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The evolution of regulated sports gambling in Washington and around the country / p. 28

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A deeper look at the WSBA’s Powerful Communities Project / p. 34

PRO BONO IN FOCUS / pp. 38-48
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Not All Bets Are Off

The evolution of regulated sports gambling in Washington and around the country

BY BRIAN CONSIDINE AND CHRISTINE MASSE

Emeritus Pro Bono: Tapping the Potential

BY ALTHEA PAULSON

How to Serve the Underserved While Building Your Practice

BY: MICHAEL R. ADDAMS

2019 Washington Supreme Court Pro Bono Publico Honor Roll

The Many Benefits of Pro Bono

Meet Your Board of Governors

The WSBA Board of Governors is the governing body that determines the general policies of the Bar and approves its budget.

From the Ground Up

WSBA’s Powerful Communities Project—helping legal services providers meet their communities’ unique needs
by the time this issue goes to press, we will be heading into the eighth month of the COVID-19 pandemic. Aside from the myriad hardships and bizarre life changes many of us are facing during this time, there is also what a recent American Bar Association panel called a “‘tsunami’ of legal and economic issues” currently “descending on the legal profession, justice system, and American public.” The panel cited a survey that identified two common pandemic-related legal needs: unemployment benefits claims and housing-related issues.

Although October is traditionally the month when we celebrate pro bono service, October 2020 seemed like a particularly fitting time to highlight the many ways in which WSBA members are responding to the critical legal needs of their communities. In this issue, you can learn more about the work of the WSBA Pro Bono and Public Service Committee (page 39), the proposed changes to the WSBA’s emeritus pro bono membership status currently under review by the Washington Supreme Court (page 40), and the 2019 recipients of the WSBA’s Powerful Communities Project grants (page 34).

In addition, on page 18, read Mark J. Fucile’s ethics column on how to do pro bono work while avoiding any RPC violations. On page 42, find out how the WSBA Moderate Means program can help lawyers build a practice. And on page 44, find the 2019 Pro Bono Publico Honor Roll, a list of WSBA members who reported 50 or more pro bono hours last year. (Collectively, members reported more than 200,000 hours—a “tsunami” of service, if you will.)

Finally, another annual October tradition—the introduction of the new WSBA president. Meet Kyle Sciuchetti—and read about his background and his vision for the future of the organization—on page 10.

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Family Law - Seattle, Washington

LISA ANN SHARPE
Family Law - Seattle, Washington

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LET US HEAR FROM YOU!

We welcome letters to the editor on issues presented in the magazine. The full letters to the editor policy is available at www.wsba.org/news-events/Bar-News. Email letters to wabarnews@wsba.org.

What Should Be in This Magazine?

I have been a reader of the Washington State Bar News for some 64 years and this is my first letter to the editor. My point is that I perceive the Washington State Bar News could be of greater service to the 38,000 members of the WSBA. More relevant content of items of interest to the vast majority of Bar members would seem to be in order.

Of the roughly 5,460 square inches in the magazine for July/August (excluding front and back covers) there were 1,518 inches devoted to legal issues, or letters from the Supreme Court and budgets. The balance was devoted to interviews of people (which were interesting but not likely enhancing the practice of law), book reviews on books regarding non-legal issues, and advertising from lawyers and folks with connection to the law.

Don’t hold me to absolute accuracy, but only approximately 28 percent of the magazine relates to legal issues of interest to the Bar. The rest is advertising (mostly from other lawyers) and peripheral matters. If I want to see other lawyers’ advertisements I can read the Yellow Pages.

More effort should be exerted to increase content that benefits practitioners in the practice; i.e., law office economics; a monthly panel on issues confronting younger lawyers; don’t just list disbarments, tell us what happened without us having to go look it up so we can learn pitfalls; contemporary discourse on law office agreements regarding compensation sharing; causes of law firms dissolving; articles from law office managers; economic and substantive issues confronting law firms and lawyers; if there is going to be a book review at least make it relevant to the law; establish a “What You Want to Know” panel for questions from young lawyers; and the list goes on and on.

I didn’t sign up for the Bar Association to review books for me any more than to make restaurant recommendations. Just some thoughts.

Evan Inslee
Lake Tapps
There’s More on the Blog

MiChance Dunlap-Gittens’ Ordinance Will Help Protect Kids from Coercive Police Tactics

This new law attempts to protect vulnerable youth by requiring law enforcement to connect a youth to a public defender after the youth has been Mirandized but before the youth waives their right to remain [...]

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I Dissent: The Legacy of U.S. Supreme Court Justice Ruth Bader Ginsburg


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What it’s Like Being a WSBA Law School Representative During Strange Times

Today’s law student got dealt a really bad hand. Then another bad hand. Then someone set the deck on fire. Faced with a global pandemic, a massive civil rights movement, uncertain economic [...]

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A year and a half ago when I was elected to become the next president of the Washington State Bar Association, I could not have imagined the circumstances under which I would begin my term in office. Before my election, I considered what being president of the organization meant. I knew that it included giving speeches, attending events around the state, and meeting new people. For the past 24 years, I’ve received the October issue of Bar News featuring the new WSBA president on the cover and an article highlighting what they thought was important about our Bar Association and what they wanted to accomplish during their time leading the WSBA. All of them, without exception, wrote of lofty goals about programs they held in high regard and what we, as lawyers, should do to champion justice and make our organization better. Was I up for the task? I thought I was.

CONTINUED >
But, as I write this column from my dining room table on a Tuesday morning—instead of at my office, surrounded by my partners and colleagues—I understand this year will be nothing like I envisioned when I began this journey.

Having lived most of my life in and around Washington, I see my year of service as WSBA president as an opportunity to bring people together; to build bridges around the state and throughout the Pacific Northwest. Born and raised in Spokane, I spent 20 years in that community, including two years as a prosecutor with the Office of the City Prosecuting Attorney. Growing up, I spent summers at a small cabin on Coeur d’Alene Lake with friends and family and took trips to Clarkston, where my grandparents lived. After graduating from John R. Rogers High School, I attended the University of Washington, majoring in political science and psychology.

Although there were no attorneys in my family, I was interested in the profession. While an undergraduate, I was lucky enough to be hired as an intern at Preston, Thorgrimson, Shidler, Gates, & Ellis (now K&L Gates) and at Perkins Coie, and gained some insight into what lawyers did and how they effected change. During my undergraduate years, I worked at the Marion Gould Gallagher Law Library in Condon Hall at the University of Washington, majoring in political science and psychology.

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I like to think of myself as a ‘bridge builder’ and consensus driver in order to get things done.
had saved interning with the Bonneville Power Administration, we purchased tickets for New Zealand.

When we left, I had no idea whether I had passed either bar exam. Neither of us had jobs and neither of us knew what we were going to do when we returned. While I kind of liked the uncertainty and loved the idea of “options,” Pat wanted stability and a plan for our lives. While spending the night in the honeymoon suite at a small hotel in Paihia, New Zealand, in the Bay of Islands, we called my parents to let them know how we were doing. They had received a call a few days prior from a law school classmate of mine letting them know that I had passed the Oregon bar exam. We had to wait several more weeks to find out that I had also passed the Washington bar exam.

After being admitted to the WSBA, I applied for my first lawyer position as a session attorney with the Washington State Legislature Office of Code Reviser, where I learned to draft legislation. At the end of the session, we moved to Spokane and I accepted a position with the Spokane Office of the City Prosecuting Attorney and Pat joined the Spokesman Review. Some of the attorneys I worked with at the city are still there and some have gone on to become judges, commissioners, and leaders in that community.

After leaving the prosecutor’s office, we returned to Portland and I took a job as the senior counsel at the Public Power Council, representing municipal utilities, public utility districts, and electric cooperatives in seven western states. Soon thereafter, Pat and I moved to Vancouver to start a family and I joined a private law firm focused on representing businesses. Today, I continue to represent a wide variety of businesses throughout the Pacific Northwest, with a large part of my practice representing general contractors, subcontractors, design professionals, and construction trades.

Over the past 20 years in Vancouver, my practice has grown and I serve clients in all parts of Washington as well as Oregon and Idaho. I consider myself a true Pacific

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But I digress. The point to this background is that I have lived my entire life in the Pacific Northwest. I have established lasting relationships with clients and colleagues all over Washington and our sister states of Oregon and Idaho. I like to think of myself as a “bridge builder” and consensus driver in order to get things done. My photo on the cover of this issue (standing near the Columbia River I-5 Bridge) reflects not only Southwest Washington, but who I am and my goals for this presidency. I will be the first president of our organization from Vancouver since the Washington Bar Association was formed 132 years ago, in 1888. My practice regularly brings me into Oregon and Idaho to work with members of the bars of those states. We have much in common with our bordering states and we have an opportunity to work with each other to improve legal services and access to justice for all.

And, while we live in a time of uncertainty, I see opportunities. Where others see limitations, I see “options.” I say this because this year is going to be different, and that’s OK. This next year, I still hope to hold Board meetings all across the state. While COVID-19 public health mandates may require some of these meetings to be virtual, I remain hopeful that at some point we will be able to gather in person and celebrate our members from the four corners of our state. One of the best things about serving as your president is the honor of presenting Presidential Commendations to extraordinary legal professionals who are local heroes in communities throughout the state and who do so much for the public and for our organization. Those people who give back to the community and epitomize what it means to be an attorney deserve recognition despite any restrictions COVID-19 might require. We will just have to recognize them in different ways.

During my three years on the WSBA Board of Governors serving as District 3 governor from Southwest Washington, and this past year as president-elect, I have had the opportunity to talk with members from all over the state who have great ideas for how the WSBA can be better. During a meeting in Longview last year, member Vince Penta suggested reinstating the WSBA Fee Arbitration Board to resolve disputes between attorneys and their clients. I have asked the WSBA to look into this.

As many of you know, for almost 100 years Washington has administered a program in one form or another that enables people who choose to forgo the traditional route of law school to “read for the law” by clerking with a practicing attorney and completing a course of study. Applicants who complete this program under Admission and Practice Rule (APR) 6 have the opportunity to become fully licensed attorneys in the state of Washington upon passing the bar exam. However, unlike most attorneys who have graduated from accredited law schools and practiced in the state for a period of time, Rule 6 attorneys are not eligible for reciprocal admission in Oregon. I would like to work with Oregon (and perhaps other northwest states) to explore a reciprocity agreement for admission among Washington’s Rule 6 attorneys.

This year, the WSBA will launch a long-range planning committee for the future of the organization, including looking ahead to when the WSBA’s lease of office space ends on Dec. 31, 2026, with an opportunity to extend by one five-year period. If we are going to be prepared for this next chapter of the WSBA, we need to start preparing now.

Finally, I hope we can expand member engagement by finding ways for more members to volunteer their skills and energy on one or more of the many boards, commissions, task forces, and sections within the WSBA. My favorite quote about volunteering time and talents to worthy causes is from Maya Angelou: “I’ve learned that you shouldn’t go through life with a catcher’s mitt on both hands; you need to be able to throw something back.” I encourage all of you to “throw something back” at the WSBA!

This is not all. I want to hear from you about what you think our Bar needs and how we can work together to improve this organization. At my request, the WSBA has set up an email address for me to hear directly from you. You can reach me at kyle.s@board.wsba.org. I would love to hear from you about ideas you have for the organization as well as your recommendations of attorneys in your communities who should be recognized by the WSBA for their achievements and public service.

I look forward to what this year has in store for all of us as we recover from the COVID-19 pandemic and continue to serve our clients now and into the future—regardless of what that future might look like.
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810 Fed. Appx. 350 (9th Cir. 2020) (affirming rejection of officer qualified immunity in police shooting case)

Nelson v. Thurston County,
2020 WL 2838608 (2020) (denying qualified immunity to a police officer who shot a citizen in the back)

Messenger v. Whitmarsh,
462 P.3d 861 (2020) (recognizing that a doctor who has sex with a patient the doctor treats for mental health issues can be sued for malpractice)

Plein v. USAA Cas. Ins. Co.;
Sterling Group,
___ P.3d ___, 2020 WL 2698541 (2020) (RPC 1.9 interpretation)

Judges of Benton and Franklin Counties v. Killian,
195 Wn.2d 350, 49 P.3d 1082 (2020) (amicus brief on county clerk authority)

Meyers, et al. v. Ferndale School District,
12 Wn. App. 2d 254, 457 P.3d 483 (2020) (district responsible for student killed by driver who ran off road striking him during improper off campus walk)

Coogan v. NAPA,
12 Wn. App. 2d 1021 (2020) (overturning $81.5 million judgment)

Habu/Chinn v. Topacio, et al.,
12 Wn. App. 2d 1006 (2020) (reversing enforcement of CR 2A agreement)

Hendrickson v. Hempzen Enterprises; Sotebeer; Davenport; Ware, et al.
11 Wn. App. 2d 1047 (2019) (vacating default judgment entered against commercial tenants)

Volkert v. Fairbank Constr. Co. and Ziegler,

Adamson v. Port of Bellingham,
192 Wn.2d 178, 438 P.3d 522 (2019); 573 F.3d 728 (2019) (recognizing liability of Port as premises owner)

Ingeo Holdings v. ACE American Insurance Company,
921 F.3d 803 (9th Cir. 2019) (reversal of district court summary judgment in insurer’s favor as to all risk policy coverage)

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Treasurer’s Report

A Look (Way) Back and Forward as We Start a New Fiscal Year

Happy New Year! Well, new fiscal year anyway—as treasurer, I am highly attuned to the WSBA’s fiscal year, which runs Oct. 1 to Sept. 30. As we start afresh in a new budget cycle, I want to share how we are continuing to accomplish important financial advancements for the WSBA on behalf of members.

First things first—I need to honor the hard work and dedication of the 2019-20 Budget and Audit Committee members: Governors Alec Stephens, Brian Tollefson, Paul Swegle, Carla Higginson, Bryn Peterson, Tom McBride, and P.J. Grabicki. I’d also like to say thanks and honor the hard work and dedication of CFO Jorge Perez, Interim Executive Director Terra Nevitt, and all of the WSBA staff. I have reported in this column many of the financial achievements of the past year, including a reduction in the Client Protection Fund assessment, expanding the financial hardship exemption, finding many operational efficiencies, and completing the organization’s first independent “deep dive” audit. We also attempted to help members impacted by COVID-19, and the WSBA has provided almost $1.5 million in free CLEs to members. Between April 3 and June 30 alone, members registered for a total of 24,765 credits in free on-demand CLE products, a total value for members of $1,492,320! I am proud that my colleagues on the Board and I have had the vision to try to assist our members during this difficult time. I’m also proud to report that our Association is in solid financial shape moving into the 2021 fiscal year.

A LOOK BACK: WSBA TREASURER HISTORY

I have been honored to serve as the 2019-20 treasurer, and I am even more honored to continue into a second term for 2020-21—in what is believed to be the first time a member has served two terms in this office. As I have looked back on the past year, I have felt a tremendous amount of gratitude, and I am honored to carry on the tradition of hard work and dedication of previous WSBA treasurers. So I think it’s worthwhile to also take the time now to honor our recent past treasurers. Kudos to this great group of leaders (my research went back 12 years).

RECENT WSBA TREASURERS:
• 2019-21 Daniel D. Clark, District 4 Governor
• 2018-19 Dan Bridges, District 9 Governor
• 2017-18 G. Kim Risenmay, District 1 Governor
• 2016-17 Jill A. Karmy, District 3 Governor
• 2015-16 Karen Denise Wilson, At-Large Governor
• 2014-15 Kenneth W. Masters, District 1 Governor
• 2013-14 Brian J. Kelly, District 3 Governor
• 2012-13 Philip J. Buri, District 2 Governor
• 2011-12 Nancy Isserlis, District 5 Governor
• 2010-11 Patrick A. Palace, District 6 Governor
• 2009-10 G. Geoffrey Gibbs, District 2 Governor

A LOOK FORWARD: COMPLETION OF THE 2021 BUDGET

The Board of Governors passed the final version of this fiscal year’s budget at its September meeting. Here’s a quick snapshot: The general fund portion of the FY 21 WSBA budget calls for $20,805,908 in expenditures and $20,603,129 in revenues. While this means there is an anticipated deficit of $202,779, we are confident that we have budgeted conservatively—especially given all we do not yet know due to the pandemic—and we expect to carefully monitor and make adjustments throughout the year to ensure we keep our reserve healthy. Please note: The WSBA often conservatively plans deficit budgets that actually end up in the black by the end of the fiscal year; for instance, in FY 20, we planned for a $594,000 deficit and ended up with not only no deficit for FY 20, but with $980,350 in total positive net revenue through 10 out of 12 months in the fiscal year.

2021 KELLER DEDUCTION AND PER-MEMBER SECTION CHARGE

Also of note, the Board in September voted to set the 2021 Keller deduction at $3.85, as compared to $1.55 in 2020, $1.25 in 2019, and $2.50 in 2018. Upon the recommendation of WSBA staff, the Board of Governors voted to reduce the per-member sections reimbursement charge to $18.18, a reduction from last year’s rate of $18.75. Thanks to Kevin Plachy, director of the WSBA Advancement Department, for his team’s hard work reducing costs and streamlining his department to make this reduction possible. Sections are the lifeblood of the organization and do amazing work and provide professional support and growth for our membership.

In closing, I am very excited to continue the great work of the Budget and Audit Committee for FY 21. It is truly an honor to continue to serve in this position.
**Fiscal Year 2021 Budget**

General Fund Expenses by WSBA Programs & Services

- **A 12% Licensing and Admissions Services.** Costs to administer admissions and annual licensing processes for nearly 40,000 WSBA members including lawyers, LPOs, and LLLTs; to maintain and respond to questions about members and their public information; and to support the Supreme Court-mandated MCLE Board, which adjudicates issues involving continuing legal education requirements. **$2,522,283**

- **B 4% Outreach and Engagement.** Supports WSBA outreach to the public, legal professionals, bar associations, policymakers, and other stakeholders in order to enhance volunteer recruitment, raise awareness and understanding of WSBA programs and priorities, and create a sustainable stakeholder network. **$825,139**

- **C 30% Management and Operations.** Includes costs associated with the WSBA Board of Governors, leadership, management, and internal support (finance, administration, and human resources). **$6,242,657**

- **D 5% General Counsel.** Legal representation and support to the WSBA, the Board of Governors, and other boards, task forces, and committees; records requests and litigation management; and oversight, interpretation, and analysis of WSBA Bylaws and other legal issues. **$975,835**

- **E 1% Legislative and Law Improvement Efforts.** Supports work with WSBA leadership and sections to formulate positions on legislation, track relevant legislation during session, and provide technical advice on bills and existing statutes to the Legislature. **$160,752**

- **F 30% Discipline and Disability Systems.** Costs to handle consumer inquiries; to investigate, prosecute, and adjudicate written grievances about lawyers, LPOs, and LLLTs (e.g., costs associated with disciplinary counsel, hearing officers, and the Supreme Court-mandated Disciplinary Board); to administer the WSBA audit program; and to educate members and law students about legal ethics, trust account compliance, and the discipline system. **$6,325,023**

- **G 4% Publications.** This category includes costs to develop, design, produce, and distribute WSBA print media and publications, including *Washington State Bar News*, the WSBA’s official publication. **$902,828**

- **H 2% Supreme Court-Mandated Boards and Programs.** Costs to support four of six boards and programs mandated by the Supreme Court: (1) Access to Justice Board; (2) Limited License Legal Technician Board; (3) Limited Practice Officer Board; and (4) Practice of Law Board. Costs associated with the Disciplinary Board and MCLE Board, which adjudicate regulatory issues, are included in the Licensing and Admissions Services and Discipline and Disability Systems categories. **$515,582**

- **I 3% Member Benefits.** Includes costs of programs benefiting WSBA’s membership as a part of their annual license fee: (1) legal research tools (CaseMaker and Fastcase); (2) monthly CLE programs (Legal Lunchbox Series); (3) the Professional Responsibility Program; (4) the Member Wellness Program; and (5) a confidential 24/7 member assistance program (WSBA Connects). **$707,374**

- **J 4% Public Service, Diversity, and Washington State Bar Foundation Support.** Costs to support (1) WSBA public service programs (including Moderate Means Program, Call to Duty, and other pro and low bono initiatives); (2) work to advance diversity and inclusion in the legal profession; and (3) administrative costs of the Washington State Bar Foundation, which provides grant funding for these activities. **$867,339**

- **K 1% Sections Administration.** Includes staffing and administrative costs to support 29 sections, and to help sections develop “mini-CLEs” that are not offset by per-member charge revenues. **$299,668**

- **L 3% Member Services and Engagement.** Includes costs of outreach, education, training, and support to newly admitted WSBA members. Also includes funding for the WSBA’s mentor programming. **$542,706**

* Per FY 21 budget approved by Board of Governors. Figures in A-L are major categories for general fund expenses only; therefore percentages do not add up to 100.
Rule of Professional Conduct (RPC) 6.1 underscores our professional duty to provide pro bono services: “Every lawyer has a professional responsibility to assist in the provision of legal services to those unable to pay.” Comment 1 to RPC 6.1 elaborates: “Every lawyer, regardless of professional prominence or professional work load, has a responsibility to provide legal services to those unable to pay, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer.”

When we represent a client pro bono, we are expected to bring the same professional standards to our work as we would with a paying client. In other words, when we are “doing the right thing” we need to “do it right.” In this column, we’ll first look at a cautionary tale of a highly skilled large-firm litigator who was disciplined for taking on a pro bono case and then failing in the most basic tenets of any representation: working on the matter and communicating with the client. We’ll then survey practical approaches to help ensure that lawyers do it right while doing the right thing.

CAUTIONARY TALE

The lawyer in our example was by all accounts an extremely able and deeply experienced litigator for a major Northwest law firm. The lawyer had volunteered for a pro bono panel under the auspices of the local federal district court. The court appointed the lawyer to represent a client in a pending civil case that the client had already filed pro se. When the lawyer agreed to take the case, the defendants had recently filed summary judgment motions. The lawyer met with the client, and at a scheduling conference that followed his appointment the court extended the deadline for the client’s responses to the pending motions. Approximately six months after the lawyer took the case, the court granted the defendants’ motions and dismissed the case. Again, the lawyer did not inform the client. Following entry of summary judgment, the defendants filed a motion for sanctions against the client and the defense counsel tried to confer with the lawyer. The lawyer ignored the defense counsel, too. The lawyer neither informed the client about the motion for sanctions nor responded to it. Although the court ultimately denied the motion for sanctions, the lawyer again failed to inform the client and continued to ignore the client’s requests for updates. The client finally discovered through an internet search that his case had been dismissed.

The client filed a complaint with the lawyer’s state bar. The lawyer initially did not respond to the state bar either. The
lawyer eventually stipulated that he had violated his state’s variants of ABA Model Rules 1.3, which addresses diligence, and 1.4, which governs communication. He was suspended for 60 days and resigned his membership in another state bar while reciprocal discipline was pending. Although the disciplinary stipulation in his home state recounted that the lawyer expressed remorse, it did not offer any explanation for the lawyer’s conduct.

PRACTICAL PRO BONO APPROACHES

Rule of Professional Conduct (RPC) 1.1 frames our basic duty of competence: “A lawyer shall provide competent representation to a client.” Our duty of competence in a regulatory sense mirrors the corresponding civil standard of care expressed in Washington Pattern Jury Instruction 107.04 on legal malpractice: “An attorney has a duty to use that degree of skill, care, diligence, and knowledge possessed and used by a reasonable, careful, and prudent attorney in the State of Washington acting in the same or similar circumstances.” As our opening illustration demonstrated, however, competence must be paired with diligence and communication. The former is defined by RPC 1.3: “A lawyer shall act with reasonable diligence and promptness in representing a client.” The latter is governed by RPC 1.4, which, in relevant part, notes: “A lawyer shall ... keep the client reasonably informed about the status of the matter.”

Washington lawyers in paid representations have both been disciplined for violations of these rules and found liable in civil suits for the equivalent under the standard of care.2 It should not be surprising, therefore, that lawyers can also be disciplined or held to have breached the civil standard of care in pro bono matters.3

Risk-management approaches for addressing competence, diligence, and communication in the pro bono context vary with the duty and the client.

Ironically, the lawyer in our opening example was handling a matter squarely within his wheelhouse as a commercial litigator. That is often a practical way to structure pro bono work to meet the duty of competence: use your existing knowledge, skills, and experience. At the same time, that does not mean that you can’t take on a matter outside your primary areas of expertise. It does mean, however, that you may have to take advantage of training offered by many pro bono programs or work with another lawyer who is experienced in the substantive area involved. Comment 2 to RPC 1.1 puts it this way: “A lawyer can provide adequate representation in a wholly novel field through necessary study. Competent representation can also be provided through the association of a lawyer of established competence in the field in question.”

Diligence under RPC 1.3 is straightforward. Comment 4 to RPC 1.3 explains: “[A] lawyer should carry through to conclusion all matters undertaken for a client.” In other words, if we take on a pro bono matter, we need to see it through with the same attention that we would for a paying client. Although some pro bono matters are narrower in scope and shorter in duration than their paid counterparts, others are not and may involve a significant time commitment that is foreseeable from the outset. Comment 2 to RPC 1.3 notes that “[a] lawyer’s work load must be controlled so that each matter can be handled competently.” Therefore, we need to make a realistic assessment of our “capacity” when taking on pro bono work because the duty of diligence doesn’t distinguish between paying and pro bono matters.

Communication under RPC 1.4 touches on both “quantity” and “quality.” In terms of “quantity,” we need to keep the client reasonably informed of material developments on an ongoing basis. With “quality,” we need to explain developments in ways that the client can understand. When representing a pro bono client, we may need to adjust both quantity and quality from our ordinary approach with paying clients. For example, while an insurance carrier may be satisfied with monthly or quarterly reports, an anxious pro bono client unfamiliar with the legal system may need more frequent communication. Similarly, although we may lapse into “lawyer speak” when discussing a case with an in-house corporate counsel managing litigation we are handling, a pro bono client will likely need a more thorough translation—literally and figuratively—in order to understand the nuances of the legal matter involved and meaningfully participate in strategic decisions.

NOTES


3. See, e.g., In re Kuvara, 149 Wn.2d 237, 66 P.3d 1057 (2003) (regulatory discipline imposed for conduct involved in pro bono matter); see generally Piris v. Kitching, 185 Wn.2d 856, 872, 375 P.3d 627 (2016) (Attorneys who serve indigent persons ... for example, legal aid attorneys—are not exempt from potential malpractice claims[,] (Stephens, J., dissenting).

4. With both pro bono and paying clients, lawyers are generally allowed under RPC 1.2(c) to limit the scope of their representation as long as the limitation is reasonable under the circumstances and the client consents. Further, RPC 6.5 facilitates “short-term limited legal services” provided pro bono through nonprofit organizations and courts by generally limiting the imputation of conflicts.
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If you’re a senior attorney, you likely spend some of your time reading and revising drafts written by junior attorneys. Those revisions have a clear and immediate purpose: The document must satisfy your high standards before it leaves the office. After all, it’s your name at the bottom, your client’s interests at stake, and your reputation on the line.

But your revisions should have another, more long-term purpose. As a senior attorney, you’re invested in the professional development of your organization’s less-experienced lawyers. In addition to creating a better draft, your revisions should also create a better junior attorney—a better writer, a better thinker, a better lawyer.

Achieving this broader purpose takes a bit more effort. You could improve the draft quickly, without any further involvement from the junior. But taking the time for back-and-forth with the junior—providing feedback beyond just revising the document yourself—is an investment. It’s an investment in the junior attorney’s future. It’s an investment in the future strength of your organization. And it’s an investment that will save you time later, when the junior attorney’s drafts no longer require quite so much attention.

The effectiveness of that investment therefore matters—for the professional development of your junior attorneys and for the future strength of your organization. Junior attorneys will naturally write more quickly and comfortably over time. But will they get better? Practice doesn’t make perfect unless the practice is effective—which requires structure and guidance.

And that’s where you come in. As the person providing the structure and guidance for the junior attorney’s practice, you can make it more effective. It will take time, but it’s an investment of time that’s sure to pay off. Here are a few tips to help make your revisions more effective.

A STRONG FOUNDATION
Start at the beginning. Your organization should assemble some general materials for writing instruction, which you can then provide to new attorneys as part of your onboarding process. Creating this collection could be, dare I say, fun. OK, maybe not fun for everyone. But your organization likely has at least one attorney who would love to curate a collection of style guides, online articles, and organization-specific practices. More fun: Create a “best of” collection of sample documents written by attorneys in your organization. Your collection can do more than a typical brief bank. Instead of merely providing examples of arguments and research on various doctrines, the collection would focus on writing, style, and rhetoric, all of which might be useful regardless of doctrine. If you’re feeling magnanimous, you could include samples from lawyers outside your firm.

General instructional materials will improve your editing and revision process in two ways. First, after the initial investment of time to collect the resources, you can provide better feedback much more quickly. No need to write a long explanation for why a paragraph doesn’t work. No need to search through old files for that helpful example you vaguely remember from years back. Instead, just point the junior attorney to the relevant explanations or examples in your already-provided materials.

Second, general materials help junior attorneys build on their improvements, even across vastly different projects. To maximize improvement, a junior attorney must make connections between the many revisions they receive. For example, they need to transfer advice they received when drafting a mediation letter and apply it (perhaps with modification) to future reply briefs, client letters, and emails. But that transference can only happen if the junior attorney connects the initial revision to a generalizable skill capable of improvement, as opposed to a quick fix for one sentence. It’s the difference between “how to make this sentence better” and “how to make better sentences.”

General materials and samples help facilitate that transference. By pointing the junior attorney to a style guide or an example brief, you make clear that your revision...
isn't limited to a specific project or context. Moreover, the general materials will explain the relevant skill in a way that's clearly applicable to future projects. The junior attorney can therefore employ that skill more easily during their next project, lessening your future revision burden.

**DIRECTIVE AND FACILITATIVE FEEDBACK**

Editors generally have two choices when providing feedback: They can tell the author how to fix a problem, or they can note the problem and leave the solution to the author. The former is called directive feedback. When you line-edit a sentence or rewrite an entire introduction, you're providing directive feedback. Directive feedback can be very helpful. It shows a junior attorney what a more effective version might look like.

The more open-ended style is called facilitative feedback. When providing facilitative feedback, you wouldn't line-edit a sentence; instead, you'd say it was too wordy and then ask the author to draft a more concise version. And you wouldn't rewrite the introduction; instead, you'd suggest that the argument wasn't quite clear and lacked a persuasive punch, before asking the author to rework it. Facilitative feedback requires the junior attorney to figure it out themselves.

Obviously, sometimes you have no choice but to give directive feedback. If you're reviewing a draft right before a filing deadline, you can't ask the author to reconsider the tone of the introduction. There's no time for that.

But facilitative feedback can often be a valuable teaching tool. Facilitative feedback helps junior attorneys become better writers for at least two reasons. First, writing is a skill, and like any other skill, guided practice leads to improvement. Facilitative feedback requires an author to go through the mental work of considering your comments and then crafting a solution. Even if that solution isn't exactly what you wanted, the practice will move them closer to the goal.

Second, facilitative feedback helps connect an individual revision to your general writing materials. Remember that those connections—between a specific edit and a general skill—help create a better writer, instead of just creating a better document. So when you tell the junior attorney a paragraph is too wordy, you could also reference a style guide's chapter on concision. Or when you think a junior attorney's draft introduction is too over-the-top, you could reference a sample brief with a more measured tone.

This combination of facilitative feedback and general materials will supercharge your junior attorney's improvement. For example, imagine you're reviewing a muddled and confusing discussion of a complex statutory scheme. Instead of rewriting the discussion, you could point the junior attorney to some useful materials—perhaps the February 2020 *Bar News* "Write to Counsel" column by Ben Halasz on improving sentence flow.¹ (It's a good one!) The junior attorney benefits in two ways. First, they learn a practical writing lesson about connecting old and new ideas, which will be useful for all future projects. Second, instead of just seeing your improved final version, they must apply the lesson by revising the discussion themselves. That practice spurs further improvement.

One simple way to give more facilitative feedback: Stop using "track changes" for revisions. A junior attorney, facing a document full of tracked revisions, can thoughtlessly press "accept change" without considering your suggestions. That process doesn't improve the junior's writing skill. If, however, you use an electronic comment "bubble," then the junior must consider your revision and enter it themselves. That small extra process requires a bit more thinking. And that thinking helps build new skills.

**POSITIVE FEEDBACK**

You've doubtlessly already been told to give positive feedback. The reasons underlying this instruction often relate to being nice, or protecting a junior attorney's ego, or providing a spoonful of sugar to help the critical medicine go down.

Those are all fine reasons. Who is against being nice? But those are not my reasons. Even if you lack the time or the predilection for niceness, you should still give positive feedback, because positive feedback will help your junior attorneys become better writers. Once again, the extra effort is an investment and your organization will benefit.

A first draft by a junior attorney is somewhat like a garden overrun with weeds. Your revisions point out the crabgrass, dandelions, and blackberry bushes—the stuff that needs to get pulled. But if that's all you tell the junior attorney, they might go too far, ripping up the jasmine along with the morning glories. That's no good.

Positive feedback shows the junior attorney what works. You might even explain why it works. That guidance helps the junior attorney avoid uprooting the good stuff while revising the document. And it gives them something to model—their own personal good example—when reworking the less-effective parts of their draft.

One final note: Your reaction to all this advice might be, “Goodness, doing all that would take a lot of time.” And it might, at least at the start. Giving good feedback is a skill like any other; you'll get better and faster the more you do it. You also might be surprised to find that providing thoughtful feedback on others' writing will have the welcome side effect of improving your own. When you spend time considering and applying general writing advice, even in the context of junior attorneys' drafts, your own skills will improve as well.

The junior attorneys of today can become the leaders of your organization tomorrow, but only if you help them get there. And in the meantime your organization and your clients will benefit from more effective and efficient writing.  

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¹ https://wabarnews.wsba.org/wabarnews/feb_2020/MobilePagedReplica.action?pm=2&folio=24#pg26

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**Giving good feedback is a skill like any other; you’ll get better and faster the more you do it.**
No one should suffer in an abusive environment.
MEET YOUR BOARD

2019-2022

Sunitha Anjilvel

GOVERNOR
DISTRICT 1

Sunitha Anjilvel was appointed by the Board of Governors in May 2019 to serve out the term of a vacant District 1 seat. She has practiced family law and estate planning in the Pacific Northwest since 2008. Since her first admission to practice law in 1990, Anjilvel has practiced in a variety of courts in Canada, California, and Washington in family law, criminal law, and civil litigation. In 2005 she served as director of a bipartisan campaign to support a redistricting reform initiative on California’s statewide ballot. She is committed to social justice and currently is a member of the WSBA Diversity Committee and a director on the Board of Domestic Relations Attorneys of Washington (DRAW). Anjilvel has also volunteered for the Kinship Care Project and the Northwest Immigrant Rights Project. She has a B.A. from McGill University and a J.D. from Dalhousie Law School. She is licensed to practice law in Washington and California.

2018-2022

Carla J. Higginson

GOVERNOR
DISTRICT 2

Carla J. Higginson has served as the District 2 governor since June 2018 when she was selected by the Board to fill Rajeev Majumdar’s unexpired term. She was then elected for a full three-year term starting Sept. 2019, the first governor from San Juan County in WSBA history. Since her admission to the Bar in 1980, she has practiced in Friday Harbor, handling family law, real property and land use, estate planning and probate, elder law and guardianship, and criminal and civil litigation. She served as president of the San Juan County Bar Association for five terms. She served for 8 years as the Town of Friday Harbor municipal court judge, and she once was the youngest judge in the state. She also served on the San Juan County Planning Commission, Bastyr University Board of Trustees, was a frequent speaker at CLEs, and is a longtime volunteer attorney for several nonprofit organizations. A native of Western Washington, and part Tsimshian Indian, Higginson earned her B.A. in communications at Western Washington University and her J.D. at the University of Washington School of Law.

2020-2023

Lauren Boyd

GOVERNOR
DISTRICT 3

Lauren Boyd was elected to the Board of Governors in 2020. She graduated from the University of Oregon School of Law in 2015. Before that, she earned a history of art bachelor’s degree from Johns Hopkins University. After law school, she became a deputy prosecutor at the Clark County Prosecuting Attorney’s Office. She is currently in the Domestic Violence Unit, working to prosecute cases and raise awareness of this issue in our communities. Boyd grew up in Southern Oregon. She moved to Washington after law school to be closer to part of her family. She enjoys gardening, cooking, and any activity that gets her outdoors.

2017-2021

Daniel D. Clark

TREASURER/GOVERNOR
DISTRICT 4

Daniel D. Clark was appointed to the Board of Governors in July 2017 to serve out the term of a vacant District 4 seat and was subsequently elected for a full three-year term in 2018. He was elected as WSBA treasurer in July 2019, and reelection as WSBA treasurer in July 2020, becoming the first member to serve as treasurer for two terms and two consecutive terms. Clark is a senior deputy prosecuting attorney with the Yakima County Prosecuting Attorney’s Office, Corporate Counsel Division. His legal practice includes providing legal representation to Yakima County department heads and elected officials in civil, financial, forfeiture, and taxation litigation matters. He is the legal counsel for the Southeast Washington Aging and Long Term Care Council of Governments, an entity that provides important services for vulnerable clients. Born and raised in Yakima, Clark received his B.A. in political science, magna cum laude, from Central Washington University and his J.D., cum laude, from Gonzaga University School of Law.
OF GOVERNORS

Peter J. “P.J.” Grabicki was elected to the Board of Governors in 2018. He is president of Randall | Danskin in Spokane, where he focuses his practice on representation and planning for businesses and their owners, estate and tax planning, and probate and trust. He is the past president of the Legal Foundation of Washington, which administers grants to providers of legal aid to low-income populations. Grabicki earned a B.A. in economics from the University of San Francisco and his law degree from the University of Texas School of Law, where he graduated cum laude.

Brett A. Purtzer was elected to the Board of Governors in 2020, and is currently a principal at the Hester Law Group, Inc., P.S. He has been in private practice in Tacoma since 1988, where he focuses on criminal defense, personal injury, civil litigation, and representing professionals in disciplinary matters. Purtzer has served as president and as a trustee of the Tacoma-Pierce County Bar Association. He has also served as a lawyer representative for the 9th Circuit Judicial Conference and as a trustee for the Federal Bar Association for the Western District of Washington, and is the past co-chair of the Federal Bar Association Pro Bono Committee for the Western District of Washington. He is AV rated by Martindale-Hubbell and has been recognized as a Top 100 Trial Lawyer by the National Trial Lawyers Association every year since his inclusion in 2011. Purtzer graduated with a B.A. in English from Washington State University in 1983 and with a J.D. from the University of Puget Sound Law School in 1987.

Matthew Dresden was elected to the Board of Governors in 2020. He is an attorney at Harris Bricken in Seattle, where he handles a wide range of corporate and transactional matters, with an emphasis on media and entertainment, international intellectual property, and cross-border work. Before attending law school, Dresden worked in Hollywood for several years as an independent filmmaker. Dresden served on the executive committee of the WSBA’s International Practice Section for eight years, including a term as chair. He is also an adjunct faculty member at Indiana University Maurer School of Law, where he teaches a clinic on legal issues for independent filmmakers. He served as a law clerk in the Southern District of Texas for U.S. District Judge Vanessa D. Gilmore and U.S. Bankruptcy Judge Jeff Bohm. He has a B.A. from Stanford University, a J.D. from the University of California, Los Angeles, and LL.M.s from New York University and the National University of Singapore.

Jean Y. Kang was elected to serve District 7 in 2018. She was first appointed to the Board of Governors in 2017 to fill a vacancy in the at-large, new and young lawyer position. She is an associate at Bullivant Houser Bailey and handles a wide range of complex litigation arising from personal injury negligence, errors & omission, premises liability, and various insurance claims. Prior to civil work, she served as a criminal deputy prosecuting attorney in Cowlitz County and King County. She serves on the state board for Washington Women Lawyers as co-chair for the Judicial Evaluation Committee, and previously served on the board for the Korean-American Bar Association. She also was a member of the 2017 class of the Washington Leadership Institute. She speaks Korean fluently and volunteers in the Korean-American community. She received her undergraduate degree from the University of Washington and her law degree from Seattle University School of Law.

CONTINUED >
MEET YOUR BOARD

Brent Williams-Ruth
GOVERNOR
DISTRICT 8

Bryn Peterson
GOVERNOR
DISTRICT 9

Thomas A. McBride
GOVERNOR
DISTRICT 10

Hunter M. Abell
GOVERNOR
AT-LARGE (DIVERSITY)

Brent Williams-Ruth was first elected to the Board of Governors in 2020. Williams-Ruth has had a varied career ranging from working as a 1L intern with the King County Prosecuting Attorney’s Office to working in a non-legal role with (formerly) Fisher Radio Seattle. Since 2015, he has been the sole proprietor of a concierge estate planning, probate/trust, and elder law firm. Since starting his own firm, Williams-Ruth has volunteered with Seattle University School of Law as a mentor and judge for legal writing oral arguments. He began his volunteer service with the WSBA in 2018 when he joined the Character and Fitness Board, serving as its vice chair in the 2019-2020 year. He resigned his position with Character and Fitness in September 2020 to take his seat as a governor. He also serves as a trustee on the Washington State Bar Association Foundation. When not working or volunteering, you will find him spending time traveling, hiking, and creating adventures with his husband, Justin.

Bryn Peterson was elected to the WSBA Board of Governors in 2019. He attended the University of the Pacific for undergraduate and law school. He then attended the University of Washington School of Law and obtained an LL.M. in taxation. Peterson practices in the area of corporate law. Since 2002, he has been delivering comprehensive legal support on a variety of corporate matters including contracts, mergers and acquisitions, real estate, insurance, risk management, capital projects, taxation, and audits. Peterson’s diverse legal background includes eight years as internal legal counsel for multimillion-dollar corporations including Green Giant Fresh and Tree Top, and multibillion-dollar corporation Darigold, Inc. His experience spans companies across varied sectors including technology, food/beverage, and agriculture. Peterson is the oldest child of eight. He has a wonderful wife and two great children. He also enjoys running, golf, and barbecue.

Thomas A. McBride was elected to the Board of Governors in 2019. He was born and raised in Spokane. He attended Washington State University for undergraduate and the University of Washington for law school. Between schools, McBride worked as an accountant and passed the Certified Public Accountant exam. After graduating from law school in 1990, McBride worked at the King County Prosecuting Attorney’s Office. He then spent 25 years as the executive director of the Washington Association of Prosecuting Attorneys. He is married to Jodi and has three children and a disreputable dog.

Hunter M. Abell was elected to fill an at-large diversity position on the Board of Governors in 2019. Abell is a member at the Seattle office of Williams, Kastner & Gibbs, PLLC. He is originally from Eastern Washington, where he was raised on a ranch in rural Ferry County. A graduate of the College of William & Mary, Abell attended Gonzaga University School of Law and received an LL.M at Georgetown University School of Law. Before joining Williams Kastner, he served as a JAG officer with the U.S. Navy, and is currently a commander in the U.S. Navy Reserve. Abell previously served as chair of the WSBA Professionalism Committee and Indian Law Section. When not in the office, he enjoys hiking, fishing, and playing with his two young daughters, Libby (7) and Wynsome (5).

WSBA GOVERNANCE: The Board of Governors is the governing body of the WSBA that determines the general policies of the Bar and approves its budget each year. The Board moves the Bar forward with an eye toward its long-standing mission, guiding principles, and short-term strategic goals. The Board consists of the president, president-elect, immediate past president, and members elected from each congressional district and at-large.
Russell Knight was elected to the Board of Governors in 2018 to represent new and young lawyers in an at-large position. He is a partner with the Tacoma law firm of Smith Alling, P.S., and focuses his practice on the litigation of complex business, securities, and employment disputes. Russell is a skilled litigator, having obtained multiple seven-figure recoveries for his clients. He is admitted to practice in state and federal courts in Washington, the Ninth Circuit Court of Appeals and the United States Supreme Court. He is a member of the Robert J. Bryan American Inns of Court, a past president of the Young Lawyers Section of the Tacoma-Pierce County Bar Association, and a past trustee of the Tacoma-Pierce County Bar Association. He also served as the Pierce County representative to the Washington Young Lawyers Committee. Knight received his B.A. from the University of Puget Sound and his J.D. from Gonzaga University School of Law.

Kyle Sciuochetti is the 2020-2021 WSBA president. He was first elected to the WSBA Board of Governors to serve District 3 in 2017 and was elected president-elect in May 2019. He is a partner of Miller Nash Graham & Dunn LLP, where he serves as outside counsel for businesses throughout the Northwest. Sciuochetti is a former prosecutor with the City of Spokane and former session attorney with the Washington State Legislature Office of the Code Reviser. Sciuochetti served 14 years on the WSBA Legislative Committee including as its chair for several years. He also served as chair of the WSBA Legislative Review Committee and chaired the Board of Governors Legislative Committee during the 2019 and 2020 legislative sessions. He serves on the Board of Directors of the Metropolitan Business Association and the Humane Society for Southwest Washington. He is admitted to practice in state and federal courts in Washington, Oregon, and Idaho, and the U.S. Supreme Court. Born and raised in Spokane, Sciuochetti received his undergraduate degrees from the University of Washington and his law degree from Lewis & Clark Law School.

Hon. Brian Tollefson (Ret.) was elected to the Board of Governors in 2017 and elected by the Board of Governors as president-elect in 2020. Judge Tollefson is a principal at Black Robe Dispute Resolution Services, PLLC. He served on the Pierce County Superior Court bench for over 27 years. While on the bench he was active in the Superior Court Judges Association (SCJA) as a member of the Board of Trustees, together with several SCJA committees. He served on the Pierce County Superior Court Executive Committee and served as presiding judge, continuing active participation in numerous Superior Court committees. Before his judicial career, he was a partner in a Tacoma law firm. He is an emeritus member of the Robert J. Bryan American Inns of Court and has worked with the National Courts & Sciences Institute (NCSI, formerly known as ASTAR). He graduated from Willamette University College of Law with honors, serving on the Willamette Law Review staff. He earned his Master’s of Judicial Studies from the University of Nevada, Reno. His B.A. in Business Administration is from the University of Washington School of Business.

Rajeev D. Majumdar served as the 2019-2020 WSBA president. In 2015, he received the WSBA Local Hero Award for his work in improving public access to civil legal aid and advocating for homeless youth. In 2016, he was elected by the members to service on the Board of Governors. He focuses his practice on real estate, civil litigation, municipal law, and business-oriented law in Blaine, where he serves as the Managing Partner at the Whatcom Law Group, P.S. Majumdar serves as the prosecuting attorney for the City of Blaine, and Bellingham’s special prosecutor for Mental Health Diversion Court. As an adjunct professor at Western Washington University, he teaches Rights, Liberties and Justice in America. He previously worked for the National Nuclear Security Administration (NNSA) in Washington, D.C. He now serves as a trustee for the Washington Bar Foundation and as a delegate for the WSBA to the ABA House of Delegates. He is married to the love of his life, Sara, and is joyously the father of his daughter, Savitri, and a surprise waiting to be born in December.
NOT ALL BETS ARE OFF
Sports and gambling have been strongly tied throughout history and across cultures. From ancient Rome to indigenous communities, sports and gambling served a variety of purposes from religious to entertainment.¹

The interconnection between sports and gambling in more recent times, however, has not been without its tension. The infamous 1919 “Black Sox” baseball scandal—in which there were accusations of player bribery in exchange for throwing the World Series—began the modern-day organization of sports leagues and shaped how states would come to look at sports and sports gambling.²

Sports gambling continued to gain popularity across the country over the next 70 years, including in the legal, regulated sportsbooks found in Nevada.³ However, many sports leagues and legislators were uneasy with its popularity and in 1992 Congress intervened and passed the Professional and Amateur Sports Protection Act (PASPA).⁴

PASPA prohibited states and tribes from authorizing, offering, or conducting sports wagering and prohibited anyone from operating a sports gambling business under state or tribal law, except in Delaware, Montana, Nevada, and Oregon, where sports gambling was already permitted.⁵

Not surprisingly, neither PASPA nor the leagues could derail the popularity of sports gambling. Instead, its popularity only increased, with bettors using illegal local bookies and websites.⁶ Nevada and European sportsbook companies also prospered.⁷

In 2012, New Jersey began its groundbreaking challenge to the legality of PASPA when New Jersey voters amended the state constitution and the Legislature authorized sports gambling. The NCAA and professional sports leagues were successful in challenging the law in 2012 and 2014 until the U.S. Supreme Court took up review in 2018.⁸

In Murphy v. NCAA,⁹ New Jersey argued its partial repeal of all existing prohibitions on sports betting as applied to New Jersey casinos and racetracks should be upheld, and that PASPA was unconstitutional because gambling was a state regulatory issue and not an area in which the federal government could mandate enforcement of federal regulations.

Taking the gambling industry by surprise, the Supreme Court agreed.¹⁰ In a 6-3 decision authored by Justice Alito, the Court held that PASPA violated the 10th Amendment’s anti-commandeering clause. The Court found the federal government could not require states to enforce federal laws or policies. At its core, this landmark decision was based on federalism principles that Congress can pass a law prohibiting or regulating sports betting, but it cannot direct states to enforce the law.¹¹

BY BRIAN CONSIDINE AND CHRISTINE MASSE

Feature

The evolution of regulated sports gambling in Washington and around the country

Photo Getty © spxChrome
Brian Considine is the legal and legislative manager with the Washington State Gambling Commission. He manages the Gambling Commission’s legislative, legal, rule-making, and records-management programs and works closely with the Legislature on all gambling-related issues being considered in Olympia. Considine is a graduate of John Carroll University and Seattle University School of Law.

Christine Masse is partner of Miller Nash Graham & Dunn and the leader of the firm’s government & regulatory affairs practice group and tribal and cannabis teams. Masse specializes in representing businesses in highly regulated industries with their transactional, regulatory, and public policy needs and provides counsel to Northwest Native American tribes. She maintains a practice before the Washington State Gambling Commission relating to licensing issues and the approval and ongoing regulatory oversight of casino properties. She can be reached at christine.masse@millernash.com.

However, the Court’s decision did not authorize legal, regulated sports gambling or endorse it. Instead, the Court identified sports wagering as a “controversial subject,” leaving the federal government and individual states to address the issue and determine whether to authorize and regulate sports gambling or continue to prohibit it.

**EXPANSION OF SPORTS GAMBLING THROUGHOUT THE UNITED STATES**

After PASPA was invalidated on May 14, 2018, six states had legal sportsbooks operating by January 2019. Most states initially launched retail-only sportsbooks, but New Jersey was the first to launch retail and online sportsbooks. To allow for online sportsbooks, New Jersey had to mirror its 2013 online casino gambling law requiring servers to be in Atlantic City because the state’s constitution requires that all casino gambling occur there. Thus, online sportsbooks had to place their servers accepting bets in Atlantic City.

In 2019, an additional 13 states and Washington, D.C., authorized and/or launched sportsbooks, followed by Montana, Washington, and Virginia in 2020. The COVID-19 pandemic has stalled efforts in many states for the remainder of this year, but at least five states may still authorize sports gambling in 2020.

**REGULATORY APPROACHES**

In each state, regulators and legislators have faced common legal issues. First, they had to contend with federal laws still applicable to sports gambling, including the Wire Act and, in tribal gaming states like Washington, the Indian Gaming Regulatory Act (IGRA).

The Wire Act prohibits using interstate communications and transactions for gambling. This likely ensures sports gambling must remain an intrastate activity until the Wire Act is amended or repealed by Congress. The Wire Act does have an exemption for news reporting and interstate transmission of information assisting the placement of a bet (i.e., lines for player account information) where sports gambling is legal.

In tribal gaming states, the IGRA provides additional complexity that must be considered by both state and sovereign tribal governments. First, tribes and states must negotiate compacts that specifically address sports wagering. Second, tribes must follow specific regulations that limit the structure and terms of their contracts with their vendors. And third, because the IGRA governs gaming on tribal lands, complications regarding tribal jurisdiction over online gaming can complicate internet offerings.

The structure of the state system must also be developed, including: how sports gambling can occur (retail and/or online), where sports gambling can occur (casinos, lottery, sports venues, internet), what events can be wagered on (professional sports, collegiate sports, and/or esports), establishment of license fees and taxes, anti-money laundering and sport-integrity requirements, and strategies for addressing gambling addiction.

**WASHINGTON & SPORTS GAMBLING**

Washington has a unique history with sports gambling, beginning with a ban on all gambling in its original state constitution. In 1921, in response to the Black Sox scandal, the state criminalized bribery and corrupt playing in baseball. In 1933, the Legislature ventured into sports gambling for the first time, authorizing horse racing and creating the Horse Racing Commission. In 1972, the constitution was amend-
ed to allow gambling only if authorized by a 60 percent vote, and the Gambling Act and Gambling Commission were created in 1973. In 1976, the state authorized “sports pools,” a common term for sports gambling in that era, but limited betting to 100-square boards with wagers per square capped at $1. In 2004, the state authorized year-round off-track betting locations and advance-deposit wagering for horse racing.

**PASSAGE OF HOUSE BILL 2638**

Once PASPA was overturned, the Washington Legislature began considering the possibility of authorizing sports gambling. Similarly, due to the traction across the country, the Gambling Commission began exploring regulatory approaches and presenting information at public meetings throughout the summer and fall of 2019.

In January, the Gambling Commission identified five pillars it believed were necessary components of a strong regulatory structure for any sports gambling bill. During the 2020 legislative session, two bills came before the Legislature that would authorize casino-style sports gambling: House Bill (HB) 2638 authorized tribes in the state to operate retail sportsbooks at their casinos, including online access through mobile apps while a customer was on the casino premises. HB 2478 authorized sportsbooks at house-banked commercial card rooms, horse-racing tracks, and tribal casinos and allowed each licensed operator to have one online sportsbook.

HB 2638 quickly gained momentum and passed the House of Representatives 83-14 and the Senate 34-15, meeting the constitutionally required 60 percent vote threshold. It was signed by Gov. Jay Inslee on March 25 and went immediately into effect due to the emergency clause in the bill.

**LAUNCH OF SPORTS GAMBLING IN WASHINGTON**

The new law ushers in a historic moment in Washington. Not only does it provide a new offering to casino patrons, but Washington is the biggest tribal gaming state to expressly authorize sports gambling at tribal casinos. Additionally, the Legislature has continued its tradition of prioritizing sport integrity by passing new and enhanced match-fixing, corruption, and anti-money-laundering laws.

However, the work is not done for the state and the 29 federally recognized Washington tribes. Before sports gambling can launch, the state and tribes wishing to offer it must negotiate amendments to current gaming compacts. The Gambling Commission will also engage in rulemaking to assist in implementing an agreed-upon state regulatory structure while tribes and tribal gaming regulators will develop rules and
regulations for sportsbook operations at their casinos. There are many good models to guide the new regulatory structure in Washington, but this will take time and statewide launch of sports gambling is likely still several months away.

In the meantime, the Gambling Commission and the tribes will continue to work together to ensure that sports gambling is conducted with integrity: The state will work with professional sports leagues and teams, state universities, sportsbook operators, and tribal regulators to build a strong regulatory presence that precludes illegal local and online sportsbooks.

NOTES


2. See Nat’l Baseball Hall of Fame: https://baseballhall.org/hall-of-famers/landis-kenesaw. Major League Baseball hired Kennesaw Mountain Landis, a former federal judge, as the first MLB Commissioner and tasked him with ridding baseball of gambling and match fixing. The first thing he did was ban for life all eight Chicago White Sox players accused of being bribed to lose the World Series.


4. See Justin Fielkow, Daniel Werly & Andrew Sensi, “Tackling PASPA: The Past, Present, and Future of Sports Gambling in America,” 66 DePaul L. Rev. 23 (2016). Passage was noncontroversial at the time with 62 Senators signed onto the bill, including Sen. Orin Hatch (R-UT), Mitch McConnell (R-KY), Al Gore (D-TN), Bill Bradley (D-NJ), Slade Gordon (R-WA), and Brock Adams (D-WA).

5. A handful of other states, including Washington, that had some limited form of sports gambling, could keep their laws. New Jersey was given one year to legalize and establish a sports gambling regulatory system, but did not meet the deadline.


10. See id.

11. See id. “There is simply no way to understand the provision prohibiting state authorization as anything other than a direct command to the States,” which “is exactly what the anti-commandeering rule does not allow.”

12. Delaware, New Jersey, Mississippi, Pennsylvania, Rhode Island, and West Virginia were immediately ready to implement sports gambling because they had either passed laws prior to the Supreme Court’s decision or were a safe harbor state identified in PASPA.

13. On June 5, 2018, Delaware became the first state outside Nevada to implement sports wagering, opening sportsbooks at three casinos overseen by its state lottery.

14. “Retail sportsbook” is the industry term for physical, brick-and-mortar sportsbooks.


16. Arkansas, Indiana, Iowa, New York, New Hampshire, New Mexico, Oregon, Michigan, Colorado, Illinois, Tennessee, North Carolina, and Maine. Maine’s governor vetoed the bill in 2020 and the state will now need to re-pass a bill in order to authorize sports gambling.

17. Maryland and South Dakota forwarded referendums to the voters to decide legalization in November. California tribes are attempting to have a ballot initiative authorizing sports gambling at tribal casinos on the state’s November ballot. Massachusetts and Ohio appear to be frontrunners to pass legislation by the end of the year.


19. See id.


22. Article II, Section 24: “Lotteries and Divorce. The legislature shall never authorize any lottery or grant any divorce.”

23. See RCW 67.04. The recent MLB cheating scandals involving the Astros, Yankees, and Red Sox would all be punishable under our state’s 1921 integrity laws if the players and coaches involved had cheated while playing the Mariners in Seattle.

24. See RCW 6716.012.

25. Article II, Section 24 as amended in 1972 now reads: “The legislature shall never grant any divorce. Lotteries shall be prohibited except as specifically authorized upon the affirmative vote of sixty percent of the members of each house of the legislature or, notwithstanding any other provision of this Constitution, by referendum or initiative approved by a sixty percent affirmative vote of the electors voting thereon.”

26. RCW 9.46.

27. See RCW 9.46.040. The Washington State Gambling Commission was the second ever created in the U.S. and only the Nevada Gaming Control Board is older.

28. See RCW 9.46.0335. The law established “sports pools” and limited them to hundred-square boards you may find at Super Bowl parties or at your local bar.

29. See RCW 6716.200.

30. See RCW 6716.260.


33. Five areas that must be addressed are: (1) Licensing and Regulation; (2) Agency Funding; (3) Money Laundering and Criminal Enforcement; (4) Sport and Gambling Integrity; and (5) Responsible and Problem Gambling.


36. See 2020 c 127 § 105.
APPEALS

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FROM THE GROUND UP

WSBA's Powerful Communities Project—helping legal services providers meet their communities’ unique needs
Following months of close coordination and planning with community stakeholders throughout Washington, in the fall of 2019 the WSBA launched the Powerful Communities Project, a program aimed at reaching underserved and underrepresented communities in the state. A second and equally important goal of the project is developing deeper partnerships and relationships between legal services providers and the people they serve.

In the first round of 2019 funding, 14 projects received up to $3,000 each. These community-based civil legal aid projects provide free legal services, education, and access to the courthouse to hundreds of people in communities that have historically been blocked from the justice system, unjustly targeted by it, or both. With funds provided exclusively by the Washington State Bar Foundation, a 501(c)(3) public charity that raises funds to support WSBA programs, the Powerful Communities Project is the latest demonstration of the legal community’s wider financial support for public service and diversity and inclusion programs.

Working closely with legal aid providers in Washington, who in turn look to the members of their communities to identify the services they need, the Powerful Communities Project is aimed at advancing the goals outlined in the State Plan for the Coordinated Delivery of Legal Aid to Low-Income People, a three-year roadmap for addressing gaps in Washington’s justice system. For example, the State Plan quantified the inadequacy of funding for civil legal aid by documenting that 70 percent of low-income households in Washington face at least one significant legal problem every year, but three-quarters of them will never receive legal help or even understand that there are legal solutions to their challenges.

The WSBA recently dispersed funds for the 2020 Powerful Communities Projects: 16 projects were offered a total of $35,500 in funding to help clients and organizations in their communities. Applications for 2021 funding open in late fall 2020 (see page 36 for information on how to apply).

Too many organizations provided critical legal aid to their communities in 2019 to cover all of them here. What follows are descriptions of just a few Powerful Communities Projects. (You can also read more about each of the 2019 projects at NWSidebar, www.nwsidebar.wsba.org—just search for “Powerful Communities Project.”)

**YAKIMA COUNTY VOLUNTEER ATTORNEY SERVICES**

Serving Latinx Parents and Students

In early 2019, Yakima County Volunteer Attorney Services (VAS) was made aware of a problem in the community: In the absence of an active TeamChild attorney advocate, Yakima School District students were being expelled at higher rates than normal, with many of the children expelled being Latinx. (Yakima School District is the second largest Latinx majority school district in the state.) In June 2019, Yakima VAS applied for, and was awarded, a grant through the WSBA Powerful Communities Project to work on addressing this issue in the school system. Yakima VAS immediately connected with other businesses and nonprofits to put together a “Back to School: Know Your Rights” event. Because a high percentage of the families were below the federal poverty rate, Yakima VAS coordinated with businesses to

**SIDEBAR**

2019 RECIPIENTS

The Washington State Bar Association was pleased to partner with the following 14 organizations in 2019 for the inaugural launch of Powerful Communities Projects.

- Clark County Volunteer Lawyers Program
- Colectiva Legal de Pueblo
- Columbia Legal Services
- Cowlitz Wahkiakum Legal Aid
- Eastside Legal Assistance Project
- Family Law CASA
- Northwest Justice Project’s Native American Unit
- QLaw Foundation
- Seattle Clemency Project
- Snohomish County Legal Services
- The STAR Project (serving Walla Walla and Columbia counties)
- TeamChild and Tacoma Healing Awareness Community
- Thurston County Volunteer Legal Services (serving Pacific County)
- Yakima County Volunteer Attorney Services
provide free supplies and services. WILD-JAY, a clothing boutique, collected school supplies to be given away; Belu, a salon, was present giving haircuts; and 1Love Media was on site to connect with senior students and give them vouchers for a free senior photo session. The venue and dinner was provided by the Henry Beauchamp Community Center, located in Southeast Yakima.

Approximately 200 people showed up at the event. Shannon McMinimee, a lawyer who specializes in school law at Cedar Law, PLLC, gave multiple presentations to packed rooms of students and their parents. Students who listened to the presentation received a ticket for a free backpack and school supplies. A court-certified interpreter was present and provided real-time interpretation for each presentation. At the end of the night two Spanish-speaking mothers approached the Yakima VAS executive director and asked if they could listen to the presentation because they had missed the previous sessions. McMinimee sat down and spoke with them through the interpreter as they asked questions and shared concerns. The two women walked away with knowledge on how to address the issues they were facing. Ultimately, the goal of the presentations was to educate students and their parents on school-related issues so they could advocate for themselves and, therefore, the event was a success.

**THURSTON COUNTY VOLUNTEER LEGAL SERVICES**

Mobilizing Legal Assistance to Underserved Counties

Thurston County Volunteer Legal Services (TCVLS) received a grant to help buy tablets, a laptop, and a printer so that attorneys in the legal clinics could quickly look up cases online, do any legal research, print out court forms, and other tasks. This allowed them to focus on the clients and what the clients needed rather than spending their limited time trying to gather facts.

Pacific County volunteer attorney Jon Quittner used the laptop bought with the Powerful Communities grant to look up court records so he knew exactly the status of his client’s quest to get a parenting plan in place protecting her young daughter. Knowing that she had already submitted a proposed plan and served the opposing party allowed him to focus on her questions and help her get ready to appear in court. Quittner helped the client finalize the parenting plan, which ultimately was signed off on by the court.

Quittner says his client was “a joy to serve. She was intimidated by the process and I was able to work with her so that she could go in front of [the judge] and tell her story with confidence. She is a perfect example of a person we would serve: a single mother trying to stabilize her life for the sake of her little girl.”

**COLECTIVA LEGAL DE PUEBLO**

Increasing Empowerment for Immigrant Families

Through the WSBA Powerful Communities project, Colectiva Legal de Pueblo was able to educate and empower immigrant communities by providing free legal consultations to immigrants in their own language and within their own communities. It is important for immigrants to receive thorough immigration consultations every few years to ensure that they do not miss out on any new opportunities that arise from developments in the law or from changes in their personal lives. Such consultations empower immigrants by teaching them about the immigration system and which documents and types of information they need to gather for any future form of immigration relief. Colectiva attorneys met with dozens of people who had been in the United States for decades, many of whom had never before had a consultation with an immigration attorney. Many had been too scared to talk about their immigration status with folks who did not speak their language or were not part of their communities. Others simply could not afford to hire a private immigration attorney who could review their case. Through the support of the WSBA, Colectiva has been able to expand its ability to focus its legal services to be culturally and community specific while working with more isolated communities. As a result of this project, Co-

**SIDEBAR**

**APPLY FOR 2021 FUNDING**

Qualified Legal Service Providers, minority bar associations, and nonprofit organizations working with nonprofit legal organizations are encouraged to apply for funds through the 2021 Powerful Communities Project. The application process will open in late fall 2020. To learn more about the project and its past recipients, or to submit an application, visit [www.wsba.org/connect-serve/volunteer-opportunities/powerful-communities](http://www.wsba.org/connect-serve/volunteer-opportunities/powerful-communities).
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NOTES
1. The 2018-2020 State Plan for the Coordinated Delivery of Civil Legal Aid to Low-Income People was created by the Alliance for Equal Justice to more effectively deliver civil legal aid to low-income, vulnerable, and marginalized individuals and communities. Its purpose is to “expand access to our civil justice system and identify and eliminate barriers that perpetuate poverty and deny justice.” The plan sets five goals: promote and foster race equity, provide clients with legal education, increase access for underserved and underrepresented communities, develop and increase holistic client-centered services, and engage in systemic advocacy. www.allianceforequaljustice.org/for-the-alliance/state-plan/. The State Plan cites the 2015 Civil Legal Needs Study, which can be found here: https://ocla.wa.gov/wp-content/uploads/2015/10/CivilLegalNeedsStudy_October2015_V2_Final10_14_15.pdf.

2. For more information about TeamChild, visit www.washingtonlawhelp.org/organization/teamchild.

3. The client’s real name has been changed to protect her privacy.
FOR THE PUBLIC GOOD

Tapping the Potential
Exploring the proposed changes to the rules for emeritus pro bono admission / p. 40

Moderate Means
WSBA program provides a way to serve the underserved while building your practice / p. 42

Pro Bono Honor Roll
Honoring members who reported providing at least 50 hours of pro-bono publico in 2019 / p. 44
PBPSC? You may not know exactly what the WSBA Pro Bono and Public Service Committee (PBPSC) is or does. The PBPSC’s purpose is to enhance a culture of service by promoting opportunities and best practices that encourage WSBA members to engage in pro bono and public service, with a particular emphasis on services to low- and moderate-income individuals. Over the past few years, the PBPSC has completed several important projects and initiatives that resonate across our state and communities. The most recent of these is the PBPSC’s important work on proposed changes to the WSBA emeritus pro bono membership status. This action is the result of multiple years of planning and effort and is described in much greater detail by PBPSC member Althea Paulson on page 40.

In addition to work on the emeritus pro bono status, the PBPSC has completed several other important projects recently, including:

- The PBPSC proposed and received unanimous approval from the WSBA Board of Governors for model pro bono policies that law firms, government agencies, and in-house legal departments can adopt, adapt, and implement internally to enhance the culture of pro bono within their company or organization. These policies can be found on the PBPSC’s website.¹
- The PBPSC drafted a letter addressing due process and access to client issues at the Northwest Detention Center that was unanimously approved and sent out by the WSBA Board of Governors to local, state, and federal officials and agencies.
- The PBPSC is working on improving probonowa.org, the existing online clearinghouse for pro bono opportunities in Washington. Please check on the progress of the website over the next couple of months. We hope that the user experience will be more positive and accessible!
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- The PBPSC developed several Continuing Legal Education (CLE) presentations, including Legal Lunchbox™ CLEs that addressed landlord/tenant issues² and suitable representatives in administrative hearings and administrative law issues.³

Our next Legal Lunchbox,™ scheduled for Oct. 27, will focus on family law for low-income families.

- The PBPSC drafted a statement in support of Northwest Justice Project’s Private Attorney Involvement Plan (more information about the plan can be found here: https://nwjustice.org/home), which the WSBA Board of Governors has reviewed and unanimously approved.
- The PBPSC submitted comments in support of proposed amendments to RPC 6.5 and MCLE requirements, for initiatives led by other stakeholders inside and outside of the WSBA, aiming to remove legal barriers for survivors of domestic violence and eliminating bias in the legal profession.

These are just some highlights of recent work done by the PBPSC. These accomplishments would not have been possible without the dedicated volunteer service of all the wonderful PBPSC members, and the efforts and leadership of past, current, and incoming co-chairs Paul Okner, Nancy Chupp, and Bonnie Aslagson. Our committee is continuing to engage with stakeholders, groups, and individuals across the state to address our mission and goals. We meet on a monthly basis and have committee members across the state that identify, initiate, and address issues of need related to our mission. If you or anyone you know is interested in getting involved with the PBPSC, please do not hesitate to contact me, Bonnie, or the WSBA for more information. We would love to have your help!

### NOTES

1. www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/Pro-Bono-and-Public-Service-Committee
Emeritus Pro Bono: Tapping the Potential

BY ALTHEA PAULSON

At its July meeting, the WSBA Board of Governors unanimously approved a set of recommendations aimed at increasing the number of lawyers who opt for emeritus pro bono membership status under the WSBA’s Admission and Practice Rules (APRs). After the vote, WSBA President Rajeev D. Majumdar hailed the action as “one of the most significant and structural things we have done during my time on the Board of Governors to affect the actual practice of law and members’ ability to contribute to the well-being of society.”

The recommendations were submitted by the WSBA’s Pro Bono and Public Service Committee (PBPSC) after several years of study and analysis of barriers and disincentives encountered by members seeking emeritus pro bono status.

Emeritus pro bono members may only practice law with Qualified Legal Service Providers (QLSPs), which are Washington nonprofits dedicated to providing legal services to low-income clients. These lawyers are not allowed to receive compensation for their work. They pay annual license fees equivalent to those of inactive members, currently $200 for attorneys. Although this status has been available for over 20 years, there were just 116 members as of August. In contrast, there are over 5,500 Washington lawyers in inactive status.

Of particular significance to the PBPSC was the 2015 Civil Legal Needs Study, which showed that only 24 percent of Washington’s low-income population who face a civil legal issue are able to obtain assistance from an attorney. The PBPSC reviewed emeritus and pro bono programs in other jurisdictions and sought input from QLSPs throughout the state. Based on this research, the PBPSC recommended, and the Board approved, the following changes:

- Elimination of the requirement of active practice for five out of the last 10 years;
- Waiver of annual license fees for members with emeritus pro bono status who provided at least 30 hours of pro bono service in the previous calendar year;
- Clarification of the rules regarding the return to active status from emeritus pro bono status;
- Affirmation that the rules permit emeritus pro bono members to volunteer with multiple QLSPs;
- Change of the name of the status to “pro bono” status and clarification that members do not need to be retired or close to retiring to qualify, and that inactive members are eligible to apply for the status.

The suggested changes must be submitted to the Washington Supreme Court under General Rule (GR) 9, which sets out a schedule for review. If approved, the changes would become effective on Sept. 1, 2021, unless the Supreme Court grants expedited consideration as allowed by GR 9. The Board has requested expedited consideration because of the ongoing unmet legal needs of people across the state, which have only increased and become more urgent due to the COVID-19 pandemic and resulting economic downturn.

For more information on emeritus pro bono status, see the article in the October 2019 issue of this magazine entitled “Untapped Potential.”

NOTES
1. APR 3(g).

Providing more flexibility in the rules for emeritus pro bono admission is one way to meet the need for pro bono legal services.
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It was 2014. I had finished law school and passed the bar. Life was good, and things were going great. Except for one thing. No job.

Now that I was an attorney with a brand new license, I wasn’t exactly sure what I wanted to do with it. Through some volunteer work, I learned that I had a passion for juvenile and family law, and there seemed to be plenty of family law cases to go around. I thought maybe I should go out on my own.

While law school taught me legal research, International Shoe, and the model penal code, it definitely did not teach me how to open a law firm. I had, of course, also taken the required legal ethics class and passed the ethics portion of the bar exam, but I had no idea what a reasonable fee under RPC 1.5 was for any area of law, nor did I know the best way to find clients without violating RPC 7.2 or 7.3.

I knew someone in the same situation, and we agreed to hang out our shingle together. Now there were two of us who had no idea where to start.

While law school taught me legal research, International Shoe, and the model penal code, it definitely did not teach me how to open a law firm. I had, of course, also taken the required legal ethics class and passed the ethics portion of the bar exam, but I had no idea what a reasonable fee under RPC 1.5 was for any area of law, nor did I know the best way to find clients without violating RPC 7.2 or 7.3.

I knew someone in the same situation, and we agreed to hang out our shingle together. Now there were two of us who had no idea where to start.

Then we learned about the Low Bono Section of the WSBA, and we were intrigued by the idea of working with lower income families. We met with someone from the Section and gained some valuable tips and techniques on how to operate a low bono practice. We incorporated as a PLLC and followed tried-and-true business strategies to establish our practice. We also partnered with the WSBA Moderate Means Program to get additional referrals that fit our model. Before we knew it, we had a caseload with paying clients.

We were in business.

The strategies we used work in virtually any industry, including the legal field. If you have a bit of entrepreneurial spirit, are willing to work hard, and have a passion for serving those who lack access to affordable legal help, consider starting a law practice using these two strategies—disruptive innovation and price discrimination.

“Well, Mike,” you say, “what are these strategies and how do they work?”

I’m glad you asked.

WHAT IS DISRUPTIVE INNOVATION?
Business scholar Clayton Christensen\(^1\) coined the term “disruptive innovation” in 1955 and it is considered to be one of the most influential business theories of the 21st century.\(^2\) By formal definition, disruptive innovation occurs when a firm enters a new market by being different from its competitors. Oftentimes, these new market entrants are new businesses, and they compete by targeting an underserved portion of the market at a lower cost. These newer businesses are also often competing in the market with much fewer resources.

Every business, no matter what industry it is in, has a least-profitable or most time-consuming set of customers or clients. The legal field is no different. An established law firm in one market may have taken a case that doesn’t fit into its expertise or niche, and the assigned attorney may be spending a lot of time developing the necessary knowledge to become competent, under RPC 1.1, to handle that case. Or maybe the client cannot afford to replenish an advance fee deposit. Law firms have bills to pay and, without billable hours, those bills don’t get paid.

What if a new firm was willing to take those clients and spend the extra time de-
developing the necessary competence? What if word got out that the new firm would take those clients at a lower rate? What if the new firm built up a budding practice and over time established itself in a new market by drawing those clients away from other firms in the same market? Well, that firm would be practicing disruptive innovation.

If you are a new attorney, you likely have fewer resources to get started. That is not always a bad thing because you also have no choice but to maintain low overhead costs. You need a computer, but you can make a simple website for a minimal expense, and you can use social media and free classified listings to promote your services. Volunteering is another great way to get noticed in underserved markets, and many counties have a volunteer lawyer program to assist low-income parties with a variety of issues through legal clinics.

Also, don’t be afraid to introduce yourself to your “competitors.” These competitors are also your legal colleagues, potential mentors, and one of your biggest potential sources of client referrals. Write each of these attorneys or firms a letter, explaining who you are and what services you offer. They may have clients that they would love to refer to you. If you are willing to take the case with a smaller advance fee deposit, lower hourly rate, or a flat fee, you might be exactly what they (the clients and the firms) need.

WHAT IS PRICE DISCRIMINATION?
Some prefer to refer to price discrimination as price differentiation to avoid the negative connotation associated with discrimination. Whatever you want to call it, you do it, or you are affected by it, and you may not even realize it.

One common form of price discrimination, known as third-degree price discrimination, occurs when a single product is priced differently for different markets. One of the best and most common examples of this kind of price discrimination is through the use of good ol’ fashioned coupons.

Think back to when you were in law school. Maybe you loved Lucky Charms. (Who doesn’t?) Due to your starving-law-student budget, you had to settle for a generic substitute for a few years. The generic was $2 per box instead of $4. The generic was fine, although far from the real thing, and you were just happy to have your bowl of fortified oats and marshmallows. But what if you had a coupon for $1 off a box of Lucky Charms? Would you have been willing to pay $3 for the good stuff?

When a coupon is offered so a law student can afford the higher-end, name-brand cereal, that product has now been introduced into a different market (e.g., lower income or higher price sensitivity) for a price that the potential customer is willing to pay. The purchase is made, the potential customer is converted into an actual customer, and the 1L gets his or her favorite cereal. That is the essence of price discrimination: a single product priced differently to reach different markets.

While the use of actual coupons is not necessarily the way to go in the legal field, one form of price-discrimination you can employ as an attorney is through sliding-scale hourly rates. By using a scale based on the federal poverty guidelines, household income, and number of dependents in the household, you can price your services to be affordable for those who really need your help. Flat fees can also be combined with “unbundled” services, such as limited-scope representation, document preparation, or advising a pro se litigant on how to handle a legal issue. These techniques are employed by both nonprofit and for-profit “low bono” firms, and more information and resources can be found on the American Bar Association website, through networking with the WSBA Low Bono Section, and by partnering with the WSBA Moderate Means Program.

CONCLUSION
A law firm is a business. By employing strategies like disruptive innovation and price discrimination, you can penetrate a market as a new attorney and then, as you gain experience, move into additional markets. Partnering with the WSBA Moderate Means Program is a great way to employ these strategies to serve Washington’s underrepresented populations, earn pro bono publico hours, and build your practice, all at the same time.

When we became licensed to practice law in Washington we took an oath, the last paragraph of which reads: “I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay unjustly the cause of any person.” Building a practice around the concept of providing access to justice to the defenseless or the oppressed is an honorable approach to your practice.

And it also makes good business sense.
These individuals reported providing at least 50 hours of pro bono publico in 2019.
2019 Honor Roll
CONTINUED >

Leonard Konstantyn
Spencer Lucas
Nicholas Wade Lovelace
Lawrence Lee Longfeldt
Kristina T. Larry
Esther Larsen
Steven James Larsen
Shawn J. Larsen-Bright
Linda Rae Larson
Nicholas Christopher Larson
Angel M. Latterell
Holly A. Scott Laukkonen
James D. Laukkonen
Dana C. Lavity
Laura Ann Lavie
Kathleen Layman
Horace Lee
Nelson Kuo Hua Lee
Robert James Michael Lee
Sungyong Cheryll Lee
Terrance Jerome Lee
William Andrew Lee III
Robert Herweg Leeds Jr.
Barbara Joan Leen
Scott Frederick Leist
Nicholas Fraizer Lenning
Justin D. Leonard
Patrick H. LePley
Jessica Lynne Lewis
Rita Renea Lewis
Nicole Li
Timothy Allen Liesenfelder
Linda Lillevik
Claudia Lin
Megan Lin
Tana Lin
Rachel Lipinski
Henry E. Lippek
Sarah Julia Littell
Carla Diane Chapman
Little
Tzu-Huan Augustine Lo
James Elliot Lobesenz
Kimberly Elizabeth Loges
Lawrence Lee Longfeldg
Michael W. Louden
Nicholas Wade Lovelace
Alexandra Lozano
Spencer Lucas
Leonard Konstantyn
Lucenko Jr.

Maria Rose Ludolph-Heikkala
Annette M. Lukinbill
Aaron Lukoff
Mari Titts Luna
Donna E. Lurie
Jeffrey Alan Lustick
Judith E. Luther-Shiflett
Bruce Gilbert Luzader

Claire Ellen McNamara
Elisabeth Vandell McNeil
Toni Meacham
Matthew Thomas Meade
Leah Ellen Medway
Tonya Rebecca Meehan
Frank Fraser Mendel
Kelly Ann Mennemeier
Roger Jacques Mensch
Meena Pallapamu Menter
Christopher Jason Mercado
Anthony Charles Meredith
Michael W. Meredith
John W. Merriam
Kevin Charles Meserve
Adam D. Mesick
Matthew N. Metz
Scott Meyer
Russell Louis Mikow
Brandyn Deanne Miller
J. Scott Miller
Jennifer Miller
Nicholas P. Miller
Randal C. Miller
Jonathan William Milstein
Jamey Megin Minnihan
Joseph Mintz
Gregory C. Mitchell
Robert W. Mitchell
Mike Moceri
Colleen Mooney
Jenna Leigh Mooney
Haley Elizabeth Moore
Lisa Frances Moore
Michele Moore
Patrick Donhowe Moore
Nancy Weynand Morton
Peter D. Mostow
Margaret Mary Movley
Peter Joseph Mozena
Ryan T. Mrazil
Mariko Lisa Mulligan
Michael T. Mumford
Salvador Alejo Mungia II
Ilene Marie Munk
Andrew Garcia Murphy
Daniel J. Murphy Jr.
John William Murphy
Pilar L. Tirado Murray
Stanley B. Myers Jr.
William Norwood Myhre III

Stacie Lynn Nazczenik
Jessica Nance
Michelle Renee Nance
Nisha Vrajiald Nariya
Robert P. Neale
Daniel James Neisen

John Ray Nelson
Todd M. Nelson
Mark Barrett Nerheim
Latife Helen NeuSerin Ngai
Theresa Huyen Tran Nguyen
Craig Allen Nichols
Jeffrey Grant Nielsen
Kelly Twiss Noonan
Anessa Ellen Novasio

Christopher Mark Petroni
Anne Marie Pfeifle
Blythe Elisabeth Phillips
William Dalson Pickett
Michael David Pierson
Ernesto Jack Piza
Paula M. Plumer
Gerald Martin Pollet
Nicholas Joseph Pontarolo
Andrea M. Poplawski
Kathryn R. Porteute
Dennis Lynn Potter
Donald N. Powell
Kaleigh Nicole Boyd Powell
Vanessa Soriano Power
Zoee Lynn Powers
Mayank Prasad
Benjamin Stier Premack
Terry Thompson Preshaw
Terry Jay Price
Peder Thomas Punsalan-Teigen

Yuan Qi
Arthur Stevens Quigley Jr.
Meredith Quinn-Loerts
Veronica Alexis Quinonez
Hector E. Quiroga

Greg Raburn
Lauren Burdette
Rainwater
Kristina Rose Ralls
Kathryn Jane Ranieri
Lauren M. Ransford
Mary Moberg Rathbone
Natalie Diane Reber
Anne Mueller Redman
Heather Reed
Lisa Sylvia Reid
Steven Alan Reisler
Julie Renner
Vi Jean Reno
Ashston Taylor Reyazat
Kristol Richards
Kevin R. Richardson
Paul Richmond
Ronald D. Richmond
Frank Richard Ricketts Jr.
David W. Ridenour
Jay A. Riffkin
Eрин Maura Riley
Rebecca Sue Ringer
Cynthia Rios
Manuel Francesco Rios III
Brandon Mark Ritchie
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**BY THE NUMBERS**

- **Total hours reported:** 206,369
- **Direct service hours (RPC 6.1(a)):** 130,478
- **Indirect service hours (RPC 6.1(b)):** 75,891
The Many Benefits of Pro Bono

Why Pro Bono?

Washington continues to have a critical need for pro bono assistance to meet an access-to-justice gap. The last comprehensive survey revealed that over 70 percent of low-income Washington residents experienced at least one civil legal issue each year and at least 76 percent of that population did not get any legal assistance because of lack of resources or not knowing how to access resources.¹

This is where WSBA members can make a difference. Lawyers and Limited License Legal Technicians (LLLTs) in Washington have a professional responsibility to assist in the provision of legal services to those unable to pay and should aspire to render at least 30 hours of pro bono service per year. See Rule of Professional Conduct (RPC) 6.1 and Limited License Legal Technician (LLLT) RPC 6.1.

The WSBA works with Qualified Legal Services Providers (QLSPs) across the state to connect lawyers and LLLTs with clients who need pro bono legal advice and assistance. QLSPs are not-for-profit organizations that provide legal assistance to low-income Washingtonians.

MORE ONLINE >

There are over 50 QLSPs, a list of which, by county, can be found at [www.wsba.org/connect-serve/volunteer-opportunities/psp/qualified-legal-service-providers](http://www.wsba.org/connect-serve/volunteer-opportunities/psp/qualified-legal-service-providers).

Washington continues to have a critical need for pro bono assistance to meet an access-to-justice gap.

Earn CLE Credits

In addition to making a valuable difference in their communities, many legal professionals utilize pro bono work as a professional development opportunity: to learn new substantive areas of law, work with different client communities, and deepen their legal skills. Although these opportunities are enriching on their own, by volunteering with a QLSP, you have the added benefit of earning unlimited “other” MCLE credits for your pro bono work. A win-win situation!

Free Public Service Education CLEs

The WSBA maintains a portfolio of free Public Service Education CLEs available to staff and pro bono volunteers of QLSPs. Authenticated volunteers can access over 20 CLEs with topics ranging from “Working with Survivors of Domestic Violence” to “The Alpha-Bravo-Charlie of Working with Vets.”

MORE ONLINE >

To learn more, contact [PublicService@wsba.org](mailto:PublicService@wsba.org).

Pro Bono Publico Honor Roll

Every year, the WSBA generates a list of WSBA members who have submitted over 50 hours of pro bono work during the reporting period. These members receive both a commendation letter and a certificate recognizing their commitment to volunteerism. The Washington Supreme Court Pro Bono Publico Honor Roll (see pages 44-47) also recognizes these stewards of justice.

NOTE

INNOVATION COMES STANDARD

Fastcase is one of the planet’s most innovative legal research services, and it’s available free to members of the Washington State Bar Association.

LEARN MORE AT
WWW.WSBA.ORG
Note: Because of public directives to curb the spread of the coronavirus, the Sept. 2020 meeting was held in a virtual-only format.

TOP 8 MEETING TAKEAWAYS

1 FY21 budget and license fees. The Board approved the budget for the 2020-21 fiscal year—which included a decreased section per-member charge to $18.18—and set the 2021 optional Keller deduction at $3.85. With much conversation about how to best respect members’ pocketbooks while responsibly funding WSBA mission-critical programs and services, the Board discussed the 2022 and 2023 license-fee rate and whether the lawyer license fee could be lowered by $10; governors will continue the license-fee conversation in November.

2 Insurance. The Board will recommend to the Washington Supreme Court a rule change to require lawyers, with exceptions, to disclose to clients if they do not carry malpractice insurance. Specifically, the proposed addition to Rule of Professional Conduct (RPC) 1.4 would require lawyers who lack a minimum threshold of malpractice insurance ($100,000 per occurrence and $300,000 in the aggregate) to provide notice and obtain consent from clients. The Board declined to support a proposal to require most lawyers to carry malpractice insurance last year, and governors noted this new recommendation does better to balance public protection while not being overly burdensome on lawyers.

3 Proposed changes to civil litigation rules. After many years of study, including a recent robust round of stakeholder feedback, the Board will recommend to the court a series of rule changes to address the escalating cost of civil litigation in Washington. (The Board also acknowledged that this is a start, with more work to be done, especially in light of the current pandemic.)

4 MCLE ethics requirement. With the Board’s support, the Mandatory Continuing Legal Education Board will recommend to the court requiring licensed legal professionals to complete at least one ethics credit per reporting cycle on the topic of equity, inclusion, and the mitigation of bias in the legal profession. The Board also approved a motion to have the WSBA continue to offer the three free ethics credits currently being offered, one of which is in the area of equity and inclusion and mitigation of bias.

5 Board of Governors diversity at-large seat opening. Hon. Lisa Mansfield, who was elected in June to serve as an at-large governor for the 2020-2023 term, had to decline the position because of her recent appointment to serve as a municipal court judge (congrats!). To fill this seat, the Board of Governors will follow its newly adopted process: The WSBA Diversity Committee will put forth a slate of candidates for election by the entire membership. If you are interested in running for this diversity at-large position, visit www.wsba.org for more information including eligibility requirements. The Board hopes to expedite the process to recruit candidates through October and hold the member-wide election in December.

CALL TO MEMBERS

Interested in running for a diversity at-large position on the WSBA Board of Governors?

Candidates will be recruited through the month of October. Thereafter, the WSBA Diversity Committee will put forth a slate of candidates for election by the entire membership. For more information including eligibility requirements and application deadlines, visit www.wsba.org.
**Strategic goals.** The Board held a work session to brainstorm strategic goals for the coming year and beyond. The broad themes that emerged were in the areas of providing excellent resources to members, elevating public confidence in the legal profession, managing business in a prudent and cost-efficient way, and promoting diversity, equity, and inclusion in the legal profession and legal system. The Board's Long Range Planning Committee will now coalesce those ideas and come up with a plan to gather member and public feedback in the coming months.

**Judicial Information System Committee (JISC) rule changes.** The Board approved the JISC’s request to support a rule change clarifying the approval process, standard requirements, and dispute resolution authority for local courts using systems other than the JIS. The WSBA president will now write a letter to the Washington Supreme Court in support of the rule. (Visit [www.courts.wa.gov/jis/](http://www.courts.wa.gov/jis/) for more information.)

**Diversity, equity, and inclusion programming.** The WSBA’s Equity and Justice Team provided information about how the WSBA facilitates and supports diversity, equity, and inclusion work throughout the legal community. The team also reviewed the WSBA’s organizational commitments, such as the WSBA’s Diversity and Inclusion Plan and Washington’s Race, Equity, and Justice Initiative, as well as other partnerships.

**MORE ONLINE**

The agenda, materials, and video recording from this virtual Board of Governors meeting, as well as past meetings, are online at [www.wsba.org/about-wsba/who-we-are/board-of-governors](http://www.wsba.org/about-wsba/who-we-are/board-of-governors).
**NEWS & INFORMATION OF INTEREST TO WSBA MEMBERS**

### NEW PRACTICE GUIDES AVAILABLE


### LICENSE RENEWAL AND SECTIONS INFORMATION

License Renewal will begin in November and must be completed by Feb. 1, 2021. License renewal includes paying the annual license fee and any mandatory assessments, completing the trust account declaration, and disclosing professional liability insurance or financial responsibility.

**COVID-19.** As WSBA staff are working remotely due to the COVID-19 pandemic, we strongly encourage you to complete your license renewal online. Online licensing is compatible with mobile devices. Just log in to [https://licensing.wsba.org](https://licensing.wsba.org). When you finish you will immediately receive confirmation that your renewal is complete.

**MCLE.** The Washington Supreme Court ordered an extension of the due date for reporting MCLE credits by one year for licensed legal professionals in the 2018-2020 MCLE reporting period. (For more information and to view the order, go to [https://licensing.wsba.org/legal-professionals/mcle](https://licensing.wsba.org/legal-professionals/mcle).) Licensed legal professionals in the extended 2018-2021 reporting period must complete their credits by Dec. 31, 2020, and must complete the certification of their credits by Feb. 1, 2022. Certification for the extended 2018-2021 reporting period will open in 2021.

**License fee payment plan option available.** If you are experiencing financial challenges, you may contact us about our payment plan option available to all licensed legal professionals. Payments may be made in up to five installments, with the balance required to be paid in full by Feb. 1, 2021. A license fee hardship exemption is available for active licensed legal professionals who qualify. Visit [www.wsba.org/licensing](http://www.wsba.org/licensing) to learn more.

### THE BAR BUZZ

**Join or renew your section membership.** The section membership year is Jan. 1–Dec. 31. Learn more at [www.wsba.org/legal-community/sections](http://www.wsba.org/legal-community/sections).

**Judicial status.** Please note that you are required to inform the Bar within 10 days of your retirement or your ineligibility for judicial status (and you must apply to change to another status or to resign). Visit [www.wsba.org/licensing](http://www.wsba.org/licensing) to learn more.

### IMPORTANT DATES

- **Feb. 1, 2021:** Deadline for requesting the one-time License Fee Hardship Exemption.
- **Feb. 1, 2021:** License renewal and payment must be completed online or postmarked.

### VOLUNTEER

**Custodians Needed**

The WSBA is seeking interested lawyers as potential volunteer custodians of files and records to protect clients’ interests. Visit [www.wsba.org/connectserve/volunteer-opportunities/act-as-custodian](http://www.wsba.org/connectserve/volunteer-opportunities/act-as-custodian), or contact Sandra Schilling: sandras@wsba.org, 206-239-2118, or Darlene Neumann: darlenen@wsba.org, 206-733-5923, 800-945-9722, ext. 5923.

### RESOURCES

**Information for Job Seekers and Employers**

Visit the WSBA Career Center to view or post job openings at [https://jobs.wsba.org](https://jobs.wsba.org). The special discounted rate for nonprofit and small-firm employers, to prevent pricing from becoming a barrier as the legal community continues to navigate the effects of the COVID-19 crisis, has been extended through Dec. 31, 2020. Contact Michael Reynolds at 612-968-3431 or michael.reynolds@communitybrands.com for more information.

**Free Consultations and Practice-Management Assistance**

The WSBA offers free resources and education on practice management issues. For more information, visit [www.wsba.org/pma](http://www.wsba.org/pma). You can also schedule a free phone consultation with a WSBA practice-management advisor to find answers to your questions about the business of law firm ownership. Common inquiries we can help with include technology adoption, opening or closing a law

### ETHICS

**Ethics Line**

Members facing ethical dilemmas can talk with WSBA professional responsibility counsel for informal guidance. Learn more at [www.wsba.org/for-legal-professionals/ethics/ethics-line](http://www.wsba.org/for-legal-professionals/ethics/ethics-line) or call the Ethics Line at 206-727-8284 or 800-945-9722, ext. 8284.

**WSBA Advisory Opinions Available**

WSBA advisory opinions are available online at [www.wsba.org/for-legal-professionals/ethics/about-advisory-opinions](http://www.wsba.org/for-legal-professionals/ethics/about-advisory-opinions). For assistance, call the Ethics Line at 206-727-8284 or 800-945-9722, ext. 8284.

**Lending Library**
Due to the COVID-19-related closure of the WSBA office, the WSBA Lending Library is closed, but you can continue placing holds online. Visit www.wsba.org/library for more information.

**Free Legal Research Tools**
The WSBA offers resources and member benefits to help you with your research. Visit www.wsba.org/legalresearch to learn more and to access Casemaker and Fastcase for free.

**WSBA MEMBER WELLNESS**

**WSBA Connects**
WSBA Connects provides all WSBA members with free counseling on topics including work stress, career challenges, addiction, and anxiety. Visit www.wsba.org/for-legalprofessionals/member-support/wellness/wsba-connects or call 800-765-0770.

**The ‘Unbar’ Alcoholics Anonymous Group**
The Unbar is an “open” AA group for attorneys that has been meeting weekly for over 25 years. Due to COVID-19, the group is holding virtual meetings via Zoom; contact them at unbarseattle@gmail.com. You can also find more details at www.wsba.org/for-legalprofessionals/member-support/wellness/addiction-resources.

**Career Consultation**
Get help with your résumé, networking tips, and more—www.wsba.org/for-

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**HAVE SOMETHING NEWSWORTHY TO SHARE?**
Email wabarnews@wsba.org if you have an item you would like to place in Need to Know.

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**WSBA COMMUNITY NETWORKING**

**Diversity-Stakeholders List Serve**
The WSBA Diversity-Stakeholders list serve is for sharing information about diversity, inclusion, and equity issues affecting the legal community. You do not need to be a member of the WSBA to join the list. Please email diversity@wsba.org to join. Recent past newsletters are posted here: www.wsba.org/about-wsba/equity-and-inclusion/achieving-inclusion.

**New Lawyers List Serve**
This list serve is a discussion platform for new lawyers of the WSBA. To join, email newmembers@wsba.org.

**ALPS Attorney Match**
Attorney Match is a free online networking tool made available through the WSBA-endorsed professional liability partner, ALPS. Learn more at www.wsba.org/connect-serve/mentorship/find-your-mentor, or email mentorlink@wsba.org.

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**QUICK REFERENCE**

**October 2020**

**Usury Rate**
The usury rate for October 2020 is 12.00%. The auction yield of the Sept. 8, 2020, of the six-month Treasury Bill was 0.127%. The interest rate required by RCW 4.56.110(3)(a) and 4.56.115 is 2.127%. The interest rate required by RCW 4.56.110(3)(b) and 4.56.115 is 5.25%.

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**COVID-19 NEWS TO KNOW**

**WSBA COVID-19 Resource Web Page**
All WSBA resources, including member support, law firm management, free CLEs and webinars, information about Washington courts, opportunities to help, and resources for the public can be found here: www.wsba.org/COVID-19.

**Court Emergency Operations and Closures**
The Washington Supreme Court has published a COVID-19 response page, which is a compilation of its emergency orders and court modifications: www.courts.wa.gov/newsinfo/index.cfm?fa=newsinfo.COVID19.

**Law Office Reopening Guide**
The WSBA Coronavirus Response Task Force compiled recommendations for how to safely reopen a law office in Washington. To find the full guide go to www.wsba.org and search “Reopening Guide.”
Disbarred

Alexander Ying-Chi Chan (WSBA No. 41709, admitted 2009) of Bellevue, was disbarred, effective 7/28/2020, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order from the Board of Immigration Appeals (BIA). Joanne S. Abelson acted as disciplinary counsel. Alexander Ying-Chi Chan represented himself. The online version of Washington State Bar News contains a link to the following documents: Stipulation to Nine Month Suspension; Stipulation to Nine Month Suspension; and Washington Supreme Court Order.

Resigned in Lieu of Discipline

Gerri M. Newell (WSBA No. 29316, admitted 1999) of Spokane Valley, resigned in lieu of discipline, effective 7/27/2020. Newell agrees that she is aware of the alleged misconduct in disciplinary counsel’s Statement of Alleged Misconduct and rather than defend against the allegations, she wishes to permanently resign from membership in the Association. The Statement of Alleged Misconduct contains the following violations of the Rules of Professional Conduct: 5.5 (Unauthorized Practice of Law; Multijurisdictional Practice of Law), 5.8 (Misconduct Involving Disbarred, Suspended, Resigned, and Inactive Lawyers), 8.1 (Bar Admission and Disciplinary Matters), 8.4 (Misconduct).

Newell’s alleged misconduct, as stated in disciplinary counsel’s Statement of Alleged Misconduct, relates to her pleading guilty to one count of filing a false income tax return in U.S. District Court for the Eastern District of Washington.

Kathy Jo Blake acted as disciplinary counsel. Julie A. Twyford and Mark Twyford Cassell represented Respondent. The online version of Washington State Bar News contains a link to the following documents: Resignation Form of Gerri M. Newell ELC 9.3(b).

Suspended

Phillip Huang (WSBA No. 50689, admitted 2016) of Seattle, was suspended for nine months, effective 7/28/2020, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 5.5 (Unauthorized Practice of Law; Multijurisdictional Practice of Law), 5.8 (Misconduct Involving Disbarred, Suspended, Resigned, and Inactive Lawyers), 8.1 (Bar Admission and Disciplinary Matters), 8.4 (Misconduct).

In relation to his failure to comply with his 2019 licensing requirements, Huang stipulated to a nine-month suspension for: 1) representing a person in court while suspended, and by continuing to engage in the practice of law by drafting legal documents while suspended; and 2) knowingly making false statements of material fact in his Application for Change of License Status and his response to a grievance.

Scott G. Busby acted as disciplinary counsel. Jeffrey Paul Downer represented Respondent. The online version of Washington State Bar News contains links to the following documents: Order Approving Stipulation to Nine Month Suspension; Stipulation to Nine Month Suspension; and Washington Supreme Court Order.

Reprimanded

Stephen Joseph Garvey (WSBA No. 13486, admitted 1983) of Tacoma, was reprimanded, effective 7/07/2020, by order of the hearing officer. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.16 (Declining or Terminating Representation).

In relation to his representation of a client in a bankruptcy matter, Garvey stipulated to a reprimand for failing to refund his client’s advance payment of fees not earned and expenses not incurred, upon termination of the representation.

Henry Cruz acted as disciplinary counsel. Stephen Joseph Garvey represented himself. The online version of Washington State Bar News contains links to the following documents: Order on Stipulation to Reprimand; Stipulation to Reprimand; and Notice of Reprimand.

Abraham J. Ritter (WSBA No. 42153, admitted 2009) of SeaTac, was reprimanded, effective 7/27/2020, by order of the Chief Hearing Officer. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.3 (Communication), 1.4 (Communication), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation).

In relation to his representation of a client in pursuing an anti-harassment claim, Ritter stipulated to a reprimand for: 1) depositing his client’s fees into his general business account before they were
Notice of Hearing on Petition For Reinstatement of Dean Dinh Nguyen

A petition for reinstatement after disbarment has been filed by Dean Dinh Nguyen (WSBA No. 30148), who was admitted in 2000 and disbarred in 2012. A hearing on Nguyen’s petition will be conducted before the Character and Fitness Board on Friday, December 4, 2020. No later than 5 p.m. on November 20, 2020, anyone wishing to do so may file with the Character and Fitness Board a written statement for or against reinstatement, setting forth factual matters showing that the petition does or does not meet the requirements of Washington State Supreme Court Admission and Practice Rule (APR) 25.5(a). Except by the Character and Fitness Board’s leave, no person other than the petitioner or petitioner’s counsel shall be heard orally by the Board.

Communications to the Character and Fitness Board should be sent to Renata Garcia, Counsel to the Character and Fitness Board, Washington State Bar Association, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539, or to renatag@wsba.org. This notice is published pursuant to APR 25.4(a).

Interim Suspension

John O’Neill Green (WSBA No. 33827, admitted 2003) of Liberty Lake, is suspended from the practice of law in the State of Washington pending the outcome of disciplinary proceedings, effective 7/21/2020, by order of the Washington Supreme Court. This is not a disciplinary sanction.

earned; 2) failing to complete the work he had agreed to do on his client’s behalf; 3) failing to provide information reasonably necessary to permit his client to make informed decisions regarding the representation and by failing to promptly comply with reasonable requests for information; and 4) failing to provide his client with her client file or any other documentation from the case when she requested that he do so.

Benjamin J. Attanasio acted as disciplinary counsel. Anne I. Seidel represented Respondent. The online version of Washington State Bar News contains links to the following documents: Order on Stipulation to Reprimand; Stipulation to Reprimand; and Notice of Reprimand.

More Online

Access further details of the notices by clicking the links in the online version: www.wsba.org/news-events/wabarnews.
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City of Seattle v. Menotti,
409 F.3d 1113 (9th Cir. 2005)

State v. Letourneau,
100 Wn. App. 424 (2000)

Fordyce v. Seattle,
55 F.3d 436 (9th Cir. 1995)

LIMIT v. Maleng,
874 F. Supp. 1138 (W.D. Wash. 1994)

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Seattle Tower — Stand-alone suite on the 15th floor with elevator lobby exposure. 943 SF sublease through 5/30/23. Two large offices, open area, and interior office. Furniture available. Ready to go for your firm. Contact Derek Hermsen, 206-264-9000, derek@unionstreetcre.com.

Available for sublease from law firm in Class A space: up to three offices and two cubicles on 38th floor of Bank of America Plaza at 800 Fifth Ave, Seattle, 98104; three blocks from King County Courthouse, shared conference room and kitchen. $1,200 p/office, $400 p/cubic. Call David at 206-805-0135.
Sarah R. Johnson

BAR NUMBER: 30651
LAW SCHOOL: University of Washington

I worked for the Western District of Washington Probation and Pretrial Services for 13 years before very recently accepting a promotion in the Eastern District of California to Deputy Chief United States Probation Officer. Last year, I spent a year in Washington, D.C., as part of the Directors’ Leadership Program, working on the implementation and development of policy and procedure, as well as proposals for legislative amendments surrounding the First Step Act, the most significant federal criminal justice legislation in decades. I can be reached at Sarah_Johnson@caep.uscourts.gov.

I became a lawyer because I wanted to be an advocate for those who do not have a voice or cannot advocate for themselves. My career has surprised me because I found my passion in work that is not directly practicing law, but that allowed me to use my legal background to be a better advocate for the population we serve. The best advice I have for new lawyers is to follow your passion and do not be constrained by “traditional” legal careers. Doing work you do not have passion for will slowly drain you.

The most rewarding part of my job is seeing the change people can make when given the tools to do so. The worst part of my job is seeing the disappointment in our clients when they have a setback or are returned to custody. If I took one day off in the middle of the week, I would sleep until I woke up without an alarm, go to lunch with friends, and get a pedicure.

I have recently tried living alone for the first time. I had a one-year project in Washington, D.C., and I left the family for my grand adventure. Unfortunately, COVID-19 caused my adventure to come to a premature end, but it was still an amazing experience.

My fitness routine is either on or off. When I am engaged, I run 20 or more miles per week. When I am not, I think about how much running I should be doing while I watch television.

I am happiest when I am watching my sons do something new or rewarding, or listening to good music really loud.

This changed my life: Being able to be present when Washington, D.C., Mayor Bowser had Black Lives Matter painted on the street and renamed the area Black Lives Plaza.

I grew up in the Ballard neighborhood of Seattle.

My best parenting advice is let your kids be who they are; trying to make them who you want them to be fails and makes life hard on both of you. I care about the equal treatment of all people, advocating for the rights of those who are not treated fairly, and making sure I work in an equitable and diverse environment.

Friends would describe me as loyal and a little (OK, a lot) Type A. Aside from my career, I am most proud of this: my four sons.

I give back to my community by dedicating myself to a career in public service. One really nice thing I was able to do while in D.C. was put wreaths on the graves at Arlington Cemetery last holiday season.

This is on my bucket list: Traveling to Greece.

My worst habit is watching entirely too much bad television.

My favorite restaurant is Din Tai Fung.

My favorite band/musical artist is: I can’t pick just one. Music is my love language; I love nearly all music, especially if the music and the lyrics move me. I am not a huge fan of thrash metal or country, but have some likes even in those genres.

My first car was a 1969 Volvo.

I would like to learn to speak Spanish or ASL fluently.

My favorite app for fun is Candy Crush; I know it is such a time suck, but I keep playing. I am on level 6,297. It is a problem.

We’d like to learn about you!

Email wabarnews@wsba.org to request a questionnaire.

My favorite thing to do on the weekends is: travel.

My favorite thing to do when I’m not working is: Travel.

The people I most want to meet are: The people I most want to meet are:...
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