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SOLVE PROBLEMS!
Thanks! I sincerely mean that! It has been a wonderful year and I am most grateful to have been able to serve as president of the Washington State Bar Association. Several years ago, then-WSBA President Jan Eric Peterson had as his mantra, “Proud to be a lawyer.” I am not only proud to be a lawyer, I am proud to be a lawyer in the Washington State Bar Association.

In my years of being involved with the WSBA (nearing 40 now), I have been privileged to observe not only many aspects of our association, but also bar associations around the United States. I can honestly say that in all respects we have a bar association and membership of which we can be very proud.

The leadership provided by our Supreme Court is unparalleled. The relationship between our Supreme Court and our association is enviable.

The Board of Governors that serves the membership is bright, hardworking, and professional.

Our executive director, Paula Littlewood, and the WSBA staff are revered around the country for being progressive, innovative, and visionary.

There are numerous programs that the WSBA has historically demonstrated leadership around the country, including, but not limited to: Access to Justice, the Washington Leadership Institute, and Young Lawyers.

Our relationship with the three law schools is remarkable and serves to foster the mutual purposes of our institutions and the future members that they are nurturing and we will embrace. The Moderate Means Program serves as a good example of what good can come from the combined efforts of our entities. We are in the process of collaborating with the law schools to devise a way to connect our soon-to-be retiring population of lawyers with law students and young lawyers. Over 50 percent of our members are 50 years of age or older and over 50 percent are either solo practitioners or in small firms. This effort could have the combined benefit of putting young lawyers to work; providing mentorship opportunities; and allowing retiring lawyers the opportunity to timely and gracefully leave the practice of law.
This year has had its challenges. As many of you know, I prefer to view these events as opportunities. I truly believe that all that we have faced as an organization and its members are opportunities. I have no doubt that when the dust of this year settles, we will emerge a leaner, more focused, and more effective organization.

I have been further encouraged to be proud to be a WSBA lawyer by two encounters that occurred during my recent trip to Chicago to attend the National Conference of Bar Presidents meeting. As Paula Littlewood and I awaited boarding our plane in Seattle, we were surrounded by at least 15 very active young men and women (14–16 years of age, perhaps). As I watched them interact, I was aware of a young woman who didn’t appear to be much older than the group, but who possessed a degree of calm, poise, and organization. We ended up talking with her and learned that she is entering Catholic University School of Law this fall. She was delightfully excited at the prospect of going to law school and joining our profession. I could tell by the way she related to us and the situation at hand — an army of young active people under her supervision; meeting the president and executive director of the state bar; sharing her prospect of going to law school — that this young woman will go far in life and will be a member of our profession of whom we will all be proud.

The next incident occurred only a few hours later. As the plane was preparing to land at O’Hare, Paula and I engaged in a conversation with a young man who was sitting in the window seat. As it turns out, he was a student at Whitworth and was planning to become a CPA. He was headed to Florida for a professional development conference with other young prospective CPAs. Upon learning that Paula and I were lawyers, he added that his plan was to begin law school within the next few years as he wanted the background and training that law school would provide. He was articulate, intelligent, and engaged.

Now, I know that there are young people entering law school every fall from all over the country. What struck me about these two young people is that they were not only bright, but also very engaged in many aspects of life. These chance encounters led me to a few observations: 1) I am proud to be a lawyer and proud that bright, engaged young people are seeking out our profession; 2) for the most part, lawyers are engaged in many aspects of life; 3) lawyers are often involved in service to others for purposes other than monetary gain.

As I wind down the last month of my term as president, I would like to thank each and every one of you for what you do to foster our profession. As the only self-regulated profession, we have been given great opportunities. I am not a member of an organized religion, but this quote seems apropos: “For everyone to whom much is given, of him shall much be required.” (Luke 12:48.)
With Change Comes Opportunity

The Revitalized Washington State Bar Foundation — More Ways to Support the Programs You Value

One thing is certain over the past few months and that is that change has been a constant. Since the passage of the referendum, the WSBA has been in transformation mode as it seeks to shape a more effective and efficient Bar that best meets the needs of all our members.

It’s been a challenge for all of us to rethink the bar — to take stock and consider what really matters to us as a profession. We’ve been doing it. You’ve been doing it.

This month, I am proud to introduce you to the revitalized Washington State Bar Foundation. A team of bold thinkers have been working hard behind the scenes to retool YOUR Foundation to give you more ways to get involved and to support the vital programming you value. Your voluntary contribution to the Foundation will provide critical funding to further our programming in areas such as justice, diversity, and public service.

As we’ve faced a number of tough decisions, we’ve heard from Kittitas to Kitsap and Yakima to Yelm, your concerns about the fate of programs that make you especially proud to be a Washington lawyer.

You are proud that WSBA is a national leader on efforts to accelerate access to the justice system (WSBA staffs the country’s first of its kind Access to Justice Board).

You are proud that WSBA stepped up during an unprecedented crisis to help those most at risk of losing their homes (the WSBA Home Foreclosure Legal Aid Project is in its third year of helping homeowners with nowhere else to turn).

You are proud of the innovation of the statewide Moderate Means Program, which not only helps more people access lawyers when they need them, it helps law students gain real world experience, and lawyers grow into new areas of practice (we are partnering with all three Washington law schools to expand the WSBA Moderate Means Program).

You told us these programs matter. You care that we continue to be a profession that gives back, and you value the opportunity to give back while growing your own skills, practice, and networks. And many, many of you have asked what you can do to help ensure WSBA stays in the business of justice, diversity, and public service.

And we have been listening. The opportunity? Through the all-new Bar Foundation, you have the power to keep WSBA at the forefront of justice, diversity, and public service programming.

You will be hearing a lot more about the Bar Foundation in the coming months as it works to fulfill its mission of supporting WSBA programming. Until then, take a peek at wsba.org/foundation and let us know what you think at foundation@wsba.org.

Paula Littlewood is the WSBA executive director and can be reached at paulal@wsba.org or 206-239-2120.
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May you live in interesting times.” It’s a saying of dubious origins, but the sentiment is unambiguous. And for those practicing law, the last five years or so have been “interesting times” indeed. The global slowdown has impacted all sorts of practices, including even those — such as litigation, restructuring, and family law — that typically boom in lean times. While there have been pockets of resilience and anecdotal tales of success and growth, no group of practitioners has been immune, from solos to big law giants such as Dewey LeBoeuf (the 1,300-lawyer behemoth that is going through an acrimonious implosion).

Factors other than the recession are at work, however. Technology is rapidly changing how consumers relate to, shop for, and purchase goods and services. Much as we lawyers may protest our “difference,” these trends impact our practices as well as they do the businesses of hotels, retailers, and manufacturers. As the economy recovers, attorneys who smartly adapt to these changes have the most to gain. But I emphasize “smartly,” as many of the new tools and approaches to online business development and practice management are not of the “set and forget” type. To work properly, they require active engagement by the lawyer. And while some of the infrastructural work can be outsourced, the biggest benefit will come to those who take the time to embrace these changes — and others like them.

1. The Growth of Online Business Development. It’s difficult to reconcile the free-fall of Yellow Pages ad revenue — and relevance to the average consumer — with the fact that so many attorneys and small firms continue to have anemic or nonexistent online identities. Potential clients are abandoning offline sources (like the Yellow Pages) in droves and searching for information on service providers, including lawyers, online. According to a 2012 Legal Market Survey conducted by Avvo and LexBlog, 56 percent of 1,300 lawyers surveyed said that online sources (such as directories, ads, blogs, and social media) were their primary source of new business after personal referrals.

What’s more, this number probably understates the importance of online information in helping close personal referrals. What are potential clients who have been given your name going to do? While some may pick up the phone and call, you can expect an ever-increasing number to enter your name into Google. There is an old advertising adage that “long copy sells.” You need to give those...
looking for information about you and your practice that “long copy” — an online identity rich with information about your background, approach, and personality. You could be a lion of the bar, but if you are a cipher online, you’re increasing the chances that potential clients will look elsewhere.

Taken a step further, savvy practitioners realize that online tools give them additional options to engage with existing clients and build their business. Blogs, social media, and email newsletters are all ways to get closer to your clients and keep them informed of your capabilities. However, these methods require an interest in writing and a willingness to invest the time in long-term business development.

What to Do: There’s no excuse for any lawyer or law firm to not have a decent online presence. LinkedIn and Avvo offer free profiles that are well-optimized for the search engines. And websites no longer require massive investments of time and money; there are a plethora of free and low-cost providers of websites, including wix.com and the law-focused EsqSites.

For those looking at more advanced options, blogging and social media (Twitter, Facebook, etc.) offer ways to expand your network of potential referral sources and create a bigger online footprint. But a note of caution: These tools shouldn’t be confused with marketing. They are not effective when used merely as one-way communication. Blogging and social media are long-term strategies, best viewed as a way to scratch one’s itch for writing, get to know a wider circle of colleagues, and become a better lawyer — with business development as a side benefit.

2. The Rise of the Forms. Many solo and small firms are nervous about the increasing scope and reach of online form providers. Services such as LegalZoom and RocketLawyer offer low-cost online solutions for numerous legal issues, from uncontested divorces to creating wills and trusts. How fast are these services growing? In May of this year, LegalZoom filed to go public, revealing along the way that it generated $156 million in revenue last year and was responsible for over 20 percent of all 2011 LLC filings in its home state of California. That’s a lot of forms.

What to Do: It does no good to be-moan the possibility for error or the inability of form-based solutions to work for all client situations. The fact is that not all legal problems demand a bespoke solution. The rapid growth of these online services reflects a deep need in the marketplace for transparently priced solutions to straightforward legal problems. Many attorneys who feel their practices are threatened by losing this work have started coming up with competitive offers that serve the middle ground between bare-bones forms and a fully custom solution. By using forms to automate parts of the process, they can offer solutions that combine ease and transparent pricing with the comfort and security of individualized attorney review.

3. The Importance of Reputation Management. Another accelerating trend is the move of word of mouth online. What started for electronics and restaurants has become established with hotels, consumer products, clothing, and services. Sites like Amazon, Yelp, and TripAdvisor offer a wealth of consumer feedback — and this trend is spreading to professional services as well. Attorneys typically have two major concerns about the rise of online client reviews: First, that laypeople can’t adequately review the quality of legal services; and second, that only the cranks and those with an ax to grind will leave reviews.

However, neither of these concerns are borne out in practice. While clients may not be experts in the law, they can comment on things that are very important to them: a lawyer’s responsiveness, empathy, creativity, etc. And when it comes to the type of clients who leave reviews of professionals, the opposite of the lawyer’s concern is the case. A 2011 study from the universities of Maryland and Minnesota found that patients who had a positive experience were more likely to review their doctors than those who had a subpar visit. And at Avvo, with well over 100,000 client reviews of attorneys, the rate of positive reviews consistently clocks in north of 80 percent.

What to Do: First, don’t fret so much about negative online feedback — it’s less likely to happen than you think. And if someone says something negative about you online, consider carefully how to respond. Suing the commenter usually just succeeds in bringing more attention to the negative comment, and could expose the attorney bringing the suit to attorney fees and a $10,000 fine under Washington’s anti-SLAPP law. Far more productive responses include asking other clients to leave reviews and posting your own brief, professional responses to negative reviews. It’s also critical to ask yourself whether there is merit to the negative review, as there may be a blind spot in your approach or business processes that is making it harder to serve your clients. In this respect, online feedback is a form of free market research. Many smart business owners actively solicit reviews from all clients for just this reason.

4. The Ability to More Effectively Serve Local Markets. Law office technology, portable computing, and web applications have given lawyers more flexibility in their office locations, and have also made it easier for lawyers to serve lightly populated areas. One of the first 10 lawyers in the country to claim his profile on Avvo was Shawn...
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What to Do: If you’re considering trying out credit cards, or making it easier to accept them, consider giving a card reader a try. Services like Square won’t typically serve for trust account payments, but for earned fees they offer a great way to get started. And even for those who have long accepted credit cards, consider whether the ease, cost structure, and mobility of a card reader might help lower your overhead or expand your practice. Be sure to review the rules regarding accepting credit-card payments for mixed fees and client funds.

This only scratches the surface of what these changes mean for the practice of law, to say nothing of the many other ways in which technology is creating both opportunities and challenges for solos and small firms. But more important than any single change is that practitioners develop a mindset that does more than grudgingly admit that the pace of technological change in law practice is accelerating. Rather, embrace these changes and look for ways they can leverage those qualities that have always been a lawyer’s stock in trade: judgment, discretion, integrity, and community involvement. The Internet and online tools haven’t diminished the importance of these factors. Used to their full potential, they can multiply your effectiveness as a counselor and advocate.

Josh King is general counsel and vice president of development for Seattle-based Avvo, which provides an online forum, directory, and ranking of lawyers and doctors nationwide.
something’s been bothering me for a long time.¹ The definition of “intent” in the Washington Criminal Code is circular and, taken literally, virtually incomprehensible to the average person. Logic and common sense require that it be changed. But the devil is in the details. How should it be changed?

The Problem
RCW 9A.08.010 sets forth general requirements of culpability in criminal matters. The four kinds of culpability are intent, knowledge, recklessness, and criminal negligence.

“Intent” is defined as follows: “A person acts with intent or intentionally when he or she acts with the objective or purpose to accomplish a result which constitutes a crime.” RCW 9A.08.010(1)(a).

A crime, both at common law and under the Washington Criminal Code, is generally defined as having two elements, i.e., an act (actus reus or “guilty act”) and a state of mind (mens rea or “guilty mind”).² Thus, it is not a crime to merely commit an act; one must also act with a certain state of mind, i.e., either with intent, knowledge, recklessness, or criminal negligence.³ For example, one of the alternative ways of committing murder in the first degree is to cause the death of another person (the act) with a premeditated intent to cause the death of such person (the state of mind). RCW 9A.32.030(1)(a). Causing the death of another person is not, in and of itself, a crime. For example, one can cause the death of another person as a result of an unavoidable accident.⁴

Let us examine the definition of
“intent” with this in mind. If a crime by definition involves both an act and a state of mind, how can it be that a person acts with intent or intentionally when he or she acts with the objective or purpose to accomplish a result which constitutes a crime?

By the logical principle of substitution, one statement means the same thing as another statement if a term in one statement can be substituted with an equivalent term in the other statement. For example, in the world of mathematics, “2 plus 2 equals 4” means that same thing as “(1 plus 1) plus (1 plus 1) equals 4.” Or, in the natural world, the statement “I own a cat” means the same thing as, “I own a carnivorous mammal (felix catus) long domesticated as a pet and for catching rats and mice.” (Merriam-Webster’s Collegiate Dictionary, Tenth Edition.)

Consider again the definition of “intent” or “intentionally”: “A person acts with intent or intentionally when he or she acts with the objective or purpose to accomplish a result which constitutes a crime.” Then consider the crime of murder in the first degree. If we substitute the definition of the crime of murder in the first degree for the term “a crime” in the definition of “intent,” which we are permitted to do in accordance with the logical principle of substitution, the definition would be as follows:

A person acts with intent or intentionally when he or she acts with the objective or purpose to accomplish a result which constitutes the causing of the death of another person with a premeditated intent to cause the death of such person.

However, another logical principle is that one cannot define one term using the very same term. This is often referred to as the problem of circularity. So, for example, it is not acceptable to define the term “man” by saying a man is a man. But by substituting the definition of murder in the first degree for the term “crime” in the definition of “intent,” we have, in effect, defined “intent” by saying that a person acts with intent when the person acts with intent. Thus, by carrying the definition of “intent” to its absurd extreme (“reductio ad absurdum”), we have shown that the definition of “intent” in the criminal code defies logic and is therefore unacceptable.

It seems fairly obvious that what the authors of the criminal code really meant, when they included the term “crime” in the definition of “intent,” is that a person acts with intent or intentionally when he or she acts with the objective or purpose to accomplish a result which constitutes the act part of a crime (or actus reus). If this is true, it would be acceptable (to use our murder in the first degree example again) to define the intent necessary to commit murder in the first degree as, “A person acts with intent or intentionally when he or she acts with the objective or purpose to ac-

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complish a result which constitutes the causing of the death of another person.”

At first blush, we seem to encounter the same problem in the definition of “knowledge”:

A person knows or acts knowingly or with knowledge when:

- he or she is aware of a fact, facts, or circumstances or result described by a statute defining an offense; or

- he or she has information which would lead a reasonable person in the same situation to believe that facts exist which facts are described by a statute defining an offense.

RCW 9A.08.010(1)(b).

Note the references to a fact or facts “described by a statute defining an offense.” Assuming that the Legislature used the terms “crime” and “offense” to mean the same thing, consider the crimes of possession of stolen property in the first, second, and third degrees. All of these crimes (or offenses) involve possession of stolen property to one extent or another. “Possessing stolen property” is defined in RCW 9A.56.140(1) as follows:

“Possessing stolen property” means knowingly to receive, retain, possess, conceal, or dispose of stolen property knowing that it has been stolen and to withhold or appropriate the same to the use of any person other than the true owner or person entitled thereto.

The reference to “an offense” in the definition of “knowledge” refers, presumably, to the crime of which knowledge is the state of mind element. So, under the principle of substitution, we should be able to substitute the definition of possession of stolen property for the term “an offense” in the definition of “knowledge” and be logically consistent. But here is the result when we do this (using only the first alternative in the definition of “knowledge”):

A person knows or acts knowingly or with knowledge when he or she is aware of a fact, facts, or circumstances or result [involving] knowingly to receive, retain, possess, conceal, or dispose of stolen property knowing that it has been stolen and to withhold or appropriate the same to the use of any person other than the true owner or person entitled thereto.

So, it would seem, in the context of the crime of possession of stolen property, that “knowledge” is defined, in effect, as knowingly to receive (etc.) stolen property. Again, this is circular and logically unacceptable.

But with the definition of “knowledge,” as opposed to the definition of “intent,” there is a way around the problem. The definition of “knowledge” refers to a person being aware of a “fact, facts or circumstances or result” described by a statute defining an offense or having “information which
would lead a reasonable person in the same situation to believe that facts exist which facts are described by a statute defining an offense.” Thus, we don’t need to focus on all of the facts which define an offense, but only certain of such facts, and in particular, the act part of the offense, as opposed to the state of mind part of the offense.

To use our possessing stolen property example, we can focus on the fact of the receipt of property and the fact that it is stolen property. It seems fairly obvious that these are the facts of which the person must be aware, or have information which would lead a reasonable person in the same situation to believe that such facts exist, in order to have the requisite knowledge to be guilty of the crime of possessing stolen property.

When considering the definition of “knowledge” in this context, it appears that there is a plausible reading that is logically sound. This is in contrast to the definition of “intent,” where there is no reading that is logically defensible.

Similarly, the definitions of “recklessness” (RCW 9A.08.010(1)(c)) and “criminal negligence” (1)(d)) can be read to make logical sense. A person acts recklessly “when he or she knows of and disregards a substantial risk that a wrongful act may occur and his or her failure to be aware of such substantial risk is a gross deviation from the standard of care that a reasonable person would exercise in the same situation.” (Emphasis added.)

A person acts with criminal negligence “when he or she fails to be aware of a substantial risk that a wrongful act may occur and his or her failure to be aware of such substantial risk constitutes a gross deviation from the standard of care that a reasonable person would exercise in the same situation.” (Emphasis added.) Thus, the focus is on the knowledge of, or disregard of a substantial risk of, a wrongful act occurring (recklessness) or the failure to be aware of a substantial risk that a wrongful act may occur (criminal negligence).
The Solution
Returning to the definition of "intent," how could the statute be amended to provide for logical consistency? The Model Penal Code\(^9\) provides one such mechanism. It uses the term "purposely" instead of the term "intent" or "intentionally," though it defines "purposely" as being synonymous with "intentionally." Section 1.13(12). It defines "purposely" as follows:

A person acts purposely with respect to a material element of an offense when:

(i) if the element involves the nature of his [or her] conduct or a result thereof, it is his [or her] conscious object to engage in conduct of that nature or to cause such a result; and

(ii) if the element involves the attendant circumstances, he [or she] is aware of the existence of such circumstances or he [or she] believes or hopes that they exist. Section 1.13(10).

The term "material element" is defined as follows:

"[M]aterial element of an offense" means an element that does not relate exclusively to the statute of limitations, jurisdiction, venue or to any other matter similarly unconnected with (i) the harm or incident to conduct, sought to be prevented by the law defining the offense, or (ii) the existence of a justification or excuse for such conduct. Section 1.13(10).

The term "element of an offense" is defined as follows:

"[E]lement of an offense" means (i) such conduct or (ii) such attendant circumstances or (iii) such a result of conduct as

(a) is included in the description of the forbidden conduct in the definition of the offense; or

(b) establishes the required kind of culpability; or

(c) negatives an excuse or justification for such conduct; or

(d) negatives a defense under the statute of limitations; or

(e) establishes jurisdiction or venue. Section 1.13(9).

The Model Penal Code's definition of "purposely," though difficult for the average person to understand, at least makes logical sense. Rather than defining this term as acting with the objective or purpose of accomplishing a result which constitutes a crime, as in the Washington Criminal Code, the Model Penal Code focuses on the design to engage in conduct which constitutes a material element of an offense. Thus, as in our example of murder in the first degree, to act "purposely" or "intentionally" as those terms are defined in the Model Penal Code, one would have to act with the conscious object of engaging in conduct that constitutes a material element of the crime of murder in the first degree, i.e., causing the death of another person.

Using the Model Penal Code as a guide, the definition of "intent" or "intentionally" in the Washington Criminal Code can be amended in such a manner that it makes logical sense and is more easily understood by the average person. Such an amended definition could be as follows:

A person acts with intent or intentionally when he or she acts with the objective or purpose to accomplish a result which constitutes an element of a crime. (Emphasis added.)

Issues relating to culpability in criminal cases most frequently arise in the context of jury instructions. In this context, the Model Penal Code definitions of "element of an offense" and "material element of an offense" can be eliminated, so long as the elements ("to convict") instructions specifically use the term "elements of the crime," as they currently do. (See, e.g., WPIC 26.04 relating to murder in the first degree.) This allows the parties to discuss, in closing argument, the link-age (from the standpoint of the prosecution) or lack of linkage (from the standpoint of the defense) of the facts of the particular case to the instructions, and to describe to the jury what element or elements of the crime are relevant to the intent instruction.\(^10\)

Recommendation
The Legislature should amend RCW 9A.08.010(1)(a) to read:

**INTENT.** A person acts with intent or intentionally when he or she acts with the objective or purpose to accomplish a result which constitutes an element of a crime.

This definition would provide logical consistency and be easier for the average person to understand.\(^9\)

---

\(^9\)Alan R. Hancock is a superior court judge for Island County. He is a magna cum laude graduate of Western Washington University, where he majored in Philosophy, and received his J.D. from the University of Washington School of Law.

NOTES
1. I was admitted to the bar in 1976 and have served as a superior court judge since 1989.
2. The term "state of mind" is used loosely here. In ordinary language, this term often refers to a thought or thoughts that a person is then having. In criminal law, however, it also refers to the absence of thoughts that a person ought to be having. Thus, a person can act knowingly when "he or she has information which would lead a reasonable person in the same situation to believe that facts exist which facts are described by a statute defining an offense" (RCW 9A.08.010(1)(b) (ii)), and a person acts negligently when "he or she fails to be aware of a substantial risk that a wrongful act may occur and his or her failure to be aware of such substantial risk constitutes a gross deviation from the standard of care that a reasonable person would exercise in the same situation" (RCW 9A.08.010(1)(d)).
3. There are some exceptions to this rule. For example, guilty knowledge or intent to possess is not an element of the crime of un-
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4. There are also situations in which a person may intentionally cause the death of another person and still not be guilty of a crime. For example, a person may act in self-defense or, in Washington, by means of physician assisted suicide under Initiative Measure No. 1000, chapter 70.245 RCW, and not have committed a crime.


6. Note also the inconsistency in referring to a “crime” in the definition of “intent” and an “offense” in the definition of “knowledge.” Under rules of statutory construction, we could, perhaps, assume that the Legislature meant different things when it referred to a “crime” in the definition of “intent” and an “offense” in the definition of “knowledge.” The term “offense” can sometimes mean a violation of the law generally, as opposed to a criminal violation of the law. But in all probability, it didn’t. And if it did, that is beyond the scope of this article.

7. Note that for the crime of manslaughter in the first degree, at least, a jury instruction in the statutory form stating only that a person acts recklessly “when he or she knows of and disregards a substantial risk that a wrongful act may occur” is erroneous. State v. Peters, 163 Wn. App. 836, __ P.3d __ (2011); see also State v. Gamble, 154 Wn.2d 457, 114 P.3d 646 (2005). A more particular description of the wrongful act must be stated, i.e., the term “death” or “homicide” must be used. The same reasoning probably applies with regard to manslaughter in the second degree and the definition of criminal negligence.

8. There is a possible problem of circularity in these definitions inasmuch as the definitions refer to the fact that a wrongful act may occur. It is only a wrongful act, in terms of the criminal law, if the person acts recklessly or with criminal negligence. But the focus of this article is on the definition of “intent.”

9. American Law Institute, Model Penal Code, Official Draft, 1962. The Washington Criminal Code, Title 9A RCW, was originally enacted in 1975. It was a combination of a revised criminal code prepared by the Judiciary Committee of the Washington Legislative Council, which drew on the Model Penal Code and other sources, and a criminal code drafted by the Washington Association of Prosecuting Attorneys. The Legislature chose to depart substantially from the MPC’s definition of “purposely,” which, under the MPC, is synonymous with “intentionally.”

10. Generally speaking, this approach is permissible under Washington law. See, e.g., State v. Rice, 110 Wn.2d 577, 757 P.2d 889 (1988), in which the court upheld the giving of the pattern “intent” instruction, WPIC 10.01, in a first degree murder case. The court stated that “a specific instruction need not be given when a more general instruction adequately explains the law and enables the parties to argue their theories of the case,” 110 Wn.2d at 603. Alternatively, the court could, in preparing jury instructions, insert the applicable fact element or elements of the particular case into the instruction on intent to make the issue clearer for the jury.
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True Civility Requires More Than Being Polite

Justice Steven González, widely known for his commitment to access to justice, is highly regarded by his peers for his professionalism, reasonableness, and pro bono service. For this reason, Robert’s Fund views him as an exceptional role model for civility in the profession and asked if he would write the first in the “Rallying the Role Models: The Promise of Civility in Our Profession” series of articles for Bar News.

By Justice Steven González

In an article for the Bar Association of San Francisco, Maria Yuen wrote that “one of the benefits of civility is the reduction of the cost of litigation for all parties involved.” And I think she meant not just the financial cost, but different costs as well. She went on to say, “Another benefit of civility is that it makes our professional life more fulfilling when we can depend on courtesy, respect, and fairness from those we deal with.”

Courtesy, respect, and fairness only work if in the context of true civility. There is such a thing as false civility and I’ll suggest to you that it is no better and sometimes even worse than open acrimony. We sometimes refer to false civility as passive-aggressive behavior or being manipulative. I make the distinction between true and false civility because I don’t want to suggest that acting civilly means being obsequious, diffident, or a sycophant. I don’t think any of those things are civil. Further, I don’t want to suggest that the civil advocate is anything less than a zealous advocate for his or her client, cause, or self.

Some attorneys think that being civil means being nice, which they believe runs counter to advocacy. They like to wrestle with opponents. While they acknowledge that there are lines that shouldn’t be crossed in our profession, such as the use of bad words or physical punches, they don’t want to be nice. I don’t agree that being civil equals being nice. I think we can be direct and frank with each other. We can even be sarcastic from time to time. Civility is a way of connecting and interacting with people; of engaging and thinking about what our relationships are with one another, and of discerning what we care about it. It is about how we communicate and how we persuade and convince, because that’s often what we’re doing in our profession. If we’ve alienated people from the outset, it can be much harder to do that and to be effective.

Mark Twain said that “all emotion if sincere is involuntary.” And so when we see our colleagues (possibly opposing counsel), or our clients, or others being uncivil, we should give them the benefit of the doubt that it wasn’t a voluntary response. Of course, if it goes on for a long time, you can stop giving the benefit of the doubt. But at least start with the premise that they’re sorry for their own bad behavior — or they will be when they reflect or when they’ve been able to calm down and get past what may have been an involuntary emotion. It certainly was clear that that was the case when I sat on the family law calendar for King County Superior Court. When I first took on that role, a now-retired judge sat me down and said, “Steve, I want you to remember that when the dissolution petition is filed and for 90 days thereafter, the parties are temporarily insane. So please remember that about them when you hear their case. They’re doing things that they wouldn’t otherwise do, they’re saying things that they wouldn’t otherwise say, and they’ll regret it later if you give them the time to regret it and change their position.”

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There are times when people feel more comfortable when we’re being formal, not informal. And I’ve noticed this particularly with the disenfranchised of an organization.

The Japanese have a phrase called bakateinei, which means literally “idiot politeness.” It can mean a number of things. It can mean to ridicule someone by being excessively polite to them; that is, being more polite than the situation calls for. Japanese has levels of honorifics. And if you go up too high and you are too honorific to someone, you’re really making fun of them rather than honoring them. It also means being more polite to a person than the person deserves, given his or her role in life compared to yours. And, in some contexts, it means shaming the impolite person, the person who’s been impolite to you, by being excessively polite back to them in response to their rudeness. Now, in English, we might sometimes call it patronizing but that doesn’t really capture the full meaning of this phrase. It means being polite without being civil in some context and this is why I go back to the phrase “true civility,” not superficial civility. I want to distinguish those two and I want to distinguish civility from protocol, superficially, and from custom.

In 1996, in *State v. Bright*, the Washington State Supreme Court held that it is an abuse of formal courtroom protocol to address adult participants by their first names. In that case, counsel both for the state and the defense referred to the 24-year-old rape victim by her first name. And so did the defendant, who was a commissioned officer and who had raped her while she was in his custody. When he took the stand, he referred to her by her nickname only, and he wasn’t corrected by the court or by counsel. In the opinion, the court called this an arrogant depersonalization of the victim and went on to say that all the participants in court proceedings are entitled to be addressed with courtesy titles. That may suggest that somefind solace in formality. There are times when people feel more comfortable when we’re being formal, not informal. And I’ve noticed this particularly with the disenfranchised of an organization.

Let me mention, for example, attorneys of color who are sometimes mistaken for the defendant by the participants in criminal cases. How do we respond to that? Sometimes we are overly formal, by making sure that we’re dressed particularly well and that our speech is particularly professional, just to let people know who we are because we’re not always given the benefit of the doubt. I remember when I was a federal prosecutor, I was traveling with my wife to Texas and we went to the federal courthouse in Laredo. I was curious: I thought, I’m part of the federal family, so I’m going to go in and see what a different federal courthouse looks like. When I went into the courthouse, I started getting tailed by security; they followed me through the courthouse, and when I walked into a courtroom the clerk said, “Defendants sit to the left.” That was the first thing she said to me as I walked in. And I realized that, out of my suit, I looked to them like a suspicious person or a defendant in that context. So sometimes in response to that, we get formal. Please understand that people react differently to different contexts and that it goes directly to the point that civility depends on the person, the context, cultural factors, and on so many other things that there cannot be one rigid definition of civility.

*State v. Bright* cited a 1964 Supreme Court case, *Hamilton v. Alabama*, as precedent. That case reversed a contempt finding against Ms. Hamilton. She actually spent time in jail for contempt. Her contempt was insisting that she be called Ms. Hamilton instead of Mary and the judge put her in jail for that. Of course she was entitled to that dignity, and it was the court, frankly, that was contemptuous in that instance to her. But ask yourself, what if the lawyers in that case and the judge had referred to her as “Ms. Hamilton,” but did so with a voice dripping in sarcasm. Would that have been more civil than using her first name?

Civility is more complicated than protocol issues. Like the example of bakateinei, polite words alone do not amount to civility. It is the substance that brings dignity and true civility to our courts and to our system. As we consider who benefits from protocol, I’d like to also suggest that it’s usually those in power who benefit from formality and protocol, because that respects us and preserves our position, doesn’t it? As a judge, when you call me “Your Honor,” it is supporting my position because it is perceived as higher than yours — so as we think about civility and protocol, we need to think of them as very distinct things and consider who they benefit and for what they were designed.

Charles Dickens wrote, “The civility which money will purchase is rarely extended to those who have none.”

Charles Dickens wrote, “The civility which money will purchase is rarely extended to those who have none.” So to repeat, it doesn’t mean protocol, it doesn’t mean etiquette; it must have a far deeper meaning. In the context, going back to my time on Superior Court both in family law and sitting in *ex parte*, my expe-
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Civility permeates every single part of the practice of law. One way to look at it is to strive to be the most reasonable person in the room — or at least to appear as if you’re the most reasonable person in the room.

Let me give an example of what civility is not. This was the closing sentence in a summary judgment brief I received a couple of years ago in Superior Court. “If you do not grant this summary judgment motion, the only ones who will benefit are the liars who started this matter in the first place.” A strong ending, right? The lawyer actually had established in the briefing that the other side wasn’t being forthcoming, so this wasn’t good advocacy. It didn’t promote respect for the process or for his colleague. As a practice point, I would suggest that civility matters in every phase, and I’ll give one example. You know when you’re preparing a witness for a deposition or testimony, you’re not preparing them to be civil. And if they lose their civility and their composure, that can wash away all the good preparation that you’ve done on the substance.

My comments about civility are grounded in the Preamble to the Constitution of the United States. It’s pretty short: “We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.” In our Constitution of this great nation, justice comes first. When you read it look at the order of things, it comes before tranquility, it comes before the common defense, and it even comes before our welfare. And I suggest to you that that order of things is not accidental. I believe it was intentional, because without justice, there isn’t tranquility; without justice, there is little to defend. The common defense is even subordinate to justice. So how do we establish justice in our society in the context of an adversarial system? That is like telling a soldier we’re going to have sensitivity training and the first thing the soldier says is, “I have to get rid of my weapons, right?” And that’s what we see in as some lawyers’ reactions to this discussion.

Let me give an example of what civility is not. This was the closing sentence in a summary judgment brief I received a couple of years ago in Superior Court. “If you do not grant this summary judgment motion, the only ones who will benefit are the liars who started this matter in the first place.” A strong ending, right? The lawyer actually had established in the briefing that the other side wasn’t being forthcoming, so this wasn’t good advocacy. It didn’t promote respect for the process or for his colleague. As a practice point, I would suggest that civility matters in every phase, and I’ll give one example. You know when you’re preparing a witness for a deposition or testimony, you’re not preparing them to be civil. And if they lose their civility and their composure, that can wash away all the good preparation that you’ve done on the substance.

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changed jobs a few times... I changed cities. The business failed. My wife and I fought a lot and separated. Along the way, I was arrested for drunk driving and did some embarrassing things after I drank too much. I became increasingly aware that my drinking might have something to do with it. I found the AA Big Book in my mailbox, with some overdue bills, the day after an evening of heavy drinking and a partial blackout. I took the arrival of the book as a message from some higher power and went to my first AA meeting.

— WSBA member George Tamblyn, who recently celebrated 35 years of sobriety

Attorneys and alcoholism tend to be an unfortunate pairing. It is widely acknowledged that attorneys engage in problematic drinking at rates two to three times greater than the general public. There are a lot of reasons. Some of this stems from the drinking culture in law school and law firms. Some of this results from the pressures and responsibilities attendant in the practice of law. To address these concerns, lawyer assistance programs (LAPs) are part of the state bar in all states. In addition, attorney-specific AA groups have sprung up around the country. In King County, The Unbar has been meeting every Wednesday for almost three decades, assisting thousands of attorneys in recovery.

Jerome Jager has been a WSBA member for 55 years and recently celebrated his 35th year of sobriety. Recognizing a lack of attorney-specific resources, he and his friends Wes Holbein and James Hanken founded the Unbar in 1985. Now 78 years old, he still attends most Wednesdays. Jerry reflected, “For anyone who has been in the program for any length of time, a common thing we have is a sense of gratitude for finding a program that has changed our lives for the better.”

Jerry has the no-nonsense candor that is common within the AA community: “The very first word in the steps of AA is ‘we,’ so you know you’re not alone when you come to an AA group. It’s about one alcoholic talking to another... it’s a miracle that it works! There’s no leaders, we’re all trusted servants, there’s no big shots.” He said he likes the simplicity of the AA message: “My take on the first step is simple: Don’t drink, go to meetings, and your life gets better.”

Most Wednesdays, about 15–20 attorneys attend, although the community is much larger, with about 70 people attending the annual luncheon. Hundreds of attorneys have achieved enduring sobriety through the years. The format of an Unbar meeting is simple: a different leader chairs each session and introduces a topic — typically, something relating to how to live sober. Some common themes include resentments, denial, taking another person’s moral inventory, and gratitude. Then each person in the group, sitting in a circle, speaks to this theme. There is no cross-talk,
no commentary on what is shared. Everything is shared in confidence. It is an open-ended witnessing that stands in contrast to other forms of treatment. The Unbar is an "open" group, meaning any attorney can come. After creating a healthy connection with AA, one can then turn to other AA groups, to "closed" AA groups (open only to AA members), and to working the "steps" of 12-step recovery with a sponsor (a mentor in the program).

Not all Unbar attorneys are like George and Jerry. Many are early in their recovery or have not achieved abstinence yet. One female attorney with 11 months of sobriety shared, "I was miserable and knew I needed to stop drinking. I was drinking heavily every day. I couldn't sleep through the night without waking up and having a drink or more to get back to sleep. I had trouble eating. My hands would tingle. I dreaded mediations. What if one ran long or someone asked me to draft the settlement agreement and saw my hand shaking? The one thing I knew was that AA wasn't an option for me. I envisioned a giant prayer circle where people earnestly read passages from the Bible."

And yet, her experience was very different: "AA is nothing like I thought it would be. I have never felt so much general goodwill as I do at meetings. One of the things you are advised is to listen for the similarities when someone shares in a meeting. Now I get to live without being obsessed with when I am going to get my next drink and how I am going to hide the amount I was drinking from others.”

Alcoholics and other addicts in 12-step programs see service to other addicts in need as the vital 12th step of recovery. With this in mind, Jerry was an integral member of the King County Bar Association’s Fitness Committee in the late 1980s. This monthly group of a dozen attorneys was Washington’s first step towards addressing attorney alcoholism. Over time, the Fitness Committee gave rise to a steering committee at WSBA that brought about the formation of the WSBA Lawyers Assistance Program. Barbara Harper, Andy Benjamin, and Jerry, among others, played a formative role.

When attorneys contact the WSBA Lawyers Assistance Program (LAP) about a problem with alcohol, they are invited in for a consultation to assess their problem. A combination of individual and group treatment is usually recommended. Groups provide support and accountability that is different than individual counseling. Some attorneys are leery about the use of the term “Higher Power” in AA. There are quality non-AA-based interventions such as Smart Recovery, Rational Recovery, and A Positive Alternative that are available. But most alcoholics find a way to make peace with the "higher power" concept by acknowledging that they cannot master their drinking on their own.

For these attorneys, AA is a unique grassroots organization that provides sponsorship, support, and recovery, all at an incredible price (it’s free).
And, as the name states, Alcoholics Anonymous is just that — anonymous — so that attorneys in recovery do not have to worry about jeopardizing their careers by seeking help in recovery. That said, some alcoholics like George and Jerry are perfectly happy to use their full names. They see no shame in their recovery from a progressive and potentially fatal illness, and are grateful to have the opportunity to help others as well.

It is not uncommon to postpone one’s first AA meeting. Some people may not want to admit they are struggling with a problem, or perhaps they just don’t know what to expect. For this reason, it helps to have someone walk you to a meeting. LAP has a network of more than 50 peer volunteers (PVs) throughout the state. One can have coffee with a peer volunteer, learn a little bit about AA, and then go to a meeting together.

One of our peer volunteers reflected upon his own past: “I was a practicing alcoholic and drug addict — and, astonishingly, an attorney — for almost 30 years. For most of those decades, I hated my job as a lawyer and longed to find work in a helping profession; I felt my life was meaningless. I was a depressed, mean, and dysfunctional...
mess. But now my life has been utterly transformed through recovery in AA. I now understand my purpose is to be of service to others. AA, my work with LAP, and the Unbar all give me opportunities to try to help other addicts who have reached bottom and want to turn their lives around. It’s truly rewarding; it gives my life meaning, and it helps me stay sober.”

Attorneys struggling with alcoholism often develop an avoidant relationship with their job, procrastinating responsibilities or feeling like they have no way out of a high-pressure situation. Sobriety can help an attorney re-engage with what brought them to be an attorney in the first place. One peer volunteer reflected, “I no longer wrestle with my addiction and its destructive side effects on a daily basis. And, as a bonus, I have now come to love my life as a lawyer, the challenges it presents, and the service opportunities it offers. I owe it all to the Unbar — which is where I first found my recovery — and of course to the AA program, which has saved my life.”

Peer volunteers have been trained by LAP counselors in basic conversation techniques for providing support, but more than anything PVs have their own recovery experience to trade on in making that connection. If you have reached the end of your rope and are ready to try something different, it helps to have a peer volunteer to talk to and to walk you to your first meeting.

While the Unbar is the main AA group for attorneys in Washington, there are many AA groups for professionals that LAP can put you in touch with. Dan is a Spokane attorney with 24 years of continuous sobriety. While nearly 200 recovery meetings are offered in Spokane each week, his preferred groups have met continuously for 30-plus years and tend to draw professionals from seemingly all disciplines. In reflecting upon his AA experience, Dan offered, “At this point, I can see both humor and sadness in the fact that invariably when we first address addiction issues, we present with a sense of ‘terminal uniqueness.’ A general skepticism that ‘I’m different. It may work for you, but….’ I mean how crazy is it to think an approach that has literally helped millions could possibly help me? It couldn’t be as simple as reaching out and asking for...
help, right? Well, 25 years ago, I went to great lengths to hide my problems — my approach almost killed me."

For many attorneys, the first step is the hardest. They fear that word will get around that they have an addiction or, worse, that they cannot handle their own problems. Dan has seen this many times, "Anonymity is a huge issue for most professionals in early recovery. Don’t let your fear prevent a positive life change. LAP is a great resource and maintains a cadre of peer volunteers that know community resources and are sensitive to issues of anonymity."

George offered in summary: "The meetings helped me to appreciate that alcohol was cunning, baffling, powerful, and, for me, extremely dangerous. New ways of looking at life gradually were absorbed and I found that my reactions to life’s problems became less intense. Anger became much less frequent and I became more tolerant. I found it was possible to admit when I was wrong. Concern for the welfare of others increased. I became less fearful of economic insecurity. I was not as anxious about things and began to enjoy my work as a lawyer."

Seattle: The Unbar meets Wednesdays from 12:15–1:30 p.m. at the Municipal Building — 700 Fifth Ave, Ste. 2750, across from the Columbia Center.

WSBA Lawyers Assistance Program:
11th Floor, WSBA Office, 1325 Fourth Ave., Seattle, 206-727-8268, lap@wsba.org wsba.org/lap. You can also contact LAP for information about groups in Spokane and around the state.

Dan Crystal has been working with the WSBA since November 2008. He received his Psy.D. in clinical psychology from the University of Denver in 2007 and completed a postdoctoral fellowship at the Seattle VA Hospital in 2008. His areas of expertise include addictions, post-traumatic stress disorder, and forensic psychology. At the WSBA Lawyers Assistance Program, Dr. Crystal provides individual consultations, leads job seekers groups, and outreach to bar groups statewide on mental health issues. He also works with the WSBA Office of Disciplinary Counsel as its diversion administrator.
Lawyers, law firms, companies, and their clients should be aware of the latest developments in the Internal Revenue Service’s continuing campaign to achieve full transparency with foreign bank accounts and financial assets. With a carrot and stick, the IRS has said again and again that these matters are serious. Recent developments show that the stakes are going up and that failure to comply with tax and disclosure rules will henceforth be more harshly addressed.

Lawyers and their clients should pay attention, even where their roles as signatories of foreign accounts are merely fiduciary rather than beneficial in nature. Some lawyers may think they need not be concerned if their role was solely as a signatory on a trust or other fiduciary account. In fact, there are filing obligations in that situation, too.

About 34,000 taxpayers came forward over the last few years to disclose Swiss and other accounts. The IRS knows there’s a much larger number who haven’t. U.S. citizens and permanent residents must report their worldwide income on U.S. tax returns.

That includes investment income on foreign accounts and assets anywhere, no matter how small they may be. Each tax return also asks (on Schedule B to Form 1040) if you have a foreign account. If so (and if the total of all foreign accounts exceeds $10,000 at any time during the year), you must check “yes.”

If you check “yes,” it refers you to a separate filing, a Foreign Bank Account Reporting form known as an FBAR. This is separate from a tax return and must be filed each year by June 30 for the prior year. No payment is required, but this disclosure form has been in the law since 1970. It contains separate sections for foreign accounts which you own beneficially and for those over which you have signature authority but no ownership.

The IRS takes this very seriously. Income tax penalties for failing to include income or disclose foreign accounts can be severe, including criminal prosecution. The FBAR penalties are even worse, including up to $250,000 in penalties and up to five years in prison for each failure. It is no longer possible for people to claim ignorance over these rules — some taxpayers are being indicted for failure to file FBARs.

Given the stakes, the IRS has had two programs to encourage compliance, one in 2009 and another in 2011, under which the IRS collected $4.4 billion. Despite stating publicly that it was unlikely to offer a third type of amnesty program, the IRS did so this year. Unlike the prior two, this program has no announced deadline. For many, it could represent the last best chance at easy compliance.

For taxpayers without any beneficial ownership in foreign accounts or assets, it was and is still necessary to file FBARs disclosing their signature authority. Fortunately, most such cases can be resolved outside of the IRS amnesty by preparing and filing the back FBARs. They should generally be accompanied by an explanatory letter noting that your tax returns are correct, you just became aware of the FBAR requirements, you will commence filing FBARs annually, and you ask that no penalties be imposed.

Taxpayers whose noncompliance involved not only FBARs but also tax...
returns should consider the IRS’s third offshore program. It is similar to the 2011 program, and although there is no deadline, its terms could change at any time. Taxpayers who already came forward to the IRS since the closing of the 2011 program qualify to be treated under the provisions of the new program.

The biggest change is a 27.5 percent penalty on the highest aggregate balance (in foreign bank accounts/entities or value of foreign assets) during the eight years before disclosure. This is an increase from a 25 percent penalty in the 2011 program and 20 percent in 2009. However, taxpayers whose offshore accounts did not surpass $75,000 could face only a 12.5 percent penalty.

In addition, taxpayers who feel the penalty is disproportionate may opt out and deal with the issue as an audit item. There's more flexibility there and a greater array of procedural rights (such as going to the IRS Appeals Office) if it doesn’t go to your liking. As in the past, participants must file all original and amended tax returns and include payment for back taxes and interest for up to eight years as well as paying accuracy-related and/or delinquency penalties. They must also compete and file FBARs.

One reason to consider joining this IRS program relates to the absence of alternatives. Regardless of penalties, remaining silent seems increasingly risky. The IRS has made clear that “quiet disclosures” (in which a taxpayer prepares and files amended tax returns and FBARs without calling attention to them and without joining the program) will be dealt with strictly. Moreover, the IRS is getting good information and is more and more likely to discover foreign accounts and assets and treat them harshly.

Recently, a California tax lawyer, Christopher M. Rusch, and two businessmen, Stephen M. Kerr and Michael Quiel, were indicted over various alleged income tax and FBAR violations. There have been many others against whom similar criminal charges have been filed and more are likely on the way. In part, this is due to the treasure trove of information (including dates, names, and details) the IRS obtained via its 2009 and 2011 amnesty submissions.

Yet the IRS is getting still more data. The IRS has issued John Doe summons forcing some banks to name names. In addition, the IRS has resorted to issuing grand jury subpoenas to individuals suspected of overseas banking to produce their own bank records. It requires turning over the suspect’s own bank account details, including statements with the highest annual balances.

A dozen or more of these subpoenas have reportedly been issued. It is unclear whether such an individual can refuse and successfully assert protection under the Fifth Amendment. There is an established exception for “required records” that are not covered by the protections of the Fifth Amendment. Some
courts are considering whether offshore private banking falls within it.

The Ninth Circuit, in In re Grand Jury Investigation M.H., 648 F.3d 1067 (9th Cir. 2011), allowed prosecutors to compel an offshore account holder to produce account data even if it was self-incriminating. In contrast, in a similar case in Texas, In re: Grand Jury Subpoena, No. 4:11-mc-00174, (S.D. Tex. Feb. 11, 2011) (under seal), the judge ruled that a taxpayer did not have to comply. The government is appealing.

All of this is occurring as criminal investigations of 11 Swiss banks continue. The banks are suspected of enabling tens of thousands of wealthy Americans to evade U.S. taxes. Banks in the crosshairs include Credit Suisse AG, HSBC Holdings plc, and Basler Kantonalbank.

In fact, there have been massive data transfers by Swiss banks in the face of a January 30, 2012, deadline for these banks to turn over data on their offshore business. The data is said to contain many thousands of pages of encrypted data, including the names of client advisers. It is unclear if the encrypted data is any use to the IRS and other authorities in its current form, but the assumption is that it will be soon.

It is said to contain details of services to American clients. Therefore, it could provide a rich vein of information for tax authorities and prosecutors to pursue. The Swiss government is attempting to prevent criminal charges being filed against the banks and hopes cooperation in data transfers plus the payment of fines may be enough.

As this drama plays out, additional account details and prosecutions are likely in what has become an epic battle over global transparency. Lawyers and their clients are almost certainly better off trying to stay out of it. For more information, the IRS has a FAQ site at http://tinyurl.com/irsfaqs.

Robert W. Wood is a tax lawyer with a nationwide practice (www.woodllp.com). The author of more than 30 books, including Taxation of Damage Awards & Settlement Payments (4th Ed. 2009 with 2012 supplement, www.taxinstitute.com), he can be reached at wood@woodllp.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.
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A lot of books cross our desk — and probably yours, too. The Literary Lawyer presents a selection of law-related reading, whether you’re looking to improve your practice skills, learn a new area of law, or escape into a thrilling page-turner by a local author. Read something good (or bad) lately? Submit your own reviews to barnewsarticles@wsba.org.

The Lawyer's Essential Guide to Writing: Proven Tools and Techniques
by Marie Buckley
ABA, 2011; 270 pp.; $79.95
In today’s legal world, lawyers aren’t just tasked with writing contracts and briefs — they also need to correspond with clients via email, promote their practice with a blog, and network with social media. Based on author Marie Buckley’s years of experience as a legal writing coach, this guide provides a systematic approach to all forms of written communication, from traditional legal writing such as memoranda, contracts, and briefs to modern mediums, such as email and blogs. The book explains three guiding principles for powerful writing and how to apply those principles to develop a clean, modern, and confident style. It also explains how to overcome writer’s block, use writing time efficiently and effectively, organize research before writing, self-edit for excellence, proofread, and edit work from other lawyers. A helpful usage, grammar, and punctuation guide answers the questions that most commonly trouble legal writers.

Disrobed: An Inside Look at the Life and Work of a Federal Trial Judge
by Frederic Block
Thomson Reuters Westlaw and National Association of Criminal Defense Lawyers, 2012; $29.95
This memoir by Judge Frederic Block gives a personal account of his experiences with controversial legal topics such as the death penalty, racketeering, terrorism, discrimination, and foreign affairs. Appointed to the federal bench in 1994 by President Clinton, Judge Block discusses some of the most prominent and sensational cases that he presided over during his nearly 20 years as a federal judge, including the Crown Heights Riots and the trials of mafia boss Peter Gotti and nightclub magnate Peter Gatien. Disrobed takes the reader into the courtroom and chambers of a federal judge, offering a rare look at some of the least-talked-about aspects of the bench, including the difficulties of sentencing, the mental toll of possessing the power to drastically alter someone’s life and liberty, and the prevalence of death threats and other risks that judges and their families face in order to serve and uphold the justice system.

Buy-Sell Agreements
by Eric A. Manterfield
ALI-ABA, 2011; 176 pp. softbound; $159
In 2011, almost 100 reported cases involved buy-sell agreements, many of them ambiguous or poorly drafted. Learn how to avoid errors in buy-sell agreements — and how to draft them to your clients’ advantage. Buy-Sell Agreements highlights common drafting mistakes to avoid, including those involving valuation formulas, discounts, transfers incident to divorce, transfers to spouses, lifetime transfers of an ownership interest, gifts in trust, subchapter S protection, children who work in a family business, and more. Manterfield discusses triggering events, setting the purchase price, fixing the transfer tax value of the ownership interest, pricing options, funding methods, and using cross-purchases or redemptions. Also included are editable checklists and forms, which are available online to download.

Transgender Family Law: A Guide to Effective Advocacy
Jennifer L. Levi, ed.
AuthorHouse, 2012; 326 pp. paperback; $19.95
This ground-breaking book comprehensively addresses legal issues facing transgender people in the family law context and provides practitioners with the tools to effectively represent transgender clients. Featuring chapters by attorneys with expertise in both family law and transgender legal advocacy, the book was edited by Jennifer L. Levi, director of GLAD’s (Gay & Lesbian Advocates & Defenders) Transgender Rights Project, and Elizabeth E. Monnin-Browder, a litigation associate in the Boston office of Ropes & Gray and a former GLAD attorney. Topics covered include culturally competent representation, recognition of name and sex, relationship recognition and protections, protecting parental rights, relationship dissolution, parental rights after relationship dissolution, custody disputes involving transgender children, protections for transgender youth, intimate partner violence, and estate planning and elder law.
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The Fifth Woman
by G. William Parker
AuthorHouse, 2011; 300 pp.
paperback: $15.19

A high roller insured for $20 million is found dead in his Las Vegas hotel suite. Ten years later, during an ordinary audit, Rick Morgan, the insurance company’s audit executive, discovers two $20 million payouts and immediately suspects fraud. Although the autopsy concluded the death was from natural causes, Morgan’s gut tells him something isn’t right. With the help of a former homicide detective, Morgan uncovers a string of cover-ups and payoffs stretching back for decades — and an unexpected romance. Seattle accountant G. William Parker draws on his personal experience in the insurance and funeral industries, and the occasional high life as a successful VIP gambler, in this murder mystery, the first in a trilogy.

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**Bottlemania: How Water Went On Sale and Why We Bought It**
Elizabeth Royte
Bloomsbury USA, 2008; 272 pp.
paperback: $15

I have read a few books lately on environmental issues. Here are some I’ve chosen that look at consumerism and its environmental effects.
This 2008 follow-up to Royte’s entertaining and informative Garbage Land takes a look at a true environmental scourge: disposable water bottles. Clean, safe drinking water for a population of millions is both a momentous technological achievement and a luxury that people in many countries don’t enjoy. Yet many American consumers feel that tap water isn’t good enough and bottled water in disposable plastic containers is somehow better — even when those single-use, not-truly-recyclable bottles end up littering the environment. Royte follows the trail from those famously pure glacial mountain springs to bottling plants and supermarkets, examining decades’ worth of marketing campaigns that have gotten us to pay premium prices for something that’s already on tap in every home.

Garbology
by Edward Humes
Avery, 2012; 288 pp. hardcover; $27
Pulitzer Prize-winning author Edward Humes investigates the whopping 102 tons of trash that the average American produces over a lifetime: he visits the enormous Garbage Mountain landfill in L.A., talks to the scientist creators of MIT’s Trash Track Project, and explains the myths and truths surrounding the Pacific Garbage Patch. He delves into the history of sanitation engineering — which is more interesting than you might think — and profiles people with unusual relationships to garbage, like the artists-in-residence at one San Francisco dump, or the family that has managed to get their annual trash output down to the contents of a single mason jar.
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OVERDRESSED
The Shockingly High Cost of Cheap Fashion
by Elizabeth L. Cline
Portfolio Hardcover, 2012; 256 pp.
hardcover; $25.95

Author Elizabeth Cline used to buy cheap, new items of clothing from discount chains almost every week. Then she began to wonder about the environmental, social, and economic effects of this unchecked bargain-basement consumption. Cline explores the rise of the massive international budget-clothing chains, visiting sweatshops and factories in Asia, and how they’ve harmed independent designers who struggle to sell higher-quality clothes at a fair cost. She also investigates what really happens to our well-meaning (but overwhelming and largely unhelpful) clothing donations to thrift stores. Still, it’s not all depressing: Cline offers solutions on how we can break the cycle with our own buying choices, rewarding quality and innovation with our consumer dollars, and choosing to keep and repair items for a longer useful life.

Stephanie Perry is the WSBA communications specialist/publications editor. Find more of her reviews and reading lists at www.readerslane.com.

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Questions? Contact barnewsarticles@wsba.org.

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Here are the Champions!

We salute these Champions of Justice King County law firms, who represent the standard of excellence in the 2011–2012 Campaign for Equal Justice. Their generous charitable support helped us raise more than $525,000 in vital operating support for more than 20 civil legal aid programs in King County and across the state.

Through their support of the Campaign for Equal Justice, these civically engaged law firms are strengthening our communities by helping stabilize housing, income and benefits for thousands of families dealing with urgent civil legal crises.

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The Washington State Bar Association
50-Year Member Tribute Luncheon

Friday, October 12, 2012 • Sheraton Seattle Hotel • 1400 6th Ave., Seattle
Registration and Reception: 11:00 a.m. (no-host bar) • Luncheon Program: Noon

Please join us as we honor the 2012 WSBA 50-year members. All members of the legal community are invited.

Name _________________________________________ WSBA No. ______________________
Address _________________________________________________________________
Phone ________________________________ E-mail ____________________________
Affiliation/organization ___________________________________________________

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_______ (no. of persons) X $45 (price per person) = $ ____________ TOTAL

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

____________________________________________ chicken salmon vegetarian
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☐ If you need special accommodations, please check here and explain below:
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Send to: Washington State Bar Association 50-Year Member Tribute Luncheon
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539
Tel: 800-945-WSBA or 206-443-WSBA • Fax: 206-727-8310
The 2012 Washington State Bar Association Annual Awards Dinner

Please join us on Thursday, September 20, 2012, at the Hyatt at Olive 8 in Seattle for an evening of inspiration as we celebrate the accomplishments of the 2012 WSBA award recipients. All members of the legal community and guests are invited to attend.

Reception: 5:30 p.m. (no-host bar) • Dinner/Program: 6:30 p.m. • 1635 Eighth Avenue, Seattle

Name _________________________________________WSBA No. ____________________________
Address ________________________________________________________________________________
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Affiliation/Organization ________________________________________________________________

Registration is $95 per person (table of 10 = $950). 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 13, 2012 (refunds cannot be made after September 14). Seating will be assigned.

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_______ (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  ☐ fish  ☐ vegetarian
________________________________________________________________________

☐ chicken  ☐ fish  ☐ vegetarian
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☐ chicken  ☐ fish  ☐ vegetarian
________________________________________________________________________

☐ chicken  ☐ fish  ☐ vegetarian

All those listed on the same registration form (up to 10) will be seated at the same table.

Send to: WSBA Annual Awards Dinner
Attn: Pamela Wuest
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Opportunities for Service

Northwest Justice Project Board of Directors
Application Deadline: September 5, 2012

The WSBA Board of Governors (BOG) is accepting letters of interest and résumés from members interested in appointment to a three-year term of volunteer service on the Board of Directors of Northwest Justice Project (NJP). The BOG will fill three attorney positions for terms commencing January 1, 2013. A fourth attorney appointment will be made by the NJP Board. Three incumbents are eligible for reappointment and must submit a letter of interest and résumé if interested in re-appointment.

The Northwest Justice Project is a 105-attorney statewide not-for-profit law firm providing free legal services to low-income people from 13 offices throughout Washington. NJP is funded primarily by the state of Washington and the federal Legal Services Corporation. Its 2012 budget is approximately $19.5 million. Board members play an active role in setting program policy and assuring adequate oversight of program operations, and must have a demonstrated interest in, and knowledge of, the delivery of high-quality civil legal services to low-income people. Board members are expected to attend quarterly meetings in Seattle (normally on the last Saturday of January, April, July, and October), attend the Goldmark Luncheon in February, attend the annual Access to Justice Conference in June, and serve actively on at least one Board committee.

For more information, please email César Torres, NJP executive director, at cesart@nwjustice.org, or Russell J. Speidel, board development chair, at russ.speidel@speidellaw.com. Submit letters of interest and résumés to: WSBA Communications Department, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539; or email barleaders@wsba.org.

Limited Practice Board Application Deadline: October 1, 2012

The WSBA Board of Governors seeks candidates for appointment to the Limited Practice Board, which oversees administration of, and compliance with, the Limited Practice Rule (APR 12) authorizing certain laypersons to select, prepare, and complete legal documents pertaining to the closing of real estate and personal-property transactions. The candidates’ names will be submitted to the Washington State Supreme Court for appointment, and the appointee will serve a four-year term commencing January 1, 2013, and ending December 31, 2016. In keeping with the member requirements of APR 12, these positions must be filled by active members of the WSBA. Experience in the real estate industry is preferred. For more information, see www.wsba.org/lpos.

An application and résumé are required for new candidates and incumbents seeking reappointment. Please submit application and résumés online. Contact Limited Practice Board Staff Liaison Talia Clever at taliac@wsba.org for more information.

Limited License Legal Technician Board Application deadline: October 15, 2012

The WSBA Board of Governors seeks applicants for the Limited License Legal Technician Board, recently created by the Washington State Supreme Court to administer new Admission to Practice Rule 28, which will be implemented by the WSBA. APR 28 authorizes certain persons to render limited legal assistance or advice in approved practice areas of law. Among other duties, the 13-member Board will recommend LLLT practice areas to the Court, draft necessary rules and regulations for implementation of this program, determine qualifications for LLLT licensing, administer the LLLT exam, and determine LLLT continuing education requirements. Nine of the Board members must be active WSBA members; the other four are non-lawyers. Legal educators are encouraged to apply, as at least one board member must be a legal educator.

Applications will be reviewed by the Board of Governors in November and the names of selected candidates will be forwarded to the Washington State Supreme Court for appointment. Initial terms will begin January 1, 2013, and end September 30 in either 2013, 2014, or 2015. (In the future, terms will be for three years, beginning on October 1, with a two-term limit.) Application instructions are located on the WSBA website at www.wsba.org/lilt. Applications from people seeking a LLLT license will not be accepted until the LLLT Board has finalized all program details, which is not expected to be prior to January 1, 2014. Information about APR 28 may be found on the Court’s website at www.courts.wa.gov/newsinfo/?fa=newsinfo.internetdetail&newsid=2136. Questions about the Board should be addressed to Robert Henry, WSBA admissions manager, at roberth@wsba.org.

Bench-Bar-Press Committee of Washington Application Deadline: October 19, 2012

The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving on the Bench-Bar-Press Committee of Washington. Two positions are available. Both incumbents are eligible for reappointment and must submit a letter of interest if interested in reappointment.

The two-year term will begin January 1, 2013, and expire December 31, 2015. The Bench-Bar-Press Committee was formed in 1963 to foster better understanding and working relationships among judges, lawyers, and journalists. Its mission is to seek to accommodate, as much as possible, the tension between the constitutional values of free press and fair trial through educational events and relationship building. The committee is chaired by the Chief Justice of the Washington State Supreme Court and includes representatives from the legal profession, judiciary, law enforcement, and news media. The committee meets as a whole once or twice each year. Subcommittees of volunteers are
organized on an ad hoc basis to plan and execute events.

More information can be found at www.courts.wa.gov/committee/index.cfm?fa=committee.home&committee_id=77, or contact Wendy Ferrell, Administrative Office of the Courts, at wendy.ferrell@courts.wa.gov, 360-705-5331. Submit letters of interest and résumés to: WSBA Communications Department, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539 or email barleaders@wsba.org.

U.S. District Court Public Notice
Regarding Reappointment of Incumbent Part-time United States Magistrate Judge Dean Brett in the Western District of Washington at Bellingham

The current four-year term of office of part-time United States Magistrate Judge Dean Brett is due to expire on June 22, 2013. The United States District Court is required by law to establish a panel of citizens to consider the reappointment of the magistrate judge to a new four-year term. The duties of the part-time magistrate judge position include the following: 1) trial and disposition of petty and misdemeanor cases arising from Whidbey Island Naval Air Station; 2) conduct of regular calendars involving charges of traffic offenses and violations of park regulations in Mt. Baker-Snoqualmie National Forest and North Cascades National Park, and in other areas within federal jurisdiction; 3) conduct of various preliminary proceedings in criminal cases. The jurisdiction of the part-time magistrate judge is specified in 28 U.S.C. 636(a). Comments from members of the bar and the public are invited as to whether the incumbent Magistrate Judge should be recommended by the panel for reappointment by the court and should be directed to: William McCool, District Court Executive, United States Courthouse, 700 Stewart St., Ste. 2310, Seattle, WA 98101, or by email at mag_reappoint@wawd.uscourts.gov. Comments must be received by September 30, 2012. See www.wawd.uscourts.gov for more information.

2013 Licensing and MCLE Information

- Renew your license online. Online licensing is a convenient and easy way to complete your license renewal and MCLE certification. Log in now at mywsba.org to verify and update your contact information, then complete your license renewal after you get your packet in the mail. The License Renewal form and the Section Membership form will be mailed together in mid-October and online licensing will be available at that time. Renewal and payment must be completed by February 1, 2013.
- Payment plan option now available. If you are experiencing financial challenges, you may contact us about our new payment plan option (available to all active and inactive members), or our one-time hardship exemption, available for active attorney members who qualify. Visit wsba.org/licensing to find out how we’re making it easier for you.
- Join or renew your section membership. As the section membership year is October 1, 2012, through September 30, 2013, we encourage you to join or renew sections in October to receive the full benefit of the membership.
- Are you due to report MCLE Compliance? If you are due to report MCLE compliance for 2010–2012 (Group 3), you will also receive your Continuing Legal Education Certification (C2) form in the license packet that will be mailed in mid-October. Lawyers in Group 3 include active attorney members who were admitted in 1984–1990, 1993, 1996, 1999, 2002, 2005, and 2008. (Members admitted in 2011 are also in Group 3, but are not due to report until the end of 2015.) All credits must be completed by December 31, 2012, and certification (C2 form) must be completed online or be postmarked or delivered to the WSBA by February 1, 2013. For detailed instructions, go to wsba.org/mcle.

Legal Foundation of Washington Notice of Public Meeting

The trustees of the Legal Foundation of Washington will meet on September 20, 2012, at the Legal Foundation of Washington offices in Seattle. The public may appear in order to comment on the Foundation’s activities between 9:00–9:30 a.m. This opportunity is made pursuant to Article I, Section 1.7 of the Bylaws of the Legal Foundation of Washington. For more information, contact Caitlin Davis Carlson at caitlin@legalfoundation.org.
Lawyers Helping Hungry Children Fundraising Luncheon — October 10
The King County Chapter of Lawyers Helping Hungry Children, a nonprofit organization dedicated to ending childhood hunger in Washington, will hold its annual fundraiser on October 10 at the Grand Hyatt, in Seattle. The event will celebrate Lawyers Helping Hungry Children’s 21st year raising money and advocating on behalf of hungry children. The money raised by Lawyers Helping Hungry Children goes to beneficiary organizations that provide food to children of low-income families and to advocacy for childhood hunger issues. The luncheon will be emceed by Ian Lindsay, and headlined by keynote speaker Molly Moon Neitzel, founder and CEO of Molly Moon Ice Cream. Individual tickets are $90 for the event, or $45 for students and attorneys with government and nonprofit organizations; tables can be reserved for $900. Register online at www.lawyershelpinghungrychildren.org. The Pierce County Chapter of Lawyers Helping Hungry Children will also hold its breakfast fundraiser on October 10 for emergency food programs in Pierce County. Learn more about Lawyers Helping Hungry Children at www.lawyershelpinghungrychildren.org, or by contacting Marla Zink at marla@washapp.org. Information about the Pierce County Chapter can also be obtained from Todd Carlisle at toddc@nwjustice.org.

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

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

Get More out of Your Software
The WSBA offers hands-on computer clinics and webinars for members wanting to learn more about what Microsoft Office Outlook and Word, as well as Adobe Acrobat, can do for a lawyer. We also cover online legal research, such as Casemaker and other resources. Are you a total beginner? No problem. The clinic teaches helpful tips you can use immediately. Bring your laptop or use provided computers. Seating is limited to 15 members. The September 10 clinic will meet from 10:00 to 11:30 a.m. at the WSBA offices and online, and will focus on Microsoft Outlook and Word. On September 13, from 2:00 to 3:30 p.m., we will discuss Microsoft Outlook and Word. Our new, short webinar-only sessions for September are: September 17 from noon to 12:30 p.m. on The FormTool, and September 24 from noon to 12:30 p.m.

LOMAP Lending Library
The WSBA Law Office Management Assistance Program (LOMAP) Lending Library is a service to WSBA members. We offer the short-term loan of books on the business management aspects of your law office. How does it work? You can view available titles at www.wsba.org/resources-and-services/lomap/lending-library. Books may be borrowed by any WSBA member for up to two weeks. LOMAP requires your WSBA ID and a valid Visa or MasterCard number to guarantee the book’s return to the program. If you live outside of the Seattle area, books can be mailed to you; you will be responsible for return postage. For walk-in members, we recommend calling first to check availability of requested titles. To arrange for a book loan or to check availability, please contact Julie Salmon at 206-733-5914.

LOMAP Traveling Roadshow Returns
Pete Roberts and Jeanne Marie Clavere are presenting on September 7 from 8:00 to noon at the U.S. Courthouse and Federal Building, 825 Jadwin Ave., in Richland. Topics include: protecting client interests, ethics issues that arise when dealing with clients with diminished capacity, and a “reality check” self-audit for your practice. Four credits are offered and the cost is $99. Seminar code: LOMOTR90712. Contact Julie Salmon at 206-733-5914 or juliesa@wsba.org for additional information.

Individual Consultation
The WSBA Lawyers Assistance Program provides treatment for those struggling with depression, work stress, addiction, and life transition, among other topics. Consultations are an opportunity for assessment of the problems you may be facing, identifying useful tools you may utilize to address these issues, and referrals to find the right

on exchange software for folder sharing. There is no charge and no CLE credit. To reserve your seat and obtain conference call instructions, contact Julie Salmon at 206-733-5914 or juliesa@wsba.org.
resources for you. Our licensed counselors can offer up to three sessions on a sliding scale. The first appointment is $20. We also provide consultations on job seeking and can offer informational and referral resources on a range of topics. Contact us at 206-727-8268, 800-945-9722, ext. 8268, lap@wsba.org, or go to www.wsba.org/lap.

Weekly and Bi-Monthly Job Search Group
On September 12, from noon to 1:30 p.m., the WSBA Lawyers Assistance Program welcomes a representative from the Puget Sound Business Journal to provide guidance on how to get the most out of this important job search resource. Learn how to recognize industry trends and stand out in a crowded job search market. No RSVP is required. The Weekly Job Search group provides strategy and support to unemployed attorneys. The group runs for eight weeks and is limited to eight attorneys. We provide the comprehensive WSBA job search guide “Getting There: Your Guide to Career Success,” which can also be found online at www.tinyurl.com/7xhe88b. For more information about monthly and weekly job group programming or to schedule a career consultation, contact Dan Crystal at danc@wsba.org, 206-727-8267, or 800-945-9722, ext. 8267.

Casemaker Online Research
Casemaker is a powerful online research library provided free to WSBA members that can be accessed from the WSBA website at www.wsba.org/resources-and-services/casemaker-and-legal-research. As a WSBA member, you already receive free access to Casemaker. Now, you can enhance that member benefit by upgrading to Casemaker+ with CaseCheck+. Just like Shepard’s and KeyCite, CaseCheck+ tells you instantly whether your case is good law. You can find information about this service on the Casemaker website, or call 877-659-0801 and a Casemaker representative can talk with you about the benefits of switching to their premium product. For help using Casemaker, contact Julie Salmon at 206-733-5914, 800-945-9722, ext. 5914, juliesa@wsba.org, or call the WSBA Service Center at 800-945-WSBA (9722) or 206-443-WSBA (9722).

Just Starting a Practice?
Think “out of the box” and consider purchasing “Law Office in a Box”. For $119, you receive an hour of consultation time plus everything you see here: http://tinyurl.com/3rn75hj. Questions? Contact Peter Roberts at peter@wsba.org, 206-727-8237, or 800-945-9722, ext. 8237.

Mindful Lawyers Monthly Group
A growing number of legal professionals across the nation are applying mindfulness-based skills and training to lawyering. The Washington Contemplative Lawyers group meets on the last Wednesday of each month (September 26) at the Lawyers Assistance Program office from 8:15–9:00 a.m. For more information, contact Sevilla Rhoads at srhoads@gsblaw.com or go to www.waccontemplativelaw.blogspot.com.

Struggling with Alcohol or Drugs?
The WSBA Lawyers Assistance Program is closely connected to addictions communities, AA and otherwise, across the state. For instance, there is an “Unbar” AA group for attorneys (see article on page 30) that meets every Wednesday in downtown Seattle. If you would like someone to walk you to a meeting, or simply need a referral, don’t hesitate to contact us confidentially at 206-727-8268 or lap@wsba.org.

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

Procrastination
Do you keep putting off certain tasks? Do you worry about work you’re not doing? Procrastination can be hazardous to your professional and personal health. Try dividing the task up into small bites, then attack the first logical piece. If you’d like help breaking the procrastination habit, call the WSBA Lawyers Assistance Program at 206-727-8268 or 800-945-9722, ext. 8268, to schedule a confidential consultation.

Upcoming Board of Governors Meetings
September 20–21, Seattle; November 16–17, Seattle; January 17–18, 2013, Olympia
With the exception of the executive session, Board of Governors meetings are open, and all WSBA members are welcome to attend. RSVPs are appreciated but not required. Contact Pamela Wuest at 206-239-2125, 800-945-9722, ext. 2125, or pamelaw@wsba.org. The complete Board of Governors meeting schedule is available on the WSBA website at www.wsba.org/about-wsba/governance/board-of-governors.

Usury Rate
The average coupon equivalent yield from the first auction of 26-week treasury bills in August 2012 was 0.137 percent. Therefore, the maximum allowable usury rate for September is 12 percent.
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Hanis Irvine Prothero, PLLC is pleased to announce that Meghan B. Kelly joined the firm as an associate attorney practicing Immigration and Citizenship Law. Her practice includes complex removal defense litigation at the administrative and federal court levels, family-based immigration petitions, and citizenship matters.

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Hanis Irvine Prothero, PLLC is pleased to announce that Mark D. Albertson joined the firm as a Partner practicing Elder Law, Estates, Wills and Trusts, Probate, Guardianships, and Special Needs Law. Mr. Albertson’s 23 years of experience has gained him comprehensive knowledge of the issues involved in Elder Law, Veterans’ Benefits, and Special Needs Planning.

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Hanis Irvine Prothero, PLLC is pleased to announce that Jorge A. Ramos has joined the firm as an associate attorney practicing Bankruptcy, Personal Injury, and Family Law. Mr. Ramos is fluent in both English and Spanish. His practice areas include dissolution of marriage, legal separations, meretricious/cohabitation relationships, parenting plans, child support modifications, paternity issues, and relocations. Mr. Ramos also represents individuals who have personal injury claims and those seeking bankruptcy relief.

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Please visit www.HightLaw.com for details of experience and credentials.

**WILLIAM P. HIGHT**

Email: wph@HightLaw.com
Tel: 360-331-4030
www.HightLaw.com

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**MEDIATION**

Mac Archibald

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

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

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

**LAW OFFICES OF EDWARD M. ARCHIBALD**

Mediation Services
601 Union Street, Suite 4200
Seattle, WA 98101
Tel: 206-903-8355 • Fax: 206-903-8358
Email: mac@archibald-law.com
www.archibald-law.com
DISCIPLINARY NOTICES

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

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

Disbarred

Michael D. Coffman (WSBA No. 28132, admitted 1998), of Seattle, was disbarred, effective June 19, 2012, by order of the Washington State Supreme Court following a default hearing. This discipline was based on conduct involving failure to maintain complete and/or accurate trust account records and other trust account violations, misappropriation of funds, conflicts of interest, lack of diligence, failure to communicate, and engaging in criminal or dishonest conduct that reflects disregard for the rule of the law and demonstrates unfitness to practice law.

Between July 2006 and December 2008, Mr. Coffman engaged in the following conduct:

- Failed to maintain complete and accurate records of client funds coming into his possession; failed to maintain client funds in his trust account; and failed to reconcile his trust account records as required by the Rules;
- Disbursed funds from his trust account to his personal account and used client funds for the benefit of himself or another when he was not entitled to do so;
- Failed to deliver to a client all the funds that the client was entitled to receive or to provide the client with an accounting showing the actual distribution of the client’s settlement funds;
- Failed to make reasonable efforts to ensure that the conduct of his non-lawyer assistant was compatible with Mr. Coffman’s professional obligations;
- Entered into a business transaction with Client A on terms that were not fair and reasonable and/or not in writing and/or without advising the client in writing of the desirability of seeking independent counsel and/or not obtaining Client A’s informed consent in writing to the essential terms of the transaction and/or the lawyer’s role in the transaction. Due to the lack of promissory note or other form of security, it is not likely Client A will ever be able to collect on the debt;
- Requested and received a loan from Client B in the amount of $10,000; the loan was unsecured and for an indeterminate time at no interest;
- Failed to diligently represent Clients C in negotiating a settlement of their tax matters; as a result of Mr. Coffman’s neglect, the IRS garnished the Clients’ bank account and the Clients had to expend additional money to hire and pay new counsel to repair the damage Mr. Coffman had caused;
- Charged an unreasonable fee in Clients C’s tax matter, resulting in Mr. Coffman’s collecting $25,901.90 without providing the services needed, and failed to properly communicate fees and billing practices;
- Failed to provide an accounting for the $69,000 Clients C had provided Mr. Coffman to pay their back taxes to the IRS; Mr. Coffman represented that he had paid the IRS $21,907.27 on behalf of the Clients, when in fact he had only paid the IRS $11,907.27, resulting in Clients C owing more taxes than Mr. Coffman represented was owed. Mr. Coffman still owes Clients C $9,815.26, which has not been refunded;
- Failed to deposit Clients C’s funds into an individual interest-bearing trust account;
- Failed to charge Client D a reasonable fee; the fee agreement Client D signed estimated $25,901.90 without providing any services for which the fee would be $500 with the understanding that any additional amount would be paid from any settlement he received. Mr. Coffman charged Client D $11,898.48 and neglected to secure a settlement for Client D; when Client D refused to pay, Mr. Coffman sent the bill to a collection agency;
- Failed to provide consistent monthly billings to Client D and improperly billed for clerical time that was not provided for in the fee agreement;
- Failed to charge reasonable fees to Clients E and F;
- Disbursed $30,000 from Client F’s IOLTA account and converted the funds for his own use;
- Failed to provide an accounting to Client F when requested and failed to deposit Client F’s funds to an individual interest-bearing account; and
- Failed to respond to Client G’s request for status updates and to file a complaint in a timely fashion.

Mr. Coffman’s conduct violated RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; RPC 1.4, requiring a lawyer to communicate with the client; RPC 1.4(a)(3), requiring a lawyer to keep the client reasonably informed about the status of the matter; RPC 1.4(a)(4), requiring a lawyer to promptly comply with reasonable requests for information; RPC 1.4(b), requiring a lawyer to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation; RPC 1.5(a), prohibiting a lawyer from making an agreement for, charging, or collecting an unreasonable fee or an unreasonable amount for expenses; RPC 1.5(b), requiring that the scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation; RPC 1.8(a), prohibiting a lawyer from entering into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client, former RPC 1.14(a), requiring that all funds of clients paid to a lawyer or law firm be deposited into one or more identifiable interest-bearing trust accounts; former RPC 1.14(b)(3), requiring a lawyer to maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render duplicate accounts to his or her client regarding them; RPC 1.15A(b), prohibiting a lawyer from converting, borrowing, or pledging client or third person property for the lawyer’s own use; RPC 1.15A(c), requiring a lawyer to hold property of clients and third persons separate from the lawyer’s own property; RPC 1.15A(c)(1), requiring a lawyer to maintain all client funds in a trust account; RPC 1.15A(e), requiring a lawyer to promptly provide a written accounting to a client or third person after distribution of property or upon request and provide at least annually a written accounting for whom the lawyer is holding funds; RPC 1.15A(f), requiring a lawyer to promptly pay or deliver to the client or third person the property which they are entitled to receive; RPC 1.15A(h)(2), requiring a lawyer to keep complete records; RPC 1.15A(h)(3), requiring a lawyer to give reasonable notice to the client of the intent to withdraw funds, through a billing statement or other document; RPC 1.15A(h)(6), requiring trust account records to be reconciled as often as bank statements are generated or at least quarterly; RPC 1.15A(h)(8), prohibiting disbursements on behalf of a client or third person from exceeding the funds of that person on deposit;
Disbarred

Kate Lynn (WSBA No. 17398, admitted 1987), of Mountlake Terrace, was disbarred, effective June 19, 2012, by order of the Washington State Supreme Court imposing reciprocal discipline following an order of the Supreme Court of Pennsylvania.

For more information, see www.aopc.org/opposing/disciplinaryboard/dboard opinions/69db2011-lynn.pdf.

Ms. Lynn’s conduct violated PA RPC 1.3, requiring a lawyer to act with reasonable diligence and promptness in representing a client; PA RPC 1.4(a)(3), requiring a lawyer to keep the client reasonably informed about the status of the matter; PA RPC 1.5(b), requiring a lawyer that has not represented the client regularly to communicate the basis or rate of the fee in writing, before or within reasonable time after commencing the representation; PA RPC 1.15(b), requiring a lawyer to hold all rule 1.15 funds and property separate from the lawyer’s own property and it shall be identified and appropriately safeguarded; PA RPC 1.15(e), requiring a lawyer to promptly deliver to the client or third person any property, including but not limited to Rule 1.15 Funds, that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding the property; PA RPC 1.16(a)(3), requiring a lawyer to comply with applicable law requiring notice to or permission of a tribunal when terminating a representation and, when ordered to do so, to continue representation notwithstanding good cause for terminating the representation; PA RPC 1.16(d), requiring a lawyer to take steps to the extent reasonably practicable to protect a client’s interest, giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property and refunding any advance payment of fee or expense that has not been earned or incurred; PA RPC 3.2, requiring a lawyer to make reasonable efforts to expedite litigation consistent with the interests of the client; PA RPC 8.4(b), prohibiting a lawyer from committing a criminal act that reflects adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects; PA RPC 8.4(c), prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice; and PA RPC 8.4(d), prohibiting a lawyer from committing any act involving moral turpitude, corruption, or any unjustified act of assault or other act which reflects disregard for the rule of law.

Debra J. Slater represented the Bar Association. Mr. Coffman represented himself. Amanda E. Lee was the hearing officer.

Disbarred

Ruth Ann Elizabeth Westbrook (WSBA No. 27789, admitted 1998), of Everett, was disbarred, effective June 19, 2012, by order of the Washington State Supreme Court. This discipline was based on conduct involving the crime of theft, failure to safeguard client property, and dishonest conduct.

At all relevant times, Ms. Westbrook was an equal shareholder in the Firm and was in charge of managing the Firm’s finances. Her duties included managing the Firm’s bank accounts, handling the Firm’s cash, paying employee salaries, and paying the Firm’s financial obligations, including taxes. Ms. Westbrook usually controlled the Firm’s check books. On May 17, 2006, the Firm was hired to represent Client A in a marital dissolution. On or about October 16, 2006, the Firm received a check in the amount of $141,679.03 representing the proceeds from the sale of Client A’s family residence. The partner handling Client A’s case directed Ms. Westbrook to deposit the proceeds in the Firm’s IOLTA account pending the court’s determination on how the proceeds would be distributed. At the time the Firm received the proceeds, Client A did not owe the Firm any attorney fees and had a credit balance, and Ms. Westbrook had no reason to believe that any of the proceeds belonged to the Firm.

On October 16, 2006, Ms. Westbrook deposited the $141,679.03 into the Firm’s operating account. The next day, Ms. Westbrook transferred $110,679.03 of the $141,679.03 in proceeds from the Firm’s operating account into the Firm’s IOLTA account. Ms. Westbrook intentionally left $31,000 of the proceeds in the Firm’s operating account because she was concerned about whether the Firm could timely pay her salary and/or bonus. Ms. Westbrook delayed paying the payroll until $31,000 of the proceeds was deposited into the Firm’s operating account. Ms. Westbrook’s partners were not aware of her concern regarding the Firm’s cash flow. Ms. Westbrook used Client A’s proceeds to pay her salary, bonus, and other Firm expenses.

On November 1, 2006, Ms. Westbrook transferred $10,000 from the Firm’s operating account into the Firm’s IOLTA account, which was intended to represent a portion of the $31,000 in Client A’s proceeds that was returned. On March 24, 2007, Ms. Westbrook transferred $20,000 from the Firm’s operating account to its IOLTA account intended to represent the remaining portion of Client A’s proceeds, leaving $1,000 unaccounted for. Ms. Westbrook knowingly concealed the misappropriation of the proceeds from Client A and the Firm and prepared a client account ledger for Client A that intentionally misrepresented that the proceeds were deposited into the Firm’s IOLTA account. The ledger did not describe any of the transfers from the Firm’s operating account to the Firm’s IOLTA account as described above.

At the time of these events, Ms. Westbrook owed back taxes to the IRS. On January 31, 2007, the Firm received an Order of Withholding to withhold Ms. Westbrook’s earnings to pay an outstanding student loan obligation of $41,067.55.

During the period from January 17, 2007, to April 17, 2007, Ms. Westbrook did not deposit any of the $6,300 in cash that was received by the Firm into the Firm’s operating account or other bank accounts. Ms. Westbrook concealed her conversion of the cash by preparing a list of retainers and payments received by the Firm to falsely represent that certain cash payments were deposited into the Firm’s operating account on certain dates. On April 4, 2007, Ms. Westbrook issued a check for $800 to her then-husband to
pay her share of household finances. The check stub falsely reflected that the check was an “early draw” issued to Ms. Westbrook. In fact, the $800 check was not an early draw and Ms. Westbrook did not deduct the $800 from any future salary or bonus check. The Firm had no knowledge of and had not given authority for the $800 check.

From February 2007 through April 15, 2007, the Firm’s partners received a bonus based on 60 percent of the income generated by each lawyer; the remaining 40 percent belonged to the Firm. Ms. Westbrook’s handwritten records reflect that she generated $5,750 of income for the Firm from February 2007 through March 31, 2007. Based on the 60 percent bonus formula, Ms. Westbrook was entitled to a bonus of $3,450. Ms. Westbrook issued a bonus check to herself for the amount of $5,750. Ms. Westbrook intentionally converted $2,300 from the Firm.


During Ms. Westbrook’s deposition on December 13, 2010, she falsely testified that she was directed to place Client A’s proceeds in the Firm’s operating account, that she did not transfer funds in November 2007, and that there was “never” a call to the Firm to investigate this matter. On May 15, 2007, Ms. Westbrook resigned from the Firm.

Ms. Westbrook’s conduct violated RPC 1.15A(b), prohibiting a lawyer from converting, borrowing, or pledging client or third person property for the lawyer’s own use; RPC 8.4(b), prohibiting a lawyer from committing a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects; and RPC 8.4(c), prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Ms. Westbrook’s testimony was made with the intent to benefit herself by concealing her ethical misconduct.

Jonathan H. Burke represented the Bar Association. Ms. Westbrook represented herself. Terence M. Ryan was the hearing officer.

Non-Disciplinary Notices

Suspended Pursuant to ELC 7.3
Timothy Schoenrock (WSBA No. 40029, admitted 2008), of Yakima, was suspended from the practice of law, effective July 3, 2012, by order of the Washington State Supreme Court, pending the outcome of supplemental proceedings pursuant to ELC 7.3. This is not a disciplinary sanction.

Suspended Pursuant to ELC 7.2(a)(3)
James R. Watt (WSBA No. 12177, admitted 1981), of Redmond, was suspended effective July 18, 2012, by order of the Washington State Supreme Court, pending compliance with a request or subpoena, pursuant to ELC 7.2(a)(3). This is not a disciplinary sanction. James R. Watt is to be distinguished from James R. Watts, of Portland, Oregon.

19th Annual Washington Construction Law
September 13–14 — Seattle and webcast. 12 CLE credits, including 1 ethics. By The Seminar Group; 800-574-4852 or 206-463-4400; http://theseminargroup.net/seminar.lasso?seminar=12.colwa.

Criminal Law

Getting Started in Criminal Defense

Elder Law

Annual Elder Law Conference
September 14 — Seattle and webcast. 6.5 CLE credits, including 1 ethics. By the WSBA Elder Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Animal Law

Animal Law Section Program
October 18 — Seattle and webcast. CLE credits pending. By the WSBA Animal Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Construction Law

19th Annual Washington Construction Law
September 13–14 — Seattle and webcast. 12 CLE credits, including 1 ethics. By The Seminar Group; 800-574-4852 or 206-463-4400; http://theseminargroup.net/seminar.lasso?seminar=12.colwa.
Lincoln on Professionalism
September 27 — Seattle and webcast. 2.75 CLE ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethical Dilemmas for the Practicing Lawyer
October 17 — Mount Vernon. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Navigating the Ethical Mine Field — How to Stay Out of Trouble with the Bar

Family Law
Navigating Family Law Issues for Military Parties
September 5 — Seattle. 1 CLE credit. By McKinley Irvin Family Law Speaker Series; 206-625-9600; www.mckinleyirvin.com/resources/cle.

4th Annual Domestic Violence Symposium: Intersections, Insights, and Interventions

General
Pro-Tem Training
September 7 — Seattle and webcast. 9.25 CLE credits, including 1.25 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

14th Annual Ethics, Professionalism, and Civility
September 10 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

The Legislative Process — How It Really Works
September 11 — Seattle and webcast. 6.75 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Litigation
Bob Dawson’s Trial Workshop
September 5–8 — Alderbrook Resort, Union. By Washington State Association

Spanish for Lawyers 2012–2013
September 12 — Seattle. By Seattle University School of Law with LBAW, El Centro de la Raza, Schroeter Goldmark & Bender, Seattle University School of Arts and Sciences Modern Language Department; 206-398-4233; www.law.seattleu.edu/continuing_legal_education.xml.

Mindfulness and Law Conference

Legal Writing

Latz Negotiation Strategies
September 28 — Seattle and webcast. 6 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Annual U.S. Supreme Court Watch

Immigration Law
Immigration Law for Non-Immigration Lawyers: Spotting the Issues
September 12 — Seattle and webcast. 6.5 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Intellectual Property
Intellectual Property Fundamentals for the Business and Transactional Attorney
September 21 — Seattle and webcast. 6.75 CLE credits, including .75 ethics. By the WSBA Intellectual Property Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Inland Empire Intellectual Property Institute
October 12 — Spokane. CLE credits pending. By the WSBA Intellectual Property Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Litigation
Bob Dawson’s Trial Workshop
September 5–8 — Alderbrook Resort, Union. By Washington State Association

Motion Practice
September 19 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Moderated Video Replay — Washington Civil Procedure: Let’s Do it Right!
September 25 — Friday Harbor. 6.75 CLE credits, including 2 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

The Persuasive Trial Attorney
October 19 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Real Estate Law
Real Estate Investment Structures
September 12 — Seattle. 5.5 CLE credits. By The Seminar Group; 800-574-4852 or 206-463-4400; http://theseminargroup.net/seminar.lasso?seminar=12.reigwa.

Law of Adjoining Properties
September 20 — Seattle and webcast. 6.5 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Solo Practice
How to Hang Your Own Shingle

Webcast Seminars
Pro-Tem Training
September 7 — Seattle and webcast. 9.25 CLE credits, including 1.25 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

14th Annual Ethics, Professionalism, and Civility
September 10 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Lincoln on Professionalism
September 27 — Seattle and webcast. 2.75 CLE ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Latz Negotiation Strategies
September 28 — Seattle and webcast. 6 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Understanding and Managing High Conflict Personalities in Legal Disputes
October 22 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Administrative Law
October 24 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.
Lateral partner: Smith Alling, P.S. seeks a lateral partner to join the firm’s sophisticated and diverse business, estate planning, real estate, construction, and litigation practice at its office in Tacoma. Successful candidates will have portable business, excellent credentials, substantial experience, and a good reputation in the legal community. Candidates must also have the desire to market and develop their current practice and the willingness to be part of a collegial work environment. Please email your résumé and cover letter, including salary requirements, in confidence to the managing partner, Jeff Eberhard, at jeberhard@smithallling.com. We offer a competitive salary and benefits.

Smith Alling, P.S. seeks an associate attorney to join the firm’s sophisticated and diverse business, estate planning, real estate, construction, and litigation practice at its office in Tacoma. Successful candidates must have an active Washington State Bar Association license, excellent legal research and writing skills, and at least two years of legal experience. For confidential consideration, please email your résumé and cover letter to info@smithallling.com.

Litigation contract lawyer/associate position — Well-respected law firm seeks a lawyer with a minimum of five years’ experience to support a fast-paced, dynamic commercial and tort litigation practice. Initial contract lawyer position with a possibility for full-time position depending upon performance and needs. High-quality research and writing skills and broad-based litigation experience desired. Excellent academic and professional credentials required. Send your cover letter, résumé, writing sample, and references to employment@smithhennessey.com. Please, no telephone or recruiter inquiries.

Career opportunity: Ahlers & Cressman PLLC, an 11-member construction law firm located in downtown Seattle, is seeking a lawyer with at least four years of experience to participate in all aspects of construction law, both transactional and dispute resolution services. Our firm is a group of motivated, hard-working professionals. We believe that responsiveness and high-quality work results in both satisfied clients and a prosperous organization. Compensation is negotiable based upon qualifications and experience. All inquiries will remain confidential. If interested, please send résumé and cover letter to: Chris Achman, Administrator, Ahlers & Cressman PLLC, 999 Third Ave., Ste. 3800, Seattle, WA 98104-4088; Fax: 206-287-9902; website: www.ac-lawyers.com; email: cachman@ac-lawyers.com.

Smith Freed & Eberhard is seeking to add an attorney with at least one year of personal injury litigation experience. Candidates must have the desire and drive to build a reputation as one of the best litigation attorneys in the northwest. This position requires an individual to display a professional, outgoing, motivated, and determined demeanor. They will be joining our team of elite litigators at the firm’s downtown Seattle office. This candidate will have the opportunity to gain the skills needed to become a top-notch attorney in the northwest legal community through developing expertise in taking depositions, writing motions, making court appearances, working directly with clients, and

Smith Freed & Eberhard is a litigation law firm focused on providing excellent service to our clients. We are currently seeking a lateral insurance defense partner with an established practice in Seattle. Successful candidates will have portable business, excellent credentials, substantial experience, and a good reputation in the legal community. Candidates must also have the desire to market and develop their current practice and the willingness to be part of a collegial work environment. Please email your résumé and cover letter, including salary requirements, in confidence to the managing partner, Jeff Eberhard, at jeberhard@smithfreed.com. We offer a competitive salary and benefits.

MacColl Busch Sato, P.C., a workers’ compensation firm in Lake Oswego, Oregon, seeks an associate attorney with at least three years’ experience in handling workers’ compensation and/or litigation matters in Washington and Oregon. We value and reward employees who can work independently and are committed to our growing business. Please apply online with résumé, cover letter, writing sample, and salary requirements; or submit by email to Sharon Burk at sburk@mcbuslaw.com.
supervising legal staff. Excellent academic credentials — top 1/3 of class is a requirement, and strong writing and researching skills are required. If you are hard-working, have great people skills, and are looking to work in a supportive yet challenging environment, please contact us. We are looking for candidates that want to be known as one of the best litigators in the Northwest. If you believe this is you, please submit your résumé, law school transcripts, and anything else that demonstrates you are the right person for this position to Jessica Wilson; 503-227-2424; jwilson@smithfreed.com.

Pacific Law Recruiters is actively searching for associate-level attorneys with a minimum of one year of experience. Practical knowledge of patent litigation, real estate financing and tax exemption, patent prosecution, general and complex commercial litigation, business/transactional, labor and employment, and general tax law; generates immediate consideration, provided candidates also possess superior writing skills, excellent interpersonal attributes, and exemplary academic credentials from a quality educational institution. Current or recent experience in a leading law firm or major business organization is also necessary. Qualified candidates interested in exploring new opportunities with some of the finest law firms in the Northwest are encouraged to forward a confidential résumé and cover letter to Greg Wagner, principal, at: gww@pacificlawjobs.com. Visit our website: www.pacificlawjobs.com.

Asbestos defense litigation attorney of counsel: Pacific Law Recruiters is undertaking a search for a seasoned attorney to direct the asbestos defense litigation practice of a premier Seattle law firm, in an of counsel role. A minimum of five years of comparable litigation experience and a pledge to build upon a practice emphasizing the defense of asbestos-related claims (including all depositions, motions, and related casework) is required. A competitive compensation and comprehensive benefits package is provided. Candidates interested in overseeing and fostering a specialized practice within a firm of exemplary reputation are encouraged to email a confidential résumé and cover letter for immediate consideration to Greg Wagner, Principal, at: gww@pacificlawjobs.com. Visit our website: www.pacificlawjobs.com.

Smyth & Mason PLLC, an established Seattle commercial law firm, seeks a full-time legal assistant/paralegal with demonstrable energy and experience. The practice is busy and unfortunately cannot engage in training. The bulk of the practice is commercial litigation and trial practice, making the job highly deadline-driven. The firm atmosphere is congenial, but professional. Looking for a self-starter who is not hesitant to exercise independent judgment and to accept the results of that decision making. The “Radar O’Reilly” character (“M*A*S*H”) is our perfect candidate. All applicants should have several years of commercial litigation experience and excellent references. We will discreetly review any candidates who are currently employed, to protect job security.

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EMPLOYERS: post openings, manage recruiting, search résumés, reach targeted candidates

http://jobs.wsba.org

Services

Virtual Independent Paralegals, LLC provides comprehensive 24/7/365 litigation support with expertise in: medical record summaries, document review, redaction projects, and deposition digests. We hit the ground running, providing highest quality results at unbeatable rates. Locally owned, nationally known, virtually everywhere! VIP, we’re here when you need us, just a phone call or email away! 206-842-4613; www.viphelpme.com.


Long-term care specialist — WSBA member, licensed as independent long-term care insurance producer. Can provide insurance solutions for your estate planning, dissolution, and business clients. Individuals, employee benefit plans, sponsored groups. Contact Helen Boyer, 425-557-5372; helen.boyer@ltcfp.net; or visit www.helenboyer.ltcpf.com.

Psychologist: impact assessment, determination of disability and/or employability, rehabilitation planning or earning capacity analysis, and so on. Decades of experience in family and employment, immigration and asylum, elder and disability, and injury and civil rights law. Appreciated by judges. Never impeached. Work samples for serious engagement inquiries. Dr. Diane W. DeWitt is Board Certified with 1,035 assessments; 89 trials; 455 hours of deposition/trial testimony. 425-867-1500; www.VocPsy.com.

Expert witness/insurance bad faith consultant: Over 30 years’ combined experience: former claims adjuster, claims manager, insurance defense counsel, and current plaintiffs’ counsel. Consulted for both sides on over 50 cases. CPCU, ARM, and J.D. w/honors. Contact: dbhus@hot mail.com or office phone, 425-776-7386.

Contract lawyer available for all your state or federal litigation needs: briefs, mo-
tions, depositions, hearings, trial preparation, appeals. 24 years’ experience. Lynne Wilson; 206-328-0224; lynnewilsonatty@gmail.com.

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

Experienced contract attorney: 18 years’ experience in civil/criminal litigation, including jury trials, arbitrations, mediations, and appeals. Former shareholder in boutique litigation firm. Can do anything litigation-related. Excellent research and writing skills, reasonable rates. Peter Fabish, pfab99@gmail.com, 206-545-4818.


Appraiser of antiques, fine art, and household possessions. James Kemp-Slaughter ASA, FRSA, with 33 years’ experience in Seattle for estates, divorce, insurance, and donations. For details, see http://jameskempslaughter.com; 206-285-5711 or jkempslaughter@aol.com.

I buy homes and condos. Honest and reliable. Refer your clients with confidence. Clancy Tipton, J.D., Real Estate Broker. 206-947-7514; catipton1@msn.com.

Experienced contract attorney with strong research and writing skills drafts trial and appellate briefs, motions, and research memos for other lawyers. Resources include University of Washington Law Library and LEXIS online. Elizabeth Dash Bottman, WSBA #11791. 206-526-5777; ebottman@gmail.com.

Columbia and Walla Walla counties legal notices: The Times, a 135-year-old weekly newspaper based in Waitsburg, WA, was recently adjudicated as a newspaper of record in the county of Columbia and offers affordable insertion rates for legal notices there. It has also long served Walla Walla County and offers competitive rates for notices to creditors, trustees’ sales, and more. Please contact 509-337-6631 or email advertising@waitsburgtimes.com.

Nationalwide corporate filings and registered agent service. Headquartered in Washington state. Online account to easily manage 1–1,000 of your clients’ needs. www.northwestregisteredagent.com; 509-768-2249; sales@northwestregisteredagent.com.

Dependable private investigators: LINK Investigators assist attorneys by locating witnesses, taking statements, and gathering evidence of a fraudulent or exaggerated claim. We are familiar with courtroom procedures, rules of evidence, and the law. Competitive pricing. 425-213-9456; www.linkprivateinvestigation.com.

Compensation expert witness and consultant: 25 years of experience executive and employee compensation, including reasonableness of compensation, loss of earnings, federal and state tax challenges, change-in-control provisions (golden parachutes), interpretation of employment and compensation agreements, and opposing experts’ methodologies. Excellent references. 206-780-5547, fred@compensation-venturegroup.com.

Contract lawyer available: Former attorney with Bogle & Gates, practicing state and federal criminal and civil litigation needs: appellate and trial work. Motions, discovery, depositions, hearings, briefs, experience with family law. I have successfully won cases in the Ninth Circuit and have published opinions. Contact me at 253-344-9231 or anndefense45@hotmail.com.

Space Available

Available in the heart of Seattle’s business district (4th Ave. and Union St.) located in a historic art deco landmark is an office available for $975/month and paralegal workspace for $300/month. Included are reception (your phone line), shared kitchen, and conference room. Please contact Geoff if interested, 206-284-2932.

Downtown Seattle executive office space: Full- and part-time offices on the 32nd floor of the 1001 Fourth Avenue Plaza Building with short- and long-term lease options. Close to courts and library. Conference rooms and office support services available. $175 and up. Serving the greater Seattle area for over 30 years. Contact Business Service Center at 206-624-9188 or www.bsc-seattle.com for more information.

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To Place a Classified Ad

Rates: WSBA members: $40/first 25 words; $0.50 each additional word. Non-members: $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), American Express, MasterCard, or Visa.

Note: These rates are for advertising in Bar News only. To place a position-available ad on the WSBA website, see http://jobs.wsba.org. Pricing can be found online.

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, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539.

Qualifying experience for positions available: State and federal law allow minimum, but prohibit maximum, qualifying experience. No ranges (e.g., “5–10 years”). Ads may be edited for spelling, grammar, and consistency of formatting. If you have questions, please call 206-727-8262 or email classifieds@wsba.org.
**Turn-key — new offices available** for immediate occupancy and use in downtown Seattle, expansive view from 47th floor of the Columbia Center. Office facilities included in rent (reception, kitchen, and conference rooms). Other administrative support available if needed. DSL/VPN access, collegial environment. Please call Amy, Badgley Mullins Law Group, 206-621-6566.


**Tacoma law office space available** — one block from the Superior Court. $1,200 rent includes a congenial atmosphere, office with a separate furnished secretarial area, receptionist, waiting area, conference rooms, library, kitchen/lunch room, fax, local telephone services, and ample parking. For more information, contact Terry McCarthy at 253-272-2206.

**Federal Way: Office space** for two attorneys in newly remodeled building in Federal Way professional district near Celebration Park. Rent includes use of conference room, Internet, fax, copier, utilities, kitchen, and parking. Secretary/work stations also available. Lease terms negotiable. Call 206-399-2046.

**Office space available at Bank of America Plaza** and Columbia Tower. We are located in the heart of Seattle, two blocks from the courthouse. Fully furnished private offices or small suites, perfect for the solo attorney or small law firms. We offer professional receptionists to handle your calls, conference rooms, and videoconferencing available to book by the hour or by the day. Two months’ free rent for all new clients. We also have space in Belltown and Lake Union. Call or email Hailey; 206-370-2871 or hailey.reifel@regus.com.

**Bellevue office space available** in the heart of downtown at Key Center, Skyline, and Bellevue Place. We have immediate occupancy available in three of the finest Bellevue buildings. Our offices are completely furnished, move-in ready. Our professional staff will receive your mail, greet your clients, answer your calls, book a meeting in one of our conference rooms, etc. We also offer virtual office options for those who don’t need to be in the office daily. Two months’ free rent for all new clients. In addition, we have space in Redmond and Carillon Point (Kirkland). Call or email Hailey; 206-370-2871 or hailey.reifel@regus.com.

**Premium downtown Seattle office space**: Sublease office space with 18-attorney firm available on 41st floor of Bank of America 5th Ave Plaza. Four exterior view offices from 194 to 140 square feet available for immediate occupancy. Interior paralegal workspace is also available. Rent includes reception services, conference rooms, kitchen, library, fax/scanner, and Internet. Competitive rates and collegial environment. Contact Mike Walter or Steve Thorsrud, Keating, Bucklin, & McCormack, Inc., PS, 206-623-8861; mwalter@kbmlawyers.com or sthorsrud@kbmlawyers.com.

**Belltown (Seattle) office space**: Approximately 3,539 square feet of office space available on 6th floor of Denny Building at Sixth Avenue and Blanchard Sttreet. Two-year sublease available at $20 PSF/Yr. fully serviced. Private entry, nine private offices on window line, two internal offices, and ten work stations. T-1 line to space, furniture included, shared conference room and kitchen, and parking available in building garage. Contact Vanessa, Gardner Trabolsi & Associates PLLC; 206-256-6309.

**Downtown Seattle spacious corner office** plus staff space, top floor IBM Building in office suite with established family law and elder law firms. View Mt. Rainier and Puget Sound. Phone, full reception, shared conference rooms, kitchen, high-speed copier/scanner, Internet access and wireless connection. Contact Laura at 206-340-2200 or laura@isenbleck.com.

**Office space for sublease in Galland Building** in downtown Seattle. Ideally suited for solo practitioner or small group. Reception, copier, phone, coffee station, some furniture available. Month-to-month lease, with separate parking available in building provided by Diamond Parking. Interested parties, please contact 206-470-7612.

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**You went to law school to practice law — not run a business. But running a business is exactly what you will need to do as a solo practitioner!**

The WSBA Law Office Management Assistance Program (LOMAP) is here to assist you with laying the foundation for your new practice — setting goals, obtaining business licenses, obtaining services, obtaining technology resources, learning software, and setting up workflow systems.

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800-945-9722, ext. 8237
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**Opening your law office is exciting... but don’t know where to begin?**
I became a lawyer because my parents were farmers, and I realized early on that that was way too much work.

The future of the practice of law (in the private sector) is navigating the balance between operating a law firm as a business when our craft is, at its core, a profession.

One of the greatest challenges in law today is getting young lawyers real-world experience, especially in the courtroom.

If I were not practicing law, I would be in trouble because this is what I enjoy and can do well. If the question is “what would I rather be doing if I were good enough at it?” Acting and songwriting.

If I could change one thing about the law, it would be: I would require 12-month “filing-to-trial” schedules in all American courts.

This is the best advice I have been given: “Always eat a good breakfast.” Given to me by Sig Olson, an eastern Montana farmer, when I was 14 and on the verge of fainting mid-morning from pouring cement.

Traits I admire in other attorneys: A sincere sense of humor and comfort in one’s own skin.

I would give this advice to a first-year law student: Learn to write clearly and crisply — if you write well, you will likely succeed in the practice of law.

Someone whose opinion matters to me: My wife.

People living or from the past I would like to invite to a dinner party: Bob Dylan and my Dad.

I am most proud of this: My son’s empathy and my daughter’s drive.

My favorite vacation place: Anguilla.

I am most happy when I am in the middle of a successful cross-examination and have one more killer document to go.

Best stress reliever: Macallans 18 with a Montecristo 2.


What keeps me awake at night: Trial deadlines and my kids’ tests.

Technology is only the medium; the message communicated is still a human thought or emotion.


If I could live anywhere, I would jump between Washington, D.C., Missoula, London, Seattle, New York City, Maui, and La Jolla.

This is the hardest part of my job: Helping lead one of the largest national insurance coverage groups in three different offices on two coasts.

This is the best part of my job: Helping lead one of the largest national insurance coverage groups in three different offices on two coasts.

My name is Jim Murray. I am the deputy leader of the Insurance Coverage Practice at Dickstein Shapiro LLP in Washington, D.C. We exclusively represent policyholders in insurance coverage litigation and have assisted clients in collecting more than five billion dollars in insurance proceeds in the last five years alone. We have an active practice in almost every jurisdiction, including the Northwest and Seattle. Contact me at 202-420-3409 or 206-240-4695 and murrayj@dicksteinshapiro.com.

My favorite vacation place: Anguilla.
On the Banks of the Muddy Wolf

I'm standing on the east bank of the Wolf River in Memphis, Tennessee. I've just arrived in town to visit my daughter, but I have some time to kill before we meet up. It's 90-some degrees and muggy like we never get in the Northwest. The portion of the Wolf in front of me is a slack water channel used to load barges and riverboats before they enter the Mississippi, which the Wolf joins about a half mile downstream. To my right is a 100-year-old brick and wood industrial building belonging to the American Snuff Co. My daughter will later point out that whatever one might think of snuff, a lot of people in this part of the country still proudly work in factories and produce tangible products, a concept that seems nearly obsolete in our high-tech urban centers on the West Coast.

Between the Wolf River and the Mississippi is Mud Island, which is actually a peninsula and home to upscale planned developments, a museum, and a riverside amphitheater. The city of Memphis arose from this area, where Chickasaw, French, Spanish, and American communities converged. Later would come another confluence, a musical one, with the jazz and blues migrating up Highway 61 from New Orleans and the Mississippi Delta to meld with the bluegrass and country music that descended from the hills of Kentucky and eastern Tennessee, making Memphis the cradle of civilization for American roots music.

I'm surrounded by more recent history as well. On April 4, 1968, Martin Luther King Jr. was gunned down by James Earl Ray at the Lorraine Motel, 2.9 miles from where I'm standing. On August 16, 1977, Elvis Presley died on a bathroom floor at Graceland, 10.7 miles from here. On a more positive note, in the early months of 1972 Al Green recorded the tracks for his one and only album released during his lifetime, is acclaimed by critics and fellow musicians. David Bowie once said that if he were stranded on an island and could have only one album to listen to, it would be Grace. Like many musicians, Jeff was drawn to Memphis, where he continued work on a second album.

On May 29, 1977, probably a glorious spring day like today, from right about where I'm standing, 30-year-old Jeff Buckley plunged into the Wolf River for a spur-of-the-moment swim, got caught in the wake of a passing tugboat, and disappeared. Several days later, someone found his body up against a riverboat, just offshore of Mud Island. He was not intoxicated, and there was no indication he was suicidal. Nevertheless, like his father, he checked out early. The album he had been working on was released posthumously in 1998. It's called Sketches for My Sweetheart the Drunk, which might be my favorite album title of all time.

The thing is, I'm not particularly a Jeff Buckley fan. I appreciate his talent and listen to his version of Hallelujah, well, religiously. But it's really the bittersweet story of his and his father's parallel lives that fascinates me. I just wanted to get a feel for this place, an unmarked historical site ignored by the legions of Elvis fans streaming into Memphis daily to worship at Graceland.

It is now about 30 hours after my visit to Wolf River. My daughter and I are at the Mud Island Amphitheater enjoying a concert by Norah Jones. Although Norah is just 33, musically she has an old soul. Perhaps like Jeff Buckley, she inherited years of musical experience from her father, Ravi Shankar, the great Indian sitar player who famously hung out with the Beatles and influenced their sound, introducing elements of Eastern music to young European and American listeners.

As mosquitoes and nighthawks flit over our heads in the still heavy air, I decide that I believe in the idea that cities as well as people have souls. Memphis certainly does. When Norah Jones sings a song in Memphis, she is getting backup, whether she knows it or not, from Elvis and Otis Redding, Muddy Waters and Howlin' Wolf — and from Jeff Buckley, who lost his life beneath our feet, but whose soul rolls on like the mighty Mississippi.

Jeff Buckley was Tim's son. And though they spent only nine years together, their lives and careers traced eerily similar paths. Having inherited his father's diverse musical talents, in the 1990s Jeff blossomed as a songwriter, musician, and astonishing vocalist. His recording of Leonard Cohen's "Hallelujah" is considered one of the finest vocal performances in popular music. Grace, his one and only album released during his lifetime, is acclaimed by critics and fellow musicians. David Bowie once said that if he were stranded on an island and could have only one album to listen to, it would be Grace. Like many musicians, Jeff was drawn to Memphis, where he continued work on a second album.

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