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ON THE COVER: Linda Fang is a co-founder of Banyan Legal Counsel LLP. She and her business partner support businesses, small business owners, and employees in Washington and California, with a focus on women- and minority-owned businesses, businesses with a social purpose, and nonprofit organizations. She writes on keeping women lawyers in the profession on p. 19. Photo by Michael Wu.
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Here we go, showing off again

These days, too much of a good thing is often frowned upon, but in the pages of NWLawyer, it is beginning to look like my minimalist, seek-experiences-not-things, pare down to “spark joy” ethos will be taking a back seat at work. This job isn’t easy (cue violins), because when I look at what WSBA members and the legal community are accomplishing, it can be a lot to fit together. When someone here at the WSBA office asks me how it’s going, I’ll often have a new story or author I’m excited about; most of the time, though, I’ll just say, “It keeps coming.” I aim to bring in as many member voices and current legal issues as we can fit into the pages of NWLawyer, and as you’ll see, the legal community continues to show off its best.

In this issue, WSBA Editorial Advisory Committee member Linda Fang writes an informative look at how to keep women lawyers in the profession. Many readers may relate to family law attorney Tony Zorich’s article on working with clients who exhibit characteristics of mental illness. Dr. Jeffrey Robinson of the University of Washington goes in-depth into witness bias in medical malpractice litigation. We hear from Justice Charlie Wiggins about his military service and the importance of supporting our veterans. Translator Julie Wilchins gives us her best practices for working with clients who speak languages other than English. Attorney Bryana Cross Bean shares her top 10 list of the best law blogs to read and follow. Attorney Patrick Preston explains the shake-up in the Department of Justice’s approach to prosecuting white-collar crime. For attorneys considering retirement, our legal ethics columnist Mark Fucile writes about the issues involved in selling a law practice. Former WSBA President Salvador Mungia shares a remembrance of attorney Dale Carlisle, one of the legal profession’s great examples of service.

Set aside some time to read our excerpt from Seattle University School of Law Professor Lorraine Bannai’s book *Enduring Conviction: Fred Korematsu and His Quest for Justice*. “We had an incredibly committed, talented team of lawyers. We were all pretty young. But I think it comes down to saying ‘yes’ when an opportunity and a need presents itself,” she writes.

I invite you to share your work with your fellow NWLawyer readers by writing for us as well. Send your feedback, articles, and ideas to nwlawyer@wsba.org.

Linda Jenkins is the NWLawyer editor and can be reached at nwlawyer@wsba.org.

NOTE

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How Will You Be Remembered?
Leading by Doing and the Well-Lived Life

I recently attended the memorial service of my family’s physician from when I was growing up. He passed away at 99 years of age after a remarkable career of service to others. His son gave a wonderful eulogy that captured his father’s character and spirit perfectly. In listening, I realized that there were many lessons unrelated to his medical profession for all of us in how to lead a “well-lived” life.

He was a low-key individual who served in innumerable professional leadership roles during his lifetime, including as president of the local and state medical associations. He was a founder of Spokane’s largest full-service medical clinic. However, he was beloved as a physician for who he was and how he led his life rather than for what he accomplished. In short, he was beloved because he always took a real interest in his patients.

I have vivid memories of his visiting our home for various patient house calls whenever needed. His son spoke about sitting in the family car while Dad would make a stop to visit a patient in need at their home. Opening Christmas gifts was often delayed to the afternoon as Dad spent even the holiday mornings checking on hospitalized patients, and dinners were often eaten only with their mother as, again, Dad stayed late to visit patients in the hospital or at home. He once told his son that even if he couldn’t help someone, it was important for them to know that they were supported.

It all seemed such a natural part of his service to others that his children seldom resented missing time with their dad, punctuated with the fact that when he was at home, he was devoted to his family in every respect. He was a person who always took an interest in others, and he took the time out of his own life to show it. He was genuine, low-key, and grateful to be able to help others.

After 35 years in a clinic-based medical practice, he retired — for the first time. Then he began a “second season of service” for another 35 years as the volunteer part-time medical director of Spokane’s House of Charity for homeless men. And every Thursday evening for a practice session and every Sunday, for over 50 years running, he tended to his own soul as he sang in his church’s choir. This is just a snippet of the man; I could go on about his natural style and his service to others.

New York Times columnist David Brooks has written about such people. In his opinion pieces, in various speeches (including a TED talk available online), and now in a recent book entitled The Road to Character, he has compared the quest for “résumé virtues” versus what he calls “eulogy virtues.” In an April 2015 column entitled “The Moral Bucket List,” Brooks wrote:

About once a month I run across a person who radiates an inner light. These people can be in any walk of life. They seem deeply good. They listen well. They make you feel funny and valued. You often catch them looking after other people and as they do so their laugh is musical and their manner is infused with gratitude. They are not thinking about what wonderful work they are doing. They are not thinking about themselves at all.

According to Brooks, résumé virtues are “the skills you bring to the marketplace,” whereas the eulogy virtues “are the ones that are talked about at your funeral — whether you were kind, brave, honest or faithful. Were you capable of deep love?” As we lead our lives, it is
the eulogy virtues which we find most satisfying and by which we are ultimately valued by others.

We all know that our service as individual attorneys and judges is often challenging, both because we deal in other people’s crises and problems and because of the stresses that come with this turf. On top of that, the reputation of the legal profession as a whole is often attacked or mocked by others outside of the profession, perhaps because we deal in advocating for others and because we deal in restrictions and confining conduct to the rule of law. Nonetheless, we are the stewards of the justice system. We stand up for others. We champion justice for others.

We are motivated by the privilege of serving others. We should be examples of civility and professionalism in both our law practices and in our private lives. The trust and confidence of the justice system is based on what we do for others, and not on what we tell people they should believe about the justice system.

With that background, I ask: What do you do as a leader in your community and in your profession? How do you serve others in ways that are both helpful in your legal practice and in your life of service to others? What motivates your “best angel” side to shine and what part of that is most satisfying to you? I invite you to send me an email with your story, your example, or your recommendation. My email address is whyslop@lukins.com. I’ll pick some to share in a future column as examples of how WSBA members are leading by doing, and in so doing, are striving to live by their own set of eulogy virtues.

The memorial service of our family’s physician was really an uplifting celebration of this gentleman and his life, and less on how we can each use our professional skills and knowledge for personal gain. He was a medical doctor, but ultimately it was his willingness to help others that was the real fundamental value. This applies to each of us and to any professional, regardless of occupation.

And then there is the “second season of service” during retirement. There is no need to stop helping others simply when you cut back or walk out of your office for the last time. For those of you who have retired, email me some examples of how you have continued your service to others in your retirement years. Tell us what motivates you to continue that same spirit of giving. I would like to share some of your examples as an inspiration to others in our profession.

David Brooks ended his editorial about the “Moral Bucket List” with a statement that I think bears repeating. Brooks said:

There’s an aesthetic joy we feel when we see morally good action, when we run across someone who is quiet and humble and good, when we see that however old we are, there’s lots to do ahead.

The [person Brooks calls a “stumbler”] doesn’t build her life by being better than others, but by being better than she used to be. Unexpectedly, there are transcendent moments of deep tranquility. For most of their lives their inner and outer ambitions are strong and in balance. But eventually, at moments of rare joy, career ambitions pause, the ego rests, the stumbler looks out at a picnic or dinner or a valley and is overwhelmed by a feeling of limitless gratitude, and an acceptance of the fact that life has treated her much better than she deserves.

Those are the people we want to be.5

How are you doing? I hope I’m on that journey. I wish the same for you as well. NWL

NOTES
4. Id.
5. Id.

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**Guest column by Kirsten Barron and Lynn Greiner**

As the unmet civil legal needs of the consuming public continue to outpace the ability of the profession to keep up with demand, innovative ideas continue to propel our state forward in meeting the unmet need. The Plain Language Forms Project was many years, and countless hours, in the making. I am pleased to have guest writers Kirsten Barron and Lynn Greiner in this month’s Executive Director’s column share with the membership the exciting news of the Plain Language Forms rollout. Congratulations to the ATJ Board, AOC, and all of the other participants in this amazing project. The Washington legal community is among the most progressive and dedicated in the nation — onward and upward to more greatness! — **Paula Littlewood**

On May 1 of this year, all of our state family law court forms will change — to a new plain language format. For the past six years, a group of volunteers, organized by the Access to Justice Board, has methodically converted over 200 forms into plain language, making them much more accessible, understandable, and usable, especially for the thousands of pro se litigants navigating the court system on their own every year.

**Why Plain Language?**

Lawyers certainly aim to write with clarity, but we often fall short. The law is complicated, and lawyers and judges speak “legalese.” Plain language forms are a desirable and necessary element of an accessible justice system. Plain language, as a term, describes language that is in a format and with words that a reader finds accessible — meaning easy to use and understand. We need “plain language” given the increasing complexity of court forms and procedures, a growing poverty population that is culturally and linguistically diverse, and the prevalence of self-represented litigants in our courts.

The U.S. Supreme Court made a clear statement about the need for plain language forms in in *Turner v. Rogers*, 564 US 2507 (2011):

> By effectively endorsing forms as an access to justice tool — and indeed mandating them in certain situations — the Supreme Court has challenged access communities and national institutions to put in place national and local strategies for deploying forms for access. Such state strategies are likely to include … [R]eview of existing forms for compliance with plain language standards.

Development of our new plain language forms was driven by a number of factors:

**Readability:** The average American’s reading level proficiency is generally considered to be 5th to 7th grade. People usually stop reading when the text exceeds their reading ability. Plain forms increase the chance that the reader will read and accurately complete the form.

**Access for Limited English Proficiency (LEP) Litigants:** In Washington state, there are many people whose first language is not English. A plain language form is much easier to translate into a different language.
Reduced Cost to Litigants: A plain form, easier to fill out correctly, helps pro se litigants avoid unnecessary trips to courthouse facilitators or to engage document preparers. Complete forms are less likely to be rejected by court clerks. And litigants who understand a court order are more likely to comply with it.

Reduced Costs to Courts: Accurate and complete forms save the court’s time, for many of the same reasons they save the pro se litigant’s time. The California court system has saved money by using plain language forms.

Why Family Law?
In 50% of family law cases, neither side is represented by an attorney. In 80%, at least one side is not represented. 65% of the litigants in family law cases are unrepresented. About 95% of those who go to court on their own say that cost is the primary factor in deciding not to hire a lawyer. An unknown number of people simply do not file for divorce because it is too expensive and too complicated to do so.

What Makes a Form “Plain Language”?
Plain language forms have a number of features. They typically:
• Use familiar and smaller words and sentences.
• Convert levels of sentence hierarchy into bullet lists and check boxes.
• Create a step-by-step pattern to the document.
• Avoid using too many nouns.
• Eliminate extra words and unnecessary details.
• Use active voice and direct address.

Our Effort
Concerned about the burgeoning number of pro se litigants in our justice system, in 2009 the Access to Justice Board, together with the Administrative Office of the Courts (AOC), spearheaded the Pro Se Project. After looking at many ways to assist pro se litigants, the project members decided to focus on converting the large group of family law court forms into a plain language format. To begin, a handful of project members worked to translate 18 family law forms into plain language – as a pilot project. It quickly became apparent that this task required skill and expertise beyond our capability, which led the ATJ Board to engage the support of Transcend®, a California company that specializes in plain language translations. Transcend staff trained and coached project members in the translation process. With this help, the 18 forms were successfully translated, paving the way to proceed with the remainder of the forms.

In 2012, the Pro Se Project moved into high gear when Laurie Garber, a staff attorney with the Northwest Justice Project’s Vancouver office, stepped up to manage the project. She organized and led three workgroups of volunteers, representing all the key justice system stakeholders, to do the actual forms translation. These three workgroups met weekly for almost three years to review and edit each form in detail.

In Washington, the Supreme Court’s Pattern Forms Committee drafts and revises all mandatory forms. Many members of the Pattern Forms Committee participated in this project, including its chair, Judge Laura Middaugh and AOC staff to the committee, Merrie Gough. In 2012, the Pattern Forms Committee and the ATJ Board entered into a Memorandum of Understanding, approved by the Supreme Court, to give the ATJ Pro Se Project forms group the authority to develop and approve the plain language family law forms for mandatory use.

As the forms were completed, a number of them were tested with pro se litigants to ensure that they made a difference with the end user. The consensus was that the forms were much easier to understand and complete. As the forms were completed, they were posted on the AOC website for public comment. Many family law practitioners and judges submitted hundreds of comments that informed the final versions of the forms.

The Pro Se Project has been funded by the Washington Supreme Court, the WSBA, the ATJ Board, and the AOC. Staff assistance by AOC and the Northwest Justice Project has been absolutely essential. The sustained collective effort of all of these partners has made the complete translation of the 211 mandatory family law forms possible.

So what really makes a project as large in scope as this happen? The people. At last count, over 70 people have worked on this project’s six different sub-committees and task groups. This group includes family law attorneys, court clerks, courthouse facilitators, superior court judges, legal aid attorneys, AOC staff, ATJ board members, and WSBA staff. These volunteers were constant and dependable participants in this five-year effort.

The Roll-out
The new plain language family law forms are available on May 1, and will be mandatory on July 1. If a case is already in progress, the new plain forms will be required for any court filing after this date. Court clerks, courthouse facilitators, and superior court judges are all aware of this change. In September, the WSBA offered a web-based CLE on the changes in the family law forms; over 1,800 participants attended this seminar.

While we know that some family law attorneys are concerned about the effect of these forms on their practice, in other states with plain language forms, family law practitioners have not noticed a drop in business. Going to court on your own is still harder if you don’t have a lawyer. Those who can afford lawyers and would like to have lawyers almost always hire them.

Indeed, in some areas, plain language forms have enabled some family law attorneys to increase their business by offering unbundled services. Limited scope clients begin their own cases or are shown the plain language forms by the attorney, and then return for short consultations as needed.

Opportunities and Next Steps
Over the next several years, we hope to evaluate the effectiveness of the plain language forms and make further adjustments. We will rely on feedback from practitioners, judges, and courthouse facilitators, and especially pro se litigants.

Our Pro Se Plan identifies additional changes to the legal system that would benefit pro se litigants. As a complement to the new forms, we would like to see a “document assembly” feature included in the state’s new case management system, with an interactive website that retains the user’s information and prompts the user to com-
complete only relevant questions. AOC has agreed to translate many of the new forms into Spanish as a first step in making the forms accessible to a large segment of non-English speakers.

In sum, we’re very proud of all the work that has been done: countless hours spent by many volunteers over a six-year period. The dedication of these volunteers is a testament to their conviction that the old forms were in desperate need of a “plain language” fix in order to increase access to justice for those that cannot afford an attorney.

The new forms are indeed much more user-friendly. As with any roll-out of a whole new system, there will be bumps in the road. But we’re confident that the new forms will be of tremendous benefit to pro se litigants, who continue to steer their family law cases through the court system alone.

For more information: https://www.courts.wa.gov/forms/?fa=forms.static&staticid=20. NWL

The authors of this article helped to convert the old family law forms into the new plain language format and offer this information and these considerations as the new forms come into use. Kirsten Barron is an attorney with Barron Smith Daugert, PLLC, in Bellingham and practices in the areas of business and employment law. She can be reached at kbarron@barronsmithlaw.com. Lynn Greiner is of counsel with Chihak & Associates and can be reached at lgreiner@seanet.com. Paula Littlewood is the WSBA executive director and can be reached at paula@wsba.org.
A NEW BOUNTY HAS BEEN PLACED on the heads of wayward executives and corporate professionals. The bounty consists of the U.S. Department of Justice’s (DOJ) offer of “cooperation credit” to a company under investigation, but strictly conditioned on the company’s willingness to give up its own, regardless of their position, for their misconduct. Compliance officers, in-house counsel, and outside counsel conducting internal investigations now may be asked to play the role of bounty hunter, effectively functioning as DOJ’s deputies to ferret out white-collar fraudsters. The stakes for companies under federal investigation could not be higher. Cooperation credit may mean the difference between a company avoiding prosecution in favor of civil fines or penalties, having the opportunity to settle a federal investigation quickly and with less reputational fallout, or staying in business under a deferred prosecution or non-prosecution agreement rather than facing debarment or a statutory corporate death penalty through conviction.

But will DOJ’s new bounty on individuals bring white-collar reform and restore public and shareholder faith in financial markets and corporate America in the wake of the aging 2008 Wall Street crisis? INDIVIDUAL ACCOUNTABILITY AND WHITE-COLLAR REFORM

In September 2015, DOJ circulated to all federal prosecutors a memorandum by Deputy Attorney General Sally Quillian Yates entitled “Individual Accountability for Corporate Wrongdoing.” The premise of the “Yates Memo” is that “[n]one of the most effective ways to combat corporate misconduct is by seeking accountability from the individuals who perpetrated the wrongdoing.” DOJ issued the guidelines below for prosecutors to apply when considering whether to grant cooperation credit to a company under investigation. These guidelines will amend the Principles of Federal Prosecution of Business Organizations in the U.S. Attorney’s Manual.

While prosecutors traditionally have rewarded companies with mitigation points for identifying culpable individuals in white-collar investigations, the Yates Memo may signal a shift in end-game priorities from isolated corporate deferred prosecution agreements and large monetary settlements to increased individual criminal and civil enforcement actions directly addressing the malfeasance of executives, officers, or employees. If so, DOJ seeks to upend the age-old witticism that a corporation exists as an “ingenious device for obtaining profit without individual responsibility.” A company under a federal probe will be expected to satisfy the “threshold requirement of providing all relevant facts” about individual wrongdoers to be “eligible for consideration for cooperation credit.” This, in turn, is intended to restore public confidence in our justice system.

The Yates Memo breaks new policy ground through its absolute terms: eligibility for “any” cooperation credit requires a company to disclose “all relevant facts about the individuals involved in corporate misconduct.” Yates likewise did not mince words in announcing the new policy: “It’s all or nothing” for cooperation credit eligibility; “[n]o more picking and choosing what gets disclosed. No more partial credit for cooperation that doesn’t include information about individuals.”
will seek to target “individuals higher up the corporate hierarchy” early in an investigation, including civil enforcement actions against wrongdoers “who may not have the necessary financial resources to pay a significant judgment.”

The Yates Memo applies broadly to all white collar civil and criminal misconduct, including antitrust, false claims, foreign corrupt practices, environmental, healthcare, securities and exchange, and tax matters.

But why the hard-nosed focus on individual accountability now? The answer may lie in DOJ’s desire to return to its roots through individual white-collar prosecutions after broad public criticism, ranging from commentary in mainstream media to political pundits to Occupy Wall Street protestors, that corporate criminals were evading justice. Such criticism appears statistically supported: a report analyzing DOJ data by Transactional Records Access Clearinghouse (TRAC) at Syracuse University showed a decrease to less than 6,900 white-collar prosecutions in fiscal year 2015 from nearly 11,000 in 1995. According to the Federal Bureau of Prisons, the federal inmate population reached a high of 219,298 in 2013. After a modest decrease to 214,149 in 2014, followed by the current population of approximately 196,000, the Yates Memo appears ready to reverse the downward trend, at least regarding white-collar criminals.

During the recent tenure of Attorney General Eric Holder, a common public perception was that “DOJ was collecting huge settlement payments from large institutions, but no one actually did any time.” This spawned fears that companies viewed DOJ settlements as a mere cost of doing business, and one that often could be funded by shareholder dollars. Forbes magazine reported that DOJ’s “white-collar agenda in 2014 was marked by skyrocketing corporate settlements and continued reliance on deferred and non-prosecution agreements, coupled with compliance monitors.” Compared to the aftermath of the savings-and-loan scandals of the 1980s during which “1,100 people were prosecuted, including top executives at many of the largest banks,” the financial collapse of 2008 reportedly yielded only one banker who received a prison sentence. DOJ’s new guidelines refocus its priorities.

**COOPERATION CREDIT UNDER THE NEW GUIDELINES**

The Yates Memo presents six guidelines for prosecutors overseeing white-collar investigations to determine whether a company deserves cooperation credit. The guidelines reflect new policy shifts to existing practices of many federal prosecutors. All guidelines are geared toward individual accountability for misconduct. While written in plain terms, some guidelines encompass significant qualifiers in the Memo’s accompanying commentary.

"1. To be eligible for any cooperation credit, corporations must provide to the Department all relevant facts about the individuals involved in corporate misconduct." The first guideline presents DOJ’s ultimate: a company under investigation must self-disclose the bad facts from its internal investigation or DOJ won’t negotiate cooperation credit for a criminal or civil matter. A company must proactively investigate individuals “at every step of the process — before, during, and after any corporate cooperation.” The refusal to do so, e.g., through willful blindness or a failure to investigate, will result in the loss of cooperation credit. As a check against selective disclosure of bad facts, a prosecutor will “vigorously” compare information provided by a company to the independent findings of the federal investigation to guard against minimization or obfuscation. DOJ will view a company’s lack of continuing cooperation as a “material breach” of a settlement agreement.

"2. Both criminal and civil corporate investigations should focus on individuals from the inception of the investigation." With its unwavering focus on individual accountability, the Yates Memo seeks to cut through the diffuse allocation of responsibility and decision-making that forms the architecture of a corporation. Targeting individuals whose positions may shield them from accountability for the wrongdoing of subordinates, the second guideline makes clear that DOJ will seek information from a company about culpable “individuals higher up in the corporate hierarchy.”

"3. Criminal and civil attorneys handling corporate investigations should be in routine communication with one another.” DOJ’s arsenal of civil and criminal remedies for corporate fraud includes “incarceration, fines, penalties, damages, restitution to victims, asset seizure, civil and criminal forfeiture, and exclusion, suspension and debarment.” A prosecutor’s nuanced selection of the remedy or remedies that best fit the misconduct will have the greatest impact and potential for justice and reform. DOJ also yields the threat, or pursuit, of parallel civil and criminal proceedings against a company to leverage cooperation and the identification of culpable individuals. Criminal prosecutors must promptly alert civil prosecutors of potential individual civil liability and vice versa regarding criminal acts. No longer will the pursuit of a criminal prosecution against a company end DOJ’s inquiry. If civil or criminal enforcements also may be pursued against individuals, the general policy requires a federal prosecutor to do so.

"4. Absent extraordinary circumstances, no corporate resolution will provide protection from criminal or civil liability for any individuals.” While the fourth guideline sends a clear message that cooperation credit depends on a company’s disclosure of information about individual wrongdoers, the commentary adds a further layer of quality control within DOJ. Federal prosecutors will be evaluated on wheth-
elder they pursue enforcement actions against such individual wrongdoers. Only in “extraordinary circumstances,” which must be “personally approved in writing by the relevant Assistant Attorney General or United States Attorney” will individuals be released from personal liability, provided immunity, or have charges dismissed against them.17

“5. Corporate cases should not be resolved without a clear plan to resolve related individual cases before the statute of limitations expires and declinations as to individuals in such cases must be memorialized.” Corporate fraud investigations often are complex and may last months or years while a statute of limitations is running. The Yates Memo prioritizes enforcement decisions on targeted individuals within a company under investigation before the statute expires. For most federal offenses, the statute of limitations is five years,18 although the charging period may be suspended or extended depending on the offense conduct. Civil proceedings may have similar periods. When the length of a corporate investigation poses a risk for expiration of an applicable statute of limitations regarding an individual enforcement action, the Yates Memo authorizes a prosecutor to seek a tolling agreement. A prosecutor must obtain high-level written approval of a decision to decline criminal charges or a civil claim against an individual.

“6. Civil attorneys should consistently focus on individuals as well as the company and evaluate whether to bring suit against an individual based on considerations beyond that individual’s ability to pay.” In litigation between private parties, a plaintiff often may choose not to name a potential defendant lacking assets sufficient to satisfy a judgment. The Yates Memo, however, eliminates that sole consideration for a federal prosecutor to decline to pursue a civil enforcement proceeding against a targeted white-collar wrongdoer. While DOJ may not frequently dedicate its scarce resources to litigate proceedings against judgment-proof defendants, the new policy appears to place a premium on individual accountability and deterrence beyond robust monetary returns in the interests of reform.

IMPLEMENTATION CONCERNS AND COMPLIANCE
In the aftermath of the Yates Memo, corporate counsel must apply a new risk calculus to federal probes and weigh complex strategic considerations. Given the high stakes of DOJ’s “all or nothing” approach to cooperation credit, companies should expect longer and more expensive internal investigations, despite DOJ’s stated focus on individual accountability to promote reform.19 Likewise, federal investigations may expand and require greater resources to identify culpable individuals and secure evidence sufficient to prove criminal charges and for civil enforcement, especially in the absence of company cooperation. Corporate counsel should vigilantly exclude potentially culpable individuals from conducting internal in-
vestigations to maintain credibility with DOJ at the negotiating table. The safest mechanism to maintain investigational integrity and preserve privilege often will be for companies to arrange for outside counsel to take the lead.

DOJ’s policy shift may yield far-reaching consequences and additional concerns. Does the “all or nothing” approach of Yates Memo effectively mark a return to the tactics of the 2003 “Thompson Memorandum,” which conditioned charging decisions on corporate waiver of attorney-client privilege and work product protections and demobilized advancement of attorney fees to employees, prompting a Congressional and judicial backlash over erosion of Sixth Amendment rights? Will internal investigations suffer if commonly used joint defense agreements (JDAs) between a company and personnel who find themselves in the “hot seat” become disfavored? At least one commentator has observed that if a company decides from the onset to seek cooperation credit by making the broad disclosures to the government required by the Yates Memo, the company “cannot, in good faith, enter into a JDA with anyone who did something wrong.” Will internal investigations run into roadblocks if corporate counsel’s Upjohn warnings to employees before interviews include the advisement that the company alone holds privilege over the interview, and that the company’s cooperation credit will require waiver and full disclosure of any admitted misconduct? And will there be an increase in break-away employees and executives refusing to talk in favor of exercising trial rights to defend their reputations and livelihoods?

DOJ concedes that the sweep of the Yates Memo “may take years to become public” as career prosecutors receive training and begin to implement its guidelines. Early enforcement yielded mixed results on individual accountability. Within a week of the Yates Memo’s issuance, DOJ announced a deferred prosecution agreement with General Motors, conditioned on a $900 million forfeiture for the company’s cover-up for more than a decade of vehicle ignition switch defects that admittedly caused “15 deaths, as well as a number of serious injuries.” No culpable personnel were identified for criminal charges or other individual punitive consequences. By late October, however, DOJ trumpeted the indictment of a former president and three district managers of pharmaceutical manufacturer Warner Chilcott for illegal marketing of prescription drugs as exemplifying the Yates Memo’s new policies at work to “identify and charge corporate officials responsible for the fraud.” Rounding out the settlement, a Warner Chilcott subsidiary also pled guilty to healthcare fraud and DOJ netted a civil recovery of $91.5 million as part of a $125 million settlement.

As 2016 unfolds, the challenge for DOJ will be to consistently and fairly implement the Yates Memo’s guidelines when interacting with companies under investigation. Although the Memo anticipates scenarios in which inculpatory evidence exists and is simply waiting to be discovered or disclosed, many investigations — whether internal or by the government — may yield no clear
Evidence of wrongdoing, in which case the determination of cooperation credit should be moot. On the other side of the coin, it will be prudent for companies to fortify compliance and ethics programs and be prepared to initiate vigorous internal investigations if investigators come knocking. Although Wall Street watchdogs already are questioning the efficacy of the Yates Memo, with the new bounty on the heads of wayward executives and corporate professionals, deterrence and reform may be on the horizon. NWL

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The opinions expressed are those of the author and do not necessarily reflect the views of the firm, its clients, or the WSBA. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

NOTES
2. USAM 9-28.000 et seq.
4. Supra n. 1 at 3.
5. Id.
7. Supra n. 1 at 6.

Loving, Intuitive, Relentless.
Not necessarily the public’s idea of a criminal defense lawyer. Yet to me these qualities are essential. We’re all human. People make mistakes. My job is to tell the whole story, the human story. The law must be compassionate to be just.

I recently defended a young man. Terminally ill, with extensive criminal history, he’s the sole parent of a toddler. Facing a five year sentence on a four count felony, he likely would have died in prison. I fought for him, asserting that his life is larger than his mistakes. The Judge agreed. He and his family have a second chance.

- Chloe Anderson
Attorney at Law

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10. See supra n. 7 at 3 (emphasis in original).
11. Id. at 4.
12. Supra n. 1 at 5.
13. Supra n. 1 at 5.
15. See generally, Yates Memo.
19. Supra n. 6.
WHEN I SET OUT TO WRITE AN ARTICLE ABOUT WOMEN AND THE LAW, I wanted to focus on the encouraging, uplifting aspects of law practice for women, rather than the challenges. Most of us have heard stories about women lawyers who were mistaken for a paralegal or the court reporter, asked to perform administrative tasks to support their male counterparts, or had to endure sexist or inappropriate remarks in all manner of situations. I had hoped to dispense with those unpleasant anecdotes and write about why it rocks to be a woman in law. So, I blithely mass-messaged 50 or so of my female lawyer friends, colleagues, and acquaintances around the country, expecting to be bombarded with their enthusiastic responses. Instead, I got a few cryptic answers (“too much to say — will think about it and let you know”), a couple of people telling me that they had left the profession or work in a female-dominated area of law (family law or non-profit), and, mostly, crickets. That reaction should not have surprised me, since I have thought about leaving the law many times in the past decade that I have been in practice, and most of my conversations with women lawyer friends in the past five years have involved brainstorming ways to quit the law and still make a decent living. But it made me stop and think about why women are fleeing the profession, why I decided to stay, and, despite the obstacles, what can be done to help women create thriving and fulfilling legal careers.

**Why Are Women Leaving the Legal Profession?**

Beginning in the early 1990s, women comprised approximately 50% of all law school graduates, but 15 years later, when most of those graduates should have...
been promoted to senior positions, women made up only 15% of law firm equity partners, chief legal officers, and tenured law school faculty (“the 50/15/15 conundrum”). According to the National Association of Women Lawyers (NAWL), which has studied the retention and promotion of women in law firms for the past 10 years, those figures have not improved much in 2015, with women representing 23% of Fortune 500 general counsels, 37.5% of tenured faculty, and 18% of equity partners. The promotion of minority women lawyers to these positions is even rarer, with the typical firm having 105 white male equity partners, seven minority male equity partners, 20 white female equity partners, and only two minority female equity partners.

There is also a large gender compensation gap in law firms, with female equity partners earning only 80% of male equity partners’ earnings (which is less than the 84% reported by firms in response to the NAWL’s 2006 survey), and female associates and counsels earning 93% of what their male counterparts earn. According to the NAWL, the typical female equity partner bills only 78% of what a typical male equity partner bills, despite working more hours (2,224 vs. 2,198 median hours in 2015), which raises questions about whether non-billable responsibilities, such as recruitment and associate mentoring, committee assignments, and pro bono hours, coupled with lower hourly billing rates may contribute to the disparity in women lawyers’ earnings.

In the WSBA’s 2012 Membership Study, the top three reasons cited by female members for leaving the profession were the desire to work fewer or more flexible hours (28%), dissatisfaction with the legal profession (20%), and personal or family reasons (16%). In addition, female WSBA members, particularly younger attorneys, report experiencing discrimination or sexual harassment in the workplace, including inappropriate behavior by supervisors, clients who preferred to work with male attorneys, and insinuations of weakness or incompetence.

SOMEWHERE ALONG MY JOURNEY, I REMEMBERED THE THINGS THAT I ENJOY ABOUT PRACTICING LAW: CREATIVE PROBLEM-SOLVING, DIGGING INTO A CONVOLUTED SET OF FACTS OR AN ESOTERIC ARGUMENT, AND USING THE LAW TO HELP MY CLIENTS ACCOMPLISH THEIR GOALS.

In its 2015 Diversity Research Project Literature Review, the WSBA noted that although nearly 47% of law students are women, and some female attorneys have achieved high-profile positions, including U.S. Supreme Court appointments, “both academic and legal practice literatures suggest that the informal measures of gender diversity and inclusion... reveal that the profession is plagued by barriers to equity. In particular, scholarship suggests that the mechanisms that facilitate partnership within law firms as well as access to prestigious positions within the profession are still dominated by informal and gendered criteria which exclude women. The result is a ‘segmented’ profession where women, even though they may be highly present and visible within the field, lack real positions of power and institutional authority.”

Given these institutional and informal barriers to advancement, it is not surprising that women are leaving the profession in large numbers.

Why Did I Decide to Stay in Law? My story is not unusual. I went to law school with a desire to work in legal services, which I did — alongside mostly female co-workers — for two-and-a-half years after graduation, until I became frustrated by my inability to effect systemic change and realized that I would never save the world or pay off my student loans on a nonprofit salary. So I transitioned to private practice to work as a labor lawyer in a 15-attorney firm, litigating cases on behalf of workers and unions. For the next five-and-a-half years, I battled large corporations with seemingly limitless resources in court to prove myself as a “real lawyer,” toiling away with my small team for 10, 12, or even 16 hours a day until I was promoted — as the second female and the only minority — to shareholder at my firm. Finally, exhausted and severely burned out, when my then long-distance boyfriend proposed, it didn’t take much to convince me to trade my hectic life in Los Angeles for a sabbatical in Seattle.

During my 15 months of soul-searching while I awaited admission to the Washington bar, I explored my new city with my dog, bonded with my soon-to-be stepkids, took some classes at UW and considered applying for business school, tried yoga and meditation in an effort to learn to relax, got married, buried my father after a brief but intense battle with cancer, and informed anyone who asked that I was leaving the law. Because I didn’t know what else to do, I also read NWLawyer to get a feel for the culture of the legal profession in Washington, volunteered with a nonprofit that helps low-income “microentrepreneurs” start and grow their businesses, and had coffee with several experienced attorneys. Somewhere along my journey, I remembered the things that I enjoy about practicing law: creative problem-solving, digging into a convoluted set of facts or an esoteric argument, and using the law to help my clients accomplish their goals.

In early 2015, I went back to work part-time at a small business law firm, but found that even a reduced schedule didn’t afford me the flexibility that I desired or the freedom to do the work that I wanted to do. Despite having the support of the firm partners, it was difficult to keep up with a litigation calendar when I was only in the office three or four days a week, I missed out on opportunities to work on interesting cases, even though I sometimes worked 60 hours a week, and I continuously felt like I had to provide reasons or apologies for my part-time status. So, last October, despite never planning to hang my own shingle, I started a firm with a
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former colleague from my old labor law firm in L.A. She is also a married mother of two and lives in the San Francisco Bay Area. With videoconferencing, cloud storage, and all that technology has to offer, we are able to work from our home offices most of the time and utilize (kid- and dog-friendly) co-working spaces in Seattle and San Jose when we need them, while balancing our professional and personal lives.

How Can Women Have Successful Legal Careers?
To all the women who have lived to tell their own horrible female lawyer anecdotes or thought (however many times) about leaving the law, I offer these suggestions for creating a successful legal career that is right for you:

Redefine what success means to you and create your own path. My business partner, Nhu Le, says that “lawyers have a very rigid view of what a career trajectory should look like — you go from summer clerkship to court clerkship to associate to senior associate to partner. Anyone who diverges from that path is looked upon with suspicion.” All too often, women try to arrange their lives to better position themselves to play by traditional rules that handicap their ability to achieve success from the start. Many of us have heard stories of women who delayed starting a family until they were “set” in their careers, only to find that once they started a family, they could no longer sustain the grueling hours and ended up leaving the profession altogether.

At some point, we have to accept that the rules will change, but they will change slowly, and, in the meantime, women need to define success on their own terms. For some women, this could mean that in some years — whether it is because they want to have children, train to climb Mt. Everest, or be a partner in their firm — the area of law that they choose to practice, the kind of hours they choose to put in, or the type of people they choose to work with will change to suit their lifestyle and ambitions at that particular stage in their lives. A woman who finds that the unpredictable hours of a litigator do not suit her young family may choose to work in another area of law or a different kind of firm that is better tailored to her priorities. Monique Hawthorne, who is in-house counsel for the Adidas Group in Portland, Oregon and a married mother of two, advises women to “choose to work somewhere where work-life balance is valued and supported. I was an associate at a large firm for five years, and, no matter what I did, I never found work-life balance. That firm’s model for compensation and advancement did not lend itself to it.”

The opportunities for women to “downsize” their career objectives may not always be easy to find or navigate, but they are available. On the other hand, the reality is that a woman’s choice to take a less demanding career path, however brief, will often close off future opportunities to take on more ambitious work or responsibilities when and if she chooses to jump back into the game. As a result, for many women, starting their own business is the way to go. The WSBA reports that 38% of respondents identify as solo practitioners, which is about twice the overall rate for members statewide. As women, we should take it upon ourselves to fundamentally change the way the legal profession operates, even if that means creating our own opportunities for compensation, transition, and advancement, and redefining expectations of what a rewarding and accomplished career looks like.

Stop worrying about the ever-elusive “work-life balance.” The idea of work-life balance evokes images of a tightrope walker teetering on a high wire, fighting with every step to remain steady, so that even attempting that balance is itself cause for stress. It is also a uniquely female concern. Anne-Marie Slaughter, international lawyer, foreign policy analyst, public commentator, and author of the article “Why Women Still Can’t Have It All,” which is the most-read article in The Atlantic magazine’s history, says that the term is a misnomer. It is not a balance, but how women are able to advance their professional goals and simultaneously care for those they love. At its most basic level, having work-life balance is being able to have both a personal life and a satisfying career, and the freedom to make choices that work for you without one side (life or work) over-taking the other. In her book, Unfinished Business: Women Men Work Family, Slaughter says that “[i]n a work culture in which commitment to your career is supposed to mean you never think about or do anything else, asking for flexibility to fit your work and your life together is tantamount to declaring that you do not care as much about your job as your co-workers do.”

The solution, according to Slaughter, is “[r]eal flexibility — the kind that gives you at least a measure of control over when and how you work in a week, a month, a year, and over the course of a career.”

Find a mentor and support other women lawyers. As part of its 2012 Membership Study, the WSBA found mentorship to be a significant factor affecting job satisfaction and career stability, particularly for women and attorneys in solo practice. With more women starting their own firms, and doing so earlier in their legal careers, whether by choice or as a matter of necessity due to barriers to entry faced in other employment settings, mentorship for newer attorneys is becoming an increasingly important factor in whether women remain in the profession. With the unique challenges facing them, it is critical for young women lawyers to create a strong network of female role models who can better relate to their frustrations and help them navigate difficult situations. Finding a mentor with a similar background or who practices in the same area of law can be extremely valuable to a newer attorney and help her overcome feelings of self-doubt, loneliness, stress, and anxiety.

Creating Opportunities
Instead of taking themselves out of the game, women need to encourage each other to remain in the profession and find ways to integrate their careers into the kind of fulfilling life that they want for themselves and each other. Those who stay in the law will ultimately rise to more prominent leadership positions and, inevitably, create more opportunities for future generations. In the meantime, the legal profession must change to fit many different kinds of women and their spectrum of life choices or risk repelling women in droves, and, with that, the unique perspective and valuable skills that they bring to the profession.
LINDA FANG is a co-founder of Banyan Legal Counsel LLP. She and her business partner support businesses, small business owners, and employees in Washington and California, with a focus on women- and minority-owned businesses, businesses with a social purpose, and nonprofit organizations. She is a member of the WSBA Editorial Advisory Committee and the Executive Board of the Women’s Business Exchange, and she serves as a pro bono attorney and volunteer business coach with the nonprofit Wayfind and Ventures. She can be reached at lfang@banyancounsel.com.

NOTES
2. Id. at 6.
3. Id. at 7.
4. Id. at 3.
6. Id. at 93.
8. WSBA 2012 Membership Study at 60.
11. Id. at 60–61.
12. Supra n. 8 at 66.
There are many great law blogs out there and this list is a small (and subjective) cross-section of the best. These blogs cover a wide range of topics and range from educational to humorous to serious. No matter your mood or practice area, one or more of the blogs below should be of interest. Take a break from the minutiae of law practice and read a blog!

10 Solo Practice University
As the name indicates, Solo Practice University is geared toward solo and small firm practitioners. With a number of articles focusing on bar exam tips for going solo, it is especially helpful for new and transitioning attorneys. [http://solopracticeuniversity.com/blog](http://solopracticeuniversity.com/blog).

9 Corporette
This blog is geared specifically toward high-powered professional women. Its tagline, “fashion, lifestyle, and career advice for overachieving chicks,” is illustrative of the website’s off-the-cuff and somewhat feminist content. While some sections of the blog focus on
fashion and store sales, articles in the “Careerism” section are geared more toward real-life issues facing female professionals, including motherhood, networking, and office politics. Overall, this blog can be fun reading for female lawyers. http://corporette.com/category/careerism.

8 Election Law Blog
Given the excitement and drama of the current presidential election, the Election Law Blog is both timely and educational. It features a variety of election topics, such as election law, campaign finances, redistricting, voting rights, and various other topics. With up-to-date information on the election and coverage of various other election law issues, this blog appeals to the political junkie within all of us. http://electionlawblog.org.

7 Attorney at Work
There are lots of relationship advice blogs out there, but what about advice blogs for lawyers? If you have been feeling bereft of a write-in advice blog geared toward lawyers, then Attorney at Work is for you. It features a diverse array of advice to address a wide variety of professional and work-life balance issues, from marketing advice to improving client satisfaction to avoiding burnout. www.attorneyatwork.com.

6 Wall Street Journal
The Wall Street Journal’s law blog focuses on national legal news stories, especially constitutional and criminal law. Unlike the other blogs in this list, the WSJ blog is written for public consumption, rather than strictly geared toward lawyers. It is a great way to keep up-to-date on the headline-making legal news outside of your practice areas. http://blogs.wsj.com/law.

5 SCOTUSBlog
It is difficult for most lawyers to keep abreast of the latest news coming out of the highest court of the land. Luckily, the SCOTUSblog is here to help. The writers are obsessed with anything and everything related to the Supreme Court and post bite-sized articles to keep you informed (and avoid the time-consuming task of reading the lengthy opinions). www.scotusblog.com.

4 Law and the Multiverse
Have you ever wondered about the legal and ethical issues involving superheroes? For instance, could Superman and Supergirl claim refugee status after escaping from Krypton? What about the ability of prosecutors to convict criminals captured by Batman, given his complete disregard of proper police procedures? Law and the Multiverse analyzes these fictional situations with real-world law. It manages to be both enlightening and entertaining, drawing clear parallels to current events. This is the quintessential blog for attorneys who are also science fiction nerds. http://lawandthemultiverse.com.

3 Lowering the Bar
While Law and the Multiverse focuses on fictional characters, Lowering the Bar is focused on true legal news stories. For example, a former Nebraska state senator was pursuing a lawsuit against God, accusing Him of causing various natural disasters and seeking an injunction against Him. In other odd legal news, Pennsylvania court has posted signs informing people that it is not appropriate to wear pajamas into court. It is essentially a weird legal news blog and manages to be both hilarious and unsettling at the same time. http://loweringthebar.net.

2 Volokh Conspiracy
The Volokh Conspiracy is a law blog written primarily by law professors and focuses on current legal events. Article topics are wide-ranging and include the election, Supreme Court, gun rights, torts, etc. With in-depth analysis and historical perspective, this blog offers the expertise and insight of law professors without the fear of being randomly called on. www.washingtonpost.com/news/volokh-conspiracy.

1 And the Top Law Blog is … Lawyerist
Lawyerist is primarily geared toward solo and small firm practitioners but has a wide variety of content that can be useful for those in larger firms as well. As most solos and small firms know, much more is involved in running a law practice than merely practicing law, and administrative tasks can be overly time-consuming. While Lawyerist features a variety of both advice and legal humor, one of the more useful sections is Practice Management, which offers practical, common-sense advice about how to run a more efficient and thus more profitable practice. It is also great for new lawyers and/or lawyers who are getting ready to hang their shingle, with some excellent basic information about starting a practice. https://lawyerist.com.

Happy reading! And don’t forget to check out WSBA’s own blog, NWSidebar, at nwsidebar.wsba.org.

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FOUND IN TRANSLATION
How to Work with Translators and Interpreters
by Julie Wilchins

With companies and individuals crossing borders more frequently, lawyers increasingly need to obtain information from non-English sources. Learning the basics of working with translators and interpreters will help you work more effectively in these situations, while also increasing your cross-cultural savvy (such as awareness that Russian is written in the Cyrillic, not Acrylic, alphabet). Following are some fundamentals: what translators and interpreters do, how to hire and work with them, and relevant rules.

Interpreters interpret spoken language or sign language in settings such as meetings with clients or witnesses, court proceedings, and conferences. Translators translate written language: court pleadings, corporate documents, financial reports, medical records, correspondence, etc.

Depending on the context, interpreters may provide simultaneous interpretation, consecutive interpretation, or sight translation. When interpreters simultaneously interpret, they interpret while the speaker is also speaking, several words or sentences behind the speaker. It is most common for the bulk of court proceedings. When interpreters consecutively interpret, they wait for a speaker to complete multiple sentences, then interpret, before the next speaker speaks. It is most common for in-court testimony and out-of-court meetings. Sight translation involves scanning a document and orally rendering its content in a second language.

Typically, certified and registered interpreters and translators have undergone language- and/or subject-specific training for the fields in which they work. They may have obtained certifications from various entities, such as the American Translators Association, the Washington Administrative Office of the Courts, the Administrative Office of the U.S. Courts, or the Department of Social and Health Services.

There is no single certifying body for translators and interpreters in the United States, although several other countries have government registries of certified translators and interpreters. The appropriate credentials for translators and interpreters in the United States vary depending on the setting.

WORKING WITH INTERPRETERS

Hiring an Interpreter for Court Proceedings
For civil and criminal proceedings in state and federal courts, courts must arrange for American Sign Language or spoken language interpreters when required by parties or witnesses. See RCW 2.42 (interpreters for deaf and hard-of-hearing individuals); RCW 2.43 (interpreters for non-English-speaking and limited-English-speaking individuals); Title VI of the Civil Rights Act; Americans with Disabilities Act. The courts hire, when at all possible, from registries of interpreters.
who have undergone a rigorous written and oral examination process, to ensure their knowledge of relevant terminology, skills, ethics, and protocol.

Hiring an Interpreter for Out-of-Court Meetings and Depositions

For out-of-court meetings, it may be tempting to use family members or staff as interpreters rather than hire a professional. However, for all but brief and very basic conversations, this is not advisable. Family members and staff may lack a professional interpreter’s training in providing complete interpretation of all that is spoken, and knowledge of relevant terminology. So they often add their own gloss, misconstrue what is said, or provide only a partial summary. Non-professional interpreters also have not taken an oath to uphold confidentiality and impartiality or to provide thorough interpretation.

Russian interpreter Linda Noble recalls a police interview she transcribed of an interview with an individual suspected of assaulting his child, for which a police officer with first-year Russian served as the interpreter. The “interpreting” officer failed to accurately interpret so many questions and responses that serious miscommunication ensued. For example, the suspect said in Russian:

“I didn’t — didn’t use her, just stroked her, touched, I didn’t use her. I didn’t do anything... like that.”

The officer with first-year Russian interpreted that as:

“I didn’t do anything to her and I never touched her.”

If you and your client have worked with a court interpreter with whom you were both satisfied, you may choose to hire that individual for out-of-court meetings as well. Alternately, several online directories allow searches by language, qualification, and geographic area. The Northwest Translators and Interpreters Society, a professional membership organization, provides a searchable directory at www.notisnet.org/find-a-translator-or-interpreter. The Washington Administrative Office of Courts also provides a searchable interpreter directory at www.courts.wa.gov/programs_orgs/pos_interpret.

Phone Calls

A bilingual colleague or a phone interpreter service may suffice for short, simple calls, for matters such as scheduling a conference. For more in-depth conversations, though, it is advisable to hire a competent court interpreter to ensure effective communication with your client or witness.

In Hiring an Interpreter, Seek Someone:

With federal and/or state court certification or registration/qualification for the relevant language.

Generally, if a court has accepted an interpreter for work in a given language, that individual should have appropriate fluency and skills to serve as a legal interpreter. Federal and Washington state courts offer a certification process for interpreters working in a limited number of languages. For interpreters in other languages, their work in courts depends on their completion of an alternate examination process and/or demonstration of skills and other relevant credentials.

With experience in the subject matter at hand, if possible.

Before hiring, ask interpreters about their experience in similar matters. Have they interpreted in (for example) bankruptcy or medical malpractice proceedings? Have they taken relevant coursework on specialized terminology? If not, how willing are they to study materials you provide them in advance of interpreting sessions?

Fluent in the relevant second language.

Highly competent interpreters may be native or non-native English speakers. If they are not court-certified, you may wish to inquire into their education and experience in English and their second language. Do they have a bachelor’s, advanced degree, or certificate from a program such as Bellevue College’s Translation and Interpretation program? Have they lived, worked, and/or studied in a country in which the other language is spoken?

How Do I Work Effectively with an Interpreter?

Working with interpreters takes a little getting used to, especially for us lawyers who pepper our speech with sophisticated terminology and talk at breakneck speed. A few rules of thumb will simplify the process.

Speak with the interpreter beforehand to clarify the substance of the meeting or proceeding. Spanish court interpreter Nancy Leveson explains, “Interpreters must understand the meaning of an exchange to interpret it. All information you can provide us ahead of time will make communication more effective and accurate.” Arabic and Russian interpreter Diana Noman notes it can also be helpful to provide an interpreter with relevant written materials in advance, such as charging documents in a criminal case or an expert witness’s report.

Interpreter codes of ethics require them to maintain the confidentiality of attorney-client communications, and courts have recognized the extension of attorney-client privilege to interpreters facilitating communication between lawyers and clients involving legal advice.

Additional Tips

• Direct your speech and your gaze to your client or witness.

• Slow down, and pause every couple of sentences to enable the interpreter to keep pace.

• Minimize the use of idioms such as “the whole nine yards” or “a rolling stone gathers no moss.” Idioms force interpreters to spend more time translating ambiguous English terms, to attempt to communicate its equivalent in the other language.

• The language into which the interpreter is interpreting may not have a comparable legal term for “equitable estoppel” or the “business judgment rule.” Respect that even the most capable and experienced court interpreter may occasionally need to ask for clarification.
How Do I Hire a Translator?

As with interpreters, it is generally advisable to hire a professional translator rather than rely on a relative or untrained staff member to translate documents. This is critical for documents to be provided to a court or opposing counsel, but also important for key written communications with clients and witnesses.

Japanese translator Saori Sampa was asked by a law firm to complete a translation begun by a lawyer who had studied Japanese in college. On receipt of the document, she discovered that the document was in fact in Korean — hence the lawyer’s difficulty in translating it.

There is no single certifying body for translators in the United States. While some are certified by the American Translators Association, many highly qualified translators are not. Key criteria to consider include:

- Professional experience in the relevant field, as a translator and/or as a practitioner of another profession (such as a nurse, engineer, or lawyer).
- Certification by the American Translators Association, the Department of Social and Health Services, or other certifying organizations (such as Britain’s Chartered Institute of Linguists).
- The translator’s native language: translators provide the highest quality and most reliable translations when they are translating into their native tongue. Academic degrees, and periods of residence and/or study in countries where the translator’s other language is spoken.

The online translator registries for the American Translators Association (atanet.org/onlinedirectory/individuals.php#translators) and the Northwest Translators and Interpreters Society (www.notisnet.org/find-a-translator-or-interpreter) enable easy searching for a translator with the experience you need.

While good-quality translations require time and money, they save time and money in the long run. Spanish legal translator and U.S. lawyer Kevin Linder recalls spending a full day editing the Spanish-to-English translation of a commercial litigation brief by a Mexican colleague with high-school-level English. The translation was so full of false cognates, such as “celebrating a contract,” that Kevin was forced to re-translate the brief from scratch.

If using Google Translate, be aware that it does not maintain the confidentiality of documents and can be inaccurate. As an example, consider text from a request from a Mexican court to a U.S. court for assistance in obtaining evidence for a Mexican case. My translation of guidance to the judge was “S/he shall have the broadest power to issue any court order deemed suitable for the carrying out of the proceedings.” Google Translate’s translation was “You have the broadest powers to implement all the measures he deems appropriate for diligenciación due.”

How Do I Work Effectively with a Translator?

A few considerations will make your collaboration with a translator efficient, and even pleasant:

- If you plan to translate a document you’re drafting, strive to make it clear and concise. Advise the translator on the desired tone and audience.
- Collaborate with your translator to determine an appropriate editing process. For documents for courts or opposing counsel, it is highly advisable to have a second translator review and edit a translation to ensure its accuracy and completeness. Experienced translators typically have an editing partner they can recommend.
- If you need to translate a large volume of documents, consult with your translator. The translator may be able to help you narrow down the documents actually requiring full translation, and may work with trusted partners or translation agencies that can provide additional assistance.
- It is not realistic to obtain a translation that is cheap, fast, and high-quality. Consider which two factors matter most in a given context and proceed accordingly.

For more information, professional translators and interpreters are typically well-informed and love providing assistance. You may also wish to refer to the American Translators Association publications on working with translators and interpreters (www.atanet.org/publications/getting_it_right.php), WA Courts General Rule 11.2 (Code of Conduct for Interpreters), and www.lep.gov (federal interagency website addressing language access for federal and federally funded programs).

The assistance of an experienced translator or interpreter can make working in a foreign language almost as easy as working in English, freeing you up to focus on successful advocacy for your client. NWL
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We Look Forward To Assisting You In Your Pursuit Of Justice.
Medical malpractice litigation consumes tremendous societal resources in the United States. While the Daubert rule has been useful in excluding junk science from the courtroom by requiring a factual basis for expert testimony, even facts are subject to interpretation. Notwithstanding experts’ best efforts, it has become increasingly obvious that they often display bias of one type or another. Regardless of whether the bias is informational or litigation-based, the inadvertent skewing of the “facts” at issue results in unpredictable and sometimes unjust outcomes.

**INFORMATIONAL BIASES**

Informational biases can be broken down into four subcategories.

- **Framing bias** occurs when the manner in which data is presented affects decision-making. For example, in *The Adventures of Tom Sawyer*, the protagonist frames the chore of whitewashing the fence in positive terms, thereby convincing his friends to pay him for the “privilege” of doing his work.

- **Retrospective bias (also known as hindsight bias)** describes people’s natural tendency to use current information to shape judgments of past events. The seminal example is, of course, the Monday-morning quarterback.

- **Outcome bias** is a particular form of retrospective bias in which the result of subsequent events colors judgment made about the original event. Under this scenario, a reviewing expert who knows that an error results in actual damage is likely to judge that error as being more significant than in the case where no actual damage resulted from the error.

- **Visual hindsight bias** refers to the retention of visual information in the mind, either consciously or subconsciously. In the popular children’s book series *Where’s Waldo?* the reader tries to find Waldo in a visually cluttered picture. Initially, it can be a very difficult task, but once found, viewers are more likely to find Waldo more quickly when returning to the picture, even after many months. Once seen, something can never be “un-seen.”

These informational biases all operate in the medical malpractice setting. When a lawyer contacts an expert to review any medical records, the expert knows that the story does not end well, because lawyers do not send experts records of unremarkable patients. Once the review has been completed, the sentinel event at the heart of the litigation is brought into particular focus by the patient’s poor outcome. Finally, once no-
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Undersampling bias results when the opinions on an issue are unevenly distributed (Fig. 1a), yet at trial, both sides are allowed equal opportunity to present their cases (Fig. 1b).

Selection bias refers to the manner in which experts are retained. When preparing for litigation, an attorney may consult with several experts to understand the case. When it comes to selecting an expert for depositions and trials, the attorney is most likely to select the one whose opinion best suits the attorney’s needs.

Compensation bias simply acknowledges that experts may naturally adjust their opinions nearer to alignment with that of the people who are paying them. Closely related to compensation bias is affiliation bias: independent of compensation, once experts affiliate with one side in litigation, they are more likely to share the opinions and outlook of their litigants’ teams. For example, at trial an attorney may state his own point of view and then ask the expert to agree or disagree with the hypothesis presented. In this setting, the expert’s agreement may suppress nuances in opinions that he might otherwise have stated, had he been given the opportunity of an open-ended question.

Possible solutions to expert bias

Given that expert testimony can be subject to such a variety of possible biases, medical malpractice suits sometimes yield unexpected, if not unjust, results. There exist a number of methods to reduce this problem.

The “no-fault” administrative model removes medical malpractice claims from the tort system altogether. So-called “health courts” were proposed in the 1970s to operate under a “no-fault” administrative model, in which preset compensation is offered for injuries that are either avoidable or preventable. No-fault administrative systems for resolving malpractice cases are in use in Denmark, New Zealand, and Sweden, but have not found favor in the United States.

Evidence-based medicine (EBM) guidelines offer a way to eliminate the need for expert testimony altogether. Such guidelines are drawn from the scientific literature and claim to represent sound medical reasoning. Unfortunately, in many areas of medicine, EBM guidelines do not exist. In others, there is an abundance of EBM guidelines that only an expert can sort through. Some guidelines are general, intended for all patients, but others apply to specific subsets of patients who have additional restrictions. In this setting, expert testimony may be required to justify the application of a particular EBM guideline to a particular patient’s condition, reintroducing the problem of bias that use of the guidelines sought to eliminate.

Given that neither “no-fault” nor guidelines-based rubrics adequately address the problem of expert bias, other methods must be used to maximize objectivity. Robertson and Yokum performed an experiment with mock juries to test the effect of expert blinding on jury decisions in a medical malpractice setting. Some were told that the defense expert had been hired by an intermediary and was blinded as to which side of the suit he was testifying, and others that the plaintiff’s expert had been so blinded. They concluded that juries found blinded experts to be significantly more credible than non-blinded ones.

Expert blinding methods

Because of the nature of medical records, expert witness blinding is impractical in most settings. However, radiology litigation is uniquely suited to expert blinding, due to the fact that the matter at issue is usually the interpretation of an exam that is itself available for review. An expert can be blinded by techniques of deception or concealment.

The “sub-rosa” approach disguises the exam at issue as a routine current exam and inserts it into the daily workload. The expert witness is thus deceived as to the contentious nature of the exam itself. While intellectually appealing, this approach presents several practical challenges. Foremost among these is the conflict between engaging an expert and having that expert remain naïve to the litigation exam when it is presented. The exam must be disguised, at least to the extent that it would need to appear to be a current exam, from a facility served by the expert in the course of daily work. Medical enterprise security requirements generally do not allow knowingly false patient information to be stored on their systems. Additionally, a co-operating actor must be available by telephone, should the expert want more information or to discuss the exam with the “ordering” provider.

The other two approaches involve an intermediary to de-identify and conceal the exam at issue in a small set of similar de-identified exams drawn from a pre-existing database. These exams do not have to be identical in nature to the exam at issue, but similar in type. The review set exams can contain both normal and abnormal findings. The expert
is told that one or more of the exams in the set is the subject of litigation.

In the “second-read” approach, the expert reviews each exam in the set and offers an interpretation of that exam to the intermediary.

The “oversight” approach presents the original radiologists’ report along with the exams in the review set. In this scenario, the expert reviews the exam along with the report and reports to the intermediary whether or not the report met the standard of care as an interpretation of that particular exam.

In both the second-read and oversight approaches, the expert knows that one or more of the exams in the set is the subject of litigation. This knowledge forces the expert to evaluate each exam as an independent event. The expert’s assessment of the exam at issue is then presented to the attorney.

Compensation bias can be addressed in these settings by having the expert initially contacted by an intermediary. In this way, the expert does not know which side of the litigation has engaged her.

Both second-read and oversight methodologies are commercially available and have been applied in over 30 lawsuits in several states by plaintiff and defense attorneys. Both attorneys and the radiologist experts retained to do the reviews have found the process reliable and the subsequent testimony compelling.

Conclusion

Informational and litigation biases magnify the natural differences of opinion between medical experts in malpractice litigation. Since expert testimony is likely to remain critical to these cases, blinding techniques offer a method to minimize these biases.

Appropriate blinding requires that the expert be unaware of the contentious nature of the particular issue in dispute while developing an opinion. Deception and concealment techniques represent two useful blinding methods. Such blinding is impractical in many medical settings, but can be effectively accomplished in radiology litigation.

True objectivity in expert witnesses may be impossible to achieve in the medical malpractice realm. Blinding the expert can eliminate some biases and mitigate others. NWL.

NOTES


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Various studies estimate that between 10 and 20% of the American population suffer from at least one serious personality disorder. Such disorders can often be incredibly complex and can place an intense strain on a marriage or co-parenting relationship. If the marriage fails, the nature of dissolution and custody litigation can provide the perfect environment for personality disorders to thrive, due to the chaos, antagonism, and turbulence created by the process.

While divorce and custody litigation often results in increased stress upon the participants, it is not uncommon for these individuals to recover shortly thereafter. For those suffering from a personality disorder while also engaging in such litigation, however, the outlook may be much bleaker. This may be due to the personality disorder being representative of a long duration of dysfunction often dating back to adolescence or early adulthood. In many cases, the emotional nature of family court litigation serves as the spark to ignite these symptoms into highly intense and contentious conflicts which may have far-reaching impacts, not only on the parties themselves but on their children as well.

What Is a Personality Disorder?
According to Bill Eddy, L.C.S.W., Esq., an individual suffering from a personality disorder is someone experiencing chronic inner distress which leads to self-sabotaging behavior. While personality disorders differ from mental disorders, personality disorders can be diagnosed, according to the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (DSM-5), if there are significant impairments in self and interpersonal functioning together with one or more pathological personality traits. Such features must be relatively stable across time and consistent across situations, must not be better understood as normative for development stages or social-cultural environments, and must not be due solely to direct effects of a substance or general medical condition. Common and predominant symptoms of personality disorders may include relational distress, fears of being abandoned, desires for control over uncontrollable situations, and impulsive behavior.

Personality Disorder Clusters
While the DSM-5 does define personality disorders, it is very important to note that they are as much a product of historical observation based on vague and imprecise constructs as they are a product of scientific study. Additionally, the various disorders can often blend and blur into one another. As a result, the DSM-5 groups these disorders together into three separate clusters. These include:

- **Cluster A:** The odd, bizarre, and eccentric people
- **Cluster B:** The dramatic, emotional, erratic people
- **Cluster C:** The anxious, fearful people

Personality Disorders Common in Family Law Cases
The emotional and combative nature of a family law case provides especially
Borderline personality disorder: Borderline personality disorder (BPD) is marked by impulsivity, mood swings, intense anger and depression, and a fear of abandonment. Those suffering from BPD usually engage in unstable interpersonal relationships, characterized by alternating instances of idealization and devaluation. They can also present themselves in a highly dramatic fashion. Though some studies have indicated that BPD is equally common among men and women, it has been suggested that BPD may be more common among women, in part because they are more likely to be the victims of sexual abuse and carry the label of “promiscuous.”

Narcissistic personality disorder: Individuals suffering from narcissistic personality disorder (NPD) often exhibit preoccupation with themselves and the belief of superiority over others. This may come in the form of vulnerable narcissism, similar to BPD, where excessive attention and admiration is sought and victimization is common. It may also come in the form of invulnerable narcissism, wherein there is a grandiose sense of self and self-entitlement along with a lack of empathy. To others, narcissists often seem arrogant and insensitive. Many studies have shown NPD to be more common among men.

Antisocial personality disorder: Antisocial personality disorder (APD), also known as dissocial personality disorder, traditionally exhibits itself in the form of disregard for social norms or the rights and needs of others. Those with APD often have little to no regard for right and wrong, and seek to antagonize, manipulate, or deceive others. Though they may appear superficially charming, those suffering from APD often lack remorse or guilt. Similar to NPD, APD has shown to be more common among men, and is closely associated with crime.

Histrionic personality disorder: Those with histrionic personality disorder (HPD) share with BPD and vulnerable NPD the excessive need for attention, including the use of inappropriate behavior to obtain such attention. Histrionic people can often be overly dramatic and animated, as the term “histrionic” derives from the Latin histrionicus, or “pertaining to the actor.” While seductive or provocative, those suffering from HPD also appear shallow and insincere, and display a lack of regard for rules or processes. Unlike NPD and APD, HPD appears more prevalent in women.

Managing Opposing Parties Whom You Suspect to Have a Personality Disorder

While being able to effectively manage clients is an integral tool in an attorney’s belt, the ability to manage your working relationships with opposing parties and attorneys is of equal importance. Much like your varying clients, you may oppose a wide range of personalities, some of whom may suffer from their own personality disorders. Should you suspect an opposing party to suffer from a personality disorder, your course of action may well depend on the nature of their disorder.

For instance, when dealing with a narcissist, you can frame both arguments and negotiations in such a manner that will show the opposing party his or her benefit. It will also be critical to show such parties that you are an expert in the field to encourage them to reconsider confrontation. Limiting communication with the opposing party to written formats, and suggesting your client do the same, may help prevent manipulation by those with antisocial personality disorder. Focusing on facts, rather than the perception of the same, may help to mitigate the impulsivity of those with borderline personality disorder (BPD) or the drama created by those with histrionic personality disorder (HPD). Also, be assertive with your client’s needs while taking care not to create conflict simply for the sake of doing so.

In addition to your own management of the opposing party, consider advising your client to take several steps to protect themselves. Advise your client to communicate clearly, and respectfully, with your client. Keep a detailed written record of any conversations with your client and ensure you record any pertinent issues or concerns that arise. Be assertive with your advice, and focus your communications with your client on how your advice and the facts of the case will result in a benefit to him or her. Reaffirm your experience and knowledge to preserve your client’s confidence in you. Additionally, discuss with your client use of appropriate techniques to control emotion, especially in the courtroom.
children from conflicts between parents. As with your own communication with the opposing party, any communication between your client and the opposing party should be in a written format, and you should be kept in the loop regarding the same. Work with clients to ensure they have a proper support system of family and friends, and encourage them to take the time necessary to reflect on and rediscover themselves. Recommend they consider shutting down, or at least suspending, social networking accounts, while also erasing browsing histories and ensuring accounts and passwords are private and secure. Suggest they consult with a counselor or therapist to better understand the personality disorder from which the opposing party may suffer. Finally, and perhaps most importantly, advise your client to prepare for the worst.

**Resources and Conclusions**

Generally, personality disorders remain prevalent in the lives of those who suffer through them unless and until corrective measures are taken to address them. Unfortunately, though often necessary, these individuals may never come into contact with appropriate mental health services to address and correct them. While immediate actions, such as short-term counseling, can help, long-term therapy is often necessary.

The truth of the matter is that personality disorders will likely remain common in the realm of family law. As such, you as a family law practitioner should strongly consider obtaining training to teach yourself to identify possible personality disorders in both your own clients and opposing parties. No family law case is ever easy, but having the ability to identify and address personality disorders can lead to better advice and representation of clients, as well as a greater capacity to work with otherwise-difficult opposing parties. NWL.

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is an associate with McKinley Irvin, representing clients in all stages of family law matters and divorce. Tony attended Gonzaga University School of Law and is distinguished as a Washington Rising Star by Super Lawyers® 2013–15. Tony typically serves clients from McKinley Irvin’s law offices in Tacoma and Puyallup. He can be reached at azorich@mckinleyirvin.com.

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A Quest for Justice

Enduring Conviction: Fred Korematsu and His Quest for Justice
by Lorraine Bannai
2015; University of Washington Press; 312 pp.; hardcover and ebook available

We asked Professor Lorraine Bannai, author of the recently released Enduring Conviction: Fred Korematsu and His Quest for Justice, to share her insight on writing her book and her legal work for Mr. Korematsu. Following an introductory Q&A with the author is an excerpt of the book with photographs, courtesy of the author, the University of Washington Press, and the Fred T. Korematsu Institute. — NWL

How did you get involved in Mr. Korematsu’s case, and how did you feel as a young lawyer working on such an important case?

When the case began, I was two and a half years out of law school and working in a small firm in Oakland, California. We had a general practice and one deeply committed to pro bono work.

My partner, Dale Minami, came into my office and said he’d received a call about possibly reopening Korematsu. It was stunning. Like most every other lawyer, we’d read the case in law school. We’d been shocked that the Court upheld the mass removal of 110,000 Japanese-Americans from the West Coast. And, for Dale and me, both Japanese-American, this was about our families who had been incarcerated. It was amazing to think there might be some way to challenge the decision.

The phone call had come from Professor Peter Irons, who had found some extraordinary documents — the government’s own records — that proved that it had suppressed, altered, and destroyed material evidence while arguing the Korematsu case before the Supreme Court. Based on that evidence, we filed a petition for writ of error coram nobis on Fred Korematsu’s behalf, and, in November 1983, in a very emotional hearing, the court vacated his wartime conviction. Gordon Hirabayashi’s and Min Yasui’s convictions were vacated in later proceedings.

We had an incredibly committed, talented team of lawyers. We were all pretty young. But I think it comes down to saying “yes” when an opportunity and a need presents itself.

What were your goals in writing this book?

I, of course, wanted others to know Fred. He was a wonderful person, soft-spoken, but strong. In 1942, he refused orders to leave and instead chose to remain with the Italian-American woman he loved in the place he had always lived. Forty years later, he challenged his wartime conviction and went on to speak against intolerance directed at other groups, especially the targeting of Muslims and persons of Middle Eastern descent after 9/11. He was a remarkable and good man.

I also wanted to share what the Korematsu case can teach about lawyering. During World War II, government lawyers argued that the war-time orders were based on military necessity when they knew they were not. In stark contrast, two Justice Department lawyers, Edward Ennis and John Burling, fought their superiors, arguing against the suppression of evidence. They represent, I think, what we should strive to be — lawyers whose duty is to do justice.

Finally, my hope was to show the importance of speaking out on behalf of marginalized communities. During World War II, government officials, the press, and civic organizations called for the incarceration. Very few spoke against it; most allowed it to occur. Recently, we’ve unfortunately seen public figures call for the exclusion of Muslims, and seen some call for the refusal of Syrian refugees citing the Japanese-American incarceration as positive precedent. If people remember what really happened to Japanese-Americans, perhaps they will speak up for those unable to speak for themselves.

You’ve continued to work in Fred Korematsu’s name, now as director of the Fred T. Korematsu Center for Law and Equality at Seattle University School of Law. Can you tell us about the Center?

Inspired by Fred’s work, the Center seeks to advance justice through research, advocacy, and education. Under the leadership of Executive Director Bob Chang, Staff Attorney Jessica Levin, Litigation Director Charlotte Garden, and my involvement, the Center’s work has grown tremendously in the past seven years.

It has filed amicus briefs in a wide range of issues across the country. For example, in a Washington child custody case, the Center challenged expert
testimony relying on profiles based on national origin. In a Ninth Circuit case involving claims of sexual harassment against Latina farmworkers, it argued against appeals to in-group favoritism as a form of implicit bias. Before the U.S. Supreme Court, it argued the importance of diversity on medical school faculties. And the Center is presently co-counsel in a case challenging an Arizona law used to eliminate a highly successful Mexican-American Studies program in Tucson. The Center has also been involved in policy work, for example, providing leadership in the work of the Washington Task Force on Race and the Criminal Justice System. And we are able to engage law students with the Center’s work through its Civil Rights Amicus Clinic.

It’s a tremendous opportunity for me to be able to continue to work in Fred’s name.

Can you provide us some context for the excerpt that follows?

In this excerpt, Chapter 8 of the book, Peter Irons contacts Fred and shows him the documents he’s found that prove the government suppressed evidence while arguing Fred’s case before the Supreme Court during World War II.

Bannai, Lorraine K.; Enduring Conviction: Fred Korematsu and His Quest for Justice; pp. 137-149; ©2015; Excerpt reprinted with permission of the University of Washington Press. Citations in the original text have been omitted.

THE PHONE CALL STARTED LIKE OTHERS THAT FRED HAD RECEIVED OVER THE YEARS. There had been many such calls from people who wanted to take Fred back to those hard days during World War II and write about him. But none of the people who called offered a way to do something about his case. This phone call to the Korematsu home in January 1982 seemed no different, at least initially. Peter Irons identified himself as a professor at the University of Massachusetts at Amherst, and when he explained that he was writing a book about the World War II Supreme Court Japanese American incarceration cases, Fred thought, “Oh, that figures.” But Peter went on to explain that he had found some documents that might interest Fred. Fred was wary. When Peter asked if he could visit Fred in San Leandro, Fred said that Peter should call if he got to the Bay Area and “we’ll see if we can arrange something.”

Three months earlier, in late September 1981, Peter had made a Freedom of Information Act (FOIA) request for the Department of Justice files in the Hirabayashi, Yasui, Korematsu, and Endo cases. After much searching, the files were found—misfiled with records of the Commerce Department. After learning that the records had been located, Peter headed to Washington, DC. When he got there, he found that the person responsible for FOIA requests was out sick; her absence may have been a stroke of good luck. She would normally have reviewed the records before releasing them for review, but because she was out, Peter was able to look at them—unscreened. “So I sat down. And there were probably four or five cardboard boxes….And someone had written in marker the case numbers on the boxes. And they were all tied together with string. And it was perfectly obvious that nobody had ever opened these boxes since they were initially stored because they were all dusty….So I decided just to sit down and start going through them. And I picked out the box that said Hirabayashi v. United States.”

Within minutes of opening the box, Peter realized what he had found—evidence proving what appeared to be a government cover-up during Fred’s World War II case. One of the first documents he read was a memo from Justice Department lawyer Edward Ennis to Solicitor General Charles Fahy, essentially saying, “We are in possession of information that shows that the War Department’s report on the internment is a lie. And we have an ethical obligation not to tell a lie to the Supreme Court.” The documents that followed only supported the conclusion that the government had presented the court with a false record. Peter was stunned: “I still remember thinking, ‘Oh, my God. This is amazing.’”

Afraid that someone might come over, ask what he was looking at, and remove the boxes, he worked all day, finding more incriminating documents and furiously taking notes. He called Aiko Herzog-Yoshinaga, then chief researcher for the Commission on Wartime Relocation and Internment of Civilians, and told her that she really needed to see the files. Aiko, a feisty Nisei woman, had spent her war years incarcerated, first at Manzanar in the Mojave Desert of California, and then at Jerome, Arkansas. She had transferred to Jerome so that her sick father could see his newborn granddaughter; he died Christmas Day 1943, ten days after their arrival. Decades later, she started to visit the National Archives in Washington, DC, to unearth the history of her imprisonment. “The more I read, the more angry I got. I could clearly see that we were viewed as sub-human, and how politicized the whole internment process had been. I became obsessed.” Aiko’s husband, Jack Herzog, a former army counterintelligence officer, joined her in her quest, and Aiko became a knowledgeable and skilled archival researcher by the time she started her work with the commission.

Peter and Aiko had met in the archives on his first day researching his book, and when they learned of their common work, they agreed to aid each other and share what they found: Aiko could help Peter with her vast knowledge of the archives, and Peter could contribute his understanding of the law. After Peter’s call, Aiko collected the Department of Justice files.

Peter believed that the documents he found could help reopen the now-infamous World War II Supreme Court Korematsu, Hirabayashi, and Yasui cases. He had already contacted Gordon and Min, and they’d authorized him to see where that evidence might lead. Now he needed to speak with Fred. On January 12, 1982, Peter arrived in San Francisco and called Fred again. He explained that he had interviewed Ernest Besig, and Fred, perhaps a bit more comfortable on hearing the name of his wartime lawyer, replied, “Well, I might be able to see you tonight if you can come over.” Peter was nervous as he took a cab to Fred’s house.

Peter found Fred to be friendly, but quiet and reserved. Fred’s first impression of Peter was that he looked quite distinguished. Peter put his tape recorder out; Fred put out his pipe. After an exchange of pleasantries, Peter explained to Fred that he had found documents that might enable him to reopen his case. Peter handed a sampling of the documents to Fred, and for the next thirty minutes or so, Fred puffed on his pipe and read through the stack, saying nothing.
The documents that Peter brought Fred were remarkable and indeed shocking. They, together with other key documents found by Aiko, showed that the government had purposefully suppressed, altered, and destroyed material evidence during World War II to ensure that the Supreme Court upheld the wartime curfew, forced removal, and—if it reached that issue—incarceration. The government had, in sum, engineered a “win” based on a false and fraudulent record and had lied to the court. Among other things, the documents showed that the government had withheld from the court key intelligence reports at odds with its claim that its actions were justified by military necessity. They also showed that when the government learned that General DeWitt’s Final Report contradicted its arguments in Fred’s case, the original report was destroyed and a new, altered version, more consistent with the government’s arguments, was given to the court.

The documents showed that the government knew of, and withheld, its own intelligence reports that refuted its claims of military necessity. In Fred’s case, the government had argued that Japanese Americans posed a threat that required immediate action. In order to support that argument, the government provided the Supreme Court with DeWitt’s Final Report, in which DeWitt asserted that the orders were justified because Japanese Americans were prone to disloyalty and because there was evidence suggesting that they were involved in illegal shore-to-ship signaling. Solicitor General Fahy stood behind DeWitt’s report in his oral argument before the Supreme Court. He asserted, “[N]ot only the military judgment of the general, but the judgment of the Government of the United States, has always been in justification of the measures taken; and no person in any responsible position has ever taken a contrary position.”

In fact, other intelligence agencies had taken “a contrary position.” At the time the government was arguing the Hirabayashi, Yasui, and Korematsu cases before the Supreme Court, the government had within its possession reports from the FBI, the Office of Naval Intelligence (ONI), and the Federal Communications Commission (FCC), all bearing on the loyalty of Japanese Americans. The FBI and ONI, in particular, had been given special responsibility on this issue: as early as June 26, 1939, President Franklin D. Roosevelt had declared that all matters concerning suspected espionage and sabotage be handled by the FBI, ONI, and the Military Intelligence Division of the War Department. While intelligence reports from all three of these agencies undermined DeWitt’s claims of military necessity, none were presented to the court.

On January 26, 1942, even before Roosevelt had signed Executive Order 9066, Lieutenant Commander Kenneth D. Ringle of the ONI prepared his “Report on the Japanese Question.” In that report, Ringle, who had extensive knowledge of the Nikkei community, concluded that the vast majority of Japanese Americans were loyal to the United States. While he did think that perhaps 3 percent of the population might be sympathetic enough to Japan to be of concern, the ones who might be considered most dangerous were, by the date of his report, already in custody or readily identifiable. He concluded, “[I]n short, the entire ‘Japanese problem’ has been magnified out of its true proportion, largely because of the physical characteristics of the people; that it is no more serious than the problems of the German, Italian, and Communist portions of the United States population, and, finally that it should be handled on the basis of the individual, regardless of citizenship, and not on a racial basis.” Both the Justice and War Departments were well aware of Ringle’s memorandum during early stages of the removal of Japanese Americans from the West Coast. On March 9, 1942, Attorney General Francis Biddle transmitted a copy of Ringle’s report to Assistant Secretary of War John J. McCloy, who was “greatly impressed with Commander Ringle’s knowledge of the Japanese problem along the Coast.”

Edward Ennis became aware of Ringle’s report while preparing the government’s brief to the Supreme Court in the Hirabayashi case, and, on April 31, 1942, Ennis warned Fahy that the government was arguing to the Supreme Court that it was not possible to screen Japanese Americans on an individual basis. Ringle’s report directly contradicted that argument:

“In view of the fact that the Department of Justice is now representing the Army in the Supreme Court of the United States and is arguing that a partial, selective evacuation was impracticable, we must consider most carefully what our obligation to the Court is in view of the fact that the responsible Intelligence agency regarded a selective evacuation as not only sufficient but preferable. It is my opinion that certainly one of the most difficult questions in the whole case is raised by the fact that the Army did not evacuate people after any hearing or on any individual determination of dangerousness, but evacuated the entire racial group. . . . Thus, in one of the crucial points of the case the Government is forced to argue that individual, selective evacuation would have been impracticable and insufficient when we have positive knowledge that the only Intelligence agency responsible for advising DeWitt gave him advice directly to the contrary.

Given his belief that Ringle’s report directly undermined the claim that the mass removal of Japanese Americans was necessary, Ennis warned Fahy that the failure to provide the court with the Ringle report would constitute a breach of the government’s ethical duties: “In view of this fact, I think we should consider very carefully whether we do not have a duty to advise the Court of the existence of the Ringle memorandum and of the fact that this represents the view of the Office of Naval Intelligence. It occurs to me that any other course of action might approximate the suppression of evidence.” Ringle’s report, however, was never given to the court.

Without knowledge of Ringle’s conclusion that Japanese Americans should be treated on an individual, not group, basis, the court upheld the removal orders in Fred’s case, accepting the argument that individual screening was impossible: “We cannot reject as unfounded the judgment that there were disloyal members of [the Japanese American population], whose number and strength could not be precisely and quickly ascertained.”
DeWitt had expressed concern regarding “hundreds of reports nightly of signal lights visible from the coast, and of intercepts of unidentified radio transmission.” Reports from the FCC and the FBI, however, discredited those claims, and the Supreme Court was similarly not advised of them. As early as January 1942, George Sterling, chief of the FCC’s Radio Intelligence Division, raised serious questions about the reliability of DeWitt’s radio monitoring activities. After a meeting with DeWitt and his staff, Sterling wrote,

Since Gen’l DeWitt seemed concerned and, in fact, seemed to believe that the woods were full of Japs with transmitters, I proceeded to tell him and his staff the organization [of the FCC radio monitoring program]...

Frankly, I have never seen an organization that was so hopeless to cope with radio intelligence requirements....The personnel is unskilled and untrained....They know nothing about signal identification, wave propagation and other technical subjects, so essential to radio intelligence procedure. They take bearings with loop apparatus with untrained men. They know nothing about signal identification, wave propagation and other technical subjects, so essential to radio intelligence procedure. They take bearings with loop apparatus with untrained men.

Intelligence reports also refuted DeWitt’s claims that Japanese Americans had engaged in illicit signaling and radio transmissions. In his Final Report, DeWitt had expressed concern regarding “hundreds of reports nightly of signal lights visible from the coast, and of intercepts of unidentified radio transmission.” Reports from the FCC and the FBI, however, discredited those claims, and the Supreme Court was similarly not advised of them. As early as January 1942, George Sterling, chief of the FCC’s Radio Intelligence Division, raised serious questions about the reliability of DeWitt’s radio monitoring activities. After a meeting with DeWitt and his staff, Sterling wrote,

Fred Korematsu and members of his coram nobis legal team, October 1983. Front row, left to right: Dale Minami, Fred Korematsu, and Peter Irons. Back row, left to right: Don Tamaki, Dennis Hayashi, and Lorraine Bannai. Courtesy of the Fred T. Korematsu Institute.

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When Attorney General Biddle learned of DeWitt’s Final Report in January 1944, while the Justice Department was preparing its arguments in "Fred’s case, he requested that the FBI and the FCC respond to DeWitt’s claims of illegal signaling. The FBI, on February 7, 1944, replied to Biddle that the claims were baseless. FBI Director J. Edgar Hoover summarized: “As indicated in the attached memorandum, there is no information in the possession of this Bureau...which would indicate that the attacks made on ships or shores in the area immediately after Pearl Harbor have been associated with any espionage activity ashore or that there has been any illicit shore-to-ship signaling, either by radio or lights.” In an April 4, 1944, memo, FCC Commissioner James L. Fly wrote Biddle, explaining that during the period from December 1941 to July 1, 1942, “[t]here were no radio signals reported to the Commission which could not be identified, or which were unlawful.” Further, he continued, DeWitt had been directly advised as to the absence of such signaling—he had been “kept continuously informed of the Commission’s work, both through occasional conferences and day-to- day liaison.”

In February 1944, Ennis wrote to Biddle protesting the government’s reliance on DeWitt’s report. “I believe it to be a matter of primary and historical importance that we correct on the public record the misstatements in General DeWitt’s justification for the Japanese evacuation contained in his Final Report...At present this stands as practically the only record of causes for the evacuation and unless corrected will continue to do so. Its practical importance is indicated by the fact that already it is being cited in the briefs in the Korematsu case in the Supreme Court on the constitutionality of the evacuation.”

Rebuffed by Fahy, Ennis and fellow Justice Department attorney John L. Burling sought to advise the Supreme Court that the government neither endorsed nor relied on DeWitt’s assertions. Burling attempted to insert the following footnote in the government’s brief in Fred’s case:

The Final Report of General DeWitt (which is dated June 5, 1943, but which was not made public until January, 1944) is relied on in this brief for statistics and other details concerning the actual evacuation and the events that took place subsequent thereto. The recital of the circumstances justifying the evacuation as a matter of military necessity, however, is in several respects, particularly with reference to the use of illegal shore-to-ship signaling by persons of Japanese ancestry, in conflict with information in possession of the Department of Justice. In view of the contrariety of the reports on this matter we do not ask the Court to take judicial notice of those facts contained in the Report.

Almost immediately, work was begun to water down Burling’s disavowal of DeWitt’s report. Fahy proposed a revision that suggested only that DeWitt’s report was in conflict with “the views of [the Department of Justice]” and deleting specific reference to the “contrariety of the reports.” Burling responded to Fahy’s revision in a memorandum to Assistant Attorney General Herbert Wechsler:

You will recall that General DeWitt’s report makes flat statements concerning radio transmitters and ship-to-shore signaling which are categorically denied by the FBI and by the Federal Communications Commission. There is no doubt that these statements were intentional falsehoods, inasmuch as the Federal Communications Commission reported in detail to General DeWitt on the absence of any illegal radio transmission....

[I]t seems to me that the present bowdlerization of the footnote is unfortunate. There is in fact a contrariety of information and we ought to say so. The statements made by General DeWitt are not only contrary to our views but they are contrary to detailed information in our possession and we ought to say so.

Burling assumed that the War Department would object to his footnote and advised Wechsler that the Justice Department
“should resist any further tampering with it with all our force.”

Burling was correct about the War Department’s response. While the War Department had been given a draft of the government’s brief in April 1944, it waited until September 30, when the brief was being sent for final printing, to state its objections to Burling’s footnote. McCloy called Fahy, and Fahy “had the printing stopped at about noon.” Ennis wrote Wechsler, urging that the department’s obligations to the court required that the footnote remain as Burling had drafted it: “The Department has an ethical obligation to the Court to refrain from citing [DeWitt’s report] as a source of which the Court may properly take judicial notice if the Department knows that important statements in the source are untrue and if it knows as to other “statements that there is such a contrariety of information that judicial notice is improper.”

Further, Ennis warned of the injustice to Japanese Americans if DeWitt’s claims remain unchallenged: “The report asserts that the Japanese-Americans were engaged in extensive radio signaling and in shore-to-ship signaling. The general tenor of the report is not only to the effect that there was a reason to be apprehensive, but also to the effect that overt acts of treason were being committed. Since this is not so it is highly unfair to this racial minority that these lies, put out in an official publication, go uncorrected. This is the only opportunity which this Department has to correct them.” Wechsler forwarded Ennis’s memo to Fahy.

Ennis’s pleas were ignored. Instead, Wechsler revised the footnote in such a way that the Supreme Court could never know that the government possessed intelligence reports that directly refuted DeWitt’s claims. The footnote, as presented to the Supreme Court, stated only the following: “The Final Report of General DeWitt…is relied on in this brief for statistics and other details concerning the actual evacuation and the events that took place subsequent thereto. We have specifically recited in this brief the facts relating to the justification for the evacuation, of which we ask the court to take judicial notice, and we rely upon the Final Report only to the extent that it relates to such facts.” Wechsler specifically intended that the revision “drop out any specific reference to matters in controversy.”

These documents proved that the government suppressed intelligence reports material to Fred’s case, and material to every Japanese American who had been put away based on the claim of military necessity. In addition, further documents showed that the version of DeWitt’s Final Report given to the Supreme Court in Fred’s case was not the same as the report DeWitt had first prepared—it had been altered so that it would support, rather than contradict, the government’s argument.

In Fred’s case, the government had argued that the mass removal was justified because time was of the essence and there was no time to separate the loyal from the disloyal. It relied on DeWitt’s Final Report, and the version of the report given to the Court had said that the press of time prevented individual screening: “To complicate the situation no ready means existed for determining the loyal and the disloyal with any degree of safety.” In fact, DeWitt’s view, stated in an original version of his report never given to the court, was that shortness of time was not a factor in his decision to order the mass removal of Japanese Americans; rather, he believed that their racial characteristics made it impossible to discern their loyalty. In his original report, discovered by Aiko, DeWitt explained,

Because of the ties of race, the intense feeling of filial piety and the strong bonds of common tradition, culture and customs, this population [of Japanese Americans] presented a tightly-knit racial group...While it was believed that some were loyal, it was known that many were not. It was impossible to establish the identity of the loyal and disloyal with any degree of safety. It was not that there was insufficient time in which to make such a determination; it was simply a matter of facing the realities that a positive determination could not be made, that an exact separation of the “sheep from the goats” was unfeasible.

DeWitt transmitted copies of his bound report to the War Department, including two to McCloy. He had sent it air express so that it would arrive in time for use in preparing the government’s briefs before the Supreme Court.

On reading DeWitt’s report, McCloy became greatly concerned that it contradicted the government’s argument that there was insufficient time for individualized determinations of loyalty. He immediately contacted Bendetsen. In response to McCloy’s complaint that the report had been printed without first being vetted, Bendetsen assured McCloy that “any change you feel ought to be made, can easily be made.” McCloy did not mince words. “I’m distressed about it,” he said, referring to the report. “There are a number of things in it now which I feel should not be made public.”

DeWitt was indignant when informed of the War Department’s objections to his report: “My report to Chief of Staff will not be changed in any respect whatsoever either in substance or form and I will not, repeat not, consent to any, repeat any, revision over my signature.” In the face of DeWitt’s adamant stance, it was clear to Bendetsen. He felt he could not order DeWitt to change his report; yet the public release of the report, as drafted, could seriously undermine the government’s entire argument in support of the removal orders. McCloy considered suppressing the report “entirely. He told Bendetsen, “I wouldn’t want to offend [DeWitt]. I wouldn’t want him to think that I was trying to tell him what to say...I would much rather that the report go in to the files and let it go at that.”

On May 3, Bendetsen wrote DeWitt to share McCloy’s concerns in as diplomatic a tone as possible. Bendetsen conveyed that, while McCloy did not “wish to prescribe what the Commanding General should say or not say in the final report[,]...he did say, however, that it might be improved upon.” Bendetsen proposed alternative language to DeWitt. “The second objection was to that portion of Chapter II which said in effect that it is absolutely impossible to determine the loyalty of Japanese no matter how much time was taken in the process. He said that he had no objection to saying that time was of the essence and that in view of the military situation and the fact that there was no known means of making such a determination with any degree of safety the evacuation was necessary.”

DeWitt relented. Captain John Hall of McCloy’s staff revised DeWitt’s report to delete the language that time was not an issue and replace it: “Page 9, second complete paragraph, substitute for the fifth and sixth sentences the following: ‘To complicate the situation no ready means existed for determining the loyal and the disloyal with any degree of safety. It was necessary to face the realities that a positive determination could not be made.’” That was the language in the version of DeWitt’s report ultimately presented to the Supreme Court.

As the 1983 petition to reopen Fred’s case later stated, “Hall’s revision produced more than a semantic change. It resulted in the complete alteration of DeWitt’s original statement and its meaning.” The revision explicitly changed DeWitt’s rationale for the exclusion orders; instead of stating, as DeWitt truly believed, that time was not an issue in his decision, it stated that he had no “ready” means to separate the loyal from the disloyal. In addition, the revision served to hide the race-based assumptions that lay at the center of DeWitt’s thinking. It was DeWitt’s true belief that there was no way to tell a loyal Japanese American from a disloyal one, no matter how much time one had. The revision “shifted the argument to the question of practicality and concealed the racist underpinning of DeWitt’s...claim.”

On May 9, 1943, Bendetsen started damage control. In a telegram to General James Barnett, assistant chief of staff of the Western Defense Command, Bendetsen instructed that all copies of the initial version of DeWitt’s report be destroyed. “Take action tonight.” The version of DeWitt’s Final Report previously sent to WD [War Department] less inclosures and to have WD destroy all records of receipt of report as when final revision is forwarded letter of transmittal will be
redated.” On July 29, 1942, Warrant Officer Theodore E. Smith confirmed the destruction of the returned copies of the report. “I certify this date I witnessed the destruction by burning of the galley proofs, galley pages, drafts and memorandums of the original report of the Japanese Evacuation.”

Neither the Justice Department nor the court was ever aware that they had received an altered version of DeWitt’s report. The result in Fred’s case, his later petition would claim, would have been different had the court known DeWitt’s true reasons for ordering the mass removal of Japanese Americans. Having only the revised report before it, the court held that DeWitt could reasonably have found mass removal necessary because there was insufficient time to screen the loyal from the disloyal—reasoning that DeWitt would have originally flatly rejected. In Fred’s case, the court stated, “Here, as in the Hirabayashi case, we cannot reject as unfounded the judgment of the military authorities and of Congress that there were disloyal members of that population whose number and strength could not be precisely and quickly ascertained. We cannot say that the war-making branches of the Government did not have ground for believing that in a critical hour such persons could not readily be isolated and separately dealt with, and constituted a menace to the national defense and safety, which demanded that prompt and adequate measures be taken to guard against it.”

The documents that Peter and Aiko had found wholly discredited DeWitt’s report, as well as the government’s claims of military necessity based on that report. Yet Solicitor General Fahy told the court in Fred’s case that nothing existed to refute DeWitt’s assertions. Fahy, having seen the reports that contradict ed DeWitt’s claims, knew otherwise.

After looking through the documents, page after page, for what seemed to Peter, to be an eternity, Fred looked up. “They did me a great wrong,” he said. The government had, indeed, wronged Fred. And, in presenting lies and a manipulated record to the Supreme Court, it had wronged over 110,000 Japanese Americans who had been forced from their homes and imprisoned.

Fred asked Peter, “Are you a lawyer”? Peter replied, “Yes, I am.” Fred asked, “Would you be my lawyer”? Peter said that he would be delighted to give any help he could. Peter recalls, “At that point, he literally opened up and relaxed. We both did. He had agreed to go ahead with this. And so then I tried to explain to him what might happen, how much work there was to do, how there was no guarantee that this would succeed. It might take a long time.” These warnings did not seem to deter Fred; he had heard similar cautionary words forty years earlier, from Besig. Fred said that he needed to check with Kathryn, who readily joined Fred in agreeing to pursue the reopening of his case. NWL
The “greying” of the legal profession as the baby boomer generation moves toward retirement has been much discussed in recent years. One facet of that discussion has been renewed interest in RPC 1.17, which permits the sale of law practices. In this column, we’ll survey that rule and will also look beyond it to other practice transition strategies for lawyers nearing retirement. With both, we’ll focus on solos and small firm lawyers who don’t have the same institutional mechanisms for either transition or retirement available to large-firm lawyers.

RPC 1.17
Before 1990, the rule on selling a law practice was simple: you couldn’t do it. Although lawyers could sell physical assets like law books or a reception desk, they could not sell their practice as a going concern. As the ABA put it in 1945 in Formal Opinion 266, quoting a then-recent opinion by the New York County Bar Association:

“Clients are not merchandise. Lawyers are not tradesmen. They have nothing to sell but personal service. An attempt, therefore, to barter in clients, would appear to be inconsistent with the best concepts of our professional status.”

In 1990, however, the ABA amended its influential Model Rules of Professional Conduct to allow the sale of law practices. The legislative history for Model Rule 1.17 reflects that the change was intended to provide solos and small firm lawyers a method to harvest the economic goodwill built up over a lifetime of practice that would be roughly analogous to transition and retirement plans common in larger firms. Washington followed with an advisory opinion in 1996 permitting law practice sales that was patterned generally on Model Rule 1.17. When our rules were updated in 2006, the changes included a variant of Model Rule 1.17 and the older ethics opinion was withdrawn.

RPC 1.17 permits the sale of either an entire practice or “area of practice.” The ability to sell a portion of an overall practice may be particularly attractive to a lawyer who wants to continue working but at a reduced pace. The sale can include “goodwill,” which the Court of Appeals in Dixon v. Crawford, McGilliard, Peterson & Yelish, 163 Wn. App. 912, 918, 262 P.3d 108 (2011), defined in the law firm valuation context as “the monetary value of a reputation.” The sale can include a restrictive covenant that would otherwise be prohibited by RPC 5.6(a). Even if a sale does include a restrictive covenant, a recent ABA ethics opinion (Formal Opinion 468) interpreting the Model Rule counsels that a selling lawyer can remain in practice on an interim basis to facilitate the transition of the practice. RPC 1.17(d) prohibits fee increases “by reason of the sale.”

Under RPC 1.17(c)(2), clients are free to choose whether they will stay with the purchaser or move their work elsewhere.

Comment 6 to RPC 1.17 makes plain that a purchaser cannot “pick and choose” among the selling lawyer’s clients by simply selecting the most lucrative: “The prohibition against sale of less than an entire practice area protects those clients whose matters are less lucrative and who might find it difficult to secure another legal practitioner if a sale could be limited to substantial fee-generating matters.” Absent a conflict, therefore, a purchaser must take all of the seller’s clients involved who wish to move.

Comment 7 to RPC 1.17 notes that the identity of clients and matters can normally be disclosed during negotiations with a potential purchaser unless the identity of the client in a particular matter is itself confidential. Comment 7 cautions, however, that providing a potential purchaser with access to client files or the equivalent requires client consent. Comment 7 adds in this regard that “before such information can be disclosed by the seller to the purchaser the client must be given actual written consent.”

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notice of the contemplated sale[.]

Comments 17 through 19 to RPC 1.17 were added last year to outline associated requirements under the LLLT RPCs if some of the work for the clients involved is being (or will be) performed by LLLTs. Of particular note, however, Comment 19 counsels that “[a]n LLLT is not authorized to purchase a law practice that requires provision of legal services outside the scope of the LLLT’s practice.”

The WSBA’s Law Office Management Assistance Program (LOMAP) has a wealth of resources available on the LOMAP section of the WSBA website for lawyers thinking about selling their practices. Private business sale consultants have also expanded their portfolios to include law practice sales.

Other Transition Strategies

In light of the practical constraints with law firm sales, some lawyers are transitioning their practices through the more traditional mechanism of bringing younger lawyers into their firms and then taking the equivalent of “goodwill” out through structured retirement payments. This is, in essence, a truncated version of the approach that larger law firms have traditionally used.

The advantage with this more informal method is that it allows both the older and younger lawyer to gauge whether the particular practice is a good fit for both themselves and their clients. The disadvantage is that this very lack of formality means that, if things don’t work out, there is the possibility that at least some of the clients involved may decide to leave with the younger lawyer. The leading ABA ethics opinion on lawyers changing firms — Formal Opinion 99-414 — emphasizes that clients are always free to choose who they want to represent them. Washington law makes this same general point, with the Supreme Court concluding in *Barr v. Day*, 124 Wn.2d 318, 329, 879 P.2d 912 (1994): “Unlike general contract law, under a contract between an attorney and a client, a client may discharge the attorney at any time with or without cause.”

Moreover, outside the context of formal law firm sales or payment of retirement benefits, RPC 5.6(a) generally prohibits restrictive covenants on departure from a law firm. WSBA Advisory Opinion 2118 (2006), for example, found that a non-compete in a law firm employment agreement would violate RPC 5.6(a). Advisory Opinion 2118 concluded that the rationale advanced in Comment 1 to RPC 5.6 applied because the non-compete involved would limit client choice. Although the opinion did not comment on civil enforceability, the Supreme Court in *LK Operating, LLC v. Collection Group, LLC*, 181 Wn.2d 48, 85, 331 P.3d 1147 (2014), observed that “[w]e have previously and repeatedly held that violations of the RPCs or the former Code of Professional Responsibility in the formation of a contract may render that contract unenforceable as violative of public policy.” The Supreme Court in *LK Operating* went on to outline the general factors to be employed in assessing whether a particular violation of the RPCs translates into contractual unenforceability, concluding (at 87) that “[t]he underlying inquiry in determining whether a contract is unenforceable because it violates public policy is whether the contract itself
is injurious to the public.” Given the rationale outlined by Advisory Opinion 2118 and Comment 1 to RPC 5.6, it would not be surprising to have a non-compete held unenforceable in the law firm employment context. If a firm lawyer leaves who is a partner or shareholder (or the firm dissolves), the respective rights of the departing lawyer and the firm are generally construed under a blend of contract (the partnership, shareholder and/or employment agreements involved) and statutory (the relevant partnership or professional corporation statutes) law (See, e.g., Dixon v. Crawford, McGillard, Peterson & Yelish, 163 Wn. App. 912; McCormick v. Dunn & Black, P.S., 140 Wn. App. 873, 167 P.3d 610 (2007)). Again, it would not be surprising to have a non-compete held unenforceable with a departing partner or shareholder either (unless falling under the “retirement” exception to RPC 5.6(a)). In Oregon, for example, similar provisions have been held unenforceable on public policy grounds based on the corresponding professional rule there (See Gray v. Martin, 663 P.2d 1285 (Or. App. 1983)).

**Summing Up**

RPC 1.17 can provide an important vehicle for lawyers with small firm or solo practices to move into full or partial retirement. At the same time, the practical dynamics may suggest that a more traditional route of bringing a younger lawyer into a practice and then arriving at a suitable retirement plan formula may be a more realistic path in many circumstances. NWL

**Mark FuciLe**, of Fucile & Reising LLP, handles professional responsibility, regulatory, and attorney-client privilege matters and law-firm-related litigation for lawyers, law firms, and legal departments. He is chair of the WSBA Committee on Professional Ethics, a past member of the Oregon State Bar’s Legal Ethics Committee, and a member of the Idaho State Bar Professionalism & Ethics Section. He can be reached at 503-224-4895 and mark@frllp.com.
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CALL TO DUTY
Justice Charlie Wiggins Talks About His Military Background and What Led Him to the Field of Law

Justice Charlie Wiggins was the son of a career warrant officer and grew up in an Army family. He attended West Point (elementary school, that is). With the help of a ROTC scholarship, he attended Princeton University, where he graduated magna cum laude and Phi Beta Kappa. He spent the next four years in the Army Military Intelligence Corps, leaving as a captain. While in the Army, Justice Wiggins was able to attend night school, earning a master’s degree in business administration. The G.I. Bill helped him to attend Duke Law School, where he graduated in 1976.

Justice Wiggins was admitted to the Bar in 1976 and focused primarily on representing clients in appeals, both civil and criminal, in the State Supreme Court, the State Court of Appeals, the Ninth Circuit Court of Appeals, and once as co-counsel in the U.S. Supreme Court, in addition to trying cases in several different counties throughout Washington. Justice Wiggins practiced with a small Seattle law firm at the time known as Edwards, Sieh, Wiggins & Hathaway. He served as a judge on Division Two of the Washington State Court of Appeals, the Ninth Circuit Court of Appeals, and once as co-counsel in the U.S. Supreme Court, in addition to trying cases in several different counties throughout Washington. Justice Wiggins practiced with a small Seattle law firm at the time known as Edwards, Sieh, Wiggins & Hathaway. He served as a judge on Division Two of the Washington State Court of Appeals, following which he established a small firm on Bainbridge Island handling exclusively appellate cases. He has also served as a pro tem superior court judge in a number of cases in King and Jefferson counties and as a pro tem district court judge in Kitsap County. Justice Wiggins was elected to the Washington Supreme Court in 2010. Throughout his career, Justice Wiggins has received many awards and recognitions for his outstanding service to the legal community.

Why did you go into the military?
I graduated from high school in 1965. It was pretty clear at that time that young men were likely to be called to military service, barring an education deferral, medical exemption, or some other reason for not serving. Bowing to the almost inevitable, I applied for and was awarded an ROTC scholarship, which was a great help in financing my college education. With the scholarship augmented by working summers and part-time during the school year, I was able to pay for school. ROTC turned out to be a good decision: they instituted the lottery system for the draft. Out of 365 days in the year, my birthday was assigned a single-digit number, meaning I would have been drafted if I had not volunteered.

What branch of military did you join and why?
My dad was a career Army man, serving from the time his National Guard unit was activated in 1940 until he retired in 1968. I grew up in the Army and was comfortable with it.

How did that impact your life?
When I was 13 to 15, my dad was stationed at West Point and we lived on the post. The motto of the military academy is “Duty, Honor, Country.” Growing up in the Army and serving in the Army fixed these concepts as important goals and aspirations, and they still have a strong influence on my decisions.

My first real experience with the legal profession (other than my grandmother having been a legal secretary in the days of carbon paper) was as a juror in Army courts martial. I was very favorably impressed with the fairness of these courts martial, which turned my thoughts towards the possibility of attending law school after the Army. In addition, I had enough time (and energy) to attend evening classes and earned a master’s in business administration, which in turn encouraged me to go to law school.

What were skills you picked up that you still use now?
While I was in high school, my dad got me into an Army class on how to program IBM card data processing machines. These machines were exclusively run by IBM punch cards. They were programmed by hard-wiring a board, much like an old-fashioned telephone operator connected two different telephones by manually inserting the two ends of a wire into the appropriate sockets. This led me to take an early computer programming class, and I spent my Army years designing and writing computer programs for a first-generation computer (vacuum tubes, 1K of memory); a second-generation computer that was a mainframe of giant tape drives filling an entire room (transistors, 16K of memory); and finally, a third-generation computer (removable hard drive that resembled a bank of LP records).

None of that translated directly into today’s computers, but it made me appreciate computers and their ability and made me eager to embrace the uses of personal computers in the legal profession when they were developed in the 1980s.

What motivated you to be a judge?
I always thought that judicial service...
would be the pinnacle of a career in the law because it offered the opportunity to serve and to help shape the law, and therefore society, into a more just system. I had no idea how to pursue that possibility, but as I gained experience, a number of friends suggested that I seek judicial office and helped to point me in the right direction.

How does your service experience impact your perspective on the bench?

Military service made me appreciate the importance of public service in the many forms it takes in the legal profession. It also made me respectful of authority and the importance of following rules in maintaining an ordered and peaceful society. It imparted a strong sense of hierarchy, of respecting people in positions of authority.

What are the biggest issues you see in the veterans community?

The past two decades of more or less continuous war have left us with many veterans with serious physical and mental issues. As a nation, we must continue to support these men and women and to help reintegrate them into civilian life.

What impact do you believe lawyers can make to serve veterans?

Employers of lawyers, whether in the private or public sector, should recognize the skills and maturity acquired by service personnel and maintain a positive, even preferential, attitude towards hiring veterans. Insofar as possible as part of our obligation to provide pro bono legal services, we should seek out opportunities to help veterans. Most of all, we should respect and thank veterans for their invaluable service to our nation. Let it not be said of us that we are guilty of the hypocritical attitude condemned by Rudyard Kipling in his poem “Tommy” (the British nickname equivalent to G.I. Joe), thanking our veterans only in time of need and crisis, “when the troopship’s on the tide”:

For it’s Tommy this, an’ Tommy that,
an’ “Tommy, wait outside”;
But it’s “Special train for Atkins” when
the trooper’s on the tide,
The troopship’s on the tide, my boys,
to the troopship’s on the tide,
O it’s “Special train for Atkins” when
the trooper’s on the tide.

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Chris Lybeck
is an assistant counsel in the U.S. Navy Office of General Counsel practicing primarily contract and employment law. In his spare time, he enjoys reading, hiking, and spending time with his wife and son. All opinions expressed in this article are the author’s and do not represent the views of the U.S. Navy or the United States Government. Lybeck can be reached at christopher.lybeck@navy.mil.
CHARITY ANASTASIO, practice management advisor in the WSBA Law Office Management Assistance Program (LOMAP), talks with lawyers about how to open a law office, run it better once it’s up, and close it down when it’s time. She answers your questions on practice management with practical advice and action steps that you can apply today. Send your questions to charitya@wsba.org.

Advice given does not represent an official view of the WSBA. Discussion of a specific product on this page does not constitute an endorsement by the WSBA.

We are revising our compensation plan for attorneys and staff and would like to know our region’s average. Has the WSBA done a financial survey of Washington lawyer salaries that will help us with this information?

Some bar associations do a survey like this — Wisconsin and Oregon, for example — but Washington does not. A solution, though, and one that very possibly offers more up-to-date and accurate data, is using www.indeed.com’s regional and professional search capacity to evaluate what the trends are in your geographic area. Another solution may be taking the data from another bar association, like Oregon, and using a similarly situated geographical area as a comparison — Portland for Seattle and Eugene for Spokane, maybe? I would also refer a person back to Rule of Professional Conduct 1.5 that discusses about 10 factors which make up the analysis for a reasonable fee, along with the business’s overhead and realization rates, to fully determine if the firm’s compensation is fair. Check out the new edition of Compensation Plans from the LOMAP lending library or buy it from the ABA for thorough information on how to evaluate and improve a compensation plan.

Further reading:

Our firm is working on revising its document retention policy. Your online guide to best practices was great, but it didn’t help us with some odd types of files like guardian ad litem work. Can you tell us what the retention period should be for these types of files?

I am so pleased to hear you found the WSBA’s guide on file retention (downloadable at http://tinyurl.com/BestPracDocRetention). The guide offers methods for culling and closing a file, explains that keeping them electronically is sufficient for file retention purposes, identifies basic timelines for certain practice areas, and offers some considerations when creating your policy.

You are essentially conducting an audit of your records management system and making improvements. Every firm should regularly do this. When you get a file that does not fit within the regular sorts, and there is little to no guidance on what the retention period should be, then I recommend you look to ARMA International’s (Association of Records Managers and Administrators) Generally Accepted Recordkeeping Practices (or GARP®) that give you a standard to apply. The GARP is a set of principles or lenses to apply to your document management system and track if you attain them. It asks you (in much more detail) to evaluate whether the system can show accountability, transparency, integrity, protection, compliance, availability, retention, and disposition of the documents. It is important to think about such things as the client’s potential need for these documents in the future and any applicable statutes of limitations that govern a dispute between you and the client. And in these “one-off” cases, check for and follow any statutory or court-imposed file retention obligations. If you devise a plan that can

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hit all these appropriately, then I believe you can confidently say that your retention period makes sense. ARMA can be found online at www.arma.org.

Another excellent resource is *The Lawyer’s Guide to Records Management and Retention* (2nd Edition) by George C. Cunningham (2014), in the LOMAP lending library and ABA store. If you buy, don’t forget you can get a 15% discount on ABA publications through your member benefits.

**My firm is hiring a new lawyer and one of our lawyers is joining another firm. What do we need to be aware of and do?**

I can tell the economy is improving because calls like this one have shot up recently. Folks are moving around, which means law offices and lawyers must think about informing clients appropriately, transitioning files properly, giving client lists to the leaving lawyer so she can input it into the new firm’s conflicts system and screening procedures to avoid imputation of conflicts, among other things. There are a few baseline recommendations: If you are the departing lawyer, tell your firm before your clients. If you are the firm, tell the clients jointly with the departing lawyer, in writing, that this lawyer is leaving and the client can go with the lawyer, stay with the firm, or choose another lawyer altogether. Have screening procedures in place and input the new lawyer’s conflicts data thoroughly before a new lawyer starts so that no one is caught unaware with an imputed conflict that forces actions the firm does not want to take. Finally, breaking up is hard to do, but try to do it as civilly and professionally as possible. Avoid fighting over clients, stealing clients, withholding necessary information, locking former colleagues out of offices, and all of the other nasty moves. It is not worth the damage it will do to reputation and relationships in the long run. NWL.

**Focused on our clients’ objectives. Whatever the course.**

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**Charity Anastasio** is the practice management advisor for the WSBA Law Office Management Assistance Program. She attended UW as an undergrad and Seattle University for her law degree. She can be reached at charitya@wsba.org.

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They called him “Fish.” For anyone other than a swimmer, the nickname would be anything but a compliment. But for Dale, the captain of his college swim team, it was a term of endearment. In his life he would earn many more compliments and accolades for his achievements, not only on his own behalf but more importantly, what he achieved on behalf of others.

Dale, in his youth, suffered a loss that left a void in his life and shaped who he was. He lost his father when he was 12. The family lived in Walla Walla and his mother had to take over the wheat and fruit farm and also the jukebox business that his father had run. Dale, the oldest of three children, had to shoulder more responsibility than a 12-year-old should have to deal with. Responsibility and duty were ingrained in Dale from a young age.

In addition to excelling in swimming in high school, Dale, even then, was known as a “big talker” — again, as a compliment. He excelled in English and public speaking. His high school counselor said he should pursue the law. He heeded that advice.

His first stop was the University of Idaho, where he was voted the most valuable member of the swimming team. He was president of his fraternity house and named one of the top 10 graduating seniors. And this should come to no surprise to anyone who knew Dale: he was also a “yell-king.” Dale would spend his life not only fighting for those who had little but also to cheer (and yell in support of) his colleagues, friends, and loudest of all, his kids and grandkids.

Dale was able to go to college through the ROTC program. After graduating from the George Washington Law School in 1960 (while, of course, serving as student body president), he served three years in the Air Force as a judge advocate general. He was stationed in Japan and described that time as “one-and-a-half years of legal experience and five-and-a-half years of traveling experience.” Dale, a Walla Walla kid, got the travel bug that bit him hard. He, his wife Doris, and their daughter, Dana, and son, Todd, would later travel around the world taking multiple trips exploring countries in Asia, Africa, and Europe.

Dale returned to Washington and joined the U.S. Attorney’s Office for three years before joining Gordon Thomas Honeywell in Tacoma where, except for three years, he remained for his entire career.

Dale developed into one of the region’s top real estate, municipal bond, and business attorneys. He authored chapters in the WSBA Real Property Deskbook, wrote articles for various publications, and taught. He taught CLEs. He taught as an adjunct professor at UPS Law School (now Seattle University School of Law). He taught law in Poland and Russia. His clients not only valued his opinions but also loved him for the person he was. One client had a “Dale Carlisle” doll made for Dale — a doll about 3 feet tall that looked like Dale — well, at least had a pretty good resemblance. Dale displayed it with humor and pride in his office.

Dale was a busy man. He served 18 years on the Puget Sound Legal Assistance Foundation Board, including five years as president. He championed access to the courts for those who couldn’t afford a lawyer when it wasn’t popular to do so. He served on the WSBA Board of Governors before being its president. He was president of the Western States Bar Conference, the Tacoma City Club, and the Tacoma Public Library Board. He was the managing partner of Gordon Thomas Honeywell. And yet, as Dana and Todd will tell you, he never missed any of their sporting events, their school events, anything that was special to them. And when he had grandkids, he didn’t miss any of their events, either. Dale was always there for his wife, Doris, who had suffered a stroke early on in their marriage and they traveled the world together. Dale knew what was most important in life.

Dale Carlisle was “Fish” — turns out he was a big fish. And we, his law partners, his community, his profession, and his family, will sorely miss him.
Brad Furlong began his term as WSBA Governor for District 2 in September 2013. His practice concentrates on healthcare, municipal, real estate, and land use law. Furlong is a member of the Washington Supreme Court Judicial Ethics Committee and teaches professional ethics for the WSBA. He acts as Skagit County hearing examiner, pro tem, and has served as judge pro tem in both superior and district courts.

Furlong is general counsel to Skagit Valley Hospital and Skagit Regional Clinics, the Port of Skagit County, and the Skagit County Public Facilities District. He has been town attorney for La Conner since 1988, the city attorney for Ancortes since 2008, and is general counsel for the North Sound Regional Support Network and the Skagit Land Trust.

Furlong graduated from the University of Puget Sound Law School in 1982 after attending the University of California–Davis, and graduating with an undergraduate degree in broadcast journalism from The Evergreen State College.

Why did you want to serve on the WSBA Board of Governors?

After 30-plus years of practice, I appreciated that the profession had given me a comfortable living to provide for my family and immense satisfaction providing individuals and organizations. I realized that to a certain extent, my career was made possible by the WSBA — directly through its regulatory functions and somewhat indirectly through its professional support activities and services. Serving on the Board seemed like a good way to give back and to help chart the course forward as the profession faces inevitable changes.

What is the most important lesson you have learned about WSBA members since you’ve been on the Board?

We need to communicate fully with our members, listen to their concerns and ideas, and act in the best interests of those members, the entire WSBA organization, and the public. This requires careful listening and consideration, creativity, and, ultimately, the courage to make decisions.

What decision or accomplishment are you the most proud of from your service on the Board?

I am most proud of the process we have developed on the Personnel Committee for evaluation of our excellent executive director and the process the Board members have undertaken with our staff to become a high-functioning board working cooperatively and constructively with the staff on issues facing the profession and the organization.

What has been the most difficult decision you had to make as a governor, and why?

Choosing among candidates for at-large Board positions, president, and other appointments. All the candidates are highly qualified, courageous, and energetic professionals, and choosing one instead of another is nearly impossible.

Can you share one thing we may not know about you?

I am not too mysterious. It should be obvious that my loves are my delightful family and cycling, whether on the road or on a trail.

Take 5 lets you learn a little more about your Board of Governors. If you have further questions for Gov. Brad Furlong, he can be reached at bef@furlongbutler.com.
These notices of imposition of disciplinary sanctions and actions are published pursuant to Rule 3.5(c) of the Washington Supreme Court Rules for Enforcement of Lawyer Conduct. Active links to directory listings, RPC definitions, and documents related to the disciplinary matter can be found by viewing the online version of NWLawyer at http://nwlawyer.wsba.org or by looking up the respondent in the lawyer directory on the WSBA website (www.wsba.org) and then scrolling down to “Discipline History.” As some WSBA members share the same or similar names, please read all disciplinary notices carefully for names, cities, and bar numbers.

**Disbarred**

Liam Aneurin McCann (WSBA No. 30865, admitted 2000), of Kirkland, was disbarred, effective 12/08/2015, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer), 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation), 2.2 (Expediting Litigation), 8.1 (Bar Admission and Disciplinary Matters), 8.4(c) Dishonesty, Fraud, Deceit or Misrepresentation, 8.4(d) Prejudicial to the Admin of Justice. 8.4(i) Moral Turpitude, Corruption or Disregard for Rule of Law, 8.4(f) ELC violation. Scott G. Busby acted as disciplinary counsel. Liam Aneurin McCann represented himself. David D. Swartling was the hearing officer. The online version of NWLawyer contains links to the following documents: Hearing Officer’s Decision; Disciplinary Board Declining Sua Sponte Review; and Washington Supreme Court Order.

**Suspended**

Alexander J. Milkie (WSBA No. 40525, admitted 2008), of Seattle, was suspended for 60 days, effective 1/15/2016, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.15A (Safeguarding Property), 5.3 (Responsibilities Regarding Nonlawyer Assistants). Marsha Matsumoto acted as disciplinary counsel. Kurt M. Bulmer represented Respondent. Keith P. Scully was the hearing officer. David B. Condon was the settlement hearing officer. The online version of NWLawyer contains links to the following documents: Order Approving Stipulation; Stipulation to Suspension; and Washington Supreme Court Order.

**Suspended**

Siovhan Ann Sheridan (WSBA No. 34558, admitted 2003), of Tucson, AZ, was suspended for 60 days, all stayed pending successful completion of a three-year probation, effective Jan. 13, 2016, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Chief Hearing Officer. The lawyer’s conduct violated the following Rules of Professional Conduct: 11.1 (Compentence), 5.3 (Responsibilities Regarding Nonlawyer Assistants). Erica Temple acted as disciplinary counsel. Joel Evans Wright and Rosemary J. Moore represented Respondent. The online version of NWLawyer contains links to the following documents: Order Approving Stipulation; Stipulation to Suspension; and Washington Supreme Court Order.

**Interim Suspension**

Frank J. Prohaska (WSBA No. 27589, admitted 1997), of Seattle, is suspended from the practice of law in the state of Washington pending the outcome of disciplinary proceedings, effective 1/20/2016, by order of the Washington Supreme Court. This is not a disciplinary sanction.

**Reprimanded**

Matthew Phillip VanZeipel (WSBA No. 45768, admitted 2013), of Lynnwood, was reprimanded, effective 9/15/2015, by order of the Chief Hearing Officer. The lawyer’s conduct violated the following Rules of Professional Conduct: 11.1 (Compentence), 5.3 (Responsibilities Regarding Nonlawyer Assistants). Erica Temple acted as disciplinary counsel. Joel Evans Wright and Rosemary J. Moore represented Respondent. The online version of NWLawyer contains links to the following documents: Order Approving Stipulation; Stipulation to Reprimand; Notice of Reprimand.

**Admonished**

D. Douglas Titus (WSBA No. 26644, admitted 1997), of Seattle, was ordered to receive an admonition, effective 9/03/2015, by a Review Committee of the Disciplinary Board. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication). Debra Slater acted as disciplinary counsel. Leland G. Ripley represented respondent. The online version of NWLawyer contains links to the following document: Review Committee Order and Admonition.
Opportunities for Service

Interested in Being Interviewed for Appellate Court Vacancies?

Deadline: May 6 for June 9, 2016, interviews

On June 9, 2016, the WSBA Judicial Recommendation Committee (JRC) will interview attorneys and judges interested in being appointed by the Governor to fill potential vacancies on the Washington Supreme Court and Court of Appeals. The JRC’s recommendations are reviewed by the WSBA Board of Governors for consideration when making appointments. To be considered for an interview, complete and submit the questionnaires posted on the JRC webpage at www.wsba.org/jrc by May 6. For more information, visit the JRC webpage.

WSBA Presidential Search

Application deadline: May 2, 2016, 5 p.m.

The WSBA Board of Governors is seeking applicants for the position of WSBA president for 2017–18, who will serve as president-elect in 2016–17. The WSBA member selected will have an opportunity to provide a significant contribution to the legal profession.

Applications for 2017–18 WSBA president will be accepted until 5 p.m. on May 2, 2016, and should be limited to a current résumé, a concise application letter stating interest and qualifications, and no fewer than five or more than 10 references. The Board of Governors will consider endorsement letters received by May 13, 2016. Applications and endorsement letters should be sent to the WSBA Executive Director, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101.

Direct contact with the Board of Governors is encouraged. All candidates will have an interview with the full Board of Governors in open session at the June 3, 2016, Board of Governors meeting in Seattle. Following the interviews, the Board will select the president. Although prior experience on the WSBA Board of Governors may be helpful, there is no requirement that one must have been a member of the Board of Governors or had previous experience in Bar activities. The candidate must be willing to devote a substantial number of hours to WSBA affairs and be capable of being a positive representative for the legal profession. The position is unpaid. Some expenses, such as WSBA-related travel, are reimbursed.

The commitment begins in June 2016, following selection. A one-year term as president-elect will begin at the WSBA APEX Awards on Sept. 29, 2016. The president-elect is expected to attend two-day board meetings held approximately every six to eight weeks, as well as numerous subcommittee, section, regional, national, and local meetings. In September 2017, at the WSBA APEX Awards, the president-elect will assume the office of president. During his or her service, the president-elect and president will also be required to meet with members of the Bar, the courts, the media, and public and legal interest groups, as well as be involved in the Bar’s legislative activities. Appropriate time will need to be devoted to communication by letter, email, and telephone in connection with these responsibilities.

The duties and responsibilities of the president are set forth in the WSBA Bylaws. The Bylaws can be found at www.bit.ly/bylawswsba. For further information, contact Sue Strachan at barleaders@wsba.org or 206-733-5903.

Call for Applications for WSBA Board of Governors At-Large Position

Application deadline: April 15, 2016, 5 p.m.

One of the three at-large positions on the WSBA Board of Governors is up for election. Under WSBA’s Bylaws, the purpose of this position is to increase diversity and representation on the Board, and the position is to be filled by a WSBA member who has “the experience and knowledge of the needs of those lawyers whose membership is or may be historically under-represented in governance, or who represents some of the diverse elements of the public of the State of Washington.”

The Board of Governors will interview candidates and elect the at-large governor at their meeting on June 3 in Seattle, and the governor’s three-year term will begin at the end of the September 29–30 Board meeting. For more information about the position and how to apply, see our website at www.wsba.org/elections. The WSBA Bylaws are posted at www.bit.ly/bylawswsba. Applications will be accepted until 5 p.m. on April 15, 2016. Letters of endorsement will be accepted through May 13, 2016. If you have questions, please contact WSBA Diversity Program Manager Joy Williams at joyw@wsba.org or 206-733-5952.

WSBA News

2016 License Renewal and MCLE Information

Licensing Suspensions. If any portion of your license fee, LFCP assessment, or late fee remains unpaid, or if required certifications have not been filed by April 26, 2016, a recommendation for suspension will be submitted to the Supreme Court.

MCLE Suspensions. If you were due to complete MCLE requirements for 2013–15 (Group 3) and have not done so by April 26, 2016, a recommendation for suspension will be submitted to the Supreme Court.

Judicial Members. If you are still eligible for judicial membership and you have not filed your renewal by April 26, 2016, your eligibility to transfer to another membership class upon leaving service as a judicial officer will not be preserved. If you are no longer eligible for judicial membership, you must notify the Bar within 10 days and, if you want to continue your affiliation with the WSBA, you must change to another membership class within the Bar.

Celebrate the Best: Nominations Now Being Accepted for the WSBA APEX Awards

Nomination deadline: April 15, 2016

The WSBA is seeking nominations for its APEX Awards (Acknowledging Professional Excellence), which celebrate the best in integrity, professionalism, diversity, service, justice and courage. Do you know someone who is making a positive difference in the legal community or the legal profession? Please consider nominating him or her for a 2016 WSBA APEX Award. You’ll find the list of awards and the nomination form on the WSBA website at www.wsba.org/awards. Winners will be selected at the June 3 Board of Governors meeting and notified shortly thereafter. The awards will be presented.
Legal Community

Announcing the WYLC’s Public Service and Leadership Award

This year, the Washington Young Lawyers Committee will honor five new or young lawyers with the Public Service and Leadership Award. This is a great opportunity to recognize the achievements of a new or young lawyer. Nominate someone who you think deserves to be recognized for their long-term public service and extraordinary contribution to the community. Applications are due July 15. Award recipients will be selected in August. Learn more at http://bit.ly/ylcaward.

Join the WSBA New Lawyers List Serve

This list serve is a discussion platform for new lawyers of the WSBA. In addition to being the best place to receive news and information relevant to new lawyers, this is a place to ask questions, seek referrals, and make connections with peers. To join, email newlawyers@wsba.org.

Take the Call to Duty Pledge

The WSBA Call to Duty initiative is designed to inform, inspire, and involve you in meeting the legal needs of veterans and their families. Take the Pledge and commit to serving Washington veterans in 2016. As part of the pledge, we will support you by providing resources both legal and non-legal to serve veterans; education and CLEs; and the chance to answer the various calls to duty in serving veterans. You can sign up to take the pledge at www.mywsba.org/CallToDutyPledge.aspx.

ALPS Attorney Match

Attorney Match is a free online networking tool made available through the WSBA-endorsed professional liability partner, ALPS. This resource allows attorneys to set up a profile and indicate whether they are looking for or available to act as a mentor. Mentorship programs that meet requirements are now eligible for MCLE credits.

The WSBA provides information and links to the ALPS Attorney Match online system as a service to the legal community. For more information, email mentorlink@wsba.org.

New MCLE Rule Takes Effect in 2016

The new MCLE rule, which took effect on Jan. 1, 2016, gives lawyers the opportunity to customize their continuing education to best meet their needs. Lawyers will be able to take advantage of new MCLE-approved course subjects and activities to address important topics like lawyer-client issues, office management, personal and professional development, and stress management. The increased flexibility is designed to create more meaningful learning opportunities to support excellent lawyer-client relationships and office practices, improving work-life balance, job satisfaction, and career stability.

At least 6 credits must be in ethics and professional responsibility. At least 15 credits must be from attending approved courses in the subject of law and legal procedure. The remaining 24 credits can be earned in the above categories, as well as in new subject areas and activities that include professional development, personal development and mental health, office management, improving the legal system, or participating in a structured mentoring program approved by the MCLE Board. There is no live credit requirement. The new rule can be found at www.wsba.org/licensing-and-lawyer-conduct/mcle/april-11-rules-and-regulations.

WSBA Board of Governors Meetings

April 15–16, Bremerton; June 3, Seattle

With the exception of the executive session, Board of Governors meetings are open, and all WSBA members are welcome to attend. RSVPs are appreciated but not required. Contact Margaret Shane at 206-727-8244, 800-945-9722, ext. 8244, or margarets@wsba.org. The complete Board of Governors meeting schedule is available on the WSBA website at www.wsba.org/bog.

Volunteer Custodians Needed

The WSBA is seeking interested lawyers as potential ELC 7.7 volunteer custodians. An appointed custodian is authorized to act as counsel for the limited purpose of protecting a client’s interests whenever a lawyer has been transferred to disbarment, is suspended, or is inactive status, suspended, disbarred, dies, or disappears and no person appears to be protecting the clients’ interests. The custodian takes possession of the necessary files and records and takes action to protect clients’ interests. The custodian may act with a team of custodians and much of the work may be performed by supervised staff. If the WSBA is notified of the need for a custodian, the WSBA would affirm the willingness and ability of a potential volunteer and seek their appointment as custodian. Costs incurred may be reimbursed. Current WSBA members of all practice areas are welcome to apply. Contact Sandra Schilling at sandras@wsba.org, 206-239-2118 or 800-945-9722, ext. 2118 or Darlene Neumann at darlenen@wsba.org, 206-733-5923 or 800-945-9722, ext. 5923.

Need to Know

at the WSBA APEX Awards in Seattle on Sept. 29. Help us recognize the best in the profession and legal community – submit your nomination today.

The WSBA Call to Duty initiative is designed to inform, inspire, and involve you in meeting the legal needs of veterans and their families. The increased flexibility is designed to create more meaningful learning opportunities to support excellent lawyer-client relationships and office practices, improving work-life balance, job satisfaction, and career stability.

At least 6 credits must be in ethics and professional responsibility. At least 15 credits must be from attending approved courses in the subject of law and legal procedure. The remaining 24 credits can be earned in the above categories, as well as in new subject areas and activities that include professional development, personal development and mental health, office management, improving the legal system, or participating in a structured mentoring program approved by the MCLE Board. There is no live credit requirement. The new rule can be found at www.wsba.org/licensing-and-lawyer-conduct/mcle/april-11-rules-and-regulations.

Announcing the WYLC’s Public Service and Leadership Award

This year, the Washington Young Lawyers Committee will honor five new or young lawyers with the Public Service and Leadership Award. This is a great opportunity to recognize the achievements of a new or young lawyer. Nominate someone who you think deserves to be recognized for their long-term public service and extraordinary contribution to the community. Applications are due July 15. Award recipients will be selected in August. Learn more at http://bit.ly/ylcaward.

Join the WSBA New Lawyers List Serve

This list serve is a discussion platform for new lawyers of the WSBA. In addition to being the best place to receive news and information relevant to new lawyers, this is a place to ask questions, seek referrals, and make connections with peers. To join, email newlawyers@wsba.org.

Take the Call to Duty Pledge

The WSBA Call to Duty initiative is designed to inform, inspire, and involve you in meeting the legal needs of veterans and their families. Take the Pledge and commit to serving Washington veterans in 2016. As part of the pledge, we will support you by providing resources both legal and non-legal to serve veterans; education and CLEs; and the chance to answer the various calls to duty in serving veterans. You can sign up to take the pledge at www.mywsba.org/CallToDutyPledge.aspx.

ALPS Attorney Match

Attorney Match is a free online networking tool made available through the WSBA-endorsed professional liability partner, ALPS. This resource allows attorneys to set up a profile and indicate whether they are looking for or available to act as a mentor. Mentorship programs that meet requirements are now eligible for MCLE credits.

The WSBA provides information and links to the ALPS Attorney Match online system as a service to the legal community. For more information, email mentorlink@wsba.org.

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Legal Community

Association of Family and Conciliation Courts Conference in Seattle, June 1–4


Ethics

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
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Access WSBA seminar coursebooks.
The All-Publications Library and Practice Area Libraries include selected current coursebooks and access to an archive of hundreds more – not available electronically anywhere else!

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UPCOMING WSBA CONFERENCES AROUND THE STATE

MAY 5-7, 2016
Environmental and Land Use Law Section Midyear Conference
Suncadia Resort • Cle Elum

MAY 6, 2016
Senior Lawyers Section Annual Conference
Seattle Airport Marriott • SeaTac

JUNE 17-19, 2016
Real Property, Probate and Trust Section Midyear Conference
Suncadia Resort • Cle Elum

JUNE 24-26, 2016
Family Law Section Midyear Conference
Vancouver Hilton • Vancouver, WA

JULY 22-23
Solo and Small Firm Conference
Washington State Bar Association Conference Center • Seattle
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.

WSBA Lawyers Assistance Program (LAP)

Work + Wellness Day: Preventing Burnout and Promoting Mental Health in the Legal Profession
Join us to learn about burnout in the legal profession and gain strategies on how to manage stressors relating to addiction and depression. The presenters include Chris Bundy, M.D., from the Washington Physicians Health Program and Katherine Bender, Ph.D., from the Dave Nee Foundation. You can participate online or in person, but space is limited. April 26; 3 CLE credits; $49. The first presentation can be viewed separately as a Legal Lunchbox. Sign up online at wsbacle.org.

WSBA Connects Offers Free Counseling
WSBA Connects provides free counseling in your community. All Bar members are eligible for three free sessions on topics as broad as work stress, career challenges, addiction, anxiety, and other issues. By calling 800-765-0770, a telephone representative will arrange a referral using APS’s network of clinicians throughout the state of Washington. We encourage you to make the most of this valuable resource.

Drop-In Job Search Group
Join our weekly job group held every Monday at the WSBA offices. It’s a chance to network with other attorneys and learn job search skills. We cover methods of looking for work online, networking, elevator pitches, cover letters and résumés, and ways to identify the best path for oneself within the law. Whether you are new to practice, making a mid-career transition, or are thinking about leaving the law, you are welcome to participate. Contact Dan Crystal at danc@wsba.org. RSVP is required.

Mindful Lawyers 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 Mondays on the 6th floor of WSBA in the LAP group room from noon to 12:45 p.m. For more information, contact Greg Wolk at greg@rekhiwolk.com.

Judges Assistance Program
The purpose of the Judges Assistance Program (JASP) is to prevent or alleviate problems before they jeopardize a judicial officer’s career. JASP provides confidential support and treatment for judges struggling with mental health issues, addiction, physical disability, or the loss of a loved one among other topics. If you are a judge or are concerned about a judge, you are encouraged to contact the Judges Assistance Program at 206-727-8268 or at jasp@courts.wa.gov.

The “Unbar” Alcoholics Anonymous Group
The Unbar is an “open” AA group for attorneys that has been meeting for over 25 years. Meetings are held Wednesdays from 12-1:30 p.m. at the Skinner Building at 1326 Fifth Ave., 7th Floor. If you are seeking a peer advisor to connect with and perhaps walk you to this meeting, the Lawyers Assistance Program can arrange this and can be reached at 206-727-8268.

WSBA Law Office Management Program (LOMAP)

LOMAP Lending Library
The WSBA LOMAP and LAP Lending Library is a service to WSBA members. We offer the short-term loan of books on health and well-being as well as 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. 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, contact lomap@wsba.org.

Casemaker Online Research
Casemaker is a powerful online research library provided free to WSBA members. Read about this legal research tool on the WSBA website at www.wsba.org/casemaker. As a WSBA member, you already receive free access to Casemaker. Now, we have enhanced this member benefit by upgrading to add Casemaker+ with CaseCheck+ for you. Just like Shepard’s and KeyCite, CaseCheck+ tells you instantly whether your case is good law. If you want more information, you can find it on the Casemaker website, or call 877-659-0801 and a Casemaker representative can talk with you about these features. For help using Casemaker, call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA.

Learn More about Case-Management Software
The WSBA Law Office Management Assistance Program 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 lomap@wsba.org.

Usury Rate
The average coupon equivalent yield from the first auction of 26-week treasury bills in March 2016 was 0.483%. Therefore, the maximum allowable usury rate for April is 12%.
WSBA Reintroduces the Professionalism In Practice: PIP Award

Every day we meet individuals who exemplify professionalism. Their acts of civil and professional conduct serve as models for the rest of us to follow.

WSBA encourages you to recognize members of the legal community who adhere to high standards of behavior that advance professionalism. Bring recognition to a deserving individual by nominating him or her today for a WSBA PIP Award.

Nominations, which are always being accepted, may be made by members of the legal community or the public.

Find the short nomination form as well as a link to the WSBA Creed of Professionalism at www.wsba.org/professionalism. You can also learn more about other professionalism efforts.

Make your nomination today and award those who deserve recognition for their professionalism. All winners will be featured in NWLawyer.

Buckingham, LaGrandeur & Williams, Inc., p.s.

is pleased to announce that effective January 1, 2016,

Walt Williams

has become a partner of the firm, focusing on Domestic Relations.

Our experienced attorneys are dedicated to dispute resolution services, personal injury and domestic relation matters.

Buckingham, LaGrandeur & Williams, Inc., p.s.

321 Burnett Avenue, Suite 200
Renton, WA 98057
Tel: 425-228-6662 • Fax: 425-271-9650

www.boydbuckingham.com

McGavick Graves, p.s.

is pleased to announce that

Ryen L. Godwin

is now a Shareholder with the firm. Mr. Godwin counsels clients in a variety of industries including distribution, development, petroleum, public and private construction projects, logging, utility services, and commercial fishing.

We are also pleased to announce that

James R. Blankenship

and

Rishabh R. Agny

have joined the firm as Associate Attorneys. Mr. Blankenship and Mr. Agny represent the firm’s clients in civil litigation, business, and domestic relations.

McGavick Graves, p.s.

1102 Broadway, Suite 500, Tacoma, WA 98402
253-627-1181

www.mcgavickgraves.com
**Landerholm, P.S.**

is pleased to announce that

Roy D. Pyatt

has been elected Shareholder.

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**Landerholm, P.S.**

805 Broadway Street, Suite 1000

Vancouver, WA 98660

Tel: 360-696-3312

Fax: 360-696-2122

Email: clientservices@landerholm.com

www.landerholm.com

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**Corr Cronin Michelson**

**Baumgardner Fogg & Moore**

is pleased to announce that

Eric Lindberg

has joined the firm as an associate. Mr. Lindberg’s practice focuses on all aspects of civil and intellectual property litigation, and he has specific experience in patent, trademark, copyright, and trade secret matters. Mr. Lindberg served as a law clerk for the Honorable Betty Binns Fletcher on the U.S. Court of Appeals for the Ninth Circuit and for the Honorable Ann Schindler on the Washington State Court of Appeals, Division One. He brings both excellent credentials and a depth of experience to Corr Cronin, expanding the firm’s capability in intellectual property and patent litigation.

Learn more at www.corrcronin.com.

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**Karen Bertram**

Tim Burkart

Jay Hereford

and

Ted Kutscher

welcome

Anna M. Cashman

to membership in the firm effective January 1, 2016

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**Kutscher Hereford Bertram Burkart PLLC**

Attorneys at Law

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Hanis Irvine Prothero, PLLC

is pleased to announce that

Brittan E. Schwartz

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. Ms. Schwartz graduated from Seattle University School of Law in 2012. She received her Bachelor of Arts degree from the University of Washington in 2007.

Hanis Irvine Prothero, PLLC
6703 South 234th Street, Suite 300
Kent, WA 98032
Tel: 253-520-5000 • Fax: 253-893-5007
www.HIPLawfirm.com

Hanis Irvine Prothero, PLLC

is pleased to announce that

Erik R. Olsen

has become a Partner with the firm effective March 1, 2016.

Erik R. Olsen will continue to practice in the areas of Personal Injury, Criminal Defense and Traffic Defense.

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6703 South 234th Street, Suite 300
Kent, WA 98032
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www.HIPLawfirm.com

Mills Meyers Swartling P.S.

is pleased to announce that

John Fetters

has become a shareholder in the firm.

John represents individuals and businesses in a broad range of civil litigation matters, including business and complex commercial litigation, insurance coverage, municipal liability, personal injury, product liability, and aviation law. John has tried cases to verdict in state and federal court and has handled many successful arbitration proceedings. Super Lawyers Magazine selected John to its “Rising Stars” list in 2013, 2014, and 2015.

We are also pleased to announce that

Brett T. MacIntyre

has joined the firm as an associate.

Brett’s practice focuses on the representation of individuals, businesses, and municipalities in civil litigation matters. Brett joined the firm after two-and-a-half years at the Attorney General’s Office, where he represented the State of Washington in trial and appellate proceedings involving abused and neglected children. In 2013, he graduated from Seattle University School of Law, where he served as an Associate Editor of the law review.

Mills Meyers Swartling P.S.
1000 Second Avenue, Suite 3000
Seattle, WA 98104
Tel: 206-382-1000
www.millsmeyers.com
CLE Calendar

CLE seminars are subject to change. Please check with providers to verify information. To announce a seminar, send information to clecalendar@wsba.org. Information must be received by the first day of the month for placement in the following issue’s calendar.

**BUSINESS LAW**

*Northwest Securities Institute*
April 29–30, Seattle and webcast. CLE credits pending. Presented by the WSBA in partnership with the WSBA Business Law Section; 800-945-WSBA or 206-443-WSBA. www.wsba.org.

*Buisness Law Section Midyear*
May 26, Seattle and webcast. CLE credits pending. Presented by the WSBA in partnership with the WSBA Business Law Section; 800-945-WSBA or 206-443-WSBA. www.wsba.org.

**CONSTRUCTION LAW**

*Construction Law Section Annual Midyear Seminar*
June 10, Seattle and webcast. CLE credits pending. Presented by the WSBA in partnership with the WSBA Construction Law Section; 800-945-WSBA or 206-443-WSBA.

**CREDITOR DEBTOR**

*29th Annual Northwest Bankruptcy Institute*
April 8–9, Seattle. CLE credits pending. Co-sponsored by Oregon State Bar and WSBA Creditor Debtor Rights Section. 503-431-6413 or 800-452-8260, ext. 413. osbar.inreachce.com.

**ENVIRONMENTAL/LAND USE LAW**

*Environmental and Land Use Law Section Midyear Meeting & Conference*
May 5–7, Cle Elum. CLE credits pending. Presented by the WSBA in partnership with the WSBA ELUL Section; 800-945-WSBA or 206-443-WSBA. www.wsba.org.

**ESTATE PLANNING**

*13th Annual Trust & Estate Litigation Seminar*
April 22, Seattle and webcast. 6.5 CLE credits (5.5 Law & Legal Procedure plus 1 ethics). Presented by the WSBA in partnership with the WSBA Real Property, Probate and Trust Section; 800-945-WSBA or 206-443-WSBA. www.wsba.org.

**FAMILY LAW**

*Family Law Annual Midyear Meeting and Conference*
June 24–26, Vancouver, WA. 15.5 CLE credits. Presented by the WSBA in partnership with the WSBA Family Law Section; 800-945-WSBA or 206-443-WSBA.

**GENERAL PRACTICE**

*Marijuana Law: Changes in Regulation and Best Practices*
April 12, Seattle and webcast. 4.25 CLE credits (3.25 Law & Legal Procedure + 1 ethics). Presented by the WSBA; 800-945-WSBA or 206-443-WSBA. www.wsbaıldı.org.

*Work + Wellness Day: Preventing Burnout and Promoting Mental Health in the Legal Profession*
April 26, Seattle and webcast. 3 CLE Other credits. Presented by the WSBA; 800-945-WSBA or 206-443-WSBA. www.wsbaıldı.org.

**HEALTH LAW**

*Health Law*
May 20, Seattle and webcast. CLE credits pending. Presented by the WSBA in partnership with the WSBA Health Law Section; 800-945-WSBA or 206-443-WSBA. www.wsba.org.

**INDIAN LAW**

*Indian Law Seminar*
May 12, Seattle and webcast. CLE credits pending. Presented by the WSBA in partnership with the WSBA Indian Law Section; 800-945-WSBA or 206-443-WSBA. www.wsba.org.

**INTELLECTUAL PROPERTY**

*The Comic Book Creator as Client: An Overview of Representing the Comic Book Creator and Comic Book Properties*
April 7, Seattle. 2 CLE Law & Legal Procedure credits. Presented by Emerald City Comicon, in association with the WSBA; 800-945-WSBA or 206-443-WSBA. www.wsba.org.

*Intellectual Property Licensing*
June 9, Seattle and webcast. CLE credits pending. Presented by the WSBA in partnership with the WSBA Intellectual Property Section; 800-945-WSBA or 206-443-WSBA. www.wsba.org.

**LAW PRACTICE MANAGEMENT**

*Law Practice and Technology Tools and Skills*

**LEGAL LUNCHBOX SERIES**

*April Legal Lunchbox: Recognition and Management Approaches to Professional Stress and Burnout*
April 26, webcast. 1.5 CLE Other credits. Presented by the WSBA; 800-945-WSBA or 206-443-WSBA. www.wsbaıldı.org.

*May Legal Lunchbox*
May 31, webcast. 1.5 CLE credits. Presented by the WSBA; 800-945-WSBA or 206-443-WSBA. www.wsbaıldı.org.

**LITIGATION**

*Trust & Estate Litigation*
April 22, Seattle and webcast. CLE credits pending. Presented by the WSBA in partnership with the WSBA Real Property, Probate and Trust Section; 800-945-WSBA or 206-443-WSBA.

**NEW LAWYER EDUCATION**

*Immigration Law*
May 17, Seattle and webcast. CLE credits pending. Presented by WSBA New Lawyer Education; 800-945-WSBA or 206-443-WSBA. www.wsba.org.

**REAL PROPERTY**

*2016 Real Property, Trust & Estate Midyear Meeting and Conference*
June 17–19, Cle Elum. 12 CLE credits (11 Law & Legal Procedure, plus 1 ethics). Presented by the WSBA in partnership with the WSBA Real Property, Probate & Trust Section; 800-945-WSBA or 206-443-WSBA.

**SENIOR LAWYERS**

*The Changing Landscape: 2016 Senior Lawyers Conference*
May 6, SeaTac. CLE credits pending. Presented by the WSBA in partnership with the WSBA Senior Lawyers Section; 800-945-WSBA or 206-443-WSBA. www.wsba.org.
LAW FIRM FOR SALE

Puget Sound law firm for sale. Established, well-regarded elder law and estate planning, with convenient access for elderly clients in North Seattle and Bellevue offices, over $500,000 gross revenue seeks to sell practice to capable, experienced firm or individual. With experienced staff and effective promotion, this would be a turn-key opportunity for the right buyer. Plenty of room for growth in revenues in a booming area of law. For more information, call 206-262-8306 or email dcm@leesmart.com.

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Certified personal property appraiser/estate sale and liquidation services: Deborah Mallory, The Sophisticated Swine LLC, Appraisal and Estate Sale Service, CAGA appraiser with 28 years of experience in estate sales, appraisals for estates, dissolution, insurance and donation. For details, call 425-452-9300, www.sophisticatedswine.com or dsm@sophisticatedswine.com.

Contract attorney, experienced in research and writing, drafts trial and appellate briefs, motions and research memos. Trial preparation, summary judgment work, editing and cite-checking. Prompt turnaround times, excellent references. Elizabeth Dash Bottman, WSBA #11791, 206-526-5777, ebottman@gmail.com.

Legal research and writing attorney. Confidential legal research, drafting of pleadings, formatting, and citation checking for trial- and appellate-level attorneys. Professional, fast, and easy to work with. Call Erin Sperger at 206-504-2655. Sign up for free case law updates at www.LegalWellspring.com; erin@legalwellspring.com.

Gun rights restored! Your client lost gun rights when convicted of a felony or DV misdemeanor, but in most cases can restore rights after a three- or five-year waiting period. AV-rated lawyer obtains Superior Court restoration orders throughout Washington. David M. Newman, The Rainier Law Group. Contact: 425-748-5200 or newman@rainierlaw.com.

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://james-kempslaughter.com; 425-943-7964; or Comptonhouse65@gmail.com.

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