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Washington State
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A Look at the Amendments to the Rules of Professional Conduct — *What You Need to Know*

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SEPTEMBER 2006

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BAR NEWS *welcomes letters from readers. We do not run letters that have been printed in, or are pending before, other legal publications whose readership overlaps ours. Letters should be no more than 250 words in length, and e-mailed to letterstotheeditor@wsba.org or mailed to WSBA, Attn: Letters to the Editor, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330. We reserve the right to edit letters.* Bar News *does not print anonymous letters, or more than one submission per month from the same contributor.*

The ACLU wants you!

Dan Young's article ("*Pro Bono Publico*: What Have You Done (Reported) Lately?" — August 2006 *Bar News*) describes many excellent avenues for *pro bono* service. In addition, RPC 6.1(b)(1) recognizes that attorneys' *pro bono* responsibility also extends to work done on behalf of "organizations seeking to secure or protect civil rights." The American Civil Liberties Union of Washington is proud to be such an organization. With more than 25,000 members statewide, we are determined to make the promise of the Bill of Rights a reality for all people in America.

While our membership is large, our legal staff is small. Volunteer lawyers are therefore integral to the ACLU's efforts. Attorneys from firms both large and small litigate ACLU cases, write amicus briefs, analyze legislative proposals, and speak before community groups. The time commitment can vary considerably, as does the subject matter. Attorneys who are interested in freedom of speech and religion, freedom from discrimination, and ensuring fair treatment from the government can find rewarding and exciting *pro bono* work on our docket.

Freedom can't protect itself. The job takes time, resources, and dedicated volunteers. If you wish to join the ranks of *pro bono* lawyers who share our commitment to freedom and fairness, please contact us at 206-624-2184 or send an e-mail to legal@aclu-wa.org.

Aaron Caplan, Seattle

E-discovery primer primo

As a nonlawyer who does research on topics including law, I found the recent article on e-discovery by Robert A. Medved both readable and helpful ("E-Discovery and the Proposed Amendments to the Federal Rules of Civil Procedure: A Primer" — June 2006 *Bar News*). The cases cited that involved high-profile companies made the article interesting. Among other things, the judge's oral ruling in the Hyundai case sends a message about the price of compromising high ethical standards — in law, business or anywhere else.

Mary Ann Mackin, Seattle

A Privilege Like No Other

S. Brooke Taylor, WSBA President

Wanting to "make a difference" is a common desire. Lawyers seem to be particularly susceptible, and thousands of our WSBA members are successful in this endeavor. The practice of law presents many opportunities to have an impact, with our clients, in our committees, and within our profession. The privilege of serving as WSBA president provides an opportunity like few others.

Presidential prerogatives include determining where five of eight meetings of the Board of Governors will be held around the state; setting the agenda for these meetings; deciding where to visit and what events to attend; key-noting many events, meetings, and receptions, including "listening lunches" with local bar associations during Board meetings; and, perhaps most importantly, communicating with you through these "President's Corner" columns. These monthly articles have not only allowed me to write about things I care about, but have also provided a road map for my year as president. It may be useful to revisit these columns and review where this year has taken us.

The first three columns dealt with one of my two chosen themes for the year, that of developing and institutionalizing a long-term WSBA program for public education about four foundational principles of our democracy: the rule of law, separation of powers, the doctrine of checks and balances, and judicial independence. The October column featured the Terri Schiavo case as an example of these principles, under the title "Rebuilding Public Faith in an Independent Judiciary: Why We Lost It; How We Can Get It Back." November's column, "It's Fundamental: Democracy, Justice, and America's Courts," used the example of Whatcom County attorney Deborra Garrett's efforts to secure the privacy rights of library customers against government intrusion, a prime example of separation of powers and the role of the judicial branch in protecting our citizens' basic rights. The December column, "It's Fundamental, Even When East Meets West," used the dramatic litigation in Chelan County over the gubernatorial race as a conspicuous demonstration of these principles — a respected member of the judicial branch, deciding who had won the top seat in the executive branch, based on standards of review enacted by the legislative branch.

The practice of law presents many opportunities to have an impact, with our clients, in our committees, and within our profession. The privilege of serving as WSBA president provides an opportunity like few others.

At the time I was preparing the December column, I wanted to write about the impacts of the expensive and bitterly fought battles over initiatives 330 and 336, but did not know the results of the general election until too late to meet my deadline. Had either initiative passed, the column would have been very different. That column had to wait until January, as the Legislature was starting its annual session, which seemed at the time to be too late to have any impact on the opportunities for a meaningful compromise. The column entitled "An Open Letter to Physicians — We Need to Talk" started as a "long shot," and turned out to be perhaps the most gratifying initiative of my year. The Washington State Medical Association promptly accepted my invitation, the governor invited all the stakeholders to her table in Olympia, and a truly remarkable collaboration occurred over a very short two months, leading to the passage of SHB 2292, as chronicled in the April column entitled "And Talk We Did." In the long run, the collaborative process may turn out to be more important than the legislation itself, hopefully setting a precedent for further joint efforts by the legal, medical, and insurance communities based on one simple concept: professionals of good will coming together to negotiate in good faith. For her efforts, Governor Gregoire will receive the WSBA's Outstanding Elected Official Award at the Annual Banquet on September 14. Many others who contributed to this remarkable process are acknowledged in the April column.

The columns which appeared in February, "Tales From the Taxi Cab," and in March, "On the Road Again," chronicled my travels as a long-distance president, and the many valuable lessons I have learned along the way. Of particular importance to me has been outreach to county bar associations, implementing my other theme for the year. I had promised the Board of Governors that I would accept every invitation offered, and I have been able to do so, visiting 25 coun-

ties over a two-year period. I distinctly recall being in Bingen, Washington, to attend a delightful joint dinner meeting of the Klickitat and Skamania County bar associations, and having a 55-year member tell me that, in his recollection, no WSBA president had ever visited there. I enjoyed every minute of those visits, and I hope that they were as meaningful to those of you who attended as they were to me. They allowed me to talk directly to you about my two themes for the year, and also about the dramatic changes in the composition of leadership for your Bar Association which have occurred over the last five years, as explained in August's column, "Number 115 and Counting," where I attempted to give you good reason to consider involvement yourself, using this year's president as a classic example of the concept that "if I can do it, you can do it."

The May column was devoted to guest columnist Joanna Plichta, and was entitled "Restoring Faith in the Independent Judiciary Through Judge Greer's Story." Joanna, then a third-year student at Seattle University School of Law, was the winner of the first annual Presidential Scholar Essay Contest, and brought us back to the Terri Schiavo case and its numerous messages for all our citizens. That theme was again picked up in the columns for June and July dealing with the incredible J.A.I.L. Initiative on the ballot in South Dakota, with its ominous implications for all of us.

As I look back over the year, I am so proud of the work done by our Board of Governors and our very capable and professional staff at WSBA headquarters. And I keep coming back to the same dominant theme, over and over again, whether I am revisiting my own writings, recalling comments from other bar leaders around the country, or remembering my readings from the many journals available to our profession: The need to protect the Third Branch is now greater than ever, and rapidly reaching crisis status. And the answer, very simply, is public education and understanding — a mission that requires heavy involvement from lawyers and judges nationwide. At the Western States Bar Leaders Conference in March, all 16 state bar presidents in attendance endorsed a nationwide effort in support of this mission as the highest priority for our profession. WSBA efforts will be known as the Foundations of Freedom Project, with the "Foundations" being the rule of law, separation of powers, the doctrine of checks and balances, and judicial independence. An electorate well informed about these principles would never pass a J.A.I.L. initiative. I am grateful to the hard-working members of the President's Initiative Advisory Committee who have worked diligently for a full year to get this project up and running. As I did back in my October column, I again urge you to consider participation in this essential and worthwhile project.

Finally, let me thank you for the honor of serving as your president. It is a privilege like no other I have experienced, and the pinnacle of my 37-year career in the law. I have enjoyed every day of this journey, particularly the opportunity to meet with colleagues across our state. You have made me proud to be a lawyer, and proud to serve as your president. I hope that my efforts have in some way made a difference.

Brooke Taylor can be reached at 360-457-3327 or sbtaylor@plattirwintaylor.com. *If you would like to write a letter to the editor on this topic, e-mail it to letterstotheeditor@wsba.org or mail it to WSBA* Bar News*, Attn: Letters to the Editor, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330.*

Correction

In the August *Bar News*, it was reported that Ellen Conedera Dial is the first person to be elected WSBA president without having previously served on the Board of Governors. That distinction actually goes to Cleary Cone, who served as WSBA president 1973-74. Mr. Cone has been a member of the WSBA for 55 years and is now an honorary member. *Bar News* regrets the error and sends our apologies to Mr. Cone.

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Supreme Court Adopts "Ethics 2003" Amendments to Rules of Professional Conduct

by Guest Columnist Douglas Ende

In the March 2005 *Bar News*,[1] it was reported that the Washington State Supreme Court had published 185 pages of proposed changes to Washington's Rules of Professional Conduct (RPCs).[2] After a public comment period that expired on April 29, 2005, the Supreme Court Rules Committee began the ponderous task of scrutinizing those proposed changes, evaluating the comments received, and crafting the amendments that the Court ultimately adopted *en banc* (by a 7-2 vote) on July 10, 2006. The effective date of these amendments is September 1, 2006. A complete set of the amended rules is available on the Administrative Office of the Courts website: www.courts.wa.gov/court_rules/?fa=court_rules.adopted.[3]

The Special Committee for the Evaluation of the Rules of Professional Conduct (Ethics 2003 Committee) meets to review Washington's RPCs in response to substantial changes made by the ABA to the Model Rules of Professional Conduct.

What Do I Need to Know?

Many of the RPCs remain essentially the same. For example, RPC 1.1 (Competence) is identical to the rule originally adopted in 1985. In other cases, the text of a rule has been reorganized or clarified, but there is no substantive change to a lawyer's ethical obligations. For example, RPC 1.7 (Conflict of Interest) has been streamlined and simplified, but its principles and the manner in which it applies will remain the same. In other instances, the amended rules do alter the nature of an ethical duty or impose new obligations. And in a few areas, entirely new rules have been adopted.

One change that will be unmistakable to any lawyer reviewing the amended rules is the inclusion throughout of official comments. These comments are based on the comments to the Model Rules (and the numbering of the comments in Washington's RPCs corresponds to the numbering of the Model Rules comments). The comments are intended to explain and illustrate the meaning and purpose of the rules. As indicated in paragraph [21] of the "Preamble and Scope," though the comments are intended as guides to interpretation, the text of each rule is authoritative. In situations where Washington's version of a rule is significantly different from the Model Rule or subject to an established interpretation in our state, additional "Washington Comments" are appended to the official comments to provide customized guidance and information.

Owing to the scope and magnitude of the revisions to the RPCs, it would be prudent for every Washington lawyer to devote adequate time to the study of the amended rules and the comments. To whet your appetite for the task, this month's "Executive's Report" features a sampling of items of interest and significance in the new rules. As you review the amended RPCs, watch for the following:

- Inclusion of new exceptions to RPC 1.6 (Confidentiality of Information), including an exception (identical to its Model Rule counterpart) that permits disclosure "to prevent, mitigate, or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used or is using the lawyer's services." RPC 1.6(b)(3).
- A new mandatory duty to disclose otherwise confidential information of a client "to prevent reasonably certain death or substantial bodily injury." RPC 1.6(b)(1). This revision was made by the Court following the public comment period. By contrast, the counterpart Model Rule designates this as a permissive rather than a mandatory disclosure. The "Ethics and the Law" column on page 40 in this issue of *Bar News* addresses the changes to RPC 1.6 in more detail.
- A substantial number of clarifications to the rules governing conflicts of

interest. *See* RPC 1.7, 1.8, 1.9, 1.10, 1.11 and 1.12. Note further that the former rule governing "Intermediaries," RPC 2.2, has been deleted. Representation of multiple clients in the same matter is now governed exclusively by RPC 1.7, with additional guidance provided by Comments [29] – [33] of that rule.

• Advanced costs and expenses of litigation may be contingent on the outcome of a matter. RPC 1.8(e)(1). This is consistent with the Model Rule but represents a conspicuous change from Washington's former rule, which required that a client remain ultimately liable for advanced court costs and litigation expenses. Though the WSBA Board of Governors recommended retaining the existing rule, the Supreme Court opted to conform this provision to the Model Rule. In addition, a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client. RPC 1.8(e)(2).

Joy McLean (left) addresses Committee Chair Ellen Conedera Dial and Douglas Ende on a point of discussion during an Ethics 2003 Committee meeting.

• Adoption of RPC 1.13 (Organization as Client), clarifying the lawyer's role when representing an organization, and defining the lawyer's obligation upon learning that an officer, employee, or other constituent is violating or intends to violate the law. Previously, the omission of Rule 1.13 was a substantial nonconformity between Washington's RPCs and the Model Rules.

• Clarifications and amendments to the rule governing trust accounts, and addition of a new rule governing trust-account recordkeeping. *See* RPC 1.15A and 1.15B. Unlike the current trust-account rule (RPC 1.14), RPC 1.15 expressly applies to both the property of clients and the property of third persons in the lawyer's possession. It specifies that only a lawyer admitted to practice may be an authorized signatory on the account. And it regulates the withdrawal and disbursement of trust-account funds and the reconciliation of records with greater specificity.

• New RPC 1.15B, governing trust-account recordkeeping, specifies the types of records that a lawyer must maintain and requires that trust-account records must be retained for at least seven years after the events they record.

• Addition of new RPC 1.17, governing the sale of a law practice. Unlike the Model Rule counterpart, Washington's version does not require that a seller of a law practice cease to engage in the private practice of law or in the area of practice that has been sold.

• Addition of new RPC 1.18, governing a lawyer's duties to a prospective client. A prospective client is defined by the rule as "[a] person who discusses with a lawyer the possibility of forming a client-lawyer relationship with respect to a matter." A lawyer is under a duty to maintain the confidentiality of information learned in a consultation with a prospective client. RPC 1.18(b). Additionally, a lawyer may, unless specified precautions were taken, be disqualified from a representation of another person if the lawyer received significantly harmful information from a prospective client. RPC 1.18(c). Because the rule provides for screening of an individually disqualified lawyer, such disqualification will not in all cases be imputed to an entire firm. *See* RPC 1.18(d)(2).

• Addition of new RPC 2.4, governing a lawyer's duties when serving as a third-party neutral. The rule requires a lawyer serving as a third-party neutral, such as a mediator, arbitrator, or conciliator, to explain the lawyer's role in the matter to unrepresented parties.

• Retention of existing RPC 3.3 (Candor to the Tribunal), which governs a lawyer's duty of truthfulness to a court or other tribunal. The Board of Governors had recommended adoption of the Model Rule, requiring a lawyer who gains actual knowledge of an offer of false material evidence by a client to take remedial measures, up to and including disclosure of otherwise confidential information to the tribunal. The Supreme Court opted to retain Washington's variant approach, which prohibits any disclosure to the tribunal that is not permitted by RPC 1.6.

• Addition of a new provision, identical to the Model Rule, governing the circumstances in which a lawyer is prohibited from communicating with jurors after discharge of the jury. *See* RPC 3.5(c).

• A change in the scope of the disqualification when a lawyer is likely to be a necessary witness. Washington's existing RPC 3.7 imputes such a disqualification to other lawyers in the same firm. The amended rule, which is identical to the counterpart Model Rule, dispenses with such imputed disqualification, unless there is an actual conflict of interest under RPC 1.7 or 1.9. *See* RPC 3.7(b).

• Addition of a new provision in RPC 3.8 (Special Responsibilities of a Prosecutor), which prohibits a prosecutor from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client, except in limited circumstances. *See* RPC 3.8(e). This is identical to the Model Rule.

• Addition of a new provision governing a lawyer's duty to notify the sender upon receipt of a document that the lawyer knows or reasonably should know was inadvertently sent. *See* RPC 4.4(b). This is identical to the Model Rule.

• Significant revisions to RPC 5.5 relating to the multijurisdictional practice of law. Under amended RPC 5.5, in defined circumstances a lawyer admitted only in another state may practice law in Washington on a temporary basis in connection with a matter arising in another jurisdiction, as long as such a

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lawyer does not establish a continuous and systematic presence in Washington. Such a lawyer will, however, be subject to the disciplinary jurisdiction of Washington under amended RPC 8.5 (Disciplinary Authority; Choice of Law). Note that under RPC 5.5(d)(1), a lawyer providing legal services to the lawyer's employer or its organizational affiliates (for example, an in-house corporate lawyer) may provide those legal services in Washington without being admitted to practice here, as long as the services are not those for which *pro hac vice* admission is required. Because of the adoption of this provision, it is no longer necessary for most "house counsel" to be specially admitted to practice in Washington. The existing special admission rule for "house counsel," APR 8(f), has been amended to apply only to "foreign house counsel," i.e., a lawyer admitted to practice law in other than a U.S. jurisdiction.

• Retention of the existing discretionary rule on reporting the professional misconduct of another lawyer or a judge. *See* Rule 8.3. Though the Board of Governors had recommended adoption of the Model Rule, which requires a lawyer to report serious professional misconduct to the appropriate authority, the Supreme Court opted to retain Washington's longstanding approach, which encourages but does not require such reporting.

How Did We Get Here?

The process leading to these changes began in late 2002, when the WSBA Board of Governors established the Special Committee for the Evaluation of the Rules of Professional Conduct (Ethics 2003 Committee) to review Washington's RPCs in light of substantial changes made by the ABA to the Model Rules of Professional Conduct.

The Ethics 2003 Committee, chaired by Ellen Conedera Dial, conducted an extensive process of review and analysis over a 13-month period and issued a report with its recommendations in March 2004.[4] Recognizing the importance of consistency and uniformity in rules regulating lawyer conduct, the Ethics 2003 Committee recommended adoption of the Model Rules, together with associated commentary, unless there was a compelling and articulable reason for deviation. In general, the content of the amendments suggested by the Ethics 2003 Committee substantially paralleled the ABA Model Rules in form and substance. In some instances, the Committee recommended that existing RPC provisions be retained or that new Washington-specific provisions be adopted. The great majority of the Committee's recommendations were approved and adopted by the Board of Governors.[5]

In October 2004, the WSBA submitted the recommendation as a whole to the Washington State Supreme Court as a set of suggested amendments under GR 9. After publication as proposed amendments in January 2005 and a public comment period, the Court adopted most of the Ethics 2003 amendments as proposed, though the Court did make a number of significant changes.

Douglas Ende (right) clarifies a matter at an Ethics 2003 Committee meeting.

What Should I Do Next?

As Washington lawyers begin to adapt to the revised rules, on the horizon are a number of CLE programs designed to assist practitioners in making the transition. On September 18, 2006, WSBA-CLE will present The New Rules of Professional Conduct seminar at the Red Lion Hotel in Seattle. The seminar — co-chaired by Gail McMonagle, professional standards counsel at Perkins Coie and vice chair of the WSBA Disciplinary Board, and Chris Sutton, WSBA professional responsibility counsel — will highlight the significant changes to the rules and emerging ethics issues created by the RPC amendments. This half-day seminar will be provided in the morning and repeated in the afternoon; it will also be videotaped and available later online. In addition, all WSBA-CLE seminars this fall that have an ethics session will emphasize the relevant RPC changes. On December 13 and 14, the fourth annual WSBA Conference on the Law of Lawyering, co-chaired by Mark Johnson and J. Donald Curran, will include sessions focusing on the practical effects of the amended rules, including the impact of the Supreme Court's decision to adopt official comments. Watch for brochures and information about both programs on the WSBA-CLE website.[6]

The Law Office Management Assistance Program (LOMAP) will feature sessions on important changes to the RPCs in its 2006 Traveling Seminar, LOMAP & Ethics ...On the Road, held at multiple locations throughout the state. And on September 22, LOMAP Advisor Pete Roberts will be presenting a session titled "Fraud in the Law Office and Update on (New) RPC 1.15A and B for Trust Accounts" at the 12th annual Tacoma Pierce-County Bar Association Convention at the Semiahmoo Resort in Blaine. More information about these events and other LOMAP programs is available on the WSBA website,[7] or call the LOMAP coordinator at 206-733-5914 or 800-945-WSBA, ext. 5914.

Those interested in the implications of the changes to the trust-account rules may want to attend a September 8 program sponsored by the Spokane County Bar Association titled "Running a Law Practice 1: Tips and Tools." For more information, call the SCBA at 509-477-6032. A program sponsored by the King County Bar Association Solo/Small Firms Law Section is planned for

September 15. For more information about this session, call KCBA at 206-267-7100. Also watch for an upcoming "Ask the Auditor" column in *Bar News* that will discuss the changes to the trust account rules.

One of the purposes of the Ethics 2003 amendments was to clarify the rules of ethics governing the conduct of Washington lawyers. But ethical dilemmas will inevitably arise. The WSBA Ethics Line is available to help members analyze ethical issues, apply the proper rules, and make an ethically sound decision. Professional Responsibility Counsel Christopher Sutton and Douglas Ende were both involved in the process that led to the Ethics 2003 revisions. You can speak to them directly on the Ethics Line at 800-945-9722, ext. 8284, or 206-727-8284.

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NOTES

1. See "Ethics and the Law: Supreme Court Publishes Proposed Amendments to Rules of Professional Conduct for Public Comment," *Washington State Bar News* (March 2005), at http://www.wsba.org/media/publications/barnews/2005/mar-05-supreme.htm.
2. These proposed amendments were published in the January 18, 2005, *Washington Reports* official advance sheets. See 153 Wn.2d No. 1.
3. A link is also available on the WSBA homepage, www.wsba.org, as well as on the Ethics 2003 Committee web page on the WSBA website: www.wsba.org/lawyers/groups/ethics2003.
4. A copy of the Committee's report, along with a detailed discussion of the various recommended changes, is available on the Ethics 2003 web page: www.wsba.org/lawyers/groups/ethics2003.
5. Instances in which the Board revised the Committee's recommendations are noted in a supplement to the Ethics 2003 Committee Report, also available on the WSBA website. *See* Board of Governors' Revisions to Ethics 2003 Committee Recommendations, at http://www.wsba.org/lawyers/groups/ethics2003/boardofgovernorsrevisionswithcomments.doc.
6. *See* http://www.wsba.org/cle.
7. *See* http://www.wsba.org/lawyers/services/lomap.htm.

Legislation of Interest to Lawyers: Legal News You Can Use

BY REPRESENTATIVE PATRICIA LANTZ AND REPRESENTATIVE SKIP PRIEST

Although it was short, there was never a dull moment in the 2006 legislative session. The Legislature worked hard this session addressing many issues of interest to civil and criminal-defense lawyers. This article summarizes some of those bills, many of which were worked on in the House and Senate judiciary committees. Included in this summary are bills concerning healthcare liability, the dissolution of corporations, and increasing penalties for DUI.

There is not enough space in this article to provide a full discussion of the context of each bill. However, all bills and bill reports from the 2006 legislative session may be obtained online at the legislative website, www.leg.wa.gov. In addition, a full description of all bills that passed the 2006 Legislature can be obtained by ordering the *2006 Final Legislative Report*. To order, contact the Legislative Information Center at 360-786-7573. House Judiciary Committee staff can be contacted at 360-786-7122, or by sending inquiries to PO Box 40600, Olympia, WA 98504-0466.

Civil Law

3SHB 1226: Adjusting application of campaign contribution limits

Prime Sponsor: Representative Shay Schual-Berke

Campaign contribution limits are extended to: (1) candidates for county office in a county that has more than 200,000 registered voters; (2) candidates for special-purpose district office in districts authorized to provide freight and passenger transfer and terminal facilities and that have more than 200,000 registered voters; and (3) candidates for judicial office. Contribution limits for candidates for county office may not exceed an aggregate of $700 per election from an individual, a union, a business, or a political action committee, and limits for candidates for special-purpose district office or judicial office may not exceed an aggregate of $1,400 per election from an individual, a union, a business, or a political action committee. Political party contribution limits also apply.

Additionally, provisions related to campaign contribution disclosure by out-of-state political committees are changed. Out-of-state committees must report to the Public Disclosure Commission (PDC) contributions of $2,500 or more made by out-of-state residents and corporations. Out-of-state political committees that report to the Federal Elections Commission are no longer exempted from reporting to the PDC.

HB 1471: Changing provisions relating to authentication of documents

Prime Sponsor: Representative John Lovick

Statutory provisions relating to seals and authentication of documents are updated. A seal required to authenticate a document need only be printed onto the document in some fashion to be considered valid, rather than the previous requirement that a seal be directly impressed onto the paper. Additionally, certified copies of official documents may be sent by fax or other electronic transmission and still be treated as genuine.

SHB 1650: Modifying civil and traffic infraction provisions

Prime Sponsor: Representative Al O'Brien

The requirement that a person who is cited for a traffic or other civil infraction or citation must sign the notice of infraction or citation is removed. In addition, the refusal to sign a notice of infraction or citation is decriminalized. The requirement that a person who is arrested for a traffic law violation punishable as a misdemeanor must sign a notice of written promise to appear in court in order to secure his or her release is removed. A person who receives a statement of his or her options and procedures for responding to a notice of civil infraction, and who thereafter fails to exercise one of those options in a timely manner, is guilty of a misdemeanor.

ESHB 1850: Creating a retired volunteer medical worker license

Prime Sponsor: Representatives Shay Schual-Berke and Eileen Cody

A retired volunteer medical worker license is established for individuals assisting during an emergency or disaster, and limited immunity from civil liability is provided for the acts or omissions of a license holder while assisting in an emergency or disaster. The secretary of health may issue a retired volunteer medical worker license to any person who: (1) held an active healthcare provider license within 10 years prior to applying for the license; (2) does not have any restrictions to practice due to violations of the Uniform Disciplinary Act; and (3) registers with a local emergency services or management organization affiliated with the Emergency Management Division of the Military Department.

Retired volunteer medical workers must be supervised and may perform only the duties that were associated

with their practice prior to retirement. They are required to maintain continuing competency requirements established by the Secretary of Health and are subject to the Uniform Disciplinary Act.

An individual who holds a volunteer medical worker license and is registered as an emergency worker is considered a "covered volunteer." Covered volunteers, their supervisors, healthcare facilities, property and vehicle owners, local organizations that register covered volunteers, and government entities are immune from liability for the acts or omissions of a covered volunteer while providing assistance or transportation during an emergency or disaster or during an approved training. The immunity applies when the covered volunteer was acting without compensation, within the scope of assigned duties, and under the direction of the organization with which he or she was registered. The immunity does not apply to acts of gross negligence or willful misconduct.

2SHB 2292: Addressing healthcare liability reform

Prime Sponsor: Representative Pat Lantz

A variety of changes are made relating to medical malpractice issues in the three areas designated patient safety, insurance industry reform, and healthcare liability reform.

Patient Safety: In the area of patient safety, changes are made relating to a variety of healthcare practices and discipline.

In a medical negligence action, a healthcare provider's statement of fault, apology, sympathy, or potential remedial actions is not admissible as evidence if it was conveyed to the injured person or certain family members within 30 days of the act or omission, or the discovery of the act or omission, that is the basis for the claim.

Immunity is provided to a healthcare provider who in good faith makes a report or provides evidence to a disciplining authority regarding another provider's unprofessional conduct or lack of capacity to practice safely.

An adverse-event reporting system is established. A medical facility must report serious "adverse events" to the Department of Health (DOH) within 48 hours and submit a subsequent report within 45 days. The reports must include a root-cause analysis of the adverse event and a corrective action plan. The DOH must investigate and evaluate the reports. The DOH must contract with an entity to develop a secure Internet-based adverse-event reporting system. The entity must analyze adverse-event reports and develop recommendations for changes in healthcare practices to reduce adverse events.

A health-profession disciplining authority may consider prior findings of unprofessional conduct, stipulations to informal disposition, and the actions of other Washington or out-of-state disciplining authorities when imposing a sanction against a provider.

Other patient-safety provisions include: increasing the public membership component of the Medical Quality Assurance Commission from four to six members; expanding the types of programs that may become coordinated quality-improvement programs; and requiring prescriptions for legend drugs to be either hand-printed, typewritten, or generated electronically.

Insurance Industry Reform: A number of changes are made to the medical-malpractice-insurance industry, including requiring closed-claim reporting, changing requirements relating to underwriting standards and cancellation or non-renewal of policies, and requiring prior approval of rates and forms.

Self-insurers and insuring entities that write medical-malpractice insurance are required to annually report medical-malpractice closed claims that are closed after January 1, 2008, to the Office of the Insurance Commissioner (OIC). If a claim is not covered by an insuring entity or self-insurer, the provider or facility must report the claim. The reports must contain specified data relating to the claim. A claimant or the claimant's attorney in a medical-malpractice action that results in a final judgement, settlement, or disposition also must report to the OIC specified data relating to the claim. The OIC must use the data to prepare aggregate statistical summaries of closed claims and an annual report of closed claims and insurer financial reports.

During the underwriting process, an insurer may consider the following factors only in combination with other substantive underwriting factors: (1) that an inquiry was made about the nature or scope of coverage; (2) that a notification was made about a potential claim that did not result in the filing of a claim; or (3) that a claim was closed without payment. An insurer must provide written notice to the insured describing the significant risk factors that led to an adverse action.

The mandatory notice period for cancellation or non-renewal of medical-malpractice liability-insurance policies is increased from 45 days to 90 days. An insurer must deliver or mail to the insured a written notice of the cancellation or non-renewal that includes the actual reason for the action and the significant risk factors that led to the action.

Medical-malpractice rate filings and form filings are changed to a prior approval system. An insurer, prior to issuing a medical malpractice policy, must file with the commissioner the policy rate and forms, which cannot become effective until 30 days after the filing.

Healthcare Liability Reform: A variety of changes are made to the civil liability system as it applies to medical-negligence claims.

Tolling of the statute of limitations during minority is eliminated. In addition, the eight-year statute of repose is reestablished.

In an action involving a claim of a breach of the standard of care, the plaintiff must file a certificate of merit executed by a qualified expert at the time of commencing the action. The certificate of merit must state there is a reasonable probability that the defendant's conduct did not meet the required standard of care. Failure to file a valid certificate of merit results in dismissal of the case.

A voluntary arbitration system is established. The voluntary arbitration system may be used only where all parties have agreed to submit the dispute to voluntary arbitration once the suit is filed. The maximum award an arbitrator can make is limited to $1 million for both economic and non-economic damages. In addition, the arbitrator may not make an award of damages based on the "ostensible agency" theory of vicarious liability.

A dispute submitted to the voluntary arbitration system must follow an expedited schedule, and the parties are generally entitled to only limited discovery and a limited number of expert witnesses. There is no right to a trial *de novo* on an appeal of the arbitrator's decision.

The collateral source payment statute is amended to remove the restriction on presenting evidence of collateral source payments that come from insurance purchased by the plaintiff. The plaintiff, however, may introduce evidence of amounts paid to secure the right to the collateral source payments and evidence of an obligation to repay the compensation.

Other healthcare liability provisions include: requiring a plaintiff to provide a defendant with 90 days' prior notice of the intention to file a suit; requiring mandatory mediation of a medical-malpractice claim unless the claim is subject to either mandatory or voluntary arbitration; and establishing a provision regarding frivolous claims and defenses.

HB 2366: Making certain communications between fire fighters and peer support group counselors privileged

Prime Sponsor: Representative Brian Sullivan

A testimonial privilege is created to protect communications made by a firefighter to a peer-support-group counselor while receiving counseling as the result of an incident in which the firefighter was involved while acting in his or her official capacity. This privilege applies to communications made to a counselor acting in his or her capacity as a peer-support-group counselor. The privilege does not apply if the counselor was an initial responding firefighter, a witness, or a party to the incident that prompted the counseling services to the firefighter.

HB 2379: Disposing of nonprobate assets under will

Prime Sponsor: Representative Pat Lantz

Where a beneficiary for a non-probate asset has been designated in a will that is later revoked by a new designation, which is also later revoked, the non-probate asset is treated as any other general asset

of the owner's estate, absent some other provision controlling the disposition of the asset. The executor of the estate may rely on information provided to him or her by a financial institution or other party with control of the non-probate asset when determining who is entitled to the asset.

HB 2380: Changing the threshold age of minors under the uniform transfers to minors act

Prime Sponsor: Representative John Serben

The Uniform Transfers to Minors Act (UTMA) is amended to allow a transferor to elect to extend custodianship of property until a "minor" has reached age 25, instead of age 21. Such an extension must be elected by the transferor at the time of the initial nomination of the custodian of the property and is available only for transfers of property made on or after July 1, 2007. The statutory sample instrument for transfers under the UTMA is amended to include a warning statement about the possible federal gift tax consequences of extending a custodianship beyond the minor's 21st birthday. Any custodianship forms made available by financial institutions or investment advisers must contain the same warning.

The age at which a minor may independently exercise certain rights under a UTMA custodianship is raised from 14 to 18 years old.

SHB 2576: Creating sexual-assault protection orders

Prime Sponsor: Representative Brendan Williams

A new civil order is created for sexual-assault victims. Any person who is a victim of nonconsensual sexual conduct or nonconsensual sexual penetration, including a single incident, may file for a sexual-assault protection order. The court may not deny an order on the basis that no police report was made or because there is no proof of physical injury. If the respondent is represented by counsel, the court may appoint counsel for the petitioner. (Standardized forms are available on the Washington Courts website, www.courts.wa.gov/forms.) A more detailed summary of this legislation was provided in a June 2006 *Bar News* article *A New Tool for Safety: Introducing Washington's Sexual Assault Protection Order*.

EHB 2579: Requiring classroom-based civics assessments

Prime Sponsor: Representative Dave Upthegrove

Beginning with the 2008-09 school year, students in grades 4, 5, 7, or 8, and 11 or 12 will complete a classroom-based assessment in civics. School districts must submit a verification report to the Office of the Superintendent of Public Instruction (OSPI) documenting the districts' use of a classroom-based assessment in civics.

The OSPI is directed to work with the county auditors of up to 15 selected counties to develop a civics-curriculum pilot project. The curriculum must include, but is not limited to: (1) local government organization; (2) discussion of ballot measures, initiatives, and referenda; (3) the role of precincts in defining ballots, candidates, and political activities; (4) the roles and responsibilities of taxing jurisdictions in establishing ballot measures; and (5) the work of conducting elections. The OSPI must develop a curriculum guide that incorporates ideas from other

Washington civics-education programs. The pilot project will operate for the 2006-07 and 2007-08 school years.

ESHB 2661: Expanding the jurisdiction of the Human Rights Commission
Prime Sponsor: Representative Ed Murray

The Law Against Discrimination is expanded to prohibit discrimination based on a person's sexual orientation. "Sexual orientation" is defined as heterosexuality, homosexuality, bisexuality, and gender expression or identity. "Gender expression or identity" is defined as having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

Real-estate transactions that include the sharing, rental, or sublease of a dwelling unit when the dwelling unit is to be occupied by the owner or sublessor are exempted from the Law Against Discrimination. Further, the Law Against Discrimination is not to be construed to: require an employer to establish employment goals or quotas based on sexual orientation; modify or supersede state law relating to marriage; or endorse any specific belief, practice, behavior, or orientation.

EHB 3074: Concerning default judgments against service members
Prime Sponsor: Representative John Serben

The Washington Service Members' Civil Relief Act is amended to create a process for determining whether a defendant who does not make an appearance in a civil action or proceeding is a dependant of a service member in military service. In such an action, the plaintiff may serve on or mail via first-class mail to the defendant a written notice. The contents of the notice must be substantially the same as the notice set forth in the Act and must include provisions notifying the defendant of the rights available to a dependent of a service member in military service and the consequences of failing to notify the plaintiff of his or her status as a dependant of a service member in military service.

For the purposes of entering a default judgment, a court or administrative tribunal may presume that an absent defendant is not a dependant of a service member in military service if the defendant fails to timely respond to a notice that is either served on the defendant at least 20 days, or mailed to the defendant at least 23 days, before an application for a default judgment.

The stay of proceedings provision of the Act is amended to provide that the failure of a defendant who is protected under the Act to communicate or cooperate with counsel after having been contacted is not grounds to find that counsel has been unable to contact the defendant to determine whether there is a valid defense.

HB 3139: Clarifying kinship caregivers' consent for mental-health healthcare of minors
Prime Sponsor: Representative Eric Pettigrew

The statutory provision regarding who may provide informed consent for

healthcare for a minor who is legally incompetent to provide consent is amended to clarify that informed consent for medical care includes mental-health care.

The mental-health statutes pertaining to minors are amended to permit a person who is authorized to give informed consent for medical care to authorize inpatient or outpatient mental-health care for a minor child under the age of 13.

SB 6463: Allowing banks and savings banks to organize as limited liability companies

Prime Sponsors: Senators Darlene Fairley and Don Benton

A bank, savings bank, and the holding company of a bank or a savings bank may be organized as, or convert to, a limited liability company (LLC) upon approval by the director of the Department of Financial Institutions (DFI). The director may approve a request if he or she finds that the bank or holding company meets specified criteria, including that the entity: will operate in a safe and sound manner; is perpetual in duration; is not subject to automatic termination, dissolution, or suspension upon the happening of some event; and does not hold an owner liable for the debts, liabilities, and obligations of the bank or holding company in excess of the amount of the owner's investment.

The exclusive authority to manage the bank or holding company must be vested in a board of directors that is elected or appointed by the owners and that is not required to include owners of the bank or holding company on the board. In addition, the board must possess adequate independence and authority to supervise the operation of the bank or holding company and must operate with substantially the same rights, powers, and duties as the board of directors of a corporation.

A member's interest in the bank or holding company may be transferred as if it were a share of stock in a corporation. If a member's interest in the bank or holding company is transferred, the person who receives the interest obtains the entire rights associated with the interest in the bank or holding company. All voting members are liable and responsible as fiduciaries of the LLC to the same extent that directors of a bank or holding company organized as a corporation are liable or responsible to the DFI and applicable federal banking regulators.

A bank or holding company organized as a limited liability company may not permit automatic dissolution or suspension, or automatic dissociation of all members of the LLC. If death, incapacity, or disqualification results in a complete dissociation of all members of the LLC, the LLC is deemed to remain in existence for the purpose of the DFI or a federal agency exercising the powers and authorities of a receiver.

SSB 6572: Revising the unlawful detainer process under the Residential Landlord-Tenant Act

Prime Sponsor: Senator James Hargrove

The notice to a tenant in an unlawful detainer action based on the failure to pay rent is amended to include a statement telling the tenant that he or she must notify the landlord in writing that rent has been paid in the court registry or that a statement regarding why rent is not owed has been submitted to the court. The tenant may serve notice to

the landlord either by personal delivery, mail, fax, or other means authorized by court rules.

SB 6596: Revising the dissolution of Washington corporations

Prime Sponsor: Senator Adam Kline

Various changes are made to Washington's Business Corporations Act to help solve problems with interpretation and to help Washington remain consistent with the model code. Areas addressed include procedures for dissolution, creditors' claims, and distribution of assets.

Procedures for dissolution: A majority of initial directors or incorporators may authorize dissolution of the corporation if shares have not been issued. If not prohibited by the articles of incorporation, a majority of the board of directors may authorize dissolution of the corporation without approval of the shareholders if the corporation is not able to pay its liabilities as they become due, the corporation's assets are less than the sum of its liabilities, and if 10 or more days have passed since the board gave notice to all shareholders of its intention to dissolve the corporation.

Within 30 days of a voluntary dissolution, the corporation must publish notice of the dissolution and request that persons with claims present them to the corporation in a format prescribed in the initial published notice. The notice must also state that claims not filed in a timely manner may be barred. The corporation's failure to publish its dissolution does not change the effective date of the dissolution.

The corporation may give written notice of dissolution to the holders of claims known to the corporation, stating a general description of the claims or liabilities and stating that the claim may be barred if the claim holder does not respond. The written notice may also state that the claim may be rejected, in which case the claim holder will have a limited period of time in which to commence an action to enforce the claim.

As a dissolved corporation winds up its affairs, it may dispose of properties and apply the proceeds to the payment of liabilities, or dispose of the properties with the applicable liens and security interests attached and within the applicable contractual restrictions. Once dissolved, the board of directors may determine that the payment of outstanding liabilities is provided for by an insurance policy. Once that determination is made, the board may consider the liabilities satisfied and may make a subsequent distribution of remaining assets to the shareholders.

If the board of directors turns over control of the dissolved corporation to a court or receiver, the directors are relieved from any further duties of liquidating the corporation's assets and satisfying the liabilities.

A dissolved corporation may seek supervision by a superior court of its winding up and liquidation. The shareholders or directors need not be made parties to the proceeding unless relief is sought against them.

A dissolved corporation may apply to a superior court for a determination that its proposed satisfaction of a claim or liability is reasonable. The corporation must give notice to the claim holder of such a proceeding. The superior court's determination of the amount and form of satisfaction of a claim satisfies the corporation's obligation with respect to that particular claim and further claims

on the same facts are barred.

Claims against the corporation: The holder of an unpaid claim may begin a proceeding against the corporation to collect on the claim. The proceeding may include a petition to collect assets that have already been distributed to shareholders, and those shareholders may become parties to the proceeding. The claim holder may not proceed directly against the directors, officers, or shareholders, except in limited circumstances. Claims that are barred by any of the circumstances in this act cannot be enforced against the corporation.

Survival provisions are clarified to make clear that claims arising after filing for dissolution can be asserted against the corporation, and the survival period is extended to three rather than two years.

Provisions for distribution of assets: Assets of a corporation transferred to a liquidity trust or other successor are not considered to be distributed for purposes of measuring their legality, until the trust or other successor distributes the assets to the shareholders.

A shareholder is personally liable for distributions he or she received while knowing the distribution, or a portion thereof, was made in violation of WBCA's provisions for distribution, or made in violation of the corporation's articles of incorporation. The shareholder in violation is entitled to contribution from every other shareholder also in violation. A proceeding against the shareholder for the violation must begin within two years of the effective date of the distribution, or within three years after the date of dissolution of the corporation, whichever is earlier.

The board of directors of a corporation may dedicate the corporation's assets to the repayment of its creditors by way of assignment for the benefit of creditors, or receivership.

SSB 6597: Modifying trusts and estates, generally
Prime Sponsor: Senator Stephen Johnson

Numerous changes are made to the trust and estate laws. Many of the changes enable Washington trusts to take advantage of federal tax provisions, or protect Washington trusts against inadvertently missing or losing favorable federal tax treatment.

Washington Principal and Income Act of 2002: The Principal and Income Act is expressly made applicable to trusts that are converted to unitrusts. The four percent payout for a unitrust is retained as the default amount, but if the trust instrument allows it, a trustee may select an annual payout of between three and five percent. A unitrust trustee is allowed to allocate, reasonably and impartially, certain capital gains as income in order to achieve favorable federal-tax treatment.

Marital deduction: Unless a contrary intent is expressed, a gift is presumed to be intended to take advantage of any available state or federal tax exemption, exclusion, deduction, or credit. For instance, a gift to a spouse is presumed to be intended to qualify for the marital deduction. These presumptions may be overcome only by clear, cogent, and convincing evidence.

The trust-gift distribution law is amended to explicitly allow Washington trusts to achieve favorable estate-tax treatment under the state law as well as the federal estate tax law and to expressly cover marital gifts whether they

are lifetime, testamentary, outright, or in trust. The trust-gift distribution law is also amended to be consistent with federal law with respect to allowable periods of required spousal survival beyond the death of a spouse making a gift that qualifies for the marital deduction.

Spendthrift trusts: The lapse of a beneficiary's power of withdrawal does not result in the property over which the power could have been exercised being considered as having been placed in the trust by the beneficiary. Therefore, such a lapse does not result in the unintended creation of a self-settled trust, the assets of which would be subject to creditors' claims.

Small estates: The maximum value of a small estate that qualifies for disposition by affidavit instead of probate is raised from $60,000 to $100,000.

Criminal Law

HB 2328: Changing provisions relating to the insanity defense
Prime Sponsors: Representatives Pat Lantz and Skip Priest

A criminal defendant's privilege against answering questions during an insanity-defense mental examination is removed. A defendant who refuses to answer questions or to participate in a sanity evaluation may not present his or her own mental expert's testimony at trial. These changes apply to mental examinations performed on or after the effective date of the act, June 7, 2006.

HB 2409: Changing provisions relating to sex and kidnapping offender registration
Prime Sponsor: Representative Al O'Brien

Sex and kidnapping offenders must provide their complete residential addresses when registering. The time within which such offenders coming from another state must register is decreased from 30 days to three business days. When a sex or kidnapping offender moves or becomes homeless, he or she must send written notice to the county sheriff. Knowing noncompliance with the registration statute is a crime.

HB 3252: Prohibiting offenders who enter Alford pleas from receiving a Special Sex Offender Sentencing Alternative
Prime Sponsor: Representative Al O'Brien

An offender entering a plea of guilty may not receive a Special Sex Offender Sentencing Alternative unless the offender admits to the underlying offense.

HB 3277: Authorizing special verdict for specified sex offenses against children and vulnerable adults
Prime Sponsor: Representative Al O'Brien

The minimum sentences for child molestation in the first degree, rape of a child in the first degree, and rape of a child in the second degree is increased when a special allegation has been made and proven that the offense was predatory. Minimum sentences for indecent liberties with forcible compulsion, kidnapping in the first degree with sexual motivation, rape in the first degree, and rape in the second degree are also increased when a special allegation has been made and proven that the victim was under the age of 15 at the time of the offense. Minimum sentences for indecent liberties with forcible compulsion, kidnapping in the first degree with sexual motivation, rape in the first degree, and rape in the second degree with forcible compulsion are increased when a special allegation has been made and proven that the victim was a person with a development disability, a mentally disordered person, or a frail elder or vulnerable adult.

HB 3317: Changing provisions relating to driving under the influence of intoxicating liquor or any drug
Prime Sponsor: Representative John Ahern

A conviction for drunk driving (DUI) is a class C felony if the offender: (1) has four or more prior DUI-related offenses within 10 years; or (2) has ever been convicted of vehicular homicide while under the influence of alcohol or drugs or vehicular assault while under the influence of alcohol or drugs. Felony DUI is ranked as a Level V offense under the Sentencing Reform Act and a Category B+ offense under the Juvenile Justice Act.

A felony DUI offender is not eligible for the first-time-offender waiver program, the Drug Offender Sentencing Alternative, or work ethic camp. The court must order the offender to undergo treatment during incarceration. The offender is liable for the costs of treatment unless the court finds the offender is indigent and no third-party insurance is available. The license suspension and ignition interlock provisions under the misdemeanor DUI laws apply. The bill takes effect July 1, 2007.

E2SSB 6239: Changing provisions relating to controlled substances
Prime Sponsor: Senator Jim Hargrove

Numerous changes were made regarding criminal sentencing for drug offenses, the authority of local health officers in the context of meth sites, and other miscellaneous areas related to drug use.

Sentencing: Sentence enhancements for ranked drug offenses are to be served consecutively. Drug Offender Sentencing Alternative offenders will serve 12 months or up to the half point of a sentence, whichever is greater. When the court determines that chemical dependency contributed to the felony offense, the offender, not just drug offenders, must receive a chemical dependency screening report prior to sentencing.

Authority of local health officers: When they have probable cause, local health officers (LHOs), in consultation with law enforcement officers, are granted the authority to seek a warrant to conduct inspections of property. LHOs are granted the authority to issue emergency, 72-hour orders when they determine the order is necessary to protect the public health, safety, or the environment.

In addition to condemning or demolishing contaminated property, city or county officials may take additional actions such as prohibiting the use, occupancy, or removal of property, or ordering its decontamination. These actions are appealable; however, restrictions on use, occupancy, or removal of property are enforceable while the appeal is pending. City and county personnel, and their cleanup contractors, must comply with the local health officer's orders.

It is a misdemeanor for anyone to enter property after an order declaring it to be unfit has been issued.

In addition to decontamination, the owners or authorized contractors are required to submit written work plans for demolition or disposal activities. Property owners are responsible for: 1) the costs of any property testing which may be required to demonstrate the presence or absence of hazardous chemicals; and 2) the costs of the property's decontamination, demolition, and disposal expenses, as well as costs incurred by the local health officer. Within 30

days of issuing an order of unfitness, the local health officer must establish a time period in which decontamination, demolition, and disposal will be completed and fines or legal actions may be taken upon failure to meet the deadline.

Miscellaneous: The definition of "neglect" of vulnerable adults and children is amended to include exposure to meth or ingredients of meth when there is intent to manufacture meth. The definition of "drug court" is clarified to include juvenile drug courts.

Domestic Violence

ESHB 2848: Protecting confidentiality of domestic-violence information
Prime Sponsor: Representative Pat Lantz

Communications between a domestic-violence victim and a domestic-violence advocate are privileged. A "domestic-violence advocate" is an employee or supervised volunteer from a community-based domestic-violence program or human-services program that provides information, advocacy, counseling, crisis intervention, emergency shelter, or support to victims of domestic violence and who is not employed by or under the direct supervision of law enforcement, a prosecutor's office, or child protective services of the DSHS.

An advocate may disclose confidential communications without the victim's consent if failure to do so is likely to result in a clear, imminent risk of serious physical injury or death. The privilege does not relieve a domestic-violence advocate from the mandatory reporting requirements for child abuse. Domestic-violence advocates are immune from liability for good-faith disclosure. In an action arising out of disclosure, the advocate's good faith is presumed.

Unless required by court order, a domestic-violence program and those assisting in delivering services, or any agent, employee, or volunteer of a domestic-violence program, must not disclose information about a recipient of domestic-violence services without the recipient's signed authorization.

The recipient's authorization must have a reasonable time limit on the duration. If the authorization does not have a specific expiration date, the authorization expires 90 days after the date it was signed. If disclosure is required by statute or court order, the domestic-violence program must make reasonable attempts to notify the recipient of the disclosure. If personally identifying information is to be disclosed, the domestic-violence program must take steps necessary to protect the privacy and safety of the persons affected by the disclosure.

SSB 6806: Establishing the Domestic Violence Hope Card Study Committee
Prime Sponsor: Senator Luke Esser

The Domestic Violence Hope Card Study Committee is created. The Committee is directed to review the practicality of requiring the statewide distribution of a wallet-sized card to a victim of domestic violence that: (a) documents the existence and contents of a protection order and provides identifying information about the respondent, including a photograph; and (b) contains contact information regarding the courts, domestic-violence services, and law enforcement.

The Committee will also review: the information statutorily required to be provided to domestic-violence victims and whether they are receiving the information; the implementation costs of such a statewide program; the confidentiality, privacy, and safety concerns that may be implicated; and how non-state funds could be used to pay for program implementation.

Family Law

HB 3048: Changing the effective date of the Uniform Interstate Family Support Act (UIFSA)
Prime Sponsors: Representatives Jim Moeller and Jeannie Darneille

In 2002, the Legislature adopted amendments to the Uniform Interstate Family Support Act that were proposed by the National Conference of Commissioners on Uniform State Laws, but with an effective date of six months following the date that Congress required states to adopt the UIFSA amendments. HB 3048 removes this contingent effective date and provides that the 2002 UIFSA amendments become effective on January 1, 2007.

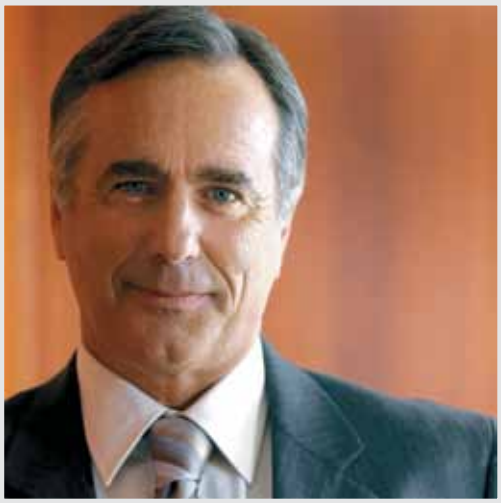
ESSB 6635: Changing provisions relating to adoption
Prime Sponsor: Senator Rosa Franklin

The Department of Social and Health Services (DSHS) must provide training regarding federal laws related to multi-ethnic and inter-ethnic adoption to employees involved in making adoption placements. The DSHS will, in collaboration with stakeholders, review and study adoption fees and possible barriers to the adoption of children out of foster care, and accreditation standards for adoption agencies.

The Department of Health, in cooperation with the DSHS, must develop recommendations regarding an efficient process for the collection, compilation, and publication of adoption statistical data, including data regarding fees, costs, and expenses paid by adoptive parents.

The attorney general is authorized to bring a suit under the Consumer Protection Act for advertising by unlicensed or unauthorized entities regarding adoption or placement of a child. An advertising entity that attempts to verify that a person or entity providing adoption services has complied with the law does not commit an unlawful trade practice for accepting adoption advertising in good faith.

Rep. Patricia Lantz (26th District, Gig Harbor) is chair of the House Judiciary Committee. Rep. Skip Priest (30th District, Federal Way) is ranking Republican on the House Judiciary Committee.



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Increasing Diversity in the Legal Profession: A Collaboration

The theme of the 2006 Statewide Conference on Diversity: "Getting Ahead and Giving Back"

BY ANGELIQUE M. DAVIS AND JOSLYN K.N. DONLIN

"Equal Justice for All" is the inscription above the entrance to the U.S. Supreme Court. Yet 52 years after the *Brown v. Board of Education* decision, the legal profession lags behind in reflecting the diversity of our country.[1] Racial and ethnic minorities comprise approximately 30 percent of the U.S. population. However, they represent less than 15 percent of the practicing attorneys in this country.[2] In the state of Washington, racial and ethnic minorities make up 25 percent of the population.[3] The number of minority practicing attorneys is about 10 percent.[4] The ABA's Commission on Racial and Ethnic Diversity in the Legal Profession reports that the current rate of minorities entering the legal profession has slowed considerably since the mid-90s.[5] This decline can be attributed to disparities in the education of minority youth, barriers to entry into the profession, and the failure of the profession to adequately address this issue.

It is widely recognized that by the year 2050 the United States will be "majority minority."[6] However, the percentage of minority lawyers is the second lowest of all the professions, at 9.7 percent as compared to accountants/auditors (20.8 percent), architects (14.9 percent), chief executives (9.5 percent), civil engineers (16.7 percent), clergy (16.2 percent), computer scientists (23.1 percent), dentists (15.9 percent), economists (20.3 percent), managers (16.2 percent), mechanical engineers (14.5 percent), news analysts/reporters (15.6 percent), physical scientists (30.6 percent), physicians/surgeons (24.6 percent), post-secondary teachers (18.2 percent), and psychologists (9.3 percent).[7]

With the changing demographics of our country, diversity in the legal profession is a business necessity.[8] In addition, greater diversification has tangible benefits for the legal profession through an increased applicant pool, the ability to meet the demands of clients seeking diverse representation, and higher revenues.[9] Indeed, corporations have launched diversity initiatives evaluating the diversity of the law firms they hire, retain, and grade on their efforts to hire, retain, and advance women and minorities.[10]

In addition to being a business necessity, diversity in the legal profession is essential to our democracy.[11] Our democratic system depends upon our ability to stand in the gap for those who cannot speak for themselves. For it to thrive, lawyers, who are gatekeepers to justice, must be reflective of the citizens they serve.[12]

Statewide Conference on Diversity

To address this need, the 2006 Statewide Conference on Diversity — Getting Ahead and Giving Back: Diversity in Washington's Legal Community — was held on June 2, at Seattle University. It was the first collaborative effort of the various state minority bar associations to address the need to increase diversity and inclusion in the legal profession.[13] Dean Kellye Testy of Seattle University School of Law, and Sudha Shetty, director of the Access to Justice Program at Seattle University, were instrumental in securing the venue for the conference. The minority bar associations and members of the conference planning committee were led by co-chairs Kim Tran, president of the Asian Bar Association of Washington and an attorney with Stafford Frey Cooper, and Michael Heath,

Top: Plenary session of the Conference. Left to right, Alphonso David, Jeffery Robinson, Dean Kellye Testy, Hon. Anita Dupris, Conference Co-chairs Michael Heath and Kim Tran, Margaret Chon, Rafael Gonzales. Bottom: Attendees enjoy a reception at Perkins Coie. Left to right, WYLD President Noah Davis, WSBA Leadership Institute Advisory Board Chair James Williams, Spokane County YLD President Lisa Dickinson, Leadership Institute Fellow Lisa DeCora, Spokane County YLD Trustee Tom McGirk.

president of the GLBT Bar Association of Washington (QLaw) and an attorney with Cairncross & Hempelmann. The minority bar associations, partnered with Seattle University, the WSBA, the King County Bar Association, and the King County Bar Foundation, assembled a stellar program agenda and a high-caliber and diverse group of speakers to discuss the goals of the conference: 1) to increase diversity in the legal profession; 2) to emphasize the benefits of having a diverse legal workforce; and 3) to give back to the legal community and the community at large. More than 250 lawyers from Arizona, California, Maryland, North Carolina, New York, Oregon, Washington, D.C., as well as Washington state gathered to seek ways to increase diversity in the legal profession. Sponsors of the conference came from high-profile law firms, law schools, and lawyer associations.[14]

A reception was held to honor Washington state judges who are diverse and/or who represent various minority groups. From left to right, Hon. Art Wang (ret.); Hon. Eileen Kato; Hon. Steven Gonzalez; Hon. Mary Yu; Hon. Richard Jones; Hon. Edsonya Charles; Hon. Judith Hightower; Hon. Edythe Chenois; Hon. Anita Dupris; Hon. Tam Bui; Hon. Mark Chow; Hon. Bonnie Canada-Thurston.

Conference Highlights

The conference began with a lively plenary session focusing on "The Language of Us: A Discussion of How the Legal System Uses Labels and Why Understanding the Differences Between Labels Is Important to Judges, Lawyers, and Their Clients." Panelists included a law school professor, a chief justice of the Colville Tribal Court of Appeals, a public defender from Yakima, an attorney from Lambda Legal in New York City, and a criminal defense attorney from Seattle.[15] Each provided a different perspective of the importance of when and how to recognize various terms and labels within a particular diverse and/or ethnic or tribal community. Colville Tribal Court of Appeals Chief Justice Anita Dupris gave a remarkable oral argument about the use of the word "Indian" when referring to herself and her people as opposed to the term "native American."

Keynote luncheon speaker Col. William A. Gunn, CEO of the Boys and Girls Club of Greater Washington, captured the theme of the conference, "giving back," with an inspiring speech about his personal life journey of mentoring and community service. As an officer and staff attorney in the military, Col. Gunn also found time to serve as a mentor and volunteer for schools and churches wherever he was stationed.

Following both the plenary session and keynote address were a series of 15 breakout sessions. These sessions focused on building greater diversity in the legal profession, whether from the perspective of a solo practitioner, law firm attorney, corporate counsel, government attorney, immigration attorney, or judge. In addition, exhibitors and representatives from various community-based organizations staged a fair to offer opportunities for lawyers to give back to their community. After the day's sessions, a reception was held to honor all of the judges in Washington state who are diverse and/or who represent various minority groups.

Conference Feedback

Overall, feedback and conference evaluations reflected a very successful event. Co-chair Mike Heath, who is also graduate of the 2005 WSBA Leadership Institute,[15] commented that: "[it] was a trailblazing event celebrating our diversity and an example of achievement in collaboration." Heath's co-chair, Kim Tran, also a graduate of the 2005 WSBA Leadership Institute, added, "This [conference] was truly a model for bar associations in other states to consider."

Other Washington Legal Community Diversity Events

The first annual Statewide Conference on Diversity in the Legal Profession was a historical collaborative event among the minority bar associations in promoting diversity within the state's legal community. It is also one part of a statewide trend toward increasing diversity in the legal profession. In 2005, Washington was one of four states awarded the prestigious ABA Partnership Award for its nationally acclaimed WSBA Leadership Institute. Paula Boggs, vice-president, general counsel, and secretary of Starbucks Coffee Company, was awarded the ABA 2006 Spirit of Excellence Award, for her contributions to recruit, retain, and promote diversity in the legal profession. The Celebrate Diversity event held in Seattle this past March was attended by more than 250 lawyers who listened to attorneys from law firms, corporations, government agencies, law schools, and the WSBA describe ways to increase diversity in the legal profession. Minority bar leaders also discussed strategies for increasing diversity in the legal community. Future events include: the National Latina/o Law Student Association Conference, October 12-14, 2006, in Seattle, and the first Eastern Washington Celebrate Diversity event on October 26, 2006, at Gonzaga University School of Law, in partnership with the Spokane County Bar Association, minority attorneys and judges from Eastern Washington, and the WSBA.

Planning for the second annual Statewide Conference on Diversity is currently underway. If you would like to be involved in the planning for the

conference, please contact Kim Tran at ktran@staffordfrey.com or Mike Heath at mheath@cairncross.com.

Angelique Davis is a visiting assistant professor and pre-law program director at Seattle University. She serves on the WSBA Committee for Diversity and was a fellow in the 2005 WSBA Leadership Institute. She is also a member of the Loren Miller Bar Association. Ms. Davis can be reached at adavis@seattleu.edu. Joslyn K.N. Donlin is the WSBA diversity advocate and can be reached at joslynd@wsba.org.

NOTES

1. *Brown v. Board of Education*, 347 U.S. 483 (1954).
2. ABA Presidential Advisory Council on Diversity in the Profession, The Critical Need to Further Diversity in the Legal Academy & the Legal Profession (2005) [hereinafter "Critical Need"].
3. Washington State Office of Financial Management, September 30, 2004, press release, "Washington Minority Population Growth Continues."
4. WSBA membership demographic counts, as of 6/30/2006.
5. Elizabeth Chambliss, *Miles to Go: Progress of Minorities in the Legal Profession, Executive Summary* (2004). Available from American Bar Association Commission on Racial and Ethnic Diversity in the Profession.
6. U.S. Glass Ceiling Commission (1995), *A Solid Investment: Making Full Use of the Nation's Human Capital* (Final Report of the Commission), Washington, D.C.: U.S. Government Printing Office, http://digitalcommons.ilr.cornell.edu/key_workplace/120.
7. *Miles*, *supra* note 4, at Table 2.
8. *Grutter*, at 330.
9. *Id.*; James W. Pearce & JoAnn S. Hickey & Debra D. Burke, "African Americans in Large Law Firms: The Possible Cost of Exclusion," 42 *Howard Law Journal 59* (1998) (law firms with higher number of African-American associates in top 50 law firms found to have higher revenues); Roy S. Ginsburg, "Making the Case for Diversity: Improving the Representation of Women and Minority Lawyers in Your Law Firm May Enhance Your Business as More Clients Factor in Diversity When Choosing a Law Firm," *78 June Wisconsin Law 20* (2005) ("As stated in a study by the Minority Corporate Counsel Association (MCCA), 'Law firms that only pay lip service to diversity may pay a stiff economic price. Law firms that do not take diversity seriously are already losing money.'"); Dennis Archer, "The Value of Diversity: What the Legal Profession Must Do to Stay Ahead of the Curve," *12 Wash. U.J.L. & Pol'y 25, 27* (2003); *see also* David B. Wilkins, "From 'Separate is Inherently Unequal' to 'Diversity is Good for Business': The Rise of Market-Based Diversity Arguments and the Fate of the Black Corporate Bar," *117 Harvard Law Review. 1548* (2004).
10. Call to Action: Diversity in the Legal Profession located, http://www.mcca.com/CTA/commitment.shtml; Maria Kantzavelos, "The Business Case for Diversity," *The Chicago Lawyer* (July 2006).
11. *Grutter*, 539 U.S. at 331-32. Justice O'Connor recognized that not only is diversity important to the legal profession, but also to our democracy.
12. Carrie Menkel-Meadow, "The Lawyer's Role(s) in Deliberative Democracy," *5 Nev. L.J. 347, 350-54* (2004-2005).
13. Minority bar associations who sponsored the 2006 Statewide Conference on Diversity — Getting Ahead and Giving Back: Diversity in Washington's Legal Community — included: Asian Bar Association of Washington, GLBT Bar Association of Washington (Q-Law), Korean Bar Association of Washington, Latina/o Bar Association of Washington, Loren Miller Bar Association, Northwest Indian Bar Association, Pierce County Minority Bar Association, South Asian Bar Association of Washington, Vietnamese American Bar Association of Washington, and Washington Women Lawyers.
14. Gold Sponsors included: Cairncross & Hempelmann, P.S.; Davis Wright Tremaine, LLP; Dorsey & Whitney, LLP; King County Bar Association; Lane Powell; Miller Nash, LLP, Preston Gates Ellis, LLP; Microsoft; Stoel Rives, LLP; Stafford Frey Cooper; Stokes Lawrence; Summit Law Group; Williams, Kastner & Gibbs, PLLC; and University of Washington School of Law. Silver Sponsors included Schroeter Goldmark & Bender. Bronze sponsors included: Forsberg Umlauf, P.S.; Gonzaga University School of Law; Ogden Murphy Wallace, PLLC; Schwabe, Williamson & Wyatt; and Washington State Trial Lawyers Association.
15. Moderator of the Plenary Session was Dean Kellye Testy, Seattle University School of Law, Seattle, WA. Speakers of the Plenary Session were: Professor Maggie Chon, Seattle University School of Law, Seattle, WA; Alphonso David, Lambda Legal, New York, NY; Chief Justice Anita Dupris, Colville Tribal Court of Appeals, Colville, WA; Rafael Gonzales, Associated Counsel for the Accused, Yakima, WA; and Jeffery Robinson, Schroeter Goldmark & Bender, Seattle, WA.

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The Commish: Unsung Hero of the Washington State Supreme Court

BY KATHY GEORGE

Can you guess which judge at the Temple of Justice in Olympia has walked its marble hallways the longest? Here are some hints: He doesn't wear a black robe; he hears oral arguments on the phone, not from a lofty perch behind the bench; and although he rules on hundreds of motions to the Washington State Supreme Court each year, he is not nearly as well-known as the nine justices.

For more than a quarter-century, Geoffrey Crooks has quietly wielded the power of the state's highest court as its appointed commissioner, issuing about 700 rulings per year. He decides independently whether to dismiss original actions against state officers, for example, and whether to grant review of the many personal-restraint petitions filed by prisoners hoping for one last chance at redemption. Crooks also has considerable influence as a gatekeeper, advising the Court on whether to grant petitions for review, which now number nearly 700 per year. By the commissioner's own estimate, the Court disagrees with his recommendations "maybe once in 20 times."

But soon his 27-year reign as Supreme Court commissioner will end. Crooks will retire on September 8 to the dismay of justices and attorneys who credit him with shaping the role of commissioner. "It's going to be hard to replace him," said Justice Charles Johnson, the most senior member of the Court. As an indication of the commissioner's influence, Johnson said he personally views the memos prepared by Crooks and his staff as "more critical than the Court of Appeals's opinions, as a starting point" for reviewing a case.

The commissioner's job was created in 1976, when the Court first adopted the Rules of Appellate Procedure. The first commissioner did not stay long, opening the way for a young associate attorney from Seattle to step in. At the time, Crooks had been practicing for about five years with Helsell Fetterman. He had never appeared before the Washington State Supreme Court, nor did he know exactly what a Supreme Court commissioner was.

"I responded to an ad in the *Bar News*," he recalled. "It sounded enticing." By a 5-4 vote, the justices hired Crooks in 1979. He outlasted all of them and quite a few of their successors.

"He has really defined the job," said Phil Talmadge, an appellate attorney and a former justice. "He is not seen as a partisan," said Talmadge. "Geoff just gives you a good, solid sounding board."

Sheryl Gordon McCloud, a criminal defense attorney who frequently deals with the Supreme Court, said of Crooks, "He's pretty brilliant. He consistently gets to the heart of an issue and slices through it in relatively few words." That Crooks can write with clarity and brevity is not surprising. Before practicing law, he taught legal writing at the University of Washington School of Law for six years. "I don't always agree with his decisions, but he's really incredibly insightful," McCloud said. "He's sort of an unsung hero."

Crooks is not one to sing his own praises. Asked why his rulings are so rarely overturned (only three or four out of 700 a year), he joked, "Of the 700, there are a certain number of no-brainers — no brain in and no brain out." He also said he has become a good predictor of the Court's collective thinking: "My job in deciding a motion is to do what five of the nine of them would do, if they all had to stop and think about it."

Crooks said his greatest influence on Washington law probably has been "helping the Court identify the cases and issues that most needed to be addressed, and trying to get the right cases to address those issues." He mentioned the aftermath of the Sentencing Reform Act and the Growth Management Act as examples. How does he find the right cases? "You read and read and listen and look. You can watch for the cases with the good lawyers, for the cases that haven't got an issue buried in a lot of other issues. One does develop something of an instinct for the cases that are important and will turn out to be well-presented."

Although Crooks has operated largely out of the limelight, in 2000 he ran for election to the Supreme Court. He finished seventh of seven candidates. "There was not a chance in hell, with a name like Crooks, that I was going to get more than laughs," he said. "But I didn't know until I tried."

Today, Crooks is not so sorry he lost that race. "I enjoy doing what I'm doing. I get to look at all of the interesting cases. I don't have to defend myself against the cranks," he explained. He said he is leaving now because "it's just time to go. I've been at it long enough."

Although he decided to retire before the current election season began, he said the current friction on the Court "doesn't make me sorry I've decided to leave. I think there is a diminished sense of collegiality around here," said Crooks. "I think the campaign stuff is certainly part of it all."

We wish Geoffrey Crooks all the best on his retirement and thank him for 27 years of service as the "sounding board" of the Washington State Supreme Court.

Kathy George is a first-year associate at Gendler & Mann, and recently completed a clerkship with Chief Justice Gerry Alexander. She is a former reporter and editor at the Seattle Post-Intelligencer. *She can be reached at kathy@genlermann.com.*

BY ROBERT WELDEN

The Lawyers' Fund for Client Protection Committee meets quarterly to review applications for gifts from the Fund. The Committee is authorized to make gifts of up to $25,000 to eligible applicants. On applications for more than $25,000, the Committee makes recommendations to the Board of Governors, who are the Fund trustees. At their meeting on May 26, 2006, the Committee took the following action:

Grosvenor Anschell (WSBA No. 9756 — disbarred). (Mr. Anschell did not respond to this application.) The applicant paid Anschell $800 to file a petition for divorce. Anschell prepared a petition that he had the applicant sign *pro se*. It was filed in the King County Superior Court. Neither party filed anything further. The applicant wrote on her application that "every time I called he gave me a reason and I didn't know anything about law." She was not even aware that Anschell had filed the petition. It was dismissed for failure to comply with the court's orders. The Committee approved a gift of $800.

J. Rodney DeGeorge (WSBA No. 22931 — disbarred). (This matter was a subject of DeGeorge's Stipulation to Disbarment.) The applicant hired DeGeorge in January 2003 to represent her son in sentencing following his plea of guilty to criminal charges. She agreed to pay a fee of $10,000, and made an initial payment of $2,200. The client's previous attorney had referred him to a certified sex-offender-treatment provider for consideration of his eligibility for Special Sex Offender Sentencing Alternative (SSOSA). The examiner concluded that the client was not amenable to treatment. DeGeorge arranged for the client to have a second polygraph examination. The examiner concluded that he did not attempt deception during that examination.

The treatment provider wrote DeGeorge that he would need to review the report of the new polygraph examination and interview the client again. He met with the client and advised DeGeorge that he was still not amenable to SSOSA treatment. DeGeorge also referred the client to a psychologist who was not a certified sex-offender-treatment provider. By statute, SSOSA examinations are required to be performed by certified sex-offender-treatment providers, with some exceptions not applicable in the client's case.

At sentencing, the prosecutor opposed a SSOSA sentence. In arguing why the court should accept the psychologist's report, DeGeorge falsely represented that he talked with the certified treatment provider who told him he could not prepare a report in time for the sentencing.

The judge found that the client did not qualify for SSOSA and sentenced him to 131 months in prison. After sentencing, DeGeorge told the client and the applicant that the judge had made a mistake and he would seek reversal. DeGeorge filed a Motion for Reconsideration, but on the date it was set, he struck the hearing. He took no further action on the client's behalf. DeGeorge stipulated to pay restitution to the applicant of $2,200 and the Committee approved a gift in that amount.

Terry O. Forbes (WSBA No. 5626 — disbarred). (For background information regarding Forbes, see January 2006 *Bar News*, p. 34.) Forbes represented the applicant on a personal-injury claim arising from an auto accident. The case settled for $149,305. Forbes gave the applicant a settlement statement that showed that he was to hold $24,464.26 in trust to pay three insurance subrogation claims. They were never paid and Forbes never accounted for or paid the applicant the funds. The applicants contested the insurance subrogation claims, because they felt that the insurers had denied full coverage. One insurer never made any contact with Forbes's office, and the others were told that they would contest any subrogation claim and they did not pursue the matter further. The Committee approved a gift of $24,464.26 to the applicant.

James E. Graham (WSBA No. 15290 — suspended pending discipline). (Graham did not respond to this application, he did not file an Answer to the Formal Complaint, and an Order of Default was entered. The hearing officer recommended that Graham be disbarred and that he pay $5,290 restitution to the applicant.) Graham was a family friend of the applicant and lived in an apartment owned by her in exchange for legal services for her and her businesses. They agreed she would pay actual costs incurred. Graham never provided any bills, receipts, or accountings, and did not maintain records of his receipts and disbursements for the applicant's matters. To support his requests for payments, Graham often gave her copies of purported court documents or legal correspondence. Several of the documents were falsifications, and some bore forged signatures of judges and others. One of these fictitious documents was a purported court order that stated that a hearing transcript would be filed with the court within 10 days, and that the applicant had to pay $5,290 as her share of the transcript cost. The applicant paid Graham $5,290. The hearing officer found that Graham created the falsified documents for the purpose of defrauding the applicant and inducing her to give him money, that he committed theft against her. Because of the state of both Graham's and the applicant's record keeping, the only payment from the applicant that can be directly tied to Graham's falsifications is the $5,290 "transcript" payment. The hearing officer ordered restitution in that amount, and the Committee approved a gift in that amount.

Juan Gabriel Ibarra (WSBA No. 29461 — deceased). Ibarra died in a car accident. He had no will. In going through Ibarra's records in order to wind down his law office and pay all due taxes, the attorney hired to probate the estate found one case in which Ibarra had a 30 percent contingent fee agreement with clients, but had mistakenly taken 33 percent, and another where the client had paid Ibarra a fee shortly before he died, and for which little or no work was done. The attorney suggested that these clients file creditors' claims with the estate and also advised them to file applications to the Fund.

- The first applicant paid Ibarra $5,000 to defend his son on criminal charges shortly before Ibarra died. On the creditor's claim, the court ordered that the applicant's claim for $5,000 be approved. He was paid $1,557.02 from the assets of the law firm. The Committee approved a gift to the applicant of $3,442.98 based on failure to account for these funds.
- The applicants in a second case hired Ibarra to file a wrongful death claim regarding their son on a 30 percent contingent fee basis with the proviso that

it would be 33 percent if it the matter went to trial. This was the case where the probate attorney discovered that Ibarra paid himself 33 percent instead of 30 percent. Their creditor's claim was allowed by the court, but because of the insolvency of the estate, they received no payment. The Committee approved a gift of $5,013.79 based on failure to account for these funds.

Craig E. Kastner (WSBA No. 8141 — deceased). The applicant hired Kastner for representation regarding injuries sustained in a car accident. Kastner filed suit but he never filed proof of service. He settled the applicant's claim without the applicant's knowledge or consent. The insurer issued a check payable to the applicant and Kastner for $10,000. Kastner endorsed the check, someone falsified the applicant's endorsement, and it was deposited into Kastner's trust account. The applicant filed a claim against Kastner's estate. The claim was allowed, but the estate was insolvent and no creditor's claims were paid. The Committee approved a gift of $10,000.

Richard J. McKay (WSBA No. 19987 — disbarred). (McKay has disappeared and his whereabouts are unknown. He did not respond to this application.) McKay was the administrator and attorney for the applicant's father's estate. The applicant and her brother were each entitled to half the net assets of the estate, approximately $250,000 apiece. McKay had previously represented the applicant's brother in various matters. In a subsequent judgment entered against McKay, it was noted that he accepted this appointment despite the "obvious conflict of interest" in administering the estate of his client's father where the client was one of the beneficiaries.

Despite not having nonintervention powers, and without approval of the court, McKay sold estate assets, entered into estate contracts, made loans of estate funds, made distributions of real estate and cash, and so forth. This included selling real property and making cash advances to the applicant's brother without court authority. McKay paid himself fees totaling $26,204.87 without approval of the court. The applicant filed a petition for an accounting from McKay. At that point, McKay paid $15,000 to a lawyer who alleged that she was hired as the attorney for the estate. It was the position of the applicant that McKay hired the lawyer to represent him personally regarding the applicant's petition for an accounting.

A judgment was entered against McKay for $331,762.27 for breach of fiduciary duty; awarded attorney fees in the amount of $57,889.37 to the applicant; and awarded $56,909.59 in additional attorney's fees. McKay has disappeared and the judgment remains uncollected. The Committee and trustees approved a gift of $41,204.87 to the estate.

Other business: The Committee reviewed 23 additional applications that were denied for lack of evidence of dishonest conduct, or as fee disputes or claims for malpractice. One application was continued to seek further documentation. The Committee also voted to recommend to the Board of Governors that the WSBA cosponsor proposed amendments to the *ABA Model Rules for Lawyers' Funds for Client Protection* regarding multijurisdictional practice proposed by the ABA Standing Committee on Client Protection. The Board approved the recommendation at their June meeting.

Restitution: Before payment is made to an applicant, the applicant must sign a subrogation agreement with the Fund, and the Fund seeks restitution from the lawyers. Because in most cases those lawyers have no assets, the chief avenue of restitution is through court-ordered restitution in criminal cases. Prosecuting attorneys cooperate with the Fund in getting the Fund listed in restitution orders. As of May 2006, eight lawyers were making regular restitution payments to the Fund.

Thank yous: The purpose of the Lawyers' Fund for Client Protection is to assist persons who have been the victims of dishonest lawyers or lawyers who fail to account for client funds. Although the Fund cannot fully compensate a person for the harm done by a dishonest lawyer, the Fund receives notes of appreciation to the lawyers of the state of Washington:

- "On behalf of my client, I wish to thank the Washington State Bar Lawyers' Fund for Client Protection for their efforts in rectifying this apparent defalcation. I must applaud your staff and the members of the Lawyers' Fund Committee for their important work on behalf of our Bar Association."
- "Your excellent assistance in this matter is greatly appreciated."
- "God bless you. Thank you."

The committee chair is Tacoma attorney Sarah Richardson. WSBA General Counsel Robert Welden is staff liaison to the committee.

BY ANNE I. SEIDEL

Confidentiality Under the New Rules of Professional Conduct

For over 300 years, the obligation to keep a client's confidences has been a central tenet of the legal profession.[1] Lawyers are "regarded as people who know how to keep secrets, as much as they are regarded as litigators . . . or drafters of contracts."[2] Yet overriding duties to society or others sometimes take precedence and permit or even require a lawyer to disclose a client confidence.

The newly revised Rule 1.6 of the Rules of Professional Conduct, effective September 1, 2006, changes the balance drawn between guarding a client's secrets and disclosure.[3] Here are the most notable changes.

Expansion of Scope of Information Protected

The amended RPC 1.6, like ABA Model Rule 1.6, prohibits disclosure of "information relating to the representation of a client." Like the former rule (which applied to "confidences and secrets"), this goes beyond what is covered under the attorney-client privilege. For example, the rule applies if the lawyer obtained information from someone other than the client, or if the attorney-client privilege was breached by the presence of a third person. Comment [19] instructs that "information relating to the representation" should be interpreted broadly.

Mandatory Disclosure

For the first time, Washington lawyers are not only permitted, but are required, to disclose information obtained through representing a client. Such information must be revealed "to prevent reasonably certain death or substantial bodily harm." Previously, a lawyer was permitted, but not required, to reveal confidential information to prevent a client from committing a crime. Although not included in the Model Rules, 13 other states currently have similar mandatory disclosure rules.[4] The rule does not specify to whom the disclosure must be made, e.g., is it sufficient to report a death threat to the police, or does the lawyer also need to contact the victim? Given the mandatory nature of the rule and the lack of any qualifying language, it appears that a lawyer must disclose the information to everyone necessary to prevent death or substantial bodily harm.

Exceptions to Confidentiality Requirement Expanded

The amended rule contains two new exceptions to the general rule requiring a lawyer to keep information relating to representation of a client confidential. Rule 1.6(b)(4) permits a lawyer to reveal such information to secure legal advice about the lawyer's compliance with the RPCs. The lawyer to whom such information is disclosed must maintain the confidentiality. Such disclosure was previously considered to be impliedly authorized by the rules.

Rule 1.6(b)(3) adds a new exception permitting disclosure of information "to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services." This is identical to Model Rule 1.6(b)(3). The drafters of the Model Rule state that it applies when the lawyer learns of the crime or fraud, after it was committed, and is designed to prevent loss from the crime or fraud rather than to prevent the crime or fraud itself.[5]

Model Rule 1.6(b)(2) contains a parallel exception to permit disclosure to prevent commission of a crime or fraud. Our new Rule 1.6(b)(2), like the former Rule 1.6(b)(1), permits lawyers to reveal information to prevent a client from committing any crime (rather than, as under the Model Rule, those reasonably certain to result in substantial financial injury and in furtherance of which the client used the lawyer's services) but does not address fraud. This appears to mean that a lawyer may not reveal information to prevent a client from committing a fraud but instead must wait until the fraud is committed before taking any action. Two other rules to some extent fill in this gap: Rule 4.1(b) requires a lawyer to disclose a material fact to avoid assisting in the client's fraudulent act, but would not apply where the lawyer is aware of the client's intended fraud but was not assisting in it. In addition, at least some forms of fraud also constitute crimes, in which case disclosure would be permitted under Rule 1.6(b)(2). The Court did not adopt any comments about Rule 1.6(b)(3).

The amended RPC 1.6 retains all the other exceptions to the general rule of confidentiality found in the prior version, including, as discussed above, to prevent the client from committing a crime,[6] to establish a claim or defense in litigation between the lawyer and client,[7] to comply with a court order,[8] or to tell a court about a breach of fiduciary duty by a client who is serving as a court-appointed fiduciary.[9]

As Comment [23] notes, the exceptions to the general rule of confidentiality "should not be carelessly invoked."[10] Rather, a lawyer must make all practicable efforts to avoid unnecessary disclosure: to limit such disclosure to those having a need for the information, and to take actions, like seeking protective orders, to limit the risk of disclosure.

Court Rejects Model Rule's Increased Duty of Disclosure to the Court

Rule 3.3 addresses candor to tribunals. When a client has made or plans to make a false statement to a court, there is a conflict between the lawyer's duty of confidentiality to the client and the lawyer's duty of candor to the tribunal. RPC 3.3 remains virtually the same as in the prior version, which favors

the duty of confidentiality. Under that rule, a lawyer must disclose a material fact to the court to avoid assisting a criminal or fraudulent act by the client and must similarly disclose to the court if the lawyer learns that material evidence offered was false, but only to the extent permitted by RPC 1.6.[11]

Because the exceptions to RPC 1.6 have been expanded to permit disclosure to rectify financial harm from a client's criminal or fraudulent acts, a lawyer has an increased duty to disclose information to the court. A disclosure that is permissive under RPC 1.6 becomes mandatory if RPC 3.3 applies. For example, if a lawyer obtains a substantial judgment on his client's behalf and later learns that the client testified falsely in that case, the lawyer would be permitted under RPC 1.6(b)(3) to reveal the information to mitigate or rectify financial injury to the opposing party (e.g., by permitting the party to file a motion to vacate the judgment). Because an exception to RPC 1.6 applies, the lawyer would therefore be required under RPC 3.3(c) to make the disclosure to the court.

Conclusion

The changes to the rules on confidentiality will not affect most lawyers' day-to-day practice, as they will continue to keep client information confidential. Occasionally, though, a lawyer will be faced with a situation in which disclosure appears appropriate or even possibly required. If there is any doubt about what course of action to take, we encourage lawyers to call the WSBA Ethics Line at 206-727-8284 or 800-945-WSBA, ext. 8284.

Anne I. Seidel is the chief disciplinary counsel for the Washington State Bar Association and was a member of the Ethics 2003 Committee. She can be reached at annes@wsba.org. Opinions expressed are the author's and are not the official position of the Washington State Bar Association.

NOTES

1. *In re Schafer*, 149 Wn.2d 148, 160 (2003).
2. *Id.* (quoting 1 Geoffrey C. Hazard, Jr. & W. William Hodes, The Law of Lawyering § 92 (3d ed 2002)).
3. RPC 1.6 now states:
   RULE 1.6: CONFIDENTIALITY OF INFORMATION
   (a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).
   (b) A lawyer to the extent the lawyer reasonably believes necessary:
   (1) shall reveal information relating to the representation of a client to prevent reasonably certain death or substantial bodily harm;
   (2) may reveal information relating to the representation of a client to prevent the client from committing a crime; or
   (3) may reveal information relating to the representation of a client to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;
   (4) may reveal information relating to the representation of a client to secure legal advice about the lawyer's compliance with these Rules;
   (5) may reveal information relating to the representation of a client to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;
   (6) may reveal information relating to the representation of a client to comply with a court order; or
   (7) may reveal information relating to the representation of a client to inform a tribunal about any client's breach of fiduciary responsibility by when the client is serving as a court-appointed fiduciary such as a guardian, personal representative, or receiver.
4. Arizona, Connecticut, Florida, Illinois, Iowa, Nevada, New Jersey, North Dakota, Tennessee, Texas, Vermont, Virginia, Wisconsin.
5. *See* Comment [8] to Model Rule 1.6. This comment is marked "Reserved" in our rules.
6. RPC 1.6(b)(2). This exception is broader than the Model Rules, which permits such disclosure only of a crime "that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services."
7. RPC 1.6(b)(5).
8. RPC 1.6(b)(6). Washington did not adopt the portion of Model Rule 1.6(b)(6) that creates an exception "to comply with other law."
9. RPC 1.6(b)(7). This exception is not in the Model Rules.
10. Comment [23], quoting *In re Boelter*, 139 Wn.2d 81, 91, 985 P.2d 328 (1999).
11. *See* RPC 3.3(a)(2) and 3.3(c). The proposed rules sent to the Court contained the Model Rule version of RPC 3.3. Under Model Rule 3.3, a lawyer is obligated to reveal to a court information protected by RPC 1.6 if necessary to correct material false evidence or if the lawyer knows that someone has or intends to engage in fraudulent or criminal conduct relating to the proceeding.

Thursday
September 14
2006
•
Madison
Renaissance Hotel
515 Madison St.
Seattle
•
Reception
5:30 p.m.
(no-host bar)
•
Dinner/Program
6:30 p.m.

WSBA office use only:
Date _____
Check No. _____
Amount _____
No. AAD91406

You are cordially invited to attend

The Washington State Bar Association's Annual Awards Dinner and Business Meeting

Please join us for an evening of inspiration as we celebrate the accomplishments of the 2006 WSBA award recipients. All members of the legal community are invited to attend.

Name _____ **WSBA No.** _____

Address _____

Phone _____ **E-mail** _____ **Affiliation/organization** _____

Registration is $75 per person (table of ten = $750). To make your reservation, please return this form (or a photocopy) with your credit-card information or check payable to WSBA. Space is limited, so please make your reservations early. Reservations and payment must be received no later than September 7, 2006. (Refunds cannot be made after September 7.) Seating will be assigned.

☐ **MasterCard** ☐ **Visa** | **No.** _____ **Exp. date** _____

Name as it appears on card _____

Signature _____

_____ **(no. of persons) X $** _____ **(price per person) = $** _____ **TOTAL**

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

_____	☐ chicken	☐ salmon	☐ vegetarian
_____	☐ chicken	☐ salmon	☐ vegetarian
_____	☐ chicken	☐ salmon	☐ vegetarian
_____	☐ chicken	☐ salmon	☐ vegetarian
_____	☐ chicken	☐ salmon	☐ vegetarian
_____	☐ chicken	☐ salmon	☐ vegetarian
_____	☐ chicken	☐ salmon	☐ vegetarian

All those listed on the same registration form will be seated at the same table.

Send to: Washington State Bar Association, Annual Awards Dinner
2101 Fourth Avenue, Suite 400, Seattle, WA 98121-2330
Phone: 800-945-WSBA or 206-443-WSBA • Fax: 206-727-8320

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

_____

Friday,
September 29
2006
•
Hilton Seattle
Sixth and University
•
Registration and
Reception:
11:00 a.m.
(no-host bar)

Luncheon/program:
12:00 noon

WSBA office use only:
Date _____
Check No. _____
Amount _____
No. MTL92906

You are cordially invited to attend

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

Please join us as we celebrate the accomplishments of the 2006 WSBA 50-year members. All members of the legal community are invited to attend.

Name _____ **WSBA No.** _____

Address _____

Phone _____ **E-mail** _____ **Affiliation/organization** _____

Registration is $45 per person (table of 10 = $450). To make your reservation, please return this form (or a photocopy) with your credit-card information or check payable to WSBA. Space is limited, so please make your reservations early. Reservations and payment must be received by September 22, 2006. (Refunds cannot be made after September 22.)

☐ **MasterCard** ☐ **Visa** | **No.** _____ **Exp. date** _____

Name as it appears on card _____

Signature _____

_____ **(no. of persons) X $** _____ **(price per person) = $** _____ **TOTAL**

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

_____	☐ chicken	☐ salmon	☐ vegetarian
_____	☐ chicken	☐ salmon	☐ vegetarian
_____	☐ chicken	☐ salmon	☐ vegetarian
_____	☐ chicken	☐ salmon	☐ vegetarian
_____	☐ chicken	☐ salmon	☐ vegetarian
_____	☐ chicken	☐ salmon	☐ vegetarian
_____	☐ chicken	☐ salmon	☐ vegetarian

Send to: Washington State Bar Association, 50-Year Member Tribute Luncheon
2101 Fourth Avenue, Suite 400, Seattle, WA 98121-2330
Phone: 800-945-WSBA or 206-443-WSBA • Fax: 206-727-8320

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

_____

Receive a discount on the WSBA-CLE seminar:

Ethical Considerations and Case Law Updates for Senior Lawyers

Call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA.

Opportunities for Service

WSBA Seeks Board and Committee Members

The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving on the following boards and committees. Members should submit letters of interest and résumés to: WSBA, Bar Leaders Division, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330, or e-mail: barleaders@wsba.org. (Letters of interest and résumés are also required for incumbents seeking reappointment.)

Legal Foundation of Washington Board of Trustees

Application deadline: November 1

The Legal Foundation of Washington seeks one member to serve a two-year term on its board of trustees commencing on January 1, 2007. Incumbents are eligible for reappointment (up to two consecutive terms). The Legal Foundation of Washington is a private, not-for-profit organization that promotes equal justice for low-income people through the administration of IOLTA and other funds. Trustees should have a demonstrated commitment to, and knowledge of, the need for legal services and how these services are provided in Washington. For more information, e-mail caitlindc@legalfoundation.org.

Limited Practice Board

Application deadline: September 29

The WSBA Board of Governors seeks three candidates for appointment to the Limited Practice Board, which oversees administration of, and compliance with, the Limited Practice Rule (APR 12) authorizing certain lay persons to select, prepare, and complete legal documents pertaining to the closing of real estate and personal-property transactions. The candidates will be submitted to the Washington State Supreme Court for appointment and will serve four-year terms commencing on January 1, 2007. Incumbents are eligible for reappointment (limited to two consecutive terms). In keeping with the member requirements of APR 12, one position must be filled by a representative from the real estate industry, and at least one of the other two positions must be filled by an attorney member of the WSBA. The board generally meets every other month.

Northwest Justice Project Board of Directors

Application Deadline: November 1

The Northwest Justice Project seeks two members to serve three-year terms on its board of directors. The terms will commence on January 1, 2007. Incumbents are eligible for reappointment (up to two consecutive terms). The Northwest Justice Project is a not-for-profit organization that receives primary funding from the state and through the federal Legal Services Corporation to provide civil legal services to low-income people. Board members, who play an active role in setting program policy and assuring adequate oversight of program operations, must have a demonstrated interest in, and knowledge of, the delivery of high-quality civil legal services to the poor. For more information, e-mail mac@nwjustice.org or lisag@nwjustice.org.

Washington Defender Association Board of Directors

Application Deadline: November 1

The Washington Defender Association (WDA) seeks two members to serve on its board of directors, one for a two-year term, and one for a three-year term. Both terms will commence on January 1, 2007. The board generally meets 10 times per year. The WDA is committed to increasing the funding and improving the quality of the criminal-defense bar in Washington and works to oppose legislation that would undermine constitutional protections for people accused of crimes.

Washington Pattern Forms Committee

Application Deadline: November 1

The Washington Pattern Forms Committee seeks one member to serve a four-year term commencing on January 1, 2007. Incumbents are eligible for reappointment (up to two consecutive terms). The Washington Pattern Forms Committee has published new sexual assault protection order forms and updates to the domestic relations, domestic violence, anti-harassment, juvenile court, misdemeanor judgment and sentencing, and felony judgment and sentencing forms, available at www.courts.wa.gov/forms. For more information, e-mail merrie.gough@courts.wa.gov.

WSBA Business Section Securities Committee Announces Open Membership

Any lawyer with at least seven years' experience practicing law can become a member of the WSBA Business Section Securities Committee or participate in meetings. Although attendance is mandatory for official members of the Committee, participants may attend as their schedule and interest permits. To become a member or participant, e-mail Chair Mark R. Beatty at markbeatty2004@comcast.net.

LEADERSHIP INSTITUTE
WASHINGTON STATE BAR ASSOCIATION

WSBA Leadership Institute Receives Fellowship

The WSBA Leadership Institute has received a LexisNexis Martindale-Hubbell Legal Fellowship. The Fellowship, established in 2005, was created to support the continued development of individuals and associations that embrace the advancement of education, the practice of public interest, and diversity in the legal profession. Martindale-Hubbell Legal Fellowships are granted bi-annually, in June and December, with an award of $15,000.

This is the second national recognition for the WSBA Leadership Institute; in 2005, the Institute was named one of four recipients of the American Bar Association's Partnership Program Awards. This prestigious award recognizes efforts by bar associations throughout the country to increase diversity in the legal profession.

The mission of the WSBA Leadership Institute is to recruit, train, and retain Washington attorneys who have been admitted to practice for three to 10 years for leadership positions in the legal community and in the WSBA. Program participants ("fellows") are selected with an emphasis on diversity (racial, ethnic, gender, sexual orientation, disability, cultural, and geographic). An additional benefit of this program is the expansion of leadership potential for local, minority, and specialty bar associations. Although diversity is the emphasis, no one will be left out or excluded from consideration if they meet the selection criteria and submit an application.

MCLE Certification for Active Members

Due Date for MCLE Reporting: WSBA members are divided into three MCLE reporting groups based on year of admission. (Newly admitted members are exempt. See "Newly Admitted Members" below.)

Group 1: Admitted through 1975, 1991, 1994, 1997, 2000, 2003, or 2006
Group 2: Admitted in 1976 through 1983, 1992, 1995, 1998, 2001, or 2004
Group 3: Admitted in 1984 through 1990, 1993, 1996, 1999, 2002, or 2005

Reporting Group	Next Reporting Period	Complete Credits by	File C2 Form by
Group 3	2004-2006	December 31, 2006	February 1, 2007
Group 1	2005-2007	December 31, 2007	February 1, 2008
Group 2	2006-2008	December 31, 2008	February 1, 2009

Credit Requirements: The following credit requirements must be met by December 31 of the last year of an active member's reporting period:

- At least 45 total credits of MCLE Board-approved CLE activities must be taken, which need to include a minimum of 30 live credits and six ethics credits.
- Pre-recorded self-study (A/V) courses cannot be more than five years old, except MCLE Board-approved "skills-based" courses. Pre-recorded self-study courses include the traditional audio-visual (A/V) media of video tapes and cassette tapes. They also include archived webcasts, DVDs, compact disks, and other media with a soundtrack of the MCLE Board-approved course presentation. Written materials should be included with these courses and reviewed prior to claiming credit. In addition, written materials must be purchased by each member, where required by the sponsor's copyright, prior to claiming credit.
- Six *pro bono* credits can be earned per year. Two of these credits are for approved annual training, which must be taken prior to being able to earn credit for the *pro bono* work. Four *pro bono* credits may be earned each year if at least four hours of *pro bono* work was provided through a qualified legal services provider.

Carry-Over CLE Credits: Carry-over credits from the previous reporting period can be used to meet the requirements of the current reporting period. If your current reporting period credits total exceeds 45, you can carry over a maximum combined total of 15 credits to your next reporting period. Only two ethics credits and five A/V credits can be carried over.

C2 Reporting Requirement: All active members due to report are required to file a Continuing Legal Education Certification (C2) form listing all CLE courses taken for credit compliance. The deadline for filing your C2 form is February 1 of the year following the end of your reporting period. Note:

- Your online roster is not a substitute for filing the C2 form.
- The C2 form is an affidavit and must be signed and dated, and the city and state where signed must be identified.
- C2 forms are included in the license packets sent in early December to all members due to report (which will be Group 3 members this year).
- All CLE courses listed on member rosters as of October 2006 will be printed on the back of the C2 form. If you took more CLE courses after October 1, and if they appear on your online roster and you do not want to handwrite them on the back of the C2 form, you can print a copy of your roster and attach it to your C2 form. State on your C2 form that the attached online roster printout is a true and correct statement of the CLE courses taken for credit compliance.
- Members must verify that the credit hours listed on the C2 and on the member's online profile correctly reflect the hours actually attended for each CLE. Online credits can be edited by clicking on the "edit" link next to each course. Credits on the C2 can be corrected manually.
- The C2 form should be filed by February 1, even if all the credits needed for compliance have not been completed.

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

Newly Admitted Members: If you are a newly admitted member, you are exempt from reporting CLE credits for the year of your admission and the following calendar year. If you were admitted in 2005, you will not report for this reporting period (2004-2006) even though you are in Group 3. You will first report at the end of the 2007-2009 reporting period. When you report at the end of your first reporting period, you can claim all CLE credits earned on or after your date of admission to the WSBA.

MCLE Comity: If you are an active member of the WSBA and your primary office for the practice of law is in Oregon, Idaho, or Utah, you can meet your Washington mandatory CLE requirements by providing proof of current MCLE compliance from the Oregon, Idaho, or Utah state bar. Only a Certificate of MCLE Compliance from your primary state bar (not a "Certificate of Good Standing"), sent with your WSBA C2 form, will satisfy your MCLE requirements in Washington.

MCLE System — Course Listing and

Member Profiles: Members can use the online MCLE system to:

- Review courses taken and credits earned.
- Apply for course approval.
- Apply for writing credit, *pro bono* credit, or prep-time credit.
- Search for approved courses being offered.

Go to the WSBA website at www.wsba.org and click on "MCLE Website" in the left sidebar. On the next screen, click on the "Member" tab, then select "Member Login." The online instructions will lead you through the process of creating a confidential password and using the system. Online help is available. If you have any questions about using the MCLE system or about the MCLE compliance requirements, see the online FAQs at www.wsba.org/lawyers/licensing/faq-mcle.htm, call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or e-mail questions@wsba.org.

New Requirements for In-House CLEs

Starting with the 2005-2007 reporting period, members are limited to a total of 15 credits of private law firm CLEs and 15 credits of corporate legal department CLEs in each reporting period, regardless of who the private legal sponsor was. There are no limits on the number of credits a member may earn at CLEs sponsored by government agencies. These limitations are the result of amendments to APR 11 Regulation 104(e) adopted by the Supreme Court that went into effect on November 8, 2005.

Certified Weather Records

The National Weather Service's National Climatic Data Center (NCDC) is an excellent source for certified weather records. NCDC archives all U.S. weather data, such as forecasts and warning products, as well as weather observations, including Doppler weather radar and satellite imagery. For more information, visit www.ncdc.noaa.gov.

New *Public Records Act Deskbook* From WSBA-CLE

WSBA-CLE and the Administrative Law Section are pleased to announce the release of the *Public Records Act Deskbook: Washington's Public Disclosure and Open Public Meetings Law*, the definitive guide to requesting and providing access to government records in Washington. Written by experts in the field, this one-volume deskbook answers questions on all aspects of Washington's Public Records Act — from what is a public record to what is an agency — while addressing the specifics of requesting investigative, personnel, medical, and court records; court remedies to obtain disclosure; and court-awarded attorneys' fees, costs, and penalties. It also includes chapters on the federal Freedom of Information Act and the Washington Open Public Meetings Act. The deskbook is priced at $150. For more information or to order, visit www.wsbacle.org, or call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA.

Judicial-Evaluation Website Now Available

A valuable new resource for Washington

voters is now available. The "Voting for Judges" website (www.votingforjudges.org) is a nonpartisan source of judicial-evaluation information for appellate court candidates running for office in Washington's September 9, 2006, primary election. The WSBA is pleased to join other organizations in helping to sponsor this important source of information.

Legal Foundation of Washington Notice of Public Meeting

The trustees of the Legal Foundation of Washington will meet on September 14, 2006, at the Legal Foundation of Washington office in Seattle, 1325 Fourth Ave., Ste. 1335. The public may appear from 9-9:30 a.m. in order to comment on the Foundation's activities. This opportunity is made pursuant to Article I, Section 1.7 of the Legal Foundation of Washington Bylaws. For more information, call 206-624-2536.

Attorney Volunteers Organize Spanish-Language Educational Forum in Tri-Cities

Reaching out to the Tri-Cities' Spanish-speaking community, on July 22 the Latina/o Bar Association of Washington and the Ochoa Lawrence Law Group in Kennewick organized the first Spanish-language educational law forum in Eastern Washington. Bilingual attorneys from both sides of the state shared their knowledge of the law to an underserved and underrepresented segment of Washington's population. The attorneys made presentations on topics including immigration law, family law, personal injury, estate planning, juvenile law, criminal law, business law, real estate transactions, and the difference between a notary in Mexico and in the United States. Participating attorneys who traveled from the Puget Sound area were Henry Cruz, M. Lorena Gonzalez, Martha Rodriguez-Lopez, Ciarelle Jimenez Valdez, Jesse Valdez, and Brenda Williams. Participating attorneys from the east side of the state were Joey Cano, Loren Eddy, Gloria Ochoa Lawrence, Mario Ledesma, Salvador Mendoza, Candelaria Murillo, Tom Roach, Norma Rodriguez, and Sonia Rodriguez. Organizers plan on making this an annual event.

Nominations Sought for Public Legal Education Award

Deadline: October 1, 2006

The Council on Public Legal Education is accepting nominations for its Flame of Democracy Award, given to an individual, organization, or program in Washington state that has made a significant contribution to increasing the public's understanding of law, the justice system, or government. The mission of the CPLE — a committee of the Access to Justice Board — is to promote public understanding of the law and civic rights and responsibilities.

First presented in 2002 to the late journalist Richard Larsen, the award was established to highlight the important educational work being done by teachers, lawyers and judges, the media, and a variety of advocacy and community organizations and individuals.

Nominations are due October 1, 2006, and should be made in the form of a letter (maximum 500 words) describing the nominee's work and how it addresses the mission of the CPLE. The letter should also include the name of a reference who can provide additional information about the nominee. Supporting material may also be submitted; please limit print materials to 10 pages and audio-visual materials to 30 minutes. Self-nominations are encouraged. All nominations will be kept confidential. Nominations should be addressed to Pam Inglesby, WSBA, 2101 Fourth Ave., Ste. 400, Seattle WA 98121-2330. E-mail submissions are acceptable, and may be sent to pami@wsba.org. For more information about the CPLE, visit www.plecouncil.org.

Update Your Contact Information

Now is the ideal time to check that the WSBA has your correct contact information for the 2007 license fee renewal packets scheduled to be mailed in early December. APR 13(b) requires all attorneys to update their office address and telephone number within 10 days of a change. You can check your listing by going to the online lawyer directory at http://pro.wsba.org. If anything has changed, please update the information by e-mailing questions@wsba.org, faxing the change to 206-727-8319, or calling the WSBA Service Center at 800-945-WSBA (9722) or 206-443-WSBA.

Redmond Attorney Named AAA-CPA First Female President

Cynthia M. Strouss was named the first female president of the American As-

sociation of Attorney-Certified Public Accountants. Ms. Strouss, a principal in the Strouss Law Firm PLLC, focuses on business law, real estate law, estate planning, asset protection, and federal taxation. During her tenure as president, Ms. Strouss plans to build on the groundwork of her predecessors and focus on membership growth and chapter development.

Washington Defense Trial Lawyers Elects New Officers

At its annual meeting in July, Washington Defense Trial Lawyers elected Spokane attorney Steve Stocker, a principal with Stamper, Rubens, Stocker & Smith P.S., as president, and Seattle attorney Rick Roberts, a staff attorney with The Hartford, as president-elect. Also elected were Emilia Sweeney of Lane Powell PC as secretary and Ted Buck of Stafford Frey as treasurer. New board members are Jayne Freeman of Keating, Bucklin & McCormack, Inc., P.S.; A. Grant Lingg of Forsberg & Umlauf; Ryan Beaudoin of Witherspoon, Kelley, Davenport & Toole, P.S.; Nat Green of Hollenbeck, Lancaster & Miller; and Aaron Rocke of the Washington State Attorney General's Office. Washington Defense Trial Lawyers is a statewide association of civil defense attorneys dedicated to the highest professional standards of integrity, excellence, and commitment to a fair and just legal system.

Casemaker Access

Casemaker is a powerful online research library provided free to WSBA members. Visit the WSBA website at www.wsba.org and click on the Casemaker logo to access the Casemaker homepage. For help using Casemaker, contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or e-mail questions@wsba.org.

Upcoming Board of Governors Meetings

September 14-15, Seattle
October 27-28, Spokane
December 8-9, LaConnner

With the exception of a one-hour executive session the morning of the first day, Board of Governors meetings are open, and all WSBA members are welcome to attend. RSVPs are appreciated but not required. Contact Donna Sato at 206-727-8244 or donnas@wsba.org. The complete Board of Governors meeting schedule is available on the WSBA website at www.wsba.org/info/bog/schedule.htm.

Family Law and Civil Procedure Deskbooks Supplements

Bring your library up to date with the 2006 supplements to the *Washington Family Law Deskbook* (2d ed. 2000) and *Washington Civil Procedure Deskbook* (2d ed. 2002), scheduled for release this fall. To receive these supplements automatically and enjoy a 10 percent discount, sign up for the Automatic Update Service online at http://pro.wsba.org/forms/automatic.asp, or call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA. You can also ask to be notified when the supplements are available by calling the numbers above or e-mailing orders@wsba.org.

WSBA Court Rules and Procedures Committee 2006-2007 Agenda

When it reconvenes in October, the WSBA Court Rules and Procedures Committee is scheduled to review the Rules of Evidence (ER) and the Infraction Rules for Courts of Limited Jurisdiction (IRLJ). Suggestions regarding these rules or questions about the work of the committee should be directed to Douglas Ende at 206-733-5917 or e-mail WSBACourtRules@wsba.org. Interested individuals are encouraged to participate in the work of the committee.

Seeking Applications From Judicial Candidates

Application deadline: October 31, 2006

The WSBA Judicial Recommendation Committee is currently accepting applications from attorneys and judges seeking consideration for appointment to fill potential vacancies on the Washington State Supreme Court and Court of Appeals. The committee will interview candidates in November 2006. The committee's recommendations are reviewed by the WSBA Board of Governors and then referred to the state governor, who then reviews the recommendations when making judicial appointments. To obtain an application, visit the WSBA website at www.wsba.org/lawyers/groups/judicialrecommendation, call 206-727-8239, or e-mail barleaders@wsba.org. Please specify whether you need the application designed for a judge or attorney.

Armed Forces Fee Exemption

WSBA members whose status is active

and who are otherwise eligible for the armed forces exemption (as described in the newly amended WSBA Bylaw II.E.1.b.) can apply for a waiver of WSBA license fees beginning in December. WSBA members whose status is inactive or emeritus must still pay the annual license fees. If you are an active member and believe you are eligible for the fee exemption, contact the WSBA Service Center at 800-945-WSBA (9722) or 206-443-WSBA, or questions@wsba.org beginning in December.

Computer Clinic

The WSBA offers a hands-on computer clinic for members wanting to learn more about what Microsoft Office programs — such as Outlook, PowerPoint, Excel, and Word, as well as Adobe Acrobat — can do for a lawyer. Are you a total beginner? No problem. The clinic teaches helpful tips you can use immediately. Computers are provided, and seating is limited to 15 members. There is no charge, and no CLE credits are offered. The next clinic will be held on September 11 from 10 a.m. to noon at the WSBA office. For more information, contact Pete Roberts at 206-727-8237 or peter@wsba.org.

Speakers Available

The WSBA Lawyers' Assistance Program offers speakers for engagements at county, minority, or specialty bar associations, or other law-related organizations. Topics include stress management, life/work balance, and recognizing and handling problem-personality clients. For more information, contact Jennifer Favell, Ph.D., at 206-727-8267.

LAP Solution of the Month: Career Planning

Has your career turned out the way you planned? Do you have a clear vision for the next five, 10, 20 years? If not, what's getting in your way? For help developing your career plan, call the Lawyers' Assistance Program at 206-727-8269. All calls are confidential.

Contract Lawyer Meeting

LOMAP hosts a meeting of contract lawyers the first Tuesday of each month at the WSBA office from noon to 1:30 p.m. The next meeting dates are September 5 and October 3. Bring a lunch and network with other contract lawyers.

LOMAP & Ethics Traveling Seminars

Plan to attend in Pullman on September 12, Colville on September 13, Moses Lake on October 24, or Wenatchee on October 25. Registration is $84, and each seminar has been approved for four CLE credits, including two ethics. For more information, contact Julie Salmon at 206-733-5914 or juliesa@wsba.org, or visit www.wsba.org/lawyers/services/lomapontheroad.htm.

Job Seekers Discussion Group

Looking for a job or making a transition? Join us at the Job Seekers Discussion Group the second Wednesday of each month from noon to 1:30 p.m. The next meeting is September at the WSBA office. The group discusses where to look for jobs, how to use your network of contacts, strategies for résumés and cover letters, and how to keep yourself organized and motivated. Exchange information and ideas with other lawyers looking to make a change. Come as you are — no need to RSVP. For more information contact Rebecca Nerison, Ph.D., at 206-727-8269 or e-mail rebeccan@wsba.org.

Assistance for Law Students

The Lawyers' Assistance Program offers counseling to third-year law students attending Washington schools. Sessions are held in person or by phone. Treatment is confidential and available for depression, addiction, family and relationship issues, health problems, and emotional distress. We offer a sliding-fee scale ranging from $0-$30 depending on ability to pay. For more information about the LAP, call 206-727-8268, or visit www.wsba.org/lawyers/services/lap.htm.

Resolving Lawyer Disputes

The WSBA offers two programs to help lawyers resolve disputes. The Fee Arbitration Program focuses on fee disputes between a lawyer and his or her client. To participate, both parties must agree

to be bound by the arbitrator's decision. The Mediation Program provides a venue for parties to work together to resolve any dispute involving a lawyer, including those between a lawyer and a client, a lawyer and another lawyer, nor a lawyer and another professional. Either party to a dispute may initiate fee arbitration or mediation. Both programs are non-disciplinary, voluntary, and confidential. For more information, visit www.wsba.org/lawyers/services/adr.htm or call 206-733-5923.

Facing an Ethical Dilemma?

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

Search WSBA Ethics Opinions Online

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

Learn More About Case-Management Software

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

WSBA Annual Awards Dinner and 50-Year Member Tribute Luncheon

The 2006 WSBA Annual Awards Dinner will be held Thursday, September 14, at the Renaissance Madison Hotel in Seattle. The 50-Year Member Tribute Luncheon will be held Friday, September 29, at the Hilton Seattle. All members of the legal community are invited to attend these events. See registration forms on page 42 of this issue.

Usury Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in August 2006 was 5.190 percent. Therefore, the maximum allowable usury rate for September is 12 percent. Information from January 1987 to date is on the WSBA website at www.wsba.org/media/publications/barnews/usury.htm.

O'Loane, Nunn & Guthrie, P.L.L.C.
is pleased to announce that:

Michele M. O'Loane
has joined the firm as a shareholder
and the firm's name has changed to

O'Loane, Nunn, Guthrie & O'Loane, P.L.L.C.

Ms. O'Loane will continue her focus on domestic relations and welcomes referrals.

Stephen S. Manning
has joined the firm as an associate and welcomes estate planning and domestic relations referrals.

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The Law Office of Catherine C. Clark PLLC

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Groff Murphy Trachtenberg & Everard PLLC

is pleased to announce that

Kristi D. Favard

has joined the firm as an associate.

Ms. Favard received her law degree from the University of Washington with honors and her undergraduate degree from Heritage College.

Ms. Favard's practice will focus on commercial litigation and construction law.

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Wilson Smith Cochran Dickerson, P.S.

is pleased to announce that

Daniel S. Jung

has joined the firm as an Associate.

Wilson Smith Cochran Dickerson, P.S.
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206-623-4100

Davies Pearson, P.C.

Attorneys at Law

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Knowrasa T. Patrick-Roundtree

has joined the firm as an associate.

Ms. Patrick-Roundtree is accepting clients in the practice areas of labor relations, workers' compensation, Social Security disability, and personal injury.

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These notices of imposition of disciplinary sanctions and actions are published pursuant to Rule 3.5(d) of the Washington State Supreme Court Rules for Enforcement of Lawyer Conduct, and pursuant to the February 18, 1995, policy statement of the WSBA Board of Governors.

For a complete copy of any disciplinary decision, call the Washington State Disciplinary Board at 206-733-5926, leaving the case name, and your name and address.

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

Resigned in Lieu of Disbarment

John P. Junke Sr. (WSBA No. 10743, admitted 1980), of Walla Walla, resigned in lieu of disbarment, effective June 26, 2006. The resignation was based on his conduct between 2004 and 2005 involving sexual relations with a then-current client, conflicts of interest, and other conduct prejudicial to the administration of justice.

In August 2003, Mr. Junke began representing a client in a dependency action involving the client's son. The dependency action was initiated after the client was arrested for possession of controlled substances with intent to sell and child endangerment. As a result of the dependency action, the client's son was placed with relatives and the client was allowed only supervised visitation, with supervision to be provided by either the "relative care giver" or a person approved by the Department of Social and Health Services (DSHS). In November 2003, the client hired Mr. Junke to represent her in her criminal matter. In August 2004, the client pleaded guilty and was sentenced.

During the course of the representation, Mr. Junke and his client began a personal and intimate relationship, which included sexual relations. The relationship continued until approximately mid-2005. After the client was sentenced in 2004, Mr. Junke took her with him to Seattle on two occasions. On one of these trips, the client's son accompanied them. Although the client was not permitted to leave Walla Walla County without permission from her probation officer, Mr. Junke obtained permission from the probation officer for only one such trip. In addition, although the client was allowed only supervised visitation with her son, Mr. Junke never sought approval from DSHS to supervise the client's visits with her son during these trips.

Mr. Junke's conduct violated RPC 1.7(b), prohibiting a lawyer from representing a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless the lawyer reasonably believes that the representation will not be adversely affected and the client consents in writing after a full disclosure of material facts; RPC 1.8(k), prohibiting a lawyer from having sexual relations with a current client of the lawyer unless a consensual sexual relationship existed between them at the time the lawyer/client relationship commenced; and RPC 8.4(d), prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice.

Joanne S. Abelson represented the Bar Association. Janelle Carman represented Mr. Junke.

Disbarred

Norman W. Cohen (WSBA No. 373, admitted 1965), of Seattle, was disbarred, effective March 29, 2006, by order of the Washington State Supreme Court following a hearing. This discipline was based on his conduct between 1998 and 2000 involving failure to abide by a client's decisions concerning the objectives of representation, lack of diligence, failure to communicate with the client, and improperly attempting to withdraw from a representation.

In April 1998, a client hired Mr. Cohen to commence a lawsuit in an employment matter. Mr. Cohen filed the lawsuit, and trial was initially set for September 1999. At a pretrial conference in July 1999, Mr. Cohen and the defendants' lawyer stipulated to transfer the case to mandatory arbitration. Mr. Cohen neither informed his client about the pretrial conference nor explained to him what mandatory arbitration meant. The arbitration was set for December 1999. Rule 5.2 of the Mandatory Arbitration Rules (MAR) required Mr. Cohen to file a pre-hearing statement of proof 14 days before the arbitration, which he failed to do. Citing MAR 5.2, the defendants requested that Mr. Cohen's client be barred from presenting testimony or evidence at the hearing. Mr. Cohen responded to the request by faxing a very brief pre-hearing statement to the defendants' lawyer and the arbitrator. Mr. Cohen also faxed a letter to the arbitrator stating that he had no excuse for failing to file the pre-hearing statement. Because of his failure to file a pre-hearing statement, Mr. Cohen agreed in a pre-arbitration conference call with opposing counsel and the arbitrator to allow the entry of an award in the defendants' favor as long as it stated that there was no finding that Mr. Cohen's client failed to participate in the hearing. Mr. Cohen did not consult with his client or obtain client's consent to entry of an arbitration award in the defendants' favor. Mr. Cohen told his client that the arbitration had been cancelled because opposing counsel was sick. The arbitrator entered the award and Mr. Cohen filed a request for trial *de novo*. Mr. Cohen did not inform his client that, by filing a request for trial *de novo*, the client could be liable under MAR 7.3 for the defendants' costs and attorney's fees incurred after filing such a request.

In March 2000, the defendants' lawyer offered to settle the case for $2,000. Although Mr. Cohen's office forwarded a copy of the offer to the client, Mr. Cohen did not respond to the offer. A trial date was set for November 6, 2000, and a scheduling order was issued by the court requiring disclosure of primary witnesses and exhibits by

June 5, 2000, and exchange of witness lists by October 16, 2000. Although the client had provided Mr. Cohen with one or more lists of witnesses shortly after hiring him, and had updated the information prior to the arbitration date, Mr. Cohen failed to contact the witnesses, including a witness that the client considered critical to the case. During a telephonic pretrial conference on October 13, 2000, the court ordered Mr. Cohen to communicate a settlement offer to the defense attorney that day, to arrange a mediation by October 20, and to exchange witness and exhibit lists by October 23. The court subsequently memorialized this in a written order. Mr. Cohen failed to do any of these things.

On October 13, 2000, the defendants' lawyer offered to settle the case for $1,000. Although Mr. Cohen's office forwarded a copy of the offer to the client, Mr. Cohen again did not respond to the offer. The defendants' lawyer called Mr. Cohen's office on three different occasions, but did not receive any return calls. On October 24, he faxed Mr. Cohen a letter informing him that he would be requesting exclusion of witnesses and exhibits because Mr. Cohen had not complied with the pretrial order. On October 26, the defendants' lawyer filed a motion to exclude evidence and to dismiss the case with prejudice.

On November 1, 2000, five days before trial, without having informed his client of his intentions, Mr. Cohen filed a motion seeking to withdraw on short notice. On the day before trial, Mr. Cohen's secretary informed the client that Mr. Cohen was in the process of withdrawing from the case. The client attempted to find another lawyer to represent him, but none of those he contacted were willing to take on the case so soon before the trial.

On November 7, the court held a hearing on the pending motions. The court denied Mr. Cohen's motion to withdraw as untimely and granted the defense counsel's motion to exclude evidence, permitting only limited testimony. After hearing this limited testimony, the court entered a judgment for the defendants and a judgment against Mr. Cohen's client for $8,118.75 in attorney fees.

Throughout the representation, Mr. Cohen had not telephoned or in any way communicated with the client regarding key issues in the case, and he did not return the client's phone calls.

Mr. Cohen's conduct violated RPC 1.2(a), requiring a lawyer to abide by a client's decisions concerning the objectives of representation and to consult with the client as to the means by which they are to be pursued; RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; RPC 1.4, requiring a lawyer keep a client reasonably informed about the status of a matter, promptly comply with reasonable requests for information, and explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation; RPC 1.15, governing the circumstances in which a lawyer may withdraw from representation; and RPC 8.4(a), prohibiting a lawyer from attempting to violate the Rules of Professional Conduct.

Anne I. Seidel represented the Bar Association. Mr. Cohen represented himself. David K. Hiscock was the hearing officer.

Reprimanded

Robert C. Brungardt (WSBA No. 8214, admitted 1978), of Shelton, was ordered to receive a reprimand on August 2, 2005, following a stipulation approved by a hearing officer. This order is based on his conduct in 2003 and 2004 involving lack of diligence and improper withdrawal from representation.

In March 2001, Mr. Brungardt was hired to commence a lawsuit on behalf of a client who had been involved in an automobile accident on March 10, 2001. The client and Mr. Brungardt met and signed a fee agreement. In August 2003, Mr. Brungardt served a complaint on the allegedly at-fault party. Shortly thereafter, Mr. Brungardt and the other party's insurer reached an agreement that the complaint would not be filed without 30 days' notice, and Mr. Brungardt sent the insurer a demand package. In February 2004, about two weeks before expiration of the statute of limitations, Mr. Brungardt told his client that he was terminating the representation. The client contacted several other lawyers. These lawyers declined to take the case because the statute of limitations would soon expire. On March 1, 2004, the client picked up her file from Mr. Brungardt's office. On March 3, 2004, one week before the statute of limitations was to expire, Mr. Brungardt filed the complaint. Because Mr. Brungardt had not served the complaint within 90 days of filing it, or filed the complaint within 90 days of serving it, Mr. Brungardt failed to commence the action and thereby toll the statute of limitations.

In March 2004, another lawyer agreed to take the client's case and spoke with Mr. Brungardt by telephone. Mr. Brungardt told the new lawyer that he had made a demand on the opposing party's insurer. The file that the client had picked up from Mr. Brungardt's office did not contain a copy of the demand letter. During the telephone conversation, the new lawyer asked Mr. Brungardt for a copy of the demand letter. Mr. Brungardt did not respond to that request. The new lawyer sent two written requests to Mr. Brungardt for a copy of the demand letter, for any response received, and for notes that Mr. Brungardt might have taken. Mr. Brungardt did not reply to either of the written requests, nor did he respond to multiple telephone calls made by the new lawyer's legal assistant asking about the documents that had been requested. The new lawyer subsequently settled the case on behalf of the client.

Mr. Brungardt's conduct violated RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; and RPC 1.15, governing the circumstances in which a lawyer may withdraw from representation, and requiring a lawyer to take reasonable steps to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surren-

dering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned.

Scott G. Busby represented the Bar Association. Mark J. Fucile represented Mr. Brungardt. Kimberly A. Boyce was the hearing officer.

Reprimanded

Jeffrey Alan Hess (WSBA No. 7072, admitted 1976), of Seattle, was ordered to receive a reprimand on February 9, 2006, following a stipulation approved by a hearing officer. This discipline was based on Mr. Hess's conduct in 2002 involving conduct prejudicial to the administration of justice and disobeying a court order.

Between 1997 and 2002, Mr. Hess represented his brother in protracted and contentious post-dissolution proceedings. His brother's ex-wife sought modification of the child-custody arrangements, and a trial was set for May 2002. In a joint statement of evidence filed with the court, Mr. Hess identified 34 witnesses to be called on behalf of his client at trial. On the morning of the trial, Mr. Hess and opposing counsel appeared before the superior court judge. The judge initiated a discussion about the expected length of the trial, indicating that she had reserved two afternoons. The opposing counsel stated that the trial would probably take longer than two afternoons, because he had six or seven witnesses and Mr. Hess had "identified, I think, 37 witnesses he intends to call." In response to the court's and opposing counsel's comments, Mr. Hess only stated: "I don't intend to call 36 witnesses, Your Honor." At that point, Mr. Hess knew that his client was not going to contest custody, but he did not inform the court or opposing counsel that there would be no need to set aside or prepare for two afternoons of trial testimony. The court set the trial to begin that afternoon at 1:30 p.m., and opposing counsel prepared for trial. At approximately 1:25 p.m., opposing counsel received Mr. Hess's three-sentence hearing brief indicating that his client was not contesting custody, which obviated the need for a trial. Opposing counsel moved for sanctions against Mr. Hess for failing to notify him that there would be no trial. The judge issued an order awarding a judgment for sanctions and terms in the amount of $1,345 jointly and severally against Mr. Hess and his client. Mr. Hess and his client did not timely pay the sanctions assessed by the court. In January 2006, Mr. Hess paid $1,909.90 into the superior court registry, which represented the $1,345 assessed by the court plus $564.90 in accrued interest.

Mr. Hess's conduct violated RPC 8.4(d), prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice; and RPC 8.4(j), prohibiting a lawyer from willfully disobeying or violating a court order directing him or her to do or cease doing an act which he or she ought in good faith to do or forbear.

Christine Gray represented the Bar Association. Mr. Hess represented himself. David W. Wiley was the hearing officer.

Professionals

APPEALS

Philip A. Talmadge,
former justice,
Washington State Supreme Court;
fellow, American Academy of
Appellate Lawyers

Emmelyn Hart-Biberfeld,
former law clerk,
Washington State Supreme Court;
invited member, the Order of
Barristers

Anne E. Melley,
former law clerk,
Washington State Court of Appeals

Thomas M. Fitzpatrick,
former executive director,
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For when they insure it is sweet to them to take the money; but when disaster comes it is otherwise and each man draws his rump back and strives not to pay.

— Francesco di Marco Datini —
Florentine businessman, letter to his wife,
14th century.

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Calendar

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

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E-mail: comm@wsba.org

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

Administrative Law

Introducing the Public Records Act Deskbook: Washington's Public Disclosure and Open Public Meetings Laws
September 26 — Seattle. 6.5 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Business Law

50 Ways to Lose Your Client: Pitfalls Every Business Lawyer Should Avoid
October 12 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Business Essentials: Contracts and Negotiations
October 27 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Construction Law

13th Washington Construction Law
September 28-29 — Seattle. 10 CLE credits, including 1 ethics. By The Seminar Group; 800-574-4852.

Criminal Law

13th Annual Criminal Justice Institute
September 7-8 — Seattle. Up to 14.75 CLE credits, including up to 2 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Easement Law

Easements and CCRs
September 6 — Seattle. 6.75 CLE credits. By Law Seminars International; 800-854-8009 or 206-567-4490.

Elder Law

Elder Law at the Cutting Edge: Annual Fall Elder Law Conference
September 15 — Seattle. 6 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Environmental Law

Washington's New E-Waste Regulations
September 25 — Seattle. 6.5 CLE credits. By Law Seminars International, 800-854-8009 or 206-567-4490.

Estate Planning

Basic Washington Estate Planning Series, 7 Sessions
September 8 to December 15 — Seattle. 27 CLE credits and 1 ethics for all seven sessions (individual sessions 4 CLE credits). By UW School of Law; 800-CLE-UNIV or 206-543-0059.

Essentials of Drafting and Using Trusts
September 22 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA

When a Simple Will Isn't Enough
October 5 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

How to Probate an Estate and Handle Post-Mortem Matters
October 19 — Vancouver. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethics

Ethics, Professionalism and Civility: The Hard Questions
September 28 — Seattle. 3 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethical Dilemmas for the Practicing Lawyer
October 3 — Spokane. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethical Dilemmas for the Practicing Lawyer
October 10 — Olympia. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethics With Ease: Ethics for Estate Planners
October 11 — TELE-CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethics With Ease: Ethics for Litigators
October 17 — TELE-CLE. 1.5 CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethics With Ease: Ethics for Elder Law Attorneys
October 24 — TELE-CLE Series. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethical Dilemmas for the Practicing Lawyer
October 25 — Vancouver. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethical Dilemmas for the Practicing Lawyer
October 31 — Mount Vernon. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Family Law

A Tax and Financial Checklist for Your Family Law Practice: Advising Clients in Traditional and Nontraditional Relationships
September 19 — Seattle. 5.75 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

The Nexus of Domestic Violence and Family Law
October 13 — SeaTac. 6.5 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Financial Law

Financial Statements: Reading Between the Numbers
September 8 — Spokane. 5.5 CLE credits. By The Seminar Group; 800-574-4852.

Indian Law

19th Annual University of Washington Indian Law Symposium
September 14-15 — Seattle. 11.5 CLE credits, including 1 ethics. By UW School of Law; 800-CLE-UNIV or 206-543-0059.

Intellectual Property

Annual Intellectual Property Licensing Seminar
September 20 — Seattle. 6 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Intellectual Property Developments: Litigation, Machination, and Reformation
September 29 — Spokane. 6 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Labor/Employment

Labor and Employment Law Conference
September 7 — Spokane. 6 CLE credits. By The Seminar Group; 800-574-4852.

6th Annual Labor and Employment Law Conference
October 4 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Employee Benefits
October 25 — TELE-CLE. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Law Practice Management

Accounting for Attorneys
September 14 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Winning Strategies
September 27 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Litigation

GAIN THE EDGE!® Negotiation Strategies for Lawyers, with Marty Latz
September 29 — Seattle. 6.5 CLE credits, including 1.5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Civil Settlement Strategies
September 21 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Modern Discovery
October 26 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Mediation and Arbitration

Four-Day Intensive Mediator Training Program
October 3-6 and December 5-8 — Seattle. 41.5 CLE credits, including 4.5 ethics. By Alhadeff and Forbes Mediation Services; 206-281-9950 or www.mediationservices.net.

Professional Mediation Skills Training
October 6-8 and 21-22 — Seattle. 34 CLE credits, including 2 ethics. By UW School of Law; 800-CLE-UNIV or 206-543-0059.

Miscellaneous

Accounting for Attorneys
September 14 — Seattle. 6.5 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

15th Annual Water Law Conference
October 20 — Tacoma. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Real Property

Residential Landlord Tenant Law
September 12 — Seattle. 6 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Real Estate Litigation
October 18 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Tax Law

A Tax and Financial Checklist for Your Family Law Practice: Advising Clients in Traditional and Nontraditional Relationships
September 19 — Seattle. 5.75 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Classifieds

Reply to WSBA *Bar News* Box Numbers at:

WSBA *Bar News* Job Code _____
***Bar News* Classifieds**
2101 Fourth Ave., Ste. 400
Seattle, WA 98121-2330

Positions available are also posted online at www.wsba.org/jobs.

Space Available

Downtown Seattle executive office sharing: Full- and part-time offices available on the 32nd floor of the 1001 Fourth Avenue Plaza Building (Fourth and Madison). Beautiful views! Close to courts and library. Short- and long-term leases. Conference rooms, reception, kitchen, telephone answering, mail handling, electronic law library, legal messenger, copier, fax, and much more. $175 and up. Please call 206-624-9188 for more information.

Ballard office space available for one or two attorneys. Includes library conference room, secretarial space, and parking for attorneys and clients. Secretarial space available. Located one block from five banks, new public library. Please call Geir T. Jonsson, 206-783-4100; fax 206-784-8916.

Everett sublease available with water view, two blocks from courthouse in Bank of America Building. Corner office (12.5x11) and adjacent office (14x11). $800 each or $1,500 both. Amenities available. Please e-mail alayne@spauldinglaw.com or call 425-258-5458 for more information.

Executive office suites — Bellevue and

Kirkland. Private suites with skilled receptionist, conference room. Internet, phone, transcription, and other specialized services available. Corner Office Inc., 425-213-6010; www.cornerofficeinc.com.

Congenial downtown Seattle law firm (business, I.P., tax). Spacious offices, staff areas for sublease. Rent includes receptionist, conference rooms, law library, kitchen. Copiers, fax, DSL Internet also available. 206-382-2600.

Beautiful, recently remodeled downtown Seattle office space available for sublease in Class-A building. One, two, or three offices plus secretarial space, conference room, and amenities on 40th floor. Call Sherry at 206-447-3046.

Kent office space: Large, fully furnished corner office with private entrance in elegant, newly constructed small law building. Possible referrals. All amenities included. Gated entrance with own parking lot. Highly visible location close to RJC. 206-227-8831.

Positions

Attorneys: Quality attorney recruitment for contract and direct-hire placement, including lateral-hire partnership and of-counsel positions. We specialize in engagements with Puget Sound's premier law firms of large to small/solo membership, corporate legal departments, boutique practices, and governmental agencies. Please contact Law Dawgs, Inc., in confidence, at 206-224-8269; e-mail seattle@lawdawgs.com; www.lawdawgs.com.

Quality attorneys sought to fill high-end permanent and contract positions in law firms and companies throughout Washington. Contact Legal Ease, LLC by phone, 425-822-1157; fax, 425-889-2775; e-mail legalease@legalease.com; or visit us on the web at www.legalease.com.

Minzel and Associates, Inc. is a temporary- and permanent-placement agency for lawyers and paralegals. We are looking for quality lawyers and paralegals who are willing to work on a contract and/or permanent basis for law firms, corporations, solo practitioners, and government agencies. If you are interested, please e-mail your résumé as a Word attachment to resumes@minzel.com. Please visit our website at www.minzel.com.

Lateral/partner-level real estate transactional or land-use attorney: Quid Pro Quo, Attorney Search Consultants, is exclusively representing a Seattle law firm in its search for a transactional real estate or land-use attorney. The firm's real estate group represents developers, builders, investors, landlords, and owners with real estate projects. This includes multi-family and single-family housing, retail, industrial, resort and mixed use projects, both urban and suburban. The attorneys in this group enjoy a cooperative work environment and are focused on the development of the real estate practice group and the firm as a whole. Additionally, the firm has an attractive rate structure that enables it to maintain numerous clients and attract others. Business magazines report that the firm is one of the "Most Admired Companies" and one of the "Best Companies" to work for. The firm represents a broad range of business, commercial, and litigation practices and specializes in sophisticated real estate, corporate, and intellectual property transactions. This outstanding firm is seeking a transactional real estate or land-use partner-level attorney with a portable book of business of at least $600,000 and 10 or more years of experience in transactional real estate or land use representing owners or developers. An established reputation in Seattle and connections within the housing developer community are preferred. All candidates must be a member of the WSBA. For immediate and serious consideration, please contact Dyana R. Veigele, Esq., President, Quid Pro Quo, Attorney Search Consultants at 206-224-8269 or dv@QPQlegal.com. All communications are held in the strictest confidence.

Lead prosecuting attorney opening for the Colville Confederated Tribes. The duties will include representing the Tribes in criminal, child dependency, and other matters. The incumbent will supervise three spokesperson and two support staff and maintain a caseload. Qualifications: law school graduate, WSBA member, at least three years' experience, prosecutorial and supervisory experience is preferred. For more information go to www.colvilletribes.com/jobs.htm. Salary DOE, excellent benefits, including 401(k), health, vacation. Please send application, résumé, and writing sample to CCT Human Resources, PO Box 150, Nespelem, WA 99155 or fax: 509-634-2864. Questions may be directed to 509-634-2462.

Seattle-based airline seeks in-house attorney: Managing director of labor and employment law/associate general counsel. Alaska Airlines, Inc. is seeking a qualified attorney to accept overall responsibility for the company's legal practice regarding labor relations and employment matters. Ideal candidate would have at least 10 years of practice in labor and employment law, preferably including matters arising under the Railway Labor Act. Enthusiasm, adaptability, and interest in aviation industry are pluses. Benefits include free standby travel on Alaska Airlines and Horizon Air, generous 401(k) matching contribution, and five weeks of paid time-off per year. If you want the lifestyle benefits of an in-house position combined with the challenges of a sophisticated practice, please apply online at www.jobs.alaskaair.com. Equal Opportunity Employer.

Christensen, Moore, Cockrell, Cummings & Axelberg, P.C., in Kalispell, Montana, is seeking an associate attorney with one-plus years of experience in civil litigation. The firm specializes in the areas of insurance defense, bad-faith defense, municipal-liability defense, and defense of toxic torts. Exceptional opportunity for qualified individual. Applicants must be admitted to practice in Montana state and federal courts or be able and willing to obtain admission. Very competitive salary and benefits. Send résumé and letter of interest to Sean Goicoechea, PO Box 7370, Kalispell, MT 59904.

Seattle-based airline seeks in-house commercial attorney: Alaska Airlines is seeking a qualified attorney to handle varied commercial matters for the airline's operating divisions. This attorney will also support senior counsel in completing aircraft lease and sale transactions and with SEC/corporate governance matters. Ideal candidate would have five or more years of practice in significant commercial transactions, preferably including equipment financing, secured transactions, and leasing. Collegial legal department welcomes candidates who are enthusiastic, adaptable, and interested in the aviation industry. Benefits include free standby

travel on Alaska Airlines and Horizon Air, discounted travel on other airlines, generous 401(k) matching contribution and five weeks of paid time-off per year. Please visit www.jobs.alaskaair.com if you are looking for the lifestyle benefits of an in-house position combined with the challenges of a sophisticated practice. Equal Opportunity Employer.

Vancouver, Washington — Shumsky & Backman's Vancouver office is hiring an attorney with two-plus years of experience to assist our litigation practice in Washington and Oregon. We offer to the qualified candidate an excellent salary, a pleasant work environment, and a unique practice. Please forward your cover letter and résumé to hiringpartner@shumsky-backman.com, by mail: Hiring Partner, Shumsky & Backman, 2011 St. Johns Blvd., Vancouver, WA 98662, or facsimile to 360-891-0110. 360-891-0442.

Senior associate/lateral banking attorney — Are you looking for high-quality, challenging legal work and a high quality of life? Large Spokane law firm is seeking a senior associate or lateral attorney to work in its growing banking/creditors' rights group. Our ideal candidate would have five-plus years' experience structuring and preparing documents for real estate and personal property secured loan transactions. Experience in financial institution regulatory issues a bonus. Position requires excellent drafting skills, problem-solving skills, attention to detail, ability to multitask and prioritize, and ability to work as part of a team. If you are interested, please submit your cover letter, résumé, and a writing sample (in the form of an original agreement you have drafted substantially from scratch, that is, not primarily from a set of forms) to PO Box 21113, Spokane, WA 99201. All inquiries kept confidential.

Lateral/shareholder business transactions attorney: Quid Pro Quo, Attorney Search Consultants, is currently assisting a highly-regarded and well-established Northwest law firm, with its search for a senior-level lateral hire. We are seeking attorneys to join the firm's sophisticated and entrepreneurial business transactions practice group. This strategic growth-oriented firm desires top-talent attorneys who have predominantly represented private businesses for at least a decade. The ideal candidate will be knowledgeable in an array of corporate issues and business transactions for closely held entities from emerging and start-up ventures/enterprises to mature businesses. Tax experience, although not required, would be a plus. The firm represents privately held companies in all areas of governance, contracting, mergers and acquisitions, supply contracts, and asset acquisition and sale. The practice group has broad-based experience with the laws and business practices affecting companies and entrepreneurs in an extensive range of industries from formations and governance to wind-ups and dissolutions. This opportunity to partner with esteemed practice group leaders requires the successful candidate to possess a strong client following and portfolio. The firm is interested in lateral partners who will work with the firm's expanding and high-profile client base, while maintaining the development of their own practice and participation in the firm's marketing interests. Strategic planning for and development of the Seattle office has allowed the law firm to offer the successful candidate a robust platform of expertise and a sound structure to handle a variety of transactions from the small business owner to the Fortune 500 client. This is a unique opportunity to be a leader in this vital practice group. All candidates must be members of the WSBA and have 10-plus years of relevant experience. For immediate and serious consideration, please contact Dyana R. Veigele, Esq., President, Quid Pro Quo, Attorney Search Consultants at 206-224-8269 or dv@QPQlegal.com. All communications are held in the strictest confidence.

Workers' compensation defense firm seeks experienced associate to assume existing caseload in growing practice. Qualified candidate will possess workers' compensation, medical malpractice, and insurance defense experience, excellent writing, and client relations skills. Send résumé and writing sample to L. Nelson, 216 1st Ave. S., Ste. 310, Seattle, WA 98104.

Real estate attorney — Vancouver, Washington. Are you interested in joining a fantastic firm with a thriving real estate practice? If so, look no further than the Vancouver, Washington, office of Miller Nash. We are looking to hire a real estate attorney with experience in the following: sophisticated transactions, leasing, and finance. Applicants must be committed to the Vancouver market and able to work in a team environment. If you qualify, please submit your cover letter, résumé, law-school transcript, and writing sample (no longer than 10 pages, please) online at www.millernash.com/careers or by e-mail to katie.charlston@millernash.com. EOE.

Business litigator three-plus years' experience — Portland. Miller Nash is seeking to hire an associate with three-plus years' experience in business litigation. We are looking for a record of academic and professional excellence and a sincere focus on clients, colleagues, and the community. In addition to being a highly skilled lawyer, the ideal candidate must have a smart business sense and entrepreneurial outlook on the practice of law. To apply, please submit your cover letter, résumé, law-school transcript, and writing sample (no longer than 10 pages, please) online at www.millernash.com/careers or by e-mail to katie.charlston@millernash.com. EOE.

Employment/education associate — Portland. Miller Nash is seeking to hire an associate with a strong interest in employment and education law. Our ideal candidate will have one-plus years' experience in employment and/or education practice. We are looking for a record of academic and professional excellence and a sincere focus on clients, colleagues, and the community. Our employment/education group is well respected in the community and is a growing area of practice for Miller Nash. To apply, please submit your cover letter, résumé, law school transcript, and writing sample (no longer than 10 pages, please) online at www.millernash.com/careers or by e-mail to katie.charlston@millernash.com. EOE.

Betts, Patterson & Mines, P.S. is an AV-rated Seattle mid-sized law firm, and our attorneys are consistently recognized for their accomplishments in the legal field. We are looking for an exceptional associate with at least three years of experience in complex litigation and insurance defense. The ideal candidate will have an excellent legal background, excellent education record, and a commitment to the Pacific Northwest and the firm's two primary core values: teamwork and quality. Please send or e-mail your résumé and writing sample to Ruth M. Alstadt, HR Coordinator, One Convention Place, 701 Pike St., Ste. 1400, Seattle,

WA, 98101 or betts-employment@bpmlaw.com. Only qualified applicants will be eligible for a response.

Employment law partner with portable book of business: A highly regarded downtown Seattle law firm seeks to add an employment law, partner-level attorney to its practice. This business law firm has experienced significant growth in its profits per partner-level attorney over the past several years. In addition to enjoying financial success, the firm's culture and people are, without a doubt, its most appealing attributes. The multidisciplinary firm represents both private- and public-sector employers in all aspects of employment law and delivers professional legal services in traditional areas such as litigation, business law, intellectual property and patent law, financial planning, labor and employment, real estate, public finance, and commercial law. There is an entrepreneurial spirit throughout the work environment. Attorneys here are guided by an abiding respect for professional excellence and collegiality. Candidates must have at least 10 years of experience and a portable book of business. Experience in both transactional (e.g., development/evaluation/audits of personnel policies and procedures, advice on termination, disability, ADA, etc.) and litigation (defense of employers against claims of discrimination, harassment, constructive discharge, wrongful discharge, unemployment compensation, and breach of contract) with emphasis in either. All candidates must be members of the WSBA. The successful candidate will have a significant interest in cross-selling, the ability to handle additional work-flow/referrals from other partners, and be an energetic and dynamic individual with strong leadership skills. For immediate and serious consideration, contact Jean Seidler Thompson, Esq., director of attorney placement, in confidence at 206-224-8269 or JT@QPQLegal.com at Quid Pro Quo, Attorney Search Consultants. All inquiries are held in the strictest confidence.

Seattle firm seeks a lateral partner or practice group with a strong portable book of business. We are looking for candidates with an established practice in the areas of commercial and secured transactions, corporate finance and recapitalization, mergers and acquisitions, and private placements to complement our firm's existing commercial real estate and business practices. The attorneys in our firm enjoy independence combined with a high degree of support and collegiality. This is an excellent opportunity for candidates who seek to join a highly profitable practice offering exceptional client service. E-mail classifieds@wsba.org, attn: WSBA *Bar News* Job Code 675; or mail to WSBA *Bar News* Job Code 675, *Bar News* Classifieds, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121.

The state of Washington's Department of Health, Health Professions Quality Assurance Division, is seeking qualified attorneys to fill new staff attorney positions (Hearings Examiner 3) with its Legal Services Unit. Interested members of the Bar should contact Debi Young at 360-236-4719 or Donna Thorson at 360-236-4720 for additional information.

Property law professor — The University of Montana School of Law invites applications for a tenure-track position teaching in the area of property law to commence in the fall of 2007. More information, including a full position description and the hiring criteria, is available on our website, www.umt.edu/law. Application materials should be submitted by October 1, 2006.

Shareholder representing financial institutions: Quid Pro Quo, Attorney Search Consultants, is currently representing a mid-sized law firm with its search for a financial institutions partner-level transactional or litigation attorney to join its flourishing financial institutions practice group in Seattle. This firm provides a unique opportunity for a motivated attorney desiring an attractive platform to enhance and build his or her practice and client base. This well-established firm has provided sophisticated legal advice for over 20 years to a wide range of financial institutions including banks, credit unions, and securities firms. This firm manages complex transactions and cases, and its clients include Fortune 500 companies. Candidates must have a minimum of 10 years of experience in financial institutions litigation or transactional work. A substantial portfolio and client following is required. Transactional attorney candidates must have a practice focused on representation of financial institutions, including banks, credit unions, or securities firms. Expertise should include a combination of corporate governance and transactions (new bank formations, bank mergers, stock offerings, etc.), lending and structured finance, regulatory interventions, loan workouts, and bankruptcy. Litigation candidates' experience representing financial institutions should include lender liability, secured transactions, creditor-

To Place a Classified Ad

Rates: WSBA members: $40/first 25 words; $0.50 each additional word. Nonmembers: $50/first 25 words; $1 each additional word. Blind-box number service: $12 (responses will be forwarded). Advance payment required; we regret that we are unable to bill for classified ads. Payment may be made by check (payable to WSBA), MasterCard, or Visa.

Deadline: Text and payment must be received (not postmarked) by the first day of each month for the issue following, e.g., October 1 for the November issue. No cancellations after the deadline. Mail to:

WSBA *Bar News* Classifieds
2101 Fourth Ave., Ste. 400
Seattle, WA 98121-2330

Qualifying experience for positions available: State and federal law allow minimum, but prohibit maximum, qualifying experience. No ranges (e.g., "5-10 years"). If you have questions, please contact Dené Canter at 206-727-8213 or classifieds@wsba.org.

debtor law, and bankruptcy. All candidates must be members of the WSBA. The firm offers an attractive and competitive compensation package. For immediate and serious consideration, contact Jean Seidler Thompson, Esq., director of attorney placement, in confidence at 206-224-8269 or JT@QPQLegal.com at Quid Pro Quo, Attorney Search Consultants. All inquiries are held in the strictest confidence.

Major, Lindsey & Africa, attorney search consultants, was founded in 1982 and now has offices in 15 U.S. cities, Hong Kong, and London. In the only legal recruiters' national surveys ever conducted, MLA was described as being "in a league apart from other legal headhunting firms" and was voted "Best Legal Search Firm in the U.S." If you are interested in in-house, partner, or associate opportunities, please contact our Seattle office at 206-218-1010, or e-mail your résumé to seattle@mlaglobal.com.

Will Search

Will Search: Seeking will of Richard B. Nichols of Everett/Lake Stevens, Washington. Contact Michael Howard, 206-236-1301.

George F. Hammond II of Olympia or Long Beach, Washington. Seeking will or any information. Contact Damian Clarke, 253-720-8136 or damclarke@msn.com.

Services

Minzel and Associates, Inc. is a temporary- and permanent-placement agency for lawyers and paralegals. We provide highly qualified attorneys and paralegals on a contract and/or permanent basis to law firms, corporations, solo practitioners, and government agencies. For more information, please call us at 206-328-5100 or e-mail mail@minzel.com.

Focus on what you do best and leave the rest to me: Contract attorney with excellent research and writing skills. Fast turnaround, 12 years' experience, references and samples available. Beatrice M. Acland, 360-319-2601, bea@aclandlaw.com.

Fast cash for seller carry-back notes, www.wallstreetbrokers.com. Fast cash for divorce liens, www.divorceliens.com. New book by Lorelei Stevens, www.fastcashbook.com. Larry and Lorelei Stevens; 800-423-2114. Notes appraised for estates.

Don't let your client's message get lost in translation! Flores & Associates has been serving the legal community since 1993 providing complete and accurate Spanish interpretation/translation for depositions, hearings, transcriptions, documentation, meetings, conferences, etc. Contact us at 206-526-1961 or via e-mail at interpreters@aol.com. Certified by the U.S. Courts, Washington state and DSHS.

IBA, the Pacific Northwest's oldest business brokerage firm, sells privately held companies and family-owned businesses. We are professional negotiators/facilitators with more than 4,000 completed transactions. Please contact us if we can be of assistance to you or any of your clients at 800-218-4422 or www.ibainc.com.

Contract attorney: All aspects of litigation and appeals, including research. Former name partner in boutique litigation firm. Fourteen-plus years' experience. Have conducted numerous civil jury trials, including complex litigation. Reasonable rates; variable per type of work. Pete Fabish, 206-545-4818.

Bad-faith expert witness. Former insurance claims adjuster and defense attorney, over 20 years' combined experience. JD, CPCU and ARM. Dave Huss, 425-776-7386.

Tax attorneys (both with LL.M.) available for contract and referrals. Estate planning, business planning, employee benefits, and more. Free consultations. Please call 206-529-5143.

Mediation and arbitration services: Oregon and Washington. O.M. (Met) Wilson Jr. Wilson Dispute Resolution, 1211 SW 5th Ave., Ste. 2950, Portland, OR 977204. Tel.: 503-972-5090. E-mail: met@wilsonadr.com. Web: www.wilsonadr.com.

Hawaii All Islands Real Estate: W. Anton Berhalter (WSBA No. 11310, HRS-65566) offers his services for all Hawaii real estate needs. Real estate purchase, sale, management, rentals, and evaluations. Contact Walt Berhalter, J.D., CLU, MBA, RS, Sales Manager, Century 21 All Islands, PO Box 487, 3254 Waikomo Rd., Koloa, HI 96756. E-mail, walt.berhalter@hawaiimoves.com. Web, www.hawaiimoves.com. Direct, 808-240-2496; fax, 808-742-9293; cell, 808-651-9732.

Medical malpractice expert witnesses. We have thousands of board-certified doctor experts in active practice. Fast, easy, flat-rate referrals. Your satisfaction guaranteed! Also, case reviews by veteran MD specialists for a low flat fee. Med-mal EXPERTS, www.medmalexperts.com, 888-521-3601.

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

Hard-working contract attorney helps you meet your deadlines. WSBA member with 25 years of experience conducts legal research and writing for attorneys, using UW Law Library and LEXIS online resources. I draft trial and appellate briefs, motions, and memos. Elizabeth Dash Bottman, 206-526-5777, bjelizabeth@qwest.net.

Insurance agent/broker standard of care expert witness. Former insurance broker and underwriter, over 30 years' industry experience. Bob Sedillo, CPCU, ARM, AU, CIC, 425-836-4159.

Experienced brief and motion writer available as contract attorney. Fifteen years' litigation experience, including trial preparation. Short deadlines OK. Reasonable rates. Lynne Wilson, 206-328-0224, lynnewilso@aol.com.

Contract attorney available for research, document review, and brief writing for motions and appeals. Top academic credentials, law review, judicial clerkship and fifteen years' experience. Joan Roth McCabe, 206-784-1016, jlrmcc@yahoo.com.

Vacation Rentals

Vacation rentals: France and Italy — 18th-century Tuscan farmhouse, four apartments, views of San Gimignano, 900 to 1,000 euros weekly, www.lawofficeofkenlawson.com, 206-632-1085, studios to castles.

Washington's Got Talent!

Local Hero Award Honors WSBA Members Serving Their Communities

Lawyers and judges are known for giving generously of their time and talents in service to their communities. Not only do lawyers provide thousands of hours of *pro bono* legal advice, they also serve on the boards of civic and charitable organizations, participate in community-service programs that help mentor youth and care for senior citizens and the poor, and serve their communities in countless other ways.

In 2000, then-WSBA president Jan Eric Peterson established the Local Hero Program to recognize lawyers who have made noteworthy contributions to their communities. As the Board of Governors meets in cities around the state, the WSBA honors local lawyers with the Local Hero Award.

This year the Board of Governors also introduced the Community Service Award, presented annually to recognize exceptional non-law-related volunteer work and community service.

Bar News recognizes the extraordinary attorneys who have received the Local Hero Award to date, as well as the hundreds of unsung local heroes who work tirelessly to strengthen their communities and help make life better for all Washingtonians. Through their good works, these remarkable lawyers and judges fulfill the highest aspirations of the legal profession.

Francois X. Forgette, Kennewick, October 2000
Hon. William G. Knebes, Port Angeles, December 2000
Edward F. Schaller Jr., Olympia, January 2001
Timothy B. Odell, Everett, April 2001
Robert L. Parlette, Wenatchee, June 2001
Laura L. Jaeger, Federal Way, September 2001
Richard A. Melnick, Vancouver, October 2001
Henry Haas, Tacoma, December 2001
David D. Cullen, Olympia, January 2002
Ronald E. Thompson, Gig Harbor, February 2002
Mirta Laura Contreras, Yakima, May 2002
Deane W. Minor, Everett, December 2002
Hon. Mary E. Fairhurst, Olympia, January 2003
Evan E. Inslee, Sumner, April 2003
Laurie A. Powers, Bellingham, July 2003
Breean L. Beggs, Bellingham, July 2003
William D. Robison, Vancouver, October 2003
Hon. Rhonda J. Brown, University Place, February 2004
Hon. Michael E. Schwab, Yakima, June 2004
Eugene G. Schuster, Richland, October 2004
John M. Gray, Olympia, January 2005
David F. Stobaugh and Stephen K. Strong, and the law firm of Bendich, Stobaugh and Strong, P.C., Seattle, March 2005
Jay A. Johnson, Wenatchee, May 2005
Deborra E. Garrett, Bellingham, July 2005
Hon. James P. Swanger, Vancouver, October 2005
John F. Mitchell, Bremerton, December 2005
Richard W. Hemstad, Olympia, January 2006
Nancy Koptur, Olympia, January 2006
Hon. Douglas E. Goelz, Long Beach, March 2006
Hon. H. John Hall, Chehalis, April 2006
Hon. Donald W. Schacht, Walla Walla, April 2006
Hon. Michael E. Cooper, Ellensburg, June 2006
Harry A. Jackson, Port Angeles, July 2006