggs is responsible for overseeing all legal matters. Neukom is the managing general partner and chief executive officer for the San Francisco Giants. He was previously a partner in the Seattle office of the international law firm K&L Gates and is the immediate past president of the American Bar Association.

WSBA Civil Legal Aid Crisis Summit

The WSBA hosted a Civil Legal Aid Crisis Summit on April 17 at Seattle University School of Law. The event brought together leaders of the bar, members of the state judiciary, and those in the access to justice community, to address the current structure and state of Washington’s legal aid services delivery system. According to WSBA President Mark Johnson: “The collapse of our economy has resulted in our statewide legal service providers and county-based pro bono clinics being overwhelmed by people with legal problems. As a result of substantially increased need and significantly diminishing revenues, the ability of our civil legal aid system to deliver services has been decimated at the worst possible time. In response, the WSBA is exploring all possible ways for the legal community to lead during this critical time.”

The Summit began with a welcome from Seattle University School of Law Dean Kellye Testy. Then the co-chairs of this effort, King County Superior Court Judge Steven González and Seattle University law professor and former U.S. Attorney John McKay, addressed the crowd. Washington State Supreme Court Chief Justice Gerry Alexander discussed the current status of the Justice in Jeopardy Initiative. WSBA
CIVIL LEGAL AID CRISIS SUMMIT
1: Co-chairs Steven González and John McKay. 2: Chief Justice Gerry Alexander addresses summit participants. 3: Participants discuss solutions at Seattle University School of Law. 4: Director of the Washington State Office of Civil Legal Aid Jim Bamberger makes a point. 5: Nick Gellert represents the Legal Foundation of Washington. 6: Co-chair and King County Superior Court Judge Steven González makes comments. 7: Seattle University law professor and former U.S. attorney John McKay explains the challenges. 8: WSBA Governors Geoffrey Gibbs and Russ Aoki listen to the presenters. 9: WSBA President Mark Johnson consults with Judge González and John McKay before the summit. 10: Dean Kellye Testy welcomes participants. 11: Mark Johnson explains the need.

Photos by Todd Timmcke
Executive Director Paula Littlewood reported on a project currently being developed by the WSBA that will assist homeowners facing foreclosure. Director of the Washington State Office of Civil Legal Aid Jim Bamberger and President of the Legal Foundation of Washington Board of Trustees Nick Gellert discussed the current status of civil legal aid funding. WSBA President Mark Johnson then led a discussion with attendees.

Anderson Hunter Receives Pro Bono Award
At its annual fundraising dinner and auction, Snohomish County Legal Services awarded the David Kastle Pro Bono Publico award to the entire Anderson Hunter Law Firm of Everett. The firm consistently contributes through ongoing financial support and pro bono direct representation of clients with civil legal needs. Its shareholders and associates contribute liberally of their time and participation as members of the Board of Snohomish County Legal Services, the Snohomish County Bar Association, the WSBA, and numerous other charitable organizations.

Caucuses Honor Women Lawyers
The University of Washington Law Women’s Caucus recently honored U.S. District Court Judge Carolyn Dimmick and Sara Ainsworth. Judge Dimmick received the Distinguished Alumnae Award and Ainsworth received the Outstanding Contribution to Women in the Law Award. Ainsworth, a 1996 UW Law graduate, is senior legal and legislative counsel at Legal Voice (formerly the Northwest Women’s Law Center).

The Women’s Law Caucus at the Gonzaga University School of Law recently honored Ellen Kalama Clark. Spokane County Superior Court judge, as its 2009 Myra Bradwell Award recipient. Each year, the Women’s Law Caucus at Gonzaga presents an award and hosts a ceremony and reception in honor of a Gonzaga Law School Alumni who has furthered women’s and children’s issues through the law. The award pays homage to Myra Bradwell, who fought to eliminate discriminatory practices in the legal profession. In 1869, Bradwell passed the Illinois State Bar examination, but was denied admission to the bar because of her gender. In response to Bradwell’s complaint, the U.S. Supreme Court held that prohibition from the practice of law on the basis of gender did not violate the 14th Amendment of the U.S. Constitution. Despite this obstacle, Bradwell was a tireless advocate for equality in professional spectrums. In 1890, by its own motion, the Illinois Supreme Court finally admitted Bradwell to the state bar.

Locke Confirmed as Commerce Secretary
The U.S. Senate voted to confirm former Washington Governor Gary Locke as Commerce Secretary. Senator Patty Murray said: “Governor Locke understands the importance of the American dream because he has lived it. His grandfather emigrated from China and worked as a servant just one mile from the governor’s mansion in Olympia that his grandson would one day call home.”

President Barack Obama said of Locke at the time of Locke’s nomination: “Gary will be a trusted voice in my Cabinet, a tireless advocate for our economic competitiveness and an influential ambassador for American industry who will help us do everything we can, especially now, to promote our industry around the world.” Obama added: “I’m grateful he’s agreed to leave one Washington for another.”

FREE CLE WINNER
WSBA Executive Director Paula Littlewood assists WSBA President Mark Johnson as he selects the lucky survey participant’s name.

As part of providing better services for its members, the WSBA conducted its first “Pulse of the Profession” survey from January 20 through February 1, 2009. The survey’s goal was to better understand the practice and professional issues currently facing WSBA members and to develop program-
of the Benton and Franklin Counties Bar Association (BFCBA), in his nomination letter. "The BFCBA appreciates the efforts of Mr. Swift and asks that the Washington State Bar recognize him as a local hero in our community."

Earlier in his career, Swift was a judge advocate general with the United States Air Force, and also served as an attorney with the Department of Defense. After retiring from the Department of Defense, Swift worked for three years as a legal benefits advisor for Adult Protective Services, where he recognized a need for a guardianship monitoring program in Benton and Franklin counties. Since leaving Adult Protective Services in 2008, he has volunteered 30 to 40 hours a month to establish a guardianship monitoring program that protects vulnerable individuals in the Benton and Franklin counties’ court system. Currently, Swift serves as a file reviewer in the monitoring program. He is also developing a training program to teach others how to perform guardianship monitoring services on a volunteer basis.

**WSAJ Presents Awards at Law Day**

The Washington State Association for Justice (WSAJ) presented its 2009 Judge of the Year Award to Skagit County Superior Court Judge John M. Meyer and its 2009 Excellence in Journalism Award to the Seattle Post-Intelligencer at their annual Law Day event in May. Seven judges from courts across the state were also honored for their 20 years of service on the bench at the event, which celebrates social and economic justice.

"Judge Meyer is an extremely worthy recipient of the Judge of the Year Award," said Washington State Court of Appeals Judge Stephen Dwyer. "For 15 years his steady hand, diligent work ethic and good humor have made his one of the best courtrooms in the state. It is wonderful to see the Washington State Association for Justice recognize that courtroom excellence is often found in Washington’s rural courts, and not merely in those located in major urban counties."

"We are deeply saddened by the March closure of the Seattle Post-Intelligencer," said Gerhard Letzing, WSAJ executive director. "Journalistic competition and investigation are the best and sometimes the only ways to keep our democracy, our government and our business com-
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munity honest. With the Excellence in Journalism Award, we celebrate the P-I’s distinguished 146-year run. Not only did the P-I record the daily history of Seattle and Washington as it unfolded, but it helped to shape us into who we are today. The Excellence in Journalism Award was presented to P-I Executive Editor Ken Bunting.

These seven judges were were presented with 20-Year Judicial Service Awards: Judge Michael Cooper, Kittitas County Superior Court; Judge William Downing, King County Superior Court; Judge Joan DuBuque, King County Superior Court; Judge Alan Hancock, Island/San Juan County Superior Court; Judge Leroy McCullough, King County Superior Court; Judge Donald Schacht, Walla Walla Superior Court; Judge Brian Tollefson, Pierce County Superior Court.

Snippets

► Lane Powell’s Jennifer Wyatt has been appointed vice-chair of the American Bar Association’s Young Lawyers Division Ethics and Professionalism Committee for 2009–2010. This committee explores useful ways in which lawyers can be made more conscious of their ethical and broader professional obligations. Through programming and publications, the committee identifies common pitfalls and prepares young lawyers to avoid them.

► Foster Pepper PLLC has recognized litigator Neil Dial for his pro bono activities in 2008 as recipient of the firm’s annual Pro Bono Litigator of the Year Award. The award is in recognition of Dial’s representation of a low-income father and his two children. The children’s mother was serving time in prison for raping, molesting, and sexually exploiting her children and was pursuing visitation rights. Neil accepted the case pro bono and provided invaluable legal advocacy.

► Joanna Plichta Boisen, pro bono counsel at Foster Pepper PLLC, has been named to the Law Fund and Campaign
for Equal Justice Board of Directors. Law Fund is a 501(c)(3) nonprofit corporation and its Board of Directors administers the Campaign for Equal Justice and engages in other funding initiatives to strengthen civil equal justice in Washington.

► Michael A. Herbst, a shareholder in the Seattle office of regional law firm Schwabe, Williamson & Wyatt, was recently elected president of the Canada-America Society of Washington. Established nearly 30 years ago, the Canada-America Society serves as a platform for Canadian expatriates and Americans to interface within the Seattle community.

► Attorney General Rob McKenna announced the appointment of Deputy Attorney General Jeffrey D. Goltz as chair of the Washington Utilities and Transportation Commission (UTC). The UTC protects consumers by ensuring that utility and transportation services are fairly priced, available, reliable, and safe.

► David C. Snell was confirmed the 101st president of the Tacoma/Pierce County Bar Association (TCBA) in February, at their annual Lincoln Day Banquet. Interestingly, the first TCBA president, in 1908, was Bertha M. Snell, the first woman lawyer in Washington who progressed from pioneer to legislative intern, court reporter, secretary to the governor, and ultimately lawyer. Snell is researching his family history to see if he is a relation. At the event, TCBA also honored Joseph Gordon Sr. for his 100th birthday. Gordon has been practicing law for more than 70 years.

► Steven J. Hopp, from the Seattle firm of Carney, Badley, Spellman, has been appointed to the Lewis & Clark Law School Board of Visitors. The Board of Visitors provides support and counsel to the Law School’s programs and initiatives, offers guidance to law students, participates in fundraising initiatives at the school, and assists with admissions.

► John R. Knapp Jr., of the Seattle firm Cairncross & Hempelmann, has been named the chair of the Federal Bar Association (FBA) Bankruptcy Committee for the Western District of Washington. Knapp stated, “I am looking forward to keeping our local attorneys informed about constantly evolving bankruptcy law and practice, using the latest technology.” The FBA Bankruptcy Committee acts as a liaison between the bankruptcy bench and bar, disseminating information regarding rule, statutory, and case law modifications relating to bankruptcy practice.

► The American Bar Association (ABA) Section of Taxation presented Stoel Rives attorney Irwin Treiger with its 2009 Distinguished Service Award at the ABA plenary meeting in May. The award honors an individual whose career reflects exceptional contributions to the tax system and tax bar. This year’s award honors Treiger for his professional accomplishments, leadership, and community service. Treiger has served as chair of the ABA Section of Taxation and as a member of the ABAs Board of Governors. He also chaired the WSBA Tax Section and the National Conference of Lawyers and CPAs.

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Since 1957
The Name Game


BY BAR NEWS EDITOR MICHAEL HEATHERLY


Since becoming editor at the end of 2007, I have worked with the staff, WSBA leaders, article contributors, and the Editorial Advisory Committee to make Bar News (full name, Washington State Bar News) as informative and readable as possible. We have tried to gradually broaden our pool of authors, emphasize the human and practical aspects of articles, and provide more comprehensive, balanced coverage of major issues affecting WSBA members. I believe we have made progress. I am now proposing a change that is less substantive but more dramatic: Let’s consider changing the magazine’s name.

This publication has a long and noble history, but one fraught with bland and confusing monikers. Ever since the organization now known as the Washington State Bar Association was founded in 1888, it has published a periodical. For the first 39 years, the publication was a soft-cover book bearing the jaunty title Proceedings of the Annual Meeting of the Washington State Bar Association. If you happen to have a copy of PAMWSBA in your attic, you really should clear out your attic more often.

I won’t go so far as to suggest that the reason PAMWSBA was published only once a year was that nobody wanted to be reminded of the gawky title more often than that. More likely, it was published so infrequently because the five or so lawyers practicing in Washington at the time were too busy dashing from county to county on their quarter horses and steam locomotives to read about WSBA affairs. At any rate, in 1928 PAMWSBA was mercifully discontinued and WSBA news began running in a section of the Washington Law Review, usually appearing between Little Orphan Annie and the Sears and Roebuck long-john ads.

When the WSBA was converted to its current unified format in 1933, it launched its own small magazine. Presumably, a contest was conducted to select the title that would cause the greatest confusion with the existing Washington Law Review, as the new publication was entitled Washington State Bar Review. Further complicating matters, approximately a year later the Bar Review was merged back into the Law Review with the conglomerated periodical being dubbed the Washington Law Review and State Bar Journal. The word “journal” obviously was inserted to avoid the humiliation that would have ensued with publication of a periodical having not just one but two “Reviews” in its title.

Finally, in 1947, the Washington State Bar News was established, beginning life as a four-page monthly tabloid. This was a “tabloid” in the original sense, a scaled-down newspaper. It did not carry news of celebrity sex scandals and miracle diets (I checked). Meanwhile, a section of the Washington Law Review remained dedicated to WSBA matters until 1961, when the Law Review severed all official journalistic connections to the WSBA.

So, this has been the Washington State Bar News for 62 years. It is a straightforward and serviceable name. What it doesn’t seem to be, though, is distinctive or memorable. The majority of people who approach me to discuss the publication refer to it as the "Bar

FACES OF BAR NEWS THROUGH THE YEARS

To top bottom: The State Bar Review debuts in 1934; the first Bar News premieres in March 1947; Kay Starr and Joe Garagiola headline the 1973 WSBA convention and appear on the August-September cover; highlighting pro bono in the November 1990 edition.

Journal (confusing it with the Journal, last published in 1947), the "Bar Review" (apparently confusing it with the Law Review, which is waaaay scholarly but has nothing to compete with our Disciplinary Notices and Letters to the Editor for entertainment value), or the "Bar Bulletin" (probably confusing it with the King County Bar Association’s publication of that name). Some combine the same words in various other permutations, such as the "Bar News Journal" or the "Bar News Bulletin."

The point is that people rarely call this publication by its proper name. Perhaps this is because Bar News is such a generic and thus easily forgotten phrase. Meanwhile, having the word "Bar" in the title is redundant in that we add "Washington State" above "Bar News." We do that because the official name contains all four words but running all the words on one line would make the letters too small to stand out. At the same time, we tack on "The Official Publication of the Washington State Bar Association" for clarity. Especially in these belt-tightening times, this seems an uneconomical deployment of words.

I did not originate the idea of a name change. A staff member suggested it to me casually when I came on board. I was intrigued by the idea and have since brainstormed about it with staff and the Editorial Advisory Committee (EAC). Despite everyone’s appreciation for the longevity of the current name, there was substantial interest in exploring a change.

What benefits might we get from changing the name? I believe a distinctive new name would be more memorable and would refresh the publication’s image. A name change would give us the perfect opportunity for a style makeover of the magazine, a low-cost way to infuse it with new energy. Meanwhile, a new name in which “Washington” were an integral part would eliminate the need to repeat that word, as we do in the current name.

When we began discussing a possible name change, EAC Member Lisa Bradley took the time to survey the names of other states’ bar publications. By far, the two most common names were [Whatever State] Lawyer (18 states) and the [Whatever State] Journal (sometimes combined with “bar” or “law,” etc.) (17). There were eight publica-

Although I hope to hear suggestions from others before campaigning for any particular new name, I’ll throw out some possibilities that have occurred to me: Washington Law and Law Washington are bold, simple names that would look good on the cover. Theoretically, someone unfamiliar with the WSBA who stumbled upon the magazine might wrongly assume the name referred to Washington, D.C., but what harm would result? Washington Lawyer would hardly be unique in format, as many states’ publications use “Lawyer” in the title. But it has a modern, professional feel and emphasizes that the magazine serves us, the lawyers.

Some states add “magazine” to the title; Washington Lawyer Magazine has a nice ring to it and would clearly distinguish us from Washington Law Review and the various local and specialty bar publications. Washington Lawyer Monthly would have a similar effect. Washington Advocate is a sharp name, although it doesn’t definitively identify the magazine as a legal publication. There is a national non-lawyer magazine named The Advocate, but having “Washington” in the title of ours should clearly distinguish it from that publication.

Going in a different direction, when I was trying to come up with a name for my back-page column, I considered “Behind the Bar,” “Above the Bar,” “Below the Bar,” “Inside the Bar,” and “Raising the Bar.” Those might work for the magazine, too, although I eventually abandoned them as names for the column because they sounded too much like something that would appear in a trade journal for bartenders.

Let us know what you think about a name change, if the names I have suggested appeal to you, and if you have any other ideas for a name. If we get strong support for two or three particular names, we’ll consider a contest to decide the winner. If we are flooded with opposition to changing the name at all, we’ll stick with Bar News, tried and true. We look forward to hearing from you. Send your ideas to barnewscomments@wsba.org.
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In Memoriam

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

Barnard, Delbert J. “Del”
Del Barnard graduated from Oregon State College and earned his J.D. at American University Washington College of Law. He practiced in intellectual property law in Seattle for 48 years. He was a nationally recognized and respected attorney of patent law. Barnard was known for his integrity, generosity, and sense of humor. In 1968, he was awarded Father of the Year through the greater University Chambers of Commerce.

Del Barnard died January 25, 2009, at the age of 74.

Beeson, John C.
John Beeson graduated from the University of Puget Sound School of Law. He founded Beeson Co., a bonding and insurance company, where he worked for 40 years. He was a competitive sailor, avid basketball fan, and had a passion for thoroughbred horses. He generously helped and supported countless people in need throughout his life.

John Beeson died October 22, 2008, at the age of 71.

Bullitt, Charles Stimson
Charles Stimson “Stim” Bullitt was an author, judge, outdoorsman, urban developer, and broadcasting executive. He attended Yale University and the UW School of Law. He served in the Navy during World War II and was awarded the Purple Heart. In 1961, Bullitt became president of KING-TV. In 1972, Bullitt founded Harbor Properties, Inc., a Seattle development firm. As an attorney, he was known for his work on environmental and human-rights causes. He loved nature and outdoor physical activities and was known as a legend among rock climbers.

Charles Stimson Bullitt died April 19, 2009, at the age of 89.

Cook, James W.
Jim Cook joined the Naval Reserves at the age of 17 and served for seven years. He received his law degree from the UW School of Law and practiced as corporate counsel for 35 years at several firms and companies.

James Cook died April 2, 2009, at the age of 71.

Creighton, Gordon
Gordon Creighton, born in Yakima and raised in Seattle, graduated from the UW School of Law. He served two years in Korea in the Army after high school. At the UW, he was a ROTC cadet colonel. He was active in Republican politics in the 1960s and 1970s. He had a private general practice for 45 years in Seattle, Bellevue, and Redmond.

Gordon Creighton died March 16, 2009, at the age of 80.

Dunlap, Richard J.
A remembrance by his daughter Debora Dunlap
Richard Dunlap rose from nothing to be a self-made man. Serving in the U.S. Army was one of his greatest privileges and experiences. Attending the Army language school and learning five languages before specializing in Russian was a feat he was
very proud of. Dick attended the UW School of Law on the G.I. bill. He practiced law in downtown Seattle for 49 years.

I had the privilege of his mentoring all my life and as a lawyer for 12 years. I have had the privilege of meeting all in this profession from court reporters to lawyers, judges, clerks, bailiffs, courthouse security, doctors, and law-firm staff who worked with and encountered Dick and said nothing but admirable things about his trial lawyer skills, professionalism, and outspoken and unique character. To this day, when I am asked if I am his daughter, people take the time to tell me an admirable and entertaining tale about my father. And those outside our profession — with whom he did business, ate at their restaurants, etc. — always freely say similar admirable things about him. I had the privilege of going to trial with him at the defense table in a wrongful death case and in a major collision accident case. I had the privilege of watching and listening to him work with doctors, lawyers, staff, experts, and people from all walks of life — all of whom he always treated equally and with the utmost respect, and to whom he was a man of his word. He was the old-school gentleman lawyer who cannot be found everywhere.

Other lawyers and I had the privilege of working alongside him and learning lawyer and business skills, case management, people skills, and an untold number of personal interests from him. He was an insatiable reader and constant student of a wide variety of subjects — history, wars, gardening, chess, birds, and photography. The houses where I have lived all have rhododendron bushes hand-picked by him. He is a big part of who I am today, what type of practice I have, and how I work as a lawyer. He will be missed but not forgotten.

Richard Dunlap died September 26, 2008, at the age of 79.

Eaton, Janet L.
Janet Eaton, a Montana native, received her law degree from the University of Missouri at Kansas City. She joined the firm of Schroeter, Goldmark, and Bender in 1979 as one of their first female attorneys. She devoted her life to raising her two children, while serving occasionally as an arbitrator in King and Snohomish county courts. She wrote about her life in Mukilteo in her widely read blog, "Mukilteo Musings."

Janet Eaton died March 15, 2009, at the age of 56.

Eide, Donald A.
Judge Donald Eide served in the Navy. He earned his J.D. from the UW School of Law while working for Boeing. He worked for the King County Prosecutor’s Office for several years before going into private practice. Judge Eide was elected to the then Aukeen District Court in 1970. He served with distinction until his retirement in 1994, having been elected King County District Court presiding judge, and as president of the Washington State District and Municipal Court Judges Association. Judge Eide also taught nationally at the National Judicial College in Reno, Nevada. An avid outdoorsman, he hiked, camped, fished, boated, biked, and loved to walk.

The Honorable Donald Eide died April 9, 2009, at the age of 77.

Howard, William E.
Judge William “Bill” Howard started as a teacher, realized his calling was the law, and graduated from the UW School of Law in 1967. He worked in the Washington State Attorney General’s Office and then moved to Port Townsend, where he was elected prosecuting attorney. In 1982, he was
appointed as Jefferson County’s first full-time Superior Court judge. Judge Howard presided over hundreds of cases, where he earned a reputation as a thoughtful, thorough, and independent jurist. In 1987, he ruled in State v. Boland that evidence seized from the suspect’s garbage bags awaiting pick-up was not allowed under the state of Washington’s Constitution. The case was appealed to the State Supreme Court and his decision was upheld. The Boland case remains active case law in Washington today. He and his wife were active international humanitarians who served causes in Africa, Central America, and locally.

The Honorable William Howard died February 9, 2009, at the age of 70.

Hunter of Montlaw, David H.
David Hunter of Montlaw was an attorney whose avocation was the researching of old Scottish grants and matriculations of coats-of-arms: he became widely known for his expertise on medieval Scottish arms. Born Paul David Hovey, he adopted his mother’s maiden name and mischievously assumed the territorial title “of Montlaw.” He was a skilled craftsman and produced heraldic displays in a variety of media. He was a court commissioner for the Thurston County Superior Court.

David Hunter of Montlaw died December 21, 2008, at the age of 45.

Ishikawa, Richard M.
To many Asian-American lawyers, Judge Richard Ishikawa was a pioneer. He was born in 1932 in Seattle. During World War II, his family was interned at Camp Minidoka in Idaho. After their release, the family settled in Spokane, where Judge Ishikawa attended Gonzaga University School of Law. He served in the JAG Corps with the U.S. Army. He had trouble finding work as a lawyer in Seattle in the early 1960s and eventually found work as a bailiff, then prosecutor, and then in private practice. In 1979, he was the first Japanese-American elected to the bench in Washington. He retired in 2000, only to return to the court as a judge pro tem three months later. His was known for his fairness, integrity, and wit.

The Honorable Richard Ishikawa died March 3, 2009, at the age of 76.

Jernegan, Jeffrey L.
A remembrance by his friend Michael Caryl
To those who knew him, Jeff was a superb lawyer, a great husband and father, and a great friend. Jeff wasn’t flashy, pushy, or larger than life. He was a low-key, unflappable, and easy-going person. Jeff had many friends and many more who respected him for who he was and especially for his legal talents.

I had the opportunity to work on many cases with Jeff. At the time, my practice was limited largely to plaintiffs’ personal injury cases, while Jeff had a broad maritime law practice. I was quite impressed by Jeff’s extensive maritime knowledge and good legal judgment. Around 1993, Jeff and I took on a maritime personal injury case. We liked our client, but it was a case with a lot of problems, and with a very difficult and stingy insurer. When we were offered only a pittance in mediation, Jeff and I took the case to trial. Jeff handled the liability side of the case, while I handled damages. It was a magical experience for me. Everything we did went right and we ultimately got a great award from the court. We worked so well together. Working with Jeff on the case was one of the most rewarding experiences of my career. Trying a case together with a good friend you truly enjoy and respect can be among
the most gratifying things a trial lawyer can do. I gained a newfound higher level of respect for Jeff’s abilities.

Many of us are reaching a point in our lives where some of our colleagues have begun leaving this life. I have lost a couple of close lawyer friends over the years, persons claimed by death, in my view, well too early. Jeff was one of those. While practicing, he was an excellent counselor, a superb advocate, dedicated to his clients, exuding a love and zest for the law. He lived his life in a manner that most of us would only hope to emulate and lived out his remaining days with his focus on friends and family. I was far from Jeff’s closest friend, but I will always be grateful for the experiences I had with him.

Jeffrey Jernegan died on January 27, 2009, at the age of 59.

Jones, Alison M.

Judge Alison Jones, of Gig Harbor, was a graduate of the University of Puget Sound School of Law. She served as assistant chief judge for the Board of Industrial Insurance Appeals.

The Honorable Alison Jones died February 24, 2009, at the age of 62.

McCollough, Leah C.

Leah McCollough, a Michigan native, graduated from Duke University, and earned law and graduate degrees from Case Western University in Cleveland, Ohio. She was president of LCM Consulting, a coaching and training company. She served on many volunteer boards, including Hopelink and the Women’s Funding Alliance of Seattle.

Leah McCollough died January 8, 2009, at the age of 43.

Merrell, Bryan S.

Bryan Merrell graduated from Washington State University and earned his J.D. at the University of Idaho College of Law. He was an attorney for First American Title in Seattle. Prior to that, he worked with Groh Eggers Price and Routh Crabtree in Anchorage. He was an avid Seahawks, Mariners, and WSU Cougars fan. He enjoyed motoring, boating, gardening, and writing.

Bryan Merrell died March 19, 2009, at the age of 45.

Mitchell, Paul C.

Paul Mitchell was born in Spokane, earned his J.D. from UW School of Law, and received his LL.M from George Washington University School of Law. He served in the U.S. Air Force and had a 40-plus-year career with the U.S. government as a procurement law attorney. He loved the outdoors, enjoying hiking, canoeing, mountain biking, and skiing.

Paul Mitchell died on March 16, 2009, at the age of 67.

Putra, Brian A.

Brian Putra was born in Pasco, attended Gonzaga University, earned his J.D. at Hastings College of Law in San Francisco, and completed an LL.M. in taxation at Boston University. He was a partner in the Seattle firm of Peterson Young Putra and a respected trial lawyer for 35 years. He served on the Board of Governors of the Washington State Trial Lawyers Association, as chair of the WSBA Disciplinary Board, and as a member of the American Association for Justice. He was a devoted sailor, hunter, and fisherman and had a lifelong passion for golf.

Brian Putra died April 17, 2009, at the age of 65.
Schoedel, Phyllis D.
Phyllis Schoedel earned her law degree from the UW School of Law and started work at the King County Prosecutor’s Office. In 1957, she moved to Spokane, where she was one of only a few female attorneys in the area. Spokane County Superior Court Judge Kathleen O’Connor said: “She was one of the first women attorneys here who were visible in the courtroom. She had a good practice.” Judge O’Connor added: “She had the best shoes in town,” (Schoedel was known for her stylish high heels worn on many occasions). She volunteered her time for Camp Fire Girls, Inc., and the Business and Professional Women’s Club.
Phyllis Schoedel died February 24, 2009, at the age of 80.

Splawn, Homer B.
A remembrance by his daughter, Sidney Splawn-Dolquist
Homer Splawn was born in 1910, the son of legendary pioneers Andrew Jackson and Margaret Larsen Splawn. He was a trial attorney, author, historian, horseman, and scholar. He was raised on the Splawn Ranch, which encompassed most of the Cowiche Valley, and was known for prize-winning Hereford cattle. He graduated from the UW School of Law in 1937 and was a sole practitioner and trial attorney for 62 years. He still went to his office in his late 80s, putting on a snap-brim hat and bow tie, pulling on his rubber boots over his custom-tailored suit pants, and stopping at the barn to feed the horses and clean the stalls before heading out.

A tough, brilliant, irascible man, his motto was: “They pay me to try cases, not settle them!” He was fearless and tenacious in the courtroom, enthralling juries with his wit and oratory. It is said that other lawyers would come to court just to watch him. You never knew what was going to happen, whether it was standing on top of fruit ladders or dragging in smashed automobile doors.

His legacy to his children and those who remember him is to be strong and fearless, stand up for what you believe, treasure and hold the past close, and tell your stories so they may live beyond you.
Homer Splawn died March 31, 2009, at the age of 98.

Trout, John B.
John “Bert” Trout and his high-school friend George Christnacht formed a partnership in Tacoma that eventually became Trout, Christnacht, Ladenburg, McGary & Durkin, Inc., P.S. Active in state and local bar associations, Trout was a past president of the Tacoma-Pierce County Bar Association and served on the WSBA Rules of Professional Conduct and Unauthorized Practice of Law committees. He was a member of the Puget Sound Inn of Court and the Washington State Higher Education Personnel Board. Trout was known as a generous mentor to many attorneys in Pierce County. He had a great sense of humor and was well-loved by his clients.
Bert Trout died March 12, 2009, at the age of 80.


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What are law firms in Washington state doing to support diversity? The Washington State Minority Bar Associations wanted to know.

In 2008 and 2009, the Minority Bar Associations of Washington (MBA) Joint Committee on Law Firm Diversity surveyed Washington’s largest private law firms to measure both successes and gaps relating to diversity practices inside the firms. The results, published in March 2009, reveal that firms are working to increase and maintain diversity, but significant challenges remain.


The Goals in Creating the Law Firm Diversity Report
The goals of the report included identifying firms that support overall diversity efforts, and providing examples of those successes; helping firms understand the power of diversity in an organization, both for business gain and for social progress; and providing law students with information about how diversity outreach efforts and programs can help them choose firms that will support their needs during professional development. The MBA groups also hope that in-house counsel will consider the report when hiring attorneys as outside counsel, thereby acknowledging that lateral diversity hiring confers a business advantage, and creates positive social change in all professional environments.

The Request for Information, the Response, and Analysis
In May 2008, the Committee sent a questionnaire to the 50 largest law firms in Washington state. The questionnaire sought detailed demographic information regarding the racial/ethnic, gender, sexual orientation, and disability status of attorneys and summer associates in the law firm. The questionnaire also asked for descriptions of law firm diversity efforts and programs. The responses were analyzed and the firms were scored and ranked.

Out of the 50 law firms invited to participate, 32 responded. The data was organized into two categories: hard factors, meaning demographics, and soft factors, meaning narrative information about diversity efforts and programs within the firm. Both categories were used to determine a firm’s composite score regarding diversity efforts. For the overall rankings, the Committee gave more weight to hard factors, meaning that the actual numbers of diverse attorneys in the firm constituted an objective measure of success for that firm. However, the Committee also gave substantial consideration to the soft factors, acknowledging that diversity outreach efforts and programs that support and welcome diversity in a firm should be considered in the overall scoring. The Committee strove to assess firms in a fair and neutral manner, giving weight to each effort undertaken by the firm. For example, the Committee recognized that, depending on size, practice area, or geographic isolation, some firms face unique challenges in creating a diverse work force. Every firm is different, but each can support and welcome its diverse attorneys, no matter how few the number. This report is a blueprint for starting or strengthening that process.


BY THUY NGUYEN-LEEPER

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Out of the 50 law firms invited to participate, 32 responded. The data was organized into two categories: hard factors, meaning demographics, and soft factors, meaning narrative information about diversity efforts and programs within the firm. Both categories were used to determine a firm’s composite score regarding diversity efforts. For the overall rankings, the Committee gave more weight to hard factors, meaning that the actual numbers of diverse attorneys in the firm constituted an objective measure of success for that firm. However, the Committee also gave substantial consideration to the soft factors, acknowledging that diversity outreach efforts and programs that support and welcome diversity in a firm should be considered in the overall scoring. The Committee strove to assess firms in a fair and neutral manner, giving weight to each effort undertaken by the firm. For example, the Committee recognized that, depending on size, practice area, or geographic isolation, some firms face unique challenges in creating a diverse work force. Every firm is different, but each can support and welcome its diverse attorneys, no matter how few the number. This report is a blueprint for starting or strengthening that process.
The goals of the report included identifying firms that support overall diversity efforts, and providing examples of those successes; helping firms understand the power of diversity in an organization, both for business gain and for social progress; and providing law students with information that could help them choose firms that will support their needs during professional development.

had strong, established incentives and execution in the following areas: recruitment and hiring, mentoring, retention; promotions and management; and policies and programs. Examples of law firm successes include Perkins Coie’s program for lateral diverse hiring, a regular retreat/meeting for attorneys of color, and repeated and sustained sponsorship of minority bar activities, including MBA dinners and events. Heller Ehrman (now dissolved) stood out for strong advertising of open attorney positions through the minority bar associations, the use of executive search firms, and a career-development credit toward billable-hour expectations for new hires. Helsell Fetterman strongly supports same-sex partnerships and shows it by providing extensive domestic-partner benefits, by equalizing the disparate tax burden for same-sex partnerships, and by providing pro bono representation for same-sex plaintiffs. Cairncross & Hempelmann strongly sponsors diversity events and strongly supports MBA membership for practicing attorneys. Davis Wright Tremaine instituted a pilot mentoring program which partners diverse attorneys with significant clients to enhance attorney-client development; further, the firm instituted a partnership coaching program which offers intense mentorship for diverse attorneys under consideration for promotion. K&L Gates reflected success by regularly reviewing work assignments to ensure that diverse attorneys are not being excluded. Graham & Dunn makes sure to introduce diverse attorneys to key clients. Stoel Rives offers diversity scholarships for first-year law students, with offers for those students to return their second summer.

Dorsey & Whitney also sponsors scholarships and the firm matches diverse new attorneys with diverse attorney mentors in the firm. Bullivant Houser Bailey hired a diversity specialist and holds an annual meeting for diverse attorneys with feedback to the Board of Directors. Other firms support diversity with dedicated budgets for diversity activities. Some firms have dedicated diversity professionals who report directly to managing partners.

The findings also reveal that firms demonstrating strong performance in one key area may fall short in another area. For example, the firm with the highest percentage of racial and ethnic minority attorneys (33 percent minority attorneys, or 13 of 39 attorneys) ranked lowest in recruitment and retention and in the bottom three for same-sex partner programs. A firm in the top three for percentage of minority, female, GLBT, and disabled attorneys in firm leadership ranked last for percentage of racial and ethnic minorities. Some firms with a high percentage of hiring in one minority sector have low percentages of overall minority hiring. For example, the firm with the highest percentage of female attorneys (73 percent female attorneys, or 16 of 22 attorneys) had the lowest percentage of racial and ethnic minority attorneys but ranked the highest percentage for combined minority, female, GLBT, and disabled summer law clerks.

The Takeaway

What would a firm look like if it fully committed to supporting diversity? The report answers that question, in part. Firms fully supporting diversity would emulate the successes mentioned above. They would generate ideas to support diverse attorneys and the minority community. They would engage in regular strategic thinking, and they would create and execute a plan of action. This report is the MBA’s way of raising awareness about the current status of diversity in the 50 largest law firms in this state, to inspire dialogue, strategic thinking, and focused, strong initiatives to support a broad scope of diversity efforts. The Washington MBA urge further research, discussion, and proactive execution of initiatives to support policies and programs at all levels for diverse attorneys, from recruitment to hiring, mentoring to retention and promotions, to firm management and leadership.

For more detail, including statistical data, please contact the Minority Bar Associations, www.wsba.org/lawyers/links/minoritybarassoc.htm, or contact attorney Thuy Nguyen-Leeper, co-chair of the Minority Bar Associations of Washington Joint Committee on Law Firm Diversity, at thuy.nguyenleeper@expeditors.com.

Thuy Nguyen-Leeper is assistant corporate counsel at Expeditors International of Washington, Inc., where she focuses on commercial transactions. She was formerly an associate at Dorsey & Whitney LLP, where her practice...
was commercial, securities, and antitrust litigation. Attorney Wilberforce Agyekum and Assistant Attorney General Maureen Mannix edit this column.
Congratulations to the 309 candidates who passed the Bar Exam administered in February 2009 at Meydenbauer Center in Bellevue. Of the 477 candidates who took the exam, 64.8 percent passed.

Adams, Talonya – Bellevue
Aldassy, Hillary Steiner – Issaquah
Ambrosio, Fabio – Edmonds
Anderson, Maren Kristi – Bellingham
Andrews, Mark – Fairbanks, AK
Arterburn, Jennifer L. – Seattle
Auld, Robin Kidd – Seattle
Bailey, Garrett W. – Seattle
Bair, Mika Nelson – Edmonds
Baran, Whitney J. – Chittenden
Bardwell, Mark – Silver Spring, MD
Beardwood, Hillary Carol – Aberdeen
Beckford, Nancy Ann – Seattle
Bednar, Philip Leonard – Seattle
Ben-David, Nathalie – Seattle
Bennett, Erin P. – Seattle
Bennett, Christine – Kennewick
Bingisser, Glenn Martin – Bellevue
Birge, Holly – Seattle
Bingisser, Olga – Bellevue, WA
Blakey, Sarah Elizabeth – Seattle
Bloom, Ragnar – Juneau, AK
Boden, Kevin Michael – Woodinville
Bowen, Robert Griffith – Birmingham, AL
Boyle, Ryan M. – Los Angeles, CA
Brand, Debra Raylene – North Hills, CA
Breen, Nicholas Alexander – Seattle
Brier, Freya R. – Bellevue
Brimmer, Janette K. – Seattle
Broussard, Benjamin James – Seattle
Brown, Kelsey Mackenzie – Gig Harbor
Brown, Peter C. – Las Vegas, NV
Brown, Daniel A. – Seattle
Brustad, Marek M. – Seattle
Burk, J. Damon – Atlanta, GA
Burton, Paul C. – Issaquah
Butler, Sean P. – Bainbridge Island
Byers, Amber Dawn – Shoreline
Cagana-an, Emille Charleisse Forones – Issaquah
Cahalan, Joseph Ryan – Saint Petersburg, FL
Campbell, Justin Rylan – Kirkland
Carey, Richard – Seattle
Cassan, Traci – Mercer Island
ChapPELL, Michael J. – Spokane
Chen, Hillary F. – Seattle
Chen, Hweilien Vicky – Seattle
Chermeshnyuk, Olga – Bellevue, WA
Chung, Shana K. – Longueville, NSW, Australia
Clawson, Rebecca Dawn – Seattle
Clevenger, James M. – Eugene, OR
Colburn, Gregory Stephen – Carnation
Colwell, Cody Joseph – Everett
Comstock, Jeff Nicholas – Seattle
Cool, Richard P. – Seattle
Covell, Farrell Craig – Los Angeles, CA
Craig, Heidi Louise – Bothell
Crispin, Sunset Sierra – Spokane
Cruz, Kristi A. – Edmonds
Czar, Tracey A. – Tacoma
Davidson, Jeremy S. – Seattle
Davidson, Rebecca Oris – Renton
Davitt, Christina Marie – Wenatchee
Davies, Duane M. – Woodinville
Dibble, Candie M. – Camden, DE
Diskin, Jennifer Denise – Seattle
Doerfler, Allison Jeannette – Harrisburg, PA
Dow, Christine Gwendolyn – Glacier
Eagan, Emilie – Brooklyn, NY
Eberle, Roxanne – Tukwila
Eof, Gretchen Elizabeth – Seattle
Eshbach, Laura M. – Seattle
Evans, Richard Lee – Bellevue
Evans, Patrick Wayne John – Redmond
Farnham, Christina Anne – Blaine
Feldman, Jason M. – Edmonds
Ferguson, Nathan E. – Seattle
Fitzgerald, Kelli Ann – Bellevue
Flick, Ralph Wilhem – Gig Harbor
French, Kristin L. – Shelton
Frey, Sara Claire – Sammamish
Fuller, Melissa P. – Seattle
Garcia, Stephen Michael – Long Beach, CA
Gardner, Jerold – Kirkland
Garrison, Eula – Tacoma
Gasca, Nicholas J.R. – Seattle
Gerling, Andreas – Burien
Ghosh, Malabika J. – Seattle
Gilson, Michael Scott – Edmonds
Goda, Hiromi – Seattle
Goff, James Robert – Seattle
Goldman, Eric Paul – Grayland
Goldman, Catherine M. – Grayland
Goodin, Amanda Wilcox – Seattle
Goodrich, Scott Frederick – Seattle
Gordon, Amy – University Place
Gramer, Alisa Mistkawi – Portland, OR
Grant, Courtney A. – Seattle
Gregoire, Mba Gerard – Bothell
Griffen, Christopher Leo – Seattle
Griffin, Joseph Parker – Rockville, MD
Griffin, Kimberly F. – Tacoma
Grosbeck, David Jackson – Seattle
Grosoct, Daniel Braden – Fairfax, VA
Gross, John E. – Lynnwood
Gundlach, Amber Rae – Seattle
Haake, Heath Robb – Issaquah
Hanson, Randy R. – Port Orchard
Hargroeder, Susan M. – Port Townsend
Haslam, Brian D. – North Bend
Hawks, Peggy A. – Seattle
Henderson, Christopher M. – Seattle
Henley, Karen Lane – Seattle
Herby, Wendy Anna – Foster City, CA
Hill, Tamara Lynne – San Diego, CA
Hodder, Gregory Richard – Kirkland
Hoefler, Jonas P. – Redmond
Holden, Miriah Eve – Honolulu, HI
Holland, Jeffrey Dale – Scottsdale, AZ
Hollister, Patrick – Gig Harbor
Holman, Lavette Nadine – Moxee
Hurdlebrick, James Francis – Bellevue
Hutcheson, Lisa Marie – Tallahassee, FL
Ibrahim, Yosef – Wilmington, DE
Iwen, Melinda E. – Seattle
Jacobs, Jeffery Michael – Shoreline
Jacobsen, Sonja Elizabeth – Shoreline
Jewell-Leidahl, Laura A. – Tacoma
Johnson, Robert Charles – Seattle
Juneja, Neil – Seattle
Kang, Chris – Mill Creek
Kehler, Melanie E. – Portland, OR
Keenan, David S. – Seattle
Kelly, Christine A. – Lake Stevens
Kennay, Michael S. – Medina
Kerr, Benjamin David – Seattle
Kerslake, Monica Nicole – Kirkland
Khandelwal, Nitin A. – Seattle
Kilpatrick, Shannon M. – Tumwater
Kim, Leigh Ann – Bothell
Kleynen, Pavel R. – Bellevue
Koonzt, Kristine Lynn – Seattle
Kretser, Alissa E. – Seattle
Kujundzic, Dino – Spokane
Kvasnyak, Simon – Auburn
Lake, Amanda – Los Angeles, CA
Lambert, Crystal Victoria – Vancouver
Lamborne, William Brian – Seattle
Laney, John Solano – Bothell
Lannom, Daniel Marshall – Seattle
Larch, Kristyna – Seattle
Lawson, Sarah E. – Enumclaw
Le, Martin Thanh – Seattle
Lebraon, Desea – Lakewood
Ledford, Julie Danielle – Olympia
Lee, Nancy J. – Roy
Lees-Brazil, Courtnie A. – Spokane
Levy, Lesley – Seattle
Liebman, Daniel E. – Lakewood
Linden, Mary Anne – Eugene, OR
Linehan, Joseph – Spokane
Lipe, Stuart Gregory – Denton, TX
Lo, Donny T. – Seattle
Lovejoy, Riley – Seattle
Lyons, Mary Shelagh – Seattle
Macke, William J. – Portland, OR
MacKenzie, Matthew Keith – Boise, ID
Magaro, Heidi L. Baradel – Olympia
Manoucheri, Arman M. – Bellevue
Mapes, Carrie H. – Seattle
Mares, Tina Marie – Shoreline
Marsella, Stephen B. – Seattle
Maucione, Katie Jordana – Spokane
Mazarve, Emmeline Echon – Seattle
McCoan, Laura Batenic – Seattle
McCullough, Hugh Robert – Seattle
McCurdy, Thomas Purcell – Pasadena, CA
McDonald, Ian S. – Bremerton
McFarline, Jamie J. – Seattle
McGowan, Matthew Wade – Port Orchard
McMurtry, Brandon Noel – Arcadia, CA
Meier, Stephanie J. – Seattle
Merkel, John C. – Washington, DC
Michalski, Matthew Anthony – Seattle
Miller, Andrew David – Puyallup
Mills, Matthew David – Bremerton
Miraglia, John M. – Chicago, IL
Moberg, Patrick Ross – Winter Park, FL
Moore, Edward H. – Dallas, TX
Moore, Jason B. – Seattle
Morales, Christopher Adan – Des Moines
Morgan, Lorie Ann – Seattle
Morris, Lakisha – Fullerton, CA
Mullins, Jill – Seattle
Murray-Lohmeyer, Kathleen S. – Seattle
Newby, Judy Anna – Seattle
Nguyen, Trang H. – Kent
Nishihira, Shana Aiko – Seattle
O’Connell, Catherine Lee – Bellingham
Oladapo, Ajibola Oluemysi – San Diego, CA
O’Meara, Michael Shannon – Everett
Orsoco, Trinity J. – Pasco
Palimans, Kristyn – Seattle
Paratte, Michele O. – Monroe
Park, Luke Soojong – Port Orchard
Pavithran, Shana – Issaquah
Peterson, Anne Elizabeth – San Francisco, CA
Pewitt, Sheryl – Seattle
Philppides, Christopher – Davis, CA
Pirko, Johanna Rowton – Los Angeles, CA
Plachy, Kevin Lee – Seattle
Quitlong, Karen Sheryll A. – Seattle
Rack, Kevin M.S. – Seattle
Rau, Benjamin – Olympia
Reagan, Stephen W. – Moses Lake
Reinbold, Leone – Okanogan
Reinbold, Theodore – Okanogan
Renner, Julie A. – Palos Verdes Estates, CA
Reynolds, David A. – Seattle
Rhodes, Michael – Spokane
Richardson, Robert – Seattle
Richter, Aaron J. – Port Angeles
Ritchie, Peter McGillis – Chesapeake, VA
Roat, Maureen – Bellevue
Rodgers, Scott E. – Kennewick
Roemer, Jennifer Ann – Alameda, CA
Rose-Akins, Niyat P. – Seattle
Rosen, Michael – Los Angeles, CA
Rosenberg, Edward Moore – Seattle
Rotstein, Olga – Issaquah
Sambrano, Jason Allen – Sammamish
Sanchez, Philip Jesus – Mercer Island
Sandstrom, Thomas Dale – Lake Forest Park
Santa, Mishkin Emran – Brighton, MA
Santos, Patrick Joseph Dinio – Kirkland
Schaff, Patrick D. – Spokane
Schlesinger, Andrew M. – Lake Oswego, OR
Schmidt, Jo Ann – Bainbridge Island
Scobie, Jonathan – Ridgefield
Scott, Breckan – Yelm
Scott, Jill – Issaquah
Seneviratne, Sanjeevani Kumari – Auburn
Senser, Hildegarde Anne – San Francisco, CA
Shanahan, Julia – Bainbridge Island
Shanley, Daniel M. – Los Angeles, CA
Shapow, Angela M. – Seattle
Sharp, Susannah J. – Seattle
Shin, Daniel Neheamiah – Auburn
Simkins, Gavin M. – Tacoma
Singh, Madhumee Kaur – Seattle
Skalsky, Lacey Lorene – Wenatchee
Small, Christopher Michael – Seattle
Smith, Lena Madden – Seattle
Smith, Dillon Gregory – Seattle
Soffes, Lindsey S. – New York, NY
Sotelo, Eulalia – Bellevue
Springer, Joshua Steven Leidheiser – Seattle
Stefanik, Shira J. – Seattle
Stock, Yelena Itza – Kirkland
Stockman, Jonathan Niels – Las Vegas, NV
Stone, Graham Lee – Spokane
Summer, Sarah Melissa – Sequim
Sun, Guowei – Spokane
Swanes, Carl – Seattle
Swenhaugen, Stacey Danielle – Federal Way
Symmes, Richard James – Denver, CO
Symms, Jennifer Nicole – Seattle
Talkington, Timothy – Camas
Tang, Sam – Tacoma
Tassin, Paul Raymond – Seattle
Tavella, Anne Marie – Seattle
Taylor, Bennett Aldridge – Issaquah
Taylor, John Carlson – Vancouver
Teasley, Greg – Chesterfield, MI
Tingelstad, Nicole Marie – Redmond
Towle, Christopher – Renton
Trombley, Marie Jean – Spokane
Vaget, Erec A.J. – Shoreline
Van Eyk, Shaun – Seattle
Van Soest, Brandon S. – Lynden
Van Velthuyzen, John Jacob – Bothell
Vaughn, Rachael – Seattle
Velte, Lisa – Renton
Velten, Megan Ann – Seattle
Vijay, Shashi – Issaquah
Villalobos, Rachelle – Silverdale
Virdi, Ema Kaur – Vancouver
Visser, David Gerrit – Kirkland
Volm, Tyler John – Portland, OR
Wall, Christopher – Seattle
Wang, Emily May – Seattle
Weatherstone, Ryan J. – Seattle
Weber, Matthew Alan – Spokane
Wennerstrom, Ann – Shoreline
Williams, Michael C. – Denver, CO
Williams, Walter Daniel – Bellevue
Wilson, Ian Anthony – Moscow, ID
Witt, Michael J. – Seattle
Wood, Harlow Vance – Poulsbo
Wood, J. Scott – Vashon
Wostmann, Lindsay Keele – Eugene, OR
Yen, Will – Bellevue
Yin, Charlene – Seattle
Young, Arleta E. – Kingston
Zakhari, Lydia Adelle – Seattle
Zittel, Jason M. – Olympia

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**Opportunities for Service**

**Practice of Law Board — Four Positions**

*Application deadline: July 3, 2009*

Four positions on the Practice of Law Board are open effective October 2009. These appointments will be for a three-year term. All interested persons are encouraged to submit a résumé and letter of interest to the Practice of Law Board by July 3, 2009.

The Board is established by General Rule 25. Nominations may be made by the WSBA Board of Governors and other people and organizations.

GR 25 provides that the purpose of the Board is to:

- promote expanded access to affordable and reliable legal and law-related services;
- expand public confidence in the administration of justice;
- make recommendations regarding the circumstances under which non-lawyers may be involved in the delivery of certain types of legal and law-related services;
- enforce rules prohibiting individuals and organizations from engaging in unauthorized legal and law-related services that pose a threat to the general public; and
- ensure that those engaged in the delivery of legal services in the state of Washington have the requisite skills and competencies necessary to serve the public.

The Board is composed of 13 members, at least four of whom shall be non-lawyers. The Board should represent the public interest in the delivery of legal services and should reflect the broad range of diversity of individuals who are part of or who use the legal system.

Persons interested in seeking nomination by the Board of Governors for appointment to the Board should submit letters describing their background and qualifications for membership to the address shown below. Applicants should have a demonstrated commitment to the Board’s purposes as set out in GR 25. Members of the Board are not compensated for their services, but are reimbursed for necessary expenses consistent with the WSBA reimbursement policies. The Board sets its own meeting schedule, currently meeting the second Friday of each month.

Please submit a letter of interest and a résumé no later than July 3, 2009, to: Practice of Law Board, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101. Further information is available at www.wsba.org/practiceoflawboard. If you have any questions, contact POL Board Administrator Julie Shankland at julies@wsba.org, 206-727-8280, or 800-945-9722, ext. 8280.

**Law Clerk Board**

*Application deadline: June 30, 2009*

The Law Clerk Board is a regulatory board composed of seven lawyers who are appointed for six-year terms. Members are appointed with consideration for the geographic distribution of the law clerks in the program. There are two positions available starting October 1, 2009; one position will serve primarily the Seattle area, and one the Bellingham/Northwestern Washington area. Preference will be given to applicants in these areas of the state. The Board is composed of both law-school graduates and those who completed the Law Clerk Program; a balance of experience is sought.

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


Please submit a letter of interest and résumé to: WSBA Bar Leaders Division, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539.

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**Students and Amateurs Encouraged to Enter “Justice For All” Video Contest**

Help spread the word about the WSBA’s YouTube contest! All Washington residents are invited to create a short video that captures their vision of “justice for all” and post it to the YouTube website. Amateur filmmakers and students of all ages are especially encouraged to enter, either individually or as a class project. Two prizes of $1,000 each will be awarded to the best contest entries — one selected by a panel of judges, and one selected by popular vote. The judges include Washington State Supreme Court Chief Justice Gerry Alexander, musician and media columnist Krist Novoselic, Yakima Herald-Republic Managing Editor Barbara Serrano, and Northwest Film Forum Director of Children’s Programming Elizabeth Shepherd. Deadline for entries is June 15. For further information, see www.wsba.org/justiceforall.htm.

**2009 Licensing Information and Changes**

**Licensing suspensions.** If any portion of your license fee or late fee remains unpaid, or if you are on Active status and haven’t paid your Lawyers’ Fund for Client Protection assessment or filed your Al Licensing Form after two months’ written notice of your delinquency, a recommendation for suspension has been submitted to the Supreme Court.

**Licensing forms changes.** In an effort to control costs and simplify renewal, the 2009 licensing forms were condensed into one double-sided form or two forms for those reporting MCLE credits this year. The form(s) were mailed the first week of December in a standard-size envelope.
Verify your address in the online lawyer directory (http://pro.wsba.org). You are required to keep your contact information current; see Admission to Practice Rule 13.

“Foundations of American Democracy” Civics Pamphlet Available

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

Monthly Lawyer Discussion Roundtable

Get ideas and support from new colleagues and WSBA Lawyer Services Department staff who will answer questions on ethics, practice, and substantive law. The discussion group meets the second Tuesday of the month from noon to 1:30 p.m. June 9 is the next scheduled meeting date. Walk-ins are welcome! The roundtable is held at the WSBA office.

Casemaker Online Research

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

LOMAP Rate Changes

The Board of Governors has approved changes to the billing rates for law office management consultation for the first time in 11 years. Effective August 1, 2009, the schedule will be:

- Up to two years from date of your WSBA admittance: $40 per hour
- More than two years from date of your WSBA admittance: $95 per hour
- Services to firms of six or more lawyers: $150 per hour
- Software demonstrations/support in the LOMAP Computer Lab: $20 per hour
- Free estimates of total fees are gladly provided
- Assistance by e-mail or telephone remains free of charge

See www.lomap.org for many free downloads and links to resources.

LOMAP and Ethics Traveling Seminars

Join us in Marysville/Tulalip on June 10, Wenatchee on June 23, Yakima on June 24, Port Angeles on July 21, or Port Townsend on July 22. The cost is $99. Four credits are available, including some ethics credits. To register, call or e-mail Julie Salmon at 206-733-5914, 800-945-9722, ext. 5914, or juliesa@wsba.org.

Computer Clinic

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

Facing an Ethical Dilemma?

Members facing ethical dilemmas can talk with WSBA’s professional responsibility counsel for informal guidance on analyzing a situation involving their own prospective ethical conduct under the RPCs. All calls are confidential. Any advice given is intended for the education of the inquirer and does not represent an official position of the WSBA. Every effort is made to return calls within two business days. Call the Ethics Line at 206-727-8284 or
A little anxiety is a good thing — it motivates us to get things done. But too much can result in procrastination or paralysis, and you can get way behind before you know it. If anxiety is becoming a problem, call the Lawyers Assistance Program at 206-727-8268, or 800-945-9722, ext. 8268.

**Weekly Job Finders Strategy and Support Group**

Unemployed? Discouraged — or trying not to be? We’re taking names of lawyers interested in being on the wait list for a weekly meeting of lawyers looking for work. The focus of this group is on setting goals, accountability, and maintaining motivation. This is an opportunity to trade job-search advice and offer each other support in this difficult process. The group meets on Monday or Tuesday mornings from 10:30 to 11:45. Contact Dan Crystal, Psy.D., at 206-727-8267, 800-945-9722, ext. 8267, or danc@wsba.org if you are interested in this group or in other groups forming for senior lawyers and lawyers in transition.

**Job Seekers Monthly Discussion Group**

Looking for a job or making a transition? Join us at this informational group that meets the second Wednesday of each month from noon to 1:30 p.m. The next meeting is June 10 at the WSBA office with guest speaker Robbin Block, an expert in social networking and marketing. Come as you are — no need to RSVP. Bring your business card (yes, you do need one). For more information, call 206-727-8269 or e-mail rebeccan@wsba.org. If you would like to attend the meeting by telephone, please RSVP by June 9.

**Search WSBA Ethics Opinions Online**

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

**Assistance for Law Students**

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

**Help for Judges**

The WSBA Judges Assistance Program provides confidential assistance to judges experiencing personal or professional difficulties. Telephone or in-person sessions
Learn More About Case-Management Software

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

Upcoming Board of Governors Meetings

July 24–25, Tulalip • September 24–25, Seattle • October 23–24, 2009, Pullman

With the exception of the executive session, Board of Governors meetings are open, and all WSBA members are welcome to attend. RSVPs are appreciated but not required. Contact Margaret Shane at 206-727-8244, 800-945-9722, ext. 8244, or margarets@wsba.org. The complete Board of Governors meeting schedule and meeting materials are available on the WSBA website at www.wsba.org/info/bog.

Usury Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in May 2009 was 0.335 percent. Therefore, the maximum allowable usury rate for June is 12 percent. Information from January 1987 to date is on the WSBA website at www.wsba.org/media/publications/barnews/usury.htm.

WSBA Professionalism Committee Tip of the Month

If you put it in writing, it will probably live forever. In this day and age of giant computer memories and Internet access to documents, it pays to remember that it is likely that what you put in writing will live far beyond any time frame you may have intended, and distribution could also potentially be far beyond anything you had intended. So write e-mails, letters, and briefs with the thought that they will be seen again and again. And write as if they will be seen on a giant billboard on I-5 or I-90.

Note

The “Board’s Work” column in the May 2009 Bar News should have stated that the list of WSBA employees’ names, job titles, and salary ranges provided to a member did not include information on the executive director’s position.

Lori K. Smith

Lori K. Smith, King County family law commissioner, was nominated for the Random Acts of Professionalism award. She was nominated for the professionalism she routinely demonstrates on the bench; she is respectful of both lawyers and litigants. In each case, Commissioner Smith goes to great lengths to explain the reasoning behind her decision. She says the parties are the most important audience in the courtroom and it is important that they feel heard, understand her decision, and believe the system worked. She also believes that in her role she can do a lot to diffuse the conflict between the parties that is inherent in almost all family law cases. Commissioner Smith credits the senior deputies when she was in the prosecutor’s office as being good role models for courtroom professionalism — she learned to add to the calm, rather than add to the chaos.
WASHINGTON ARBITRATION & MEDIATION SERVICE

is pleased to announce the addition of

Kevin Hanchett

to its professional neutral panel.

Mr. Hanchett’s mediation practice will focus on the resolution of commercial disputes, with an emphasis on cases involving banks and financial institutions, real estate companies, builders, and developers.

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Jean Magladry

to its professional neutral panel.

Ms. Magladry’s mediation practice will focus on the resolution of personal injury disputes, with an emphasis on cases involving motor vehicle accidents, medical malpractice, premises liability, aviation, and products liability claims.

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MCKINLEY IRVIN, PLLC

is pleased to announce that

David B. Starks

has been named a partner in the firm.

Mr. Starks practices exclusively in the area of Family Law, with emphasis on cases concerning international Family Law matters, as well as those involving complex Family Law issues.

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

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E-mail: comm@wsba.org

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

**Animal Law**

**From Barnyard to Backyard: Species-based Distinctions in Animal Cruelty Laws**
June 26 — Seattle. By Wilson Sonsini Goodrich & Rosati. Contact Kimberlee Thornton; macneil_98@yahoo.com.

**Antitrust Law**

**Recent Supreme Court Unilateral Conduct Cases**
June 25 — Seattle. By Perkins Coie. Contact Shyla Alfonso; salfonso@perkinscoie.com.

**Business Law**

**eCommerce 2009: The State of the Law of Electronic Signatures and Records**
June 2 — Webinar. 1 CLE credit. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Business Law Midyear**
June 5 — Seattle. 6.5 CLE credits, including 1 ethics pending. By the WSBA Business Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Mergers and Acquisitions in 2009**
June 19 — Seattle. 5.75 CLE credits, including 1 ethics. By The Seminar Group; 206-463-4400 or www.theseminargroup.net/seminar.lasso?seminar=09.MNAWA.

**Bankruptcy Boot Camp**
June 24 — Seattle/live webcast. 6 CLE credits pending, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Construction Law**

**Construction Law Midyear**
June 19 — Seattle. 6.75 CLE credits, including .5 ethics. By the WSBA Construction Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Ethics**

**The New Rules of Professional Conduct Revisited: Ethics for Governmental Lawyers and Outside Counsel for Governmental Entities**
June 3 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Torturing: The Rule of Law**
June 17 — Tele-CLE. 2 CLE credits, including .5 ethics pending. By Rubric CLE; 206-714-3178; www.rubriccle.com.

**Ethics Midyear**

**Social Media and Attorney Advertising Regulation: Ethical Issues**
June 23 — Webinar. 1 CLE credit. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**No Longer a Child, Not Yet an Adult: Ethical Issues in Adolescent Healthcare**

**By the Treuman Katz Center for Pediatric Bioethics at Seattle Children’s Research Institute; www.bioethics.seattlechildrens.org.**

**Family Law**

**2009 Family Law Midyear**
June 26—28 — Wenatchee. 14.5 CLE credits, including 2.5 ethics. By the WSBA Family Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Vulnerable Adult Protection Toolbox**
July 31 — Vancouver, WA. 6 CLE credits, including 1 ethics pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**General**

**John Marshall: Soldier, Lawyer, Legislator, Diplomat**

**Fourth Annual Statewide Diversity Conference**

**Detention of Enemy Combatants and the Rule of Law**
June 15 — Tele-CLE. 2 CLE credits, including .5 ethics pending. By Rubric CLE; 206-714-3178; www.rubriccle.com.

**Changes in the Way We Practice: Is Your Practice Keeping Up with the Economic Crises?**
June 19 — Webinar. 1 CLE credit. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Breakfast at the Bar: Collaborative Law**
July 7 — Seattle. 1.5 CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**WSAJ Annual Convention**
July 30–August 2 — Seattle. 10 CLE credits,

### Health Law

**Health Law**
June 3 — Seattle. 6.75 CLE credits, including 1 ethics pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Alzheimer’s Disease and Other Forms of Dementia**
June 19 — Seattle/live webcast. 6 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

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### Intellectual Property

**High Technology Protection Summit**

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### Labor and Employment Law

**Introducing WSAJ’s New Workers’ Comp Handbook**

**Final Friday Brown-Bag Lunch Series: Preserving Your Case for Appeal**
July 31 — Tele-CLE. 1 CLE credit pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

### Mediation

**40-Hour Mediation Training**
June 22–26 — Olympia. 37.5 CLE credits, including 5.25 ethics. By Dispute Resolution Center of Thurston County; 360-956-1155; www.mediatethurston.org.

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### Real Property, Probate, and Trust

**Video Replay: View Covenants, Easements, Liens and Encumbering Title**
June 9 — Friday Harbor. 6.25 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**2009 Real Property, Probate and Trust Section Midyear**
June 12–14 — Spokane. 11.5 CLE credits, including 3 ethics. By the WSBA Real Property, Probate and Trust Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Beyond Boot Camp: Real Estate**
July 10 — Seattle/live webcast. 6 CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

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### Tele-CLEs/Webinars/Webcasts

**eCommerce 2009: The State of the Law of Electronic Signatures and Records**
June 2 — Webinar. 1 CLE credit. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**The New Rules of Professional Conduct Revisited: Ethics for Governmental Lawyers and Outside Counsel for Governmental Entities**
June 3 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**Artistry and Advocacy in Litigation:**
Creating a Fresco, Not a Fiasco
June 9 — Webinar. 1 CLE credit. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

**John Marshall: Soldier, Lawyer, Legislator, Diplomat**

**Detention of Enemy Combatants and the Rule of Law**
June 15 — Tele-CLE. 2 CLE credits, including .5 ethics pending. By Rubric CLE; 206-714-3178; www.rubriccle.com.

**Torturing: the Rule of Law**
June 17 — Tele-CLE. 2 CLE credits, including .5 ethics pending. By Rubric CLE; 206-714-3178; www.rubriccle.com.

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Mac Archibald

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

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These notices of imposition of disciplinary sanctions and actions are published pursuant to Rule 3.5(d) of the Washington State Supreme Court Rules for Enforcement of Lawyer Conduct, and pursuant to the February 18, 1995, policy statement of the WSBA Board of Governors. For a complete copy of any disciplinary decision, call the Washington State Disciplinary Board at 206-733-5926, leaving the case name, and your name and address.

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

Disbarred

Jonathan D. Sweigert (WSBA No. 20781, admitted 1991), of Kirkland, was disbarred, effective March 18, 2009, by order of the Washington State Supreme Court following a default hearing. This discipline is based on conduct in 14 matters involving 55 counts of ethical violations.

Between approximately September 2005 and April 2008, Mr. Sweigert engaged in the following actions:

• Completed little or no work on behalf of clients;
• Failed to file lawsuits or serve all defendants in lawsuits within the statute of limitations;
• Failed to file or respond to motions;
• Failed to file documents required by court scheduling orders;
• Failed to forward interrogatories or serve answers to interrogatories;
• Failed to appear at scheduled hearings or pre-trial conferences, which resulted in clients’ cases being dismissed and the imposition of sanctions;
• Failed to keep clients reasonably informed regarding the status of their matters, and failed to respond to requests for information or keep scheduled appointments;
• Misrepresented to clients that their cases were in progress and/or nearing completion when they were not;
• Failed to inform clients that he would not appear at scheduled hearings or pre-trial conferences and, in one matter, intentionally misrepresented to a client that he was not able to attend an arraignment due to illness in order to obscure that fact that he was no longer licensed to practice law;
• Settled a case without clients’ knowledge or authority and failed to inform the clients of this settlement;
• Refused to refund clients’ fees after having done little or no work, and failed to account for or refund unused funds;
• Practiced law while suspended;
• Accepted fees from clients while suspended from practice, thereby committing the crime of second-degree theft by deception as proscribed by RCW 9A.56.040 and 9A.56.020(1)(b);
• Removed funds belonging to clients from his trust account and converted them to his own use;
• Failed to respond to disciplinary counsel’s requests for responses to grievances or appear at depositions; and
• Failed to serve disciplinary counsel with the required affidavit of compliance under Title 14 following suspension or inform clients that his license to practice law was suspended.

Mr. Sweigert’s conduct violated RPC 1.2(a), requiring a lawyer to abide by a client’s decisions concerning the objectives of representation and consult with the client as to the means by which they are to be pursued; RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; 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; former RPC 1.5(a) and current RPC 1.16(a)(1), requiring a lawyer’s fee to be reasonable; RPC 1.15(a), prohibiting a lawyer from representing a client or, where representation has already commenced, from withdrawing from representation of a client, if the representation will result in violation of the rules or other law, the lawyer’s physical or mental condition materially impairs his ability to represent the client, or the lawyer is discharged; RPC 1.15A(c), requiring a lawyer to hold property of clients and third persons separate from the lawyer’s own property; RPC 1.16(d), requiring that a lawyer, upon termination of representation, take steps to the extent reasonably practicable to protect a client’s interests, such as giving reasonable notice to the client and allowing time for employment of other counsel; RPC 3.4(c), prohibiting a lawyer from knowingly disobeying an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists; RPC 5.5(a), prohibiting a lawyer from practicing law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; RPC 5.8(a), prohibiting a lawyer from engaging in the practice of law while on inactive status, or while suspended from the practice of law.
for any cause; 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; RPC 8.4(c), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; RPC 8.4(d), prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice; RPC 8.4(j), prohibiting a lawyer from willfully disobeying or violating a court order directing him or her to do or cease doing an act which he or she ought in good faith to do or forbear; and RPC 8.4(l), prohibiting a lawyer from violating a duty or sanction imposed by or under the Rules for Enforcement of Lawyer Conduct in connection with a disciplinary matter.

Francesca D’Angelo represented the Bar Association. Mr. Sweigert did not appear either in person or through counsel. Lee Grochmal was the hearing officer.

Suspended

Jo Nell Walker (WSBA No. 24526, admitted 1994), formerly of Vancouver, Washington, was suspended for six months, effective March 18, 2009, by order of the Washington State Supreme Court following a default hearing. This discipline is based on conduct involving failure to communicate, failure to perform work, and failure to return the client’s fees promptly upon termination.

On March 22, 2007, Mr. P paid Ms. Walker $500 to represent him in an issue related to his parenting plan. Ms. Walker did very little work, if any, on Mr. P’s case. Mr. P called Ms. Walker repeatedly, dropped by her office, and left her notes. Ms. Walker did not return any of his calls or messages. Even when Ms. Walker was present during such client visits, she refused to see him because she said she was “too busy.” On June 8, 2007, Mr. P fired Ms. Walker. Ms. Walker failed to refund any of Mr. P’s fees for over eight months.

Ms. Walker’s conduct violated RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; RPC 1.4, requiring a lawyer to keep the client reasonably informed about the status of a matter and promptly comply with reasonable requests for information; RPC 1.5, prohibiting a lawyer from making an agreement for, charging, or collecting unreasonable fees; and RPC 1.16(d), requiring a lawyer, upon termination of representation, to take steps to the extent reasonably practicable to protect a client’s interests, such as refunding any advance payment of fee or expense that has not been earned or incurred.

Erica Temple and Francesca D’Angelo represented the Bar Association. Jo Nell Walker did not appear either in person or through counsel. Lewis W. Card was the hearing officer.

Suspended

Dean E. White (WSBA No. 27282, admitted 1997), of Spokane, was suspended for six months, effective March 16, 2009, by order of the Washington State Supreme Court following approval of a stipulation. This discipline was based on conduct involving the commission of a felony crime.

On November 7, 2007, Mr. White engaged in an altercation with his then-girlfriend, Ms. P, who was also his law partner at that time. On October 8, 2008, Mr. White entered a guilty plea to the crime of unlawful imprisonment involving domestic violence (RCW 9A.40.040), a class-C felony, based on the November 7, 2007, event. Mr. White’s guilty plea was an Alford plea by which he agreed to allow the court to review the police records and/or statement of probable cause supplied by the prosecution. The statement of probable cause contains the following allegations: Mr. White and Ms. P got into an argument after Mr. White backed into a vehicle in a parking lot and refused to leave information on the vehicle. At the time, Mr. White was driving Ms. P’s automobile. Mr. White drove Ms. P to their law office. He then forced her into the office and used her keys to lock the door behind him, trapping her in the building. A third party witnessed part of the altercation from outside the office and called the police, who arrived and freed Ms. P. There were allegations that Mr. White assaulted Ms. P, which were dismissed in the criminal proceedings as part of the plea bargain.

Mr. White’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(l), prohibiting a lawyer from violating a duty or sanction imposed by or under the Rules for Enforcement of Lawyer Conduct in connection with a disciplinary matter.

Non-Disciplinary Notice

Suspended Pending the Outcome of Disciplinary Proceedings

Felix Landau (WSBA No. 13151, admitted 1983), of Bellevue, was suspended pending the outcome of disciplinary proceedings, pursuant to ELC 7.1 (Interim Suspension for Conviction of a Crime), effective April 10, 2009, by order of the Washington State Supreme Court. This is not a disciplinary sanction.
leaders. This position provides consultation, leadership, guidance, and supervision regarding marketing, communications, public affairs, and issues management surrounding numerous programs, initiatives, policies, campaigns, outreach, and collaboration efforts. Board of Governor duties include attending meetings and related functions, collaborating and advising the Board on major initiatives, and shaping dialog around Board policies and implementation of strategies to promote member relations. Qualified candidates will have a B.A. in public relations, communications, business administration, or related field, with 5 to 10 years of executive-level management experience. Well-qualified candidates will have a J.D. or other advanced degree and experience in the justice system or bar associations. This position requires a demonstrated ability to build relationships with and among various interest groups, and calls for excellent written, spoken, and interpersonal communication skills; exceptional organization and project-management skills; innovative problem-solving skills; experience formulating and implementing strategic plans that develop a strong relationship with the community and media; significant supervision and management skills; and proficiency in MS Office. Travel is required. For more information, see www.wsba.org/jobs/wsba.htm. To apply, e-mail a cover letter and résumé to hr@wsba.org.

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Pioneer Square (Seattle) firm offering sublease for one professional office and one staff office. For pictures and details, see Craigslist ad titled "$1,100 Law Office Sublease (Pioneer Square).” Contact Griff Flaherty at 206-682-2616.

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

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

Will Search

Seeking will, amendments, trusts, provisions, community property, and agreements of Gene Killion, died 12/10/2008, Yakima, WA. Please e-mail classifieds@wsba.org, with “Reference Code #709” in the subject line.
Names are so important that we honor them with capitalization and call them “proper nouns,” as if lowly non-name nouns are not merely inferior but somehow improper. In law, names are so important that we require a judicial procedure to change them. No matter how magnificent a nickname you might conjure for yourself, it is your “legal name” that appears on your driver’s license and paycheck.

As a child, I looked up Michael in a book of baby names and learned it literally means “one who resembles God.” This provided a welcome boost to my developing ego. Being a Catholic, I was already aware that Michael had been the archangel, the original gangsta’ in God’s heavenly army. Although I use Michael for grown-up professional purposes such as practicing law and editing magazines, as a child I was just plain Mike. Despite Michael’s sublime pedigree, Mike was just another guy. In fact, approximately 75 percent of the boys I grew up with were Mikes, which caused frequent confusion in the classroom and on the soccer field. Any time someone shouted “Mike,” six or seven of us would respond.

By the time I hit middle school — that minefield of insecurity and identity crises — I began toying with alternative spellings of my name hoping to better distinguish myself among Mikes. Myk was brashly simple, with the single, bold “y” replacing the flimsy “i” and final “e,” whose only purpose was to inform the reader, two letters after the fact, that the “i” was to be pronounced with a long rather than short vowel sound. Conversely, I thought, what about Mikke?

While the second “k” was extraneous, the name had a dashing, northern European flair. Had I gone forward as Mikke I likely would have become an Olympic skier, or perhaps a Formula 1 racecar driver. In either case, I would at this moment be comfortably retired in Finland and well into my second chilled vodka of the evening, rather than wracking my brain for material to fill another Bar Beat.

Although I practiced signing Myk and Mikke for a day or two, I soon abandoned the idea of a nominal makeover, realizing it was not only superficial but an insult to my parents, who no doubt gave considerable thought to naming their child. Ha ha — sure, that’s why I gave it up. Actually, I left Myk and Mikke on the drawing board for the obvious reason that every human being who ever saw my name from that day forth would convulse in laughter either right in front of me (all my friends, all guys under the age of 30) or the moment I left the room (everyone else).

Really, I can’t complain about being named Michael/Mike, which is one of the more versatile given-name/nickname combinations. Mike is a rock-solid hanging-out-with-the-guys name. Who doesn’t want to have a beer and talk about sports with Mike? On the other hand, wouldn’t you feel confident taking professional advice from Michael in a suit and tie?

Meanwhile, thanks to its frequent use for debonair characters in various pulp novels and soap operas, Michael isn’t a bad name to have when introducing oneself around with an eye toward possible activities of a romantic nature, or so I’ve heard. Then again, there are times when I wish my parents had dispensed with practicality all together and named me something like Javier Bardem or Ricardo Montalbán. (I’m Spanish by descent, so it wouldn’t have been out of the question). The languid vowels and lilting consonants of names from the Romance languages are irresistible to those of us raised with the Germanic tongues. We have spent untold millions to watch An-ge-lai-niiii Jo-Il-llee and Annn-to-ni-o Bann-de-rre-ras cavort sedly on screen.

I have had to see the same scenes had the actors been named, say, Fritz and Gertrude, even if they had been equally easy on the eyes.

Of course, constructing a fantasy around a name makes even less sense than judging a book by its cover. Most likely, there are hordes of homely Javiers roaming the Spanish countryside dateless and lacking movie contracts. Exponentially more Angelinas are working the drive-through at Taco Bell than glamming it up at Cannes. Except for rappers and movie stars, few of us chose the names by which we are known, and generally don’t waste much energy trying to live up or down to them. Still, there is something in a name. Even Mike and Michael can agree on that.

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