Justice in Jeopardy

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The Washington State Bar Association’s mission is to serve the public and the members of the Bar, ensure the integrity of the legal profession, and to champion justice.
Steve Hayne has practiced criminal law for over 30 years and for over 20 years has limited his practice to defense of DUIs and serious traffic offenses. He offers personal attention, sincere compassion, and extraordinary experience to clients facing the devastating impact of a DUI charge.

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

Mr. Hayne is a past President of WACDL and has chaired the Criminal Law Sections of the WSBA, WSTLA and KCBA. He has taught trial practice at the University of Washington and Seattle University Schools of Law, the National Institute of Trial Advocacy and the Trial Masters Program. He has been a featured speaker at over 80 CLE programs in the U.S. and Canada and has published articles in the Bar News, Trial News, Defense and Overruled magazines. Mr. Hayne is also a founding member of the Washington Association of Criminal Defense Lawyers, the National College for DUI Defense, and the Washington Foundation for Criminal Justice.
Zackery Lystedt, then 13, loved playing football. He was a star on his school team. But on Oct. 12, 2006, Zack played an outstanding game that would be his last. During the first half he made a tackle at the goal line and landed hard, slamming his head on the field. An official timeout was called and Zack was removed from the game for a play and his coaches kept him out for the next two plays. Zack returned without medical clearance at the beginning of the third quarter and played most of the second half. After the game, Zack lost vision, fell to the ground with convulsions and was rushed to Harborview Medical Center where he underwent life-saving brain surgeries.

The first-half blow was a concussion. This would have been a mild injury if he had been sidelined for the rest of the game. However, his continued play aggravated the concussion causing massive bleeding inside his skull. Now 16-years old, Zack is wheelchair bound and requires 24-hour supervision.

Attorneys Richard H. Adler and Michael Nelson concluded the case against a local school district for the maximum insurance policy limits, an amount that remains confidential at the request of all parties. Inspired by Zack’s story, on May 14, 2009, Gov. Christine Gregoire signed into law House Bill 1824, or the “Zackery Lystedt Law,” which prohibits youth athletes suspected of sustaining a concussion from returning to play without a licensed healthcare provider’s approval. The new law is the most enlightened and comprehensive return-to-play law in the United States for young athletes.

“Justice is truth in action”: the Lystedt case.

Attorneys Adler and Nelson came together to form a formidable legal team on Zack’s case, both having focused their practices on traumatic brain injury litigation. Richard H. Adler is the immediate-past president of the Brain Injury Association-WA and his practice emphasizes the representation and advocacy of traumatic brain injury survivors. Michael Nelson handled the first “second impact” brain injury case in the nation in 1997 and his firm’s focus is on traumatic brain cases. Together, Adler and Nelson mobilized to pass the “Zackery Lystedt Law” to ensure a safer future for youth athletes.
Get published!

*Bar News* is looking for a few good writers.

See your name in lights (well, in ink anyway) in *Bar News*! If you have an article of interest to Washington lawyers or have been meaning to write one, see page 5 for article submission guidelines. Questions? Contact barnewsarticles@wsba.org.

**Correction:** In the October *Bar News*, it was incorrectly stated that WSBA President-elect Steven Toole had served on the King County Bar Association Board of Trustees. It should have stated that he served on the East King County Bar Association Board of Trustees, the same association of which he served as president. *Bar News* apologizes for the error.
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ACCEPTING REFERRALS
I love November. November brings Thanksgiving. Thanksgiving traditions for our family include turkey, stuffing, cranberries, mashed potatoes, pumpkin pie, listening to Arlo Guthrie’s “Alice’s Restaurant” (the long version), and reflecting on the Justice in Jeopardy Initiative in Washington state.

Okay, I lied. Sometimes we skip the pumpkin pie and have apple instead.

And this is the first year that I’ve thought about the Justice in Jeopardy Initiative.

This edition of the Bar News is devoted to the Justice in Jeopardy Initiative. “Justice in Jeopardy” is a nice catchphrase but for me, there’s a problem — it’s a bit deceptive. You read it and think, justice is alive and well but if we don’t take certain steps, then its health may be in jeopardy.

But justice is not alive and well. It may not be on life support but it’s not running wind sprints either. And we all know it.

The schoolyard bully can pretty much do what he wants.

If you’re poor, and you have a legal problem (which believe it or not, if you’re poor, you’re much more likely to have a legal problem than if you’re not poor), you can pretty much forget about justice — shoot, you can pretty much forget about even the chance of getting justice. You don’t even think about getting a fair shake in court because you can’t get in the courthouse — for you, those doors are closed tighter than Al Capone’s vault. If you’re poor, the schoolyard bully can take your lunch money every day and there’s nothing you can do about it. And the bully knows that, too.

Years ago, Dianne Conway, then an associate with my firm and now a partner, and I represented two separate clients, one a married couple and the other a single woman, who were the victims of the schoolyard bully. The bully was a landlord in Tacoma who, for years, had been running a scheme where, when one of his units became vacant, he would list it as available for rent. It was not unusual for a couple of people to give him deposits — for the same unit. He would rent to one and then inform the other that the unit was rented. When they asked for a return of their deposits, he told them to pound sand. He had been doing this for years — with impunity. The amounts were too small for the prosecutor’s office to handle. For literally dozens of people who gave this landlord their money, justice wasn’t simply at risk — it didn’t exist. Because they lived on the edge of financial solvency, they had no funds to hire an attorney, and because they had no funds, the courthouse doors were closed. But for the legal service providers in my area who asked me to take on this case, justice would not have existed for my clients. They literally would have found themselves out on the streets.

While the state provides funding for civil legal aid, it’s not enough. Because funding is inadequate, for the vast majority of this state’s low-income people, justice is a face on the side of a milk carton.

Justice delayed is justice denied.

Not only a catchy phrase but also one filled with truth: delays in the criminal justice system deny justice to the victims, those accused of committing the crime, and society as a whole. Delays in proceeding to trial affect the integrity of the proceedings themselves: degradation or loss of evidence, impairment of witnesses’ memories, or the loss of witnesses themselves. The same holds true for those involved in civil litigation, as attorney fees and costs spiral with each trial continuance caused by lack of courtrooms.

We all know that a trial date, as long as there are available courtrooms, drives both pleas in the criminal system and settlements in the civil system. Without pleas and settlements, the system becomes overwhelmed and breaks down.

Are courtrooms available for trial?

In my county, you’re about as likely to see Judge Leighton shank a tee-shot out of bounds as having your civil jury trial heard on the date originally scheduled — it happens, but it’s rare. And it just got worse. The court terminated, because of budget cuts, a pro tem program that helped provide additional courtrooms to hear civil cases. As for those accused of a crime, Pierce County has a backlog of more than 1,500 pending cases — this after a concerted effort by the Superior Court, Prosecutor’s Office, and Department of Assigned Counsel to reduce that number from a high of 2,200 pending criminal cases.
Pierce County is not alone in being overwhelmed. On September 17, I asked Judge Reukauf, of the Yakima County Superior Court, about the effect the lack of funding was having in her county. She replied that there were 53 criminal cases trailing to be heard on that day alone. As for civil cases in Yakima County, Judge Reukauf cautioned: “If our budget is reduced further for 2010, it will force what resources we have to be used solely for criminal cases.” Not a comforting thought for those who are looking to the courts for justice.

The picture is the same across the state. In Franklin County, they are recessing trials on some Friday afternoons because of mandatory furloughs within the prosecutor’s and clerk’s office. In Chelan County, the Mandatory Arbitration Program has been terminated. In Snohomish County, 10 percent of the prosecuting attorneys were terminated. In King County, 20 deputy prosecutors were terminated. In Thurston County, court time available for jury trials is being reduced by six weeks and may be reduced by 10 weeks.

And don’t even ask me about Cowlitz County.

Things are so bad in Cowlitz County that the Cowlitz County Superior Court asked the Administrative Office of the Courts to conduct a study to determine whether the court had adequate resources to handle its caseload. The court was concerned “that recent budget reductions had rendered the court incapable of meeting its constitutional and statutory obligations to administer justice.”

With each swing of the budget axe, Cowlitz County Superior Court is seeing justice leaving the train station with Cowlitz County standing on the station platform. Budget cuts forced the court to eliminate mandatory family law settlement conferences that historically resulted in the resolution of 85 percent of dissolution cases. One courtroom cannot be used for trials one day per week because courtroom clerks are being furloughed. Juvenile court was forced to close one day per week except for detention hearings because of budget cuts. The state Legislature authorized a fifth superior court judge in Cowlitz County, but there is no county funding to pay for the position. After an extensive study, the Administrative Office of the Courts reached the following conclusion:

While no easily defined “bright line” standard exists for determining whether the court has adequate and sufficient resources, Cowlitz County is so far outside the mainstream on nearly every objective measure, that line — however defined — has clearly been crossed.

As Cowlitz County Superior Court Judge Steve Warning told me: “Our backs are against the wall and our options are dwindling.” One of the limited options, one that the judges are working to avoid, is a lawsuit against the Cowlitz County commissioners to require the council to provide adequate funding for the courts. As much as I know that the local judges do not want to get into a dispute with an equal branch of the government, the judges are duty-bound to uphold the Constitution and ensure that there is a functioning justice system for those they serve.

Even with the great efforts and strides made by the Justice in Jeopardy Initiative, Washington state still ranks last among the 50 states in the state’s contribution toward trial court, prosecution, and indigent defense funding. As a result, the counties, such as Cowlitz, are forced to shoulder 80 percent of the expense. And county revenues have been shrinking faster than the polar ice cap.

So speak out. Each Thanksgiving do more than eat some turkey, do more than listen to “Alice’s Restaurant” — send those e-mails, let your state and local representatives know that you care about funding the justice system.

What can you do?

Once again, it isn’t that hard to make a difference. Take two minutes to find your state representatives (go to http://apps.leg.wa.gov/districtfinder/default.aspx) and then one minute to write a simple message: “I want to thank the Legislature for continuing to fund our state’s trial courts, indigent criminal defense, parent dependency representation, and civil legal aid at almost the level it was able to do so in 2008. I not only hope, but I encourage, you to continue to improve this state’s funding for our civil and criminal justice system.” That’s it — two sentences — it doesn’t have to be long. But, if you’re like I am (and I’m hoping you’re better than that), you are on the lazy side and want to write something even shorter. In that case, go for the Mungia version and just write four short words: “Fund our justice system.”

Now, if just one person writes to their legislator, and simply writes “Fund our justice system,” that legislator will probably just think that constituent is crazy. If two of you write that same legislator with the message “Fund our justice system,” then that legislator may start taking heed. And, as Arlo Guthrie might put it:

You know, if three people do it, three, can you imagine, three people writing to their legislators and saying “Fund our justice system” they may think it’s an organization. And can you, can you imagine 50 people a day, I said 50 people writing to their legislators saying “Fund our justice system,” they may think it’s a movement.
Heed the words of State Representatives Jamie Pedersen and Jay Rodne: “In these difficult times, county and state elected officials need to hear from constituents. . . . Elected leaders listen.” And listen to State Senator Adam Kline: “Lawyers are the ones who can — and therefore must — speak out about the primacy of justice in state government.”

So speak out. Each Thanksgiving, do more than eat some turkey, do more than listen to “Alice’s Restaurant” — send those e-mails, let your state and local representatives know that you care about funding the justice system.

And who knows? They may think it’s a movement. 😊

WSBA President Salvador Mungia can be reached at smungia@gtl-law.com.

NOTES
2. Id.
3. My apologies to Arlo Guthrie.
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You will read in this special issue of Bar News about the state of court funding in Washington and about the Justice in Jeopardy Initiative. The facts are stark in courthouses, public defender and prosecutor offices, and legal aid programs around the state, as the number of those who need access to the courts and legal assistance continues to climb while resources for delivering justice dwindle.

Legislators and county and city council members are charged with balancing the needs of the community with those declining resources. They confront painful decisions as they face cutting the very programs and systems they have fought so hard to build.

You can make a difference in the decisions of those policymakers.

Washington’s lawyers have a long history of successful legislative advocacy. For over 30 years, WSBA sections and the Board of Governors have brought their expertise, experience, and creative problem-solving skills to the policymaking table. Over the years, hundreds of lawyers have volunteered thousands of hours developing WSBA’s legislative proposals, responding to the proposals of others, testifying before committees, and providing practical legal expertise to lawmakers. The WSBA and its sections, through the work of individual lawyers, have built a reputation for thoughtful and effective legislative advice and advocacy. When these lawyers speak, people listen.

In this issue of Bar News, we are calling on you in your unique capacity as a lawyer to raise your voice in support of our justice system. We come to this profession because we believe that a just system of laws, applied fairly, is essential to our system of government. But access to justice requires a very real and very practical infrastructure. As lawyers, we know firsthand the effects on our clients’ lives when they must wait and wait and wait for their day in court. We know how and why the costs of delay are borne by both our clients and society.

That first-hand experience and commitment to justice make lawyers uniquely credible as advocates for the justice system. The first — and second and third — rule for influencing public policy is this: Show up. Elected officials care what their constituents think and they pay attention to their constituents. Be sure your elected officials are paying attention to the justice system.

The Board of Governors supports the Justice in Jeopardy Initiative and encourages members to participate in advocating for legislative support of these programs. Here’s how:

- Write your legislators. Thank them, and tell them why justice — and the court system — matters.
- Better yet, make an appointment and meet with them in their district office.
- Attend a county council budget hearing and tell them why court funding matters.
- Contact your local bar association and join its efforts to support court funding at the county level.
- Talk to your friends, neighbors, and community organizations about why courts matter.

The 2010 Legislature convenes on January 11, 2010, for a 60-day session to address the supplemental budget and proposed legislation. Act now to shape the decisions your legislators will make during the upcoming session.

Gail Stone is the WSBA director of justice and diversity initiatives and can be reached at gails@wsba.org. Paula Littlewood is the WSBA executive director and can be reached at paulal@wsba.org.
Justice in Jeopardy
We knew two things when we started down this path in 2002: first, that justice is the business of government; and second, that justice was in jeopardy in the state of Washington.

Why Should We Care?
If you ask anyone, “Should trial courts dispense justice?” No doubt the answer will be a resounding “Yes!” But what if our trial courts struggle to provide an accessible, fair forum to promptly resolve cases because they lack adequate and stable funding? Why should every lawyer, every person living in Washington, care?

Just imagine that you cannot speak English and that no one in court can translate what is happening for you. Or imagine that your children have been taken away, or that you are charged with a crime but your case has been assigned to a defense attorney burdened with too many cases.

Consider the effect on your business or your life when you can’t receive a timely trial because of crowded court calendars. What if you cannot get even the most elementary legal advice on how to obtain a domestic violence protection order because you are poor?

In 2002, these were just a few examples of the state of affairs faced by Washington’s trial courts. These conditions have profound implications for our justice system. The cause is an antiquated county- and city-based funding structure.

“Year after year, the trial courts faced budget woes that interfered with the judges’ ability to provide equal, timely, and accessible justice,” said Wayne Blair, a past president of the Washington State Bar Association and chair of the Trial Court Funding Task Force. “It was clear that we needed to restructure how trial courts are funded.”

Our goal was nothing less than to achieve adequate, stable, and long-term funding for the trial courts, and ultimately for indigent criminal defense, parent dependency representation, and civil legal aid for the poor.

First, the Good News
Between 2005 and 2008, the Washington Legislature provided $78 million per biennium in new funding for the trial courts, the counties, indigent criminal defense, parent dependency representation, and civil legal aid. Even in 2009, in the worst economic crisis since the 1930s, we retained $75 million per biennium — almost 96 percent — a success by any measure. The Justice in Jeopardy Initiative continues to be the most significant reform effort of the judicial branch since statehood. We are on the right path, and we will continue working with the Legislature until we can deliver on the promise of equal and accessible justice for all.

Where We Started
For over 100 years, the counties and cities shouldered almost the entire financial burden of the trial courts. By 2002, it was clear that local government lacked sufficient revenue sources to fund the trial courts and related judicial branch services adequately. Here’s a snapshot:

Crowded calendars in trial courts across the state resulted in long delays. In 2002, in one county, courts were jammed with approximately 6,000 felonies in addition to civil cases. Some judges were hearing 70 cases a day. One man, freed when his case was not tried by the deadline, broke into a home and raped a young mother. Then, while fleeing police, he crashed into a young man on his way home from work and killed him instantly. Crowded calendars also delayed dependency hearings, in one case contributing to the death of a three-year-old girl.

Our goal was nothing less than to achieve adequate, stable, and long-term funding for the trial courts, and ultimately for indigent criminal defense, parent dependency representation, and civil legal aid for the poor.

Public defense was so poorly funded in many counties that convictions were being overturned as a result.
of ineffective counsel. In an eastern Washington county, one man served his full five-year sentence before his conviction was reversed, as did a 14-year-old boy, who served one year in a juvenile facility for robbery before an appeals court reversed the conviction, calling his attorney’s performance “inexplicable.” In 2002, in a western Washington county, one defender had a caseload of 587 cases, more than six times the recommended national standard. The American Civil Liberties Union filed suit against another county for failing to provide adequate public defense, and the Seattle Times chronicled the state’s uneven public defense system in a special series entitled “An Unequal Defense: The Failed Promise of Justice for the Poor.”

Civil legal aid for the state’s low-income residents continued to decline. The number of legal aid attorneys shrunk from 140 to just over 100 because funding was cut back by nearly a third between 1980 and 2004. During the same period, the state’s low-income population doubled. A ground-breaking study released in 2003 surprised even long-time civil legal aid advocates, showing that only 15 percent of Washington low-income residents with serious civil legal problems received any help.

These serious problems made headlines, but there was more. Thousands of dependent children had no legally required guardians ad litem, the need for qualified interpreters mushroomed, and crowded court calendars meant cases were repeatedly continued. Our information systems desperately needed upgrades. Probation services were being slashed, leaving no one to supervise offenders.

For three decades, seven judicial branch task forces and commissions recommended that the Board for Judicial Administration (BJA) directly address the problem of trial court funding.

In 2002, the BJA did just that, creating the Trial Court Funding Task Force. More than 100 people from every stakeholder group devoted thousands of hours from 2002 to 2004 to this effort, studying and then recommending how to achieve “adequate, stable, and long-term funding for the trial courts.” Its report, Justice in Jeopardy: The Court Funding Crisis in Washington State, was published in December 2004.

By that time, the WSBA had completed its examination of public defense, and the Supreme Court’s Civil Equal Justice Task Force had published its ground-breaking report. These three reports became the core of the Justice in Jeopardy Initiative, which seeks to completely restructure how trial courts, indigent criminal defense, and parent dependency representation are funded and calls for additional funding for civil legal aid for the poor.

Nexus Approach
The BJA adopted an approach that draws
Civil legal aid programs currently are experiencing a flood of clients facing homelessness due to foreclosures, a skyrocketing need for bankruptcy assistance, and other serious legal problems as a result of the economic downturn.

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

Make a secure online tax-deductible contribution today at www.c4ej.org.

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

It’s not justice if it’s not equal.
a nexus between those activities the state mandates by Constitution or statute and those it should pay for, such as judges’ salaries, juries, interpreters, guardians ad litem for children, recordings of proceedings, and costs for criminal indigent defense and parent dependency representation. When the Justice in Jeopardy Initiative is completed, the state and counties will share roughly equally in trial court costs and indigent defense.

Like maintaining a balanced investment portfolio, we believe this shared responsibility is the best approach for funding Washington’s trial courts and related judicial branch services. Other states have shifted to total state funding with disastrous results. Courts have been forced to close for certain periods in Oregon and California, for example, and judicial branch budgets have been slashed in many states. The nexus approach appears more secure, because required costs such as jury and interpreter expenses and judges’ salaries are less likely to be cut, leaving judges to work with local elected officials for the balance of court budgets.

Fundamental Principles
Several principles adopted by the BJA form the foundation of the Justice in Jeopardy Initiative. A few are especially important to remember as we continue our efforts to ensure that Washington’s trial courts are fair, timely, and accessible:

Branch of government — general taxes. As a branch of government, courts should be funded largely by general tax revenues, not by user fees.

User fees. Reasonable user fees that initiate a case (filing fees, counter, and third-party claims) are appropriate. User fees to prosecute or defend a case (answer fees, motion fees, etc.) are not appropriate.

State’s obligation. The state should contribute equitably to the cost of the trial courts.

These principles are consistent with a 2009 survey by the National Center for State Courts4 that shows four out of five members of the public oppose raising fees to bring cases to court. The public understands that even if they never use it themselves, an accessible, fair court system is critical to a free society, similar to publicly funded education, police, and fire departments.

Gaining Ground
When we introduced the Justice in Jeopardy Initiative during the 2005 legislative session, we knew there was a tough road ahead. The report was published one month before the session started. We were seeking major policy changes by asking the state to take over substantial trial court and related expenses it had never paid before, when the state faced a $1.6 billion budget deficit.

But our state’s legislators stepped firmly up to the plate, devoting 100 percent of the state’s share of a filing fee increase — $12.7 million per biennium — to trial court operations, indigent criminal defense, parent dependency representation, and civil legal aid, as well as providing money from the state’s general fund.

Legislators agreed that the state has an obligation to participate more fully in funding the state’s trial court system “ensuring equal justice for all citizens of the state.” Legislators also established the Office of Civil Legal Aid within the judicial branch.

“We prioritize K–12 education, human services, and business health in our state when we allocate dollars, but the soundness of our justice system needs to be right up there, high on that list,” said state Senator Margarita Prentice, a strong supporter of the Justice in Jeopardy Initiative from its inception.

Overburdened counties and cities also gained $19.8 million per biennium in new
revenue to local general funds from their share of the 2005 filing fee increase.

**Speaking with One Voice**

Hearing the judicial branch "speak with one voice," the state Legislature provided $78 million per biennium between 2005 and 2008, and in 2009, honored its commitment to the trial courts by preserving 96 percent of these gains. For the courts, this has been a good start. The state has now begun sharing in the costs of limited jurisdiction court judges’ salaries, interpreters, and Court Appointed Special Advocates (CASAs) for dependent children. It also provides family and juvenile court improvement grants and has funded a juror-pay pilot project.

The state also pays 100 percent of the cost of parent dependency representation covering two-thirds of the state, and pays 10 to 15 percent of the cost of indigent defense in the state, costs formerly paid solely by the counties. The state added about one-third of the funding needed for civil legal aid, although the need has now increased.

“The counties have borne an unequal burden in paying for the judicial system in Washington, and we greatly appreciate state lawmakers recognizing that as part of this initiative,” said King County Councilmember Kathy Lambert. “We hope state legislators will continue to keep the counties in mind as they work toward equalizing funding of the judicial system.”

**We Need Your Help**

There is a long way to go to reach the Justice in Jeopardy Initiative’s funding goals. Even now, only seven-tenths of one percent of the state budget goes to the judicial system, and Washington remains last in the nation for state participation in judicial system funding. In addition, the heavy reliance on local funding of courts has caused painful cuts this year. As a co-equal branch of government, courts are vital to our society and should not be subjected to "across-the-board" cuts similar to other government functions that are not constitutionally required.

Juror pay, a constitutionally required item, still must be addressed. The $10 per-day reimbursement has not increased in 50 years. To bring juror pay to today’s minimum wage, starting on the second day of jury service, will cost about $27 million per biennium. This will not only help increase economic and racial diversity on our juries, it is simply the right thing to do. No one is forced to work for $10 a day, and jurors should not be required to do so.
either. Although jury service is a civic responsibility, the current juror pay is, frankly, an embarrassment to Washington state.

When economic times improve, we will seek an increase in juror pay and CASA funding, as well as funding to extend the Family and Juvenile Court Improvement Plan and the interpreter funding program to every county. We also plan to seek the remaining contribution for district and elected municipal court judges' salaries, bringing the state's contribution to the same 50 percent it pays for superior court judges.

Judges see significant improvements because of new state funding for criminal indigent defense and parent dependency representation, as well as for civil legal services. To finish the job, we need to bring state funding of parent dependency representation to the remaining third of the state, achieve a more equitable share of criminal indigent defense funding by the state, and increase civil legal aid.

Attorney voices during this effort have been invaluable, and we need your participation as we move forward.

The current locally funded structure threatens our ability as an equal branch of government to provide justice. Will we become a society where only those who can afford it will have access to the courts? We cannot let this happen. When government provides adequate funding for its courts, it helps ensure that justice is fair, timely, and accessible to all — a true hallmark of a democratic society. After all, justice is the business of government.

Gerry Alexander is the chief justice of the Washington State Supreme Court. Deborah Fleck is a King County Superior Court judge. Jeff Hall is the Washington State Court administrator.

NOTES
1. BJA is the policy-making body of the judicial branch of government, with voting members from all levels of court, as well as non-voting members from WSBA, the Access to Justice Board, the clerks, and court administrators.
2. Members of the Court Funding Task Force, its five work groups, and its steering committee included business and labor representatives, legislators, county council members, and community leaders, as well as judges, attorneys, and court clerks and administrators.
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• Voluntarily report your pro bono hours under RPC 6.1
• Sign up to volunteer for the Home Foreclosure Legal Aid Project
• Access CourtTrax docket research service

www.mywsba.org
Justice Calls Us to Serve

BY GOVERNOR CHRISTINE GREGOIRE

Justice must be the cause of all citizens of this state, but as attorneys, we are particularly called to be protectors of justice. As the Pledge of Allegiance states, we are a nation where justice is for all. All members of our community are entitled to justice, regardless of race, creed, or economic status.

Our court system has served as an arbiter of justice since the founding of our nation. As officers of the court, we have been entrusted with the responsibility of ensuring that our judicial system is accessible to all members of our community.

Unfortunately, accessing our judicial system can be a daunting task without the assistance of an attorney. Many members of our community are unable to afford legal advice or representation. However, this inability to pay for legal services does not diminish the importance of an individual’s legal needs. Furthermore, as we struggle through this national recession, many more individuals now find themselves in need of legal services.

The pursuit of justice calls us to serve. We are called to ensure that our judicial system remains accessible to all, especially in times of economic recession.

As governor of Washington, I am privileged to meet men and women across this state, from all walks of life, who demonstrate the best of the human spirit. As I have said many times, two words come to mind when I think of Washingtonians during these tough economic times: courage and generosity.

As I have said many times, two words come to mind when I think of Washingtonians during these tough economic times: courage and generosity. These individuals come to clinics to seek justice, but are unable to afford an attorney to assist them. The members of our profession who volunteer and take on pro bono direct representation cases ensure that our justice system is accessible to all.

This pursuit of access to justice must be the work of all members of our legal community. Corporate, government, plaintiff, and defense attorneys, regardless of practice area, all have a stake in and benefit from ensuring access to the judicial system for all.

Members of our community are in great need of our service. I know that I can count on every member of the Bar to find a personal way to ensure that justice is accessible to all. I encourage you to spend a few hours to volunteer at a legal aid clinic, take on a pro bono case, or make a donation to support a legal aid program.

Justice for all calls us to serve in whatever way we can. I thank you for your commitment to this principle and for the many ways you generously serve the members of our community in the pursuit of justice every day.

Christine Gregoire is the governor of Washington.
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Justice Is the Business of Government

by Attorney General Rob McKenna

“The administration of justice is the firmest pillar of government.”

— George Washington, letter to Edmund Randolph, 1789

As the state, counties, and courts continue to struggle through tough budget times, criminals do not go on furloughs. Child abuse does not revert to a four-day work week. We can’t defer family conflict until the budget allows. We can’t freeze foreclosures and evictions at a previous year’s budget. Even in the face of a poor economy, government must protect people’s constitutional rights, regardless of the expense.

Whether we serve in the judicial, legislative, or executive branch, public servants across all branches of government are in the same business: administering justice to those we serve.

Government promotes justice in society in many ways: through our criminal and civil justice systems, through administrative means, and through the provision of public goods and services to benefit society.

The Justice in Jeopardy Initiative made substantial progress in restructuring funding for trial courts, criminal indigent defense, and parent dependency representation by encouraging the state to assume a more equitable share of the costs formerly shouldered almost entirely by local government. Legislators also created the Office of Civil Legal Aid within the judicial branch to ensure fair access to the civil justice system for the poor.

As our state works together to prioritize limited resources, protecting government’s ability to effectively administer justice in our society should be a guiding principle for our budget-writers and policymakers.

Consider Washington’s criminal justice system. Crime victims and their families rely on well-trained law enforcement and investigators, as well as professional prosecutors. The accused must have constitutionally effective, standards-based defense, consistent with the promise of Gideon v. Wainwright. Society as a whole expects a strong and healthy judicial structure and an effective corrections system, providing for deterrence, treatment, and rehabilitation.

Similarly, our civil justice system serves society by resolving family disputes and keeping children safe; enforcing property, contractual, and consumer rights; and providing a means to protect constitutional rights.

Protecting children from abuse and neglect is a prime example of the complex network of government and legal servants working together to provide justice. Assistant attorneys general all across the state work diligently to ensure the best interests of children through their representation of Department of Social and Health Services (DSHS) in matters involving parents accused of child abuse or neglect. These complex and heartbreaking cases consume the greatest number of resources at the Attorney General’s Office.

As part of the Justice in Jeopardy Initiative, legislators provided new funds for guardians ad litem for children, and for 100 percent of the cost of parental representation across two-thirds of the state. In the past, the Legislature also has granted the Attorney General’s Office additional resources to address increasing caseloads and policy initiatives. Having balanced representation on both sides of the case helps our courts as they make decisions to return children to safer homes or gain new permanent homes.

The Attorney General’s Office continues to work with our client, DSHS, and the courts to improve how we protect children from abuse and neglect. Recently, the Attorney General’s Office worked

In 2002, more than 3,000 children who requested help from court-appointed special advocates (CASAs) and guardians ad litem in Washington courts before going into dependency hearings were turned away because of lack of volunteers and funding. These children went into dependency hearings without any advocates of their own. Through the Justice in Jeopardy Initiative, state lawmakers appropriated an additional $6 million per biennium for CASA programs across the state to hire CASA coordinators and recruit and train more volunteers to help children in the courts.

Photo: Lewis County CASA Coordinator Tanya Phillips sits with CASA volunteer Larry O’Hara as he speaks with two young children visiting the Lewis County Law and Justice Center. Lewis County Juvenile Court hired Phillips and another CASA coordinator with new funding provided by state lawmakers for CASA services statewide.
with Spokane County Superior Court judges and commissioners as that court completely changed the way these cases are handled. Judges, defense attorneys, assistant attorneys general, social and health service case workers, treatment providers, and guardians ad litem work together as a team throughout the life of a child-abuse or neglect case. The court assigns a team to each judge or commissioner’s caseload.

By increasing the consistency of the players involved, this teaming approach has made a positive difference in how child-abuse and neglect cases are handled, resulting overall in better outcomes for children. The Spokane County Court is monitoring these outcomes and notes that there are a significant number of children who return home and return home early. This approach also creates efficiencies for the social workers, guardians ad litem, assistant attorneys general, defense attorneys, and judges handling these cases.

Outside the traditional civil and criminal justice system, government wields a great deal of its power to administer justice through regulation. The Legislature assigns government a broad regulatory role through state law. Government then fleshes that law out through rules and regulation or through city and county ordinances.

Government’s administrative role helps the public by ensuring environmental protection; public health and safety; and safe, quality construction. In this way, government provides justice for many through the regulation of others. The regulated may also provide input into agency rules or dispute those rules through administrative processes and the courts.

Our administrative system provides greater certainty and justice for all involved by ensuring clear guidelines rather than relying on an arbitrary system.

Finally, government ensures justice through the provision of public goods and services such as education, temporary assistance to needy families (TANF), roads, ports, public transit, sewer, and other shared infrastructure and resources like science and technological research. These services and infrastructure would likely not exist — at least not for all to enjoy — were it not for the government pooling collective resources to provide the judicious development of these services and structures.

Achieving all of these forms of justice requires agencies and organizations across the three branches of government to work together while retaining the separation of powers envisioned by our forefathers. As the economy continues to lag, the individual courts, judicial branch agencies, and all state government must become more creative in the ways we work to achieve justice for the people we serve.

During the 2009 legislative session, both the courts and the Attorney General’s Office faced significant budget challenges. Though we all took cuts, our legislators wisely recognized the importance of retaining resources necessary to ensure justice in our state. These challenges remain as our state continues its work to climb out of this recession.

As the work of government and the courts increases, we must work together creatively to streamline our resources and maximize efficiencies in an attempt to do more with less.

At the same time, the legal community as a whole benefits from reminding budget-writers and policymakers that justice is the foundation of our society and the most important business of government.

Rob McKenna is the Washington state attorney general.
“The provision of civil legal aid services to indigent persons is an important component of the state’s responsibility to provide for the proper and effective administration of civil and criminal justice.” RCW 2.53.005.

The 2003 Civil Legal Needs Study said it all: 75 percent of all low-income households experience an important civil legal problem each year. Of these, nearly nine in ten are unable to get the legal help they need to resolve their problems. Those households that experience a civil legal problem have, on average, more than three such problems. The greatest areas of legal need relate to:

- Housing
- Family law
- Employment
- Consumer issues
- Access to governmental and health benefits and services

Women and children experience legal problems far more often and in far greater numbers than others, especially on matters relating to family law and domestic violence.

In 2004, the facts were these: State-funded civil legal aid services were present on a hit-or-miss basis. If you were poor and lived near the larger population centers, you might have had a chance of getting legal help. But if you were poor and lived in rural and remote parts of the state, your access to the legal aid system was generally limited to the Coordinated Legal Education, Advice, and Referral System (CLEAR) legal aid hotline operated by the Northwest Justice Project (NJP).

The state of Washington was a significant, but minority, contributor to the civil legal aid system in 2004, providing about $4.9 million per year for civil legal aid. In its Final Report, the Supreme Court’s Task Force on Civil Equal Justice Funding determined that an additional $18.25 million per year was needed to address the legal problems of the poor in areas for which the Legislature had statutorily authorized funding. This included matters affecting the most basic personal and family needs such as housing preservation; family safety; access to essential health, income, nutritional, and other governmental assistance; and protection against home foreclosures.

The crisis documented in the Civil Legal Needs Study and the findings and recommendations outlined by the Task Force on Civil Equal Justice Funding became part of the overall effort to address critical justice system failures in Washington state — an effort that has become known as the Justice in Jeopardy Initiative.

Institutionalizing Civil Legal Aid as a Nonpartisan Judicial Branch Function

For too many years, civil legal aid was viewed as a social-service program, one remnant of a war on poverty grounded in a philosophy of liberal social activism. Year in and year out, pitched partisan battles raged over the level of service and rules relating to state and federal civil legal aid funding.

In 2004, the Supreme Court’s Task Force on Civil Equal Justice Funding offered a different vision of civil legal aid, grounded in the state’s nonpartisan commitment to the fair and impartial administration of justice. The Task Force recommended that all civil legal aid appropriations be administered by a separate judicial branch agency (until then, legal aid had been administered through the executive branch) and that all legislation relating to the use of state-appropriated legal aid funding be recodified into a new chapter within Title 2 of the RCW that covers the judicial branch.

In 2005, the first year of the Justice in Jeopardy Initiative, the Legislature agreed. With unanimous votes in the House and wide margins in the Senate, it passed landmark legislation (HB 1747) moving administration and oversight for civil legal aid to the judicial branch, establishing the Office of Civil Legal Aid as an independent judicial branch agency to administer and oversee state-funded civil legal aid services and creating the bipartisan Civil Legal Aid Oversight Committee.

Senator Linda Evans Parlette (R-Chelan County) is a
legislative veteran who hails from a region that has seen its share of concern about legal aid. Currently serving on the bipartisan Civil Legal Aid Oversight Committee, she observed:

For many years the idea of taxpayers funding civil legal aid was very controversial in some legislative districts, and was the subject of significant partisan concern in my caucus. Over the past decade, and most recently through the Justice in Jeopardy Initiative, we have achieved bipartisan consensus regarding the role that state-funded civil legal aid should play and put the pieces in place to ensure that the state-funded civil legal aid system is well-managed and accountable to the clients it serves and the taxpayers. Today, the state-funded Northwest Justice Project is a well-respected part of our community’s justice system. NJP attorneys are viewed as effective advocates for their low-income clients, many of whom have nowhere else to turn when faced with important legal problems. They are respected as problem solvers on matters of significant community concern and respected members of our local bar.

**2005–2009: Expanding the State Civil Legal Aid Footprint**

From the outset, the principal focus of the Justice in Jeopardy Initiative has been to achieve greater statewide investment in trial courts and related judicial-branch functions. In the area of civil legal aid, appropriations have increased by $6.9 million per year, and significant gains have been made in expanding client service capacity throughout the state.

Beginning in 2005, NJP has used increased appropriations to expand into areas that had not seen a legal aid office for years or even decades: Walla Walla (2005), Pasco (2006), Port Angeles (2007), Aberdeen (2007), Longview (2007), and Colville (2008). NJP was able to increase staff capacity in other offices serving rural and remote client populations and extend legal aid hotline service into King County. The number of full-time attorneys grew from 75 in 2004 to 113 today. Across the state, more clients are able to access the state-funded legal aid system, and the difference is being noted by civic, judicial, and social services leaders.

Christina Pegg, executive director of the Longview Housing Authority, notes: “The Northwest Justice Project has become a valuable partner in assuring that scarce subsidized housing resources are targeted to those with the greatest need and that they are utilized thoughtfully and fairly. NJP provides a
crucial voice to insure equal treatment for the low-income families and individuals served by our important safety net programs.”

Commenting on the impact of the new legal aid office in Aberdeen, Tom Brown, a partner with the law firm of Brown, Lewis, Janhunen & Spencer, says: “The arrival of the Northwest Justice Project has been a breath of fresh justice to Grays Harbor and Pacific counties. We know that we still have to do our share as volunteers; but we now have trained, savvy professionals — backed by a sophisticated statewide program — to walk beside us.”

Former WSBA President and Clallam County Superior Court Judge Brooke Taylor observes that “restoration of a permanent legal aid office on the Olympic Peninsula nearly 25 years after the last one closed has made a great difference to the low-income residents of our region, and to the courts. The Northwest Justice Project’s attorneys provide effective assistance to individuals in crisis and help support our local pro bono efforts. Further, the mere presence of NJP serves as a deterrent to those who might otherwise take advantage of unrepresented individuals or abuse the legal process.”

Justice in Jeopardy and Legal Aid: The Urgency Continues

Over the four years of the Justice in Jeopardy Initiative, the civil legal aid system has seen remarkable growth. But we have a long way to go before we can say the system is meaningfully available to those who need it.

The current “great recession” has wreaked havoc on the poor and near-poor. As of the writing of this article, 336,000 people in Washington state are out of work and the unemployment rate stands at 9.3 percent. Homes are being foreclosed upon in record numbers; tenants are being evicted from foreclosed houses and apartment buildings. Essential governmental services are being eliminated due to governmental budget cuts, and low-income people increasingly find themselves preyed upon by payday lenders, foreclosure rescue scam artists, and predatory lenders. Family conflict continues to result in high numbers of women and children being victimized by violence, with nowhere to turn for safety and security. Our courthouses are clogged with pro se family law and housing litigants who desperately need legal assistance. Despite the gains realized over the past four years, the Justice Gap chronicled in the 2003 Civil Legal Needs Study continues to grow.

In the coming years, we will continue to work as one branch, with one voice and with a clear sense of where we are going. We must ensure that our trial courts, indigent defense services, and civil legal aid programs have the resources they need — our common commitment to the fair and impartial administration of civil and criminal justice in Washington demands it.

We will do so until justice is no longer in jeopardy. 🙏

Jim Bamberger is the director of the Washington State Office of Civil Legal Aid and a long-time legal aid advocate.

NOTES

1. Washington State Supreme Court, Task Force on Civil Equal Justice Funding, Civil Legal Needs Study (September 2003), www.courts.wa.gov/newsinfo/content/taskforce/task_force_report_final_draft.doc.


3. See RCW 2.53.030(2)(a)-(k).

Access to justice is a nonpartisan issue, and we must strive to maintain it as such. The foundation of our society — that we are a representative democracy premised on the rule of law — derives its legitimacy from the notion of “equal justice under the law.”

Although we represent different constituencies and come from different political perspectives, we understand the importance of our court system, the role that justice plays in sustaining and preserving our democracy, and the need for that system to be funded at levels that ensure timely, fair, and effective justice in civil and criminal cases.

As chair and ranking members of the House Ways and Means and Judiciary committees, we have been deeply involved in efforts to implement the Justice in Jeopardy Initiative — the judicial branch’s multi-biennial effort to address systemic funding and capacity failures that undermine the availability, quality, and fairness of civil and criminal justice in our trial courts. We have worked together with a solid bipartisan commitment to this effort.

Our justice system plays a central role in our democracy. Our courts are the place where we peaceably resolve disputes between citizens and between citizens and their government. In order to work effectively, to secure and retain the public’s trust and confidence, our courts must be open, be accessible to all, and be (and be perceived to be) administering justice fairly.

Our trial courts must be adequately funded, fully accessible, and responsive to the needs of all who appear before them. Indigent defendants facing the prospect of the loss of liberty, and low-income civil litigants faced with issues ranging from eviction and foreclosure to family violence and child residential placement, must have access to the effective assistance of legal counsel. These are not partisan issues — these are issues that go to the heart of our commitment to equal justice under the law.

Sponsors of successful JIJ-related policy bills have included members of both parties from all over the state. Republican sponsors include Representatives Judy Warnick (Moses Lake), Bill Hinkle (Grant County), Charles Ross (Yukima), Skip Priest (Federal Way), and former Representatives Dave Buri (Pullman) and Jim Clements (Selah). Democratic sponsors include Representatives Alex Wood (Spokane), Timm Ormsby (Spokane), Jeanne Darnelle (Pierce County), Sherry Appleton (Kitsap County), Brendan Williams (Olympia), and Roger Goodman (Seattle). Members of both caucuses have strongly supported the JIJ funding initiatives as well.

This past session was extremely challenging. We faced a huge deficit and were forced to make deep cuts in programs that Washington state residents have come to rely upon. Yet, despite profound philosophical differences between our two parties, we managed to maintain support for core judicial branch priorities — preserving nearly 96 percent of the new funding that had been appropriated since 2005 to address the crises facing our trial courts, indigent defense, and civil legal aid systems.

The fiscal challenges we faced this year are not going away; they are probably going to get worse. That means every request for new money will be scrutinized as never before. It also means that, like all other components of government, the courts, indigent defense, and civil legal aid providers must continue to find greater efficiencies, learn to find more ways to perform core functions within appropriate resource constraints, and bring to the table policy initiatives that at once save dollars in the short and long term and, at the same time, further the core objectives of the Justice in Jeopardy Initiative.

This is where lawyers and those involved in the justice system at the local and statewide level can be helpful. Those of you who practice in or look to the courts for resolution of your clients’ disputes are primary stakeholders in the success of the Justice in Jeopardy Initiative. In these difficult times, county and state elected officials need to hear from constituents.

We need to understand the challenges that you face; the concrete efforts that are being taken to find greater efficiencies and develop strategies to reduce costs associated with the way our courts and court systems operate; and the difference that the state’s investment in our trial courts, indigent defense, and civil legal aid systems is making in terms of the availability, quality, and fairness of our justice system.

We need to know that justice is a priority. Elected leaders listen.
I’m writing to provide you with an update on legislative efforts to implement the recommendations of the 2004 Court Funding Task Force report. More importantly, I’m writing to ask your help, as I believe that lawyers are the public face of the justice system, and the people best placed to advocate for its improvement.

As a member of both the Board for Judicial Administration’s Court Funding Task Force and the Supreme Court’s Task Force on Civil Equal Justice Funding, I’ve been keenly aware of the challenges facing our trial courts, indigent defense systems — to the extent that we can call it a system — and civil legal aid for poor and vulnerable people. As chair of the Senate Judiciary Committee, I’ve spent the past four years working closely with representatives of the judicial branch, the Washington State Bar Association, public defenders, civil legal aid groups, cities, counties, and a wide range of stakeholders interested in implementing the goals of the 2004 Court Funding Task Force report and the resulting Justice in Jeopardy Initiative.

The fair and impartial administration of justice is a fundamental responsibility of government, one upon which the vitality of our democracy depends. Yes, there have been times when I despaired that only we lawyers truly understand that — but in the end, with a little nudging, most legislators understand in their hearts the importance of ensuring timely, fair, and effective civil and criminal justice. That is why we’ve generally developed bipartisan majorities to enact the policy changes and appropriations needed to implement the recommendations of the Court Funding Task Force.

But you, as much as we, have the public’s ear on matters of justice. Your clients know you better than they know their legislators. As a lawyer, you, as much as we, are in a position to move public opinion. Together, we need to speak without reticence, because we understand that, in the words of Alexander Hamilton, “the first duty of society is justice.”

Task Force was Senate Bill 5454, the Trial Court Improvement Act of 2005. This bill was jointly sponsored and steered through a tough legislative process by the former (now retired) ranking Republican member of the Senate Judiciary Committee, Senator Stephen Johnson, and me. This past session, the Republican Caucus chair, Senator Linda Evans Parlette, and I were successful in offering and securing bipartisan support for a key amendment to SB 5073, preserving the Legislature’s expressed intent that the state’s share of fee increases enacted in SB 5454 continue to be dedicated to the purposes outlined in that legislation even though the specific dedicated fund created in that bill, the Equal Justice Sub-Account, would be dissolved, and its funds rolled into the state general fund. Senators Parlette and Joseph Zarelli (the ranking Republican member of the Senate Ways and Means Committee) also joined me and Democratic Senators Debbie Regala and Joe McDermott in supporting a budget amendment to restore a substantial portion of the proposed cut to the civil legal aid budget during this past session.

From passage of the Trial Court Improvement Act through other key pieces of legislation, notably House Bill 1542 (establishing indigent defense standards and authorizing the Office of Public Defense to contract with local providers of indigent services to improve the quality of those services), HB 1747 (establishing the Office of Civil Legal Aid), HB 2176 (requiring courts to adopt language assistance plans and provide matching funds for the payment of interpreters), and HB 2903 (establishing the position of court access coordinator within the Administrative Office of the Courts), we’ve made significant improvements in the courts. In addition to enacting these policy bills, we’ve been successful in increasing state investment in our trial courts, indigent criminal defense, representation of indigent parents in dependency cases, and civil legal aid over the past four years. This, despite an unprecedented $9 billion budget shortfall and vastly differing philosophies on the approach to state budgeting generally.
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From the outset, we understood that implementation of the Court Funding Task Force's recommendations would require consistent effort over several budget cycles. Unfortunately, our efforts to maintain essential governmental services have taken a double whammy: first, the fiscal effect of two mindless tax-cutting initiatives that left us dependent on the retail sales tax, then more recently an economic crisis and corresponding plunge in volatile sales tax revenues. Counties, impoverished already by those same tax-cutting initiatives, have been forced to cut deeply, and because civil and criminal justice accounts for 65–70 percent of most counties’ expenditures, it is the courts, prosecutors, and jails that have suffered most. We at the state level have not had the resources to provide meaningful help, for the same two reasons. The result is that, despite our successes over the course of the past four years, justice remains in jeopardy — and the work to protect and enhance the capacity of our trial courts to fairly and efficiently administer justice is all that more urgent.

As chair of Judiciary, and in my new assignment as a member of the Ways and Means Committee, it is increasingly clear that the new budget realities facing our state demand that we be ever more creative in finding ways to achieve the substantive objectives of the Court Funding Task Force and the Justice in Jeopardy Initiative. And not just more creative — we need to be louder. Lawyers are the ones who can — and therefore must — speak out about the primacy of justice in state government. Yes, we legislators will rethink how we adjudicate certain types of cases, and continue to look for ways to streamline and scrimp and do without. We’ll maintain our efforts to ensure that the state of Washington becomes a meaningful co-investor with local government in the operations of our trial courts and court-related services such as indigent defense and civil legal aid. But you, as much as we, have the public’s ear on matters of justice. Your clients know you better than they know their legislators. As a lawyer, you, as much as we, are in a position to move public opinion. Together, we need to speak without reticence, because we understand that, in the words of Alexander Hamilton, “the first duty of society is justice.”

It continues to be my honor and joy to work on these issues, and I know you share that sentiment.  

Adam Kline is Washington state senator for the 37th District and is the chair of the Senate Judiciary Committee.
New Funding Benefits Courts and Customers

by Judge Tari Eitzen and Judge Glenn Philips

Walk the courthouse hallway and see people filling out pro se forms on their laps, children fussing as their parents try to decipher the legalese. Open a courtroom door and see defendants appearing for arraignment without counsel. In another courtroom, count the number of unlawful detainer defendants waiting for their case to be called.

Point to what you hope is the right door for the non-English speaking person asking for help, knowing there is no interpreter available. Continue the post-termination review one more time, because the potential adoptive parents have become unemployed and they are having second thoughts about adopting a special-needs child.

We did not become judges to wrangle over budgets. We thought our work would be done from the bench, resolving disputes and making our communities safer and better places to live. But now we sharpen our pencils, meet with our local government executives, and try to figure out how to cut another percentage of a bare-bones budget.

It is human nature to curse the lack of resources and look for a place to assign the blame. We ask ourselves how can we provide access to the courts, a forum for the exercise of the rule of law, when we are facing furloughs of our staff and loss of critical programs. Our time and energy is diverted from what we were elected to do as we are forced to find ways to support the courts financially.

But those of us who were judges prior to 2005 know that though the financial situation seems grim, it would be much worse if it were not for the funding secured for the courts through the Justice in Jeopardy Initiative. The JIJ Report defined the problems: inadequate funding for trial courts and indigent defense, inequity in state and local responsibility of trial court funding, and convoluted revenue stream and accounting processes. Simply put, not enough money exists to do the job we are mandated to do.

In 2005, things started to happen. The Legislature passed HB 5454, which increased filing and other court fees; the increases split 46 percent to the state and 54 percent to the counties. The state devoted its entire share to court operations that directly benefited the counties in the form of judges’ salaries, parent dependency representation, criminal indigent defense, and civil legal aid for the poor, etc. In addition to receiving 100 percent of the state’s share of the filing fee increase ($12.7 million per biennium), local government also received $19.8 million per biennium in new revenue to the county and city general funds.

All together, the first biennium HB 5454 brought local governments $32.5 million. By 2008, the number was $78 million per biennium. In 2009, despite the financial chaos the Legislature faced, the courts kept 96 percent of the money.

So how does it look “on the ground?”

Indigent Representation

HB 5454 funding for indigent representation has provided significant relief to the counties and has helped the courts comply with constitutional and statutory mandates. In Yakima County, for example, dependency representation has gone from a part-time effort by con-

Thanks to the Justice in Jeopardy Initiative, lawmakers appropriated an additional $2 million per biennium to help courts pay for registered and certified court interpreters (rather than courts using non-registered or non-certified court interpreters for lower pay) to improve the quality of interpretation happening in courts and improving access to the justice system for limited-English-speaking individuals. The funding also paid for expanded testing and training of registered court interpreters for more languages; for resources to help courts develop their own Language Assistance Plans; and for court interpreter coordination help at the statewide level.

Photos: Top — Seattle Municipal Court Judge Judith Hightower administering the oath to the newly registered and certified court interpreters. Judge Hightower is a member of the state’s Court Interpreter Commission. Bottom — Yahya Malik, who had just become registered in the language of Urdu, receives his certificate from Judge Hightower.
tract attorneys to full-time representation by dedicated staffing and contracts. Judge Michael Cooper, of Kittitas County Superior Court, says the quality of representation in dependencies has improved vastly, thereby diminishing the complaints parents lodged about no one helping or listening to them. In Skamania and Klickitat counties, funds have been used to pay for investigators in indigent criminal defense cases, as well as public defender training and Westlaw service for the defenders.

Judges’ Salaries
Before JIJ and HB 5454, the state did not contribute to district and municipal court judges' salaries. Now the state contributes about 19 percent, or $6.4 million per biennium.

Trial Court Improvement Accounts
When a county or city receives funding for district or elected municipal court judges’ salaries, the county is required to place an equal amount into a Trial Court Improvement Account (TCIA) to fund court improvements. Thanks to TCIs, Clark County has a new Family Law Annex; Clallam County has a courthouse security officer; Columbia County has a video-conferencing system connecting the courtroom to the jail; Spokane County has audio-visual equipment and chairs in its jury assembly room, as well a website with forms; Kittitas County purchased ADA sound and recording systems and saved its drug court; Klickitat and Skamania counties made security improvements, adding drug court services and probation; Island County has imaging and projection equipment in its courtrooms; Jefferson County has an assisted listening system for its superior and district courts; and King County has translated criminal and family law forms into five languages and hired probation staff and an attorney to manage pro se litigants in family law.

Interpreters
More state funding for trial courts came in 2007 in the form of $1.9 million per biennium for interpreter costs. This created incentives for interpreters to become certified and provided financing for legally mandated language-assistance programs in our counties. Pacific County contracted for a full-time interpreter to handle all Spanish-language needs for a year at flat fee; Chelan County has a new Spanish-language interpreter for its courts; and other counties indicate that availability of interpreters has lowered related court delays and transportation costs. Judge Robert McSeveney reports that JIJ funding was extremely helpful after interpreter costs in Kent Municipal Court shot up 150 percent from 2004 to 2008. Certified Interpreter Eugenia Munday of King County says before the higher pay, she often heard non-certified interpreters in the courtroom who interpreted "without making any sense."

Guardians Ad Litem and Court Appointed Special Advocates (CASAs)
For decades, the counties struggled to pay for mandated guardians ad litem for children believed to be abused or neglected. In 2005, there were approximately 3,000 children in Washington on a waiting list for a CASA. In 2007, the Legislature appropriated an additional $6 million per biennium so counties could hire CASA coordinators to recruit and manage the volunteer system and leverage those dollars. Now many smaller counties have CASA systems for the first time. Lewis County Juvenile Court Administrator Holli Spanski hired two CASA coordinators when the previous sole coordinator retired, saying, "For us, the new funding was vital." On the other hand, Lewis County has no paid guardians ad litem or staff attorneys to speak for some 242 children who are subjects of dependency petitions each year.
Family and Juvenile Court Improvement Plan (FJCIP)
Over 40 percent of the cases filed in superior courts in Washington involve families, children, or domestic violence. More than ever, family law litigants are pro se. In 2008, $800,000 was appropriated for FJCIP grants. Eleven counties secured funding, most using the funds to hire a case manager. Spokane County produced an instructional pro se dissolution video, now posted on its website. Pierce County hired a court facilitator. Several courts, including Chelan County, have used the funds to transition from a rotation system to a one-child/judge system. "I have been impressed with how relatively small amounts of money pay big dividends in improving the justice system," says Representative Ruth Kagi, a member of the Court Funding Task Force and prime sponsor of HB 2822, the Family and Juvenile Court Improvement legislation. Though the FJCIP funds were cut this past legislative session to $650,000, we can still "make courts work better for children and families," she says.

ADA Access
In 2008, the Legislature provided funding for a full-time ADA access coordinator to advise courts on how to become more accessible. In that position, Carol Maher has developed a fact sheet which informs courts, among other things, that hearing-assisted headphones do not work with hearing aids, but that a $60 neck loop will provide the service the participant who is hard of hearing needs.

Our cities and counties were crippled under the weight of a faulty funding structure that for too long placed far too much financial responsibility on local government. We, as courts, have been coerced to identify funding sources to provide core mandated services to the people of Washington, though we know it is not the domain of the court to finance itself. But we are now on a path that will lead us to a fair balance of state and local financial responsibility for the trial courts.

Yes, our progress is slower than we want it to be, and we have a long way to go. But we have made impressive progress.

The BJA Court Funding Task Force set forth the basic principles of trial court funding in its December 2004 report: The judicial branch must maintain its role as a separate and independent branch of government whose role is to resolve cases and serve the community. Courts must have adequate and stable funding, and it is the responsibility of legislative bodies to fund the courts. Trial courts are not self-funding, and the state, having an interest in the effective operation of the trial courts, should contribute equitably to achieve a better balance of funding between local and state government.

We can achieve that balance and re-main true to those principles.

Spokane County Superior Court Judge Tari Eitzen is president of the Superior Court Judges’ Association. Kent Municipal Court Judge Glenn Philips is president of the District and Municipal Court Judges’ Association.

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New postings include...

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Though Innocent?
Aft

After being arrested for a misdemeanor assault, “Sean” was waiting in court lacking a public
defender for arraignments when, in keeping
with local practice, the city prosecutor
presented him with a guilty plea form.
Unaware of his options, Sean signed the form without
being able to present the facts of the so-called assault:
He had been charged for tossing a juice container at
a friend’s back.

Sean’s “let’s just get it over with” guilty plea with
out benefit of counsel carried
collateral consequences far
beyond a night in jail or a day
in court. Later, when he tried to
enlist in the armed forces, Sean
learned that he was barred
from an honest career serving
his country due to his assault
conviction.

For decades, our justice
system has guaranteed in
digent individuals the con
stitutional right to effective
assistance of counsel.

While most states fund 50
percent or more of their public
defense costs, Washington
has lagged far behind. Until
recently, trial-level public de
fense was supported by local
governments alone, and it
was often under-funded and
inconsistently administered.

In fact, by 2004, Washing
ton’s jerry-rigged criminal indigent defense system was
coming unraveled. Parents in dependency and termination
cases were represented
by underpaid, overworked
attorneys in many counties. A
Seattle Times series exposed
fundamental deficiencies in
appointed attorney time and resources that led to
numerous miscarriages of justice around the state.
Grant County was sued for providing systemic ine
efctive assistance of counsel.

Since then, the Justice in Jeopardy (JIJ) initiative has
successfully focused political attention on improving
public defense services statewide. Although many
challenges remain, JIJ partners have achieved
the important precedent of state funding for trial-level
criminal defense where none existed before, along with
enhanced oversight to help local programs meet con
stitutional muster, through amendments to Chapter
10.101 RCW. JIJ also has fostered a major expansion of
the Washington State Office of Public Defense (OPD)
Parents Representation Program to serve indigent
parents in dependency and termination cases, taking
it from a pilot program in two judicial districts to fully
operational in 25 counties.

As a direct result of these efforts, trial courts are
seeing substantial improvements in the availability
and quality of public defense representation in both
criminal and dependency proceedings.

Using State Funds to Upgrade Basic
Public Defense

Counties and cities report significant advancements
in their criminal indigent defense services from the
relatively small infusion of state funds — just $6 million
a year statewide in recent years. Local jurisdictions use
their share of these funds to meet critical local needs.

Common improvements include hiring a county or
regional coordinator to oversee public defense con
tracts; improving attorney compensation; enhancing
access to investigators, interpreters, and experts; and
providing counsel at every critical stage of a court case,
including initial court appearances.

The jurisdictions have used the state funds for
improvements that have a ripple effect throughout
local justice systems. For example, state funds used
to provide counsel at initial appearance calendars
not only make the proceedings fairer, but also
improve the efficiency and effectiveness of the criminal
justice process.
Options from Group Health offer four plans to meet the needs of a wide range of Bar Association members, from large firms to sole proprietorships. Options is a new approach to HMO products and is designed for flexibility and affordability—three of the four Options plans allow you to use the provider of your choice. Options plans offer online services that can save time and money such as same day appointment scheduling, test results, pharmacy services and direct e-mail communications with your doctor.

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The city of Olympia was awarded a $20,000 grant for 2008 and a $25,000 grant for 2009. Court Administrator Bonnie Woodrow reports: “With early resolution of simple cases, our public defenders’ caseloads have dramatically declined, allowing them to focus on higher-priority or complex cases.” She adds that defendants understand the process better and thus can participate more actively in their cases. Meanwhile, having counsel at arraignment has resulted in reduced continuances and more timely resolution of cases, Woodrow says.

Other jurisdictions report reduced jail and in-custody transportation costs, as well as improvements in out-of-custody defendants appearing for subsequent hearings. Jennifer Henson, Des Moines and Normandy Park Municipal Court administrator, reports a reduction of 1,317 jail days after the court’s $33,000 state funds grant was used to implement public defense counsel at initial hearings, resulting in a jail budget savings of $112,875.

Of course, for defendants themselves, the impact of counsel at the first appearance in court is even more meaningful. Indeed, deprivation of counsel at a first court hearing can derail a person’s life, as Sean’s case demonstrates.

Although the state funding that OPD administers to counties and cities represents only a fraction of the total statewide cost of trial-level criminal indigent defense, these dollars are crucial to maintaining recent basic improvements — some as fundamental as reducing high attorney caseloads to manageable levels.

In the current budget climate, with local governments facing continuing revenue reductions, local officials and JJ supporters are deeply concerned about retaining even this modest level of funding, which is the state’s only contribution toward meeting its constitutional obligation to ensure the right to counsel in trial-level criminal cases.

Pierce County, for example, has used state funds to reduce caseloads for attorneys in its Department of Assigned Counsel (DAC) to numbers that approach accepted standards in the adult felony area, according to Superior Court Judge Bryan Chushcoff.

Explains Chushcoff, “If DAC staffing levels were further reduced by the lack of OPD funding, a number of DAC attorneys would have their caseloads expand to levels which create inefficiency and concern regarding the ability to effectively represent their clients. These impacts would result in further delays in case resolution, and ultimately suspicion as to the fairness of the provision of justice to accused indigent citizens.”

The immediate goal is to protect the current level of state funding. Over the long term, a far greater state contribution is warranted. Only a few states provide as little public defense funding as Washington.

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“Erin’s” young child following an emergency room visit for a severe second-degree burn on the boy’s hand. The young parents, still in shock themselves, couldn’t immediately explain how their son had been so badly injured, so the doctor suspected abuse. Because the parents were quickly appointed an attorney with resources to investigate the case and obtain timely photographic evidence, Dan and Erin were able to prove at the initial hearing that the burns resulted from a horrific accident when the curious boy impulsively grabbed on to a wall heater. After just a few days in foster care, the toddler was reunited with his parents and DSHS dismissed the case.

In dependency courts, improvements in the 25 counties associated with OPD’s Parents Representation Program are dramatic. From his courtroom in Central Washington’s Kittitas County, Superior Court Judge Michael Cooper observes that “the quality of parents’ representation in dependencies has improved vastly, thereby diminishing the complaints parents previously lodged about no one helping, or listening to, them.”

Spokane Superior Court Administrator Ronald Miles echoes the judge regarding the Parents Representation Program: “Case loads have been reduced, family reunification is improved, resolution of cases is quicker, expert resources are improved, and we have more and better training for dependency attorneys.”

For families involved in these traumatic cases, the Parents Representation Program means that an indigent parent has access — from the first hearing onward — to a specially trained attorney advocate who can help ensure fair and equitable treatment according to the law. This kind of quick, intense attention has saved many children from unnecessary weeks or months in foster care — and saved the state millions of dollars.

In more complex cases than Dan and Erin’s, attorneys help troubled parents come to terms with underlying problems and get the treatment or other assistance they are guaranteed under the law. Program evaluations show again and again that parents with access to the Parents Representation Program are substantially more likely to succeed in their cases, reunite as healthy families, and meet the ultimate goals of child-welfare laws. Funding reductions to the new program would not only hurt the families involved but would also threaten the state foster-care savings that have been generated.

Unfortunately, families in one-third of Washington counties who are involved in dependency and termination cases still don’t have access to the Parents Representation Program.

Recognizing that progress will be slower in the current economic climate, the Justice in Jeopardy Initiative nevertheless continues to press for statewide implementation of the Parents Representation Program and greater state funding for criminal indigent defense, as well as the other critical justice needs of the trial courts and civil legal aid.

Even as lawmakers grapple with the greatest budget challenges of this generation, these basic constitutional and statutory justice rights are so fundamental to our way of government that they must be protected.

Joanne Moore is the director of the Washington State Office of Public Defense.

NOTES
2. Response to July 2009 survey conducted by the Superior Court Judges Association (SCJA).
3. SCJA survey.
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Opportunities for Service

**Washington State Access to Justice Board**

*Application deadline: November 30, 2009*

The Washington State Access to Justice Board (ATJ Board) announces one vacancy for a term beginning May 2010. This position may be filled by either a lawyer or a non-lawyer. Details about the position and the work of the ATJ Board can be found online at www.wsba.org/atj.

The Washington State Supreme Court established the Access to Justice Board in 1994 to assure equal access to the civil justice system for those facing economic and other significant barriers. The ATJ Board works to achieve this mission through the oversight of its State Plan for Delivery of Civil Legal Aid; coordinating and implementing statewide initiatives for improving access for unrepresented and underrepresented populations in Washington state; and building leadership, funding, and other support for equal access to the civil justice system.

The ATJ Board consists of nine members, including up to two lay members, selected on the basis of a demonstrated commitment to, and familiarity with, access to justice issues. Board members may serve up to two three-year terms. The ATJ Board has approximately nine full-day meetings throughout the year in Seattle. Additionally, the Board has an annual retreat and meets at its annual Access to Justice Conference. Travel expenses are reimbursed.

Responsibilities of ATJ Board members include attending Board meetings and the annual planning sessions; serving as liaison to at least one Board committee; and actively participating in Board initiatives. A demonstrated commitment to equal justice principles and an enthusiastic commitment to serve in equal justice community leadership are required, as are strong communication skills and an ability to see the "big picture." Courage, compassion, consideration, patience, humility, passion, and humor are all valuable traits in ATJ Board members. The ATJ Board strives to have a membership that reflects inclusion, diversity (including geographic diversity), and cross-cultural competence. Please submit a letter of interest and résumé, including a summary of qualifications, by November 30, 2009, to Allison Durazzi, WSBA, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539; or e-mail allisond@wsba.org. For more information about the Access to Justice Board or this position, contact WSBA Justice Programs Manager Joan Fairbanks at 206-727-8282 or joanf@wsba.org, or visit www.wsba.org/atj.

**Council on Public Legal Education**

*Application deadline: November 30, 2009*

The WSBA Board of Governors seeks a member to serve on the Council on Public Legal Education (CPLE) for a term beginning February 1, 2010, and ending September 30, 2012. The mission of the CPLE, which is an advisory committee of the WSBA, is to promote public understanding of the law and civic rights and responsibilities. The CPLE pursues this mission by conducting, coordinating, encouraging, and publicizing public legal education efforts in Washington state. The CPLE’s 25 members comprise attorneys, judges, educators, media professionals, and community leaders. The CPLE’s many accomplishments include increasing the amount of civics education in K–12 schools, sponsoring the state’s first youth court conference, and creating the lawforwa.org website. Please submit a letter of interest and résumé by November 30 to: WSBA Bar Leaders Division, 1325 Fourth Ave., Ste. 600, Seattle WA 98101, or e-mail barleaders@wsba.org. For further information, contact WSBA Public Legal Education Manager Pam Ingleby at pami@wsba.org or 206-727-8226.

**Council on Public Defense**

*Application deadline: November 13, 2009*

The WSBA Board of Governors seeks four applications for service on the Council on Public Defense (CPD) beginning January 2010. Two positions are reserved for private attorneys; two are for non-lawyers. The members of the CPD are appointed for one-year terms, renewable for up to three years. The CPD brings together representatives of the bar, prosecutors, private and public criminal defense counsel, the bench, elected officials, and the public. The mission of the CPD is to recommend to the WSBA Board of Governors improvements to the provision of public defense services in Washington state. Please submit a letter of interest and résumé by November 13, 2009, to: WSBA Bar Leaders Division, 1325 Fourth Ave., Ste. 600, Seattle WA 98101-2539, or e-mail barleaders@wsba.org. For further information, please contact Jennifer Danis at jenniferd@wsba.org or 206-239-2116.

**Court Interpreter Certification Advisory Commission**

*Application deadline: January 4, 2010*

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

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

Seeking Questionnaires from Candidates for Judicial Appointments


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 e-mail judithb@wsba.org.
MCLE Certification for Group 3 (2007–2009)
Active WSBA members in MCLE Reporting Group 3 (2007–2009) received Continuing Legal Education Certification (C2/C3) forms in license packets mailed in mid-October. Lawyers in Group 3 include active members who were admitted to the Bar in 1984 through 1990, 1993, 1996, 1999, 2002, and 2005. Members admitted in 2008 are also in Group 3 but are not due to report until the end of 2012. Their first reporting period will be 2010–2012; any credits earned on or after the day of admission may be counted for compliance.

To avoid late fees, Group 3 members who are due to certify compliance must: (1) complete required credits by December 31, 2009; and (2) certify compliance no later than February 1, 2010.

See the following “MCLE Certification Information for Active Members” for important information about the MCLE compliance process. If you have questions, please contact the WSBA Service Center at 800-945-WSBA (9722), 206-443-WSBA (9722), or questions@wsba.org.

MCLE Certification Information for Active Members

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


<table>
<thead>
<tr>
<th>Group</th>
<th>Report</th>
<th>Complete Credits by</th>
<th>Certify MCLE Compliance by</th>
</tr>
</thead>
</table>

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

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

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

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

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CLE Certification (C2/C3) form.

**Online certification**
If you are credit-compliant, online certification is available for the first time this year through [www.mywsba.org](http://www.mywsba.org). Go to [www.mywsba.org](http://www.mywsba.org). Click “Login” and enter your Bar number and password. If this is your first time using mywsba, click “Reset password” and enter your Bar number and e-mail address to have your password e-mailed to you. (Note: You must use the primary e-mail address on file with the WSBA. It is printed in the Contact Information section of the A1 License Renewal Form.) From “My Profile” you can review your MCLE status. Click on the “MCLE Reporting — C2/C3” link to access your online MCLE certification form.

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

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

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

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

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

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

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

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

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

Each Form 1 application must include a full agenda in order to receive credit. The agenda must include the start and end times for each session and break. Because of high volumes from October through February, Form 1s submitted online could take up to four weeks or more to process. Paper Form 1s may take up to six weeks or more to process. If you submit a paper Form 1, you will be notified by mail of its Activity ID number.

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

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**Structural Engineers for Construction Law**

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and if two credits of approved pro bono training were completed within the same calendar year.

New MCLE rule and regulation amendments

New MCLE rule and regulation amendments went into effect on January 1, 2009. The amendments include: the number of live credits required was reduced from 30 to 22.5; the number of A/V credits allowed (of the 45 required) was increased from 15 to 22.5; there is no longer an automatic extension; and a member may earn no more than 8 credits per day taking courses. See www.wsba.org/lawyers/groups/mcle/aprilreview07.htm for more information.

In-house CLEs

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

MCLE system

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

Questions

If you have any questions about using the MCLE system or about the MCLE compliance requirements, see the online FAQs at www.wsba.org/lawyers/licensing/faq-mcle.html and www.wsba.org/lawyers/licensing/faq-mcle-credits.html or contact the WSBA Service Center at 800-945-WSBA (9722), 206-443-WSBA (9722), or questions@wsba.org.

Online Licensing for 2010

License renewal is now available online! For the first time, you can complete your license renewal entirely online at www.wsba.org. License renewal forms and the section membership form were mailed together in mid-October. There is no longer a “grace period” for the month of January, so renewal and payment must be completed by February 1, 2010. Check www.wsba.org/licensing for detailed instructions.

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

New from WSBA-CLE Publications

Washington Probate Procedure and Tax Manual with Forms (3d ed. 2009), by Robert S. Mucklestone. This two-volume manual (1,202 pages) provides a comprehensive system for handling the administration of a typical estate in Washington state, and comes with more than 300 interactive forms, checklists, and sample letters on CD. For a full table of contents and index to forms, or to order, go to www.wsbaCLE.org.

Thinking of Changing Your WSBA Membership Status? Consider Emeritus

Annual WSBA training and orientation: January 12, 2010

As the 2010 WSBA licensing period ap-
proaches, you may be thinking of changing your membership status to accommodate your current career or lifestyle. If you no longer need your active WSBA license, here’s why you should consider emeritus status.

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

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

An emeritus training and orientation session is scheduled for January 12, 2010, in Seattle at the WSBA office. This training is a requirement for changing to emeritus status and will provide an opportunity for you to meet representatives from qualified legal services providers. Travel expenses will be reimbursed. For more information about the Emeritus Program, registration for the training session, and the logistics of changing your WSBA status to emeritus, please contact Sharlene Steele at sharlene@wsba.org, 206-727-8262, or 800-945-9722, ext. 8262. You can review APR 8(e) at www.wsba.org/lawyers/licensing/faq-rule8e.htm.

Washington Young Lawyers Division Trial Advocacy Program

The annual Washington Young Lawyers Division Trial Advocacy Program (TAP) offers intensive training by litigation experts and a true-to-life mock trial experience. The CLE will be held Friday, November 7, and Saturday, November 8, at the WSBA office, and the mock trial will take place on Saturday, November 21, at the Seattle Municipal Court House. The cost is $250 for full participation and 19 general CLE credits (pending), or $150 for the CLE only and 12 general credits (pending). Last year’s participants commented that the program was “completely engaging and thought-provoking. Entertaining, real-world skill development,” and “… every young lawyer should attend.” To register, go to www.wsba.org/lawyers/groups/wyld/tapstdreg09.pdf. Volunteers are needed to serve as jurors and witnesses.

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LAP Solution of the Month: Job Satisfaction
Do you look forward to going to work? If not, why not? If you’re unhappy in your current job but don’t know what to do about it, call the Lawyers Assistance Program at 206-727-8268, or 800-945-9722, ext. 8268.

LOMAP and Ethics Traveling Seminars
Join us in Aberdeen on November 17, Port Orchard on November 18, Oak Harbor on December 8, or Bellingham on December 9. The cost is $99, and four credits are available, including some ethics credits. To register, contact Julie Salmon at juliesa@wsba.org, 206-733-5914, or 800-945-9722, ext. 5914.

55 and Over?
WSBA’s Lawyers Assistance Program is offering a new group, “Lawyers in Transition: For Attorneys 55 and Over.” A range of topics will be covered, such as making changes in one’s career, nurturing interests outside of the law, and giving and receiving support to fellow lawyers at a similar life stage. The group will meet at the WSBA offices and will be run by LAP psychologists Rebecca Nerison, Ph.D., and Dan Crystal, Psy.D. The cost is $10 per session. If you are interested in taking part or have questions or recommendations, please contact Dr. Nerison at rebeccan@wsba.org, 206-727-8269, or 800-945-9722, ext. 8269. We are especially interested in knowing which themes you would like to address, and we welcome suggestions about meeting times.

Monthly Lawyer Discussion Roundtable
Get ideas and support from new colleagues and WSBA Lawyer Services Department staff who will answer questions on ethics, practice, and substantive law. The discussion group meets the second Tuesday of the month from noon to 1:30 p.m. November 10 is the next scheduled meeting date. Walk-ins are welcome! The roundtable is held at the WSBA office.

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 November 9 clinic will be held from 10:00 a.m. to noon at the WSBA office. The November 12 clinic will meet from 2:00 to 4:00 p.m. and will focus on using Casemaker and other online research resources. For more information or to RSVP, contact Julie Salmon at juliesa@wsba.org, 206-733-5914, or 800-945-9722, ext. 5914.

Facing an Ethical Dilemma?
Members facing ethical dilemmas can talk with WSBA’s professional responsibility counsel for informal guidance on analyzing a situation involving their own prospective ethical conduct under the RPCs. All calls are confidential. Any advice given is intended for the education of the inquirer and does not represent an official position of the WSBA. Every effort is made to return calls within two business days. Call the Ethics Line at 206-727-8284 or 800-945-9722, ext. 8267, if you are interested in this group.

Getting an Ethical Dilemma?
Facing an Ethical Dilemma?
Members facing ethical dilemmas can talk with WSBA’s professional responsibility counsel for informal guidance on analyzing a situation involving their own prospective ethical conduct under the RPCs. All calls are confidential. Any advice given is intended for the education of the inquirer and does not represent an official position of the WSBA. Every effort is made to return calls within two business days. Call the Ethics Line at 206-727-8284 or 800-945-9722, ext. 8267, if you are interested in this group.

Upcoming Board of Governors Meetings
December 4–5, Tacoma
January 21–22, 2010, Olympia
March 5–6, 2010, Bremerton

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 October 2009 was 0.152 percent. Therefore, the maximum allowable usury rate for November is 12 percent. Information from January 1987...
In April 2007, Client C hired Jeffrey J. Arntzen (WSBA No. 22586, admitted 1993), of Blaine, was disbarred, effective August 20, 2009, by order of the Washington State Supreme Court following a default hearing. This discipline resulted from conduct involving failure to act diligently, lack of communication, failure to protect clients’ interests, failure to expedite litigation, practicing law while suspended, commission of criminal acts, dishonest conduct, violation of a court order, and failure to cooperate with Bar Association investigations.

**Matter No. 1:** In January 2007, a British Columbia (B.C.) barrister acting on behalf of her client hired Mr. Arntzen to transfer title of Washington real property from her client to the other owners of the property. Mr. Arntzen agreed that he would facilitate the title transfer, but did not memorialize the agreement in writing. Mr. Arntzen prepared and forwarded the appropriate documents to the B.C. barrister. After all necessary signatures had been obtained, the paperwork was returned to Mr. Arntzen for final processing and recording. On March 30, 2007, after receiving the executed paperwork, Mr. Arntzen advised the B.C. barrister for the first time that he required payment of his fee prior to recording the documents. The B.C. barrister replied that it was the custom in Canada to pay upon receiving confirmation that the documents had been recorded and title had been transferred. Mr. Arntzen did not respond. Mr. Arntzen never recorded the documents and retained the signed originals. The B.C. barrister, her client, and the owners of the property attempted to contact Mr. Arntzen by e-mail and phone. Mr. Arntzen did not respond or communicate with them after March 30, 2007. The B.C. barrister had replacement documents prepared, hired another party to record the documents, and filed a grievance against Mr. Arntzen. Mr. Arntzen did not respond to the grievance until he was served with a subpoena ducum tecum requiring him to appear for a non-cooperation deposition. The Association received a written response on the morning of the day when the deposition was to be held.

**Matter No. 2:** Client B hired Mr. Arntzen to represent her in a collection action. In February 2006, Mr. Arntzen filed suit; service was effected in June 2006. After filing the return of service, Mr. Arntzen did not file any other documents or take any other action in the matter, but told Client B that he had gone to court and obtained a judgment against the debtor. This was not true. Client B asked for copies of the paperwork, but received nothing. Client B attempted to contact Mr. Arntzen on multiple occasions over a period of months, but was unsuccessful until August 29, 2007. On that date, Mr. Arntzen admitted to Client B that he had “dropped the ball” in her case. He promised to speak with her again one week later and told her that he would send her copies of the documents he had filed. Mr. Arntzen did not speak with Client B again or send her any documents. In December 2007, the court clerk filed a motion to dismiss Client B’s matter for want of prosecution. Mr. Arntzen did not respond to the motion or advise Client B of it. The court dismissed the matter in February 2008.

The Supreme Court suspended Mr. Arntzen from the practice of law on June 13, 2007, for nonpayment of Bar license fees. Mr. Arntzen never notified Client B or the court of his suspension. On November 29, 2007, Client B filed a grievance against Mr. Arntzen. Mr. Arntzen did not respond to the grievance.

**Matter No. 3:** In April 2007, Client C hired Mr. Arntzen to represent her in a divorce action and paid him a $1,000 fee. The Supreme Court suspended Mr. Arntzen from the practice of law, effective June 13, 2007. In early August 2007, Client C contacted Mr. Arntzen because she had not heard from him. Mr. Arntzen instructed Client C to come to his office and sign the divorce papers. He failed to notify her of his suspension and continued to hold himself out as authorized to practice law by telling Client C that he would file the papers with the court. In December 2007, Mr. Arntzen’s secretary scheduled a meeting between Client C and Mr. Arntzen. Mr. Arntzen did not appear for the meeting or attend a subsequent telephone conference with Client C scheduled in January 2008. Client C later discovered that Mr. Arntzen had never filed her divorce matter. She asked Mr. Arntzen to refund her $1,000, but he did not do so. Client C filed a grievance against Mr. Arntzen on January 30, 2008. Mr. Arntzen did not respond to the grievance.

**Matter No. 4:** On August 16, 2007, Client D hired Mr. Arntzen to probate the will of a deceased relative and transfer ownership of the relative’s property. Mr. Arntzen did not tell Client D that he had been suspended from the practice of law on June 13, 2007. Client D gave Mr. Arntzen the will and the deed to the property, and subsequently paid Mr. Arntzen a fee of $1,200. Mr. Arntzen did no work on Client D’s matter. Between September 2007 and February 2008, Client D made numer-
ous attempts to contact Mr. Arntzen and obtain information about his matter. Mr. Arntzen did not return his calls. Mr. Arntzen's secretary scheduled three telephone conferences, but Mr. Arntzen cancelled each of them. After December 21, 2007, Client D was unable to reach anyone at Mr. Arntzen's office. Client D left voice-mail messages beginning in January 2008 requesting return of his documents and his $1,200. The voice-mail continued to indicate the caller had reached the Law Office of Jeffrey Arntzen. Mr. Arntzen did not respond to any of Client D's messages. In February 2008, with the Association's assistance, Client D obtained his documents from Mr. Arntzen; however, Mr. Arntzen did not refund the $1,200. Client D hired another lawyer to probate the will and filed a grievance against Mr. Arntzen on February 11, 2008. Mr. Arntzen did not respond to Client D's grievance.

Matter No. 5 In the summer of 2006, Client E hired Mr. Arntzen to assist with a transfer of title to real property. Mr. Arntzen agreed to assist, indicated his services would cost $1,000, and asked Client E to provide certain documents. Client E complied with Mr. Arntzen's requests. The Supreme Court suspended Mr. Arntzen from the practice of law effective June 13, 2007. Mr. Arntzen never advised Client E of his suspension. After he was suspended, Mr. Arntzen drafted an affidavit of heirship for Client E and billed him $210 for drafting and recording the affidavit. Mr. Arntzen recorded the signed affidavit on July 6, 2007. In September 2007, Mr. Arntzen met with Client E and asked him to sign papers to transfer the title of the property. Mr. Arntzen told Client E that the transfer would be completed soon and asked for payment of his $1,000 fee, which Client E paid. Mr. Arntzen did not complete the transfer or complete any other work on Client E's matter. He did not respond to repeated attempts by Client E to contact him after October 4, 2007. On February 5, 2008, Client E traveled to Blaine and discovered that Mr. Arntzen's office was closed. Client E located a friend of Mr. Arntzen who was able to put him in contact with Mr. Arntzen. Mr. Arntzen asked for 10 days to complete the matter. Mr. Arntzen never completed the transfer. In April 2008, Client E sent an e-mail to Mr. Arntzen's personal e-mail address demanding that Mr. Arntzen forward his file to a friend or another lawyer and refund the fees paid. Mr. Arntzen did not respond, did not provide a refund, and did not transfer the file. On May 23, 2008, Client E filed a grievance against Mr. Arntzen, who did not respond to the grievance.

Mr. Arntzen's conduct violated RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; RPC 1.4, requiring a lawyer to keep the client reasonably informed about the status of the matter, promptly comply with reasonable requests for information, and to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation; RPC 1.5(a), prohibiting a lawyer from making an agreement for, charging, or collecting an unreasonable fee or an unreasonable amount for expenses; RPC 1.16(a)(1), prohibiting a lawyer from representing a client or, where representation has commenced, from withdrawing from the representation of a client if the representation will result in violation of the Rules of Professional Conduct or other law; RPC 1.16(d), requiring that, upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled, and refunding any advance payment of fee or expense that has not been earned or incurred; RPC 3.2, requiring a lawyer to make reasonable efforts to expedite litigation consistent with the interests of the client; RPC 5.5(a), prohibiting a lawyer from practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction; RPC 5.8(a), prohibiting a lawyer from engaging in the practice of law while suspended from the practice of law for any cause; RPC 8.4(b), prohibiting a lawyer from committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; RPC 8.4(c), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; RPC 8.4(d), prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice; RPC 8.4(i), prohibiting a lawyer from willfully disobeying or violating a court order directing him or her to do or cease doing an act which he or she ought in good faith to do or forbear; and RPC 8.4(l), prohibiting a lawyer from violating a duty or sanction imposed by or under the Rules for Enforcement of Lawyer Conduct in connection with a disciplinary matter (including ELC 14.1, duty to notify client and court of suspension and ELC 14.2 duty to discontinue practice upon suspension).

M. Craig Bray represented the Bar Association. Mr. Arntzen did not appear either in person or through counsel.

Suspended

Larry A. Botimer (WSBA No. 23805, admitted 1994), of Federal Way, was suspended for six months, effective August 20, 2009, by order of the Washington State Supreme Court following an appeal. For further information, see In re Disciplinary Proceeding Against Botimer ___Wash 2d ___, 214 P3d 133 (2009). This discipline is based on conduct involving revealing client confidences and conflicts of interest.

After he retired from the IRS, Mr. Botimer established a law practice that focused on tax work. Mr. Botimer served for several years as a tax preparer for the R family. From 1995 to 2000, he prepared yearly tax returns for Mrs. R and, from 1995 to 2001, he did the same for Mrs. R's son JR and JR's wife. Mr. Botimer assisted Mrs. R with decisions related to her ownership stake in a Seattle nursing home facility. In 1992, Mrs. R retired from the Seattle business but retained ownership of the property, leasing it back to JR and his wife. Mr. Botimer advised JR and his wife regarding incorporation of the Seattle business as a subchapter S corporation, and he advised Mrs. R about creating a "consulting business" as part of an overall tax strategy. Mr. Botimer also prepared tax returns for the Seattle business.

Mr. Botimer also assisted Mrs. R with business matters related to a Spokane care facility run by her other son, MR. The Spokane facility is incorporated under subchapter S. Mrs. R guaranteed loans for the Spokane facility and secured these loans with her Seattle real property, yet received no stock in the Spokane business. Mr. Botimer advised her as to her options regarding the Spokane facility, including restructuring the business so that Mrs. R could both be involved in management of the Spokane facility and receive potential tax benefits reflecting the Spokane business's losses on her own tax returns. Controversy arose when MR would not recognize that his mother or brother had an ownership stake in the Spokane business. Both brothers disagreed as to the extent of each one's stock ownership. Mr. Botimer assisted JR and his wife in negotiations with MR regarding potential solutions. Mr. Botimer did not obtain conflict waivers in the course of his assistance of the various members of the R family and did not discuss with them the advantages and disadvantages of joint representation. Mr. Botimer did not use a written client engagement agreement or any other method to obtain consent in writing to the conflicts.

Mrs. R, JR, and JR's wife decided to close the Seattle nursing care facility and sell the property in August 2000. The proceeds of this sale were to go to the three family members, with JR and his wife expecting half. Mr. Botimer also requested that his fees be paid out of these proceeds. Upon the sale, Mrs. R did not share the proceeds with JR, JR's wife, or Mr. Botimer. Instead, she used the proceeds to satisfy her loan guarantees to the Spokane business. In 2002, Mr. Botimer terminated his representation of Mrs. R with a letter stating that "her failure to cooperate with him, refusal to follow his advice and failure to pay for [his] legal services" led to his decision. The letter also informed Mrs. R that Mr. Botimer was sending correspondence to the IRS to inform the agency "that [Mrs. R's tax] returns do not contain a true record of your taxable income and that you neglected to report gifts made to your son." Without seeking or obtaining Mrs. R's consent, Mr. Botimer followed through and sent the letter to the IRS informing the agency of Mrs. R's failure to, contrary to his advice, correctly state her income and pay gift tax. The letter also contained allegations that Mrs. R had illegally invested her grandchildren's trust property.

To resolve disputes stemming from the sale of the Seattle property, JR and his wife sued Mrs. R, MR, and the Spokane business in 2004. Mr. Botimer cooperated with JR and his wife's attorney in the lawsuit, and provided the attorney with
three declarations to use in pretrial proceedings. The declarations contained detailed background information about Mrs. R's business affairs related to the Seattle business, as well as information about her estate plans. He attached copies of Mrs. R's tax returns and other documents related to his prior tax preparation work. Mr. Botimer also included information describing JR and his wife's lease of the Seattle property and business transactions with MR as tax avoidance tactics. Mrs. R did not give her consent to these disclosures, and no court ordered this revelation of Mrs. R's client information.

Mr. Botimer's conduct violated former RPC 1.6, prohibiting a lawyer from revealing confidences or secrets relating to representation of a client unless the client consents after consultation; former RPC 1.7, prohibiting a lawyer from representing a client if the representation of that client will be directly adverse to another client unless the lawyer reasonably believes that the representation will not adversely affect the relationship with the other client and each client consents in writing after consultation and a full disclosure of the material facts; and former 1.9(b), prohibiting a lawyer who has formerly represented a client in a matter from thereafter using confidences or secrets relating to the representation to the disadvantage of the former client.

Randy V. Beitel and Nancy Bickford Miller represented the Bar Association. Paul E. Simmerly represented Mr. Botimer. David B. Condon was the hearing officer.

Admonished

Robert Earl Beach III (WSBA No. 6710, admitted 1976), of Spokane, was ordered to receive an admonition on March 6, 2009, by order of a review committee of the Disciplinary Board. This discipline was based on conduct involving failure to act with reasonable diligence and failure to deliver to a client funds which the client was entitled to receive.

In September 2004, Client A retained Mr. Beach to resolve a real estate dispute for her mother. Client A paid Mr. Beach $2,500 based on an oral agreement. Mr. Beach deposited the funds into his general account. In November 2004, after several attempts, Client A was able to speak with Mr. Beach about the case. He promised to draft a letter by the end of the week, but did not do so. In December 2004, Client A asked for a refund of the fees she paid. Mr. Beach agreed to refund her fees. In March 2005, Mr. Beach promised to send the refund by May 1, 2005, which he failed to do. In June 2005, Mr. Beach did send a refund, but his check bounced. On July 19, 2005, he refunded $2,697.26 to Client A.

Mr. Beach's conduct violated RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; RPC 1.4(a)(3), requiring a lawyer to keep the client reasonably informed about the status of the matter; and former RPC 1.4(b)(4), requiring a lawyer to promptly pay or deliver to the client as requested by a client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive.

Marsha M. Matsumoto represented the Bar Association. Mr. Beach represented himself.

Non-Disciplinary Notices

Suspended Pending the Outcome of Disciplinary Proceedings

Thomas O. Mix Jr. (WSBA No. 24112, admitted 1994), of Lansing, Michigan, was suspended pending the outcome of disciplinary proceedings, pursuant to ELC 7.1 (Interim Suspension for Conviction of a Crime), effective August 24, 2009, by order of the Washington State Supreme Court. This is not a disciplinary sanction.

Suspended Pending the Outcome of Disciplinary Proceedings

Mark A. Schneider (WSBA No. 18398, admitted 1988), of Tacoma, was suspended pending the outcome of disciplinary proceedings, pursuant to ELC 7.2(a)(3), effective September 28, 2009, by order of the Washington State Supreme Court. This is not a disciplinary sanction. Mark A. Schneider is to be distinguished from Mark W. Schneider of Seattle and Mark A. Schneider of Bellevue.

Announcements

John R. Briscoe

has joined the firm of
PABST HOLLAND & REYNOLDS, PLLC
in Vancouver.

His practice will focus on business, estate planning, and real estate. Briscoe received his J.D. from the University of Oklahoma in 1994 and formerly was Division Counsel at D. R. Horton, Inc.

Pat Pabst,

founding member, will become
Of Counsel to the firm.

PABST HOLLAND & REYNOLDS, PLLC
900 Washington Street, Suite 820
Vancouver, WA 98660
360-693-1910

The law firm of
REED, LONGYEAR,
MALNATI & AHRENS, PLLC
is pleased to announce
Dominik Musafia

has joined the firm as an associate.

Mr. Musafia’s practice will focus on family law, real estate transactions, and general business law.

Dominik Musafia

Douglas W. Ahrens
Eric E. Brunstrom
Jason W. Burnett
William L. Maltman
Christina L. Corwin
Claudia A. Gowan
Lawrence R. Hennings
Michael J. Longyear
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Michael C. Malnati
Dominik Musafia
Frederic D. Reed
Julie R. Sommer
John R. Vaughhey
Gary L. Wolfstone, Of Counsel

1415 Norton Building, 801 Second Avenue
Seattle, WA 98104-1522
206-624-6271 | dmusafia@rlmalaw.com
www.rlmalaw.com

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CLE Calendar

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

WSBA Bar News CLE Calendar
1325 Fourth Ave., Ste. 600
Seattle, WA 98101-2539
Fax: 206-727-8319
E-mail: comm@wsba.org

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

Construction Law

Construction Law Year End
December 10 — Spokane. CLE credits pending. By the WSBA Construction Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Creditor and Debtor Law

Judgments: You’ve Won! Now What?
December 15 — Spokane. 6.25 credits, including .5 ethics pending. By the WSBA Creditor Debtor Rights Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Judgments: You’ve Won! Now What?
December 17 — Seattle/live webcast. 6.25 credits, including .5 ethics pending. By the WSBA Creditor Debtor Rights Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Criminal Law

Ethics for Prosecutors and Defense Counsel: The Annual Fall Dave and John Show
November 20 — Seattle. Contact Lori Lamb at lamb@seattleu.edu.

Ethics for Prosecutors and Defense Counsel: The Annual Fall Dave and John Show
November 21 — Spokane. By Seattle University School of Law. Contact Lori Lamb at lamb@seattleu.edu.

Environmental Law

17th Annual Oregon Water Law
November 5–6 — Portland, OR. By The Seminar Group; 206-463-4400 or http://theseminargroup.net/seminar.lasso?seminar=09.wator.

Carbon Credits

Developing Wind Power in the Northwest

Estate Planning

Advising Estate Planning and Probate Clients: Practice Pitfalls and Economic Challenges
November 18 — Seattle. 6.75 CLE credits, including .75 ethics pending. By the WSBA Real Property, Probate and Trust Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethics with Ease: Estate Planners
November 19 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Advanced Probate
December 8 — Seattle/live webcast. 6 credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethics

Chains of Law: Slavery, Jim Crow, and Reparations
November 6 — Seattle. 4 credits, including .5 ethics. By Rubric CLE; 206-714-3178; www.rubriccle.com.

Visioning a Practice You’ll Love: An Experiential CLE for Women Lawyers
November 7 — Seattle. 6 ethics credits. By Betsy Gutting, JD; 206-605-2900; betsy@betsygutting.com; www.betsygutting.com/section_events/index.htm.

Ethics with Ease: General Practitioners
November 10 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethics with Ease: Modern Technology and Ethical Dilemmas
November 12 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

7th Annual Law of Lawyering: Day One
November 12 — Seattle/live webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

7th Annual Law of Lawyering: Day Two

Chains of Law: Women Without Rights
November 13 — Seattle. 3.5 credits, including .5 ethics. By Rubric CLE; 206-714-3178; www.rubriccle.com.

Ethical Dilemmas
November 16 — Seattle. 4 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Antitrust Law

Antitrust
November 5 — Seattle. 6.25 credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Business Law

Ethics with Ease: Business Lawyers
December 1 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Great Escapes
December 3 — Seattle. 6 credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

The Lawyer’s Toolbox: Tax Issues for Business Transactions
December 11 — Seattle. 3 credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Privileges, Protected Information, and Confidences
December 16 — Seattle. 6 credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Estate Planning

Advising Estate Planning and Probate Clients: Practice Pitfalls and Economic Challenges
November 18 — Seattle. 6.75 CLE credits, including .75 ethics pending. By the WSBA Real Property, Probate and Trust Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethics with Ease: Estate Planners
November 19 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Advanced Probate
December 8 — Seattle/live webcast. 6 credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethics

Chains of Law: Slavery, Jim Crow, and Reparations
November 6 — Seattle. 4 credits, including .5 ethics. By Rubric CLE; 206-714-3178; www.rubriccle.com.

Visioning a Practice You’ll Love: An Experiential CLE for Women Lawyers
November 7 — Seattle. 6 ethics credits. By Betsy Gutting, JD; 206-605-2900; betsy@betsygutting.com; www.betsygutting.com/section_events/index.htm.

Ethics with Ease: General Practitioners
November 10 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethics with Ease: Modern Technology and Ethical Dilemmas
November 12 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

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November 12 — Seattle/live webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

7th Annual Law of Lawyering: Day Two

Chains of Law: Women Without Rights
November 13 — Seattle. 3.5 credits, including .5 ethics. By Rubric CLE; 206-714-3178; www.rubriccle.com.

Ethical Dilemmas
November 16 — Seattle. 4 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.
“How To” CLE on Being Your Own Techie
November 6 — Seattle. 4.25 CLE credits. By WSAJ; 206-464-1011; www.washingtonjustice.org

High Impact Presentation Skills: Fast-Track Coaching for Busy Attorneys

7th Annual Law of Lawyering: Day One
November 12 — Seattle/live webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbal.org

7th Annual Law of Lawyering: Day Two
November 13 — Seattle/live webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbal.org

Marijuana: It’s Time for a Conversation
November 16 — Seattle. 1 CLE credit. By the ACLU of Washington; www.aclu-wa.org

Tort Trends and Victories 2009
November 19 — Seattle. By WSAJ; 206-464-1011; www.washingtonjustice.org

Best of CLE
December 2 — Seattle/live webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbal.org

Best of CLE
December 3 — Spokane. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbal.org

You Gant Do That! Current Issues in Search and Seizure
December 4 — Seattle. By WACDL; www.wacdl.org

A Day with Paul Stritmatter
December 4 — Seattle. By WSAJ; 206-464-1011; www.washingtonjustice.org

Privileges, Protected Information, and Confidences
December 16 — Seattle. 6 credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbal.org

Last Chance Video Roundup
December 30 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbal.org

Intellectual Property
IP Licensing
December 9 — Seattle. CLE credits pending. By the WSBA Intellectual Property Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbal.org

Labor and Employment Law
9th Annual Labor and Employment Law Conference
November 6 — Seattle. 6 credits. By the WSBA Labor and Employment Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbal.org

Ethics with Ease: Employment Lawyers
December 7 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbal.org

Video Replay: Sidebar with the Bench — with Live Moderator
December 1 — Seattle. 6 credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbal.org

Great Escapes
December 3 — Seattle. 6 credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbal.org

Movie Magic
December 11 — Seattle. 6 credits, including 2 ethics pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbal.org

Judgments: You’ve Won! Now What?
December 15 — Spokane. 6.25 credits, including .5 ethics pending. By the WSBA Creditor Debtor Rights Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbal.org

Privileges, Protected Information, and Confidences
December 16 — Seattle. 6 credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Judgments: You’ve Won! Now What? December 17 — Seattle/live webcast. 6.25 credits, including .5 ethics pending. By the WSBA Creditor Debtor Rights Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Deposition Techniques December 18 — Seattle. 6 credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Mediation

Beyond Heroes and Villains: The Power of Collaboration November 6–7 — Eugene, Oregon. 23rd Annual Oregon Mediation Association Fall Conference, in partnership with the University of Oregon School of Law Appropriate Dispute Resolution Center; 503-872-9775; www.omediate.org/pg1010.cfm.


Real Property, Probate, and Trust

Liens: How to Create Them; How to Enforce Them November 6 — Seattle. 6.75 CLE credits. By King County Bar Association; 206-267-7004; www.kcba.org.

Advising Estate Planning and Probate Clients: Practice Pitfalls and Economic Challenges November 18 — Seattle. 6.75 credits, including .75 ethics pending. By the WSBA Real Property, Probate and Trust Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Annual Fall Real Estate Conference December 4 — Seattle/live webcast. 6.5 credits, including 1 ethics pending. By the WSBA Real Property, Probate and Trust Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Advanced Probate December 8 — Seattle/live webcast. 6 credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Community Property for Today: Practical Tips in This Economy December 15 — Seattle/live webcast. 6 credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Solo and Small Firm

Strategic Solutions for Solo and Small-Firm Practitioners December 10 — Seattle/live webcast. 6.25 credits, including 2 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Taxation Law

The Lawyer’s Toolbox: Tax Issues for Business Transactions December 11 — Seattle. 3 general credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Tele-CLEs/Webinars/Webcasts

Time Mastery for Lawyers November 3 — Seattle/live webcast. 6 general credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethics with Ease: General Practitioners November 10 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Medicine and Medical Evidence for Lawyers: Navigating the Maze November 10 — Seattle/live webcast. 6 general credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethics with Ease: Modern Technology and Ethical Dilemmas November 12 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.


Ethics with Ease: Negotiation Ethics — Winning Without Selling Your Soul with Marty Latz November 17 — Tele-CLE. 1.5 ethics credits.

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Ethics with Ease: Estate Planners November 19 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.


Best of CLE December 2 — Seattle/live webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Annual Fall Real Estate Conference December 4 — Seattle/live webcast. 6.5 credits, including 1 ethics pending. By the WSBA Real Property, Probate and Trust Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethics with Ease: Employment Lawyers December 7 — Tele-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Advanced Probate December 8 — Seattle/live webcast. 6 credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Strategic Solutions for Solo and Small Firm Practitioners December 10 — Seattle/live webcast. 6.25 credits, including 2 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

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

Mac has 15 years of mediation experience. He has mediated over 1,000 cases in the areas of maritime, personal injury, construction, and commercial litigation.

Mac has a reputation as not only being highly prepared for every mediation, but also for providing as much follow-up as is necessary to settle a case.

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ETHICS AND LAWYER DISCIPLINARY INVESTIGATION AND PROCEEDINGS
Stephen C. Smith, former Chairman of the Washington State Bar Association Disciplinary Board, is now accepting referrals for attorney disciplinary investigations and proceedings in Washington, Idaho, Hawaii, and Guam.

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

Mac has 15 years of mediation experience. He has mediated over 1,000 cases in the areas of maritime, personal injury, construction, and commercial litigation.

Mac has a reputation as not only being highly prepared for every mediation, but also for providing as much follow-up as is necessary to settle a case.

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ETHICS AND LAWYER DISCIPLINARY INVESTIGATION AND PROCEEDINGS
Stephen C. Smith, former Chairman of the Washington State Bar Association Disciplinary Board, is now accepting referrals for attorney disciplinary investigations and proceedings in Washington, Idaho, Hawaii, and Guam.

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ATTORNEY FEES/ADR

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

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

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Attorneys and clients are now invited to seek the services of Camden M. Hall, former Seattle Municipal Court Judge pro tem, and King County Superior Court Judge pro tem, and member of the Washington State Bar Association’s former Fee Arbitration Panel, in the arbitration of their attorney fee disputes.

**CAMDEN M. HALL, PLLC**
1001 Fourth Avenue, Suite 4301
Seattle, WA 98154-1142
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E-mail: chall@camdenhall.com
Web: www.camdenhall.com

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When faced with a discrimination issue or complex employment problem, Claire has the experience, judgment, and impartiality both sides seek.

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web: www.ccordonlaw.com

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Anne Watson, former law clerk to the Washington State Supreme Court, welcomes consultation, association, or referral of appellate cases.

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anne@awatsonlaw.com

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**LAW OFFICE OF ANNE WATSON, PLLC**
360-943-7614
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Claire Cordon is available for representation in lawyer discipline matters and advice on legal ethics issues.

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**ATTORNEY FEE DISPUTE ARBITRATION**

Camden M. Hall, former Seattle Municipal Court Judge pro tem and King County Superior Court Judge pro tem and member of the Washington State Bar Association’s former Fee Arbitration Panel, is available to assist attorneys and clients in the arbitration of their attorney fee disputes.

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Claire Cordon is available for representation in lawyer discipline matters and advice on legal ethics issues.

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**ATTORNEY FEE DISPUTE ARBITRATION**

Camden M. Hall, former Seattle Municipal Court Judge pro tem and King County Superior Court Judge pro tem and member of the Washington State Bar Association’s former Fee Arbitration Panel, is available to assist attorneys and clients in the arbitration of their attorney fee disputes.

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Web: www.camdenhall.com

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WSBA regulatory services counsel — This half-time (20 hours/week) position assists the Regulatory Services Department (RSD) director with conducting character and fitness reviews and analysis, investigations, and hearings for all applicants for admission, special admission, reinstatement, limited licensing, change of status, and the APR 6 Law Clerk Program. The role also provides back-up for the RSD director on issues requiring legal analysis or the practice of law, including drafting and analyzing rule or regulation change proposals that affect RSD work, and drafting petitions, appeals, or responses to petitions to the Supreme Court in matters related to admissions and licensing. Additional responsibilities include assisting RSD managers with providing coverage of issues when the RSD director is out of the office and assisting with administration of the twice-yearly bar examinations. Requirements: a J.D. degree or successful completion of Washington’s APR 6 Law Clerk Program, an active license and good standing in the WSBA, along with a minimum of five years’ active law practice experience. Experience must involve actual
trial, administrative hearing, or alternative dispute resolution experience. Preferred qualifications include seven years’ practice along with prosecutor or public defender experience, and direct participation conducting investigations. Visit www.wsba.org/jobs for details.

**WSBA New Lawyer Education Program development specialist** — The WSBA is seeking a new lawyer education program development specialist who will lead development of the strategy and project plan for New Lawyer Education throughout Washington, including free and low-cost programming, in collaboration with the WSBA Young Lawyers Division. Duties include: program marketing; enhancing content development; recruiting speakers and chairs; managing event project details; managing the WSBA-wide delivery of new lawyer training/education in a comprehensive fashion; managing “mini-CLE” programming; supporting the CLE Department in selecting/utilizing appropriate software systems; and contracting with vendors to develop the actual online e-programming. Requirements include a B.A. in education or education-related field with a minimum of two years’ experience in continuing legal education. A law degree or a master’s in education, plus CLE experience, is preferred. Also required: excellent project-management skills; experience working with volunteers; experience designing and delivering live and e-learning programs; experience administering learning management systems; experience utilizing databases for project and programming analysis; excellent oral and written communication skills; customer-service skills; curriculum-development skills; knowledge of effective marketing techniques; budgeting experience; and proficiency in MS Office Suite. Visit www.wsba.org/jobs for details.

**Attorney position: Legal Ease, L.L.C.** — Washington’s Attorney Placement Specialists since 1996 — has been exclusively retained by an established and highly regarded Seattle-area complex litigation boutique to recruit the following: complex litigation associate with two-plus years’ experience in sophisticated litigation practice; excellent academic credentials and outstanding written work product a must. This is an ideal position if you seek large-firm quality of work and compensation within a smaller environment. Please submit your résumé promptly and in strict confidence to LJONAS@legalease.com.

**Bankruptcy associate position** open at small, friendly downtown Seattle firm. Two years’ or more legal experience required; bankruptcy experience a plus. Full-time or part-time. E-mail résumé to gloria@haglerlaw.com.

**Eastern Washington — busy sole practitioner** with family law, real property, and business clients needs help. I have built a successful practice over the last 30-plus years and need an experienced attorney to lend a hand. Someone with a solid résumé, trial experience, and an appreciation for “small town” rural life will find this a great opportunity. This is not glamorous work, it is the “real” practice of law. Start as an associate — where you go from there is negotiable. Need at least five years of real experience in civil practice. Please e-mail résumé referencing Job Code #717 in the subject line to classifieds@wsba.org or mail to: WSBA Bar News Classifieds, Job Code #717, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539.

**Allstate staff counsel has an opening for a trial attorney** in its Seattle office. Washington license and minimum three years’ trial experience required. Civil or personal injury trial experience a plus. 15 percent travel. Busy, fast-paced practice covering trials throughout the state of Washington. Résumés and references to Gerard Gregoire, mgrey@allstate.com, or Tony Vidlak, anthony.vidlak@allstate.com.

**Environmental associate** — The Seattle office of Stoel Rives LLP is seeking an associate with at least two years of prior legal experience to join its Environmental and Natural Resources Practice Group. The ideal candidate has significant regulatory experience including prior experience with the Clean Air Act, the Clean Water Act, and state and federal contaminated-site cleanup programs. Strong academic credentials, client service skills, and writing skills are required. Interested applicants should visit our website at www.stoel.com and submit application materials to Lianne Caster, Lawyer Recruiting and Diversity Manager, Stoel Rives LLP, 600 University St., Ste. 3600, Seattle, WA 98101. E-mail submissions to lcaster@stoel.com are welcome. EO.

**Starbucks corporate counsel, litigation.** Job summary and mission: This job contributes to Starbucks’ success by providing legal advice and counsel to Starbucks management and partners on premises liability, product liability, and other personal-injury claims and lawsuits. Models and acts in accordance with Starbucks guiding principles. Summary of key responsibilities and essential job functions include, but are not limited to, the following: determines when and how to engage outside counsel; manages work of outside counsel and associated costs; develops and implements systems and procedures to ensure efficient and consistent conduct of company business; provides advice and counsel to Starbucks management and partners regarding legal matters and issues; provides advice and training to other Law and Corporate Affairs attorneys in area of expertise; identifies significant risks and liabilities, and apprises others; delegates work to paralegals and other staff, and provides leadership and guidance. Summary of experience: practice of law in a law firm or company legal department (five years); experience in premises and product liability preferred; experience in working with and managing paralegals on premises liability, product liability, and other personal-injury claims and lawsuits preferred. Required knowledge, skills, and abilities: organization and planning skills; ability to communicate clearly and concisely, both orally and in writing; ability to balance multiple priorities and meet deadlines; analytical skills. To apply for this role, please go to www.starbucks.com/aboutus/jobcenter.asp and look for requisition number 00007K.

**Senior associate position:** Everett law firm seeking general litigation attorney with at least five years’ experience. Must have excellent communication, negotiation, and writing skills. Book of business preferred. Competitive salary and benefits package. All inquiries confidential. Send résumé and writing sample (in MS Word or PDF format) to hr@bellingram.com.

**Associate attorney position** at a small north Seattle law firm. Qualified candidates will have a minimum of two years’ experience in probate and/or estate planning and/or transactional matters, will possess excellent computer and software skills, and be able to work independently. E-mail ré-
**Best place to live and teach in the U.S.:**
The University of Montana School of Law anticipates hiring a full-time tenure-track professor beginning in the 2010–2011 academic year. While the specific responsibilities associated with this position have not been finalized, we expect the position to include criminal clinic responsibilities, as well as teaching in other areas where we may have needs, including professional responsibility and/or family law. We are committed to integrating theory with practice and thus especially value substantial practice experience in the areas to be taught. We have a vibrant faculty, a close connection with our students, and a beautiful new building. The law school is a stone's throw from the Clark Fork River, featured in Norman Maclean's great Montana fishing novel *A River Runs Through It*. Missoula is also home to a wide range of writers, artists, and musicians, and is a wonderful place to raise a family. We encourage applications from women, people with disabilities, veterans, and minorities. For more information and for our application procedure, go to [www.law.umt.edu/law/faculty/openings.htm](http://www.law.umt.edu/law/faculty/openings.htm).

**Seeking dual (Oregon and Washington) licensed workers’ compensation attorney.** Please send résumé to Wallace, Klor & Mann, P.C., Attn: Hiring Partner, 5800 Meadows Rd., Ste. 220, Lake Oswego, OR 97035; or e-mail to [Ac.WKMLaw@Yahoo.com](mailto:Ac.WKMLaw@Yahoo.com).

**Legal Ease, L.L.C. — Washington’s Attorney Placement Specialists since 1996 — has been exclusively retained by a Seattle-area north-end law firm looking to bring on two attorneys: (1) junior civil litigation associate, minimum one year experience; and (2) partner or of counsel with partial or full book of business, variety of practice areas will be considered. Both positions require candidates to live in, or have proven strong connections with, Snohomish County. We are also working to fill other permanent positions as well as multiple contract attorney opportunities primarily in IP, contracts, BR, and complex commercial litigation. Please submit your résumé or inquiry in strict confidence to [LJONAS@Legalease.com](mailto:LJONAS@Legalease.com).**

**Legal Ease, L.L.C. — Washington’s Attorney Placement Specialists since 1996 — has been exclusively retained by an established and growing Seattle-based company to recruit attorneys to fill two in-house contract positions: (1) commercial contract attorney with some IP background, two-plus days per week to review, draft, and negotiate a variety of corporate contracts; and (2) patent-experienced contract attorney to assist with managing in-house patent-prosecution-related processes. Please inquire or submit résumé in strict confidence to [LJONAS@Legalease.com](mailto:LJONAS@Legalease.com).**

**Legal Ease, L.L.C. — Washington’s Attorney Placement Specialists since 1996 — has been exclusively retained by a Seattle-area complex litigation attorney with outstanding academic credentials. This attorney will work full-time on high-level trial preparation and will second chair out-of-state trials in the coming year. Expect travel. The position begins on a contract basis, is ongoing, and will likely transition into a permanent post assuming strong performance and fit. Please submit your résumé or inquiry in strict confidence to Lynda Jonas at [LJONAS@Legalease.com](mailto:LJONAS@Legalease.com).**

**Ahlers & Cressman PLLC, an 11-lawyer construction law firm in downtown Seattle, is seeking an experienced construction law attorney with at least four years’ experience to perform construction contract review and drafting, litigation, arbitration, and dispute resolution. Ahlers & Cressman PLLC is a group of motivated, hard-working attorneys. Its lawyers believe that high-quality work results in satisfied clients and a prosperous firm. The firm is closely knit with a strong sense of camaraderie. Compensation is negotiable based upon qualifications and experience. All inquiries will remain confidential. If interested, please send résumé and cover letter to: Chris Achman, Administrator, Ahlers & Cressman PLLC, 999 Third Ave., Ste. 3100, Seattle, WA 98104-4088. Fax: 206-287-9902. Website: [www.ac-lawyers.com](http://www.ac-lawyers.com). E-mail: [achman@ac-lawyers.com](mailto:achman@ac-lawyers.com).**

**Walker Heye & Meehan, PLLC, seeks an associate attorney who wishes to live and practice law in the Tri-City area. Our firm focuses primarily on business and corporate law, civil litigation, real estate, and estate planning. We offer a supportive leadership team to assist in practice development and an ideal central location in a Richland. Candidate must be able to act independently on assigned projects, possess excellent time- and case-management skills, and interact well with clients. A minimum of one year of practical experience — clerkship or practice — is required. Salary and benefits DOQ. Please e-mail résumé and cover letter to: snoland@walkereye.com.**

**Associate attorney — Growing plaintiffs’ personal injury and wrongful death law**

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**55 and Over?**

**Lawyers in Transition: For Attorneys 55 and Over**

A new support group brought to you by the WSBA Lawyers Assistance Program.

**Topics include:**
- Changes in one’s career
- Nurturing interests outside of the law
- Giving and receiving support to fellow lawyers at a similar life stage

If you are interested in taking part or have questions or recommendations, please contact Dr. Rebecca Nerison at [rebeccan@wsba.org](mailto:rebeccan@wsba.org), 206-727-8269, or 800-945-9722, ext. 8269. We are especially interested in knowing which themes you would like to address, and we welcome suggestions about meeting times.
firm in Olympia seeking another associate attorney. Strong preference given to candidates with federal clerkship experience. Trial, litigation, or moot court experience also a plus. Position requires excellent legal writing skills geared toward quality independent research and trial advocacy, along with excellent negotiation and presentation skills, and competency in Word or WordPerfect. The right candidate will also have a winning attitude, strong work ethic, and passion for advocating on behalf of injured people and families in claims defended by billion-dollar insurance companies. Check us out at www.rm-law.us. All inquiries are confidential. Send your letter of interest, résumé, and writing sample as e-mail attachments to kelsie@rm-law.us.

Divorce Lawyers For Men is seeking to contract with experienced family law attorneys who will provide aggressive legal representation to clients in several Puget Sound office locations. We need attorneys who want to affiliate with Divorce Lawyers For Men to jointly represent clients on numerous family law cases. We have a large client base and want to work with local attorneys to assist in jointly representing clients. If you are interested in a strong increase in the number of your family law clients, please send e-mail to: frank@morris-sockle.com, or call Frank Morris at 360-866-7393.

Services


Virtual Independent Paralegals, LLC, provides full-range, comprehensive legal and business services at reasonable rates. Due diligence document review/databaseing, medical summarization, transcription, legal research and writing, pleading preparation, discovery, motions, briefs, and in-person trial support. Because we’re 24/7/365 we’re able to bridge the 9-to-5 gap. The hours we produce contain no overhead costs, and are, thus, all billable. We hit the ground running, providing highest-quality results. We’re just a phone call or e-mail away. www.viphelpme.com.

Résumé/career consultations for attorneys — 30 minute sessions – $65. Lynda Jonas, Esq., owner of Legal Ease L.L.C. — Washington’s Attorney Placement Specialists, since 1996 — works with attorneys only, in Washington state only. She has unparalleled experience counseling and placing attorneys in our state’s best law firms and corporate legal departments. It is her opinion that more than 75 percent of attorney résumés are in immediate, obvious need of improvement. Often these are quick, but major, fixes. Lynda is uniquely qualified to offer résumé assistance and advice/support on best steps to achieve your individual career goals within our local market. She remains personally committed to helping attorneys land the single best position available to them. All sessions are conveniently offered by phone. Please e-mail legalease@legalease.com or call 425-822-1157 to schedule.

Freelance PI paralegal available for demand prep, case management, negotiation, and litigation support. Experienced, prompt, and detail-oriented. Pick-up and delivery available. Tamara Morgan 206-992-7093, tournestparalegal@gmail.com.

Consulting attorney experienced in environmental and energy cases — combined education and experience in petroleum engineering, environmental engineering, and law. Washington Bar. Details at www.mcfelts.com. Contact margaret@mcfelts.com or 916-468-8443.

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

You won your client’s case — have they been able to collect their judgment? Contact Evergreen Judgment Recovery. We’re dedicated to enforcing judicial judgments. 877-504-0287, ext. 7; http://evergreenjr.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.

Experienced trial attorney available for contract work. Very skilled at legal research and writing. 25 years of writing pleadings, motions, and briefs before trial and appellate courts. Full access to research resources. G. Kent Thorsted 425-462-2552, kentthorsted@comcast.net.

Impairment ratings for chiropractic patients, by an Independent Medical Examiner, using the AMA Guides to the Evaluation of Permanent Impairment, 5th and 6th Editions. Call for schedule, fees, and specifics by contacting Dr. Michael Upton, DC, at 425-358-1698.

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, lynnewilsonatty@gmail.com.

Experienced nurse-attorney available for litigation support. Ten years’ medical-negligence/personal-injury litigation experience, both plaintiff and defense, added to 15-plus years of ED/critical-care nursing. Five years’ experience as mediator. Expert medical records review, organization, and analysis; medical/legal research; and obtaining experts, drafting case-specific discovery, and briefs. Hourly or flat-rate basis. Contact PJH Litigation Support at hanlon.pj@gmail.com or 206-307-5654.

Expert witness and consultant — commercial real estate, 39 years’ experience management and executive positions, co-authored 17 books, written over 100 articles, national and international instructor. Richard Muhlebach CPM, CRE, SCRM, RPA, 206-660-6902, rmuhlebach@comcast.net.


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

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

**Downtown Seattle executive office space:** Full- and part-time offices available on the 32nd floor of the 1001 Fourth Avenue Plaza Building. Beautiful views of mountains and the Sound! Close to courts and library. Short- and long-term leases. Conference rooms, reception, kitchen, telephone answering, mail handling, legal messenger, copier, fax, and much more. $175 and up. Serving the greater Seattle area for over 30 years. Please contact Business Service Center at 206-624-9188 or www.bsc-seattle.com for more information.

**Turn-key — new offices available** for immediate occupancy and use in downtown Seattle, expansive view from 47th floor of the Columbia Center. Office facilities included in rent (reception, kitchen, and conference rooms). Other administrative support available if needed. DSL/VPN access, collegial environment. Please call Amy, Badgley Mullins Law Group, 206-621-6566.

**Kent office space:** Elegant, fully furnished office(s) in newly constructed small law building. All amenities included. Possible referrals. Gated entrance with own parking lot. Highly visible location close to RJC. 206-227-8831.

Available now — downtown Bellevue office space — window office in class "A" building, with or without assistant space(s). Shared reception, conference room/library, file room, high-speed copier/scanner, fax, Internet, kitchen, etc. Please call Eileen at 425-453-0439 or e-mail BellevueLawOffice@gmail.com.

**Executive office suites** available, furnished or unfurnished in downtown Poulsbo. Prices begin at $350 for an individual office. Contact 253-851-2008.

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

Bellevue office space: Two offices available for sublease in downtown Bellevue. Rent includes shared use of conference rooms, small law library, and kitchen. Options include use of copier and covered parking. Please contact asakai@jgslaw.com.


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

**Laurelhurst (Seattle), 2,000 sq. ft. professional office suite** in premiere NE 45th location. Beautiful tenant improvements. Very favorable lease rate of $18.57/sq. ft. available for up to nine years. Six offices, library, conference room, reception area, and clerical support area. Great parking. Call 206-523-6470 for more information.

**Laurelhurst/University (Seattle) office suite** available. Great location: close to Burke-Gilman Trail, University Village, and UW. Share administrative assistant, library, and conference room with attorneys and CPA. Possible joint marketing and referrals. Contact Carol, 206-523-6470.

**Will Search**

**Will Search.** We are searching for the Last Will and Testament of Donald W. Fisher. If you have any information, please contact the Law Office of Tana M. Bieniewicz, 360-213-1990.

**The Wainwright family** is searching for a will for deceased Richard Donald Wainwright of Vancouver, Washington. If you know of a will or have information, please contact Ehren at 360-909-8991.

Anyone with knowledge or information regarding the last will and testament of Laura Zimmerman, dated August 27, 1992, please contact Gates’ Law, PLLC, 18010 Southcenter Parkway, Tukwila, WA 98188. Phone: 253-332-7899. Fax: 206-547-0700.
Judicial services, ma'am. That's obvious.

Oh, you drive a hard bargain, don't you?

Wait a minute. We have to pay your clients. May I ask what type of case you have?

I'm sorry, ma'am. With all due respect, we no longer follow the filing-fee model, which we consider obsolete. Instead, we offer a range of litigation packages tailored to the needs of you and your clients. May I ask what type of case you have?

Welcome to Enterprise County Superior Court. I'm Tad. How may I help you, ma'am?

TT: Welcome to Enterprise County Superior Court. I'm Tad. How may I help you, ma'am?

TP: I just need to file a complaint for a civil action.

TT: Have you litigated with us before?

TP: Uh, no. I don't usually practice in this county.

TT: Well, I just need to see photo I.D. and a major credit card.

TP: Credit card?

TT: Yes, ma'am. For services.

TP: Services?

TT: Judicial services, ma'am. That's our business, as you know. And here in Enterprise County, we have developed what we feel is the best system in the state for delivering exceptional justice at an affordable cost for consumers while maintaining sound budgetary practices.

TP: Well, that's commendable — uh, Tad — but all I need is to file this complaint. What's your filing fee?

TT: I'm sorry, ma'am. With all due respect, we no longer follow the filing-fee model, which we consider obsolete. Instead, we offer a range of litigation packages tailored to the needs of you and your clients. May I ask what type of case you have?

TP: Well, it's a catastrophic injury case involving a bridge collapse.

TT: Sounds complicated! But we have just the thing for you with our Key to the Courthouse Premium Pak. For $2,499, you can file three pleadings of your choice plus a summary judgment motion and a demand for jury, all at no extra charge. For each document, the first 1,000 words are free, including Latin phrases. You also get priority scheduling for trial and guaranteed use of a senior judge. This is really popular on the big civil cases.

TP: Wait a minute. We have to pay $2,500 just to litigate in this court?

TT: No, ma'am — certainly not. We have lower-cost plans for more modest budgets. I can show you the Justice for All Pak. That's usually $1,499, but with our "Fall into Justice" promotion, it's just $999. I don't think you're going to find justice at that price anywhere else.

TP: Look. Can't I just write a check for a couple hundred dollars, file the complaint, pay-as-you-go.

TT: Oh, you drive a hard bargain, ma'am. But you're trying to keep costs down for your client and I respect that. I think the best thing for you would be our Justice on Demand Valu Pak. It's our lowest-priced option. For $599, you get one pleading of up to 2,000 words plus $100 in Court Bucks, which you can use toward additional services. Other than that, it's pay-as-you-go.

TP: Pay for what as I go?

TT: Well, additional pleadings are $200 each up to 1,000 words. Motions are $100, trial scheduling is $175, and demand for jury is $100. Pre-trial conferences are $200 per hour for each party. Of course, the trial itself is still free, but it's pretty bare-bones.

TT: If you think this is going to trial, I'd highly recommend one of our Trial Enhancement packages.

TP: Trial Enhancement package? Is that even constitutional?

TT: I can't give legal advice, ma'am, but what I can do is offer you our Trial Without Tribulation Pak, which gives you padded chairs and premium desk lamps at the counsel table, free wi-fi, and boxed deli lunches — your choice of turkey, roast beef, or vegetarian. If you sign up today, I'll even throw in a 15-minute neck massage, all for only $69.99. Oh, and since it's an injury case, I'd suggest our Emotional De-Stress Kit. That gives you bottled water served cold at all recesses, unlimited facial tissue, and a water-resistant legal pad. You get all that for only $39.99. One of our best bargains.

TP: Listen, Tad. Here's what I'll do, I'll give you $1,000 total for the key to the Courthouse Premium Pak, the Trial Without Tribulation Pak, and the Emotional De-Stress Kit. That's my final offer.

TT: You're new here and I like you, ma'am. So I'm going to take you up on that. Oh, and I nearly forgot, you can save another 10 percent if you apply for our Enterprise County Visa card.

TP: No thanks on the Visa, but we'll take two turkeys and a vegetarian on the sandwiches. Hold the mayo.
A GOOD DUI DEFENSE CAN HELP YOUR CLIENT GET THEIR SPACE BACK.

WE HOLD THE KEY.

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

Not all malpractice plans are created equal. If a claim is ever filed against you, you want to be confident you have coverage that adequately protects you and your practice.

Our team of lawyers professional liability specialists will work to provide a comprehensive policy at a competitive price with Liberty Insurance Underwriters, Inc., a member company of Liberty Mutual Group. Liberty is rated A (Excellent), Financial Size Category XV ($2 billion or greater) by A.M. Best Company.

Call or visit our Web site for a quote or for more information on this quality coverage.

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