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Washington State Convention Center
Seattle, WA
WSBA Online Convention
January to December
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Whew! My First Week
Proud to Be a Lawyer in the Beautiful and Diverse State of Washington

This has been an interesting first week as president of the WSBA, which began on September 21 and ended on September 28.

I will give you glimpses of the official activities of that timeframe. I feel so fortunate to be a part of all that I will relate to you.

The first official event was the Annual Awards Dinner at which the new governors, James W. Armstrong, of Kent; Daniel G. Ford, of Seattle; Brian J. Kelly, of Chehalis; and Wilton “Bill” S. Viall III, of Seattle (governor Vernon W. Harkins, of Tacoma, was unable to be present) and President-elect Michele Radosovich were all sworn in. I was also sworn in a little bit later.

There were many deserved awards presented adroitly by President Steve Toole (see article on page 9):

- Awards of Merit
  Justice Mary E. Fairhurst, Joseph M. McMillan, Harry H. Schneider Jr., and Charles C. Sipos
- Lifetime Service Award
  Robert D. Welden
- Excellence in Diversity Award
  Ramona L. Writt (posthumously)
- Outstanding Judge Awards
  Judge Mary I. Yu and Judge Steven C. Gonzalez
- Professionalism Award
  Craig A. Sims
- Excellence in Journalism Award
  Tim Connor
- Angelo J. Petruss Award for Lawyers in Public Service
  Margaret E. Fisher
- Community Service Award
  Kripa Upadhyay
- Outstanding Young Lawyer
  David S. Keenan
- President’s Award
  Judge Marlin J. Applewick
- Pro Bono Award
  Thomas E. Kelly Jr. and Joanne M. Hepburn
- Norm Maleng Leadership
  Colleen Kinerk

(Pro Bono and Norm Maleng Leadership Awards were presented at the Access to Justice/Bar Leaders Conference in June)

Chief Justice Madsen gave a very thoughtful address, including an observation of Mary Fairhurst Day at the Seattle Mariners’ game in late July.

On Thursday and Friday, we had our regular Board of Governors Meeting, at which several very important issues were addressed by the governors. A couple of those issues were a report and final vote on limits on misdemeanor cases for criminal defense attorneys and the soon-to-be-completed ELC Task Force (Rules for Enforcement of Lawyer Conduct) recommendations.

At 7:00 on Saturday morning, I flew to Spokane for the “Race and Criminal Justice in the West” conference. This was a very well-organized program and well worth the trip.
I was struck by the beauty and diversity of our state. My in-flight observations seemed to be an interesting metaphor of our Association...both being large (the WSBA is now nearly 35,000 strong), diverse (the state is amazingly different from border to border and our Association is also growing in diversity), and beautiful (I am continually amazed at how dynamic our Association is and how diversely beautiful our state is).

As I flew across the state, I had several impressions that I would like to share with you. I was struck by the beauty and diversity of our state. My in-flight observations seemed to be an interesting metaphor of our Association...both being large (the WSBA is now nearly 35,000 strong), diverse (the state is amazingly different from border to border and our Association is also growing in diversity), and beautiful (I am continually amazed at how dynamic our Association is and how diversely beautiful our state is).

The plane left SeaTac into cloudy skies and predictable light rain. However, within moments we had lifted above the clouds into bright morning skies. The lucky beneficiary of a window seat, I was torn between reading the Bar-related materials I had brought along or scanning the landscape below. I couldn’t resist the latter.

I was soon intrigued by the alpine lakes that began to dot the mountains. Thoughts of hikes into many of them over the years began to creep into my consciousness. My internal compass caused me to think we were too far south to see some of my familiar lakes...but no, there was Mt. Cashmere (destination of many Fourth of July day hikes) and The Enchantments (my favorite “last Thursday in September” hike). Perhaps we would even pass over my little hometown, Cashmere. Indeed, there was the Wenatchee River...and ah yes, the familiar gray roof of my office sandwiched between the stately copper beech and pin oak.

Then the confluence of the Wenatchee River (whitewater rafting and fishing mecca) and the mighty Columbia. Soon we were soaring over the Columbia Plateau...so flat but undulating with so many subtle differences. Differences created by topography and crops differing in variety and stage of maturity. As the early-morning sun began to awaken the landscape, I thought of how the Missoula Flood of thousands of years ago carved and deposited this landscape below. As the well-defined dry land wheat fields unfolded, they looked like Metzger maps that I have poured over in my many years of real estate practice with their precisely laid-out sections of land. The scene below with its squares and varied colors, shades, and undulations looked like a quilt that had been tossed upon the earth over centuries of use by Mother Nature.

Seemingly as quickly as we took off, we were landing in Spokane. I had the good fortune to meet up with Judge Mary Yu at the airport and we were able to share the ride and a delightful conversation on the ride to the conference.

The conference was at Gonzaga University School of Law. Dean Jane Korn was a most gracious host at a very beautiful law school. Professor Jason Gillmer was the on-staff organizer. WSBA Governor Tracy Flood was also instrumental in making this event happen. It was a wonderful confluence of dynamic speakers on the subject of the past, present, and future of racial issues in our state and country. After attending the breakout session, I truly felt, like that shop-worn phrase, that I had been “drinking from a firehose.” Wonderful and highly informed speakers and panels.

The plenary session was a panel discussion moderated by George Critchlow, revered trial attorney from the Tri-Cities and interim dean of Gonzaga School of Law. (I would like to comment that any of you who have visited our three law schools will agree with me that we have excellent law schools, faculties, and facilities.) The panel included members of the Supreme Court (Chief Justice Barbara Madsen, Justice Charles Johnson, Justice Debra Stephens, Justice Charlie Wiggins), Superior Court (Judge Steve González and Judge Mary Ann Moreno), and Federal Chief Judge Rosanna Peterson. They were soulful, insightful, and passionate in their views on the issues and challenges facing our society. They spoke with conviction about our role as lawyers and judges in meeting those challenges.

The day was brought to a crescendo with a delicious dinner at the McCarthy Center (home of the Gonzaga Bulldogs). Chief Justice Madsen gave a powerful and moving address about how we as a profession need to tackle the long-standing and difficult issue of race and criminal justice...NOW! She had a very definitive plan that I will let her articulate, but she was incredibly in-tune and on-point with her plan. Her address was appropriately interrupted by several rounds of applause for the good points that she was making.

As Steve Toole and I walked back to our hotel after the dinner and keynote address by Chief Justice Madsen, we both felt very fortunate to be a part of the Washington State Bar Association and to be associated with lawyers and judges in this state who care and are trying very hard to be a part of the solution to the problem of race in the criminal justice system.

Reflecting on the sojourn across this beautiful and diverse state that began in Seattle and ended in Spokane and reflecting upon the stimulating day addressing the issues of diversity and racial issues in our society, I felt very blessed to be a lawyer in this wonderful state of Washington.

Thanks for letting me be your president.

WSBA President Steve Crossland can be reached at steve@crosslandlaw.net or 509-782-4418.
Our energy is our choice,” philosophized 2010–2011 WSBA President Steven G. Toole, who encouraged bar leaders to be positive and solution-oriented as he addressed more than 320 WSBA members, staff, and guests at the organization’s Annual Awards Dinner on September 22.

Toole’s enthusiasm for leadership was evident in his introduction of an impressive list of guests, including the deans of the state’s law schools and State Supreme Court Chief Justice Barbara Madsen. Chief Justice Madsen talked about the role of the courts in protecting rights for all citizens, and the importance of eliminating bias in the justice system. She also lamented the imminent retirement of Justice Gerry Alexander, the longest serving chief justice in the state’s history, who received a standing ovation.

Chief Justice Madsen swore in new WSBA governors, 2011–2012 WSBA President Stephen R. Crossland, and President-elect Michele G. Radosevich. Steve Toole praised Steve Crossland, with whom he has worked closely during the past year, for his compassion and long history of WSBA service.

Toole also acknowledged the service of Immediate Past-President Salvador A. Mungia, several departing governors, and WSBA Executive Director Paula Littlewood. He remarked that Littlewood is “fun to be with, as she makes the people around her feel confident.”

Before the awards presentation, Toole highlighted the recently revitalized Washington State Bar Foundation. The mission of the Foundation is to support WSBA programs that promote diversity within the legal profession and enhance the public’s access to, and understanding of, the justice system. These include the WSBA Leadership Institute, the Home Foreclosure Legal Aid Project, and the First Responder Will Clinics. Dinner attendees were invited to contribute to the Foundation, which over one-third did, leading to a total of $12,500 raised. WSBA Governor and Foundation Trustee Nancy Isserlis provided an appropriate incentive: the table making the biggest contribution received a case of “Rough Justice” wine from Spokane’s lawyer-founded Barrister Winery.

The evening concluded with the presentation and acknowledgement of 12 awards (three had previously been presented at other events), with a total of 17 lawyers and judges honored.

Following are the award winners, their backgrounds, and insights as to why they were selected for these honors.
Attendees meet and greet before the Awards Dinner. Justice Mary Fairhurst poses with family members and her Award of Merit. 2010–2011 WSBA President Steve Toole recognizes outgoing WSBA Governor Brian Comstock. Chief Justice Barbara Madsen swears in 2011–2012 WSBA President Steve Crossland. 2010–2011 WSBA President Toole presents the Lifetime Service Award to Bob Welden. 2011–2012 WSBA President Crossland addresses dinner guests. Chief Justice Madsen presents Steve Toole with a framed copy of his “Serving with Soul” Bar News President’s Corner column at the President’s Dinner. Chief Justice Madsen swears in incoming WSBA Governors James Armstrong, Bill Viall, Daniel Ford, and Brian Kelly (unable to attend was Governor Vernon Harkins). Chief Justice Madsen swears in WSBA President-elect Michele Radosevich.
Outstanding Judge Award
This award is presented for outstanding service to the bench and for special contribution to the legal profession at any level of the court.

Judge Steven C. González
Judge Steven González was appointed to the King County Superior Court by Governor Gary Locke in 2002, and has served in the Court’s criminal, civil, and family law departments. Prior to his appointment, he was an assistant United States attorney for the Western District of Washington. He received his B.A. with Honors in East Asian Studies from Pitzer College in Claremont, California, and his law degree from University of California Berkeley School of Law. He speaks Japanese, Spanish, and Chinese.

Judge González is well known for his work in furthering equal access to justice for all. He is currently chair of the Washington State Access to Justice Board, which was established at the request of the WSBA by the Washington State Supreme Court in 1994 in response to the need to coordinate access to justice efforts in Washington state. In addition to his work on the ATJ Board, Judge González was instrumental in establishing a King County Superior Court policy that promotes equal access for all immigrants to the county courthouse, regardless of status. To improve access to the courts, Judge González and Judge Mary Yu developed an instructional video and handbook explaining how self-represented persons can make their way through a sometimes intimidating and complex court system.

In October 2010, remarks reportedly made by two members of the Washington State Supreme Court regarding race and the criminal justice system caused significant concern among members of the community, particularly in communities of color. Judge González joined Judge Yu and Professor Robert Chang, of the Seattle University School of Law’s Korematsu Center, in their effort to convene a forum to address the issue. Subsequently, the Race and Criminal Justice Task Force was created, which includes a wide group of stakeholders such as community leaders, prosecutors and defense attorneys, bar association leaders, law schools, law enforcement, and other members of the community. At a gathering at the Temple of Justice in Olympia in March 2011, Judges González and Yu — along with other leaders from around the state, including researchers and professors from Gonzaga University, the University of Washington, and Seattle University, and their schools of law — presented compelling data on disparate treatment effects of criminal justice system practices on communities of color, resulting in disproportionality of arrests, severity of penalties imposed, and rates of incarceration and recommendations for action by the Supreme Court. The Task Force’s presentation revealed both the need to make far-ranging changes in the justice system and the energy that exists to do the work.

In 2001, Judge González was honored with the Latina/o Bar Association of Washington Outstanding Lawyer of the Year Award. In 2002, he received the U.S. Attorney General’s Award for Distinguished Service. In 2009, he received the King County Washington Women Lawyers Vanguard Award and the Hispanic National Bar Association’s Latino Judge of the Year award. In 2011, he received the Extraordinary Member Award from the Latina/o Bar Association of Washington.

Outstanding Judge Award
Judge Mary I. Yu
Judge Mary Yu was appointed to the bench by Governor Gary Locke in 2000. Prior to her appointment, she served as deputy chief of staff to King County Prosecutor Norm Maleng, and director of the Peace and Social Justice Office for the Archdiocese of Chicago. She earned her undergraduate degree in theology from Dominican University in Illinois; a master’s degree in religious studies from Mundelein College of Loyola University in Chicago; and her law degree from the University of Notre Dame School of Law.

Judge Yu is well known for her extensive community service. She served as co-chair of the WSBA Leadership Institute Advisory Board and continues to serve on the Board; serves on the Board of Directors for FareStart, an organization dedicated to assisting homeless individuals develop job skills in the culinary industry; serves as president of the Board of Trustees for the Public Law Library of King County; serves as co-chair of the State of Washington Minority and Justice Commission; and is on the board of directors for the Future of the Law Institute of the King County Bar Association. She was also the 2009 dean for the Washington State Judicial College and is jurist in residence at Seattle University School of Law.

Judge Yu has been recognized with a number of awards, including the 2009 WSBA/Access to Justice Board Norm Maleng Leadership Award; the 2008 Asian Bar Association of Washington Judge of the Year Award; the 2008 Washington Women Lawyers President’s Award; the 2005 Judge of the Year Award from the Washington chapter of the American Board of Trial Advocates; and the 2005 Reah Whitehead Public Leadership Award from the Seattle University School of Law.

“As judges who happen to be persons of color, Judge Mary Yu and Judge Steven González are often called upon to shoulder a much heavier burden than their counterparts, as they are called upon over and over again to speak out and to serve as sources of encouragement, empowerment, and inspiration to communities of color and to groups and organizations serving communities of color, whether in the community at large or the legal community,” said King County Superior Court Judge Deborah D. Fleck. “They unflinchingly embrace these as educational opportunities, and deliver their message with grace, intelligence, energy, and passion.”

Angelo R. Petruss Award for Lawyers in Public Service
Named in honor of the late Angelo R. Petruss, a senior assistant attorney general who passed away during his term of service on the WSBA Board of Governors, this award is given to a lawyer in government service who has made a significant contribution to the legal profession,
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Now the state coordinator for iCivics (www.icivics.org), a web-based civics education program launched by Justice Sandra Day O’Connor, Fisher is working to ensure that middle school students throughout the state have a chance to learn civics through engaging video games and online lessons.

In February, Street Law, Inc. presented Fisher with its 2011 Advocate of the Year Award, in recognition of her more than 30 years of law, democracy, and human rights education to a variety of audiences, both domestically and internationally.

“I am grateful that I have been able to do the work that is close to my heart — helping the residents of Washington and others see that the rule of law has meaning, and how the law applies to them in their daily lives,” said Fisher.

Kripa Upadhyay

Community Service Award

Lawyers are known for giving generously of their time and talents in service to their communities. This award recognizes exceptional non-law-related volunteer work and community service.

Kripa Upadhyay

A first-generation immigrant from Nepal who came to the United States in 1998, Kripa Upadhyay received her law degree from Seattle University School of Law. As someone who has personally been through the immigration process, she says she identifies with the fears, anxiety, and hopes that accompany the immigrant experience, and she is deeply committed to helping immigrants in the United States. Her commitment to organizing “Know Your Rights” presentations on various topics ranging from immigration,
landlord-tenant rights, wage and labor laws, and family law issues is her way of ensuring that immigrant communities have access to information and resources that they need but are unable to attain either due to economic or linguistic barriers. Upadhyay is fluent in English, Nepali, Hindi, and Urdu, and is currently learning Spanish.

Upadhyay is an attorney at Orbit Law PLLC, where her practice focuses on immigration law; she assists individuals and companies in securing immigrant and non-immigrant visas. Prior to her legal career, she was a program coordinator with the South Asian Network, in Los Angeles, where she advocated on behalf of victims of domestic violence, human trafficking, and bias/hate-motivated attacks, and worked with elected officials, federal agencies, and other community-based organizations to address issues of racial profiling and other issues of critical concern to immigrant communities. In addition, Upadhyay also created course materials and conducted approximately 200 hours of free training on cultural awareness for various service providers, including law enforcement, firefighters, social workers, and crisis shelter staff, to help them work more effectively with immigrant communities; she is currently developing a similar program for use in the greater Seattle area.

Upadhyay is a member of the American Immigration Lawyers Association and previously served as the chair and vice-chair of its Citizenship Day Committee, which provides free legal assistance to indigent immigrants who are filing for citizenship or naturalization. She is a volunteer attorney for the Immigrant Families Advocacy Project and for Volunteer Advocates for Immigrant Justice; a legal advisor to the Nepal Seattle Society; and a board member of the Nepalese Children’s Education Fund.

“[...] Vicki Asakura, executive director of the Nonprofit Assistance Center. “[Upadhyay] is committed to helping those communities develop leadership within their own ranks to make positive contributions to their own communities and to the larger society.”

**Excellence in Legal Journalism Award**

This award recognizes that describing the context, facts, and players involved in the legal system with fairness and sensitivity requires intelligence, knowledge, dedication, and skill. This award is given to the journalist and his/her organization that has set the standard for relevance, clarity, accuracy, and understanding in reporting.

**Tim Connor**

Tim Connor is being recognized for his career-long dedication to investigative journalism, most recently his work at Spokane’s Center for Justice (http://cforjustice.org) covering news and legal issues outside the mainstream media. After
beginning his career as a newspaper reporter, Connor became an associate editor at *Spokane Magazine* in 1981, where he broke the nationally important story of the impending collapse of the Washington Public Power Supply System’s nuclear construction program. He joined the Hanford Education Action League as a staff researcher in 1985 and was instrumental in uncovering evidence of the massive radiation releases from Hanford plutonium plants in the 1940s and 1950s.

Connor is currently the communications director at the Center for Justice, a non-profit public-interest law firm in Spokane that currently focuses on regional ecosystem health, human and civil rights, and government accountability. He is also the senior editor for the Community Building LLC website (www.community-building.org) and a member of the Hanford Concerns Council, an alternative dispute resolution body that is chartered to resolve worker safety and accountability concerns at the Hanford Nuclear Reservation.

From 2000–2004, Connor was the senior editor at *Camas Magazine*, where his reporting for online media and television earned several regional and national reporting awards from the Society of Professional Journalists. He has also been awarded three Sigma Delta Chi first-place national awards for investigative reporting.

At the national level, Connor was one of the founders of the Alliance for Nuclear Accountability (ANA) and was a spokesperson for the ANA in its efforts to end secrecy and reform environmental laws governing the nation’s nuclear weapons production and testing complex. Connor chaired a key subcommittee to the federal Advisory Committee on Energy-Related Epidemiologic Research. He has testified several times before both houses of Congress on issues related to nuclear contamination and health effects.


“[Connor’s] current news website demonstrates how melding innovative journalism and Internet technology can give the public access to informed insight on the complicated legal issues of the day on a nonprofit budget,” said Spokane attorney Breean Beggs. “He serves the greater public by courageously reporting the truth with a keen pen and the highest integrity.”

**Professionalism Award**
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Craig A. Sims

Craig Sims received his undergraduate degree from the University of Oregon and his law degree from Seattle University School of Law. He is currently chief of the Criminal Division for the Seattle City Attorney’s Office, where he oversees all attorneys and staff who prosecute criminal and traffic crimes occurring within the city of Seattle. Prior to becoming the Criminal Division chief, Sims was a trial attorney with the civil firm of Fury Bailey; he also served for 10 years as a senior deputy prosecuting attorney with the King County Prosecutor’s Office.

Sims is an adjunct professor at Seattle University School of Law, where he teaches comprehensive pretrial advocacy, and a visiting lecturer at the University of Washington School of Law. He is the 2010–2011 president-elect of the Seattle University Law Alumni Board.

Sims is a member and past-president of the Loren Miller Bar Association. He has served as a King County Bar Association trustee since 2009. Sims has also served on the WSBA Leadership Institute Advisory Board since 2009.

Sims’s colleagues have observed his professionalism throughout his years of leadership at the Loren Miller Bar Association. “In one immensely unique instance, [Sims] met with the Chief Justice of the Supreme Court of Kenya to present LMBA’s Award of Excellence,” wrote Judge Monica J. Benton. “Though His Excellency’s arrival was on short notice, Craig Sims’s extemporaneous comments were not only germane and laudatory, but especially thoughtful. In this way, Sims continues to represent our profession, not just in local matters, but also where an international visitor of great repute would carry the message to another legal community, continent, and nation.”

“Knowing Craig for the past 12 years has been an honor,” said WSBA At-large Governor Tracy S. Flood. “He is a giver, and the legal profession and our community are the lucky recipients. His service to others through his mentoring is invaluable and shapes the minds of young lawyers, inspiring them to go beyond the usual.”

“Craig is a model attorney who has
We’re pleased to announce that
COMMISSIONER JAMES VERELLEN
has joined JDR as a panelist.

Before joining JDR, James Verellen served as a Commissioner at Division I of the Washington State Court of Appeals and was a partner in the law firm currently known as Vandeberg, Johnson & Gandara.

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worked as a prosecutor, in private practice, and as an adjunct professor,” wrote WSBA Diversity Program Manager Chach Duarte White. “I have had the pleasure to work with him on many occasions as he mentors students and newer attorneys through the Academic Resource Program at Seattle University, the Loren Miller Bar Association, and the WSBA Leadership Institute. Craig volunteers his time to help people coming into the profession and always does so in the most professional manner. He is a fantastic example of what attorneys should strive to be.”

In 2010, Sims was presented with the Faculty Member of the Year Award by Seattle University School of Law’s Black Law Student Association. In 2008, he received the Urban League of Seattle Spirit Award and was named Mock Trial Coach of the Year by the Seattle University School of Law’s Black Law Student Association.

**Outstanding Young Lawyer Award**

The WSBA Young Lawyers Division’s highest honor, this award recognizes one attorney who has made significant contributions to the professional community, especially the community of young lawyers, within his or her initial years of practice. Recipients must be active WSBA members within five years of admission to any bar association or under 36 years of age.

**David S. Keenan**

Prior to his legal career, David Keenan spent nearly 15 years as a senior federal law enforcement agent working in human trafficking and financial investigations. In 2005, he began attending law school at night while working full-time as a federal agent during the day. In 2008, Keenan received the Dean’s Medal as the top all-around student in his graduating class at Seattle University School of Law.

Over the last 18 months, Keenan has provided approximately 400 hours of pro bono legal services. His recent pro bono work includes helping to represent the city of Seattle before the King County Superior Court, the Washington Court of Appeals, and the United States District Court for the Western District of Washington in the City’s efforts to keep playgrounds and parks safe from gun violence, as well as helping represent the Capital Area Immigrants’ Rights Coalition as *amicus* to the U.S. Supreme Court in its efforts to obtain post-conviction relief for non-citizen criminal defendants based on ineffective assistance of counsel.

Since 2009, Keenan has served on the Board of Directors of Friends of the Children–King County (Friends), an organization in Seattle’s Central District dedicated to mentoring at-risk youth. He is also the organization’s pro bono counsel. Because of his own background as a child who grew up in poverty, dropped out of high school, and experienced the juvenile justice system, Keenan’s commitment to Friends is...
very personal. He has arranged for his firm to host youth from the organization for a visit with a Seattle Municipal Court judge from a similar background in order to inspire them to someday enter the legal profession. Keenan has worked with Seattle University School of Law’s Access to Justice Institute to sponsor Friends in Holding poetry slams on the university campus to help participating youth deal with trauma in their lives.

Keenan is an active member of the legal community. He served as WYLD liaison to the WSBA Civil Rights Law Section from 2009-2010. Currently, he is vice-chair of the King County Bar Association Young Lawyers Division Board of Trustees, where he has worked with WYLD leadership to coordinate events and services. Keenan also chairs the Board’s Lawyer Services Committee and has helped organize several free CLEs specifically geared toward young lawyers. He serves as a member of the Seattle University School of Law Alumni Board and of the Seattle University School of Law Recent Alumni Committee. In addition, Keenan is the co-chair of the Membership Committee for the Federal Bar Association’s Seattle District of Washington.

Upon learning of the award, Keenan said, “I feel so fortunate to work alongside such a tremendous community of dedicated attorneys of all ages, and receiving this recognition only makes me want to work harder for the issues that are important to young lawyers and the communities we serve.”

“I am in awe at the compassion, energy, and initiative that David shows daily,” said Daniel J. Dunne, a partner at Orrick, Herrington & Sutcliffe LLP, in nominating Keenan for the award. “David’s dedication to the young lawyer community, his pro bono and community service, and his professionalism as an attorney merit the award...David is and will be a wonderful and committed leader of the bar for many years to come.”

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

Ramona L. Writt
(awarded posthumously)

Ramona Writt received her undergraduate degree from the University of Texas at Austin and her law degree from Seattle University School of Law. After receiving her law degree, she joined the legal writing faculty at Seattle University School of Law, where she taught legal writing and comprehensive trial advocacy during the academic year, and spent her summers as the legal writing professor for the school’s Academic Resource Center (ARC) program, a nationally renowned program for diverse and non-traditional law school students. After she left full-time teaching in 2002, Writt clerked for the Honorable Monica Benton at the United States District Court for the Western District of Washington, and became a partner at Whitener Rainey Writt PS (now Whitener Rainey PS), in Tacoma.

“Ramona was a quietly amazing legal writing professor,” said Laurel Currie Oates, director of the Legal Writing Program. “Her commitment to her students knew no bounds. She was often in her office late at night and on weekends, helping a struggling student with legal analysis. She cared deeply for each one of her students and listened to their concerns and fears in a special way that reminded them of her well-founded confidence in them.”

In tribute to Writt’s memory, a scholarship is being established in her name to benefit ARC students.

Lifetime Service Award
This is a special award given for a lifetime of service to the WSBA and the public. It is given only when there is someone especially deserving of this recognition.

Robert D. Welden

Throughout his 41-year career, Robert Welden’s overriding commitment has been to public service and client protection. He began his public service with the Seattle Indian Center Legal Services office and the Seattle-King County Public Defender. He joined the WSBA staff in 1981. His public service in the areas of lawyer discipline, court rule development, staff training, transparent governance, and program development has been influential both at the WSBA and in the greater legal community, including on a national level. Welden’s leadership was critical to the 1994 Washington State Supreme Court adoption of Admission to Practice Rule 15, which established permanent funding for the WSBA Lawyers’ Fund for Client Protection, now one of the premier client protection funds in the nation; he has also served as its administrator for many years.

As president of the National Client Protection Organization, Welden is a nationally recognized expert in the area of lawyer regulatory systems and client protection programs, including lawyers’ funds for client protection, fee dispute arbitration, mediation of client-lawyer disputes, and the unlicensed practice of law. Welden also served on the American Bar Association (ABA) Standing Committee on Client Protection from 1999–2007, and as its chair from 2003–2006; the programs developed by this committee protect the members of the public and serve as educational tools for the profession.

Legal ethics has been another strong fo-
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cus of Welden’s career. Prior to the institution of a WSBA professional responsibility counsel staff position, Welden was the liaison to the Rules of Professional Responsibility Committee; in that capacity, he oversaw the WSBA’s ethics opinion database and helped lawyers with ethics questions for more than 20 years. For many years, Welden served as chair of the Character and Fitness Task Force (now the Character and Fitness Board), which is responsible for determining the fitness of Bar applicants. He was the reporter for the WSBA Future of the Legal Profession Study Group that examined multijurisdictional and multidisciplinary issues. He was the reporter for the WSBA Committee to Define the Practice of Law, which undertook the historic project of creating a definition for the practice of law; its work became the American Bar Association’s model for the definition of the practice of law. He also served as the administrator of the Washington Practice of Law Board, which investigates complaints about the unauthorized practice of law.

Welden is well known in the legal community for his commitment to professionalism. His civility, diligence, interpersonal skills, and unflinching sense of humor are highly admired by his colleagues, particularly those who have been opposing counsel. “Year in and year out, Bob has combined superb lawyering skills with world-class geniality, wisdom, and humor, epitomizing the civility too often lacking in modern law practice,” said Randy Beitel, WSBA senior disciplinary counsel.

“Since 1988, WSBA executive directors and boards of governors have relied on [Welden’s] extensive knowledge of the WSBA’s history, Bylaws, governance practices, and good counsel,” said WSBA Past-President Mark Johnson. “Bob’s work on behalf of client protection, on the character and fitness of Bar applicants, and in developing the Practice of Law Board is confirmation of his commitment to the protection of the public, the advancement of our professional values, and a lifetime devoted to the cause of justice.”

**Award of Merit**

First given in 1957, this is the WSBA’s highest honor. The Award of Merit is most often given for long-term service to the Bar and/or the public, although it has also been presented in recognition of a single, extraordinary contribution or project. It is awarded to individuals only — both lawyers and non-lawyers.

**The Honorable Mary E. Fairhurst**

Justice Mary Fairhurst earned her undergraduate degree in political science from Gonzaga University, and her law degree from Gonzaga University School of Law; she also received an honorary Doctor of Laws degree from Gonzaga University in 2006. She began her legal career clerking for Washington State Supreme Court Justices William H. Williams and William C. Goodloe, and served in the Washington Attorney Gen-
eral’s office for 16 years, where she worked with Attorneys General Christine Gregoire and Ken Eikenberry. Justice Fairhurst was elected to the Washington State Supreme Court in 2002.

Prior to her election to the Supreme Court, Justice Fairhurst served on the WSBA Board of Governors for five years, beginning with her election in 1993 as governor for District 3. In 1996, she was elected president-elect, and in 1997, was sworn in as the second female president of the Association. She has also served on the WSBA Council on Public Legal Education.

Throughout her career, Justice Fairhurst has worked to enhance opportunities for women and minorities in the profession and to ensure access to justice for low-income individuals and families. She worked on the constitutional amendment to increase the rights of crime victims while still honoring the constitutional rights of the accused. She organized the first statewide conferences on domestic violence. She planned and facilitated a youth violence summit and organized and moderated conferences dealing with sex offenders in the community.

Justice Fairhurst currently serves on the Gonzaga University Board of Regents; as president of Gonzaga University School of Law’s Board of Advisors; and as president of the Gonzaga School of Law Alumni Association. She is a past-president of Washington Women Lawyers. She is the state chair of the iCivics program (www.icivics.org) and is active with the YMCA Youth and Government Program and We the People Board. Currently, Justice Fairhurst chairs the Judicial Information System Committee and the Board for Judicial Administration’s Public Trust and Confidence Committee. She also serves on the Supreme Court’s Rules, Budget, and Long Range Planning committees.

Award of Merit

Joseph M. McMillan
Harry H. Schneider Jr.
Charles C. Sipos

Joseph McMillan, Harry Schneider, and Charles Sipos are jointly honored with the Award of Merit, in recognition of their work on the case of Hamdan v. Rumsfeld.

In 2001, in response to the September 11 attacks, Congress passed the Authorization for Use of Military Force (AUMF) legislation, which authorized the president to use force against terrorist organizations and their supporters. On November 13, 2001, President Bush signed a military/executive order which empowered the president to create military commissions to try any non-citizen whom the president determined was a member of al-Qaeda or involved in terror-
ist activities against the United States. Salim Hamdan, who served as Osama Bin Laden’s driver, was arrested in Afghanistan in November 2001 and transferred to Guantanamo in June 2002. Hamdan was charged with conspiracy to commit terrorism; he was not charged with participating in terrorist acts. In July 2003, President Bush determined that Hamdan and several others would be tried by the commissions created by the November 13 order. Hamdan brought a federal habeas corpus action that was ultimately appealed to the United States Supreme Court. In June 2006, the Supreme Court issued its decision in the case, Hamdan v. Rumsfeld, 548 U.S. 557 (2006), ruling that the President had exceeded his powers under the Constitution by issuing the November 13 Military Order and that the system of military commissions authorized by the President violated both the requirements of the UCMJ and the Geneva Conventions.

McMillan, Sipos, attorney Neal Katyal, of Georgetown University Law Center, and Washington, D.C., attorney Kevin Russell authored the Supreme Court briefs in Hamdan v. Rumsfeld. Attorneys Schneider and McMillan tried the case at Guantanamo, along with Hamdan’s military counsel Lt. Commander Charles Swift and Brian Mizer. After a three-week trial before a jury of senior officers of the United States Army, Navy, Air Force, and Marines, Hamdan was convicted of material support but acquitted of the much more serious charge of conspiracy to commit terrorism. Despite the government’s request for a sentence of life in prison, the jury sentenced Hamdan to just four months in addition to time served. He was released in January 2009. The Court further held that the Conventions did apply as they were incorporated into the UCMJ; in addition, conspiracy, the crime with which Hamdan was charged, was not a “war crime.” In all, the attorneys spent more than 10,000 hours working on the case.

“The work that Messrs. Schneider, McMillan, and Sipos did for Mr. Hamdan was extraordinary,” said WSBA Past-President Mark Johnson. “As they pursued justice for Mr. Hamdan, they also recognized the risks to America — to our core constitutional principles and to our democratic values — and in the great tradition of hero lawyers, they embraced the challenge for Mr. Hamdan and for us all . . . . Given the complexity and importance of the issues, the courage it took to represent a person who was closely identified with the most hated man in America . . . . the many thousand hours of pro bono work they donated, and the justice they achieved for Mr. Hamdan, attorneys Schneider, McMillan, and Sipos deserve to be recognized with the WSBA’s highest award.”

Joseph McMillan received his undergraduate and master’s degrees from the University of Iowa, and his law degree from Saint Louis University School of Law. At Perkins Coie, he is a partner in the firm’s litigation group, where his practice focuses on complex commercial litigation and intellectual property litigation.

Harry Schneider received his undergraduate degree from the University of California, Berkeley, and his law degree from The University of Chicago Law School. He is a fellow of the American College of Trial Lawyers, and a member of the American Bar Association Litigation Section’s “blue-ribbon” committee, appointed by the ABA president. Schneider’s practice focuses on litigation, trial practice, and arbitration before state and federal courts and administrative bodies.

In 2008, Schneider was presented with the Thomas C. Wales Award for Passionate Citizenship, in recognition of his “leadership, dedication, and groundbreaking work defending Salim Hamdan.” The Thomas C. Wales Foundation is named after a federal prosecutor who was murdered by an unknown assailant in 2001. The award is given to Puget Sound residents who embody Wales’s own qualities by “inspiring positive activism through passionate citizenship.”

Charles Sipos received his undergraduate degree from the University of Puget Sound, and his law degree from Vanderbilt University Law School, in Tennessee. A partner in Perkins Coie’s litigation group, Sipos focuses his practice on intellectual property litigation, class action defense, and appellate litigation. He has written articles for the Seattle Post-Intelligencer, the King County Bar Association newsletter, and the WSBA International Practice Section newsletter.

In 2006, Sipos was named a co-recipient of the Japanese American Bar Association Public Service Award. In 2007, he was a co-recipient of the King County Bar Association Outstanding Lawyer Award. He was named as a Washington Law & Politics “Rising Star of Washington Law” in 2005–2008 and 2010.

**President’s Award**

The President’s Award is given annually in recognition of special accomplishment or service to the WSBA during the term of the current president.

**The Honorable Marlin J. Appelwick**

Judge Marlin Appelwick joined the Court of Appeals in 1998. He came to the court from 18 years of private practice in a Lake City law firm, where he focused on family law, business law, and mediation. He combined his years of practice with 16 years as a member of the Washington State Legislature, including six years as chair of the Judiciary Committee and three years as the House Democratic leader.

Judge Appelwick’s legislative and judicial careers reflect his dedication to access to justice issues. In addition to co-chairing the WSBA Council on Public Legal Education, he was a leading force in forming the Access to Justice Board, where he served for six years, and led the successful legislative effort to establish state funding for civil legal aid.

Judge Appelwick is an active member of Washington’s legal community. The Washington State Supreme Court twice appointed him to its Gender and Justice Commission. He also serves on the Domestic Relations Committee of the Board for Judicial Administration. Since 1985, Judge Appelwick has represented the state of Washington as a commissioner at the National Conference of Commissioners on Uniform State Laws; he was elected a life member in 2005.

Judge Appelwick received the WSBA President’s Award once before, in 1992, for his work securing funding for legal services to the poor.

**Pro Bono Award**

This award is presented to a lawyer, non-lawyer, law firm, or bar association for outstanding efforts in providing pro bono services. This award is based on cumulative efforts, as opposed to a lawyer’s or group’s pro bono hours.
or financial contribution.

Joanne M. Hepburn and Thomas E. Kelly Jr.

Joanne M. Hepburn and Thomas E. Kelly Jr. are this year's recipients of the 2011 Pro Bono Award. The awards were presented on June 4 at the Access to Justice/Bar Leaders Conference at the Three Rivers Convention Center in Kennewick.

Hepburn and Kelly are being honored for their representation of Larry Bill Elliott in his state habeas proceedings and then in his federal habeas proceedings, from 2004–2009. There were also a number of other lawyers and staff at their firm, K&L Gates LLP, who worked on the case with them.

In 2001, Elliott was charged with two murders in Virginia. He maintained his innocence throughout the process but was convicted and sentenced to death. K&L Gates became involved in the case through its participation in an American Bar Association-sponsored program in which large firms volunteer their resources to assist in state and federal habeas corpus petitions. The case ultimately went to the U.S. Supreme Court, but only three justices ruled for a stay. Hepburn and Kelly prepared a comprehensive clemency petition to the Virginia governor asking him to commute the sentence, but although the governor extended the deadline for the execution so his staff would have additional time to investigate, and the legal team provided supplemental information, the governor declined to intervene and Elliott was executed. Elliott, who was age 60 at the time of his death, was a college graduate who had served with distinction for nearly 30 years in the Army and had no previous arrests. A statement Elliott had asked Kelly to read outside the prison after the execution read in part: “I want to thank you [referring to all of the attorneys and staff at K&L Gates who had worked on the case] for all of your efforts, especially the fact that you were able to discover and present evidence of my innocence that should lead any objective reviewer of facts to conclude that I am innocent of the murders.”

Hepburn received her B.A. degree in journalism from the University of Minnesota and her J.D. degree cum laude from Boston University School of Law. She is a senior associate in the firm of K&L Gates LLP, where she has practiced in its Seattle office since 2002. Her practice focuses on business litigation, intellectual property litigation, and employment litigation. She currently serves on the board of the Mother Attorneys Mentoring Association of Seattle.

Kelly received his B.A. degree summa cum laude from Georgetown University and his J.D. from Yale Law School. He is...
a partner in the firm of K&L Gates LLP. His practice involves a broad range of complex litigation matters. Kelly is a member of the firm’s Electronic Discovery Group, e-DAT.

Kelly is an active member of the King County Bar Association, where he has served as its president, vice-president, secretary, and on its Board of Trustees. Active in the area of legal ethics, Kelly has served as chair of the WSBA Character and Fitness Board and as a member of the WSBA Rules of Professional Conduct Committee. He was a member of the committee that drafted the revised Rules of Professional Conduct adopted by the Washington State Supreme Court in 2006. Kelly has also served on the Ethics & Practice Committee of the Federal Bar Association of the Western District of Washington.

**Norm Maleng Leadership Award**

This award is given jointly by the WSBA and the Access to Justice Board, in honor of Norm Maleng’s legacy as a leader. He was an innovative and optimistic leader committed to justice and access to justice in both civil and criminal settings. Within the profession, his leadership was characterized by his love of the law and commitment to diversity and mentorship. This award recognizes those who embody these qualities.

**Colleen Kinerk**

Colleen Kinerk’s career has been characterized by a commitment to service, both to the legal profession and to her community. She has provided leadership to a number of organizations, including serving as trustee and president of the King County Bar Foundation, and chairing the Foundation’s Pro Bono Task Force. Kinerk is a recipient of the King County Bar Association’s Helen Geisness Award, which honors exemplary or distinguished service to the bar. Active in Washington Women Lawyers (WWL), she has served as that organization’s president, chair of its Judicial Evaluation Committee, and president of its Foundation. Kinerk was named WWL Member of the Year in 1993–1994.

Kinerk has served on the Board of Regents for Seattle University since 1989 and was chair in 2001. Seattle University honored her with its Alumnus of the Year Award in 1994. Her board service also includes the Northwest Justice Project and the Northwest Defenders Association. For the past 15 years, she has served as chair of the Access to Justice Conference Planning Committee.

Kinerk received her B.A. degree from Seattle University and her J.D. from the University of Washington School of Law. She is a partner at the firm of Cable, Langenback, Kinerk & Bauer, LLP, where she focuses her practice on employment and labor issues. She is also a highly regarded mediator of employment and tort cases.

Stephanie Perry is the WSBA communications specialist/publications editor and can be reached at stephaniep@wsba.org. Pam Inglesby is the WSBA outreach programs manager and can be reached at pami@wsba.org.
I recently learned who the first woman law clerk was at the United States Supreme Court. I was very surprised and elated about my discovery, but I also felt a sense of ignorance. To see if others were more knowledgeable, I started asking the lawyers at my mediations the following four questions:

1. Who was the first woman to clerk at the United States Supreme Court?
2. What year did she clerk?
3. Which justice did she clerk for?
4. From which law school did she graduate?

I have asked approximately 100 lawyers these four questions, and as of this writing, only one lawyer has been able to answer any of my questions. (Douglas Strandberg, of Friday Harbor, guessed the law school that she attended.) I am confident that some lawyers in Washington state know the answers, but the lawyers I questioned confirmed that they all shared my ignorance.

The Answers
1. Helen Lucile Lomen. (She dropped the Helen and was known publicly as Lucile, Miss Lomen at the Supreme Court, Lucy to many friends, and Lu to her family.)
2. The year was 1944–1945.
3. The justice was William O. Douglas.
4. The law school was the University of Washington.

Lomen’s Background
Lucile Lomen was born in Nome, Alaska, on August 21, 1920. Both of her grandparents moved to Nome during the gold rush at the end of the 19th century. Her paternal grandfather was a lawyer who was appointed to the Alaska Territorial Court by Calvin Coolidge in 1925 and again by Herbert Hoover in 1930. Her father was a prominent businessman with the Lomen Commercial Company and a member of the Alaska Territorial Senate. Her family temporarily moved to Seattle in 1934, but because of a fire that destroyed much of Nome, the family continued to reside in Seattle. Lomen graduated from Queen Anne High School in 1937. She later attended Whitman College in Walla Walla and graduated with honors in 1941. In 1947, Lomen wrote that Whitman “prides itself on its friendliness and... is largely devoted to the grooming of students who will later enter the professional schools.” She also wrote that “[n]ow that I look back on my college career the outstanding part of my life at Whitman consists of living, working, and playing with people.”

Lomen applied and was accepted to the University of Washington School of Law, which had been admitting women from the time it
began in 1899. In 1941, some East Coast law schools such as Harvard did not admit women. There were three women in her graduation class. She was Law Review editor, vice-president of the Law Review board, published several articles (including an article on constitutional law for which she received a prize), and graduated first in her class. Ann Lomen Sandstrom, one of Lucile’s three younger sisters, says, “I was always in awe of Lu — my first mentor. She taught me how to study and the fun of learning. She had an intense focus on schoolwork, and later on law.”

Of course, after the United States entered World War II, many of the male students did not return to law school, which affected the recruitment of law clerks. In those days, the associate justices each had only one law clerk, making the choice particularly important. Prior to that time in history, there had been no women law clerks in the Supreme Court. In 1944, Justice Douglas wrote to Judson F. Falknor, dean of the University of Washington Law School, who had supplied him with four of his prior law clerks. Justice Douglas indicated that he would hire a woman if she “is absolutely first rate.” Dean Falknor recommended Lomen. After checking with faculty at his alma mater, Whitman College, and receiving very favorable recommendations, Douglas hired Lomen. Lomen described Justice Douglas as very businesslike at the court and someone who could do legal research faster than anyone she had ever known. In 1964, Lomen wrote that in addition to the professional growth that occurred from associating with Justice Douglas, “a more concrete benefit is the number of doors that have been open to me as a woman in the profession because of that year.” Justice Douglas described Lomen as having “a fine mind” and “a great capacity for work.” Lomen often worked 16 hours a day and would sleep on a couch in her office.

While at the Supreme Court, Lomen socialized with the secretaries, and although the other clerks accepted her, she felt there were differences based on gender, age, legal education, and geography. Most of the other clerks were from the East Coast and were educated at such prestigious law schools as Harvard, Yale, and Columbia as well as the University of Chicago. Lomen once stated that she and a law clerk from Wisconsin were considered westerners, and the two of them “thought differently... than the way the other eight thought.” She said, “I never knew if my problem was because I was a woman or because I was younger, or what.”

After clerking for a year, Lomen returned to Washington state and worked as an assistant state attorney general for three years. Thereafter she worked at General Electric from 1948–1983, retiring at corporate headquarters as compensation and benefits counsel. Her sister Ann said that “the entire Lomen family was extremely delighted when, after retirement, she chose in 1989 to return to Seattle.” Lomen died on June 21, 1996, at the age of 75.

**Lomen’s Legacy**

Lucile Lomen was a true pioneer in many ways. Certainly life in Nome in the 1920s must have been difficult. From the description of her work ethic, those early frontier years must have helped form her values and penchant for hard work. She clearly demonstrated her legal abilities while a law student at the University of Washington. She wrote several scholarly articles, held many leadership positions, and graduated first in her class. The Honorable Ruth Bader Ginsberg in a speech given at Wellesley College on November 13, 1998, said that Lomen’s “Washington Law Review Note on the Privileges and Immunities under the Fourteenth Amendment, published in 1943, has had remarkable staying power.
Lomen’s student note appears this very semester on Harvard Law Professor Laurence Tribe’s Constitutional Law seminar reading list.” To say that Lomen was ahead of her time is more than true, as it was not until 1966 that the next woman law clerk was hired in the Supreme Court, when Justice Hugo Black hired Margaret Corcoran.

Like many of us, Lomen was lucky to live in a place that afforded her many opportunities, including the opportunity as a woman to attend law school. As Lomen wrote in 1946, “[t]oo many women in the profession have been discriminated against to make a worth-while enterprise for one who is not interested in good hard work.” The University of Washington Law School and its graduates should celebrate the fact that Kellye Testy is its first woman dean, and that 1944 graduate Lucile Lomen was the first woman law clerk in the United States Supreme Court.

Lomen’s observations about the differences between her and the other clerks are very insightful. Gender diversity and equality has a positive effect that is not easy to define but clearly exists in most institutions, including the judiciary. As Lomen observed, geographic diversity can also be important. The current U.S. Supreme Court is made up of graduates from East Coast law schools who often hire clerks from the same schools. If Lomen were asked today whether a more diverse geographical perspective is desirable in addition to increased gender equality, I am sure her answer would be an unequivocal “Yes.”

Judge Larry Jordan was appointed to the King County Superior Court in 1991 and served until July 2001. Before taking the bench, he served from 1975–1991 as a commissioner of Division I of the Washington State Court of Appeals. He was law clerk to the Honorable Jerome Farris and the Honorable Keith M. Callow, and also served as an assistant public defender for the state of Alaska. He is a graduate of the University of Washington School of Law and is currently a mediator/arbitrator at Judicial Dispute Resolution, LLC (JDR). He can be reached at ljordan@jdrllc.com.

“I realize it’s a tough case Watson, but I know who to call ... it’s elementary.”
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Although no one likes an IRS audit, lawyers may actually dread dealing with the IRS, especially if it means the IRS may commence poking into the financial affairs of their practice. By its very nature, law practice is confidential, and keeping a client’s confidence is of supreme importance. It should therefore be no surprise that the thought of the IRS looking at a lawyer’s books could provoke concern for clients as well as the lawyer.

No lawyer wants to keep clients in the dark about the risk that their identity has been disclosed to the IRS. Yet no lawyer wants to risk having clients bolt by telling them the IRS has their names, either. Any interaction with the IRS will be an inconvenience, but it could be expensive or even carry grave consequences. Some believe the IRS unfairly targets lawyers, recalling the IRS’s “Project Esquire” of several decades past.

More recently, the IRS has released a new audit guide directing its agents how to audit lawyers. It contains interesting points even for lawyers who have no fear of dealing with the IRS and who would not expect an audit of their practice to give rise to any problems. In some cases, lawyers should beef up their internal controls and their documentation. In others, lawyers should be careful to segregate records the lawyer considers protected by attorney-client privilege from those that clearly are not.

One of the primary messages of the IRS audit guide for law practices is that the IRS expects lawyers to have good internal accounting and a good system of recording costs and expenses. Many lawyers, especially in small offices, feel they have little need for such systems. That may be a mistake.

The IRS expects billing software, of course, and will want to examine it and its results. The IRS is particularly interested in seeing the adjustment log that reconciles the output of the time and billing system to the appropriate accounts in the general ledger. This, too, is noteworthy. The IRS will want the accounting and general ledger to tie together. If it does not, the IRS may want to go through bank records in excruciating detail.

Lawyer trust accounts are also vital sources of information. Here, most lawyers are careful, although precisely what the IRS looks for may surprise some. Many lawyers have too much in their trust account and are slow to withdraw amounts from the trust account to which they are entitled. Yet it is clear that if a lawyer is entitled to fees in his trust account, they represent income to the lawyer for tax purposes. It does not matter if the lawyer waits to actually withdraw the fees from his trust account until the following tax year. Many lawyers incorrectly assume that when a case settles and funds are wired to the lawyer’s trust account in December, it is not income until it is disbursed to the lawyer in January.

The IRS devotes significant attention to attorney-client privilege in its audit guide. There is good reason for this, since claims of privilege are common in audits of lawyers. Lawyers are a cautious lot and do not want to risk violating privilege by giving the IRS too much.

The IRS correctly instructs its agents that the privilege is the client’s, not the lawyer’s. Even so, of course, lawyers commonly assert the privilege on behalf of their clients, knowing that the client is the only

What Every Lawyer Should Know About IRS Audits

by Robert W. Wood
person who can waive it. Yet precisely what kind of information is privileged?

The IRS audit manual states firmly that the identities of clients and their fee arrangements are almost never considered privileged. There is some case law on this point, but the IRS is correct that lawyers generally cannot fail to turn over the names of clients, the amounts they pay, or the particulars of their fee arrangements if it is material to the audit.

Another more general potential objection to a request for such information would be relevancy. Material is generally relevant in an audit if it might have some bearing upon the correctness of the taxpayer’s return. The IRS encourages auditors to not only issue Information Document Requests (IDRs) to the lawyer, but to conduct personal interviews as well.

In addition to IDRs, the IRS is likely to issue summonses if they have any difficulty getting documents they request. The lawyer can respond in court trying to quash the summons based, for example, on privilege. Overbroad or burdensome summonses may not be enforced, but the lawyer may need to take any dealings with the IRS seriously, including hiring counsel.

Fortunately, most examinations of lawyers will be uneventful. Yet it is worth noting that problems can sometimes escalate. For example, a majority of criminal tax cases still originate through referrals from civil auditors in normal IRS civil audits. If an IRS auditor discovers something suspicious, he can simply notify the IRS’s Criminal Investigation Division. The IRS is not obligated to tell the taxpayer that this criminal referral is occurring. Normally, the civil auditors simply suspend the audit without any explanation. Thus, the taxpayer might assume that the audit is over or more likely, that the IRS is busy and will eventually pick up where they left off. The taxpayer may have no idea that the IRS believes there has been a criminal violation and that it is building a criminal case until a criminal investigation is well under way.

For an example of a tax nightmare, consider the indictment of Tennessee lawyer John Threadgill for tax evasion. His primary alleged crime was paying personal expenses from his law firm. Threadgill is alleged to have used his law firm bank and payroll accounts to issue checks to third parties for personal expenditures; maintained ledgers concealing the true nature of his personal expenditures; established bank accounts for nominee trusts to disguise assets; and titled personal residences in the names of
nominee trusts to disguise their ownership and put them beyond IRS.

The indictment alleges that from 1986 to 2004, Threadgill evaded $1.4 million in federal income tax. It alleges he paid $245,000 from his law firm for family educational expenses, $213,000 in personal real estate purchases, $69,000 for his daughter’s wedding, and $52,000 for personal travel.

Having a business pay the owner’s personal expenses is hardly unique to the practice of law. It occurs across a wide spectrum of small business. In fact, it is probably one of the reasons that individual tax returns with a Schedule C — on which sole proprietors report their business income and loss — are the most likely individual tax returns to be audited.

With lawyers, an aggressive or simply sloppy differentiation between business and personal is probably more common among solo or small-firm practitioners than in larger law firms. Many solo and small firm practitioners may see little reason to have written procedures and internal controls. An IRS audit can do much to change their minds.

Indeed, wherever a lax differentiation between business and person occurs, it is dangerous. Upon encountering the problem, the IRS usually redresses it by disallowing the claimed expenses and imposing civil penalties in addition to the taxes on the disallowed amounts. Of course, an assessment of tax or penalties also accrues interest. Sometimes, however, the matter can become criminal, as occurred in Threadgill’s case.

In criminal tax cases, the IRS can pursue a felony charge of filing a false tax return. See 26 USC § 7206(1). This provision requires the IRS to prove beyond a reasonable doubt that the defendant filed a false tax return and that he did so willfully. Conviction is punishable by fine of up to $100,000 and imprisonment of up to three years.

An even more serious felony charge is tax evasion under 26 USC Section 7201, as is being pursued in Threadgill’s case in Tennessee. This provision requires proof of the same two elements for the crime of filing a false tax return, plus an affirmative act of tax evasion. Conviction is punishable by fine of up to $100,000 and imprisonment of up to five years.

Some lawyers facing criminal tax charges think the government will not be able to show they acted willfully. This requires the government to show the accused knew his tax returns were false, as by claiming deductions for obviously nondeductible items. But the government usually relies upon circumstantial evidence to prove the evidence of willfulness. Indeed, by the time the government has gathered enough information for an indictment, there is likely to be plenty of evidence sufficient to establish willfulness.

Thus, although most lawyers certainly should not fear the IRS, many might benefit from conducting their own internal audit of how they would fare if the IRS came calling. Many would probably discover that they should make some improvements. After all, even civil audits can be daunting, expensive, and distracting. Be careful out there.

Robert W. Wood is a WSBA member and a tax lawyer with a nationwide practice (www.woodllp.com). The author of more than 30 books, including Taxation of Damage Awards & Settlement Payments (4th Ed. 2009 www.taxinstitute.com), he can be reached at wood@woodllp.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.

NOTES
Civility is beyond surface politeness; it is not avoidance of conflict or abandonment of self-interest. Rather, civility requires courage, humility, and engagement in respectful dialogue and problem-solving. The demands of today’s changing profession call for increased civility. Clients are demanding more for less. Firms can’t afford incivility — it sucks energy and time from law firm production. Most managing partners would say that “people problems” are the most time-consuming and frustrating part of the job.

Incivility is a direct threat to effective thinking. Over and over, I am struck by how we lawyers can sometimes be uncivil, disrespectful, and unable to engage effectively with our colleagues on tough internal topics. I had a “losing my civility” experience when a colleague said, “Dan, I understand that sometimes you need to use a two-by-four to get our attention, but does it need to have a nail in it?” When there is a “nail” in a communication from one partner to another, what happens to the dialogue? Analysis stalls and issues fester as we make the same points again and again, louder and louder, with clever stinging words.

Weak internal civility has another dimension. I was working on strategic planning with a law firm that had the reputation of choosing its managing partner by proceeding down the letterhead list of seniority. One of the firm’s most respected and productive partners said he thought the firm should involve its own and its firm’s civility. For professional, business, societal, and practice across multiple disciplines.

Here are a few ideas to increase civility.

- Define and develop leadership. What leadership is needed to initiate, manage, and nurture a different culture? Build a critical mass or coalition of lawyers who are most likely to see the serious implications of changes in the profession. Spend time energizing that group and develop leadership within that group.

- The task is difficult, but the imperatives for civility are grounded in theory, research, and practice across multiple disciplines. Whether the times require change in your firm or not, civility is a necessary lubricant for change deliberation and decision-making. For professional, business, societal, and personal reasons, we should relentlessly cultivate our own and our firm’s civility.
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Art and the Law

BY CARRIE BUNKLEY

I became interested in the law in a roundabout way; one could even call it accidental. Five years ago, I was studying painting at Wayne State University in Detroit. For the most part, I had either painted portraits from a live model or from photographs that I took. I was (and still am) a huge jazz fan—which inspired me to paint a series of portraits of my favorite jazz musicians using photographs from the era.

I painted Pharoah Sanders, Thelonious Monk, Charles Mingus, and Grant Green, among others. I displayed the paintings (which sold really well!) at a cafe in the vibrant Eastern Market District in Detroit. One day I was visiting the cafe when I was approached by a young man. He told me that he was Grant Green's son, and that I should give him the painting of his father. I laughed, of course, naively thinking this to be a compliment—but he explained that he was actually Grant Green's son; that being the case, he was the rightful owner and I had no right to sell the painting to anyone else.

Looking back at that moment, I agree philosophically and morally with the man for many reasons. Back then I couldn't have told you what “IP” even stood for, but it dawned on me that perhaps I had done something wrong. In that moment, it felt wrong, or at least disrespectful. My mind was flooded with questions. First of all, the painting didn't look exactly like the photographs—they had heavy, visible brushwork, and I painted with colors, where the photos were black and white. I had cropped the photographs to suit my own compositions. More importantly, who was I really hurting? The photographer? The publisher of the book of photos I used as references? Or the subject—in this case, the subject's son?

Being me, I went to the library, checked out a lot of books that I couldn't understand, and researched online to figure out what it all meant. I learned a lot—at least enough to keep me out of court! I definitely learned enough to make me sensitive to the basic issues of copyright. Mostly, though, I learned enough to make me really, really curious. After art school, I checked out an LSAT prep book from the library. Long story short, I had a blast in law school, am certain I made the right decision, and couldn't be more excited about my new career.

I haven't stopped painting and I never intended to. I have always drawn, painted, created—whether it is renovating my old home, quilting, gardening, or learning the drums, I seem to be always “getting my hands dirty.” And certainly there have been those who could not seem to reconcile my dual personas of artist and lawyer. My response to that inquiry is usually something along the lines of, “Sure, why not?” I truly believe we are all many things and play many roles, and we certainly all have many talents.

Since I started painting, I have been drawn to portraiture, and am pretty much exclusively interested in the figure and the portrait. In a classic sense, my portraits seek to reveal the essence of my subject, rather than the mere visage. Even my most abstracted paintings can convey so much about the psychology of a person and their place in the world. I can’t imagine an arena where a profound concentration and focus on another person's place in the world— to the extent of sub-

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jugating one's own goals and one's own ego — is more vital than in the arena of law. Studying the law can be many things, but for me it was never purely an intellectual pursuit. It has always been about human relationships and (hopefully) helping people.

My heroes tend to be artists who also possess a staggering intellect. I count among my heroes the great modernist Henri Matisse. In Matisse's book of writings and collages, Jazz (some say his most brilliant work), he wrote:

A MUSICIAN ONCE SAID: In art, truth and reality begin when one no longer understands what one is doing or what one knows, and when there remains an energy that is all the stronger for being constrained, controlled, and compressed. It is therefore necessary to present oneself with the greatest humility: white, pure, and candid with a mind as if empty, in a spiritual state analogous to that of a communicant approaching the Lord’s Table. Obviously it is necessary to have all of one's experience behind one, but to preserve the freshness of one's instincts.

My approach to practicing law and my vision for my career as a lawyer is similar to my approach and philosophy of my art practice. I can relate so much to Matisse's depiction of the relationship between constraint and freedom — the law is a framework from which we can find elegant solutions, brilliant logic, and sweepingly beautiful reasoning. So, too (and the great modernists pioneered this idea), the canvas and the materiality of painting need not be a hindrance, or something to be overcome, but rather, they can be brilliantly dealt with, and even become a bridge between the rigidity and constraint of the materials and a transcendent and beautiful work of art. Like a peaceful resolution between opposing parties or a brilliant work of art, I feel a responsibility to elegantly reconcile the rigid, static rules — whether they be the flat surface of the canvas or the black-letter law — with the purity and freedom inherent in truly capturing a person's essence and personality, or understanding and helping a person with their legal troubles.

To paraphrase a friend who is a gifted painter and successful attorney (not to mention an amazing mother of two): Art and law center around communicating an idea. Trials, or even real estate files, involve theories. The challenges and solutions require that you make other people see your underlying theory. In the abstract, practicing law and making art are very similar. I couldn’t agree more. In researching and establishing a legal theory or a strategy, there are decisions that must constantly be made. In producing a painting, I am faced with constant decisions as well, only I rely mostly on intuition to make my color choices, brushwork styles, and overall expression.

The way I paint is very intuitive and very loose; you can see that in my brushwork. Being able to follow my instincts and shut out doubts and the (I think essentially human) tendency to over-think decisions is the driving force behind my most successful paintings. I am more than willing and very comfortable to not plan the next step, to let the painting "be what it wants to be." But I understand that practicing law requires a level of thoughtfulness that I don’t employ in my painting practice. I also understand that practicing law and practicing art are not mutually exclusive.

I think it is impossible for beings as complex as humans to present only one face to the world. And truly, I think the best thing I could be to a client, whichever my area of practice, is to be multidimensional. To keep current on issues of digital music and copyright, I am just as likely to read a law journal article as I am to read the rapper, writer, and activist Chuck D’s blog. I can’t imagine law being practiced in a vacuum, just as much as I can’t imagine living in a vacuum.

Carrie Bunkley recently moved to Seattle from New York with her husband, a musician and composer. She is interning at the Scott Weitz Law Firm. She shows her work locally and takes on commissions. View her artwork at www.carriebunkley.com. She can be reached at carriebunkley@gmail.com.
am not very good at math. I don’t know what e = mc² means. My check book is balanced within $10 at best. I do know that 1 + 1 can equal 3, or 4 if she has twins. My two Cs in college were both in math classes.

It is clear, though, after over a third of a century as an attorney, that there are equations important in the practice of law.

\[
L \times D \times C = V
\]

“L” (liability) times “D” (damages) times “C” (collectability) = “V” (case value)

The first equation I learned as a young lawyer was \( L \times D \times C = V \). This was my mentor’s formula as to how you evaluate a case. For example, if you have solid liability (a drunk driver who rear-ended your client as he was coming home from church), $25,000 in damages, and insurance to cover the claim, you have a case value of $25,000. On the other hand, if you have a signed Promissory Note for $20,000 with a maker who is as likely to go bankrupt as not, the case value is $10,000. Liability (100%) times damages ($20,000) times collectability (50/50) = $10,000.

There are other equations that are equally important in our work.

\[
CE \times LR = CS
\]

“CE” (client expectations) times “LR” (range of likely result) = “CS” (chance of success with the client)

There is one purpose of an initial consultation and one purpose only: to assess a new client’s expectations. Once that happens, you can determine if their expectations are within the range of likely results and, combining those, determine your chances of having a happy client — an ambassador for you in the community — at the end of the case. Years ago, when I was doing domestic relations, I would, from time to time, have a client come in expecting to receive the house, the dog, the kids, none of the bills, and an apology letter from his spouse published in the local paper. As that was outside any range of likely results, my chances of having a happy client were zero. Other times, people would come in and want reasonable, shared time with the children and a division of assets of about 50/50. Since that was where the case was likely to resolve, I had a high likelihood of having a happy client. And, we must always remember, happy clients are our greatest advertisement, the components of our work that pay our bills and feed our families.

I learned this lesson the hard way.

Twenty years ago or so, I had a woman to whom I gave a check for $150,000, everything the law would allow her to recover. We left nothing on the table, negotiated nothing away. When I handed her the check, she looked at me sternly and said, “Jeff, I want you to know how dissatisfied I am. I am going to tell all my friends [fortunately, she had no friends] that you are not a good lawyer.”

“You can’t be dissatisfied,” I said. “We got everything the law allowed. We negotiated nothing away. How can you be dissatisfied?”

“A good lawyer would have gotten it sooner.”

Yes, I was a bit mad at her, but also mad at myself that I had not reasonably defined her expectations when we initially met.

\[
CE \times LR \times (-PL) = CS
\]

“CE” (client expectations) times “LR” (range of likely result) times “-PL” (multiplied by the negative number of attorneys previously in the case) = “CS” (chance of a happy client)

When entering a matter mid-case, you have to take the prior equation as to your chance of success and multiply it by the negative number of attorneys previously in the case. Once you are the second, or third, or fourth, or tenth lawyer, you don’t start the case on a level playing field. Your client has had a bad experience with one or more lawyers. Your work and bills will be looked at through the prism of a wounded, dissatisfied client. Before you get into a matter mid-case, you should ask your client what she liked, and didn’t like, about her prior lawyer(s). If she can think of nothing good about her prior lawyer(s), don’t take the case. She will find nothing good about your efforts, either. But, if you choose to get in the case, be sure you get your money upfront. The reason she might have gone from lawyer to lawyer to lawyer is that she is the Johnny Appleseed of accounts receivable.

\[
AR \times UC = HP
\]

“AR” (percentage of accounts receivable) times “UC” (percentage of unhappy clients) = “HP” (percentage likelihood of unhappiness in practice)

Law is a stressful way to spend a day. Unfortunately, few, if any, of our clients
have insurance to cover their legal costs. Rather, they pay us out of their savings, 401(k), or wages. The percentage of the accounts receivable indicates the amount of your workday you are spending without compensation. Every lawyer should do pro bono work. Voluntary pro bono is a good thing. Involuntary pro bono is wearing both personally and financially, like running uphill all day. Remember, unless you are a public defender, you can withdraw from any case any time. When you have too many accounts receivable and too many unhappy clients, it is almost impossible to have happiness and satisfaction in your practice.

**FP x CDT = LMBDCOBS**

“FP” (files and phone messages stacked on your desk) times “CDT” (clients you don’t want to talk to) = “LMBDCOBS” (likelihood of meeting Bar disciplinary counsel or being sued)

Burnout in our profession is easy and, unfortunately, not uncommon. When each morning you see stacks of files you don’t want to deal with, stacks of phone messages you haven’t returned, and can list 10 or more clients you just don’t want to talk to, it is time to get centered again, before malpractice or discipline occur. Water evaporates: clients and cases don’t, even if you don’t think about them. The more you ignore cases, the more likely you are to receive a letter from State Bar disciplinary counsel or be sued for malpractice.

**A x RT = GWYW**

“A” (asking in the right way) times “RT” (asking at the right time) equals “GWYW” (getting what you want)

The night before I got married, I asked my dad if he had any advice for me. “Yes,” he said. “You can get anything you want in your marriage, if you ask at the right time and give your wife an equal benefit. If you want to go fishing for a week with the boys each year, no problem. Ask at the right time and give your bride equal time away for something she wants to do.”

That equation is important in our day-to-day practice. When and how you ask for fees is an art form. Some lawyers shove a fee agreement at the client immediately when they walk into the office. Before you see the attorney, you sign the agreement. “We don’t do this for free. This is a business, expect to pay for our work” is the message. OK, if that is really what you want your message to be. Other lawyers discuss fees at the end of the initial consultation. “Mrs. Jones, I would be happy to help you on your case. My hourly rate is $250 per hour; the details of how I bill are set forth in this document. Take a minute to read it and let me know if you have questions. If it is satisfactory, we’ll both sign the agreement and I will begin work on your case.” That’s more like forming a team to last into the future than an I-work-you-pay, one-time relationship. Asking for fees at the right time, in the right way, is one key to a happy, successful, busy practice.

Probably I’ll never learn what e = mc² really means. From listening to my mentors and happy lawyers, though, I can learn some aspects of a successful practice so consistent they can be put into an equation. ☺️
This In Memoriam section contains brief obituaries of WSBA members. The list is not complete and contains only those notices that the WSBA has learned of through newspapers, magazine articles, trade publications, and correspondence. Additional notices will appear in subsequent issues of Bar News. Please email notices or personal remembrances to inmemoriam@wsba.org.

Michael D. Aiken
Michael Aiken was born in Independence, Kansas. He attended Moses Lake High School, received his undergraduate degree magna cum laude from Washington State University, and received his law degree from the University of Kansas School of Law. Aiken served as a judge pro tem, and frequently provided pro bono legal services to the less fortunate. A longtime Scoutmaster, Aiken was active with the Boy Scouts of America, and also belonged to the Moose Lodge and Ducks Unlimited. He enjoyed camping, hunting, traveling, and sports, especially cheering on the Green Bay Packers and his beloved WSU Cougars.

Michael Aiken died on April 17, 2011, at the age of 57.

Roy Franklin Atwood Jr.
Born in Massachusetts, Frank Atwood grew up on a cattle ranch near Ellensburg. In 1944, at the age of 17, he enlisted in the U.S. Army. He continued to serve from 1957 to 1981 as a reserve office in the Judge Advocate General’s Corp, retiring as a full colonel. He attended the University of Washington School of Law and put down roots in Bellingham. He served on the Bellingham City Council and was elected to the state Senate in 1962 where he served for 12 years. He was a long-time and valued member of the WSBA Legislative Committee. He was active in fraternal and civic groups, including the Jaycees and Rotary, and the boards of the YMCA, United Way, St. Luke’s Hospital, and St. Luke’s Foundation.

Frank Atwood died July 9, 2011, at the age of 84.

Judge Christine Clishe
Judge Christine Clishe was born in Olympia on December 24, 1941; because of her Christmas Eve birthday, the holiday was especially meaningful to her. She attended Olympia High School and Willamette University, received her undergraduate degree from the University of Washington, and received her law degree from the University of Puget Sound School of Law. She began her legal career with the State of Washington, retiring as an administrative law judge. Clishe loved animals, enjoyed genealogy and planning high school reunions, and was known for her skill in tracking down former classmates. She enjoyed reading, cooking, and travel.

Judge Christine Clishe died on April 28, 2011, at the age of 69.

Kenneth M. Cox
Kenneth Cox was born in Pullman and raised in The Dalles. He practiced law in both Sunnyside and Yakima. He served a two-year mission in Argentina for the Church of Jesus Christ of Latter-day Saints in 1996.

Kenneth Cox died June 29, 2011, at the age of 34.

Mabry Chambliss De Buys
Mabry Chambliss De Buys was born in Lookout Mountain, Tennessee. She received her undergraduate degree from Swarthmore College and her law degree from the University of Washington School of Law. She was a senior partner at K&L Gates LLP, a fellow of the American College of Trial Lawyers, and a
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Tamara E. Fox
Tammy Fox graduated from Liberty High School in Issaquah, where she danced on the drill team and was a member of the cheerleading squad. She received an undergraduate degree in communications from the University of Washington and her law degree from Seattle University School of Law. In Issaquah, she had recently started her own law practice and gained her first client. In addition to her practice, Fox began working at Skyline High School in 2010 as an assistant cheer coach, where she helped to lead the Skyline Silver and Green teams to first-time awards at the state cheerleading championships.

Tammy Fox died on March 20, 2011, at the age of 31.

Michael N. Gendelman
Michael Gendelman attended Yeshiva University in New York City and received his law degree from Gonzaga University School of Law. He was a tax controversy attorney for the Internal Revenue Service, and later in private practice, where he particularly enjoyed the opportunity to help low-income clients. In 1992, Gendelman received a liver transplant, and was always grateful for the second chance at life he had been given, believing that he had a responsibility to live meaningfully and give back to his community. He enjoyed fishing and the outdoors, collecting coins and stamps, and shopping.

Michael Gendelman died on April 28, 2011, at the age of 57.

William H. Grady
William Grady was a 1960 graduate of Gonzaga University School of Law. He practiced in Seattle for 40 years. He was a past president of the Harbor Club and served on the boards of numerous charitable organizations.

William Grady died August 8, 2011.
Judge Zane B. Johnson
A native of Auburn, Judge Zane Johnson graduated from the University of Washington and Gonzaga University School of Law. He practiced in Auburn for more than 57 years and presided as a judge in the municipal and district courts. He fought in World War II under General Patton and received the Purple Heart. He loved all children, pets, and traveling the world.

Zane Johnson died on July 5, 2011, at the age of 86.

Myron V. “Peter” Judd
A Seattle native, Peter Judd attended Queen Anne High School and received his undergraduate degree from the University of Washington, following his father’s footsteps into civil engineering. Judd and his father both worked on building the Whidbey Island Naval Air Station. He was a certified ski instructor and taught with Seattle Ski School and Mt. Si Ski School. In 1965, Judd changed careers, receiving his law degree from the University of Washington School of Law and starting his own practice in the areas of real estate, probate, and estate planning. Judd enjoyed coaching soccer and spending a week each summer at the Children’s Hospital summer camp for children with disabilities. He built a family cabin on Hood Canal with the help of his two sons, and built a 26-foot sailboat with his father-in-law.

Peter Judd died on May 27, 2011, at the age of 79.

Herbert I. Lakefish
Born in Portland, Oregon, Herbert Lakefish attended R.A. Long High School in Longview, where he received the Jonny Hammer award given to a senior who best combined academics, athletics, and leadership. He graduated from the University of Washington, where he earned his law degree. He served on the board of Pioneer Human Services in Seattle. He enjoyed golf, fishing, traveling, and time with his grandchildren.

Herbert Lakefish died August 3, 2011, at the age of 69.

Marion V. Larson
Mick Larson was born in Sioux City, Iowa. While attending Lake Washington High School in Kirkland, he joined the football team, becoming an all-state player and earning a football scholarship to Washington State University, where he graduated with a degree in accounting. He received his law
It typically takes two denials and a hearing to get Social Security Disability benefits. This area of law is complex, with many shifting regulations. Call on SGB.

If your client is unable to work due to injury or disability, we can help with both the initial application and any appeals. We regularly represent people with health issues including depression, head trauma and cancer. Our experienced team is known for being well prepared, thorough and tenacious.

There is no lien on any monies you later recover if your client receives SSDI benefits. Not sure if your client has a claim? Call us.

Albert L. Levinski
Albert Levinski was born in Butte, Montana. He graduated from Roosevelt High School in Seattle and enlisted in the Army Air Corps following the attack on Pearl Harbor. He flew troop carriers in Australia, the Philippines, and New Guinea during World War II, continuing his military career with the Air Force Reserve until he retired as a colonel in 1983. Returning to Seattle after the war, Levinski received his law degree from the University of Washington School of Law and joined his father’s practice. Levinski practiced personal injury, divorce, and probate law until his retirement in 1995. He enjoyed skiing, tennis, and duck and pheasant hunting. An avid sailor, he often sailed around Puget Sound with his wife, was a lifetime member of the Seattle Yacht Club, and cruised the Panama Canal and the Danube.

Albert Levinski died on May 4, 2011, at the age of 87.

Larry L. Nickell
Larry Nickell grew up in Spokane and graduated from Washington State University. He earned his law degree at Gonzaga University School of Law. He worked for six U.S. presidents as an attorney for the Bureau of Alcohol, Tobacco, Firearms, and Explosives. He was an avid cook, voracious reader, and wine enthusiast. He loved his Irish heritage, and loved to spin a tale.

Larry Nickell died on August 12, 2011, at the age of 56.

Thomas P. Rowland
Born in Tacoma, Thomas Rowland graduated from Bellarmine Preparatory High School and Washington State University. He earned his law degree from Gonzaga University School of Law, where he was also associate editor of the law review. After law school, he joined the firm of Eisenhower & Carlson PLLC, of Tacoma, before becoming a staff attorney with the Washington State Office of the Insurance Commissioner. He and his wife enjoyed celebrating their July 4 anniversary each year in Scottsdale, Arizona.

Thomas Rowland died on February 23, 2011, at the age of 35.

Rembert Ryals
Rembert Ryals was born in Birmingham, Alabama. He graduated from Richland High School at the age of 15, received his undergraduate degree from Washington State University, and served two years in the U.S. Army before receiving his law degree from Gonzaga University School of Law. Ryals clerked for the Washington State Supreme Court and worked as an assistant attorney general. Later, he joined the firm of Critchlow, Williams, Ryals & Schuster, eventually becoming a partner, and then served as city attorney for the City of Richland. Ryals finished

(See In Memoriam, continued on page 49)
You are cordially invited to attend

The Washington State Bar Association’s
50-Year Member Tribute Luncheon

Wednesday, November 9, 2011
Sheraton Seattle Hotel • 1400 6th Ave., Seattle
Registration and Reception: 11:00 a.m. (no-host bar) • Luncheon Program: Noon

Please join us as we honor the 2011 WSBA 50-year members. All members of the legal community are invited.

Name _________________________________________ WSBA No. ____________________________
Address _________________________________________________________________
Phone ________________________________E-mail ____________________________
Affiliation/organization _____________________________________________________

Registration is $45 per person (table of 10 = $450). To make your reservation, please return this form (or a photocopy) with your credit-card information or check payable to WSBA. Space is limited, so please make your reservations early. Reservations and payment must be received by November 2, 2011 (refunds cannot be made after November 2).

☐ MasterCard ☐ Visa No. ____________________________ Exp. date ____________
Name as it appears on card ____________________________________________________
Signature _________________________________________________________________

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

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

____________________________________________
☐ chicken ☐ salmon ☐ vegetarian

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☐ chicken ☐ salmon ☐ vegetarian

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☐ chicken ☐ salmon ☐ vegetarian

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☐ chicken ☐ salmon ☐ vegetarian

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☐ chicken ☐ salmon ☐ vegetarian

Send to: Washington State Bar Association
50-Year Member Tribute Luncheon
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539
Phone: 800-945-WSBA or 206-443-WSBA • Fax: 206-727-8310

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

_________________________________________________________________________
_________________________________________________________________________
Judicial Member Licensing

New WSBA Bylaws relating to judicial members will be effective January 1, 2012 (see WSBA Bylaws Art. III, Sections A.3, B, C.2, C.4, H.1.c, H.2 and H.3). Judicial members are now asked to complete annual license renewal forms and pay a $50 license fee if they wish to maintain eligibility to transfer to another membership type when their judicial service ends. The Judicial Member License Renewal form was mailed in mid-October and online licensing became available at that time. If you have not received your form, please log in to www.mywsba.org to complete your renewal or request a new form. If you have any questions or concerns, contact membershipchanges@wsba.org, 206-239-2131, or 800-945-9722, ext. 2131.

Just Released: Volumes 5 and 6 of the Washington Real Property Deskbook Series

Volume 5 (Land Use Planning) and Volume 6 (Land Use Development) of the Washington Real Property Deskbook series (WSBA-CLE 4th ed. 2011) will become your indispensable guide to land use law and practice in Washington. To review the complete table of contents or to order, go to www.wsbcacle.org, click “Deskbooks” and sort by “Real Property,” or call Order Fulfillment at 206-733-5918 or 800-945-9722, ext. 5918.

26th Annual Goldmark Award Luncheon Honors Justice Gerry L. Alexander

On February 24, 2012, the Legal Foundation of Washington will present the 2012 Charles A. Goldmark Distinguished Service Award to Justice Gerry L. Alexander at the 26th Annual Goldmark Award Luncheon. When Justice Alexander retires from the Supreme Court on December 31, 2011, he will have served as chief justice longer than any other in our state’s history; been instrumental in allowing the first gavel-to-gavel television coverage of Supreme Court hearings in the country; established a traveling Supreme Court in Washington; chaired countless committees dedicated to improving a public court system; and lent tireless support to the access to justice movement. The Legal Foundation of Washington Board of Trustees joins with the LAW Fund and Endowment for Equal Justice Board of Directors in recognizing Justice Alexander’s commitment to secure justice for all, regardless of their ability to pay.

The Legal Foundation of Washington created the Charles A. Goldmark Distinguished Service Award in 1987 to honor the prominent Seattle attorney and second president of the Foundation. See www.legalfoundation.org for more information.

SBAW — Slavic Bar Association of Washington

The WSBA welcomes the state’s newest minority bar association, the Slavic Bar Association of Washington (SBAW). The Slavic Bar Association of Washington is a professional association of legal practitioners and law students with ties to or interests in Slavic cultures and languages. SBAW is organized exclusively for charitable and educational purposes: to support members of the Bar and law students with ties to Slavic cultures and languages; to educate others about Slavic ethnicity, culture, history, and people; and to aid the Slavic community and those within it aspiring to enter the legal field. For more information, or to join SBAW, please contact Aryna Andersen, president, at slavicbar@gmail.com.

“Foundations of American Democracy” Civics Pamphlet

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

2012 Licensing and MCLE Information

Online licensing is a convenient and easy way to complete your license renewal and MCLE certification. The License Renewal form and the Section Membership form were mailed together in mid-October and online licensing became available at that time. Renewal and payment must be completed by February 1, 2012. As the section membership year is October 1, 2011, through September 30, 2012, we encourage you to join or renew sections now to receive the full benefit of the membership. For detailed instructions, go to www.wsba.org/licensing-and-lawyer-conduct. If you are due to report MCLE compliance for 2009–2011 (Group 2), you should have received your Continuing Legal Education Certification (C2) form in the license packet that was mailed in mid-October. Lawyers in Group 2 include active members who were admitted in 1976–1983, 1992, 1995, 1998, 2001, 2004, and 2007. (Members admitted in 2010 are also in Group 2 but are not due to report until the end of 2014.) All credits must be completed by December 31, 2011, and certification (C2 form) must be completed online or be postmarked or delivered to the WSBA by February 1, 2012. For detailed instructions, go to www.wsba.org.
FYInformation

November 2011  |  Washington State Bar News

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

Search WSBA Advisory Opinions Online
WSBA advisory opinions are available online at www.wsba.org/advisoryopinions. You can search opinions by number, year issued, ethical rule, subject matter, or keyword. Advisory opinions are issued by the WSBA to assist members in interpreting their ethical obligations in specific circumstances. The opinions are the result of study and analysis in response to requests from WSBA members. For assistance, call the Ethics Line at 206-727-8284 or 800-945-9722, ext. 8284.

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

Casemaker Online Research
Casemaker is a powerful online research library provided free to WSBA members that can be accessed from the WSBA website at www.wsba.org/resources-and-services/casemaker-and-legal-research. For help using Casemaker, contact Julie Salmon at 206-733-5914, 800-945-9722, ext. 5914, juliesa@wsba.org, or call the WSBA Service Center at 800-945-WSBA (9722) or 206-443-WSBA (9722).

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

Get More out of Your Software
The WSBA offers hands-on computer clinics for members wanting to learn more about what Microsoft Office Outlook and Word, as well as Adobe Acrobat, can do for a lawyer. We also cover online legal research such as Casemaker and other resources. Are you a total beginner? No problem. The clinic teaches helpful tips you can use immediately. Bring your laptop or use provided computers. Seating is limited to 15 members. The November

Never needed more...  
...Never more in need.

- Nearly 30% of Washington residents live below 200% of the poverty level
- Only 1 in 5 people will receive help for an urgent legal problem this year
- Since 2009, top requests for legal help have drastically increased:
  - Domestic Violence Advocacy 109%
  - Foreclosures 556%
  - Unemployment 890%

Sources: 2010 US Census; King County Crisis Clinic (2008-2010 comparison)

Please consider supporting the Campaign by making a secure online contribution at www.c4ej.org or by sending your donation by mail to the address below.

CAMPAIGN FOR EQUAL JUSTICE
It’s not justice if it’s not equal.

LAW Fund & the Campaign for Equal Justice | 1325 4th Ave., Ste. 1335, Seattle, WA 98101 | 206.623.5261

November 2011 | Washington State Bar News 47
14 clinic will meet from 10 a.m. to noon at the WSBA offices and will focus on Adobe Acrobat Professional. On November 17, from 2:00 to 4:00 p.m., we will discuss Outlook and Word. There is no charge and no CLE credit. To reserve your seat, contact Peter Roberts at 206-727-8237, 800-945-9722, ext. 8237, or peter@wsba.org.

Just Starting a Practice?
Think “out of the box” and consider purchasing “Law Office in a Box.” For $79, you receive an hour of consultation time plus everything you see here: http://tinyurl.com/3rn75hi. Questions? Contact Peter Roberts at peter@wsba.org, 206-727-8237, or 800-945-9722, ext. 8237.

Individual Counseling and Consultation
The WSBA Lawyers Assistance Program provides treatment for those struggling with depression, work stress, addiction, and life transition, among other topics. Our licensed counselors can offer up to 10 sessions on a sliding scale. The first appointment is $20. We also provide consultations on job seeking and can offer informational and referral resources on a range of topics. Contact us at 206-727-8268, 800-945-9722, ext. 8268, lap@wsba.org, or go to wsba.org/lap.

Work/Life Balance Group
The WSBA Lawyers Assistance Program (LAP) is offering “From Surviving to Thriving: Achieving a Meaningful Work/Life Balance.” This eight-week group offers both specific skills and a supportive environment for this critical topic. If you are interested in participating in the next group, contact LAP therapist Heidi Seligman at 206-727-8269, 800-945-9722, ext. 8269, or heidis@wsba.org.

Monthly and Weekly Job Seekers Groups
The Weekly Job Seekers group provides strategy and support to unemployed attorneys. The group runs for eight weeks and is limited to eight attorneys. We provide the comprehensive WSBA job-search guide Getting There: Your Guide to Career Success. The Monthly Job Seekers Group will not be held in November, but will continue on December 14 with public-speaking expert Lisa Voso. For more information about monthly and weekly job group programming, contact Dan Crystal at danc@wsba.org, 206-727-8267, or 800-945-9722, ext. 8267.

Interested in Mindful Lawyering?
A growing number of legal professionals across the nation are applying mindfulness-based skills and training to lawyering. The Washington Contemplative Lawyers group meets on the last Wednesday of each month (November 23) at the WSBA Lawyers Assistance Program office from 8:15–9:00 a.m. The group explores ways in which mindfulness practices may lead to more effective delivery of quality legal services, increased professionalism, and lawyer well-being and health.

For more information, contact Sevilla Rhoads at srhoads@gsblaw.com. Learn more about mindful lawyering at http://wacontemplativelaw.blogspot.com.

Procrastination
Do you keep putting off certain tasks? Do you worry about work you’re not doing? Procrastination can be hazardous to your professional and personal health. Try dividing the task up into small bites, then attack the first logical piece. If you’d like help breaking the procrastination habit, call the Lawyers Assistance Program at 206-727-8269 or 800-945-9722, ext. 8269.

Speakers Available
The WSBA Lawyers Assistance Program offers speakers for engagements at county, minority, and specialty bar associations, and other law-related organizations. Topics include stress management, life/work balance, and recognizing and handling problem-personality clients. Contact the lawyers services coordinator at 206-727-8268 or 800-945-9722, ext. 8268.

Help for Judges
The Judges Assistance Services Program provides confidential assistance to judges experiencing personal or professional difficulties. Telephone or in-person sessions are available on a sliding-scale basis. For more information, call the program coordinator at 206-727-8268 or 800-945-9722, ext. 8268.

Upcoming Board of Governors Meetings
December 9–10, Bellingham
January 26–27, Olympia
March 9–10, Walla Walla

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/about-wsba/governance/board-of-governors.

Usury Rate
The average coupon equivalent yield from the first auction of 26-week treasury bills in October 2011 was 0.046 percent. Therefore, the maximum allowable usury rate for November is 12 percent.
Announcements

MILLS MEYERS SWARTLING

is pleased to announce

Geoffrey M. Grindeland

has become a principal in the firm.

His practice includes aviation law, insurance coverage, police liability, and other civil litigation.

And

Sara R. Castillo

has joined the firm as an associate.

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MILLS MEYERS SWARTLING

1000 Second Avenue, 30th Floor
Seattle, WA 98104-1064
Tel: 206-382-1000 | Fax: 206-386-7343
E-mail: info@millsmeyers.com
www.millsmeyers.com

FLOYD, PFLUEGER & RINGER, P.S.

is pleased to announce that

Levi S. Larson

has joined the firm as an associate.

The firm’s litigation practice emphasizes complex civil litigation and medical malpractice, including the defense of construction defect claims, claims of professional negligence, and toxic torts.

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Seattle, WA 98119-4296
Tel: 206-441-4455 • Fax: 206-441-8484
www.floyd-ringer.com

(In Memoriam, continued from page 44)

his career as a public defender in Franklin County, retiring in 2001. He served for many years on the WSBA Disciplinary Board. Ryals was an avid reader, loved to play bridge, and enjoyed music and travel.

Rembert Ryals died on June 3, 2011, at the age of 77.

Judge Samuel J. Steiner
A Seattle native, Judge Samuel Steiner graduated from the University of Washington School of Law. He joined the military after he graduated and prosecuted cases during the Korean War. He became a federal judge in 1979, and was one of the nation’s longest serving bankruptcy judges. He was known as the judge who saved Frangos: In the early 1990s, he oversaw the financial collapse of local Frederick and Nelson retailers. He made a ruling that ensured that its famous chocolates would continue to be supplied to and sold by the Bon Marché. He was a fan of Dixieland, big band, and vintage jazz music.

Judge Samuel Steiner died July 19, 2011, at the age of 83.

Gary Jan Strauss
Gary Strauss loved his family, friends, cycling, photography, and rallying for the many charitable causes he supported.

Gary Strauss died July 11, 2011, at the age of 61.

Rev. Landon Tracy Archer Summers
Archer Summers received his undergraduate and law degrees from Georgetown University, and received two masters’ degrees and a doctorate in divinity and education from Harvard University. He served on the WSBA Mandatory Continuing Legal Education Board, was the program manager of the USDA Graduate School, and received a Congressional award for his work in promoting peace in the Middle East. A pastor at the Burlingame United Methodist Church in San Francisco, he was presented with the Unsung Hero Award from the San Francisco Jewish Community Relations Council. Summers was a lifelong fan of Monty Python and enjoyed bluegrass music.


Rev. Archer Summers died on May 7, 2011, at the age of 51.

James A. Whitaker
James Whitaker was born in Los Alamos, New Mexico. He received his undergraduate degree from the University of Washington and his law degree from Gonzaga University School of Law. After law school, he joined the Grant County Prosecutor’s Office; in 1980, he became the city attorney for Moses Lake, and later for Soap Lake and Othello. He coached the Warden High School and Ephrata High School football teams, as well as the Columbia Basin Riverhawks. Whitaker had a dog named Panda, who traveled to work with him as a favorite companion.

James Whitaker died on May 4, 2011, at the age of 62.

Daniel D. Zender
Daniel Zender was born in Bellingham and graduated from Gonzaga University School of Law. He was active at the local, state, and federal levels with endangered species, habitat conservation, and drafting policies governing water quality and forest practices. He enjoyed playing classical guitar, riding horses, and spending time outdoors.

Daniel Zender died on August 8, 2011, at the age of 67. ☿
LYBECK ◊ MURPHY LLP
is pleased to announce that

Tracy Y. Williams
and
Timothy T. Parker

have joined the firm.

Tracy joins the firm as senior staff counsel. She graduated with a B.A. in International Political Economics from the University of Puget Sound and earned her J.D. at the University of Colorado School of Law in 2002.

Tracy's practice is focused on environmental litigation and compliance and appellate law. Tracy began her legal career as a law clerk for the Honorable J. Robin Hunt and for the Honorable C.C. Bridgewater (retired) in the Washington Court of Appeals, Division 2.

Tim joins the firm as an associate. He graduated with a B.A. in English from the University of Washington and earned his J.D. at St. John's University School of Law in 2010.

Tim's experience includes service as Editor-in-Chief of the New York Litigator Law Journal and as a law clerk for the Honorable Laurel Siddoway in the Washington Court of Appeals, Division 3.

Welcome Tracy and Tim!

Lybeck ♦ Murphy LLP
Fifth Floor Chase Bank Building
7900 Southeast 28th Street
Mercer Island, WA 98040
Tel: 206-230-4255 • Fax: 206-230-7791
Email Tim at: ttp@lybeckmurphy.com
Email Tracy at: tyw@lybeckmurphy.com

Serving Clients in Washington and Oregon

Jonete Waters Rehmke and Sean Edward Flynn
are pleased to announce the formation of

REHMKE AND FLYNN, PLLC
Attorneys at Law

Jonete W. Rehmke will continue to locate her practice in Tacoma and is accepting referrals in the area of elder law, including probates, estate planning, wills and trusts, disability planning, Medicaid planning, elder abuse, and guardianships.

Sean E. Flynn will locate his practice in Seattle and Tacoma and is accepting referrals in the area of real estate law, both residential and commercial, landlord/tenant, and business entities, as well as elder law.

917 Pacific Ave., Ste. 407, Tacoma, WA 98402
4847 California Ave. SW, Ste. 100, Seattle, WA 98116
Tacoma: 253-460-3190 • Seattle: 206-330-0608
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A trial attorneys defense firm in the Pacific Northwest led by

Mark F. O’Donnell • Eric P. Gillett (WA/AK) • Bennett J. Hansen (WA/OR) • Lori K. O’Tool • Jeff W. Daly (WA/OR) • Emma Gillespie • Alex S. Wylie (OR)

is pleased to announce that

Founding Members

Mark F. O’Donnell and Eric P. Gillett

have been named Super Lawyers, 2011

and

Gregory S. Latendresse

Gonzaga University School of Law, 2002, and formerly with Scheer & Zehnder, LLP

Curtis Leonard

American University, Washington College of Law, 2005, and formerly with the Auburn School District

Megan Coluccio

Seattle University School of Law, 2011

have become associates in our Seattle office;

and

Britt L. Tinglum

University of Wisconsin Law School, 1989, and formerly with Keller Rohrback LLP and Friedman | Rubin

has joined our Seattle office in an Of Counsel status.

They join our talented team of lawyers

David Antal (Of Counsel) • Philip Bardsley (Of Counsel) • John K. Butler • David Chawes • Mary Eklund (Of Counsel) • William Fitzharris (Of Counsel) • Amber Gundlach • Krista Mirhoseini • Steffanie Fain • David Poore • Barbara Schmidt • Earl Sutherland (Of Counsel) • Maggie Sweeney • Christine Tavares (Of Counsel) (WA/OR/AK)

Portland Office Associates:

Gregory P. Fry (WA/OR) • Anna S. Raman • Carlos Rasch

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Many lawyers, judges, and law students struggle with depression, stress, addiction, and compulsive disorders, including problem gambling.

The WSBA Lawyers Assistance Program provides confidential help for these issues. Our professional staff and trained volunteers can assist you — whether you need help or are concerned about a colleague or family member who needs assistance.

We have countless success stories, but we do our work quietly, confidentially, and professionally — so the stories stay with us.

CLaire Cordon

Employment Lawyer

Workplace Investigations
EEO Training • Expert Witness

- Ten years with the U.S. Equal Employment Opportunity Commission.
- Recent graduate of the Seattle University Executive Leadership Program.
- More than 25 years’ experience as a litigator.

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

CLaire Cordon
Phone: 206-284-7728
claire@ccordonlaw.com
www.ccordonlaw.com

Michael R. Caryl

Attorney Fee Expertise

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Ms. Clark failed to advise the Trustee of safe investments as provided for in the Trust documents, failed to promptly record two deeds of trust to secure loans from the Trust, failed to collect the full amount of interest due on loans from the Trust, failed to properly compute interest owed to the Trust, and prepared and executed subordination agreements that were not in the Trust’s best interests.

Ms. Clark failed to fully and properly inform the Trustee about the risky nature of the loans being made by Ms. Clark on behalf of the Trust, the risk of subordinating the Trust’s security interest in loan collateral, and the Trustee’s exposure to liability for not adequately supervising the investment of funds from the Trust.

Ms. Clark had the Trustee and other clients, to whom she loaned funds from the Trust, sign notices regarding conflict of interest that inaccurately reflected that Ms. Clark was only appearing as an escrow officer in transactions when, in fact, she acted in a representative capacity.

Ms. Clark concurrently represented the Trust and four other clients with loans that had competing security interests in the same collateral.

Ms. Clark made personal loans whose security interests competed with the loans of her clients and acted as a listing agent for the real property that secured the loans between the Trust and one of her clients.

Ms. Clark acquired security interests in the real property that were adverse to the interest of the Trust, without complying with the provisions of RPC 1.8(a).

Ms. Clark’s conduct violated RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; former and current RPC 1.4(a) and (b), requiring a lawyer to keep a client reasonably informed about the status of a matter, promptly comply with reasonable requests for information, and explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation; RPC 1.7(a), prohibiting a lawyer from representing a client if the representation involves a concurrent conflict of interest and if the representation of one client will be directly adverse to another client, or there is a significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another client, a former client or a third person, or by a personal interest of the lawyer; RPC 1.7(b), allowing a lawyer to represent a client, notwithstanding the existence of a concurrent conflict of interest, if the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client, the representation is not prohibited by law, the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal, and each affected client gives informed consent, confirmed in writing; RPC 1.8(a), prohibiting a lawyer from entering into a business transaction with a client or knowingly acquiring an ownership, possessory, security, or other pecuniary interest adverse to a client unless the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client, the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction, and the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer’s role in the transaction; and RPC 1.8(b), prohibiting a lawyer from using information relating to representation of a client to the disadvantage of the client unless the client gives informed consent.

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

### Disclosed

**Disciplinary Notices**

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

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

### Resigned in Lieu of Disbarment

**Deborah Jean Clark** (WSBA No. 12606, admitted 1982), of Lake Stevens, resigned in lieu of disbarment, effective May 11, 2011. Ms. Clark affirmatively admitted that if the matter were to proceed to a public hearing, there is a substantial likelihood the Bar Association could prove by a clear preponderance of the evidence the facts and misconduct, and that proof of such misconduct would suffice to result in disbarment, but did not affirmatively admit to the facts and misconduct herein. This resignation is based on conduct involving failure to act diligently, failure to communicate, and conflicts of interest.

According to the Statement of Misconduct:

Ms. Clark drafted a will for a client, who died in January 1995. Decedent’s will left the bulk of his estate to a testamentary trust (hereinafter “Trust”) for the benefit of his daughter, who was born in 1987, and designated his friend as Trustee. The provisions drafted by Ms. Clark directed Trustee to only make investments that he considered to be “safe” investments. Trustee hired Ms. Clark to represent him in his capacity as Trustee of the Trust and relied completely on Ms. Clark to advise him about his duties.

Ms. Clark’s legal practice focused on real estate transactions. After a period of time, Ms. Clark effectively exercised complete control over the Trust assets and began using those assets to make loans as a “hard money” lender to people she knew, many of whom could not qualify for more conventional financing. Ms. Clark’s loan fees were paid from the loan proceeds.

Ms. Clark’s misconduct involving the Trust, and her representation of other clients who borrowed funds from the Trust or lent funds with competing security interests, includes the following:

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**Disbarred**

**Myrna I. Contreras** (WSBA No. 15181, admitted 1985), of Bellevue, was disbarred, effective May 27, 2011, by order of the Washington State Supreme Court following approval of a stipulation. Ms. Contreras affirmatively admitted that if the matter were to proceed to a public hearing, there is a substantial likelihood the Bar Association could prove by a clear preponderance of the evidence the facts and misconduct, and that proof of such misconduct would suffice to result in disbarment, but did not affirmatively admit to the facts and misconduct herein. This discipline is based on conduct involving trust account irregularities, conversion of client funds, failure to protect clients’ interests, dishonesty, acts which reflect disregard for the rule of law, and violations of the Rules for Enforcement of Lawyer Conduct.

According to the stipulation:

**Trust Accounts:** Ms. Contreras was a solo practitioner who practiced primarily in family and personal injury law. She maintained a trust account at one bank and, in June 2008, opened a second trust account at a different bank. Ms. Contreras personally made all deposits and withdrawals from her trust accounts and maintained all trust account records. On 10 occasions between June 2005 and July 2007, checks issued from one trust account, ranging from $500 to $5,115.44, were paid against insufficient funds resulting in negative balances. On seven occasions between December 2005 and January 2008, checks issued from one trust account, ranging from $800 to $4,670, were dishonored and returned due to insufficient funds. Ms. Contreras did not report any of these overdrafts to the Association.

Between June 2005 and February 2009,
Ms. Contreras failed to maintain complete or accurate records on one or both of her trust accounts. On several occasions, Ms. Contreras withdrew funds from her trust account by cash withdrawals without identifying a client matter for the withdrawals, converted client funds to her own use, and allowed substantial shortages of client funds, ranging from $19,811.99 to $160,436.88, in one of her two trust accounts.

**Conversion of Client Funds:** Ms. Contreras converted funds to her own use by not depositing checks into her trust account, by paying herself in excess of what she earned, and by repeatedly using funds of one client to pay the obligations of another. Between November 2005 and January 2009, Ms. Contreras converted funds belonging to at least eight different clients, ranging between $845 and $26,508.57, in order to pay disbursements to other clients or pay herself. The disbursements often left Ms. Contreras's trust account with negative balances.

**Non-Cooperation:** In April 2007, the Bar Association opened a grievance against Ms. Contreras based on two overdrafts in one of her trust accounts. During the investigation of the grievance, Ms. Contreras failed to fully respond to the Association's requests for information or records and failed to produce all of the information requested. During six depositions in which she was subpoenaed by the Bar Association, Ms. Contreras gave false testimony in which she was subpoenaed by the Bar Association. Ms. Contreras gave false testimony in which she was subpoenaed by the Bar Association. Ms. Contreras gave false testimony in which she was subpoenaed by the Bar Association.

**Client Matters:** In March 2008, Client A hired Ms. Contreras to represent him in a paternity case and paid her a $3,000 flat fee. Client A discharged Ms. Contreras the next month and hired another lawyer to take over his case. On several occasions, Client A and his new lawyer asked Ms. Contreras for an accounting and refund. She did not provide either until after Client A filed a grievance against her. In January 2009, Ms. Contreras issued a check for $3,000 to Client A from her trust account using settlement funds she received from another client's settlement to fund the check.

In September 2009, Client B hired Ms. Contreras to represent her in her dissolution and paid an advance fee of $1,500 by check. Ms. Contreras did not deposit the advance fee to a trust account, but instead negotiated the check for cash before she had earned any of the fees. A week after hiring her, Client B discharged Ms. Contreras and requested a refund. Although Ms. Contreras agreed to refund the advance fee, she did not do so. Client B filed a small claims action and obtained a judgment against Ms. Contreras in the amount of $1,573. Client B also filed a grievance against Ms. Contreras, who failed to submit any response. The Bar Association served Ms. Contreras with a subpoena for deposition. During the deposition, Ms. Contreras testified that she planned to refund Client B's money the next day, but did not do so. Instead, she refunded her $690 on March 20, 2010; $500 on March 21, 2010; and $390 on March 23, 2010.

Ms. Contreras's conduct violated former RPC 1.14(a), requiring that all funds of clients paid to a lawyer be deposited into one or more identifiable interest-bearing trust accounts and maintained pursuant to the Rules; former RPC 1.14(b)(3) and current RPC 1.15A(h)(2), requiring a lawyer to keep complete records pursuant to the Rules; former RPC 1.14(b)(4) and current RPC 1.15A(f), requiring a lawyer to promptly pay or deliver to the client or third person the property which the client or third person is entitled to receive; RPC 1.15A(b), prohibiting a lawyer from using, converting, borrowing, or pledging client or third-person property for the lawyer's own use; RPC 1.15A(h)(3), requiring a lawyer to provide written notice to his or her clients before withdrawing earned fees from his or her trust account; RPC 1.15A(h)(5), requiring that all withdrawals from a trust account be made only to a named payee and not to cash; RPC 1.15A(h)(6), requiring trust account records to be reconciled as often as bank statements are generated or at least quarterly; RPC 1.15A(h)(8), prohibiting disbursements on behalf of a client or third person from exceeding the funds of that person on deposit; RPC 1.15B, requiring a lawyer to maintain current trust account records and listing, at minimum, what the records must include; RPC 1.16(d), requiring a lawyer, upon termination of representation, to take steps to the extent reasonably practicable to protect a client's interests, such as 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 8.4(b), prohibiting a lawyer from committing a criminal act (here, theft) 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(f), prohibiting a lawyer from committing any act involving moral turpitude, or corruption, or any other act which reflects disregard for the rule of law; 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.

Marsha A. Matsumoto represented the Bar Association. Kurt M. Bulmer represented Ms. Contreras.

**Suspended Pending the Outcome of Supplemental Proceedings**

**Alban F. Hall** (WSBA No. 1505, admitted 1974), of Edmonds, was suspended pending the outcome of supplemental proceedings pursuant to ELC 7.3, effective August 18, 2011, by order of the Washington State Supreme Court. This is not a disciplinary sanction.
Bankruptcy

Annual Collection of Judgments: You’ve Won! Now What?
December 14 — Seattle and webcast. CLE credits pending. By the WSBA Creditor-Debtor Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

FACTA (Fair and Accurate Credit Transactions Act)
December 15 — Seattle and webcast. CLE credits pending. By the WSBA Tax Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Business Law

27th Annual Antitrust Seminar
November 3 — Seattle and webcast. 6 CLE credits. By the WSBA Antitrust and Consumer Protection Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

2011 Annual Corporate Counsel Institute
November 18 — Seattle and webcast. 6.5 CLE credits, including 1 ethics. By the WSBA Corporate Counsel Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Public/Private Financing Transactions: Developing, Preserving and Leveraging Public Assets
November 18 — Seattle. 6 CLE credits. By The Seminar Group; 800-574-4852 or 206-463-4400; www.theseminargroup.net/seminar.lasso?seminar=11.pfiwa.

Deposition Techniques: Strategies, Tactics, Skills
December 5 — Seattle and webcast. 6 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Construction Law

Construction Contracts and Lien Law

Criminal Law

Hammer or Be Hammered: Trying UIM and PIP Cases

The Essentials of Handling DUI and DOL Cases
November 15 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Turning Up the Heat: New Issues and New Approaches in Felony Defense
December 2 — Seattle. 5.25 CLE credits, including 1 ethics. By Washington Association of Criminal Defense Lawyers (WACDL); 206-623-1302; info@wacdl.org; www.wacdl.org.

Movie Magic: How the Masters Try Cases
December 13 — Seattle and webcast. 6 CLE credits, including 2 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

The Persuasive Trial Attorney: What Works and What Doesn’t
December 16 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Estate Planning

The 2011 Washington Trust Act: Innovation and Clarification for Washington Trusts
December 7 — Seattle and webcast. 4 CLE credits. By the WSBA RPPT Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

December 7 — Seattle and webcast. 3.5 CLE credits, including .75 ethics. By the WSBA RPPT Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Environmental Law

Comprehensive Review of Hydropower in the Northwest
November 2 — Seattle. 6.25 CLE credits. By The Seminar Group; 800-574-4852 or 206-463-4400; www.theseminargroup.net/seminar.lasso?seminar=11.hydwa.

Law Seminars International Growth Management and Land Use Conference

20th Annual Oregon Water Law Conference
November 3-4 — Portland. 13 CLE credits, including 1 ethics. By The Seminar Group; 800-574-4852 or 206-463-4400; www.theseminargroup.net/seminar.lasso?seminar=11.wator.

3rd Annual Developing Wind Power in the Northwest
November 9–10 — Seattle. 9.75 CLE credits. By The Seminar Group; 800-574-4852 or 206-463-4400; www.theseminargroup.net/seminar.lasso?seminar=11.fracca.

Ethics

Trust Account Compliance
November 9 — Seattle and webcast. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Quickbooks for Trust Accounting
November 9 — Seattle and webcast. 2 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethical Limits on Use of Ex Parte
November 9 — Teleconference with online PowerPoint. 1 ethics credit pending. By Rubric CLE; 206-714-3178; www.rubriccle.com.

Ethical Dilemmas for the Practicing Lawyer
November 14 — Seattle and webcast. 4 ethics credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethics of Putting Your Cases in Your Novel
November 16 — Teleconference with online PowerPoint. 1 ethics credit pending. By Rubric CLE; 206-714-3178; www.rubriccle.com.

Ethical Dilemmas for the Practicing Lawyer
November 17 — Seattle and webcast. 4 ethics credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbecle.org.

**Trust Account Record Keeping: Navigating the Maze**
December 6 — Seattle and webcast. 2 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbecle.org.

**Ninth Annual Law of Lawyer Conference**
December 9 — Seattle and webcast. 6.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbecle.org.

**8th Annual Ethics Workout 2011**
December 14 — Seattle. 6 ethics credits. By KCBA-CLE; 206-267-7057; www.kcba.org/cle.

**Family Law**

**Parenting Plans and Evaluations**
December 19 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbecle.org.

**Neuropsychology and the Law: How Decisions Are Made and Verdicts Are Rendered**
November 2 — Seattle. 1.5 CLE credits. By KCBA-CLE; 206-267-7057; www.kcba.org/cle.

**Trying PIP/UIM and *De Novo* Cases**

**Early Brain Development and Best-Interest Decision Making in Our Courts**
November 4 — Seattle and webcast. 3 CLE credits pending. By Seattle University School of Law; www.regonline.com/ebdl1.

**Trust Account Compliance**
November 9 — Seattle and webcast. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbecle.org.

**Quickbooks for Trust Accounting**
November 9 — Seattle and webcast. 2 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbecle.org.

**2011 Chelan-Douglas County Community Justice CLE Blitz**
November 9—10 — Wenatchee. 14 CLE credits, including 2.5 ethics. By Chelan-Douglas County Volunteer Attorney Services; 509-663-2778; edvas@nwi.net.

**Ethical Dilemmas for the Practicing Lawyer**
November 14 — Seattle and webcast. 4 ethics credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbecle.org.

**Time Mastery for Lawyers: Over 100 Ways to Maximize Your Productivity and Satisfaction**
November 15 — Seattle and webcast. 6 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbecle.org.

**Microenterprise 101: Representing Microenterprise Clients**
November 15 — Seattle. 2.5 CLE credits. By Washington Attorneys Assisting Community Organizations; 1-888-288-9695; www.waaco.org.

**Ethical Dilemmas for the Practicing Lawyer**
November 17 — Spokane. 4 ethics credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbecle.org.

**Practice Tips from the Bench**
November 17 — Seattle. 1 CLE credit. By McKinley Irvin Family Law Speaker Series; 206-625-6900; www.mckinleyirvin.com/resources/cle.

**5th Annual Best of CLE**
November 17–18 — Portland and webcast. 14 CLE credits, including 2 ethics credits. By The Seminar Group; 800-574-4852 or 206-463-4400; www.theseminargroup.net/seminar.lasso?seminar=11.bootor.

**The Law of the Declaration of Independence**
November 18 — Teleconference with online PowerPoint. 1.5 CLE credit pending. By Rubric CLE; 206-714-3178; www.rubriccle.com.

**Supervisory and Subordinate Lawyers, and Non-lawyer Assistants**
November 22 — Teleconference with online PowerPoint. 1 ethics credit pending. By Rubric CLE; 206-714-3178; www.rubriccle.com.

**Negotiation Ethics: Winning Without Selling Your Soul — Featuring Marty Latz**
November 30 — Tele-CLE. 1.5 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbecle.org.

**10 Essentials to Winning Appeals**
December 1 — Teleconference with online PowerPoint. 1 CLE credit pending. By Rubric CLE; 206-714-3178; www.rubriccle.com.

**The History and Framing of the Establishment Clause**
December 2 — Teleconference with online PowerPoint. 1.5 CLE credits pending. By Rubric CLE; 206-714-3178; www.rubriccle.com.

**Deposition Techniques: Strategies, Tactics, Skills**
December 5 — Seattle and webcast. 6 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbecle.org.

**Trust Account Record Keeping: Navigating the Maze**
December 6 — Seattle and webcast. 2 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbecle.org.

**Washington State Association for Justice Second Annual Winter Conference**

**Ninth Annual Law of Lawyer Conference**
December 9 — Seattle and webcast. 6.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbecle.org.

**Movie Magic: How the Masters Try Cases**
December 13 — Seattle and webcast. 6 CLE credits, including 2 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbecle.org.

**The Persuasive Trial Attorney: What Works and What Doesn’t**
December 16 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbecle.org.
Health Law

The Constitutionality of Health Care Reform

Indian Law

Tribal Tax and Business Development: Building Sovereignty and Adding Revenue in Indian Country
November 10 — 6 CLE credits. By The Seminar Group; 800-574-4852 or 206-463-4400; www.theseminargroup.net/seminar.lasso?seminar=11.indor.

Insurance Law

Insurance Law 201: Intermediate and Advanced Insights
December 12 — Seattle and webcast. 6.5 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Intellectual Property

Wireless Broadband Developments Conference

Litigation

The Essentials of Handling DUI and DOL Cases
November 15 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Deposition Techniques: Strategies, Tactics, Skills
December 5 — Seattle and webcast. 6 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

The Persuasive Trial Attorney: What Works and What Doesn’t
December 16 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Real Estate Property, Probate, and Trust

Real Estate Development Incentives
November 3 — Seattle. 7.25 CLE credits. By The Seminar Group; 800-574-4852 or 206-463-4400; www.theseminargroup.net/seminar.lasso?seminar=11.reiwa.

7th Annual Probate Administration
November 4 — Seattle. 5.75 CLE credits, including .50 ethics. By KCBA-CLE; 206-267-7057; www.kcba.org/cle.

Special Needs Trusts
November 28 — Seattle and webcast. 7.5 CLE credits, including .75 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Commercial Real Estate Leases Conference

18th Annual Fall Real Estate Conference: New Developments, Changes, and Challenges in Real Estate
December 2 — Seattle and webcast. 5.75 CLE credits, including .5 ethics. By the WSBA RPPT Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

The 2011 Washington Trust Act: Innovation and Clarification for Washington Trusts
December 7 — Seattle and webcast. 4 CLE credits. By the WSBA RPPT Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

December 7 — Seattle and webcast. 3.5 CLE credits, including .75 ethics. By the WSBA RPPT Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Trust Account Compliance
November 9 — Seattle and webcast. 1.5 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Quickbooks for Trust Accounting
November 9 — Seattle and webcast. 2 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Trust Account Record Keeping: Navigating the Maze
December 6 — Seattle and webcast. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Tax Law

FACTA (Fair and Accurate Credit Transactions Act)
December 15 — Seattle and webcast. CLE credits pending. By the WSBA Taxation Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Webcast Seminars

Trying PIP/UIM and De Novo Cases

27th Annual Antitrust Seminar
November 3 — Seattle and webcast. 6 CLE credits. By the WSBA Antitrust and Consumer Protection Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ninth Annual WSBA Animal Law Seminar: The Call of the Wild
November 7 — Seattle and webcast. CLE credits pending. By the WSBA Animal Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Trust Account Compliance
November 9 — Seattle and webcast. 2 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Quickbooks for Trust Accounting
November 9 — Seattle and webcast. 2 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethical Dilemmas for the Practicing Lawyer
November 14 — Seattle and webcast. 4 ethics credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

The Essentials of Handling DUI and DOL Cases
November 15 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.
Time Mastery for Lawyers: Over 100 Ways to Maximize Your Productivity and Satisfaction
November 15 — Seattle and webcast. 6 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Hydraulic Fracking
November 15 — Santa Monica and webcast. 2.75 CLE credits. By The Seminar Group; 800-574-4852 or 206-463-4400; www.theseminargroup.net/seminar. lasso?seminar=11.bootor.

5th Annual Best of CLE
November 17—18 — Portland and webcast. 14 CLE credits, including 2 ethics. By The Seminar Group; 800-574-4852 or 206-463-4400; www.theseminargroup.net/seminar. lasso?seminar=11.fracca.

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November 18 — Seattle and webcast. 6.5 CLE credits. By the WSBA Corporate Counsel Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Special Needs Trusts
November 28 — Seattle and webcast. 7.5 CLE credits, including 7.5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

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Trust Account Record Keeping: Navigating the Maze
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The 2011 Washington Trust Act: Innovation and Clarification for Washington Trusts
December 7 — Seattle and webcast. 4 CLE credits. By the WSBA RPPT Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

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December 13 — Seattle and webcast. 6 CLE credits, including 2 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Collection of Judgments
December 14 — Seattle and webcast. CLE credits pending. By the WSBA Creditor-Debtor Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

FACTA (Fair and Accurate Credit Transactions Act)
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The Persuasive Trial Attorney: What Works and What Doesn’t
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Furnished office in established Portland administrative and health law firm. Offering a fully equipped office in this congenial and remodeled professional suite, separate secretarial station included. Two conference rooms, large workroom, storage, kitchen, high-speed copier, fax, DSL, postage meter, reception services and secretarial services available by the hour. Free client parking with I-84 access and walking distance to Lloyd Center. $750/mo. first two months free with two-year lease, parking $55/month. Ideal for Washington firm looking to establish an Oregon satellite office. Email godwinlaw@earthlink.net or call 503-224-0019.

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I became a lawyer because I thought from watching *Perry Mason* as a little kid that lawyers simply show up in the courtroom and talk, while other folks like Della and Paul do all the work. I no longer believe everything I see on TV.

One of the greatest challenges in law today is to not lose sight of the fact that our court system’s purpose is to provide justice for people — not an arena for gladiators.

If I could change one thing about the law, it would be to have it all written in common English instead of any legalese.

This is the best advice I have been given: “Live so that when your children think of fairness, caring, and integrity, they think of you” (H. Jackson Browne Jr.).

I would share this with new lawyers: Details matter.

Trait I admire in other attorneys: Integrity.

I would give this advice to a first-year law student: If you simply want to make money, go do something else. Please.

Someone whose opinion matters to me: My wife and two kids.

People living or from the past I would like to invite to a dinner party: Teddy Roosevelt (because he energetically lived his life); post-resurrection Jesus (because I sometimes have one thing other than my first name in common with the Apostle “doubting Thomas”); and my Grampa Drezek (because there are so many questions I didn’t ask him about his life after he boarded a ship in Poland at age 14 to emigrate to the United States all by himself).

I am most proud of this: When I see one of my kids deliberately choose to do what’s right instead of what’s easy.

I am most happy when I’m doing my best.

My favorite hobbies/interests: Bow hunting, motorcycle racing, and snowboarding.

My favorite vacation place: Anywhere my family is.

Best stress reliever: Racing.

What keeps me awake at night: Nothing. I fall asleep immediately and then snore like a log — albeit a loudly snoring log, which drives my wife crazy.

Currently playing on my iPod/CD player/record player: Josh Turner, Darius Rucker, and Johnny Cash.

I can’t live without my country.

The hardest part of my job: Putting up with opposing counsel who are, well, shall we say, uh, “ethically challenged.”

The best part of my job: Getting to represent folks who wear the white hat.

Nicknames people call me: “Nightmare” (after one of my constitutional law cases led the *Seattle Times* to call me “Tim Eyman’s worst courtroom nightmare”) and “Crash” (after a high-speed physics lesson at the racetrack gave me the opportunity to spend a bunch of quality time with the nice folks in the Emanuel Hospital Trauma Unit).

I am an attorney with Foster Pepper PLLC, in Seattle. About half my cases involve the Constitution or elections, e.g., (1) representing the Washington secretary of state in the multiple lawsuits concerning the first Gregoire/Rossi election, (2) representing the Grange in its successful defense of Initiative 872 and its Top Two Primary, (3) representing the McCleary and Venema families in their suit to enforce the state’s paramount education duty under our state constitution, and (4) representing other citizens in suits over the constitutionality of assorted initiative measures. The other half of my practice involves representing policyholders in coverage disputes with their insurance companies. I can be reached at 206-447-8934 or ahearne@foster.com.

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A fair summer evening

It was a sunny early evening in August at the Northwest Washington Fair in Lynden, maybe 18 years ago. Picture that time of day when the sun shines from the side, casting every horizontal surface in a vibrant red-orange glow. My then-wife and I were standing in the midway among hordes of other parents, all watching our kids swirling around us on those rickety but irresistible mechanized whirrligigs that gnarly-fingered carneys assemble the night before every fair begins.

Our kids, then in early grade school, were riding a mini-roller coaster with a passenger car that looked like a stoned caterpillar and rattled around a short, two-level track. For a couple of bucks, the kids turned a few laps while our gaze alternated between their frantically waving hands and the perilously makeshift-looking steelwork used to hold the whole thing up.

This was probably only the first or second time I had taken the kids to the fair. They were from my wife's previous marriage, and I had been with them for only a couple of years. In other words, I was still new at the whole dad thing. But as I watched them circulate — their eyes searching for us each time they swept by, their heads bobbing, the sun shining in their grinning faces — I was glad I didn't have a camera. I knew no photograph could capture the moment as well as my memory would.

Ever since those days, I have made an annual pilgrimage to the Lynden fair, even if I have to go alone. Up here in Whatcom County, a decent percentage of people still grow their own food and flowers; raise horses, cows, and goats; and drive pickup trucks and tractors. Even I, a transplant from Seattle, had a mini-ranch of sorts for several years. So, the fair seems like home to me. And when else during the typical year do I get to hear a pitch to buy a massaging recliner or shop for a bumper sticker that says, “I’m not perfect, but parts of me are fantastic”? Meanwhile, I can’t say no to a corndog, and I can’t actually just go back in time a few years, digitizing a scene reminiscent of the one that had previously existed only in my analog mind.

Years ago, I read a book about quantum physics that delved into the concept of multiple universes. Shortly after visiting the fair this year, I stumbled onto a TV documentary on the same subject. A theory generally accepted among quantum physicists is that the universe we see around us is but one of many that exist simultaneously. It may sound crazy, but legitimate scientific evidence, including results from recent particle-accelerator experiments, supports it. I’m grossly oversimplifying, of course, but some of our most intelligent fellow humans believe, for example, that our past experiences are still occurring out there in other universes, although we probably won’t ever be able to go there.

I know people who believe in these mind-bending aspects of quantum physics, and others who scoff at them as flying in the face of common sense and religion. For my part, I’ve never thought there had to be a conflict between science and either common sense or religion. In fact, if there is an alternate universe where it’s always a sunny August afternoon, and the fair is going on, and everyone is eating corndogs, and our kids are circling by on the caterpillar roller coaster forever, I can’t believe that universe is more than a few subatomic particles away from heaven.

I took this photo this year, and my kids aren’t on this roller coaster, but the scene almost perfectly matches my memory of fairs past.

Coincidentally, at this year’s fair, I ran into my former brother- and sister-in-law, with whom I remain friends. None of our now-adult kids were there, and while we’re not the type to pressure our offspring to reproduce for our sake, we agreed that grandchildren would be perfect companions for the fair. And this year I did bring my camera. There was something in particular I wanted to check out.

As an empty-nester for a few years now, I haven’t spent time in the midway in my recent visits to the fair. But this year, for nostalgia’s sake, I took a tour. I spent time snapping several photos of the gleaming, whirling rides, filled mostly with screaming, nauseated teenagers. Eventually, I made my way to the corner of the midway reserved for the kiddie rides. And there it was. I can’t say for certain, but the shaky, noisy little roller coaster sure looked like the one featured in the mental image I carry back to the fair every year. The heavy-lidded, vaguely creepy caterpillar face at the front of the car certainly looked familiar.

So I stood, watched, and took photos, knowing the other adults would assume my own kids were on the ride. What they couldn’t have known, of course, was that I was actually just going back in time a few years, digitizing a scene reminiscent of the one that had previously existed only in my analog mind.

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