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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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**Bar News** welcomes letters from readers. We do not run letters that have been printed in, or are pending before, other legal publications with overlapping readership. Letters must be no more than 250 words in length, and e-mailed to theeditor@wsba.org or mailed to: WSBA, Attn: Letters to the Editor, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539. Bar News reserves the right to edit letters. Bar News does not print anonymous letters, or more than one submission per month from the same contributor.

**UW keeper of historic Nuremberg material**

I enjoyed Chief Justice Alexander’s article about the Nuremberg Trials in the January *Bar News* (“The Nuremberg Trials: A Washington Connection”). The Chief Justice provided a helpful introduction to a complex series of trials, highlighting the work of the two judges from Washington state. Because of Justice Walter Beals’s role in the Nuremberg Trials, the University of Washington Law Library was one of the recipients of the original mimeographed copies of the Nuremberg trial proceedings distributed by the Office of the U.S. Chief of Counsel for War Crimes, Document Division. (Other recipients include Harvard University, Columbia University Law Library, and the Library of Congress.) The Beals family also donated the chair Judge Beals used during the trial.

Our research guide to the Nuremberg Trials is at http://lib.law.washington.edu/ref/nuremberg.html. In addition to describing print resources, it links to online resources — for instance, Harvard’s digitized materials from the Doctors’ Trial, the trial over which Judge Beals presided.

Mary Whisner, reference librarian, Gallagher Law Library, University of Washington School of Law, Seattle

**Making ends meet**

I am becoming concerned for the financial difficulties of our *Bar News* editor (“Champagne Wishes and Cold Duck Dreams,” The Bar Beat, January 2009 *Bar News*). However, I am not sure during this disaster of economic times there has been much inquiry into the financial plight of the lawyers who actually protect the justice system in this state: the attorneys who graduated from law school in the last 5–7 years, work in the public interest law areas (prosecution and public defense), are required to pay over $300 a year for license fees, and are also trying to maintain/start families and carry on normal non-lawyer lives outside of work. Some perspective from our esteemed monthly magazine might be needed. From my sideline, those lawyers with years of experience and who are maintaining their own law firms do not fall into the category of people that need help ... or sympathy. For most of my clients (who reflect directly in my pay), the change in the glove box is usually the difference between their kids having diapers or a full bottle of milk — not a Big Mac when a peanut butter and jelly sandwich will do.

Darrin L. Hall, Coupeville

**Pro se discipline dilemma**

“The Pro Se Dilemma” in last month’s issue (“The Pro Se Dilemma: Washington Courts and Vexatious Pro Se Litigation,” January 2009 *Bar News*) stressed the need to raise awareness about the growing problem of vexatious civil litigants. The problem is worse in the discipline process. The easiest and safest way to make a lawyer’s life miserable is to use the lawyer discipline process to harass. This can happen to any lawyer. Dealing with such grievances can be tremendously burdensome. If in private practice, usually the lawyer has to report all grievances when seeking malpractice coverage, affecting cost and availability.

Unlike civil litigation, under the ELCs filing a grievance is “absolutely privileged” and a respondent lawyer cannot recover costs for responding to a grievance. This allows a vexatious grievant to act with impunity. With no statute of limitations, something from years ago can be alleged. Nor is a dismissal really final. If the same grievance is filed again and dismissed, the grievant has the right to another appeal. The process usually consumes months.

The WSBA is essentially indifferent to the problem, perhaps because when bar counsel is pursued by such a grievant, the WSBA can get an order from the Supreme Court to protect them, something the WSBA tries to deny any other lawyer facing a similar problem.

The membership needs to be aware of this problem and demand the WSBA and the Washington Supreme Court recognize the problem and do something about it. At a minimum, the WSBA needs a process to deal with vexatious grievants and should consider the approaches used by the courts.

Thomas Fitzpatrick, Tukwila

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individually and to the public to ensure our integrity and professionalism. That being said, as part of its ongoing review of the state of Washington's lawyer discipline system, the WSBA Board of Governors has chartered a task force which is beginning a broad review of the disciplinary “procedural” rules, known as the Rules for Enforcement of Lawyer Conduct (ELC). The ELC Task Force is mandated to review and evaluate the entirety of the ELCs and determine if amendments are warranted and the form that should be recommended to the Supreme Court. Among the issues the Task Force is planning to take up is the handling of so-called vexatious grievances. The Task Force is broadly soliciting and welcomes suggestions relating to the ELCs. Any comments or proposed changes should be immediately directed to Governor Geoff Gibbs or to WSBA staff liaison Scott Busby. Information on the work of the Task Force and contact information is available on the WSBA website at www.wsba.org/lawyers/groups/elctaskforce.htm.

I couldn’t agree more with Mr. Kenneth H. Davidson’s article “Time for a Hard Look at the Death Penalty” (December 2008 Bar News). That is, except his conclusion that the Legislature should conduct another “in-depth study.” With all due respect, everything that needs to be said on the subject, except religious views, was said in your article. Why spend one dollar more to study a subject that has been studied to death and, when all else is said and done, facts have had very little to do with one’s view on the subject? Nevertheless, I think the people of the state of Washington are ready to eliminate this anathema. It’s time to do it! And please spend some of our outrageous bar dues advocating for its abolishment.

Blair Paul, Seattle

Correction: In the February 2009 Bar News, it was stated that Bob Ferguson “is now a litigation associate at K&L Gates” in Mr. Ferguson’s biographical notes following his article “County Budgets and the Crisis in Our Courts.” It should have stated that he was a litigation associate with K&L Gates, prior to 2003, when he left that position upon election to the King County Council.
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n September 2008, the American Bar Association's Standing Committee on Lawyers' Professional Liability issued its fifth study analyzing legal malpractice claims. Entitled "Profile of Malpractice Claims," the study analyzes 40,486 claims against lawyers in 2004–2007. The study categorizes claims against lawyers in a variety of ways, including by area of law, number of attorneys in the firm, and type of activity.

The study concludes that 70 percent of claims occur in firms consisting of one to five lawyers, and half of all claims occur in three practice areas. Plaintiffs' personal injury practice, which has accounted for the highest percentage of claims in each of the five studies dating back to 1985, remains in the lead at 21.56 percent of all claims. Although the authors caution that there is insufficient data (primarily the absence of information regarding the total amount of attorney time spent in a given practice area) from which to draw conclusions regarding the "riskiness" of any particular practice area, it seems axiomatic that the deadline-intensiveness of a plaintiffs' personal injury practice, particularly limitations periods, claim filing requirements, and service of process issues, are an enormous source of the claims, and the study does conclude that 17.32 percent of all claims result from errors in "commencement" of an "action or proceeding," defined by the authors as "formal activities in starting a contested proceeding."

Real-estate practice is number two at 20.05 percent, and the report states that claims in that practice area over the past four years have "surged." Family law is third at 10.33 percent.

The most remarkable finding revealed by the study is that, although substantive legal errors represent the largest single source of malpractice claims at 46.61 percent, 40 percent of negligence-based claims, categorized as errors in administration (28.63 percent) and errors in client relations (11.22 percent), have nothing to do with legal knowledge. In addition, 13.53 percent of claims were the result of intentional misconduct including fraud, malicious prosecution, slander, civil-rights violations, and abuse of process, up nearly four percent from the last study published in 2003. Therefore, over half of all claims do not result from lack of legal knowledge.

The study classifies administrative errors into six broad categories: (1) failure to file a document necessary to protect a client's interest which is not a pleading or related to a contested matter (deed, mortgage, lease); (2) those where the lawyer is aware of a deadline but the item is not calendared; (3) those where there is no formal time deadline but a client opportunity is lost, such as a lost witness or an opportunity to purchase a business; (4) those where an item is calendared but the lawyer fails to react to the calendar; (5) those involving a clerical, as opposed to a legal, error in a document, such as an error in a legal description or a "transposition" of numbers; and (6) a lost file or evidence.

Client-relations errors are classified as follows: (1) the client asserts that he was not fully informed and would have taken a different action had he been fully informed; (2) the lawyer intentionally or negligently fails to follow a client's instructions; and (3) improper withdrawal.

Administrative errors seem to be largely the result of deficient office procedures and procrastination. For example, at least three types of calendaring errors — failure to calendar, failure to react to the calendar, and entering incorrect information into the calendaring system — account for approximately 11 percent of all claims. Procrastination and the failure to file a document result in another 16 percent of all claims.

Client-relations errors seem to be almost invariably errors in communication, and the significant number of those claims reinforces what we all know but often, in the press of a busy practice, may overlook — that it is critically important to document the beginning of the relationship, the financial terms of the representation, the scope of the representation (not only what we are doing but, if the client has multiple matters, what we are not doing), who the client is (and who the client isn't), and the end of the relationship.

The study, embodied in a 29-page report, contains much more important information than this short article reveals, and it is an important risk-management tool. It is available for purchase through the ABA.

To order a copy, call 800-285-2221 and refer to product code #4140044.

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Our son started kindergarten this year, and one day a week he has a computing class. Lately, he has been bringing home these great pictures made on the computer, along with what must be the product of keyboarding practice. My husband keeps commenting that by the end of kindergarten, our son will know more about computers than he does. That scenario is not totally unimaginable, which may speak to my husband’s computing skills, but most certainly speaks to the world we live in.

Consistent with WSBA’s own efforts to take advantage of advances in technology, I’m pleased to announce that the WSBA will be incorporating technology into many of the processes members use to interface with the WSBA and the various services we offer.

Online Voting
Commencing with the 2009 Board of Governors elections this spring, the Board of Governors has approved integrating online voting into the ballot procedure. Voting will take place between April 15 and May 15, as it does every year. This year, however, the WSBA will send members an e-mail with a link to obtain secured access to an electronic ballot.

Members in the First, Fourth, Fifth, and Seventh-West Board of Governors districts will be the first to experience online voting for Board seats. Members without e-mail addresses on record will be mailed instructions on how to access the online system. These instructions will also include a traditional paper ballot, which members may return should they choose not to vote online.

The WSBA is moving to the online system to help make the Board of Governors election process more convenient for members and more efficient with staff resources. Many bar associations around the country have already incorporated online voting into their board elections. They report most members like the process, finding it simple and convenient to use. You will be hearing more about the online voting process as we get closer to the elections, and we believe you will enjoy the benefits other bar association members have experienced.

Online Licensing
For the 2010 licensing season, the WSBA will provide members with an enhanced online license-renewal process. Currently members can pay online or reprint forms but must still send in declaration forms through the mail. The new system will allow members to pay their licensing fees and assessments, submit the required declarations, renew section memberships, change their address and contact information, and report pro bono hours electronically. Members may still renew their licenses by submitting written material, but will also have the added convenience of an enhanced online process.

Online CLE Credits
In addition, WSBA-CLE continues to provide more CLE programming through live Internet simulcasts on selected day-long CLE programming. WSBA-CLE has also started conducting more online CLE webinars (phone conferences with a live video component). Both services allow members to receive high-quality legal education programming from the convenience of their office, home, or hotel room — wherever there is access to high-speed Internet services.

WSBA-CLE is also currently upgrading its online store. When completed, members will not only have greater access to WSBA-CLE products such as deskbooks, tapes, and DVDs, but will also find it more convenient to register for WSBA-CLE programs and events.

Online Legal Research
With regard to legal research, members are already familiar with Casemaker, the online legal information database that members may access free of charge. The WSBA is now considering working with legal document vendors to provide members with online access to downloadable court documents such as pleadings, exhibits, memoranda, and other materials in those counties that make them available electronically. The service would not be free, but it would dispense with the time and burden of having to look through courthouse files for case information.

Other Technological Tools and “My WSBA”
The WSBA is also expanding videoconferencing capabilities in order to reduce the cost of travel and make it more convenient for members to take part in committee meetings. Some WSBA regulatory boards are now receiving hearing documents electronically, which increases convenience and reduces mailing costs and paper use. Internally, the WSBA has incorporated new scanning capabilities to reduce staff time and costs when processing license fee payments and various forms.

Ultimately, the WSBA will be unveiling “My WSBA”: a one-stop site for WSBA members to access online licensing, the WSBA CLE online store, legal research, Board elections, MCLE reporting, and other member services. Incorporating technology improvements is just one way the WSBA is looking to provide new and improved member services while reducing staff time and resources. All of these changes will not happen overnight, but members will be seeing less paper and increased convenience when it comes to accessing member services, starting with the Board of Governors election in April.

Paula Littlewood is the WSBA executive director and can be reached at paulal@wsba.org.
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Will Your U.S. Judgment Be Enforced Abroad?

by Nadja Vietz

My law firm is frequently contacted by U.S. lawyers with judgments they are seeking to enforce overseas. The lawyer is seeking our assistance to enforce its U.S. court judgment against a foreign company that did business with the lawyer’s U.S.-based client. The procedural history is nearly always the same. The litigator served the defendant and, several months and many dollars later, he or she now has a U.S. judgment. When the foreign company refuses to pay even pennies on the dollar on the judgment, the litigator realizes the judgment will need to be taken overseas for enforcement. Only then (and usually not until we relay this information) does the litigator realize very few countries will enforce U.S. judgments. To have a chance at collection, the case often must be tried anew, only this time in a far less sympathetic forum.

These nightmares are far too common, and their genesis is usually a contract that either calls for U.S. litigation or is completely silent on jurisdiction. The wise business lawyer has an arbitration provision, but unfortunately many contracts fail to contain this key element. I set forth below some suggestions for avoiding this nightmare, emphasizing European and, particularly, German legislation.¹

Recognition of U.S. Judgments Under Foreign Local Law

The United States is not a party to any bilateral treaties or multilateral international conventions governing reciprocal recognition and enforcement of foreign judgments. The reasons for the absence of such agreements seem to be that foreign countries perceive U.S. courts (particularly U.S. juries) as granting excessive awards (particularly in tort cases and particularly with respect to punitive damage awards) and as too often asserting extraterritorial jurisdiction and disregarding international law. Absent a treaty, the question of whether the courts of a foreign country will enforce a U.S. judgment is governed by the local rules of the foreign country and by international comity.²

Generally, U.S. judgments cannot be enforced in a foreign country without first being recognized by a court in that foreign country. The recognition and enforcement of U.S. judgments depend not only on the
domestic law of the foreign country, but also on the principles of comity, reciprocity, and res judicata. Foreign courts generally do not recognize U.S. money judgments unless: (1) the U.S. court had jurisdiction; (2) the defendant was properly served; (3) the proceedings were not vitiated by fraud; and (4) the judgment is not contrary to the public policy of the foreign country. Most European countries have similar code provisions, setting forth something along the lines of these four rules, but enforceability of U.S. judgments still varies widely from country to country, even within Europe. Some countries tend to enforce U.S. judgments, and some countries virtually never do. It can generally be said that non-default judgments not involving tort claims or punitive damages are more likely to be enforced.

Enforcement problems in Europe usually arise when the U.S. court lacked jurisdiction, when the defendant was not properly served, or when there are public-policy concerns.

U.S. Court Jurisdiction
European courts will not recognize U.S. judgments if the U.S. court lacked jurisdiction. Special attention needs to be paid to the fact that for purposes of recognizing foreign judgments, jurisdiction must be determined by the law of the European country, not by U.S. law. For instance, under the so-called “mirror-image principle,” German law projects its own jurisdictional rules on the foreign court, which is then treated as having international jurisdiction if a German court would have had jurisdiction had the situation been reversed.

Under the Hague Choice of Court Convention, concluded in June 2005, signatories would recognize and enforce the judgments of other signatory countries when those judgments follow valid “choice of court agreements.” This convention would enforce choice of court provisions and resulting judgments, much as the New York Convention does with arbitration clauses and subsequent arbitral awards. The Convention, however, will not go into effect until at least two countries have ratified it. Thus far, only Mexico has done so.

Proper Service
European courts also frequently deny enforcement of U.S. judgments because of improper service of process. The defendant cannot assert this defense in the European court if it in any way engaged in the U.S. lawsuit. Consequently, this issue usually arises when trying to enforce a default judgment. Proper service usually requires service to have been in accordance with the laws of the European country, and, in most instances, pursuant to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters of November 15, 1965, as well.

Article 2 of the Hague Convention calls on each country to designate a central authority to receive service requests from other countries. Article 5 provides that the central authority shall itself render service or have the document served by an appropriate agency pursuant to the country’s own service of process laws or by a particular method requested by the applicant.

It is essential to serve the right person with authority to accept such service, but it is equally important to provide the defendant with a translation of the complaint and summons. Failing to translate the court documents would, in most Hague Convention signatory countries, preclude a finding of proper service, even where a defendant had ample notice of the lawsuit.

Public Policy
European countries will not recognize foreign judgments where doing so cannot be reconciled with their own laws. Enforce-
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ability will be denied if major principles, such as the violation of fundamental rights or fundamental principles of local civil procedure or the like, were disregarded by the foreign court that granted the judgment. Since punitive and treble damage awards are generally regarded as excessive and contrary to the public policy of most European countries, these almost always should be removed from the U.S. judgment before taking it to Europe for recognition and enforcement. Our experience is that the U.S. federal courts are quite willing to give a new judgment with these damages removed, so as to make their judgment more likely to be enforced overseas.

Conclusion
Getting U.S. judgments recognized and enforced in European courts is possible, but only if the U.S. litigation is handled from its inception with an eye towards European enforceability. Before filing suit here in the United States, it is critical to know the requirements for judgment recognition in the particular European country in which the judgment will eventually need to be recognized and enforced.

Nadja Vietz is a licensed attorney in Germany, Spain, and Washington, and a partner at Harris & Moure, PLLC, where she focuses on international commercial litigation and arbitration and on assisting European and Latin-American companies here in the United States. For more information, see www.harrismoure.com or www.chinalawblog.com. Ms. Vietz can be contacted at 206-224-5657 or nadja@harrismoure.com.

NOTES
1. The author is also licensed in Germany and in Spain, and has practiced in both countries for several years.
2. In Germany, the recognition and enforcement of foreign judgments is governed by special provisions of the German Code of Civil Procedure (Zivilprozessordnung or ZPO). ZPO Section 328 deals with recognition in general, while sections 722 and 723 regulate the procedure for enforcing foreign judgments.
3. Some countries, such as China and Russia, generally do not enforce U.S. judgments under any circumstances.
4. German codes also require (1) that the judgment be res judicata; (2) that no conflicting judgment exists; (3) that no prior proceeding have been instituted; and (4) that reciprocity exists. (ZPO Section 318).
5. Similar rules exist in the laws of Switzerland and other European countries.
6. The full text of this Convention is available on the Hague Conference’s website at www.hcch.nl.
8. Mexico ratified on September 26, 2007. The European Union is starting to look at ratification process. Ratification in the U.S. might take years until implementation issues — including how to make state laws compatible with the convention — are resolved.
9. A list of all signatory countries with objections and reservations can be found at www.hcch.net/index_en.php?act=conventions_status&cid=17.
10. Some signatories signed the Hague Convention with reservations or objections. For instance, Germany expressly reserved its right to preclude service of process by mail, and only accepts service made through its central authority or by personal service, if agreed to by the defendant. However, there has been recent German case law holding that a defendant’s actual notice in sufficient time to defend can remedy improper service, as long as service was proper under U.S. law.
11. See Article 5, paragraph 3 of the Hague Convention.
12. Germany expressly reserved the right to require all papers served on its citizens be translated into German, and the German Supreme Court recently confirmed that proper service must include such a translation.
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Telling the Tales of Five Decades in the Law

Law Stories; by Dick Krutch and Friends; 203 pp.; paperback; self-published by Dick Krutch.

Reviewed by Michael Heatherly

By the time he retired in 1995, Seattle lawyer Dick Krutch had plenty of stories to tell. His career spanned four decades in which the State Bar evolved from a small, close-knit band to the 30,000-troop army of today. When he began practice in 1955, jobs were plentiful and new associates were pulling down $250 per month, good money in those days. Because a skilled veteran secretary could command $300 a month, many lawyers cranked out their own documents (on manual typewriters originally) and copied them with technology that slowly advanced from carbon paper to ditto machines to photocopiers. When Krutch first hung out his shingle, Superior Court motion calendars were closer to coffee klatches than cattle calls.

After retiring to care for his ill wife, Krutch documented 15 favorite recollections from his career to share with his family. The family loved the stories and encouraged him to write more and perhaps gather tales from colleagues as well. In 2005, Krutch attended his 50-year class reunion at the University of Washington School of Law and took the opportunity to solicit stories from his classmates. Through those connections and others, he eventually amassed a collection of about 50 stories, including his own. He decided to compile them, along with several brief profiles of notable lawyers and judges, into a book. Krutch self-published the work, Law Stories, financing it out of his own pocket. He had 1,000 copies printed and has begun a grass-roots marketing effort to share the work with members of the Bar, as well as non-lawyers.

Law Stories is 203 pages of living legal history. Most of the stories are no more than two or three pages each, making the book perfect for waiting-room or coffee-table use. The authors (some of whom are now deceased) come from across the state. Many of their names can be found on the doors of leading firms that emerged during the second half of the last century, e.g., Helsell, Karr, Campbell, Luvera, Stritmatter. Krutch’s only rule for contributors was that the material be accessible to non-lawyers and contain “no politics, no religion, and no self-aggrandizement.” The stories are built around personalities and anecdotes. Legal and historical details appear only as necessary to flesh out a story.

The book is filled with fascinating and often hilarious accounts. Subjects range from lawyers’ experiences defending indigent small-time criminals to international litigation involving airline disasters. Some adventures are unthinkable in today’s legal climate. In “Surprise,” Seattle attorney Gene Seligmann recalls defending a personal-injury case early in his career. He stipulated to the amount of special damages after a persuasive meeting, arranged by the plaintiff’s counsel, with the treating dentist. After losing at trial on liability, Seligmann discovered he had been fleeced on the damages issue. The “dentist” he had met before trial was an impostor — the law partner of the wily plaintiff’s counsel.

Another Law Stories contributor, Phil Thompson, of Spokane, recalls his first trial as a district court judge. He swaggered into the courtroom, only to discover the bench had no seat because his judicial predecessor had used a wheelchair. The bailiff rounded up a replacement chair in seconds and the trial proceeded. However, at the end of trial when Thompson leaned back in his most judicial manner to contemplate the remarks of a party, the chair gave way, leaving the honorable judge sprawled on the floor. The well-meaning but harried bailiff hadn’t noticed that the chair in question had been so readily available because the back was broken. Thompson, who eventually spent
a quarter-century on the district, superior, and appeals court benches, also relates a bawdy courtroom tale involving the sale of an expensive purebred stud dog. In a civil suit, the buyer claimed she had discovered the dog had a particularly unfortunate reproductive defect, which she insisted on demonstrating to the judge live in court, an offer of evidence that nearly cost the judge his nose.

Other entries are more serious but nonetheless compelling. Many unfold as mysteries, with subjects including a house fire allegedly caused by a child playing with matches, a huge arson fire allegedly set by the burned building’s owner for insurance purposes, and a civil case involving a U.S. Navy pilot whose plane crashed during a bombing run in Vietnam. After spending nearly eight years at the infamous “Hanoi Hilton,” the pilot sued the plane manufacturer for damages, including his pain and suffering as a POW. Each of these stories has a twist ending worthy of a John Grisham novel.

Many of the book’s best moments come when an author reminds us how a seeming legal technicality can deeply affect a life.
Krutch’s profile of Judge Marsha Pechman recalls her battle with advanced cancer in the early 1990s, when she served on the King County Superior Court bench. Doctors advised that only a stem cell transplant was likely to save her life. Based on its interpretation of policy language, her health insurance carrier denied coverage for the expensive procedure. Without insurance coverage, the judge would need to post a $250,000 deposit with the hospital to begin treatment. Hearing of her plight, three lawyers — Bill Bailey, Steve Fury, and Lish Whitson — volunteered to fight the insurance company and meanwhile raise the $250,000 deposit, which they solicited from 600 anonymous donors in two weeks. Eventually, the insurance carrier relented and covered the transplant. The $250,000 was returned to the donors and Judge Pechman fully recovered, now serving on the U.S. District Court bench in Seattle.

How to Buy the Book
Law Stories is priced at $24. It is available at Eagle Harbor Book Company on Bainbridge Island — where Krutch recently did a live reading — and Auntie’s Bookstore in Spokane. It is also available directly from Krutch, who can be contacted at 13575 Ellingsen Road N.E., Bainbridge Island, WA 98110; 206-842-3140.

Bar News Editor Michael Heatherly practices in Bellingham. He can be reached at 360-312-5156 or barnewseditor@wsba.org.

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Shannon L. McDougald takes pleasure in announcing that C. N. Coby Cohen has become a partner and that the firm name is now McDougald & Cohen, P.S.

While the firm has a new look and a new name, we remain committed to providing outstanding client service and unparalleled trial advocacy to our clients, which include large and small businesses and individuals.

The emphasis of our practice is on civil litigation, including defense of securities brokerage firms and their representatives, as well as other securities, contract, employment and intellectual property law matters. We regularly handle matters in state and federal court, as well as in FINRA and AAA arbitrations. We also represent clients in connection with regulatory matters, including investigations by the SEC.

Together, we have more than 30 years of legal experience in these areas, having tried or arbitrated hundreds of cases and having represented clients in class actions. Though we primarily practice in the Western States of Washington, Oregon, and California, our practice has extended well beyond, and we remain committed to assisting our clients wherever our services are needed.

Please join us in celebrating our new firm name and the promotion of Coby to partner.
Our communities are now facing the greatest economic collapse since the Great Depression. Businesses are laying off workers by the thousands. Many who cannot find new jobs are facing personal bankruptcy. Families are being evicted from modest apartments because landlords have defaulted on mortgage payments. Legal aid offices are now overwhelmed with low-income individuals needing legal services.

Our communities need help. They need attention. And they are looking for new leaders.

In 1957, a group of Washington lawyers created the Washington State Bar Foundation. The birth of the Foundation was in anticipation of a real estate bequest to the Washington State Bar Association. The bequest was never made, and the Foundation has been little more than a repository for donated or memorial funds for the past half-century.

That was then. This is now.

Today, the Foundation is undertaking a new beginning, with new leaders and new energy. The Foundation’s Board of Trustees comes from across Washington state, from the shores of Puget Sound to the rolling wheat fields of the Palouse. Some hail from the corporate world. Others have small practices or work in government agencies. All share a common vision and dedication to fulfill the Foundation’s new mission to foster leadership to further social justice.

But we cannot do it alone.

While the Foundation has started the process of reaching out to business and individuals beyond the legal profession, we are looking to the membership for support. Washington’s legal community has consistently dedicated itself to making the state a better place for everyone. Whether it is individuals spending weekends at their local legal clinic, or helping neighbors clean out flooded homes, WSBA members contribute thousands of hours each year providing assistance to those who need it. Now the Foundation is asking for your help.

We would like the WSBA membership to know who we are and what we do. Over the next few months, the Foundation trustees will be talking about programs such as the President’s and Governor’s Diversity Scholarship Fund and the WSBA Leadership Institute (WLI). The scholarship fund will provide financial assistance for young persons of diverse backgrounds interested in pursuing a legal career, who without this sustenance would not otherwise be able to attend law school. The WSBA Leadership Institute recruits, trains, and retains Washington attorneys who have been admitted to practice for three to 10 years for leadership positions in the legal community and in the WSBA. Program participants are selected with an emphasis on diversity, and receive many valuable benefits, including training in leadership and the law, one-on-one interaction with judges, and mentorship from well-known Bar and community leaders.

The Foundation will work on other efforts to help improve our communities as well.

Hope, faith, and optimism have always defined the community spirit, and those qualities have never been more urgently needed than now. You will be hearing more about the Foundation in the months ahead. Until then, please feel free to contact me or our new Board of Trustees for more information. See www.wsba.org/lawyers/wsbf.htm for more information.

Ronald R. Ward is the president of the Washington State Bar Foundation Board of Trustees and former president of the Washington State Bar Association.
Helping heroes — Washington First Responder Will Clinic

Inspired by the heroism of 9/11, the Washington First Responder Will Clinic (WFRW) hosted a large-scale estate-planning event last September at the Starbucks Support Center. Lawyers provided legal counseling on basic estate planning matters to more than 100 first responders and their spouses, while paralegals and law students simultaneously assisted with document preparation under the lawyers’ supervision. Clients were thrilled to leave the event with estate-planning documents after roughly an hour and a half. “I thought the event was awesome! We were very impressed, number one, that these attorneys, staff, and other participants would take the time to do this. We were equally impressed by the professionalism and attention to detail that was there throughout our session by everyone there, not just the attorneys,” wrote one client after the event.

In 2008, WFRW hosted two events, providing basic estate planning services to more than 175 first responders and their spouses at no cost. This is the second year that the program committee and Starbucks have hosted the WFRW Clinic at the Starbucks Support Center. “Starbucks Law and Corporate Affairs (L&CA) is pleased to support the committee and program. I am especially happy about the number of L&CA partners who had an opportunity to volunteer,” said Starbucks Deputy General Counsel Lucy Helm. For the volunteers, knowing that their efforts make such a profound, meaningful, and immediate impact on the lives of the first responders is rewarding. “I felt like I made a difference in someone’s life today,” commented Evan Uchida, director, Business Operations and Services Management at LexisNexis.

The program is always looking for volunteer attorneys and support staff to help, and the committee will gladly accept donations of paper, printer ink, and used printers. If you would like to contribute to this cause or volunteer for a future event, please contact Sarah Ondrak at ondraks@gmail.com.

Going, going, gone — to a good cause

The WSBA staff and special guests raised $4,000 for charity in an auction event held in November. The money was raised to benefit Lawyers Helping Hungry Children. The fundraising event had two parts: a karaoke contest and an auction event. The karaoke contest, where staff members “voted” via donations on selected singing volunteers where the winner would perform at the auction, raised more than $1,700. Lucky winner vocalist and WSBA ODC Investigator Brian McCarthy performed “It’s Raining Men” in slicker and wig, to the astonishment of the assembled bidders! The auction event featured handmade items contributed by staff members, which included hand-knitted scarves, framed photographs, handcrafted jewelry, and a collection of colorful paintings. Auction proceeds were more than $2,000 — a jar of “secret recipe” pickles from WSBA IT Director Mark MacDonald fetched more than $60. WSBA General Counsel Bob Welden served as auctioneer in his signature eye-catching silver lamé jacket, and was assisted by WSBA ODC Investigator Vanessa “Vanna White” Norman in fluorescent pink feather boa.

First annual MAMAS Leadership and Justice Award

In November, the Mother Attorneys Mentorship Association of Seattle (MAMAS) presented its first annual Leadership and Justice Award to the Honorable Barbara J. Rothstein, U.S. District Court for the Western District of Washington and director of the Federal Judicial Center. The award is given to an individual who has paved the way to success for, and has served as an inspiration to, other
women attorneys striving to excel in their legal careers while balancing family demands. Addressing the crowd of more than 250 attendees, Judge Rothstein spoke of her personal experiences juggling her position as a federal judge with being a mother. Judge Rothstein was introduced by the Honorable Marsha J. Pechman, U.S. District Court for the Western District of Washington.

MAMAS is a Washington bar organization dedicated to furthering the interests of attorney mothers in the profession. Founded in October 2006, it has grown quickly in both numbers and prominence. It currently has more than 550 members and has begun to spread to other states.

WSBA member honored as Champion for Change

Jacqueline van Wormer, of Richland, was honored as a Champion for Change in juvenile justice reform for her work in Benton and Franklin counties to improve the lives of court-involved children, their families, and their communities. She was recognized at a luncheon of juvenile justice reformers from across the country at the Third Annual Models for Change national conference in Washington, D.C.

In her position as Models for Change Washington site coordinator in Benton and Franklin counties, van Wormer bridges the gap between school administrators and the juvenile justice system to create more effective responses to truancy. She also is developing a data system for analyzing the complex issue of Disproportionate Minority Contact to create a factual basis for making DMC intervention and policy decisions.

Models for Change is the John D. and Catherine T. MacArthur Foundation’s $120 million national initiative to reform juvenile justice across the country. Few states can match Washington in terms of systematic commitment to improving juvenile justice. The state has been recognized as a pioneer in implementing research-based programs in juvenile justice, building in quality-assurance mechanisms, evaluating outcomes to determine the most cost-effective ways to reduce delinquency and promote positive youth development, and educating policymakers and the public regarding the results.

Washington Defense Trial Lawyers present annual awards

Washington Defense Trial Lawyers presented their annual awards at the Judicial Reception in October held at the law firm of K&L Gates in Seattle. More than 180 people attended, including more than 30 judges from federal, state, and local courts. The recipients are the
late John Kirschner of the Office of the Attorney General, as Outstanding Defense Trial Lawyer of the Year award — given to someone who has promoted collegiality, professional decorum, and the utmost ethical standards while practicing supreme advocacy for his or her clients; Ralph Brindley, of the Luvera Law Firm, as Outstanding Plaintiffs’ Trial Lawyer — awarded to a plaintiffs’ attorney who has demonstrated professional decorum, and the utmost ethical standards while practicing supreme advocacy for his or her clients; and Melissa Habeck, of Forsberg & Umlauf, received the Outstanding Litigation Associate Award, which is given to an attorney who has practiced seven years or less who promotes the highest professional and ethical standards for a Washington civil defense attorney.

Justice Bridge inducted into Warren Burger Society
The National Center for State Courts (NCSC) inducted retired Washington State Supreme Court Justice Bobbe J. Bridge into the Warren E. Burger Society. The Burger Society honors individuals who have demonstrated an exemplary commitment to improving the administration of justice through extraordinary contributions of service and support to the NCSC. Massachusetts Chief Justice Margaret H. Marshall, chair of the NCSC Board of Directors and president of the Conference of Chief Justices, inducted Justice Bridge and other new members into the Burger Society at the NCSC Annual Recognition Luncheon in Washington, D.C.

Justice Bridge joined the Washington State Supreme Court in 1999 and served as a King County Superior Court judge for 10 years before that. She spent much of her time on the King County bench hearing juvenile and dependency cases, and while a member of the Supreme Court, she founded the nonprofit Center for Children and Youth Justice. The Center is charged with administering grants for promising child-welfare programs across the state.

NW Tribal attorneys exceed $100,000 in scholarship giving
The Northwest Indian Bar Association (NIBA) recently gifted another $16,000 in scholarships to several Native law students as part of an ongoing effort to support aspiring Pacific Northwest Indian lawyers. NIBA and its sister group, the WSBA Indian Law Section, have exceeded $100,000 in scholarship monies gifted to Native law students from Washington, Oregon, Idaho, and Alaska in
only five years.

NIBA is thrilled to have seen an immediate return on their investment, specifically a dramatic rise in Indian lawyers practicing in the Northwest. The following past scholarship recipients now serve as officers of NIBA: President Lael Echo-Hawk (Pawnee), a reservation attorney for the Tulalip Tribes, near Marysville; President-elect Michael Douglas (Haida), an associate with the law firm Sonosky, Chambers, Sachse, Miller & Munson LLP, in Anchorage; Treasurer Brooke Pinkham (Nez Perce), an attorney with the Northwest Justice Project in Seattle; and At-Large Member Marvin Beauvais (Navajo/Crow), a reservation attorney with the Quinault Nation, in Taholah.

“I greatly benefitted from NIBA’s support throughout law school and during the first few years of my legal career,” said Michael Douglas. “In addition to scholarship assistance, I am grateful to have received strong mentorship from NIBA’s network of Native attorneys. NIBA’s financial help and mentorship has provided me an excellent foundation on which to build my career working for Indian people.”

The following Native law students are the Indian Legal Scholars Program’s latest scholarship recipients. Each was honored with $1,200 to $1,500 in recognition of his or her commitment to academic excellence and advancing the rights of Pacific Northwest Indian people: Peter C. Boome (Upper Skagit), Saza Osawa (Makah), Amber Vision-Seeker Penn-Roco (Chehalis), and Aurora Lehr (Native Hawaiian), of the University of Washington School of Law; Tara Dowd (Inupiaq) and Jason Campbell (Gros Ventre), of Gonzaga University School of Law; Malcolm Begay (Navajo), Maiya LaMar (Tule River/Yokut), and Michelle Watchman (Tlingit/Navajo), of Lewis & Clark Law School; Dylan Hedden-Nicely (Cherokee), of University of Idaho College of Law; Khia Grinnell (Jamestown S’Klallam/Lummi) and Suzanne C. Trujillo (Laguna Pueblo), of Arizona State University College of Law; and Anthony Jones (Port Gamble S’Klallam), of Washington University Law School, all of whom have Pacific Northwest ties.

Information about NIBA can be found at www.nwiba.org, and WSBA Indian Law Section information is available at www.wsba.org/lawyers/groups/indianlaw.

Rodriguez named first Latina to Yakima City Council

The Yakima City Council has named attorney Sonia Rodriguez to replace outgoing Councilman Norm Johnson, and in the process made history. Rodriguez, a 34-year-old single mother, small business owner, and newcomer to City Hall, is believed to be the first Latino to serve on the City Council in Yakima’s 122-year history. The city is 38 percent Hispanic. Rodriguez was sworn in January 6.

Rodriguez, raised in the Tacoma area, moved to Yakima eight years ago after getting her law degree from the University of Washington School of Law. Her mother was a legal secretary who went back to school later in life to get her own law degree and now shares a legal practice with Rodriguez. Having recently finished a term on the local YWCA Board, it was her record of leadership in the legal community — including serving as a delegate for the WSBA in the American Bar Association — that caught the eye of council members. Rodriguez said she wants to run for office in November and hopes that she can help unite the Latino community in Yakima, which historically has lacked representation in public office and at City Hall. “Nobody’s been able to bring everybody together,” Rodriguez said, adding, “I’ve really got my work cut out for me.”
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Legal Foundation elects new officers
At its November meeting, the Board of Trustees of the Legal Foundation of Washington unanimously elected Nicholas P. Gellert, of counsel, Perkins Coie, as the Foundation’s president for 2009. Rima J. Alaily, Microsoft Corporation, was elected vice president; Michele G. Radosevich, partner, Davis Wright Tremaine, was elected secretary; and Barbara Fox, limited practice/escrow officer, was elected treasurer. Beginning their first two-year terms as trustees are Washington State Supreme Court appointee Pamela J. DeRusha, of the Office of the United States Attorney, and gubernatorial appointee Gary Melonson, Citi/Smith Barney.

Washington Paralegal of the Year
The Washington State Paralegal Association (WSPA) has chosen Mount Vernon resident Melody Love as the WSPA 2008 Paralegal of the Year. Love serves as the director of the Northwest Chapter of WSPA and is a bankruptcy paralegal at the Law Offices of Terence G. Carroll.

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K&L Gates combines with Bell, Boyd & Lloyd
Partners of the law firms K&L Gates LLP and Bell, Boyd & Lloyd LLP voted overwhelmingly in favor of a combination of firms, effective March 1. The combined firm will comprise approximately 1,900 lawyers in 31 offices throughout the United States, Europe, and Asia, and expands K&L Gates’s domestic offerings to include the strategically significant legal markets of Chicago and San Diego. “We are delighted and enthused that our partners have seen and supported the strategic value of this combination,” said K&L Gates Chairman and Global Managing Partner Peter J. Kalis and Bell Boyd Chairman John T. McCarthy.

Bits and Briefs
Matthew M. Cohen, attorney with Stahancyk, Kent, Johnson and Hook, in Vancouver, has been appointed treasurer of the Clark County Bar Association’s Family Law Section.

Foster Pepper PLLC is pleased to announce that Jeffrey Frank, a member in the firm’s Construction and Litigation practice groups, has been appointed chair of the Defense Research Institute’s Judicial Task Force. The task force focuses on issues affecting judicial salaries, court funding, courthouse security, appointment methods of judges, and unwarranted criticism of judges.

WSBA member Robert J. McCarthy has been recognized by the Oklahoma Bar Association with its 2008 Courageous Lawyer Award. The award is given “to an OBA member who has courageously performed in a manner befitting the highest ideals of our profession.” McCarthy gave testimony last year in the long-running Cobell v. Kempthorne class-action suit that sought an accounting of Indian trust funds. As a field solicitor for the Department of the Interior, McCarthy testified that he had a duty of loyalty to some 300,000 Indians whose lands and income were held by the government. McCarthy testified that he had disclosed gross mismanagement to the Secretary of the Interior and to the inspector general, and that Agency audits eventually verified his claims. McCarthy was also recently named as general counsel to the United States Section of the International Boundary and Water Commission in El Paso, Texas.
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Diversity and the Law

**The Latina/o Bar Association’s outgoing president, Ciarelle Jiménez “C.J.” Valdez, speaks about her experiences leading the LBAW.**

**LBAW — Representing the Concerns and Goals of Washington’s Latino Community**

**What is the Latina/o Bar Association and what are your goals?**

The Latina/o Bar Association of Washington (LBAW) was formed in 1991. Originally known as the Washington State Hispanic Bar Association (WSHBA), the goal of the LBAW is to represent the concerns and goals of Latina/o attorneys and Latina/o people of the state of Washington. To do so, we encourage and promote the active participation of all Latino attorneys throughout Washington and we seek the involvement of Latina/o political, governmental, educational, and business leaders. Efforts are made to encourage and assist Latino students and to recognize the needs and voice the concerns of Latino people and their communities. Of importance is the need to promote Latino judicial appointments; encourage respect for the integrity of the judicial system; and the pursuit of fairness, justice, and equality. Our further goal is to become a unified and active participant within the Washington legal community. In particular, the LBAW has been influential in judicial evaluations, mentorship, and community-service projects. In the judicial evaluations system, we developed a process by which we encourage all candidates, appointment or election, to interview with our organization, giving candidates the opportunity to share views, philosophies, and general sentiments relating to the LBAW mission. With our mentoring projects, we continue to foster relationships among seasoned attorneys and law students by hosting annual events, thereby connecting the incoming class of attorneys with our established membership. We encourage candid conversations and draw on realistic expectations so that mentees are empowered.

**How did you get involved with LBAW, and what projects inspired you?**

I joined the LBAW Board of Directors in 2005 and instantly became involved as an executive team member, helping manage all activities ranging from the CLEs to the Annual Banquet to Friend/Fundraisers under the leadership of 2006 LBAW President Brenda Williams, who has since joined the WSBA Board of Governors. Following my first term on the LBAW Board, I was elected the 2007 president-elect, and began working alongside 2007 LBAW President M. Lorena González, to help take the organization to another level. In 2008, I assumed the LBAW president position, and was inspired by and blessed with a magnificent board, filled with enthusiasm, excitement, and promise. In 2008, we continued our record-breaking Judicial Evaluations Committee interviews; we kicked off a monthly free legal clinic; we sponsored numerous events, including the Annual Cinco de Mayo Celebration, the Fourth Annual Statewide Diversity Conference, and the Ernest I.J. Aguilar Endowed MBA Scholarship Fundraising Dinner and Auction; we spoke at Know-Your-Rights workshops; we partnered with community groups like Campaña Quetzal; and we co-hosted valuable CLEs.

**What do you see as the major contributions of the LBAW?**

The LBAW has grown in the last five years, resulting in many positive changes in the community in Washington state. That means that as a collective of professionals, leaders, and activists, we must be aware of and respond to injustices and prejudices against not only our community, but supporters of our community. We strive to promote diversity in all levels of academia and the judicial system while at the same time encouraging the active recruitment and retention of Latina/o attorneys in firms, companies, and the government.
for leadership in a legal career. Finally, it goes without saying that we have been, and will remain, active in the extended community. Our Annual Legal Clinic at the Hispanic Seafair is in its third year and each year the participants, volunteers, and assistance given grows exponentially. Our new Monthly Legal Clinic series kicked off this year and has been a huge success.

**Can you describe the LBAW Monthly Legal Clinic, and do you still need volunteers?**

In March 2008, we founded the LBAW Monthly Legal Clinic. We partnered with the Law Offices of Schroeter, Goldmark & Bender and with El Centro de La Raza, an outreach community-service center in Seattle’s Beacon Hill neighborhood, to produce monthly legal clinics. To reach everyone needing assistance, the clinics are free and anonymous. Our volunteers include both LBAW and non-LBAW members who are willing to give a couple of hours per month supporting the clinic and helping the LBAW accomplish its mission.

Last year, we served 203 people, and we welcomed 52 volunteers, including 32 attorneys, 12 legal staff, and eight law students. We met with people from 19 countries, with Mexico as the most represented country. As you can imagine, the areas of service were broad, and included family law, landlord-tenant, bankruptcy, criminal law, consumer protection and finance, employment law, immigration law, medical malpractice, personal injury, property law, small claims court, Social Security disability, wage claims, and workers’ compensation. This work is so rewarding, and yes, we need more volunteer attorneys! Anyone interested in supporting the LBAW clinic or wanting more information, please contact us at clinics@lbaw.org.

**In what direction will the LBAW move in the next few years?**

I believe that LBAW will continue to grow and will mature into an organization willing to push the limits and challenge certain status quos. The new leadership team is a combination of seasoned attorneys with diverse backgrounds and points of view, who will undoubtedly impact the legal arena in Washington and nationally.

The incoming LBAW president, Nicole McGrath, has a vision of, and is passionate about, giving back to our youth. This vision will help bring LBAW into a new arena, going beyond the law schools and into colleges, high schools, and elementary schools, delivering the message that anything is possible if you have the will, determination, and desire to succeed. Assuming the LBAW presidency after Nicole McGrath will be Patricia Lally, whose extraordinary background and influential personality gives the LBAW an advantage as an organization in having such a diverse leader and future president. Equally important, our Hispanic National Bar Association liaison will continue to work nonstop to strengthen the relationship between the LBAW and the Hispanic National Bar Association. That relationship has grown in the last five years, and I see our friendship deepening into a unique partnership. With that partnership, LBAW will be positioned to address the needs and concerns of the Latina/o community here in Washington, while at the same time becoming an active participant in the national discussion affecting our community.

**Of what are you most proud as you leave LBAW leadership?**

I am very proud of LBAW as a whole, the
work we are doing, and the difference we are making. We are evolving into a committed, knowledgeable, and reliable resource for our membership and our people. We support our local community, yet we remember where we came from, and where we are going. Much work remains to be done. Here in Washington, we continue to see a need to support the community across all socio-economic levels, from the migrant farm worker, still tolerating unbearable work conditions, to the hardworking entrepreneur, seeking the lifelong American dream of small-business ownership, to the zealous young student, ready and willing to make a difference in the world. We at LBAW are always working to become better, wiser, and smarter, so that we continue to serve the community and grow professionally.

Ciarelle Jiménez “C.J.” Valdez was born and raised in Puerto Rico. She completed her undergraduate studies at the University of Washington and earned her J.D. from Seattle University School of Law. She is general counsel for the Zella Company and is married to fellow attorney Jesse Valdez. They are proud parents of a newborn son, Caleb J. Valdez.

Asian Bar Association of Washington — www.abaw.org
The Cardozo Society — www.jewishinseattle.org/jf/about/attorneys/attorneys.asp
Filipino American Legal Society — Abigail G. Daquiz, president; daquiz.abigail@dol.gov
King County Washington Women Lawyers — kwwl.org
Korean American Bar Association — www.kaba-washington.org
Latina/o Bar Association of Washington — www.lbaw.org
Loren Miller Bar Association — www.limba.net
Middle Eastern Legal Association — Aneelah Afzali, president; aneelah.afzali@stokeslaw.com
Mother Attorneys Mentoring Association of Seattle (MAMAS) — www.mamaseattle.org
March 8: MAMA Networking; 8–10 a.m.; Kids Quest Children’s Museum, Bellevue; sa_morris99@hotmail.com.
March.17: Brown bag — “Private Practice Series: Women in Leadership Roles”; noon–1 p.m.; Davis Wright Tremaine, Seattle; asuzuki@gsblaw.com.
April 4: MAMA Networking; 9 a.m.–noon; Children’s Center at Burke Gilman Gardens, Seattle; sa_morris99@hotmail.com.
Northwest Indian Bar Association — www.nwiba.org
Pierce County Minority Bar Association — www.orgsites.com/wa/pcmba
QLaw/GLBT Bar Association of Washington — www.Q-law.org
South Asian Bar Association of Washington — www.sabaw.org
Vietnamese American Bar Association of Washington — www.vabaw.com
Washington Attorneys with Disabilities Association — http://groups.yahoo.com/group/Wash-ADG
Washington Women Lawyers — www.wwl.org
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$3.9 million, underlying back surgery medical malpractice; $3 million, underlying obstetrical medical malpractice; $3 million, underlying business transaction; $1.25 million, underlying personal injury; $1.2 million, underlying real estate transaction.

Proving the “case within a case” is required in every legal malpractice action, and the underlying case may be more complex than the professional negligence claim itself. We have the experience, resources and ability to make the right moves. These are some of our legal malpractice results:

Cleland, James M. Jr.
James Cleland Jr. graduated from La Verne College in California and earned his law degree from the University of Puget Sound School of Law. He was commissioned in the U.S. Navy and assigned to the Judge Advocate General’s office and served for 12 years. He was known for his quick wit, insatiable curiosity, and generosity, opening his home to many a person or cat in need.

James Cleland Jr. died December 26, 2008, aged 60.

Donovan, Stephen D.
Stephen Donovan was raised in Bellevue, graduated from the University of Washington, and earned his J.D. from Gonzaga University School of Law. He worked as an attorney for Boeing, focusing on international sales. He retired to Thailand in 1998. Donovan was known for his sense of humor and keen intellect.


Ebalo, Ulysses Jay
From his parents, Mr. and Mrs. Ulysses Ebalo
Jay was so excited to join your association and was looking forward to practicing law in your state after serving his country with the U.S. Army. Unfortunately, this monster disease, cancer, took that opportunity from him. He was such an outstanding gentleman with so much to offer and a fine young officer with the U.S. Army JAG Corps.

Jay Ebalo died October 8, 2008, aged 32.

Johnson, Grant M.
Grant Johnson grew up in Everett and graduated from the University of Puget Sound with a B.A. in accounting and English. He received his J.D. from the University of Puget Sound School of Law in 1982. In 1981, he met the love of his life, Maureen Sweeney, in a university library. They married and moved to Wenatchee in 1984. Johnson held numerous leadership roles, including positions in the Chelan-Douglas County Bar Association, the WSBA Young Lawyers Division, Exchange Club, Planning Commission, Board of Adjustment, St. Joseph Elementary School Board, Wenatchee High School Booster Club, and many coaching positions for his kids’ soccer, baseball, softball, and basketball teams. Johnson was a partner in the firm of Johnson, Gaukroger, Drewelow and Woolet. Johnson enjoyed hiking, water and snow skiing, soccer, basketball, and other sports, but, above all, activities with his family. He was an accomplished fiction writer.

Grant Johnson died in an auto accident January 7, 2009, aged 51.

King, Jerry F.
Jerry King attended the University of Washington, earned his law degree from the UW School of Law, and served in the U.S. Army during the 1950s. He spent nearly three decades as the City of Vancouver’s attorney. Brian Willoughby, president

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.
of King’s church, Unitarian Universalist Fellowship, said of King: “He was kind, good-hearted, and an ardent supporter of civil rights and civil liberties.” King drafted a diversity policy for Vancouver to protect minority employees. He was one of the founders of the Southwest Washington chapter of Parents, Families, and Friends of Lesbians and Gays. Books and libraries were also a priority for King, and he served on the Fort Vancouver Regional Library District’s Board of Directors. His collection of Walt Whitman books was donated to the University of Iowa.

Jerry King died November 26, 2008, aged 76.

Klein, Jerald A.
Jerry Klein graduated from the University of Washington in 1975 and earned his J.D. from the University of Puget Sound School of Law in 1978. He practiced law in Seattle for more than 30 years and had a long-time client relationship with Washington Cedar. Klein fought a two-year battle with a brain tumor. He was especially proud of his daughter and was pleased that he could attend her graduation from Western Washington University.

Jerry Klein died November 18, 2008, aged 55.

Mason, David P.
A remembrance by John Fox
Those who knew David will remember him as literate, humorous, honest, competent, and unfailingly cheerful. David remained cheerful until the end. I shared office space with David for over 20 years, and I do not recall a single day when it was not fun to be with him. David was a good friend and he will be missed by all of us. David loved the New York Times, especially the Tuesday “Science Times,” which we saved for him when he was out of town. David enjoyed gardening and doing landscaping projects at home. Above all, David loved being with his family. David was a native of Seattle and attended law school at the University of Washington.

David Mason died December 27, 2008, aged 67.

Matthews, John D.
John Matthews grew up in the St. Louis, Missouri, area, attended the University of Washington, and received his J.D. from the University of Michigan Law School in 1972. Matthews came to Seattle after graduating law school and started his career as an attorney for the Washington State Legislature. He most recently was senior counsel with the firm of Jackson & Wallace LLP. He was an avid tennis player and a member of the Central Park Tennis Club.

John Matthews died November 27, 2008, aged 61.

Nelson, Craig A.
Craig Nelson received his J.D. from Stanford University Law School and worked in private practice in Wenatchee until 1991. He then became city attorney for Centralia and later the city manager. He worked for the Department of Licensing Hearings and Interviews Unit as a hearing officer and administrator. He worked to increase tourism in Centralia and personally accepted a grant from President Clinton to beautify the train station there. He served on the Board of Trustees of Wenatchee Valley College and Community College District 15 and as a member of the Okanogan Conservation District. He loved listening to ABBA and Celtic Women, and studying military history and genealogy.
Craig Nelson died November 26, 2008, aged 54.

**Oaxaca, Vidal A.**

Vidal Oaxaca practiced with Peacock Myers, P.C. He was experienced in both litigation and transactional work. He was a member of the New Mexico, Colorado, Texas, and Washington state bars. Oaxaca was admitted to practice before the U.S. Patent and Trademark Office in 1999. Clients enjoyed working with him because of his analytical mind. He received a B.S. degree in microbiology and a M.S. degree in biological sciences from the University of Texas at El Paso. As a graduate student, he focused his studies on microbial physiology and genetics, and he conducted research in microbial fermentations. He received his J.D. degree from the University of Washington. Oaxaca worked as a litigation associate attorney for the former Seattle firm of Bogle & Gates and for the Santa Fe office of Sutin Thayer & Browne. He more recently worked as an appellate and trial attorney for the El Paso Public Defender’s Office and as a senior attorney with the General Counsel Unit of the El Paso County Attorney’s Office, where his work concentrated on transactions.

Vidal Oaxaca died November 13, 2008, aged 47.

**Painter, Jerry L.**

Jerry Painter was born in Great Falls, Montana, and received his law degree from the University of Montana School of Law. He worked as a labor law and education attorney and then joined the Washington Education Association as a staff attorney and general counsel. He was an advocate, organizer, friend, and teacher to hundreds of public school employees across the nation. Painter founded the Network for Excellence in Washington Schools (NEWS) and advocated for increased funding for public schools. He had many interests, including healthy gourmet cooking and reading, and was a devoted Mariners and Seahawks fan.

Jerry Painter died November 4, 2008, aged 59.

Bar News has also learned of the deaths of Michael B. Ash on January 9, 2008, Gary B. Boe on December 24, 2008, Keith D. Grinstein on September 27, 2008, and Stephen F. Schneider on December 5, 2008.
At the Board of Governors meeting January 22–23 in Olympia, the BOG intensely debated the concept of separating the lawyer disciplinary system from the WSBA, but voted to continue the program’s existing structure, with changes to ensure its continued integrity. Meanwhile, the BOG voted to dissolve the WSBA mediation and voluntary fee arbitration programs but continued to consider creating a mandatory fee arbitration system.

This fiscal year, the BOG is considering a lengthy set of recommendations regarding the disciplinary system. The system operates under rules enacted by the state Supreme Court, but is administered by WSBA staff and headquartered at the Bar office in Seattle. The recommendations being considered originated with a 2006 review of the disciplinary system by the American Bar Association Standing Committee on Professional Discipline. The review was voluntary and had been invited by the Supreme Court (at the WSBA’s request). The ABA recommendations, which are not binding, were then evaluated by the BOG Discipline Review Committee, which made its own recommendations to the Board.

Probably the most sweeping and controversial issue taken up by the BOG was whether the lawyer disciplinary system should be entirely separated from the WSBA, administratively and physically, a recommendation made by the ABA when it first reviewed Washington’s discipline system in 1993. Although the program has not been found to be improperly influenced by its connection to the WSBA, reestablishing it as a separate entity would eliminate even the appearance of unfairness, in the ABA’s view. The BOG Discipline Review Committee rejected that idea as being unnecessary and inefficient. Such a change would require the current disciplinary system, the largest single operation the WSBA undertakes, to be dismantled, then recreated elsewhere and operated under the auspices of the Supreme Court.

Instead of separating the disciplinary program from the WSBA, the Discipline Review Committee recommended maintaining the current system while adding safeguards to protect it from potential improper influence by the Bar. At the center of the proposal is creation of a Disciplinary Advisory Roundtable (DAR), a panel that would include a Supreme Court Justice, the chair of the Disciplinary Board, the chief hearing officer, lawyers and non-lawyers, as well as WSBA staff and officers and a BOG member. The panel would operate on a two-year trial basis, after which the BOG could recommend that the Court implement it by rule if it proved effective. The DAR would serve as a forum for discussion of disciplinary issues and act as an ombudsman for complaints regarding the system. It would report and recommend disciplinary program improvements to both the Supreme Court and the BOG.

Ultimately, the BOG approved the Discipline Review Committee’s recommendation, including creation of the DAR. The vote was 7–6 after testimony and lengthy debate centered on the inherent conflict between WSBA’s dual roles as a trade association and a regulatory body. Proponents of separating discipline from the WSBA included Professor Thomas
Andrews, of the University of Washington School of Law, an expert on legal ethics and administrative law. Andrews was a member of a Discipline Review Committee task force that evaluated the proposal. He acknowledged that, by all accounts, the current system provides fairness in disciplinary proceedings and is free of improper influence. However, he argued that, as long as the system is connected with the WSBA, it will lack the appearance of absolute fairness and be vulnerable to improper influence by future Bar leadership who might overstep their bounds.

WSBA Chief Disciplinary Counsel Doug Ende acknowledged that if a disciplinary program were being created from scratch it would be best — in theory, at least — to make it independent of the WSBA. However, the program as it exists operates fairly and efficiently, and removing it from the WSBA now would be a huge undertaking. Ende urged the Board to consider carefully the transitional burdens that would be involved in severing discipline from the WSBA before undertaking a project of such magnitude.

Meanwhile, the BOG considered but delayed action on another recommendation from the ABA, to create a “client-option” arbitration system for fee disputes. Under the system, an attorney would be required to participate in arbitration once a client claimed a dispute had arisen involving fees. The WSBA has operated a voluntary Fee Arbitration Program, but the program has been underused (see below).

BOG members and WSBA staff debated the pros and cons of the client-option system. Proponents, including WSBA General Counsel Bob Welden, argued that helping resolve lawyer-client fee disputes is a public service the Bar should provide, and making arbitration mandatory for attorneys is the only way to ensure sufficient participation to justify the program’s existence. The existing voluntary system is underused, and thus cost-ineffective, primarily because attorneys routinely decline to participate.

Some BOG members and others raised concerns that WSBA members will object to imposition of a mandatory program that would force them to participate in arbitration over client claims that might lack merit. Others questioned whether the existence of mandatory fee arbitration might require lawyers to report such disputes to their malpractice carriers, no matter how small or groundless a claim might be. Some suggested arbitration be subject to limitations or differing rules based on dollar amounts and the types of fees in dispute. Eventually, the Board voted to table the issue and have staff address the details raised in discussion. The Board is to take up discussion of the matter again at the March 6–7 meeting in Seattle.

Regardless of the future of mandatory fee arbitration, the BOG voted to discontinue the existing WSBA Alternative Dispute Resolution Programs, which offered voluntary fee arbitration as well as mediation of all types of disputes involving Bar members. Over the past three years combined, only 70 proceedings have been conducted under the ADR program. Meanwhile, the program has resulted in a net loss to the WSBA budget totaling $48,720 in fiscal year 2008 and a projected net loss of $59,357 for the current fiscal year. Instead of operating its own program, the WSBA will direct attorneys and clients seeking voluntary arbitration or mediation to private ADR organizations. The Bar is working to arrange for these services to

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be provided pro bono or at low cost by the organizations. WSBA staff whose work included ADR tasks will have that time reassigned to other programs.

In other business:

• The BOG voted to ask the WSBA Local Rules Task Force to fast-track a set of amended family law rules that would apply statewide and are designed to streamline what is seen as a hodgepodge of confusing and conflicting local rules enacted by the various Superior Courts over the years.

• Board members heard a report from the Planning Ahead Committee, formed to address the problem of older attorneys becoming disabled or dying while still in practice and without a plan for another attorney to take over files and assist clients. The BOG authorized the committee to develop a set of educational materials to be disseminated by the Continuing Legal Education and Law Office Management Assistance Programs.

• BOG members approved the charter for a Council on Public Defense. The council will be the permanent incarnation of the Committee on Public Defense, established in 2004. The council will monitor, recommend improvements, and create educational materials relating to public defense services throughout the state.

• The Board voted to switch from all-paper balloting for BOG elections to a system that would allow members to vote either by paper ballot or online. The change is designed to reduce election costs and increase participation. Over the past three years, only 13 to 24 percent of eligible voters in contested BOG races have returned their ballots.

Michael Heatherly is the Bar News editor and can be reached at barnewseditor@wsba.org or 360-312-5156. For more information on the Board of Governors and Board meetings, see www.wsba.org/info/bog. For more information on issues addressed by the Board, visit the WSBA website at www.wsba.org and click on “News Flash” under “WSBA News and Information.”

Michael Heatherly is the Bar News editor and can be reached at barnewseditor@wsba.org or 360-312-5156. For more information on the Board of Governors and Board meetings, see www.wsba.org/info/bog. For more information on issues addressed by the Board, visit the WSBA website at www.wsba.org and click on “News Flash” under “WSBA News and Information.”
The WSBA Board of Governors invites applications for appointments to WSBA committees, boards, and panels. Appointments are limited, and only active WSBA members may be appointed. However, committee meetings are open to the public and may be attended by any member. For brief descriptions of the various committees, boards, and panels, see page 43. More information is on the WSBA website at www.wsba.org/lawyers/groups/committees.htm. Appointment letters will be sent in September.

How to Apply

Deadline: All completed applications and materials must be received at the WSBA office by April 13, 2009.

Apply online: You can also apply online at http://pro.wsba.org/forms/committeepref.asp.

1. You can indicate up to three choices. See page 43 for available committees, boards, and panels.
2. Tell us why you would like to serve, and describe all relevant skills or experience.
3. Attach a résumé or C.V. (strongly encouraged but not required, except for the Hearing Officer Panel). Also, you may, but are not required to, submit up to three letters of recommendation to support your application.
4. Sign the waiver.
5. You are encouraged to provide optional demographic information.
6. Submit materials by the April 13, 2009, deadline.

Step 1. Indicate your choice(s)

1st choice ____________________________________________
☐ Check here if you have served on this committee previously and state approximate years of service: _______

2nd choice ____________________________________________
☐ Check here if you have served on this committee previously and state approximate years of service: _______

3rd choice ____________________________________________
☐ Check here if you have served on this committee previously and state approximate years of service: _______
☐ Check here if you would like to be considered for other committee service opportunities that may become available during the year.

Step 2. Tell us your reasons and relevant skills/experience

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

Describe your relevant skills and experience.
_______________________________________________________________________________________________________
_______________________________________________________________________________________________________
_______________________________________________________________________________________________________
_______________________________________________________________________________________________________

Your name (please print) ___________________________ WSBA number __________
Step 3. Attach a résumé or C.V. and/or letters of recommendation (optional)

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

Step 4. Sign the waiver

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

Signature ________________________________  Print name ________________________________
E-mail ________________________________  Daytime phone ________________________________

Step 5. Provide demographic information (optional)

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

Ethnicity
☐ American Indian/Native American/Alaskan Native
☐ Asian
☐ Black/African descent
☐ Caucasian/White
☐ Pacific Islander
☐ Spanish/Hispanic/Latina/o
☐ Multi-racial
☐ Other _______________

Gender
☐ Male  ☐ Female

Disability
☐ Yes  ☐ No

Sexual orientation
Do you openly identify as a sexual minority, to include the following: gay, lesbian, bisexual, transgender?
☐ Yes  ☐ No

Number of years in practice ________  Employer _______________________________________

Area(s) of law practice ______________________________________________________________

Number of lawyers in law firm
☐ solo  ☐ 2–5  ☐ 6–10  ☐ 11–20  ☐ 21–35  ☐ 36–50  ☐ 51–100  ☐ 101+

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

Washington State Bar Association
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Fax: 206-727-8319 • E-mail: barleaders@wsba.org

You may also apply online at: http://pro.wsba.org/forms/committeepref.asp.

Please note the application deadline of April 13, 2009.

Thank you for your interest in serving!
COMMITTEES

Amicus Brief Committee: Reviews all requests for amicus curiae positions which in any way are identified as connected to the WSBA. The committee does not prepare amicus curiae briefs. It administers standards and makes recommendations to the Board of Governors.

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

Court Rules and Procedures Committee: Studies and develops suggested amendments to designated sets of court rules on a regular cycle of review. Performs the rules study function outlined in GR 9 and reports its recommendations to the Board of Governors. The Criminal Rules for Superior Courts and Criminal Rules for Courts of Limited Jurisdiction will be reviewed in 2009–2010. Lawyers with experience or interest in these areas are encouraged to apply.

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

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

Judicial Recommendation Committee: Screens and interviews candidates for state appellate court positions and makes recommendations thereon to the Board of Governors.

Legislative Committee: Reviews proposals from WSBA sections for state legislation which relate to the practice of law and the administration of justice, and makes recommendations to the BOG for a position thereon.

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

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

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

BOARDS

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

Character and Fitness Board: Deals with matters of character and fitness bearing on qualifications of applicants for admission to practice law in Washington; conducts hearings on the admission of any applicant; makes recommendations to the Board of Governors and Supreme Court; and considers petitions for reinstatement after disbarment. Five positions are available, which must be filled by members from Districts 1, 3, 4, 5, and 6.

Disciplinary Board: Carries out the functions and duties assigned to it according to the Rules for Enforcement of Lawyer Conduct adopted by the Supreme Court. The full board meets at least six times a year, reviewing hearing officer decisions and stipulations. Three-member review committees meet at least an additional three times a year and review disciplinary investigation reports and dismissals. Considerable reading and meeting preparation is required. Three positions are available, one which must be filled by a member from District 6, one by a member from District 8, and one by a member from any district.

Lawyers’ Fund for Client Protection Board: Pursuant to APR 15, reviews claims for reimbursement of financial loss sustained by reason of an attorney’s dishonest actions; decides claims up to $25,000; and makes recommendations to the Board of Governors on claims for greater amounts. Meets four times a year. Two positions are available, and candidates from Districts 4, 6, and 9 are especially encouraged to apply.

PANELS

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

Hearing Officer Panel: Panel members serve as trial judges for lawyer disciplinary hearings and are expected to make evidentiary rulings, rule on motions, and prepare written findings of fact, conclusions of law, and (as necessary) sanction recommendations according to strict deadlines. Attendance at an annual training session is required. Hearing officers may not serve as expert witnesses on professional-conduct issues, represent respondents in disciplinary matters, or serve as special disciplinary counsel or adjunct investigative counsel. Please review the Rules for Enforcement of Lawyer Conduct, particularly ELC 2.5 to 2.6, prior to applying. A hearing officer must be an active member of the WSBA, have been an active or judicial member of the WSBA for at least seven years, have no record of disciplinary misconduct. Appointment is for a five-year term.
WSBA Presidential Search
Application Deadline: May 1
The WSBA Board of Governors is seeking applicants for the position of WSBA president for 2010–2011. Pursuant to Article IV (A)(2) of the WSBA Bylaws, the primary place of business of candidates for president for 2010–2011 must be King County. The WSBA member selected to be president will have an opportunity to provide a significant contribution to the legal profession.

Applications for 2010–2011 WSBA president will be accepted through May 1, 2009, and should be limited to a current résumé, a concise application letter stating interest and qualifications, and no fewer than five or more than 10 references. The Board of Governors will consider endorsement letters received by May 15, 2009. Applications and endorsement letters should be sent to the WSBA Executive Director, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101.

Direct contact with the Board of Governors is encouraged. All candidates will have an interview with the full Board of Governors in open session at the May 29, 2009, Board of Governors meeting in Yakima. Following the interviews, the Board will select the president.

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

The commitment begins in June 2009 following selection. A one-year term as president-elect will begin at the Annual Business Meeting in September 2009. The president-elect is expected to attend the two-day board meetings held approximately every five to six weeks, as well as numerous subcommittee, section, regional, national, and local meetings. In September 2010, at the WSBA Annual Business Meeting, the president-elect will assume the position as president. During his or her service, the president-elect and president will also be required to meet with members of the Bar, the courts, the media, and public and legal interest groups, as well as be involved in the Bar’s legislative activities. Appropriate time will need to be devoted to communication by letter, e-mail, and telephone in connection with these responsibilities.

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

Mandatory Continuing Legal Education (MCLE Board)
Application deadline: March 6, 2009
The WSBA Board of Governors is seeking applications from active WSBA members for appointment to the MCLE Board. Two positions are available, and members from any district may apply. These are three-year terms commencing October 1, 2009. The MCLE Board approves courses and educational programs that satisfy the educational requirements of the mandatory CLE rule and considers MCLE policy issues, as well as reporting and exception situations. Interested individuals should submit a letter of interest and résumé to WSBA Bar Leaders Division, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539; or e-mail barleaders@wsba.org.

Statute Law Committee
Application deadline: April 6, 2009
The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving a two-year term on the Statute Law Committee, commencing upon appointment and expiring March 31, 2011. The incumbent is eligible to apply. This 12-member committee seeks to foster accurate publication of laws and agency rules services in a professional and strictly nonpartisan and cost-effective manner. The primary responsibilities are to periodically codify, index, and publish the Revised Code of Washington; and to revise, correct, and harmonize the statutes of administrative or suggested legislative action as may be appropriate. The committee meets at least twice a year. Please submit a letter of interest and résumé to WSBA Bar Leaders Division, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101; or e-mail barleaders@wsba.org.

Opportunities for Service
Seeking Questionnaires from Candidates for Judicial Appointments
Deadline: April 30 for June 11 interview
The WSBA Judicial Recommendation Committee (JRC) is accepting questionnaires from attorneys and judges seeking consideration for appointment to fill potential Washington State Supreme Court and Court of Appeals vacancies. Interested individuals will be interviewed by the Committee on the dates listed above. The JRC’s recommendations are reviewed by the WSBA Board of Governors and referred to the Governor for consideration when making judicial appointments. Materials must be received at the WSBA office by the deadline listed above. To obtain a questionnaire, visit the WSBA website at www.wsba.org/lawyers/groups/judicial_recommendation or contact the WSBA at 206-727-8212 or 800-945-9722, ext. 8212, or barleaders@wsba.org.

Notice of Hearing on Petition for Reinstatement of D. Willas Miller, WSBA No. 25454

A petition for reinstatement after disbarment has been filed by D. Willas Miller, who was suspended pending discipline on October 5, 2000, and disbarred on September 17, 2004. At the time of his suspension and disbarment, Mr. Miller practiced in King County, Washington.

A hearing on Mr. Miller’s petition will be conducted before the Character and Fitness Board on April 6, 2009. Not later than March 23, 2009, anyone wishing to do so may file with the Character and Fitness Board a written statement for or against reinstatement, setting forth factual matters showing that the petitioner does or does not meet the requirements of Admission to Practice Rule 25.5(a). Except by its leave, no person other than the petitioner or petitioner’s counsel shall be heard orally by the Character and Fitness Board.

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

2009 WSBA Awards Nominations Sought

Each year, WSBA members are asked to identify those who deserve the legal profession’s recognition and appreciation. Nominations are sought for the following awards:
**Award of Merit.** First given in 1957, this is the WSBA’s highest honor. The Award of Merit is most often given for long-term service to the Bar and/or the public, although it has also been presented in recognition of a single, extraordinary contribution or project. It is awarded to individuals only — both lawyers and nonlawyers.

**Professionalism Award.** This honor is awarded to a WSBA member who exemplifies the spirit of professionalism in the practice of law. “Professionalism” is defined as the pursuit of a learned profession in the spirit of service to the public and in the sharing of values with other members of the profession.

**Angelo Petruss Award for Lawyers in Public Service.** Named in honor of the late Angelo R. Petruss, a senior assistant attorney general who passed away during his term of service on the WSBA Board of Governors, this award is given to a lawyer in government service who has made a significant contribution to the legal profession, the justice system, and the public.

**Outstanding Judge Award.** This award is presented for outstanding efforts in providing pro bono services. This award is based on cumulative efforts, as opposed to a lawyer’s or group’s pro bono hours or financial contribution.

**Courageous Award.** This award is presented to a lawyer who has displayed exceptional courage in the face of adversity, thus bringing credit to the legal profession.

**Excellence in Diversity Award.** This award is made to a lawyer, law firm, or law-related group that has made a significant contribution to diversity in the legal profession’s employment of ethnic minorities, women, persons with disabilities, and other persons of diversity.

**Outstanding Elected Official Award.** This award is presented to an elected official for outstanding service, with special contributions to the legal profession. It is awarded to an individual who has demonstrated a commitment to justice beyond the usual call of duty.

**Excellence in Legal Journalism Award.** This award recognizes those who embody these qualities.

**Award presentation.** It is important to note that presentation of any WSBA award is made only when there is a truly deserving recipient. Some years, no award is given in some categories. Awards are limited to one recipient per category, except when a group of individuals earned the award together.

**Nomination submissions.** If you know an individual who fits the criteria set forth above, please go to the www.wsba.org homepage for a link to download, complete, and submit the nomination form. Self-nominations will not be accepted. Please note that the completed nomination form must accompany each nomination in order to be considered. The deadline for the Pro Bono Award and Norm Maleng Leadership Award nominations is March 31, 2009. The deadline for all other nominations is April 30, 2009. Please send nominations to: WSBA, Attn: Annual Awards, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539; fax: 206-727-8310; e-mail: emilyr@wsba.org. Please contact Emily Robinson at 206-239-2125 for more information.

The awards will be presented at the WSBA Annual Awards Dinner in Seattle on September 24, 2009, with the following exceptions: the Pro Bono and Norm Maleng Leadership awards will be presented at the Access to

**Serious Personal Injury**

**Maritime Back Injury**

$1,245,000

**Fury Bailey**

[206.726.6600](tel:2067266600)

[www.furybailey.com](http://www.furybailey.com)

New WSBA Civil Rights Law Section

At their meeting on December 5, 2008, the WSBA Board of Governors approved the formation of a new section to be known as the Civil Rights Law Section. The section’s interim leadership includes Tracy Flood, chair; Sharon Payant, vice chair; Mary Englund, secretary; and Patricia Paul, treasurer.

The Civil Rights Law Section will be concerned with all aspects of law and policy related to the improvement of the legal practice in the substantive area of civil rights law. This includes, but is not limited to, violations of rights provided under the constitutions of United States and Washington state, federal and state statutes, local laws and regulations; criminal harassment and hate crimes; and immigration matters. Among other priorities benefiting its members, the section will sponsor continuing legal education on civil rights law and provide a network for communications with civil rights organizations throughout the state.

The new section is an offshoot of the WSBA Civil Rights Committee (CRC), which has been the main WSBA entity whose primary focus is on civil rights law. An active subcommittee of the CRC, chaired by Patricia Paul, completed the various requirements for the Board of Governors’ approval of the new section. Other CRC subcommittee members included Wilberforce Agyekum, Tracy Flood, Molly Maloney, and Sharon Payant.

2009 Licensing Information and Changes

Deadline was February 2. If you haven’t paid all of your license fees or if you are on Active status and haven’t paid your Lawyers’ Fund for Client Protection assessment or filed your completed A1 Licensing form, please do so now. Instructions are available online at www.wsba.org/licensing.

WSBA Bylaws require a 20 percent late-payment fee if the annual license fee remains unpaid after March 2, 2009. After April 1, 2009, a 50 percent late-payment fee is imposed. 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 A1 Licensing Form after two months’ written notice of your delinquency, a recommendation for suspension will be submitted to the Supreme Court.

Licensing forms changes. In an effort to control costs and simplify renewal, the 2009 licensing forms have been 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. If you have not received the 2009 licensing forms, you may print them online or call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA.

WSBA Bylaw Section I.E.1.b. on Armed Forces Fee Exemption provides for a fee exemption for eligible members of the Armed Forces whose WSBA membership status is active. The WSBA will accept fee exemption requests until March 2, 2009, for the 2009 Licensing Year.

MCLE Certification for Group 2 (2006–2008)

If you are an active WSBA member in MCLE Reporting Group 2 (2006–2008), you should have received your Continuing Legal Education Certification (C2/C3) forms in the license packet that was mailed in early December. The deadline for returning the C2/C3 form to the WSBA was February 2, 2009. Any C2/C3 forms delivered to the WSBA or postmarked after March 2, 2009, will be assessed a late fee.

Members in Group 2 include active members who were admitted to the WSBA in 1976–1983, 1992, 1995, 1998, 2001, or 2004. Members admitted in 2007 are also in Group 2 but are not due to report until the end of 2011. Their first reporting period will be 2009–2011; however, any credits earned on or after the day of admittance to the WSBA may be counted for compliance.

The C2/C3 form that you received in your license packet is a declaration that lists all the MCLE Board-approved courses that were in your MCLE online profile for the 2006–2008 reporting period as of mid-October 2008. If you took other courses after mid-October, you can add these to the back of the C2/C3 form when you receive it. As an alternative, you may print your online roster and attach it to the C2/C3 form; indicate that it is a correct listing of the courses you took for compliance.

The C2/C3 form, not your online profile, is the official record of MCLE compliance.
The original copy of the C2/C3 form must be returned to the WSBA to meet compliance requirements.

All courses that you list on your C2/C3 form must be Washington MCLE-Board approved and have an Activity ID number. This number is listed in your online MCLE profile and is assigned at the time that the Form 1 for each course is input to the MCLE system. A “Certificate of Attendance” or other sponsor-provided certification is not sufficient to receive course credit.

If you have taken courses that have not yet been approved by the MCLE Board, submit Form 1s for these courses immediately to ensure that they are approved before your C2/C3 is due. Each Form 1 application must include a full agenda for the course in order to receive credit. The agenda must have the start and end times for each session and each break. Because of high volumes from October through February, Form 1s submitted electronically (at http://pro.wsba.org) could take up to four weeks or more to process. Paper Form 1s may take up to six weeks or more to process. If you submit a paper Form 1, you will be notified by mail of its Activity ID number.

If you were not able to meet the credit requirement by December 31, 2008, and need more time to complete your credits, you must submit a petition to the MCLE Board to request more time. There is no longer an automatic extension until May 1. You must give a complete explanation on the petition of the reason that you need an extension.

A late fee will be assessed if you took any courses after December 31 that are needed for compliance or if your C2/C3 form is submitted late. If this is the first reporting period in which you will not meet MCLE compliance requirements, the late fee is $150. The late fee increases by $300 for each consecutive reporting period you are late in meeting MCLE requirements.

If you have questions about the Form 1 process or MCLE compliance, please contact the WSBA Service Center at 800-945-WSBA (9722) or 206-443-WSBA (9722), or e-mail questions@wsba.org.

**MCLE Certification Information for Active Members**

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


<table>
<thead>
<tr>
<th>Reporting Group</th>
<th>Next Reporting Period</th>
<th>Complete Credits by</th>
<th>File C2/C3 Form by</th>
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**New MCLE rules and regulations.** New MCLE rule and regulation amendments went into effect on January 1, 2009. The amendments changed some of the MCLE compliance requirements for the 2007–2009 and later reporting periods. Some of the amendments affect all reporting periods, including (1) there is no longer an automatic extension until May 1, and (2) a member may earn no more than eight credits per day spent attending courses. See www.wsba.org/lawyers/groups/mcle/apr11review07.htm for more information.

**Credit requirements for 2007–2009 and later reporting periods.** The following credit requirements must be met by December 31 of the last year of an active member’s reporting period:

- At least 45 total credits of MCLE Board-approved CLE activities must be taken, which need to include a minimum of 22.5 live credits and six ethics credits. The courses must meet the requirements of APR 11, but they do not need to be taken in Washington state. Many courses are offered around the world which meet the requirements of APR 11.
- “Live” courses include classroom instruction, live webcasts (not pre-recorded webcasts), and teleconferences.
- ”Ethics” courses, and segments of larger courses, must meet the requirements of APR 11 Regulation 101(g) to be considered for ethics credit.
- Pre-recorded self-study (A/V) courses cannot be more than five years old, except MCLE Board-approved “skills-based” courses. Pre-recorded self-study courses include the traditional audio-visual (A/V) media of video tapes and cassette tapes. They also include archived webcasts, DVDs, compact disks, and other media with a sound track of the MCLE Board-approved course presentation. Written materials should be included with these courses and reviewed prior to claiming credit. In addition, written materials must be purchased by each member, where required by the sponsor, prior to claiming credit.
- Six pro bono credits can be earned per year. Two of these credits are for approved annual pro bono training. Four pro bono credits may be earned each year if at least four hours of pro bono work was provided through a qualified legal services provider and if the two credits of required training are completed within the same calendar year.

Condemnation and Real Estate Value Disputes... Call Larry Smith, Jeffrey Beaver and Marisa Lindell at 206.624.8300
Carry-over CLE credits. Carry-over credits from the previous reporting period may be used to meet the requirements of the current reporting period. If your current reporting period credits total exceeds 45, you may carry over a maximum combined total of 15 credits to your next reporting period. Only two ethics credits and five A/V credits may be carried over.

C2/C3 reporting requirement. All active members due to report are required to file a Continuing Legal Education Certification (C2/C3) form listing all CLE courses taken for credit compliance. The deadline for filing your C2/C3 form is February 1 (or the next business day, if February 1 is on a weekend) of the year following the end of your reporting period. Note:

- Your online roster is not a substitute for filing the C2/C3 form (APR 11.6(b)).
- The C2/C3 form is a declaration and must be signed and dated, and the city and state where signed must be identified.
- C2/C3 forms are included in the license packets sent in early December to all members due to report (which will be Group 2 members this year).
- All CLE courses listed on member rosters as of October 2008 are printed on the back of the C2/C3 form. If you took more CLE courses after your form was printed, and if they currently appear on your online roster and you do not want to handwriting them on the back of the C2 form, you may print a copy of your roster and attach it to your C2/C3 form. State on your C2/C3 form that the attached online roster printout is a true and correct statement of the CLE courses taken for credit compliance.
- You must verify that the credit hours listed on the C2/C3 and on your online profile correctly reflect the hours actually attended for each CLE. Online credits may be edited by clicking on the “edit” link next to each course. Credits on the C2/C3 may be corrected manually.
- The C2/C3 form should be filed by February 1 even if all the credits needed for compliance have not been completed.

MCLE late fees. All active members who have not completed their credits by December 31 of the last year of their reporting period, or who submit their C2/C3 reporting forms after March 1 of the following year (the end of the grace period after the February 1 deadline), must pay a late fee. The late fee for the first reporting period of non-compliance is $150 and increases by $300 for each consecutive three-year reporting period of noncompliance.

Newly admitted members. If you are a newly admitted member, you are exempt from reporting CLE credits for the year of your admission and the following calendar year. If you were admitted in 2007, you will not report for this reporting period (2006–2008) even though you are in Group 2. You will first report at the end of the 2009–2011 reporting period. Members admitted in 2008 will not report until the end of the 2010–2012 reporting period. When you report at the end of your first reporting period, you may claim all CLE credits earned on or after your date of admission to the WSBA.

MCLE comity. If you are an active member of the WSBA and your primary office for the practice of law is outside of Washington and if you are a member of the Oregon, Idaho, or Utah state bars (“comity” states), you may meet your Washington mandatory CLE requirements by providing proof of current MCLE compliance from your comity state bar. Only a Certificate of MCLE Compliance from your comity state bar (not a “Certificate of Good Standing”), sent with your WSBA C2/C3 form, will satisfy your MCLE requirements.
in Washington.

**MCLE system — course listing and member profiles.** Members may use the online MCLE system to:
- Review courses taken and credits earned.
- Apply for course approval.
- Apply for writing credit, pro bono credit, or prep-time credit.
- Search for approved courses being offered.

To access the MCLE online system and your member homepage, go to the WSBA website homepage at www.wsba.org. Click on the blue and black “Online MCLE System” box in the right column. Follow the instructions on the screen to reach your MCLE home page. If this is your first time logging on to the MCLE system, be sure to change your password after you log in to maximize security of your online MCLE information. Online help is available. If you have any questions about using the MCLE system or about the MCLE compliance requirements, see the online FAQs at www.wsba.org/lawyers/licensing/faq-mcle.htm, or contact the WSBA Service Center at 800-945-WSBA (9722), 206-443-WSBA (9722), or questions@wsba.org.

**In-house CLEs for 2007–2009 and later reporting periods.** Starting with the 2007–2009 reporting period, there is no restriction on the number of in-house credits that a member may take. However, a lawyer who is associated with or employed by a private law firm or corporate legal department that maintains an office within Washington state may not apply to receive credit for a continuing legal education course sponsored by that private law firm or corporate legal department for which the sponsor did not submit a completed Form 1 (APR 11 Regulation 104(b)(2)).

**Monthly Lawyer Discussion Roundtable**
Hosted by the WSBA Law Office Management Assistance Program (LOMAP), this roundtable is useful for meeting other members and WSBA Lawyer Services Department staff who will answer questions on ethics, practice, and substantive law. We meet the second Tuesday of the month from noon to 1:30 p.m. March 10 is the next scheduled meeting date. Walk-ins are welcome! The roundtable is held at the WSBA office.

**Job Seekers Monthly Discussion Group**
Looking for a job or making a transition? Join us at the informational group that meets the second Wednesday of each month from noon to 1:30 p.m. The next meeting is February 11 at the WSBA office. The group discusses the nuts and bolts of the job search process, focusing specifically on informational interviewing and networking. Exchange information and ideas with other lawyers looking to make a change. Come as you are — no need to RSVP. Bring your business cards and practice networking skills. For more information, call 206-727-8269, 800-945-9722, ext. 8269, or e-mail rebeccan@wsba.org. If you would like to attend the meeting by telephone, please RSVP by March 10.

**New Weekly Support Group for Job Seekers**
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 Tuesday mornings from 10:30 to 11:45. Contact Dan Crystal, Psy.D.,
FYInformation

LAP Solution of the Month: Anger Management
Got rage? Does your temper cause problems for staff, family, or friends? Learn constructive ways to handle your anger before you lose someone or something you value. If you’d like suggestions on how to proceed, call the Lawyers Assistance Program (LAP) at 206-727-8268 or 800-945-9722, ext. 8268.

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 March 9 clinic will be held from 1:00 p.m. to noon at the WSBA office and will focus on using Outlook and Practice Management Software. The March 12 clinic will meet from 2:00 to 4:00 p.m. and will focus on using Adobe Acrobat Professional Versions 8 and 9 (not the Reader). For more information or to RSVP, contact Julie Salmon at 206-733-5914, 800-945-9722, ext. 5914, or juliesa@wsba.org.

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

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.

Upcoming Board of Governors Meetings
March 6–7, Seattle • April 24–25, Richland • May 29, Yakima
With the exception of the executive session, Board of Governors meetings are open, and all WSBA members are welcome to attend. RSVPs are appreciated but not required. Contact Margaret Shane at 206-727-8244, 800-945-9722, ext. 8244, or margarets@wsba.org. The complete Board of Governors meeting schedule is available on the WSBA website at www.wsba.org/info/bog/schedule.htm.

Usury Rate
The average coupon equivalent yield from the first auction of 26-week treasury bills in February 2009 was 0.396 percent. Therefore, the maximum allowable usury rate for March is 12 percent. Information from January 1987 to date is on the WSBA website at www.wsba.org/media/publications/barnews/usury.htm.

1 Q. Can you be a great mom and a rock star trial lawyer?
2 A. Absolutely.
3 Q. Can you name one?
4 A. That’s easy. Ann Rosato.

Peterson Young Putra welcomes Ann Rosato as a partner.
Foster Law Office

takes pleasure in announcing that

Natasha E. Staton

has become a shareholder in the firm.

Our workers’ compensation practice will continue to provide the highest quality legal services to injured workers as

Foster | Staton
A Professional Services Corporation

8204 Green Lake Drive North
Seattle, WA 98103
Tel: 206-682-3436 • Fax: 206-682-3362

www.FosterStaton.com

The partners of

Oles Morrison Rinker & Baker, L.L.P.

are pleased to announce that

J. Todd Henry

has become a partner with the firm.

Mr. Henry has been with the firm since 2002 and will continue his practice representing contractors, project owners, and design professionals in construction law matters.

And

Hillary A. Madsen

and

Adam K. Lasky

have joined the firm as associates.

The firm’s practice focuses on construction, government contracts, and public procurement with the ability to address the wide range of legal matters facing business today: bankruptcy and insolvency, tax and estate planning, and business formation.

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Theresa M. Sowinski (WSBA No. 32549, admitted 2002), of Everett, was disbarred, effective September 10, 2008, by order of the Washington State Supreme Court following approval of a stipulation. Ms. Sowinski affirmatively admitted that the WSBA could prove by a clear preponderance of the evidence sufficient violations of the Rules of Professional Conduct supporting disbarment, including use of client funds for her personal benefit, but did not affirmatively admit all the facts and misconduct herein. This discipline is based on conduct in three matters involving failure to communicate, trust-account irregularities, the commission of criminal acts, and engaging in dishonest conduct that shows disregard for the rule of law and demonstrates unfitness to practice law.

Matter No. 1: In 2002, client A retained the law firm where Ms. Sowinski was employed to represent her in a real estate partition matter. The firm filed a lawsuit on behalf of client A. In October 2003, Ms. Sowinski left the firm to start her own firm and continued to handle client A’s case with client A’s agreement. In April 2004, a Stipulation and Decree for Partition was filed, which stated, in part, that Ms. Sowinski’s “fees and costs shall be charged against the share to be received by [client A]...” The opposing party was represented by Lawyer B.

In June 2004, the property was sold and the net proceeds from the sale, totaling $293,081.09, were transferred into Lawyer B’s trust account by agreement of the parties. Ms. Sowinski sent Lawyer B a fax indicating that her client had an outstanding balance of $12,564.06 for attorney’s fees, and that portion was owed to Ms. Sowinski’s former firm. Lawyer B issued a check in the amount of $105,000 directly to client A. This payment constituted an advance to be deducted from client A’s share of the proceeds. That same day, Lawyer B issued a separate check in the amount of $12,564.06 to Ms. Sowinski’s firm for client A’s legal fees. This amount was to be charged against client A’s total share of the proceeds. Ms. Sowinski deposited the $12,564.06 check into her business account, which was not a trust account, and issued a check in the amount of $2,795.20 to her former firm for client A’s legal fees. On July 12, 2004, Ms. Sowinski issued a billing statement indicating that client A owed $540 in outstanding legal fees. On August 12, 2004, Ms. Sowinski called client A and requested $5,000 for legal fees. Client A owed $540 in outstanding legal fees. On July 12, 2004, Ms. Sowinski issued a billing statement indicating that her client had an outstanding balance of $12,564.06 for attorney’s fees, and that portion was owed to Ms. Sowinski’s former firm. Lawyer B issued a check in the amount of $105,000 directly to client A. This payment constituted an advance to be deducted from client A’s share of the proceeds. That same day, Lawyer B issued a separate check in the amount of $12,564.06 to Ms. Sowinski’s firm for client A’s legal fees. This amount was to be charged against client A’s total share of the proceeds. Ms. Sowinski deposited the $12,564.06 check into her business account, which was not a trust account, and issued a check in the amount of $2,795.20 to her former firm for client A’s legal fees. On July 12, 2004, Ms. Sowinski issued a billing statement indicating that client A owed $540 in outstanding legal fees. On August 12, 2004, Ms. Sowinski called client A and requested $5,000 for legal fees. Client A gave Ms. Sowinski a check in the amount of $5,000, which she deposited into her business account even though Ms. Sowinski had not yet billed the client for fees beyond $540.

In October 2004, Lawyer B wrote a letter to Ms. Sowinski stating that, after calculating legal fees and additional expenses related to the property, client A would receive a final settlement of $112,010.14, which was in addition to any funds previously disbursed to client A (directly or to her counsel). Lawyer B issued a cashier’s check in the amount of $112,010.14 payable to “Theresa Sowinski — Attorney for [client A].” Ms. Sowinski deposited the check into her business account and told client A that, after calculating legal fees and additional expenses related to the property, client A would receive a final settlement of $112,010.14.
A that she would issue a check to her in the amount of $102,010.14. Client A did not receive such a check. In November 2004, Ms. Sowinski and Lawyer B filed a Stipulation and Order for Dismissal with Prejudice and Without Costs. In December 2004, Ms. Sowinski gave Client A a check for $50,000 and informed client A that there was still some money to disburse, but that she had to keep some of it for "outstanding bills."

Client A attempted to obtain an accounting and the rest of her money, which Ms. Sowinski agreed to provide but never did. In March 2005, client A hired a new lawyer to assist her in obtaining an accounting from Ms. Sowinski and recover any monies due. Ms. Sowinski never provided client A with a complete accounting or delivered the funds, totaling at least $62,010.14, which client A was entitled to receive. On June 12, 2006, Ms. Sowinski was charged with first degree theft (major economic offense) under RCW 9A.56.030(1)(a), based on Ms. Sowinski's theft of client A's funds. Ms. Sowinski entered an Alford plea to the charge and, on March 30, 2007, was sentenced to 12 months and one day with credit for time served. In April 2007, Ms. Sowinski was ordered to pay $67,000 in restitution to client A.

**Matter No. 2:** In early 2005, client B hired Ms. Sowinski to represent her in the sale of her home and an adjoining lot. A few days before closing, Ms. Sowinski had her assistant take papers to client B's home for her signature, one of which was a document authorizing the closing agent to wire the proceeds from the sale of the property to Ms. Sowinski's trust account. Client B refused to sign the document. The following day, Ms. Sowinski went to client B's home. She advised client B that the sale proceeds should be deposited into her personal account. She advised client B that the funds were in her trust account and that she would deliver them to her. Ms. Sowinski disbursed $8,250 to the escrow company for closing costs related to the sale of client B's property. In October 2005, Ms. Sowinski disbursed $8,250 to the escrow company for closing costs related to the sale of client B's property. In December 2005, client B received a notice from a collection agency requesting payment of another department-store credit-card debt. Client B forwarded the notice to Ms. Sowinski. In January 2006, client B received another notice from a collection agency requesting payment of the same department-store credit-card debt. The collection agency offered to settle her debt of $8,866.94 for $3,990.12 if client B made payment within 10 days. Client B forwarded the notice to Ms. Sowinski and asked her to pay the debt. Ms. Sowinski falsely told client B that she had paid the department-store credit-card debt in October 2005. In May 2006, client B ordered her credit report and learned that Ms. Sowinski had never paid the department-store credit-card debt.

Between June 9, 2005, and March 27, 2006, Ms. Sowinski disbursed $80,000 to client B. In January 2006, client B asked Ms. Sowinski to transfer all remaining funds from her trust account to client B's personal account. Ms. Sowinski agreed, but did not transfer the funds. Over the ensuing months, client B called, wrote, and e-mailed Ms. Sowinski requesting delivery of her funds. Ms. Sowinski falsely assured client B that the funds were in her trust account and that she would deliver them to her. Ms. Sowinski did not deliver any additional funds to client B. She should have maintained $248,926.12 of client B's funds in her trust account, but did not. During the period June 2005 to March 2006, Ms. Sowinski issued checks totaling $212,868 to herself or her law firm. During the same period, Ms. Sowinski disbursed an additional $29,345 by counter withdrawal. She used client B's $248,926.12 for her personal benefit and never provided client B with a complete accounting. Ms. Sowinski was charged with first-degree theft (major economic offense) under RCW 9A.56.030, based on her theft of client B's funds. On February 28, 2007, Ms. Sowinski entered a guilty plea. She was sentenced to 12 months and one day with credit for time served and ordered to pay $258,000 in restitution to client B.

**Matter No. 3:** In August 2001, an individual (client C) underwent a total knee replacement. Subsequently, client C developed a serious infection, which resulted in amputation. Client C retained a law firm (Law Firm) to review her claims against the doctor(s) and hospital. On August 26, 2004, Law Firm filed a medical malpractice lawsuit on client C's behalf to prevent the statute of limitations from running. In October 2004, Law Firm advised client C that the firm did not believe there was a basis for pursuing the lawsuit.

Facing a deadline to serve the lawsuit within 90 days after it was filed, client C hired Ms. Sowinski to take over her case. On November 1, 2004, client C and Ms. Sowinski signed a Letter of Engagement providing for a flat fee of $20,000 covering the period November 1, 2004, to November 26, 2004. The Letter of Engagement stated that the "scope of this agreement is limited to the comprehensive investigation regarding the feasibility of [client C] bringing forth suit for medical malpractice," that Ms. Sowinski agreed "to investigate client's possible and potential claims involving multiple possible defendants, including but not limited to medical providers, care facilities, hospitals, and transportation services," and that "should [client C] decide to file an action ... she acknowledges that another attorney/fee agreement must be entered into." Based on her discussions with Ms. Sowinski, client C paid Ms. Sowinski $20,000 with the understanding that Ms. Sowinski's plan was to develop new litigation strategies, not to repeat the work of Law Firm or to make a threshold decision about whether or not to take the case. Client C also understood that she would not have to pay more than $20,000, because Ms. Sowinski would present her case to a "panel" that could finance the balance of her lawsuit and that Ms. Sowinski would assist her in an unrelated matter involving two companies.

Client C's case was Ms. Sowinski's first medical malpractice case. Client C was not aware that Ms. Sowinski had never handled a medical malpractice case. In November 2004, Ms. Sowinski contacted a medical expert headhunter, ordered two volumes of medical records, provided the new medical records and client C's existing documents to an infectious-disease expert, and held telephone conferences with the expert. Ms. Sowinski states that she did research and consulted other lawyers regarding client C's case. However, a portion of Ms. Sowinski's work was to educate herself in an unfamiliar area of law and science. On or about November 22, 2004,
Stephen D. Cramer (WSBA No. 9085, admitted 1979), of Federal Way, was suspended for eight months and received a reprimand, ineffective December 11, 2008, by order of the Washington State Supreme Court following an appeal. This discipline is based on conduct involving trust-account irregularities, misrepresentations, conduct prejudicial to the administration of justice, and violations of the Rules for Enforcement of Lawyer Conduct. Stephen D. Cramer is to be distinguished from Steven A. Kraemer of Portland, Oregon.

In May 2001, client G hired Mr. Cramer to represent him in a criminal case involving theft and violating a duty or sanction imposed by or law firm be deposited therein; 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; and RPC 8.4(f), prohibiting a lawyer from violating a duty or sanction imposed by or under the Rules for Enforcement of Lawyer Conduct (here, ELC 5.3(e)) in connection with a disciplinary matter.

Leslie C. Allen and M. Craig Bray represented the Bar Association. Leland G. Ripley represented Mr. Cramer. Edward L. Dunkerly was the hearing officer.

Reprimanded

Gregory D. Esau (WSBA No. 22404, admitted 1993), of Seattle, was ordered to receive a reprimand on October 14, 2008, by order of the Washington State Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of California. This discipline is based on conduct involving failure to comply with a notice of suspension. For more information, see the California Bar Journal, Discipline (January 2009), available at http://calbar.ca.gov.

Mr. Esau’s conduct violated California Rules of Court, rule 9.20 (formerly rule 955), requiring that within such time as the order may prescribe after the effective date of the member’s disbarment, suspension, or resignation, the member must file with the clerk of the State Bar Court an affidavit showing that he or she has fully complied with those provisions of the order entered under this rule.

Joanne S. Abelson represented the Bar Association. Patrick C. Sheldon represented Mr. Esau.

Reprimanded

Catherine S. Willmore (WSBA No. 33459, admitted 2003), of Seattle, was ordered to receive a reprimand on July 11, 2008, by order of a hearing officer following a hearing. This discipline resulted from conduct in three matters involving failure to provide competent representation, lack of diligence, failure to communicate, and trust-fund irregularities.
Between 2004 and 2006, Ms. Willmore was hired in three immigration matters to represent clients before both the Board of Immigration Appeals (BIA) and the Ninth Circuit Court of Appeals (Ninth Circuit). In two matters, Ms. Willmore failed to notify clients of adverse BIA decisions. The clients had 30 days to file appeals to the Ninth Circuit or to agree to voluntary departure; however, as she failed to inform her clients, they were unable to pursue a timely appeal or voluntary departure and became subject to immediate removal. One client was eventually arrested and detained for nine months by immigration officials because she had not voluntarily left the United States or filed an appeal.

In the third matter, Ms. Willmore failed to file a client’s appeal of an adverse immigration judge’s decision to the BIA within the 30-day deadline, which made the client subject to immediate removal from the United States. Ms. Willmore accepted a $610 check from the client, which was meant in part to pay the $110 filing fee for the appeal. The client’s check was not deposited into Ms. Willmore’s trust account, and Ms. Willmore did not pay the $110 filing fee for the BIA appeal. Ms. Willmore finally returned the funds to the client more than a year after receiving them.

Ms. Willmore’s conduct violated RPC 1.1, requiring a lawyer to provide competent representation to a client; RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; 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; and 1.14(a), requiring all funds of clients paid to a lawyer or law firm, including advances for costs and expenses, to be deposited in one or more identifiable interest-bearing trust accounts maintained as set forth in the rules and no funds belonging to the lawyer or law firm to be deposited therein.

Kevin M. Bank represented the Bar Association. Kurt M. Bulmer represented Ms. Willmore. Margarita V. Latsinova was the hearing officer.

Admonished

Kaaren L. Barr (WSBA No. 22092, admitted 1992), of Seattle, was ordered by a review committee of the Disciplinary Board to receive an admonition on August 7, 2008. This discipline was based on conduct involving failure to diligently represent clients.

During 2005, Ms. Barr represented four children in immigration proceedings. Ms. Barr filed I-485 applications for all four children. One application was denied because of a missing signature on an earlier pleading. The other three were denied because the priority dates were not current. Ms. Barr did not read the denials carefully and believed that all four applications were denied because of the missing signature.

In 2006, the children were placed in removal proceedings, and Ms. Barr’s defense centered on the missing signature. She did not advise her clients to renew their I-485 applications, even though their priority dates had become current. The family was ordered to leave the country. In 2007, Ms. Barr agreed to represent the same children in an appeal. The Court issued an Order to Show Cause. Ms. Barr did not respond and the case was dismissed. The family retained new counsel, who filed a motion to reopen the case to allow the children to renew their I-485 applications. The motion was granted.

Ms. Barr’s conduct violated RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client.

Marsha A. Matsumoto represented the Bar Association. Ms. Barr represented herself.

Non-Disciplinary Notices

Suspended Pending the Outcome of Disciplinary Proceedings

John P. Brownlee Jr. (WSBA No. 36432, admitted 2005), formerly of Oldtown, Idaho, was suspended pending the outcome of disciplinary proceedings, pursuant to ELC 7.1 (Interim Suspension for Conviction of a Crime), effective December 31, 2008, by order of the Washington State Supreme Court. This is not a disciplinary action.

Suspended Pending the Outcome of Disciplinary Proceedings

Paul H. King (WSBA No. 7370, admitted 1977), formerly of Seattle, was suspended pending the outcome of disciplinary proceedings, pursuant to ELC 7.1 (Interim Suspension for Conviction of a Crime), effective January 6, 2009, by order of the Washington State Supreme Court. This is not a disciplinary action.

Suspended Pending the Outcome of Disciplinary Proceedings

Gary E. Randall (WSBA No. 15020, admitted 1985), of Woodinville, was suspended pending the outcome of disciplinary proceedings, pursuant to ELC 7.2(a)(3), effective January 22, 2009, by order of the Washington State Supreme Court. This is not a disciplinary action. Gary E. Randall is to be distinguished from Gary C. Randall of Spokane.

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

Animal Law

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April 17 — Seattle. CLE credits pending.
By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Business Law

Business Law
March 19 — Seattle. CLE credits pending.
By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Business in Distress: Receivership or Chapter 11?
March 25 — Seattle. 6.5 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Environmental Law

2009 ELUL Midyear — Sustainability: Solving the Challenges Ahead
April 23–25 — Chelan. 12.5 CLE credits, including 1 ethics pending. By the WSBA Environmental and Land Use Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethics

New Rules of Professional Conduct for Limited Practice Officers
March 19 — Seattle. 4 LPO liability credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

New Rules of Professional Conduct for Limited Practice Officers
March 20 — Spokane. 4 LPO liability credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethics in Civil Litigation Institute
April 22 — Seattle. 6.25 ethics credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

General

A Tribute to the Honorable Betty Binns Fletcher — A Symposium
March 6 — Seattle. 4.75 CLE credits. By UW School of Law; www.uwcle.org; 206-543-0059.

Lincoln on Professionalism
March 26 — Seattle. 2.75 ethics credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Lincoln on Professionalism
April 2 — Olympia. 2.75 ethics credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Lincoln on Professionalism
April 15 — Spokane. 2.75 ethics credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Auto Crashes

Nonprofits
April 29 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Brain Injury

Intellectual Property Law

14th Annual Intellectual Property Institute
WSBA Office of Disciplinary Counsel seeks a part-time (20 hours/week) intake counsel. The Office of Disciplinary Counsel (ODC) reviews, investigates, and analyzes grievances against lawyers for alleged acts of professional misconduct. Intake counsel assists and provides backup to the intake manager in the original evaluation of grievances by making decisions on the disposition of grievances; opening of files;
developing systems for the preservation of database information and related statistical tracking; writing dismissal letters; handling daily correspondence as assigned; and providing guidance to non-lawyer staff on situations/inquiries from members and the public about the lawyer discipline system. This position reports to the intake manager and occasionally supervises a work team of four others when assigned. Attention to detail is critical, as is the ability to work independently and as a team player, problem solve, take initiative, prioritize, and multitask. The position will require the ability to understand and apply detailed office policies and procedures and applicable court rules in addressing departmental operations and deadlines. Requirements include a bachelor’s and J.D. degree or completion of the Law Clerk Program, an active Washington license, and five years’ experience in the practice of law. Significant experience in both criminal and civil practice is preferred. A successful candidate must have excellent communication and writing skills, as well as the ability to meet deadlines and handle a high volume of work. Demonstrated proficiency in Word/Outlook is required, as is the ability to retrieve information quickly and accurately from an electronic database. Interested, qualified candidates should submit a cover letter, résumé, and writing sample to: Human Resources, WSBA, 1325 4th Ave., Ste. 600, Seattle, WA 98101; fax: 206-727-8321; hr@wsba.org.

Workers’ Compensation — Seeking an attorney to represent employers as part of a Washington workers’ compensation practice. Send cover letter and résumé to VavRoky MacColl, 1 SW Columbia, #555, Portland, OR 97258.

Beautiful Olympic Peninsula — Exclusive personal injury firm seeks litigator for expansion position. This entails all aspects of litigation including trial. Experience welcome but not necessary. Salary DOE. McMenamin & McMenamin PS. 544 N. 5th Ave., Sequim, WA 98382, 360-683-8210. sequimmclaw@olypen.com.


Attorney — Microsoft Corporation, Redmond. Do you want to be part of the next big thing at Microsoft? Are you a seasoned attorney seeking an opportunity to support a paradigm shift in Microsoft’s business? Microsoft Legal and Corporate Affairs is looking for an attorney to support Microsoft Online Services, which delivers enterprise-class cloud services to business customers. This attorney will support Microsoft’s emerging enterprise “software plus services” offerings, with a focus on supporting the company’s distribution channels worldwide. Please view full job description at www.microsoft.com/careers. Use job code 252473.

Attorneys. Quid Pro Quo has current openings in Seattle for partners, of counsel, in-house counsel, and associates, including positions for: (1) business transactions partners; (2) a trademark/IP partner; (3) associates with three-plus years in patent prosecution; (4) business litigation partners with portable books of business; (5) tax associates; and (6) an in-house management attorney with over five years of class-action litigation experience. We also have out-of-state openings for an east coast regulatory/FDA in-house counsel and a southwest trademark in-house counsel. For initial inquiries, please contact Jean Seidler Thompson, Esq., in confidence, at 206-224-8269 or at JT@QPQlegal.com. For over 13 years, Quid Pro Quo, attorney and executive placement division of Law Dawgs, Inc., has operated as the leading provider of quality attorney recruitment for direct hire and contract attorney placement in the Northwest. Please visit our website at www.QPQlegal.com for details about these opportunities.

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Experienced contract attorney loves legal research and writing. WSBA member with 27 years of experience writes trial briefs, motions, and memoranda, using UW Law Library and LEXIS online resources. Elizabeth Dash Bottman, 206-526-5777, bjlizabeth@qwest.net.

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

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

Contract attorney. Experienced litigator available for all aspects of litigation, including court appearances, motions practice, research, and appeals. Former name partner in boutique litigation firm. 17-plus years’ experience. Have conducted numerous jury trials and arbitrations. Reasonable rates. Peter Fabish, 206-545-4818, pfab99@gmail.com.

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

TAMS — practice and billing management for attorneys. Implementation, customization, training and support of Bar-recommended Lexis Nexis: Time Matters and PC Law. We provide free evaluations, conducted by certified professionals, of your current IT environment. We will streamline your existing systems to increase productivity. Contact Phil Hearn at 360-210-7000 or e-mail info@tamsusa.com.


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Mill Creek Town Center office share available. Call 425-742-9100.

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You know that DUI law and science are forever evolving and that you have probably not kept up with the latest changes. Wrong advice at this critical moment could irreparably harm your caller’s case, their career, their life. This caller, your client, family member, or friend, needs a lawyer skilled in the science of breath and field sobriety testing, as well as DUI law. Ms. Callahan is that lawyer.

Trained by the DataMaster manufacturer, certified to administer field sobriety tests, she is a frequent speaker at CLEs relating to DUI defense. Thomson-West selected her to author the *Washington DUI Practice Manual*, and a piece on *DUI Scientific Evidence* in a treatise, *Inside the Minds*. Ms. Callahan is also the author of the *The DUI Book, Washington Edition*, to be released soon.

Ms. Callahan, both caring and aggressive, has received overwhelmingly favorable reviews from clients as posted on the firm’s website. Ted Vosk, of Counsel to Callahan Law has distinguished himself as one of the most brilliant lawyers of our generation, taking the lead in the recent challenge to the irregularities in the procedures of the state toxicology lab.

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