WASHINGTON STATE BAR ASSOCIATION

NWLawyer

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CELEBRATING WOMEN IN LAW

Empowering stories of women in the legal field, from Myra Bradwell to Carol Mitchell

The Remarkable Life of Reba Hurn, Spokane’s First Female Lawyer

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ON THE DOCKET

24 How She Does It All
A conversation with Carol Mitchell, a woman of many, many hats
BY LISA MANSFIELD

28 Monumental Woman
The remarkable life of Rebecca Hurn has been memorialized in Spokane
BY STEFANIE PETTIT

30 An Enduring Vision of Equality
Recognizing the women who carry forward legal trailblazer Myra Bradwell’s legacy
BY SARA WILMOT

32 The Lawyer, the Playwright
Bryan Harnetiaux discusses his process of writing plays, including one called MYRA
BY LISA MANSFIELD

34 An Excerpt: MYRA
A theoretical encounter between Myra Bradwell and Joseph Bradley is explored in this snippet of a 10-minute play
BY BRYAN HARNETIAUX

38 “Death Penalty Cases in Traffic Court Settings”
The high-stakes world of immigration court, and how I met Maria
BY JILL SCOTT

44 Women Empowering Women
How the Alliance for International Women’s Rights is helping to raise up a generation of women leaders in Afghanistan
BY KARRIN KLOTZ

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BOOK REVIEWS!
What’s on your bookshelf that you think everyone needs to read? Send in a 50- to 150-word description of a book you think your colleagues should read (any genre—law-related content not required), by June 1 to be included in the NWLawyer Summer Reading List.
What do you like best/least about the part of the state in which you practice or work?

Did you plan to practice or work there?

What has surprised you about the place you practice or work?

If you could trade places with a lawyer for a day (geographically or by type of law practiced), what would your trade be?

Include your name and your type of practice along with a photo of you and a photo that illustrates the geographic area where you practice (please ensure you have rights to publish the photo). Send in your submission by May 1.
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THE FUTURE OF WSBA AFTER JANUS
In light of Janus v. American Federation of State, County and Municipal Employees, Council 31, 138 S. Ct. 2448 (2018), lawyer secession from the WSBA may soon be possible (!). In Janus (discussed in “Bar Membership After Janus,” by Daniel A. Himebaugh, December 2018 NWLawyer) the U.S. Supreme Court held that government employees who were union nonmembers could no longer be forced to pay agency fees to a public sector union. Because the WSBA is a quasi-governmental body and functions as a union shop where membership is mandated, Janus may well apply to the WSBA. A voluntary state bar association could be in our future and may look like the following:

Lawyers who want to remain members of the WSBA, let them stay. Nothing changes for them. Lawyers who want to leave the WSBA, let them leave. They can resign from the WSBA but retain their license to practice law.

Discipline for lawyers who choose to leave the WSBA could be accomplished in one of two ways:

The non-WSBA lawyers would be subject to tort and contract law and could be sued by disgruntled clients or others who have standing. The Rules of Professional Conduct (RPCs) would not apply to them; or

The non-WSBA lawyers would be subject to tort and contract law and could be sued by disgruntled clients or others who have standing. But the RPCs would apply to them and the plaintiff would be allowed to bring RPC claims directly to superior court. As a necessary corollary, superior court judges would be given subject matter jurisdiction over RPC claims.

Appeals for non-WSBA lawyers would be through the normal process to the Court of Appeals and the state Supreme Court. In the spirit of liberation as exemplified in Janus, CLE credits for non-WSBA lawyers would not be required. Of course, non-WSBA lawyers would still be free to take CLE classes and then advertise to potential clients that they do so. And clients would be free to hire either a WSBA lawyer or a non-WSBA lawyer.

It may be that Janus will lead us forward to a fairer and more liberating climate for the practice of law.

Patricia Michl, Ellensburg

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It has been said, “Greater love has no one than this: To lay down one’s life for one’s friends.” Opportunities to lay down our lives for friends often appear in the form of simply being willing to serve others, regardless of the difficulties, obstacles, or circumstances we face.

CHALLENGED, BUT NOT BROKEN
In some respects, it is an exceptionally “upended” time for the Washington State Bar Association. Proposed legislation to repeal or amend the majority of the State Bar Act; legislative recognition of the Washington Supreme Court’s plenary authority to regulate the practice of law; the beginning of the Court’s Bar Structure Work Group to determine the future shape of our bar; the termination of our long-time Executive Director Paula Littlewood; and questions about board member behavior and accountability have all contributed to a sometimes divided, uncertain, and unsettled environment.

Despite all of this, the WSBA has been doing its best to keep members informed about each of these issues via email and website postings. As such, any update I try to provide in this column will undoubtedly be old news by the time it hits your mailbox. Accordingly, I only have a few comments to add here that apply across-the-board and at all times.

First and foremost, your WSBA staff continue to operate with the utmost integrity, professionalism, and expertise on a daily basis. I hope you all took the opportunity to watch the State of the Bar video in early March, in which I discussed the many reasons you can have a high level of confidence in the WSBA’s operations and fiscal integrity. (You can watch it at https://www.wsba.org). We should never forget that the WSBA staff is the working backbone of this organization. They do the “heavy lifting” every day that is critical to the success of our organization. While particular boards and board members come and go, it is our WSBA staff that remains steady, capable, and trustworthy in all that they do. It is ever important to remember that the day-to-day functioning of the WSEA is accomplished by dedicated staffers who know how to get things done—regardless of current distractions.

Second, I have no doubt that the WSBA will continue to operate with integrity and professionalism despite the termination of Executive Director Paula Littlewood. As many members have told me already, it has not gone unnoticed that Paula is a central leader behind our bar’s longstanding culture of service, inclusion, and excellence for the past 16 years. Suffice to say the WSBA’s impressive list of achievements and initiatives during her tenure speaks for itself. I have said many times that the touchstones of my presidency are trust, relationship, and service. I send my profuse gratitude to Paula for her exceptional service to the legal profession as she has devoted most of her professional career to serving us all so that we can better serve our clients. Thank you, Paula and know that your sacrifice and service are forever appreciated.

HOPE AND INSPIRATION APPEAR IN MANY FACES AND PLACES
I recently returned from a service trip to Cambodia that offered me some perspective on the challenges we face in Washington as legal professionals. I have been to Cambodia a number of times and always find the journey amazing. In particular this visit lifted my spirits and rejuvenated my purpose as a lawyer and human being. Even more importantly, it also renewed my focus on the power of relationships—of a cup of coffee and heartfelt conversation—to build bridges across the great divides that are all too often created by human hands.

As many of you know, I am a board member of Youth with a Mission “YWAM” of Battambang, Cambodia. This has been a personal passion of my family for several years now. From my previous trips to Cambodia I have

Building Bridges Cambodia 2019

We discovered, not completely unlike our own country, that Cambodia also has a very trying access-to-justice situation.
started to understand some of the legal struggles facing this Southeast Asian country. To be more specific, for 40-plus years now, the people of Cambodia have sought to rebuild their nation following the aftermath of the genocidal atrocities of the Khmer Rouge. It is estimated that between 1.7 and 2 million Cambodians died during the four-year reign of Pol Pot and the Khmer Rouge in the mid-1970s. Tragically, this all took place with little to no outcry from the international community. During this time, many of the country’s legal professionals were killed as part of a plan to eliminate any citizen with formal education. In part, the result was a massive loss of legal knowledge, historical perspective, and tradition, all of which is still in the process of recovery.

During this year’s visit, I specifically set out to connect with Cambodian legal leaders and scholars to learn more about their judicial and governance systems. The ultimate goal and hope was to begin the process of building friendships of support, understanding, and heightened respect for all that we face as legal professionals. I was joined in this effort by my son Grant, New York trial lawyer Bill Leder, my father-in-law James Cavanaugh, and last but not least, the Honorable Jack Coughenour of the U.S. District Court for Alaska, Oregon, and Arizona. He can be reached on his cell phone at 509-952-1450.

Meeting with the Hon. Ang Vong Vathana, Cambodian Minister of Justice, (middle) along with U.S. District Court Judge Jack Coughenour.

During our time in Cambodia, we were able to meet with legal leaders, law professors, and students—including the Honorable Ang Vong Vathana, Cambodia’s Minister of Justice, the Honorable Suon Visal, Kingdom of Cambodia Bar President, and many Cambodian lawyers from Phnom Penh, Battambang, Banteay Mearchey, and Siem Reap. In doing so we discovered that our bar associations are not so different in our challenges and aspirations. We seek to ensure competent and qualified legal professionals to help people with the legal problems they face. We desire to make our communities safe and prosperous. We hope for, and work toward, peaceful resolution in our disputes without violence. In essence, we fundamentally seek adherence to the principle of the rule of law as a foundational playing field on which we strive to ensure a more just, honest, and equitable society for all. In a short time, we came to appreciate each other as individuals seeking to elevate our desire to serve others as a potential starting point for building a long history between Washington and Cambodian legal professionals. This effort will hopefully be ongoing as we venture together to plant, cultivate, and sustain service to others—one relationship at a time. Despite living on opposite sides of this planet, we connect over the fundamental belief that lawyers working in unified collaboration with one another can change the world for the better when we are willing to lay down our lives in service to others.

Note to WSBA members: I plan to return to Cambodia next January to continue building bridges with Cambodian legal professionals. Judge Coughenour and I have been asked to lecture and participate in some continuing legal education classes. Those interested in joining our team are free to contact me directly with any questions. (No WSBA funds have ever been, or will ever be, used to fund my travel, or that of anyone joining me, to Cambodia.)

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WSBA President Bill Pickett is a trial lawyer licensed to practice law in Washington, Alaska, Oregon, and Arizona. He can be reached on his cell phone at 509-952-1450.
Serving Our Members in Furtherance of Our Obligation to Serve and Protect the Public

Throughout my tenure as head of the WSBA, I have often heard people debate whether the WSBA should be serving its members or the public. I have never understood this dichotomy and have always believed that we must serve both in order to serve each. That is, if we aren’t ensuring competent and qualified legal professionals, then we, as a profession, are not providing quality services to the public we are sworn to serve. The members and the public have always been first in our focus.

As I have often remarked, the hallmark of being the only self-regulated profession in the United States is the fact that volunteers and employees work side-by-side to do the work of the bar and advance the mission of the WSBA. Working together, we have advanced so much of our programming for both the members and the public. Reflecting over the past 15-plus years, I am proud of what we have accomplished together for the members, the public, and the WSBA. Outlined below are some highlights of these many achievements.

**MEMBER SERVICES AND BENEFITS**

One of the WSBA’s Mission Focus Areas is to ensure competent and qualified legal professionals. As such, we have grown the array of member benefits and services in a variety of ways:

- As of FY19, more than 140 credit hours per year of free and low-cost CLE programs are offered to members, with the Legal Lunchbox series being one of the most popular benefits we hear about from the members. Since 2004, we have increased on-demand seminar hours by 700 percent.

- WSBA Practice Primers, a series of learning tracks covering a substantive area of law that build upon one another, have been widely sought after since their launch last year. Completion of all three learning tracks (usually three sessions within a track) provides attendees with a solid educational foundation and primer for practice.

- We offer free employments tools, including Job Seekers Group, free mentorship resources through MentorLink, and free law practice management guidance on technology, marketing, financial management, practice transition, strategic planning, and other areas designed to achieve and maintain a successful practice. Our Practice Management Advisor also offers low-cost and confidential professional assistance regarding office administration, as well as print and web resources to assist with opening, closing, and managing a law practice. Information and assistance is available to law students and all members from admission through retirement.

- Discounts on practice-related products have grown significantly in recent years, and relationships with 17 vendors include discounts on professional liability insurance, long-term care, long-term disability and life insurance; systems for billing, document management, file-sharing, conflict checks, cloud practice management, and merchant accounting; daily legal summary service; editing software; live virtual receptionist services; and ABA publications and retirement plans. We were also excited to add FastCase this year as a tool along with Casemaker for free legal research.

- “WSBA Connects” offers free, confidential, statewide access to financial services, counseling, and other services and resources for WSBA members.
Through our partnership with wellness provider KEPRO, support is available across the state with 24/7 phone access whenever needed.

- Recognizing that some members face financial hurdles, we created a Hardship Option and Payment Plan that members can use during licensing.
- We retooled our continuing legal education offerings to focus on ethics and preparing members for practice in the 21st century, and we continue our partnership with WSBA sections on producing substantive law-related seminars for section and non-section members. Particular offerings are provided on Preadmission Education, New Member Education, and issues related to the business of practicing law (including trust accounts, ethics, opening and closing a practice, and succession planning). Through webcasting, the WSBA has also made it easier to reach increasing numbers of members who otherwise might not have access to these educational opportunities.

- Careers are dynamic, and needs change over time: (a) new members require tools and coordinated support to promote long-term sustainability in the practice of law; (b) mid-career members could benefit from strategies and support to increase their job satisfaction; and (c) retiring members (end of career or otherwise), need help transitioning successfully out of the practice. Toward that end, in 2012, the WSBA added an online Career Center, offering the ability for employers to post jobs online and for job seekers to post their resumes online; we also created a website-based Practice Transition Opportunity (PTO) board for members seeking to sell or buy a law practice.

- The WSBA was one of the first bar associations to connect members via social media with an active presence on Twitter and Facebook, as well as a YouTube channel that, among its videos, includes a number of videos focused on practice management tips and information. The WSBA’s blog, NWSidebar, has become a great resource for sharing timely topics with the membership.
- The WSBA offers a free, confidential Ethics Line, which educates members about their ethical obligations. The WSBA’s discipline system educates lawyers through the Ethics School, Consumer Affairs work, Lawyer Diversion processes, and lawyer and auditor outreach such as speaking engagements and articles. Through random audits, the WSBA has provided free, hands-on learning opportunities to members about properly maintaining their trust accounts.
- This year we launched the new WSBA Private Health Insurance Exchange, which offers a broad level of choice and concierge-level support designed for solo and small practitioners, and employer groups alike. It is administered by Member Benefits, a company with 30 years of benefits experience including work with other bar associations across the country.
- In our ongoing efforts to keep in touch with members so their feedback can keep us improving, we began polling more than 100 members at random each month—a statistically significant sample—to hear more about what we are doing well and what we need to improve to serve members and the public. (Overall, the news has been heartening: we have consistently received an average “A” grade for upholding high-quality standards for Washington’s legal profession, for providing high-quality CLEs, and for supporting diversity and inclusion efforts.)

SERVING THE PUBLIC
As the Supreme Court’s regulatory agency, our service to the public flows from our regulatory functions as well as our services that enhance access to the legal system:

- In the wake of the home foreclosure crisis, the WSBA entered into the arena of offering direct legal services via community partnerships. We rolled out an ongoing initiative to enhance the culture of service within the WSBA membership by facilitating public service programs that make it easier and more rewarding for our members to use their legal talents to advance justice. By connecting members with public service training and volunteer opportunities, we model a culture of service and serve the public.
- The WSBA’s Home Foreclosure Legal Aid Project launched in 2009 and was the first such program under the culture of service rubric. The WSBA partnered with Northwest Justice Project (NJP) to provide free legal assistance to Washington residents in danger of losing their homes. While the WSBA recruited and offered free training to members so they could provide services, NJP handled client management and needs. Eventually the program was transferred to NJP, where it continues today.
- The next program launched in the suite of public service offerings was the statewide Moderate Means Program in partnership with Washington’s three law schools. Through this initiative, law students screen the client applications for eligibility, conduct client intake interviews, and match clients with ready and available legal professionals. In return, our members get referrals, build practices and access mentors while delivering much needed services on a sliding fee scale. The WSBA launched a free webinar series designed for members taking their first reduced-fee cases and those considering building a practice around the moderate means market. Participating members receive free referrals and access to over 35 free trainings in exchange for reducing their fees while law students are exposed to hands-on experience with real clients before graduation. The WSBA funds staff attorneys who provide oversight for the participating law students at each law school.
- The WSBA, through its young lawyers, incubated what is now the Washington First Responder Will Clinic, an
Your license fees have been hard at work over the past 15-plus years. With employees whose skills are unparalleled in the nation, along with more than 800 member volunteers who year-in and year-out dedicate their talents to the work of the WSBA, we have advanced our mission and programming exponentially over this time.
for licensed legal professionals in Washington. DART produces an annual report to the Washington Supreme Court and the Board of Governors with recommended changes and identification of any concerns or issues.

• Finally, work continues on a Legal Health Check-Up app that will allow consumers to evaluate what the legal aspects of problems they are facing might be and then connect them to legal services, including various organizations and our members.

**OPERATIONAL EFFICIENCIES AND INTEGRITY**

Pursuant to Washington Supreme Court General Rule 12, the Supreme Court authorizes and supervises the WSBA’s activities. Among these activities, the WSBA must operate a well-managed and financially sound association, with a positive work environment for its employees. In furtherance of those objectives, we have worked to bring greater efficiency and effectiveness to our internal operations over the last many years, including:

• Upgrading and overhauling the majority of WSBA platforms and technology for greater efficiency, service, and modern compatibility. For example, we implemented robust member database software, moved our accounting system to a secure online system, migrated to a document management system to respond to records requests, and redesigned the wsba.org and mywsba.org websites based on member feedback.

• With upgraded technology, the WSBA has been able to offer online licensing renewal, online MCLE reporting, online admissions, online grievance filing, and many more functions that can be completed easily and efficiently online. We have also implemented an electronic document management system, which promotes efficient investigation and prosecution of grievances.

• In October of 2009, we launched MyWSBA (a single log-in portal to update member records, renew licenses online, view CLE requirements/completions, and more). The WSBA online store and MyCLE have been upgraded over the years to provide one-stop, customized access for CLE registrations and product purchases (e.g. on-demand CLEs, deskbooks, and coursebooks).

• For at least the last 30 years, the WSBA has received clean annual audit opinions from an independent auditor (as certified by five different independent auditors). These audit reports indicate that the WSBA’s finances are well managed and accurate in all material aspects. According to this year’s auditor, Clark Nuber, for an organization this size to have a clean audit—with no findings—is relatively unheard of.

• With respect to admissions, we were one of the first states to adopt and administer the Uniform Bar Exam, thereby creating greater mobility for our law school graduates. We have also implemented Admission and Practice rules that liberalize and streamline admission for our members, implemented changes related to character and fitness decisions and hearings that move away from a definition of “fitness” based on mental health to one based on conduct and behavior, and streamlined our online admissions process.

• Mandatory reporting requirements for continuing education have also broadened in recent years, with the WSBA implementing changes to Washington Supreme Court rules that enable members to receive credit for programming related to professional and personal development, mental health, office management, and improving the legal system in addition to ethics and black letter law programs.

• Overall, the WSBA has streamlined operations, reorganized management, reduced staff, cut expenses, and implemented other cost-saving measures. Technology investments increased efficiency (e.g., a paperless document management system) and fortified data security (e.g., through security audits, and PCI compliance measures). We addressed Disaster Recovery (DR) vulnerabilities (opening up a DR site in Eastern Washington, completely revising the DR plan, and testing it through annual tabletop exercises). These measures enabled us to consolidate all WSBA activities at one location, reduce space by 7,700 square feet, and extend our lease through 2026 on terms calculated to save more than $3 million over the life of the lease compared to market alternatives.

• Finally, a major initiative over the past few years has been to coordinate all of our regulatory functions for our three license types (attorneys, LLLTs, and LPOs) in order to bring greater efficiency and effectiveness to these systems through a coordinated system rather than three separate systems for each license type. The rules to coordinate the non-disciplinary aspects of the system have been implemented, and an internal group working with various stakeholders in the discipline system are striving to propose a set of rules for a coordinated discipline system in the coming year. This project has been an awesome undertaking of work by those involved and will put Washington in the forefront once again in innovative models for regulatory administration.

Your license fees have been hard at work over the past 15-plus years. With employees whose skills are unparalleled in the nation, along with more than 800 member volunteers who year-in and year-out dedicate their talents to the work of the WSBA, we have advanced our mission and programming exponentially over this time. There is no question that as we serve our members, we serve the public. I couldn’t be more honored than to have worked in my profession, for my profession every day as Executive Director of the Washington State Bar Association.

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Paula C. Littlewood served as Executive Director of the Washington State Bar Association from 2007 to March 31, 2019. She can be reached at pcl120309@gmail.com
As litigation has grown more expensive, litigation funding has evolved considerably. Law firms have long had lines of credit to fund their operations. In fact, a WSBA advisory opinion from 1986 was painted against the backdrop of a law firm pledging its accounts receivable as part of a bank loan to the firm. It’s also nothing new for clients to use financial tools ranging from credit cards to mortgages to pay for legal services.

In recent years, however, specialized litigation funding companies have emerged and offered to underwrite specific cases. In some variants, the borrower is the law firm; in others, the borrower is the client. Because the latter is one of the most common current models, this column focuses on a funding scenario in which an independent funding company enters into an agreement with the client to underwrite the client’s lawsuit in return for a share of the client’s recovery. (Because this column focuses on the more common model, lawyers who are evaluating other models—such as borrowing arrangements directly between the law firm and the litigation funder, or a law firm that is considering establishing its own lending affiliate—should carefully examine the risks associated with the particular lending mechanism proposed.)

Although generally permitted, litigation funding can present law firms with difficult conflict and confidentiality issues, as discussed below.

**POTENTIAL FOR CONFLICT**

Conflicts between the business interest of a lawyer and the interest of the client can occur in many ways when litigation funding is involved. The conflicts typically arise under Washington Rule of Professional Conduct (RPC) 1.7(a)(2) and are triggered when the lawyer’s professional judgment on behalf of the client may be materially limited by the lawyer’s own business interest. These conflicts are inevitably fact-specific. They can range from the lawyer’s interest in accelerating payment of the lawyer’s fees by having the client use financing vehicles that are not necessarily in the client’s best interest to disputes between the client and the funder over settlement funds. A recent American Bar Association ethics opinion—ABA Formal Opinion 484 (2018)—catalogs many conflict scenarios arising from litigation funding and
merits close review by lawyers whose clients are considering this option.

The most corrosive potential conflict, however, occurs when the litigation funding company attempts to direct the way the lawyer handles a case on behalf of a client. New York City Bar ethics opinion 2011-2 (2011) surveys several litigation funding conflicts and focuses on this one in particular, noting that it “raise[s] the specter that a financing company, armed with information regarding the progress of the case, may seek to direct or otherwise influence the course of the litigation.” Id. at 7.

RPC 2.1 articulates the fundamental duty of lawyers to exercise independent professional judgment on behalf of clients. RPC 1.8(f) and 5.4(c) echo this general duty in the specific setting of being paid by a third party. RPC 1.2(a), in turn, reserves to the client the sole authority to settle. In short, although the funding may be coming from a third party, the case belongs to the client.

**MAINTAINING CONFIDENTIALITY**

As a part of its evaluation of whether to underwrite a case, a litigation funding company may want access to confidential strategy and other sensitive materials normally shielded from discovery by the attorney-client privilege or the work product rule. In most instances, the funder will want this information from the lawyer rather than the client.

RPC 1.6(a) generally requires a client’s informed consent to disclose confidential information. “Informed consent,” in turn, is defined by RPC 1.0A(e) as including an explanation by the lawyer of the material risks of proposed action. The material risks of sharing confidential information with a litigation funding company include, potentially, waiver of privilege or work product protection.

Because privilege and work product address different aspects of confidentiality, their treatment in the litigation funding context has also varied.

Privilege under RCW 5.60.060(2)(a) and its federal common law counterpart is designed to protect confidential communications between lawyer and client. Ordinarily, voluntary disclosure of a privileged communication constitutes waiver. Moreover, as University of Washington School of Law professors Robert H. Aronson and Maureen A. Howard put it: “[P]rivilege cannot be redeemed once it has been waived.” *The Law of Evidence in Washington* at 9-9 (Michie 5th ed. 2013).

At the same time, Washington’s state and federal courts have both articulated an exception to waiver when otherwise privileged communications are shared with another person relevant to a common claim or defense:

- “The ‘common interest’ doctrine provides that when multiple parties share confidential communications pertaining to their common claim or defense, the communications remain privileged as to those outside their group.” *Sanders v. State*, 169 Wn.2d 827, 853, 240 P.3d 120 (2010).

- “The common interest ... privilege applies where (1) the communication was made by separate parties in the course of a matter of common interest or joint defense; (2) the communication was designed to further that effort; and (3) the privilege has not been waived.” *Avocent Redmond Corp. v. Rose Electronics, Inc.*, 516 F. Supp. 2d 1199, 1203 (W.D. Wash. 2007).
With a litigation funding company, the argument is that confidential information is being shared to advance the client’s case. The court in In re International Oil Trading Co., 548 B.R. 825, 832-33 (Bankr. S.D. Fla. 2016), for example, took this approach. However, application of the common interest doctrine in the litigation funding context is not assured. In Leader Technologies, Inc. v. Facebook, Inc., 719 F. Supp. 2d 373, 375-77 (D. Del. 2010), the court determined privilege had been waived and ordered production of materials that the plaintiff had provided to litigation funding companies. In reaching a similar conclusion under the common interest doctrine, the court in Miller UK Ltd. v. Caterpillar, Inc., 17 F. Supp. 3d 711, 732 (N.D. Ill. 2014) (emphasis in original), observed pungently: “A shared rooting interest in the ‘successful outcome of a case’ ... is not a common legal interest.”

Washington Civil Rule (CR) 26(b)(4) and its federal equivalent, in turn, are intended to protect a lawyer’s work product in the form of mental impressions, analysis, and related confidential written materials compiled during, or in anticipation of, litigation. Reflecting this distinction from privilege, work product may be shared with a third person without necessarily triggering waiver. The Washington Supreme Court, in Kittitas County v. Allphin, 190 Wn.2d 691, 710, 416 P.3d 1232 (2018), quoted the Restatement (Third) of the Law Governing Lawyers (2000), apropos on this point:

Effective trial preparation often entails disclosing work product to coparties and nonparties. Work product, including opinion work product, may generally be disclosed to the client, the client’s business advisers or agents ... and other professionals working for the client, or persons similarly aligned on a matter of common interest.

Courts, therefore, have generally accorded litigation funding materials more protection under the work product rule than the attorney-client privilege. The court in Miller, for example, extended protection under the work product rule to litigation funding materials that the court had concluded did not qualify for similar protection under privilege. Like privilege, however, treatment of work product in this context has not been uniform. For instance, in Haghayeghi v. Guess?, Inc., 2016 WL 9526485 at *2 (S.D. Cal. Mar. 21, 2016) (unpublished), the court cited general Ninth Circuit authority on both privilege and work product in ordering production of litigation funding materials. Although not exact, the analytical dividing line often turns on the stated purpose for seeking the materials. In Miller, the court was not persuaded by the defendant’s asserted need for the materials to support its defense of “champery.” In Haghayeghi, by contrast, the court gave considerable weight to the argument that funding materials were needed to assess the suitability of an individual to serve as a potential class representative.

The ambiguity surrounding the discoverability of litigation funding materials suggests three steps for lawyers and their clients considering this avenue.

- First, lawyers should discuss with their clients under RPC 1.6(a) that there is an inherent—but not precisely quantifiable—risk in sharing any confidential information with potential litigation funders.
- Second, although written confidentiality agreements with potential litigation funders are not necessarily required, court decisions imply that such agreements will improve the odds that materials will qualify for at least work product protection.
- Finally, even with client consent and a written confidentiality agreement, lawyers should carefully weigh the material included and, absent unusual circumstances, not provide either direct attorney-client communications or extremely sensitive work product revealing key strategies. The safest course is often to only share information that has already been disclosed in public court filings or associated discovery provided to the litigation opponent that is not otherwise subject to a protective order.
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The fact section of your brief needn’t be a tedious trudge through documents and depositions. You can arrange the facts in a way that tells a story favorable to your client, keeps your reader’s interest, and yet maintains your credibility. There are many aspects of effective storytelling, but I’d like to focus here on one important component: point of view.
You don’t have to be steeped in postmodernist theory to understand that every story has a point of view, even those stories that appear “objective.” Moreover, if you delude yourself into thinking you are presenting an objective account, your reader will almost certainly fit the facts into a handy schema or story that already exists in our cultural library. Consider the following sentence:

Seeing a parked vehicle that matched the description of the getaway car, Officer Smith approached the vehicle and ordered the suspect to exit with his hands in the air.

You have already tapped into the story of the heroic police officer who faces danger in every encounter. You have also adopted the police officer’s point of view, since the sentence is about his actions and observations. But it is possible to tell the story from another point of view:

Jeremy Jones pulled over to the side of the road to answer his cell phone. Suddenly the lights of a police car were behind him, and he heard an officer order him out of his car.

Now another story is evoked: that of the citizen suddenly facing an officer who has a weapon. Both of these accounts can be completely accurate. But as a legal storyteller, you have an obligation to find the point of view that favors your client.

That favorable point of view is not always your client’s, however. Sometimes the favorable viewpoint belongs to the opposing party. When representing a plaintiff, you can tell a story of negligence from the defendant’s point of view, showing every wrongful act or omission and creating a sense of inevitable injury. You could show the machine operator under pressure to complete his job quickly, distractedly ignoring the warning lights. You could show a doctor failing to take simple measures with a patient who presented with certain symptoms. You won’t always create sympathy for the person whose point of view you adopt. Sometimes you use point of view to help the reader identify with your client; other times you use it to help the reader want to assign fault to the other party.

Point of view means more than adopting the view from a particular person’s place in time and space; it also means giving the context—what that person knew about relevant matters. For example, in cases involving police stops, we frequently learn that the area is a “high-crime area” or that someone “matched” a description, or that “furtive gestures,” associated with contraband, were observed. This is all context provided by the police, whether it’s fact or belief. A story told from the point of view of the person stopped by the police might include a differing context, such as the statistics on excessive force in that city, the number of times the person had been stopped in the past, or personal difficulties that person is facing.

A vivid example of these contrasting contexts is shown in the opinions in *State v. E.J.J.*, 183 Wn.2d 497, 354 P.3d 815 (2015). The lower court’s account adopted the police officers’ point of view and words, evoking their concern about the apparent threat posed by a
17-year-old boy who refused to obey their orders as they were dealing with his intoxicated sister:

Officer Jenkins informed [the boy] E.J.J. that the officers were “in the middle of an active investigation” and asked him to go back inside the house and close the door. Although the officer repeated this request “four or five times,” E.J.J. refused to comply. Indeed, E.J.J. became “hostile” when the officer made this request. 2

In the Supreme Court, however, the story was told from the boy’s point of view, showing his worry for his sister:

E.J.J. grew concerned when he saw an officer reach for what he perceived to be a nightstick. E.J.J. exited the house and stood on the porch, telling the officers that R.J. was his sister and that they should not use the nightstick. The officers advised him that they were in the middle of their investigation and instructed him multiple times to leave the scene and return to the house. 3

A concurring Justice pointed out more context the boy was probably aware of: The Department of Justice had found that the city’s police regularly used excessive force against youth of color. 4 Thus, point of view can guide what facts are included or highlighted.

Point of view can also be bolstered by adopting the language style of your protagonist. A prosecutor might adopt the language of police to reinforce the officer’s point of view: “After observing the suspect engage in a controlled purchase, the officer proceeded to the suspect’s vehicle.” A corporate attorney might use business jargon to support a corporate management point of view: “The parties decided to circle back about agreed-upon deliverables.” Too much jargon may become opaque to the typical legal reader. Nevertheless, a few choice words or phrases can help put the reader in the shoes of your main character.

Finally, detail and imagery can make more vivid the viewpoint you want to emphasize. “Jones fastened his seatbelt, checked the rearview mirror, and put his car in drive,” creates the image of a careful, responsible person and puts the reader in the driver’s seat with Jones. Different details create another picture: “The suspect got into the driver’s seat of a late-model Chevrolet with a dented fender and broken taillight.” Now the reader is outside the car with the police, imagining a poor driving record and an untrustworthy driver.

Whatever type of law you practice, you are probably telling stories about the facts at issue. These stories can go a long way toward making your case. As you assemble the facts into a coherent tale, consider whose story you want to tell and how you can best do so from that party’s point of view. 5

NOTES:
1. I have written more extensively about prevalent police narratives in legal opinions in Police Stories, 111 Northwest Law Review Online 19 (2016).
4. Id. at 527-28 (Gonzalez, J., concurring).

Professor Helen Anderson teaches writing and criminal law courses at the University of Washington School of Law. If you have a question or a pet peeve about legal writing that you’d like to see addressed in a future “Write to Counsel” column by UW Law writing faculty, please submit it to nwlawyer@wsba.org, with the subject line “Write to Counsel.”
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SILENT NO MORE

Myra Bradwell was denied admission to the bar on the basis of her gender almost 150 years ago—how far have we really come since?

BY KJ WILLIAMS
In this country, men and male-identified persons have consistently dominated positions of power across every sector of society. This power affords male-identified persons rights, access, and opportunities that other groups—such as women—must fight for. Why does existing as a woman or female-identified person automatically relegate one to an inferior status? Where and how does the innate power, privilege, and right as a female-identified person survive, much less flourish, in a male-dominated society? The following statement provides a clue as to the role the law has played in the placement of women:

“That God designed the sexes to occupy different spheres of action, and that it belonged to men to make, apply, and execute the laws, was regarded as an almost axiomatic truth.”


Myra Bradwell was an accomplished publisher, editor, and political activist long before she applied to law school. She was a respected public figure known for her astute editorials that often advocated for reformation of the legal profession. Bradwell practiced law in her husband’s office and passed the Illinois bar exam with “high honors.”

Despite all this, she was denied admission to the profession she had long influenced simply because of her status as a woman.

Gender defined her realm of existence, sphere of impact, and access to opportunity. Her legal status as a woman was the barrier used to maintain the power and position of men. In Justice Joseph Bradley’s concurring opinion, we find further evidence of the thought leadership of the time:

“The natural and proper timidity and delicacy which belongs to the female sex evidently unfit it for many of the occupations of civil life... [T]he domestic sphere...properly belongs to [women]....The paramount destiny and mission of woman are to fulfill the noble and benignant offices of wife and mother. This is the law of the creator.”

*Bradwell*, 83 U.S. at 141.

On the surface, it may seem that the placement of women has evolved far beyond judicial pronouncements of the late-19th century. It is true that, at least in the U.S., women now hold some positions of power across professions. It is true that they are running for political office in greater numbers than ever before. But it is true that they make up more than one-third of all lawyers. But their sphere of influence and impact is still drastically limited compared to men.

Although Justice Bradley issued his statement nearly 150 years ago, the sentiment behind it is woven into the fabric of our society and continues to inform much of the thinking, response, and reaction to female-identified persons today.

We continue to use gender to determine worth, ability, opportunities, and the right to protection and agency of self. The gendering of space, occupation, and education works to fortify the elitism and power of men and to mitigate the rights and protection of women. That power, and the desire to control the lives of others, is clearly seen in the historical development of our laws.

The laws of this country were drafted, codified, and implemented by men. So it takes more than a few women in positions of authority to exert the type of collective power men have and continue to hold.

Women and girls have never been treated as equally human, intelligent, or capable as men and boys. Existing within a female-identified body automatically positions one as “less than.” Girls are taught early on to circumscribe themselves: sit quietly, don’t jump, lower your voice, cross your legs, fix your hair, wait your turn, be polite. Boys are encouraged to express themselves fully, using their bodies, voices, and intellect to carve out a space for their individuality. As adults, women are told not to be aggressive, while men are praised for their “go-getter personalities.” Women are taught to speak softly, avoid anger, and present submissiveness, while men are acclaimed for “acting out” and standing up for what they believe.

This dichotomy serves to perpetuate a false division of ability, intelligence, and self-worth. Women have fought for centuries to overcome the
limitations and pain of being treated as inferior humans. The voices of women have long been silenced through laws, societal expectations, and the passive indoctrination propagated by media, religious beliefs, and political dogma.

Nearly 150 years after Bradwell was decided, the Supreme Court upheld an obstacle to the fundamental right of women to control their health and reproductive choices. In Burwell v. Hobby Lobby Stores, Inc., a majority of the Court upheld the right of for-profit employers to refuse, for religious reasons, contraception coverage under the Affordable Care Act. In addition to being the most affordable contraception method, birth control pills are used to treat serious health disorders suffered by millions of women. As Justice Ruth Bader Ginsburg pointed out in her dissenting opinion, the exemption would “deny legions of women who do not hold their employers’ beliefs access to contraceptive coverage.”

The impact of laws that suppress a specific population from accessing equal rights continues to plague our country. No one is immune. These conscious and targeted decisions have resulted in generations of citizens unconsciously accepting the inferiority of women as a valid conclusion. The projection of women and their bodies as objects to be used, bartered, commodified, and tossed aside is not an unconscious decision or a mistake, it’s a tactic.

Women across the globe have been subjected and conditioned to believe and engage the world around them from a position of inferiority and fear. There is a collective understanding of inequity and inequality held in the consciousness of women; the impact of this collective socialization is detrimental not only to their economic growth and stability, education, and career aspirations, but to their very ability to live without fear of sexual violence and abuse. It is not men who must consistently and relentlessly evaluate the state of their clothing, the presentation of their bodies, and whether to walk in pairs or alone at night. It is women who are primarily subjected to this type of personal and socially conditioned anxiety and control; our laws have been used as a weapon to maintain this state of existence.

Women across the globe have fought for legislation protecting their right to safety and autonomy over their own bodies. It defies logic and boggles the mind that female human beings have to lobby governments and organizations for the right to exist without violence freely enacted upon them, their bodies, and their minds.

In a society whose law- and decision-makers are disproportionately white and male, is it realistic to believe that men would willingly share, let alone give up, their power? Women have grown weary beyond articulation of the misuse of this power and privilege to exterminate their voices, bodies, and dreams. Women everywhere are rising up and standing fiercely against the tide of trope used to analogize their existence with being weaker, less intelligent, and in need of male direction. Today, women are fighting the laws meant to maintain male dominance and control of their very lives.

Women are collectively addressing gender oppression and exclusion. Women are identifying and openly pushing back against the systemic oppression that forces women into subservient roles despite being highly educated and capable. It is time to speak up and speak truth collectively in whatever spaces we occupy. The era of silence and furtive conversations regarding male dominance and its exhibition throughout society is over. Women are speaking up and resisting the dehumanization of their minds, bodies, and lives. From the music industry to politics, health care, education, and sports, women are speaking out and showing up for each other in unprecedented numbers.

Now is the time for women to address the fear within them individually and collectively, the fear that they are not enough, that they can never measure up to men, that they are intellectually inferior, that their biology precludes them from being as valuable and respected as men. Women must collectively reject the idea that they are second-rate citizens as ludicrous and of service to no one but men. They must also recognize that socially constructed concepts such as race, femininity, masculinity, and gender all work to create division and fear of “the other.” While continuing to acknowledge the differences that exist, women must work to deconstruct the harmful, marginalizing narratives that accompany them. Only then can women access the type of expansive influence across industries required to demand and achieve systemic change and freedom from male dominance and fear.

Isn’t this true justice?

KJ Williams is the Diversity Programs Manager for the Washington State Bar Association. In this role, she provides strategic direction and thought leadership and advances the development of an inclusive legal profession. KJ holds a B.A. in Urban Studies from the University of Washington, a Master’s of Public Administration from Seattle University, and is currently enrolled at Seattle University School of Law.
Perspectives

NOTES:
5. Women still make just 78 cents for every dollar that men earn, according to the American Civil Liberties Union. For every dollar earned by white men, black women earn only 64 cents, and Latinas only 54 cents. The United States Department of Justice reports “that approximately one in four homeless women is homeless because of violence committed against her.” https://www.aclu.org/other/equal-pay-equal-work-pass-paycheck-fairness-act.
6. According to the Pew Research Center, only about 2 percent of the American public has run for some kind of political office. Men, despite being a slight minority of the U.S. population, comprise about three-quarters of all political candidates. Of those candidates, 82 percent are white. http://www.pewresearch.org/fact-tank/2014/09/03/who-runs-for-office-a-profile-of-the-2/.
7. I believe in the possibility of collaborative power. Men who have clearly articulated and exampled their commitment and active investment in equity and equality show up daily as powerful allies. We need more of these allies, men who will openly and courageously stand with and on behalf of women’s rights to equity and equality.

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How She Does It All

A conversation with Carol Mitchell, a woman of many, many hats

A mong the cheerful din of diners at a family-owned Italian restaurant in Tacoma’s Proctor District, I caught up with Carol Mitchell, senior counsel, Justice Services, with the Pierce County Executive Office.

I wanted to learn more about her broad professional experience, which includes four executive positions in the public sector and significant entrepreneurial experience as a diversity consultant, all combined with the practice of law. Curious about how she managed to excel at not just one but several careers, I asked her about the early experiences that shaped her, what motivated her to develop such a broad professional experience, and what propels her onward to new goals and avenues of service.

Q: Carol, I have tried several times to speak with you about your accomplishments, but every time I do you seem to talk about teamwork and then you shine a light on someone else. I am not writing an article about a team! Can we agree to focus on you today?

A: [Laughs] OK, I’ll try! I am used to working in a community context. It is a mind shift to talk about “I” instead of “we.” But today, OK, just for you, Lisa Mansfield, we will focus on the “I.”

Q: Thank you! I’m always curious about beginnings. Can you tell me a little about your early years? What was life like for you as a child?

A: I was born in Columbus, Georgia. I am the fifth of nine children and my early years were spent in an all-black neighborhood and environment. When people learn that I was born in a segregated city and lived in a segregated neighborhood and attended a segregated school, they tend to feel sorry for me, but it was really a nurturing experience and a very insulated and protected environment. There was a sense of belonging and accountability and it was wonderful to be surrounded by people who looked like me, who cared about me, and who took the time to mentor me.

Q: How did your family come to live in the Northwest?

A: My father, who was a career Army sergeant, was transferred to Fort Lewis and decided to stay in the Northwest after his retirement from the Army. When he left Georgia, packing his 1963 red Buick station wagon (with Riviera windows) full of his seven children and pregnant wife, he was looking for something better for his family. He thought that moving to the Northwest meant coming to a place where race didn’t matter. What he found was that race did matter, and there were only certain areas where a black family could live in Tacoma. Although the Northwest wasn’t exactly everything he dreamed of, he made the best of it and it afforded him many more opportunities than what was available in the South at the time. He took advantage of every opportunity to learn new skills, get more education, and make more money, and his spirit of achievement greatly influenced me. In fact, my mother often says, “You are your father’s daughter—always working!”

Q: That must have been quite a change, moving from the South to the Northwest. Can you talk a bit about that?

A: It was a culture shock moving from the warm but segregated South—where all of your neighbors were also your teachers, your mentors, your relatives—to a chilly, rainy Northwest where the same type of segregation was happening.
through redlining. Overt discrimination was replaced by covert discrimination, but the harm was the same. There was no George Wallace or Bull Connor that we could see, but the laws and policies themselves sustained and perpetuated the same inequality and inequity.

Q: Given the dramatic change in environment, how did you find your way academically as a young student?
A: My father was a big reader and I always loved to read too. Books were my escape from everyday life. I was one of three black students in a large school and the experience was sometimes quite isolating. Mrs. Michaelis, my elementary school librarian, noticed this love of reading and introduced me to the classics, and books became my friends. I read everything from contemporary poets Carolyn Rodgers and Nikki Giovanni, to Dickens and Melville. I also read any book with a Newbery or Caldecott award and I loved the works of Shakespeare and Socrates.

Q: Greek philosophy as an elementary school student?
A: Yes. Thank God for Mrs. Michaelis! She was a white educator who really understood the importance of connection. As I read Greek philosophy, she would whisper to me, “You do realize that many of the Greek thinkers trained in Africa.” As a young black girl in that nearly all-white environment, it really meant a lot to me to hear that.

When I got to high school, my exposure grew from reading to oration when my debate coach, Marsha Selden, introduced me to the world of competitive speaking. She drove me all over Washington to speech and debate competitions. That’s where I started to win scholarship money.

Q: I know your parents were happy about that.
A: Yes! In our house, you had to be an athlete, a musician, or have good grades in order to get a scholarship because they said, “All of you kids are going to college and we’re not paying for it!” Another avenue of exposure for me was winning the title of Daffodil Queen in 1977.

Q: You were the Daffodil Queen? That was a big deal in Pierce County and, in fact, it still is. Were you the first black Daffodil Queen?
A: Yes, yes I was! Being Daffodil Queen gave me greater social exposure than I otherwise would have had. At that time, we went all over the state to various other festivals: the Wenatchee Apple Blossom Festival, the Michigan Cherry Blossom Festival, the Lilac Festival in Spokane, and many others. It’s been some years now, but oddly enough, people still remember me as Daffodil Queen.

Q: How did you decide to go to law school?
A: I didn’t go the traditional route. My plan was to graduate high school, go to a local college, and then have a family. Instead, I got married soon after graduating high school and had children right after that. By the time I got to the University of Washington, I was a single parent.
with three children. We lived in student housing on Sandpoint Way.

Q: What was your first job?
A: My first job was as an associate at the JC Penney candy counter at the Tacoma Mall. I was proud of the fact that I could look at the decoration and the shape of a chocolate and tell you what the filling was inside! My first professional job after graduating from the University of Washington was working at KING 5 Broadcasting corporate headquarters. I started as Joseph Duffy’s executive assistant. Mr. Duffy was vice president of employee relations and did all of the employee and labor relations legal work. He was very encouraging to me and I worked hard for him. At that time I was typing 140 words per minute. He was actually the first person to suggest that I go to law school.

Q: That is some extremely fast typing. Did you go straight to law school after being an executive assistant?
A: No. I was promoted to a human resources position at KING-TV. When the station was sold, I worked as an HR specialist at the Tacoma News Tribune. I finally took Mr. Duffy’s suggestion to heart and went to Seattle University in 1994. During law school, I didn’t work.

Q: You were a mature law student parenting three children alone. I would call that work. Did you enjoy law school?
A: Being a single mom of small kids in law school was work for sure, but it didn’t pay! I did enjoy law school, especially for the camaraderie. There was a strong Black Law Student Association [BLSA] and we raised money for our group by selling hot links. We would position the grill under an air duct so the aroma of hot links would permeate the school. We raised a ton of money for BLSA that way!

Q: What about after law school?
A: After law school, I was hired at a small firm. Two years after law school, TV Tacoma approached me about hosting a weekly talk show. I hosted that show for 17 years! I worked at the city of Tacoma as an EEO [Equal Employment Opportunity] officer and in the same year I opened a private consulting firm where I specialized in HR investigations and diversity training for corporations. I ran my consulting company for 10 years, and in the midst of that job I began working at the Port of Tacoma as a chief HR executive.

Q: Please clarify, you were running your own firm at the same time that you worked for the Port of Tacoma?
A: Correct. Then in 2012, I started a master’s program in organizational systems at Seattle University and was awarded my degree in 2014. In 2015, Metro Parks hired me to do organizational development. And in 2017, Dan Grimm, Pierce County’s chief operating officer, asked me to join the Pierce County Executive Office Leadership Team, led by Executive Bruce Dammeier.

Q: What interests you about working in the government sector?
A: Pierce County’s first diversity, equity, and inclusion (DEI) initiative for employees was just launched this year and I am really excited about this. Since the time I arrived at the Pierce County Executive’s office, I have been advocating for DEI as an executive priority. If we are really going to be a county where people want to live, work, and raise a family, we have to do the internal work to make both quantitative and qualitative changes in the way we do business. If the work is done right, then the county’s neediest citizens will get what they need to thrive. The DEI initiative is the beginning of that internal work that we need to do.

Q: At the county level you serve as the senior counsel for Justice Services. Would you please elaborate further on the nature of the work you are doing now?
A: Justice Services has three major components. The first is social justice, which deals with promoting diversity, equity, and inclusion in the justice system. It looks at the justice system through an equity lens and encourages a dialogue around the possible unintended consequences of facially neutral policies and procedures.

The second component is a liaison role. I serve as the County Executive’s ambassador to all the other officials in the justice functions of the county. These include the sheriff’s office, the prosecuting attorney, the Department of Assigned Counsel, the medical examiner, and the court clerk’s office. In this role, I really focus on building relationships and promoting communication between the executive branch and the other elected officials working in Pierce County justice functions.
Q: What is the third component?
A: The third component is diversion programming. The most widely known is the Pierce County Trueblood Diversion Program. The scientific theory behind this program is called the Sequential Intercept Model (SIM), which holds that there are multiple intercept points where a person may be diverted out of the criminal justice system. It was co-designed by all of the Pierce County justice functions in conjunction with mental health and substance use and treatment providers.

Q: What is the purpose of the Trueblood Program and how was it initially funded?
A: We saw that there was a need to divert people with substance use and mental health conditions out of jail as quickly as possible, but initially there was no funding to do it.

Q: How did it happen if there was no money?
A: We fashioned the program around what was possible. We felt that if we built a powerful program the funding would follow, and it did. The Trueblood grant was truly a collaborative effort and probably the first of its kind.

Q: What was your role in making this a reality?
A: Justice Services wrote the grant, created the oversight committee for the grant, assembled the potential partners for the grant, and created the data-sharing agreements. Working on the Trueblood initiative has really been a confluence of my education and training as a lawyer, an organizational design specialist, a television host, and a consultant. But I haven’t done it alone. Real strength comes in working in concert with others who share a vision and Trueblood is such a vital program because of the committed work of many stakeholders. It really is a team effort.

Q: You have worked in the private sector, the public sector, and have been the owner of a small family business; that’s three-careers-in-one, along with a master’s degree and a juris doctorate while raising a family alone. You have also recently been chosen to serve on the Human Rights Commission, which studies, investigates, and mediates community issues that may result from discrimination. What has motivated you to do all of this?
A: I guess my mother was right; it goes back to being my father’s daughter. We are acquainted with hard work, that’s who we are as a family. Secondly, it’s not just about me; it matters where I’m going because my family is going along with me, and to the extent that I succeed, they succeed. I can see it manifesting because my grandchildren today are having international experiences, and some of the places I only read about in Mrs. Michaelis’ library they have already visited. It’s really about modeling the possible. My mother has always been a practical woman. Things had to make sense to her, or she wouldn’t do it. My father on the other hand, said it doesn’t have to make sense, it just has to be possible. I have always worked and lived my life fashioned around the possible, not around what is.

Q: I’ve heard the “how.” Now can you share about the “why”? Why have you done this work?
A: My journey has not always been a straight line and there are a lot of twists and turns, but it has been exciting and I think it has made a difference. I always knew I would not have a traditional career because my strength lies in fostering connection and relationships. I have held myself to a high level of excellence not just for myself but for others, because if I get it right, someone else that looks like me can have a chance, too. 😊

.................

Lisa Mansfield is a parent’s attorney in the Dependency Unit of the Department of Assigned Counsel in Tacoma. She can be reached at Lisa.Mansfield@piercecountywa.gov.
Monumental Woman

The remarkable life of Rebecca “Reba” Hurn — Spokane’s first female lawyer and the state’s first female senator — was memorialized in August

BY STEFANIE PETITT

A monument was dedicated at Greenwood Memorial Terrace honoring a woman who was breaking glass ceilings early in the 1900s—back way before there even was such a concept.

Rebecca “Reba” Jane Hurn was the first woman to serve in the Washington state Senate, the first woman member of the Washington State Bar Association, the person who helped Nathan Strauss (co-owner of Macy’s Department Store) with his work internationally in promoting pasteurization of milk, and chaired the New York committee for William Jennings Bryan’s 1908 run for the presidency.

This is a woman who defied convention, abandoning a teaching job to study German overseas, and later on traveled the world and lived in peoples’ homes (so she could better experience the lives and culture of each location). During her travels in the Middle East, where she not only witnessed much history in the making (she was in the region during the formation of the state of Israel, for example), she also translated the Koran into English. Her memoirs chronicle much of this, but they remain unpublished to this day.

Every year at least one monument is erected for a noted Spokane resident at one of the properties of the Fairmount Memorial Association. The monument for Hurn was the 25th since the practice began in 2006. Fairmount pays the cost for one each year, but a group of organizations which work to bring the monuments about—Spokane Historical Monuments Committee, Spokane Regional Law Enforcement Museum, the National Society Daughters of the American Revolution and the Spokane Corral of the Westerners—provide funding, often through grants, for any additional ones in any given calendar year, according to Duane Broyles, the retired president of Fairmount.

At the dedication ceremony of the monument on Aug. 3, state Sen. Andy Billig (3rd District) remarked that there is a wing off a corner of the Senate floor where he goes to call family in Spokane when sessions are running late. He often stands under a plaque on the wall there, which he said is dedicated to Hurn, for whom the opening greeting of Senate sessions were amended upon her arrival. “It was then said ‘gentlemen of the Senate and Miss Hurn,’ ” Billig noted. “For six years now she’s been standing over my shoulder when I call home.”

Hurn’s life story was featured in a “Landmarks” story in 2015 in the The Spokesman-Review, when it was noted that it appeared she might follow one of the few paths open to women of her era who didn’t marry, that of a schoolteacher. The daughter of Spokane attorney and Superior Court Judge David W. Hurn and G. Harriet Hurn, she was a Phi Beta Kappa graduate of Northwestern University who set out to teach in Spokane and Ritzville, Washington. Teaching wasn’t for her, so she headed to Germany to advance her studies.

While at Heidelberg University in 1907, she met retail merchant Nathan Strauss, who was in Germany trying to perfect the process of pasteurization. Hurn gave up her studies and joined in the work, under the mentorship of Strauss and his wife, and followed them to New York City to continue advancing the benefits of pasteurization. She managed the Nathan Strauss Infant Milk Depots.

This article, originally titled “Landmarks: Monument Dedicated to Rebecca Hurn, Spokane’s First Female Lawyer, State’s First Female Senator,” was published in The Spokesman-Review on Aug. 9, 2018; it is reprinted with permission.
She got a taste for politics in her efforts for William Jennings Bryan’s campaign, and then returned to Spokane in 1910, where she became an attorney and was the first woman admitted to the bar in the state in 1913 and also the first woman to practice law in Spokane.

Women had already served in the state House of Representatives, but Hurn had an eye on the Senate. She ran in 1922 as a Republican, despite her earlier work for the Democrat Bryan, and beat her opponent by a 2-1 margin. She was re-elected in 1926 without even campaigning. She became known as a relentless cost-cutter, pushed tax relief for Eastern Washington farmers and supported a constitutional amendment against child labor. But in 1930, a year after the Great Depression began and when Democrats were enjoying big gains at the polls, she was defeated for a third term.

She also lost a bid for a Spokane County Superior Court judgeship in 1938. She continued her work as an attorney and traveling the world. During the Eisenhower administration she was twice asked to join a people-to-people mission to the Middle East to provide impressions of the progress being made toward the emancipation of women in the region.

She was 85 when she moved to the Middle East, and she continued traveling until near the end of her life at age 86 in Chula Vista, California, in 1967.

As was reported in the earlier story about her, she was buried at Greenwood Memorial Terrace right next to her parents, who have a tall grave stone giving their names and full dates of their births and deaths. Hers is a flat, small and plain marker which only states her name and years of birth and death, 1881-1967. It is an unremarkable marker for a most remarkable woman, it was noted at the dedication of the large memorial monument, which stands nearby and which now details many of the important achievements in Reba Hurn’s life.

The monument was created by Quiring Monuments of Seattle and Wilbert Precast of Spokane. The basalt which frames the monument comes from the hillside at Greenwood Memorial Terrace, Broyles said.

“We selected Reba for a monument this year for her contribution to education, medicine, law and politics,” said Rae Anna Victor, regent of the Jonas Babcock Chapter of the DAR. “Our precept is to select people who have made a difference in our community or region that have been forgotten or not properly recognized for their role in our history.

“I think we also chose Reba because she was a unique woman of her time. We hear so much about women shattering the glass ceiling today. She was doing this over a century ago. She is a true example for the young women of today.”

Rebecca “Reba” Hurn 1881—1967

Stefanie Pettit is a freelance columnist for the Voices neighborhood sections of The Spokesman-Review. Her columns include “Landmarks,” featuring historic buildings and sites, and “Front Porch.” She can be reached at upwindsailor@comcast.net.
Recognizing the women who carry forward legal trailblazer Myra Bradwell’s legacy of activism and commitment to social justice.

For 27 years, the Gonzaga Women’s Law Caucus has recognized attorneys devoted to making a difference in the lives of women and children in the Spokane community. They have done so with an award named after a woman who was admitted to the practice of law in 1890—20 years after being denied admission on the basis of her gender. [See Bradwell v. Illinois, 83 U.S. 130 (1873).]

Myra Colby Bradwell, who was finally admitted to the Illinois Bar Association, spent her life as a publisher and political activist. She helped women study law and gain bar admission in those states where women of the time were legally permitted to practice law. Bradwell’s legacy of community service and commitment to social justice continues to serve as an inspiration today.

“This award is an opportunity to recognize a local attorney who embodies Bradwell’s dedication to improving the economic, social, and political positions of women in the United States,” said Leslie Gangelhoff, co-president of the Gonzaga Women’s Law Caucus. “These same goals are central to the mission of our group.”

The Gonzaga Women’s Law Caucus established the Myra Bradwell Award in 1993. Award recipients are nominated by Gonzaga law students, staff, and faculty. The Women’s Law Caucus board votes on the nominees and selects the recipient. An award ceremony is held each spring to honor the attorney and to highlight her legal work.

On Feb. 27, the Women’s Law Caucus recognized the work and achievements of Julie Schaffer, family and community engagement coordinator of Spokane Public Schools. Schaffer’s work has promoted policy initiatives that have legal implications for students in the Spokane public school system. She has helped implement restorative interventions, as opposed to exclusionary punishments like suspension or expulsion.

“The goal is to provide support that keeps students and families connected to the school, rather than excluding them,” Schaffer said. “Restorative practices treat conflicts as an opportunity to develop empathy, take accountability, and deepen relationships.”

All award recipients have demonstrated a commitment to legal advocacy and equality advancements for women. Justice Barbara Madsen, the third woman elected to serve on the Washington Supreme Court, was the first attorney to receive the award. The following year, the award was given to Judge Kathleen O’Connor, the first woman elected as a superior court judge in Spokane County.

Twenty-seven women attorneys, representing a wide range of legal careers, have received the award to date. [See sidebar.] In addition to Washington Supreme Court and superior court judges, award winners have included court commissioners, ACLU of Washington attorneys, civil rights attorneys, family law attorneys, and assistant attorneys general. These exemplary legal professionals have shared a dedication to advancing equality for women and building a path for others to follow in their footsteps.

As the most recent award recipient, Schaffer exhibits those same qualities. She sat on the board of the Spokane YWCA, which provides charitable...
services including domestic violence counseling, legal services support, early childhood education programs for mothers with young children, and the Women to Work program. She worked at the Center for Justice and served as the assistant director of the Center for Law in Public Service and as a staff attorney for the Washington State Bar Association’s Moderate Means Program. Schaffer remains engaged with the YWCA’s Racial and Social Justice Committee, and her past and ongoing work embodies the spirit of advocacy set by Myra Bradwell.

“I am so grateful for all the work that the Women’s Law Caucus puts toward making this celebration possible,” Schaffer said. “I think it is incredibly important for women to honor and support one another.”

“As we continue down our own career paths, we see the value in looking to the past to acknowledge those who helped carve out a space for women to succeed in society,” Gangelhoff said. “The Myra Bradwell Award is our way of thanking female leaders in our community for their commitment to fulfilling Bradwell’s vision of equality.”

Myra Colby Bradwell 1831-1894

Past Myra Bradwell Award recipients include:

2018: Stephanie Lister
2017: Molly Rose Fehringer
2016: Catherine Anderson
2015: Regina Malveaux
2014: Michelle Ressa
2013: Jaime Hawk
2012: Hon. Debra Hayes
2011: Joyce McCown
2010: Helen Donigan
2009: Hon. Ellen Kalama Clark
2008: Justice Debra L. Stephens
2007: Victoria Vreeland
2006: Cheryl Wolfe
2005: Andrea M. Pfolawski
2004: Carlin Jude
2003: Dawn Cortez
2002: Gloria Porter
2001: Hon. Tari S. Etizen
2000: Janice Drye
1999: Justice Mary Fairhurst
1998: Hon. Annette S. Plese
1997: Christine Gregoire
1996: Cynthia Imbrogno
1995: Patricia Williams
1994: Hon. Kathleen O’Connor
1993: Justice Barbara Madsen

SARA WILMOT is in her second year at Gonzaga University School of Law. She is the Myra Bradwell Award chair for the Women’s Law Caucus and editor-in-chief of the Gonzaga Law Review. She is focused on public interest law and social advocacy. She can be reached at swilmot@lawschool.gonzaga.edu.
The Lawyer, the Playwright

Bryan Harnetiaux discusses his process of writing plays, including one called MYRA

Bryan Harnetiaux is a lawyer in Spokane, but he has also served as a playwright-in-residence at Spokane Civic Theatre since 1982 and has written over 40 plays, including 13 published plays such as National Pastime, about the breaking of the color line in major league baseball in 1947, published by New York-based Playscripts, Inc.

Harnetiaux is a member of the Dramatists Guild of America, and his work has been performed throughout the United States. He currently partners with the Hospice Foundation of America to make his cycle of plays about end-of-life issues available to communities and medical professionals for educational purposes.

His plays tend to explore issues around social justice, race, and mortality. His short play, MYRA (an excerpt of which is featured on page 34), is about Myra Bradwell, who was refused admission to the Illinois State Bar in 1870 because she was a woman. MYRA premiered in New York City at the 2013 American Globe Theatre/Turnip Festival. It has also been performed in Spokane; Los Angeles; and Bendigo, Australia.

Recently, Harnetiaux talked with NWLawyer about his work as a playwright, the genesis of MYRA, his writing process, and more.

Q: How did you become a playwright?
A: Boy, I was writing in other mediums—trying to write short stories or poems—and after law school, I started acting in a local community theater in Spokane: Spokane Civic Theatre. I ended up on its play-reading committee, reading a lot of plays, seeing a lot of plays, and I thought, well, maybe if I’m meant to write at all, it’s in this vein. And so, in 1976, I started to write a play and finally finished one in 1977 that was put on at the Spokane Civic Theatre, and that kind of was a jumping-off point. So I don’t have a degree in theater ... I just declared myself a playwright in 1976, and I’ve been at it ever since.

Q: How did you decide to write MYRA?
A: I went to Gonzaga School of Law, and I have been an adjunct at Gonzaga for many years, in one capacity or another ... The Women’s Law Caucus at Gonzaga awards a Myra Bradwell Award every year (see “An Enduring Vision of Equality” on page 30). ... And it made me curious. I didn’t know who Myra Bradwell was, but I think I went and finally read the [1873 United States Supreme Court] opinion, Bradwell v. State of Illinois, and I was just ashamed. Here are these nine men saying no to a woman’s right to practice law, and especially this concurrence by Justice [Joseph P.] Bradley—if you haven’t read it, it’s just, it’s terrible—about the role of women in society and the perception of the role of women as simply homemakers, and you have no business in the law. I was startled by that ... and so this was the first time I said to myself, maybe I can write a short play about this person that illuminates what those times were like, and so I started researching.

And, as it happens, another writer friend of mine ... was writing something about Myra Bradwell at the time and she gave me a biography on her life. The more I looked at it, the more I thought there is something to examine here. And what if Myra Bradwell met this justice, who spoke so poorly about the role of women in society, Justice Bradley. And then I thought about ways to put them in the same room and it kind of went from there.

I never intended to write a big play, but I thought maybe I could capture in a short play...
that confrontation and in doing so examine those issues retrospectively because … that was really on the cusp of the women’s suffrage movement. Myra Bradwell was a contemporary and an occasional correspondent with Susan B. Anthony, although they differed somewhat on certain aspects of women’s rights. Susan B. Anthony and Myra Bradwell also had a connection with Mary Todd Lincoln. And so Myra Bradwell was very much in the mix of the women’s movement at the time. Undoubtedly, Myra’s case was a test case, because Illinois had already changed the law by the time her case got to the U.S. Supreme Court. But Myra Bradwell was trying to strike a blow for all women in all 37 states, and so she persisted in pushing the case all the way to the U.S. Supreme Court.

So I just thought this was high drama, and maybe it was the connection with Gonzaga and that award, to celebrate that in some way … It takes a lot of energy and time, even a short play, and this compelled me. I wanted to find out more about Myra Bradwell, and it was a great little journey.

Q: Can you describe your writing process?
A: So, I’m old school. I write initial drafts in longhand on white legal pads—the yellow ones are for law work. Most of the time you let ideas simmer, take notes on character, plot. What’s the theme of the play? What’s the conflict? What’s the story line? Slowly, it might take shape. You don’t have to know how it’s going to end, but you have to know what the situation is, the plot that’s driving these characters, and then put them in a room and see what happens.

So it might take me a year or more to write a full-length play, months to write a short one. My process is such that I pretty much can only work on one thing at a time. … The last thing I’ll say about my process is when I’ve decided to write it, I don’t talk about it to anybody until I have a first draft. I become very isolated and I just pound out a draft and try not to judge it. When I finally have got a draft, then I’m ready to explode and I get actors and a director who will read it with me, maybe in my living room, and I get feedback and then I go back at a new draft.

But that first part is a very solitary part of the journey, and then it opens up to where, finally, there’s hopefully a production, and that process becomes very collaborative. All of a sudden it’s not just about you anymore, it’s about the actors, the director, the set designer. I truly love that part of the process when it becomes very collaborative.

Q: Which of your plays is your personal favorite?
A: I did a play [National Pastime], about the breaking of the color line in baseball in 1947, and the journey of Jackie Robinson and Branch Rickey. It started in the summer of ’97, which was the 50th anniversary of Jackie Robinson walking onto a major league baseball field. Over the next 12 years, I worked on and off on that play—I mean, that play grabbed me by the throat. The first production of it occurred in the spring of 1998, followed by a series of additional productions and culminating in the play’s publication in 2009. Here I was, a lawyer, who thought I knew civil rights. I practiced some civil rights law. I was an inveterate baseball fan. I still play softball—I love the game—and yet, I didn’t know the story, really. But I picked up a biography of Jackie Robinson, in the summer of ’97, just for recreational reading while I was writing another play. I read this biography and I was just thunderstruck at what I didn’t know, and why this story wasn’t more available to our culture. … What also drew me to the story, it was really two men, Jackie Robinson, a superb black athlete who had lettered in four sports at UCLA, I mean, he was just phenomenal; and a lawyer, Branch Rickey, who never really practiced much law, but who was the president and the general manager of the Brooklyn Dodgers. And it was those two men—they developed a lifelong friendship—who really bucked a culture completely, and just out of sheer will, broke the color line. And I thought that story needed to be told, and I loved telling it.

Q: Are you currently working on a play?
A: Right now I’m in the midst of writing a new full-length play, and it’s coming … it’s a breech birth, as near as I can tell.
The following is an excerpt from *MYRA* that picks up the action mid-stream. This 10-minute play is a work of historical fiction. While the play is generally grounded in the highly charged political atmosphere of 1873, and based upon the lives of two public figures, there is no reason to believe the encounter below ever occurred...mostly. — BRYAN HARNETIAUX

**TIME & PLACE:**
LATE SUMMER, 1873; Chicago, the home of Myra and James Bradwell.

*[At the top of the play, Justice Bradley unexpectedly shows up at the Bradwell home and is greeted by Myra, who is alone. Once Myra realizes her visitor’s identity, she welcomes him into her parlor and works at being a gracious host.]*

**MYRA**
What brings you to Chicago?

**BRADLEY**
Court business. As you may know, each justice rides circuit—

**MYRA**
Ah, yes, this is your circuit.

**BRADLEY**
We try to touch base before the Fall Term of the Court. Administrative duties.

**MYRA**
My husband James is a lawyer member of the local committee. Oh, you’re looking for James! He just left for his office.

**BRADLEY**
No, actually, I wanted to meet you, Mrs. Bradwell. Pay my respects.

**MYRA**
Oh?

**BRADLEY**
I know it’s a bit unorthodox. We don’t often have occasion to meet a litigant. I should say, a former litigant. Your case is quite over now, and I was in the neighborhood. It might surprise you to

---

**CHARACTERS:**

**Myra Bradwell**
*Apprenticed in the law; early 40s.*

She was the plaintiff in *Bradwell v. Illinois*, 16 Wall 130, 83 U.S. 130 (April 15, 1873), in which she unsuccessfully challenged in the United States Supreme Court the state of Illinois’ refusal to admit her to the bar to practice law because she was a woman.

**Joseph Bradley**
*United States Supreme Court Justice; early 60s.*

He was a Justice on the Court at the time the *Bradwell* case was decided, and wrote a concurring opinion explaining why he thought the Illinois law was constitutional, and why women should not be allowed to practice law.
know I’m an admirer of your work, as editor of the Chicago Legal Times. I’m told the local bench and bar consider it indispensable … in, ah, keeping up with recent developments.

MYRA
Thank you.

BRADLEY
I find I don’t always agree with your editorial slant, but it’s often thought provoking. We all need to be challenged, don’t you think?

(No response.)

Our point of view? In any event, splendid work.

(Another silence.)

You’re not practicing, then?

MYRA
Law? Why Mr. Justice Bradley, you said I couldn’t.

BRADLEY
Madam, the law said you couldn’t. More precisely, Illinois said you couldn’t.

MYRA
Sir, the court could have set Illinois straight, told it that its law was wrong.

BRADLEY
What do you mean? Well before we decided your case, the Illinois legislature had changed the law—allowing women to practice. You got what you wanted, Mrs. Bradwell. But you persisted with your appeal. May I ask why?

MYRA
What relevance does that have to your decision? I don’t recall any mention of that in the opinion.

BRADLEY
The Court is not your deus ex machina. It must view with caution issues born of public clamor and hysteria. It is an institution grounded in restraint.

MYRA
With all due respect, I fail to see even an ounce of restraint in the ruling, particularly your opinion. Restraint would have been for the Court to say that since Illinois had changed the law, the issue was moot. That Mrs. Bradwell could now pursue her chosen profession, so there was nothing to decide. That is not what the court did. Instead, you held women had no such right because in the eyes of the law we are considered chattel. Or should I say cattle.

(Another silence.)

Are you sure I couldn’t get you anything?
BRADLEY
I could use a whiskey.

MYRA
(Somewhat taken aback.)
Ah ... I think we have—

BRADLEY
I’m just kidding, Mrs. Bradwell. I never drink before Saturday. It was probably wise of you to have Mr. Carpenter present your case to us, instead of appearing pro se. You might have burst into flames.

MYRA
Justice Bradley, why are you here?

BRADLEY
As I said, court business. And, I was curious to see if you had landed on your feet.

MYRA
I never left my feet, sir.

BRADLEY
Yes, I’m sure you didn’t.
(Fumbling.)
Perhaps there is more. I guess I wanted to say to you, Mrs. Bradwell—without the robe—that jurists take an oath to decide cases based on the law and not their personal preferences or sympathies, whatever they may be.

MYRA
Why Justice Bradley, is that an apology?

BRADLEY
You’re free to treat it as an apology, if you must. It’s merely an explanation. One that persons not schooled in the law don’t seem capable of comprehending. One that I thought at least you would understand.

MYRA
I accept neither your apology, nor your explanation. If you were the least bit conflicted you would have signed the fairly innocuous main opinion, or perhaps Justice Chase’s dissent. Instead you concurred and wrote separately. Lectured us on the natural and proper timidity and delicacy of women, proclaimed—and I quote—that the paramount destiny of woman is to fulfill the noble and benign offices of wife and mother, all according to the divine ordinances of the Creator. Hogwash!

BRADLEY
The Natural Law is not hogwash, Mrs. Bradwell. It has long been a useful resource for the courts.

MYRA
When it suits you. That’s not my God.

BRADLEY
At least I dealt with the real issue underneath your maneuvering. This was never about your right to a chosen profession. It was about your purported right to wear breeches.

(A beat.)
Suffrage.

MYRA
You make it sound like the plague. ☹

* * * *

For the full text of MYRA, and to find out what else motivated Justice Bradley’s visit to the Bradwell home, visit: www.bryanhametiauxplays.com
(Search “Unpublished short plays” on right side of bookcase image on the webpage.)

Ed. Note: Plays are meant to be performed. With this in mind, for the balance of this year Hametiaux is making MYRA available for licensing, without royalty, to Washington local bar associations, legal organizations, and institutions for staged readings or performances at events such as luncheons, conferences, etc. Inquiries should be directed to him at bryanhametiaux@icloud.com.
MYRA Production History

JUNE 8, 2012
Inaugural staged reading:
Spokane Civic Theatre
Studio Theatre

APRIL 22-28, 2013
Premier production: 19th
Annual Fifteen Minute Play
Festival, Turnip Theatre
Company & American Globe
Theatre, New York City

AUG. 24, 2013
Beverly Hills/Hollywood
NAACP 2013 10 Minute Play
Festival, at Regency West,
Los Angeles

JUNE 4-7, 2015
Spokane Civic Theatre
Playwrights’ Forum
Festival, Studio Theatre

MARCH 1-4, 2018
TENX10 Festival,
Bendigo Theatre Company
(Bendigo, Australia)

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WASHINGT0N STATE
BAR ASSOCIATION

MYRA
An Excerpt from MYRA

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We work as a team on your
Neurosurgical cases.

Medical Malpractice.
It’s All We Do.

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ucho gusto,” she said softly, her eyes avoiding my own, strands of unwashed brown hair falling around her face. She looked at the four lawyers gathered around her and attempted a smile, but it was tentative, the way someone forces a smile when they’re scared. I hugged her with one arm and felt the dampness of her prison scrubs.

“What are your clothes wet?” I asked.

“I washed them out in the sink in the bathroom to try to feel clean,” she replied in Spanish.

We shuffled into the bare, austere attorney-client conference room to begin our conversation, which, as it turned out, would also be the beginning of an all-new legal education for me. But we’ll get to that later. First, I need to tell you about the woman I will call Maria.

It was a hot, sunny Saturday morning in July and we were at the Federal Detention Center (FDC) in SeaTac. Despite the summer heat, the center’s innards were dark and somewhat claustrophobic.

Before meeting Maria, I, like so many people, had spent the previous days and weeks reading story after story of immigrant children who were separated from their parents after crossing the border into the U.S. I would sit, nursing my own 9-month-old, scrolling through articles on my phone.

I needed to do something, but I had no idea what that “something” was. Rather, I didn’t know before I met Tahmina Watson.

Watson is a Seattle immigration attorney, and she served up the “something” on a plate—in the form of a Facebook post to a nationwide group of lawyer-moms about the launch of a pilot program, known as the Washington Immigrant Defense Network (WIDEN), to help detained asylum seekers with legal defense. All anyone needed to join was a bar number, a willingness to help, and a couple of hours per week. Watson posted the opportunity to the group and asked who was open to giving it a shot.

There were so many reasons not to take this on. For one, I had a 5-year-old boy in addition to the 9-month-old. Then there was my already demanding day job as in-house counsel and time spent supporting my ailing father-in-law in my “free time.” As this list was running through my head, my eye caught a familiar name in one of the comments on Watson’s post.

“I am interested!” wrote Ashley Greenberg.

I sat next to Greenberg in torts class during our 1L year at the University of Washington School of Law, and I learned she had taken a job as an attorney at Northwest Justice Project.

And so, fueled by the potent combination of righteous indignation and peer pressure, I replied: “I’m interested too!”
Steinkruger (Ret.), spent part of her career as a public defender and as an assistant attorney general. Then, for 19 years, she served as a superior court judge in Fairbanks, Alaska. She dedicated her career to public service and especially child welfare. Her efforts ran the spectrum from leading policy change at the state level to DIY community service projects. A Fairbanks newspaper aptly described the multitasking that I was oblivious to back then: “[Steinkruger] has represented juveniles charged with crimes [as well as] abused or neglected children. She’s also raising two daughters, leading the governor’s Interim Commission on Children and Youth, and throwing memorable Halloween parties on the side.”

As a child, I remember tagging along with my mom while she worked. I scribbled in coloring books in the waiting room at the juvenile facility while she met with clients, went with her to visit remote Alaskan villages while she presided over a trial, and napped in her chambers when I was sick and she couldn’t take a day off work.

My mom had a huge impact on Alaska’s child protection system and the court’s attitude toward juvenile matters. She, like Watson and countless other women, have looked at the blighted underbelly of their communities and chosen action over the status quo. I was ready to join them.

These words of Melinda Gates, a multitasking mom at the highest level, became my mantra:

The world is full of what seem like intractable problems. Often we let that paralyze us. Instead, let it spur you to action. There are some people in the world that we can’t help, but there are so many more that we can. So when you see a mother and her children suffering in another part of the world, don’t look away. Look right at them. Let them break your heart, then let your empathy and your talents help you make a difference in the lives of others. Whether you volunteer every week or just a few times a year, your time and unique skills are invaluable.

LEARNING MARIA’S STORY

And so I began my adventure with WIDEN to help where I could toward its new model to provide legal services to detained asylum seekers. WIDEN teams up non-immigration attorneys with experienced immigration defense attorneys to tackle each case. I had worked on a few pro bono asylum cases before, but never a case where the client was in detention, and certainly not the federal-prison-style detention I would witness at FDC.

As a non-immigration attorney, I felt unprepared to take on these cases by myself. But what I soon realized was, if not me, then who? Who would represent these detained asylum-seekers? WIDEN was offering a chance to participate in a case with a detained client, while having an experienced immigration attorney take the lead. This provided the support I needed to get involved.

WIDEN’s pilot program involved four cases resulting from the federal government’s current “zero tolerance” immigration policy. Due to lack of detention space at Northwest Detention Center in Tacoma, some of these cases were part of a group of 200 that were transferred to FDC. Each case was scheduled for a master calendar hearing, at which point a bond hearing would be set. Greenberg and I were partnered with Luz Metz and Lourdes Fuentes, experienced immigration attorneys who would be the leads on Maria’s case.

The first time we met with Maria on that hot July day, we learned her story, bit by bit. She was from Central America and traveled to the U.S. by herself to seek asylum. Maria’s spouse had been physically abusive to her in truly horrific ways, like cutting her arm with a machete. One of her children had been killed by gang members. Other family members had
been killed by gangs or had body parts cut off as a form of torture.

Maria wept openly when she talked about her life back home, but we had to continue asking questions that forced her to relive the most horrific moments of her life in detail. Who did this to her family members? What did they look like? Why did they do it? How did she escape? Maria had no formal education and could not read or write, which made it difficult to put together a timeline of events with dates and places. But we were able to get grisly pictures and death certificates that corroborated her story. We pulled together a bond package that included the collected evidence, her declaration, and information about a relative in the U.S. she would stay with if released on bond. We also had a letter from the Church Council of Greater Seattle detailing the community support waiting for Maria if she was released on bond. There were people ready to house her temporarily and provide airline miles to fly her to stay with a relative. By all objective measures, we were as prepared as we could be and expected the court to set a low cash bond.

Immigration court, I soon learned, does not lend itself well to expectations.

NOT YOUR ORDINARY COURT

The first thing that must be understood about immigration courts is that they are not part of the judicial branch, but instead fall under the executive branch—specifically, under the Department of Justice.

Maybe this doesn't seem like it would matter, but for attorneys who have practiced in state and federal courts, the differences are astounding. First and foremost, there is no right to appointed counsel. Only 14 percent of detainees are represented by counsel.2

Second, immigration judges are subject to the direct control of the attorney general. Former U.S. Attorney General Jeff Sessions announced in April 2018 that such judges would be evaluated based on how quickly they close cases.3

Third, no court record was kept for Maria’s bond hearing. If one wants to appeal the judge’s decision on bond, the only “record” that goes to the Board of Immigration Appeals is a decision based on the judge’s handwritten notes.4 The English-Spanish language interpreter for Maria at the hearing was the judge’s clerk.

The substantive and procedural safeguards that we have come to expect from courts in our country are often lacking in immigration court, despite the extremely high stakes.5 As immigration judge Dana Leigh Marks aptly summarized, these cases “amount to death penalty cases heard in traffic court settings.”6

With a lack of traditional safeguards, the granting of bond within immigration courts can be wildly inconsistent.

The High-Stakes World of Immigration Court

The nonprofit Washington Immigrant Defense Network (WIDEN) provides funding and support services for lawyers representing low-income detained immigrants to increase the capacity and quality of available legal services. It is creating a model that raises funds to help pay low-bono fees to immigration attorneys who would otherwise not be able to take a detained case, and partners volunteer non-immigration attorneys with immigration attorneys to increase overall legal capacity. WIDEN takes referrals from Northwest Immigrant Rights Project for detained cases. Founded by attorneys Tahmina Watson, Jay Gairson, Takao Yamada, and Erin Albanese, WIDEN creates a novel and innovative model for these challenging times. More information can be found at www.widenlaw.org. WIDEN was recently awarded a $25,000 grant from FWD.us, a bipartisan nonprofit devoted to immigration and criminal justice reform, as well as the 2019 Pro Bono Award by the Washington chapter of the American Immigration Lawyers Association.
be wildly inconsistent, which was true for the pilot cases WIDEN handled. Despite similar facts and supporting documentation, bond was granted in three of the cases, but denied in Maria’s case.

Once bond was denied, we prepared for Maria’s individual hearing on the merits. The hearing would determine whether Maria qualified for asylum, meaning she would be protected from being returned to her home country, would be authorized to work in the United States, and would be able to pursue a path to citizenship. In order to qualify for asylum, the burden is on the asylum-seeker to demonstrate past persecution or a well-founded fear of future persecution in their home country on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Greenberg, Metz, Fuentes, and I made numerous trips to FDC to interview Maria as we prepared for the hearing. Thanks to Greenberg’s efforts, we found a worldwide expert on Central American migration issues who was willing to review Maria’s case and write a report pro bono. We also found a psychologist who agreed to evaluate Maria and write a report at a steep discount. We prepared briefing, declarations, and other evidence showing that Maria’s membership in the particular social group of her family was the basis for the past persecution she suffered as well as her fear of future persecution in her home country.

Despite a roller-coaster ride of twists and turns along the way, Watson and the WIDEN team provided support and solutions at every step. After our meetings at FDC with Maria, Greenberg and I would carpool back to Seattle—back to our children, back to our coworkers, spouses, and friends who were entirely unaware of the trauma Maria was experiencing. We would drive and stare out the window, processing everything with dark humor and, mostly, disbelief.

**THE HEARING**

In September, Maria’s hearing date arrived. We filed into the tiny attorney-client conference room at FDC. Metz asked Maria questions and she recounted her son’s murder and the torture and abuse of her other child. She spoke of the gunmen who stalked them outside her home, of her journey to the U.S. border, and of being held in a cage with other detained immigrants for days after she crossed into the U.S. and asked for protection. She tried her best to answer questions from the judge, but her asylum claim was ultimately denied on the basis of an insufficient nexus between the harm and the statutorily protected grounds for asylum.

Maria had only a few minutes to decide if she wanted to pursue an appeal or agree to voluntary departure, which meant dropping her asylum case and being returned to her home country within two weeks. Maria said she was terrified to return, yet she still chose to do so because, she told us, she could not stand to be detained any longer.

We said our goodbyes that day and wished for her some small reprieve from the relentless suffering this life had brought her.

As my first experience with WIDEN and with an asylum case, this was a disappointing outcome, to say the least. However, we were there to bear witness to Maria’s experience and make sure she was not alone through the process. As attorneys, we stood in a unique position to record her experience, acknowledge her humanity, and advocate for her survival. WIDEN is working to provide an infrastructure to serve those like Maria. Many of us went to law school because we wanted to help people—WIDEN provides the opportunity to do just that.

**JILL SCOTT** is Associate General Counsel at the Allen Institute, where she practices transactional and IP law. Prior to working at the Allen Institute, she was Associate General Counsel at Seattle BioMed and an associate at Bennett Bigelow & Leedom, P.S. She can be reached at jil@alleninstitute.org.

**NOTES:**

3. Id.
5. Supra note 1.
How a WSBA Section Committee Can Change the Rules of the Game

It was about 5 p.m. on a Friday, and I could see the jagged ridges of the Cascades clearly from my office. I took it as an unmistakable sign that it was time to head out for the day. But just as […]

4 Reasons Young Lawyers Should Consider Going Solo

I’m a young lawyer. I started law school in 2010, which was a scary time to be entering the profession. Jobs had disappeared and a scarcity mindset had taken root. I was relieved when I managed […]

Washington Supreme Court Issues Strict Sexual Harassment Ruling

The Washington Supreme Court recently announced a zero-tolerance approach to sexual harassment in places of public accommodation. In Floeting v. Group Health, Inc., No. 95205-1, […]

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In 2007, six years into what would become the United States’ longest war, Lisa Herb had the opportunity to travel to Afghanistan to meet with potential partner organizations and continue the work she and a group of volunteers had officially begun two years earlier. She made the nearly 7,000-mile journey and was soon faced with a firsthand view of the tremendous challenges and barriers for all people in Afghanistan, but especially for women and young girls, who often must struggle to achieve an education, a career, and even basic human rights.

Although the Taliban’s countrywide rule ended with the U.S. invasion in 2001, the cultural barriers for women and girls remain. For many women and girls living in Afghanistan, obtaining an education or employment outside the home can be a life-threatening endeavor. Parts of Afghanistan, such as Kandahar Province, have a fundamentalist culture that often condemns girls’ education and seeks to exclude women from public life.

Afghan women still have difficulty participating in higher education, business, government, and public life in general. Young girls are frequently married against their will; many families will not allow their daughters or wives to pursue higher education or work outside the home; and in many places it is considered inappropriate or too dangerous for a

How the Alliance for International Women’s Rights is helping to raise up a generation of women leaders in Afghanistan

**Women Empowering Women**

**BY KARRIN KLOTZ**

Women
The idea of Afghan women and girls in places like Kandahar working directly with mentors and teachers from the international community may seem far-fetched. But that is exactly what one organization with roots in Washington’s legal community is doing.

HOW AIWR STARTED

The roots of AIWR trace back to 2003, when Herb made a cross-continental leap that ultimately led to a pivotal chapter in her life. After practicing employment law and commercial litigation in Seattle for nine years, Herb resigned from her partnership at Stokes Lawrence to accompany her husband to Mongolia, where he had been hired to run a program for the Wildlife Conservation Society.

She arranged to work long-distance for another Seattle firm, Summit Law Group, while living abroad and further devoted time to volunteer with several Mongolian nonprofit organizations, including an orphanage called the Lotus Children’s Center and a human rights organization called the Centre for Human Rights and Development (CHRD).

Herb helped both organizations with their international outreach and research efforts. In one instance, she researched domestic violence laws in other countries that local women’s rights groups could use to advise Mongolian legislators on the country’s first domestic violence legislation. Herb discovered that, while her legal skills were helpful, what the Mongolian organizations needed most was her English language skills; many of their fundraising, research, and international outreach efforts required English. Through her long-distance telecommuting arrangement with the Summit Law Group, Herb also realized that an incredible amount of work can be accomplished from afar.

Herb and her husband moved from Mongolia to New York in 2005, and she took those lessons with her. They became the beginnings of an idea to provide long-distance support to women leaders in Mongolia. When she didn’t find any volunteer opportunities in the U.S. that aligned with her vision, she decided to create her own. And with that, AIWR was founded in April 2005.

The Alliance for International Women’s Rights (AIWR), a volunteer-run nonprofit organization, connects women around the globe (with a special focus on Afghanistan) for the purpose of empowering leaders and future leaders in developing countries. AIWR harnesses new tools and technology, like Skype, to enable volunteers from the U.S., Canada, and other English-speaking countries to work from their office or home with women and girls in hard-to-reach locations in order to help them advance in their careers and educational goals. Through its two long-distance programs, the Mentor Program and the English Program, AIWR has matched hundreds of volunteer mentors and English teachers with students and mentees in Afghanistan for real-time, one-on-one mentoring and tutoring.

In some provinces there is so much resistance to educating girls that schools for girls have been burned down or their wells poisoned. Sometimes female students receive death threats on their doors at night. Other times, they are attacked with acid while walking to school. Even those who overcome these challenges and become leaders live under constant threat, sometimes forced to flee the country to save their lives.

Those problems are placed on top of a much larger struggle in a part of the world where severe poverty is prevalent and most citizens face the multitude of challenges associated with living in a war-torn country, including infrastructure that’s been decimated by four decades of conflict, bombings, and civilian casualties. Afghanistan is a hard country to survive in, and one of the hardest countries on the planet to be a woman or girl.

Because of the difficult and often dangerous living conditions in the region, the idea of Afghan women and girls in places like Kandahar working directly with mentors and teachers from the international community may seem far-fetched. But that is exactly what one organization with roots in Washington’s legal community is doing.

The Alliance for International Women’s Rights (AIWR), a volunteer-run nonprofit organization, connects women around the globe (with a special focus on Afghanistan) for the purpose of empowering leaders and future leaders in developing countries. AIWR harnesses new tools and technology, like Skype, to enable volunteers from the U.S., Canada, and other English-speaking countries to work from their office or home with women and girls in hard-to-reach locations in order to help them advance in their careers and educational goals. Through its two long-distance programs, the Mentor Program and the English Program, AIWR has matched hundreds of volunteer mentors and English teachers with students and mentees in Afghanistan for real-time, one-on-one mentoring and tutoring.
Women Empowering Women

... toward serving Afghan women leaders and potential future leaders. That focus and mission continue today.

“I founded AIWR because of how inspired I was by the women’s rights leaders I met in Central Asia,” Herb said. “Working with women leaders and young, future leaders in Afghanistan, Mongolia, Kazakhstan, and other countries has constantly left all of us at AIWR humbled and awed by their determination, dedication and perseverance in the face of great odds. What we have gained through AIWR’s partnerships with these inspirational women and girls feels far greater than what we are able to give back.”

THE AIWR ENGLISH PROGRAM

While in Afghanistan, Herb conducted informal needs assessments with potential partner organizations to determine where AIWR’s long-distance programs could have the most impact. All of them identified English language training as a core need.

Success in Afghan universities, which use English materials and curriculum, requires students to have strong English skills. The same skills are also a necessity for Afghan women to find success in business or the nonprofit and human rights sectors.

AIWR identified several partner organizations for its long-distance English Program. The United States Agency for International Development’s (USAID) Afghanistan Higher Education Project (HEP) helped provide the English Program to professors at Kabul University, Kabul Education University, and Herat University. The Afghan Women’s Network, through its office in Peshawar, Pakistan, joined AIWR to provide English language training to Afghan refugee high school girls.

One of AIWR’s largest and longest-running partnerships is with the Kandahar Institute of Modern Studies (KIMS) in Kandahar. Through AIWR’s partnership with KIMS, hundreds of female students in Afghan high schools and universities have received English language training, as well as mentoring to apply for scholarships and help preparing for English language entrance exams.

Two volunteers currently run AIWR’s English Program: Anne Damiecka, a professor of English for Speakers of Other Languages (ESOL) at Lone Star College in Texas; and Laura Waters, a teacher in Ontario, Canada. Scarlett Chidgey, a development professional in California, provides technology support. The program recruits, interviews, and prepares volunteer teachers, and then matches them with students. Typically, there are between 10 and 25 student-teacher pairs to coordinate each month.

Volunteer teachers are matched with a student for three months, during which time the teacher and student meet via Skype twice per week for an hour-long session. At the beginning of the three-month period, the teacher works with the student to help her identify the English language goals that are most meaningful to her, whether that’s preparing for a university entrance exam, readying for a business position, practicing for the Test of English as a Foreign Language (TOEFL) exam in hopes of studying abroad, or mastering English terminology applicable to her university coursework. To ensure best results for the students, and because teaching long-distance via Skype is inherently challenging, AIWR recruits only certified and experienced English as a Second Language (ESL) or English as a Foreign Language (EFL) professionals for the English Program.
TESTIMONIALS

The Alliance for International Women’s Rights (AIWR) English Program was created to provide high-quality English language instruction to help women and young girls in Afghanistan, but there have been wonderful secondary results. The rich cultural exchanges and friendships forged during one-on-one sessions between students and teachers provide an opportunity to work closely with young women in Afghanistan and have been deeply inspiring and rewarding for volunteers and students alike.

“I have been volunteering with AIWR since December 2011, and have found the experience truly rewarding, inspiring, and incredible. I have learned so much from my amazing students, who have taught me so much about Afghanistan, have shared with me their experiences, and have shown such motivation, enthusiasm, and dedication during our lessons. It has been such a pleasure to teach/mentor such committed and passionate students.” —AIWR teacher

For many of the students, like the ones quoted below, AIWR’s English Program is the first time they have spoken with someone from outside of their community, and the experience can be life-changing.

“Learning English is like water, food, and breath—vital for me.”

“It is the first organization in Kandahar Province in which we can study abroad from our own city—and we can learn about different cultures as well as improve our English skills.”

“My teacher brings me another life, she brings hope in my life and changes my life completely.”

The AIWR MENTOR PROGRAM

Gayle Zilber is a Seattle-area attorney with Microsoft who first came to AIWR as a legal mentor in 2008 before stepping into the role of director of the Mentor Program in 2014. By 2018, the program had grown to include more than 35 active mentor-mentee matches. With assistance from Mentor Program Coordinator Nancy Hunting, an ESL/EFL professional and world traveler who currently resides in Anacortes, the Mentor Program focuses on empowering professional women primarily in Afghanistan’s more progressive city centers such as Kabul, Herat, and Mazar-i-Sharif. The program’s mentees include judges, prosecutors, defense attorneys, law professors, doctors, and women’s rights advocates—all of whom have struggled against their country’s harshly conservative traditions and managed to create professional careers for themselves.

In the early years of the Mentor Program, most of AIWR’s legal mentees were fresh out of law school, interning with Justice for All Organization (JFAO), a women’s rights NGO based in Kabul. As the mentees’ careers developed, they were hired into other institutions and AIWR’s Mentor Program grew with them. Mentees have now worked with such prestigious international entities as UN Women, Oxfam, the Max Planck Foundation, International Development Law Organization, USAID, and government institutions including Afghanistan’s courts, its Attorney General’s Office, and major public law schools in the country.

The program’s mentors include experienced women’s rights attorneys, partners and associates from major firms such as Davis Wright Tremaine LLP, law professors, in-house counsel, physicians, and certified ESL instructors. Mentoring sessions might focus on the Afghan Constitution, international women’s rights texts, or other laws and texts relevant to the mentee’s career. AIWR has collaborated with the International Action Network for Gender Equality & Law, an Afghan constitutional law professor, and attorneys from Microsoft to develop lesson guides and session materials.

- One mentee helped her U.N. organization translate its gender mainstreaming policy (a strategy for promoting gender equality) from English into Dari. Her mentor helped her fully comprehend the text so she could translate it accurately. The mentee then provided trainings on gender mainstreaming throughout her institution’s offices.
- Another mentee worked with an international development organization to solve water disputes.
Women Empowering Women

In order to better understand the international framework for resolving such conflicts, she and her mentor read the International Convention on the Law of the Non-navigational Uses of International Watercourses (1997).

- One mentor provided sample ethics training programs from other nations to use as references for a mentee tasked with developing an ethics training program for Afghan court employees.
- A prosecutor appointed to the new Anti-Corruption Justice Court (an Afghan court supported by the international community) chose to focus her mentoring sessions on the U.N. Convention Against Corruption and international efforts to combat money-laundering.
- A judge appointed to a new domestic violence court in Afghanistan began a deep dive with her mentor into the Law on Elimination of Violence against Women (2009), https://www.refworld.org/pdfid/5486d1a34.pdf, and together they are currently working on an improved English translation.
- A mentee passionate about improving international arbitration worked with her mentor to polish her master’s thesis on the subject before publication.
- An Afghan senator wanting to increase rape penalties in the country asked her mentor to help gather information about rape laws in other moderate Muslim countries as part of a presentation to her colleagues in parliament.
- A mentee provisionally promoted to a key leadership role with a major international organization asked her mentor for guidance on management and team building; after reviewing the subject together in sessions, the job promotion was made permanent.

In addition to helping mentees master materials relevant to their careers, mentors will regularly edit mentees’ written reports, academic articles, grant proposals, legal manuals, and other texts. Mentors also help their mentees develop persuasive writing skills by providing them with regular assignments and offering detailed feedback.

With their mentors’ support, mentees have seen their careers thrive. They have gained admission into graduate programs overseas, received U.S. government scholarships for LL.M. studies, published articles in prestigious international law journals, fulfilled their dreams of becoming prosecutors and judges, risen in their careers, and substantially increased their incomes.

One mentee, who ran a secret school for girls in her home when she was a teenager during the days of the Taliban regime, was recently honored with the Woman of the Year award by her U.N. employer. Another mentee was elected vice president of the Afghan Independent Bar Association. A mentee who attained an LL.M. degree in the U.S. was subsequently hired to design an anti-harassment program for schools in Afghanistan.

Some mentees are the main wage earners in their families and through their economic success have earned the freedom to travel internationally for work and study—a freedom that would previously have been impossible. Others have increased their incomes enough to afford larger apartments where, for the first time, they can have a room of their own. Their success has also encouraged their extended families—even those who live in very conservative provinces—to permit their daughters to attend high school and university.

Empowering these women through mentorship has proven to extend beyond those individual relationships and careers and has resulted in a positive ripple-effect throughout Afghan society.

WHY I VOLUNTEER WITH AIWR
Volunteering for AIWR has been one of the most rewarding experiences of my life. I worked with two women during my time as a mentor: a female senator from Afghanistan who frequently represented her country at the U.N., and a female family law attorney.

It was an honor and one of the most unique experiences of my career to discuss with these women legal terms and concepts in an international context, given all the challenges they face. But it was also haunting at times. During our conversations, I could sometimes hear the sounds of an active war zone. These experiences reaffirmed how these mentees are truly exceptional, extraordinary, brave women—and that AIWR is a paragon for women’s organizations worldwide.

CALL TO ACTION
AIWR is always seeking volunteers for its English and Mentor Programs. To learn more about the programs and to find an application form, please visit www.aiwr.org.

Some mentees are the main wage earners in their families and through their economic success have earned the freedom to travel abroad.
Karrin Klotz has practiced business law, intellectual property law, and employment law as a litigator for Pillsbury, Madison & Sutro, and for Donahue, Gallagher, Thomas & Woods, in the San Francisco Bay Area. She has also been in-house counsel for Microsoft Corporation and Amdahl Corporation, and Associate General Counsel for Wall Data Inc. Most recently she has been a professor at UW Seattle, UW Bothell, and Seattle University School of Law, teaching courses in international law, intellectual property law, employment law, and business law at both the graduate and undergraduate level, as well as to professionals in the respective fields. Klotz clerked for Hon. Gabrielle McDonald of the U.S. District Court for the Southern District of Texas upon graduation from law school. She has been a vice president of Washington Women Lawyers for many years, in charge of its Legacy Project.

AIWR founder Lisa Herb at the Lotus Children’s Centre, Ulaanbaatar, Mongolia.
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OPPORTUNITIES FOR SERVICE

INTERESTED IN RUNNING FOR THE BOARD OF GOVERNORS?

At-large position: The at-large governor will be elected by the Board of Governors at the May 16-17 meeting. The board will select from among candidates who have the experience and knowledge of the needs of lawyers whose membership is, or may be, historically underrepresented in governance, or who represent some of the diverse elements of residents throughout Washington, to the end that the board will be a more diverse and representative body than elections based solely on congressional districts may allow. The three-year term of office for the at-large governor, currently held by Athan Papailiou, will begin in late September. The application deadline is April 22. Application instructions are posted at https://www.wsba.org/elections.

BECOME A SECTION LEADER

Are you looking for a rewarding leadership opportunity that offers professional growth and connection with colleagues? Then consider applying to become a section leader. WSBA sections are seeking applicants to fill various open executive committee positions (varies depending on section). All terms will begin Oct. 1, 2019. Please consult a section’s webpage for more information, https://www.wsba.org/sections, or log in to your myWSBA account to apply. You must be an active member of the WSBA and a current section member to apply.

VOLUNTEER

CUSTODIANS NEEDED

The WSBA is seeking interested lawyers as potential volunteer custodians under Rule for Enforcement of Lawyer Conduct (ELC) 7.7. 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 disability inactive status, suspended or disbarred, or dies or disappears, and no person appears to be protecting the client’s interests. The custodian takes possession of the necessary files and records and takes action to protect the client’s 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.

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 Rules of Professional Conduct (RPC). 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 https://www.wsba.org/for-legal-professionals/ethics/about-advisory-opinions. You can search opinions by number, year issued, ethical rule, subject matter, or keyword. Advisory opinions are issued by the WSBA to assist members in interpreting their ethical obligations in specific circumstances. The opinions are the result of study and analysis in response to requests from WSBA members. For assistance, call the Ethics Line at 206-727-8284 or 800-945-9722, ext. 8284.
**WSBA COMMUNITY NETWORKING**

**ACCESS TO JUSTICE CONFERENCE**
Save the date for the 2019 Access to Justice Conference, to be held June 14-16 at the Spokane Convention Center. Information will be posted to the Alliance for Equal Justice website, [www.allianceforequaljustice.org](http://www.allianceforequaljustice.org), as it becomes available.

**WSBA CLE FACULTY DATABASE**
If you are currently serving as CLE faculty, or are interested in working with the WSBA as a future CLE faculty member, we encourage you to register in our CLE faculty database. Serving as a faculty member provides you with the opportunity to engage with other attorneys across the state, give back to your profession, and advance your professional growth. Topics include upcoming changes in the law, emerging trends, and other substantive content. Our goal is to ensure we are engaging with the right faculty at the right time, matching practice expertise and knowledge to our educational programming needs. We hope to capture the information of all those who plan to teach—both current CLE faculty and those interested in future opportunities. To register, please log in to your myWSBA account, go to “My WSBA Profile” and select “CLE Faculty Database Registration.”

**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, it is a place to ask questions, seek referrals, and make connections with peers. To join, email newmembers@wsba.org.

**ALPS ATTORNEY MATCH**
Attorney Match is a free online networking tool made available through the WSBA-endorsed professional liability partner, ALPS. 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 eligible for MCLE credit. 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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Pre-suspension notices have been mailed. If you have not completed all mandatory portions of your license renewal, including MCLE requirements and certification (if applicable) you are delinquent and your license is at risk of administrative suspension. You may complete licensing requirements, including MCLE certification, either online at mywsba.org or by using the License Renewal and Mandatory Continuing Legal Education Certification forms. Visit https://wsba.org/licensing to learn more.

ABA ANNUAL MEETING SCHOLARSHIP
The Washington Young Lawyers Committee (WYLC) will be awarding two $225 scholarships for two new and young lawyers to attend the ABA annual meeting in San Francisco on Aug. 8-10. The scholarship recipients will be responsible for representing the interests of Washington’s young lawyers at the ABA annual meeting and bringing back ideas to the WYLC about how to better engage and serve new lawyers in our state. Applications are due by 5 p.m. PDT, May 31. For more information visit https://www.wsba.org/for-legal-professionals/new-members/ABA-Scholarship or email newmembers@wsba.org.

WYLC PUBLIC SERVICE AND LEADERSHIP AWARD
Do you know a new or young lawyer who deserves to be recognized for their long-term public service and extraordinary contribution to the community? Nominate them for the Washington Young Lawyers Committee’s (WYLC) Public Service and Leadership Award. Please submit nominations by May 4. For more information, or to nominate someone, visit https://www.wsba.org/for-legal-professionals/new-members/public-service-and-leadership-award or email newmembers@wsba.org.

WSBA BUDGET
The WSBA’s fiscal year 2019 budget was approved at the September 2018 Board of Governors meeting before the end of the WSBA fiscal year. The fiscal year 2019 budget, and information about the programs and services that it supports, is available at https://www.wsba.org/about-wsba/finances.

MANDATORY MALPRACTICE INSURANCE TASK FORCE
The Mandatory Malpractice Insurance Task Force has met since January 2018 to research the consequences of uninsured lawyers, to examine current mandatory malpractice insurance systems, and to collect and consider feedback from WSBA members. At its March 7 meeting, the WSBA Board of Governors received for first reading the task force’s final report, which contains a recommendation that would (if adopted by the Washington Supreme Court) mandate malpractice insurance as a condition of licensing for lawyers, with specified exemptions. The final report, recommendation, and proposed rule language are available at https://www.wsba.org/insurance-task-force. Members can provide comments to the Board of Governors via insurancetaskforce@wsba.org.

WSBA CONNECTS
WSBA Connects provides free counseling in your community. All bar members are eligible for three free sessions on topics including work stress, career challenges, addiction and anxiety, as well as other issues. Upon calling 800-765-0770, a telephone representative will arrange a referral using KEPRO’s network of clinicians throughout the state of Washington. There is no need to let problems build up unnecessarily. We hope you make the most of this valuable resource.

CAREER CONSULTATION
Want someone at WSBA to take a look at your résumé? Want to brainstorm approaches to networking? Job searches require a game plan. We are happy to set up a time to speak. Email wellness@wsba.org.

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 12:15 to 1:30 p.m. at the Skinner Building at 1326 Fifth Ave., 7th Floor, Seattle. If you are seeking a peer advisor to connect with and perhaps walk you to a meeting, the WSBA Member Wellness Program can arrange this; call 206-727-8268.

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Disbarred
Donald G. Henslee [WSBA No. 31428, admitted 2001] of Austin, TX, was disbarred, effective 1/15/2019, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of Texas. For more information, see https://www.texasbar.com/AM/Template.cfm?Section=Find_A_Lawyer&template=Customsource/MemberDirectory/MemberDirectoryDetail.cfm&ContactID=171680. Donald G. Henslee represented himself. The online version of NWLawyer contains a link to the following document: The Washington Supreme Court Order.

Samuel Campbell Marsh [WSBA No. 43756, admitted 2011] of Las Vegas, NV, was disbarred, effective 2/1/2019, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.1 (Competence), 1.3 (Diligence), 3.3 (Candor Toward the Tribunal), 4.1 (Truthfulness in Statements to Others), 8.4 (Misconduct). Francesca D’Angelo and Kevin Bank acted as disciplinary counsel. Samuel Campbell Marsh represented himself. Bradley Robert Duncan was the hearing officer. Timothy J. Parker was the settlement hearing officer. The online version of NWLawyer contains links to the following documents: Hearing Officer’s Decision; Disciplinary Board Order Declining Sua Sponte Review and Adopting Hearing Officer’s Decision; and Washington Supreme Court Order.

Resigned in Lieu of Discipline
Michael John McLaughlin [WSBA No. 13367, admitted 1983] of Newport, WA, resigned in lieu of discipline, effective 2/15/2019. The lawyer agrees that he is aware of the alleged misconduct in disciplinary counsel’s Statement of Alleged Misconduct and rather than defend against the allegations, he wishes to permanently resign from membership in the Association. The Statement of Alleged Misconduct reflects the following violations of the Rules of Professional Conduct: 1.15A (Safeguarding Property), 8.1 (Bar Admission and Disciplinary Matters), 8.4 (Misconduct). Emily Krueger acted as disciplinary counsel. Jeffrey T. Kestle represented Respondent. James D. Hicks was the hearing officer. The online version of NWLawyer contains a link to the following document: Resignation Form of Michael John McLaughlin (ELC 9.3[b]).

Marlene K. Wenger [WSBA No. 35478, admitted 2004] of Winlock, WA, resigned in lieu of discipline, effective 1/09/2019. The lawyer agrees that she is aware of the alleged misconduct in disciplinary counsel’s Statement of Alleged Misconduct and rather than defend against the allegations, she wishes to permanently resign from membership in the Association. The Statement of Alleged Misconduct reflects the following violations of the Rules of Professional Conduct: 3.1 (Meritorious Claims and Contentions), 8.4 (Misconduct). Emily Krueger and Natalea Skvir acted as disciplinary counsel. Marlene K. Wenger represented herself. Christopher Strawn was the hearing officer. Carl J. Oreskovich was the settlement hearing officer. The online version of NWLawyer contains a link to the following document: Resignation Form of Marlene K. Wenger.

Suspended
Jill J. Smith [WSBA No. 41162, admitted 2009] of Seattle, WA, was suspended for three years, effective 12/26/2018, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation), 3.1 (Meritorious Claims and Contentions), 3.4 (Fairness to Opposing Party and Counsel), 8.4 (Misconduct). Jonathan Burke acted as disciplinary counsel. Peter A. Offenbecher represented Respondent. Scott Martin Ellerby was the hearing officer. Renee Glenda Wallis was the settlement officer. The online version of NWLawyer contains links to the following documents: Order Approving Stipulation to a Three-Year Suspension; Stipulation to Three Year Suspension; and Supreme Court Order.

Interim Suspension
Marcia Marie Meade [WSBA No. 11122, admitted 1980] of Spokane, WA, is suspended from the practice of law in the State of Washington pending the outcome of disciplinary proceedings, effective 1/18/2019, by order of the Washington Supreme Court. This is not a disciplinary sanction.

Transfer to Disability Inactive Status
Kevin Mahoney [WSBA No. 18697, admitted 1989] of Spokane, WA, was by stipulation transferred to disability inactive status, effective 12/14/2018. This is not a disciplinary action.
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Jason Ayres, who is also based in the firm’s Portland office, advises commercial lenders, small businesses, equipment lease and finance companies, and farms in litigation, bankruptcy proceedings and insolvencies, including matters involving agricultural lending and workouts. Jason has substantial experience representing receivers and lenders in receivership proceedings and contested Chapter 11 and 12 cases. He appears in federal and state court proceedings in Washington and Oregon.

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City of Seattle v. Menotti,
409 F.3d 1113 (9th Cir. 2005)

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

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

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

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SPACE AVAILABLE

Beautiful office with secretary station, located in a building with 6 offices. U.W. (Wedgewood) area. Includes use of 2 large conference rooms, copier, fax, kitchen, and shower. Phone system in and network ready. Office is air-conditioned. Contact Kevin at 206-522-7633 or kevin@careyvedrich.com.


Shared office space in Edmonds: Shared office space available in convenient Edmonds location with one other established attorney. Lease includes: 12x14 office suite with windows, receptionist, conference room, free onsite parking, copy/print/scan capability, janitorial services and desirable location with easy access to both Snohomish and King County.
Seattle Family Law, Criminal Defense and Personal Injury firm has an office (furnished or unfurnished) for rent in the North Lake Union area. Large work station(s) available for support staff. Share the reception area, kitchenette and conference room. Space available immediately. Contact Mark Blair for more information at 206-622-6562.

Downtown Seattle, 500 Union Street, Logan Building. Two app. 12x14 offices available 4/1/19 in personal injury law firm. Great light. Services. Lease ends 10/31/19. $750 per month. Fair market rent=$1,250. Contact David at 206-447-8665 or david@legalroth.com.

Small construction and real estate law firm has two offices available on the 44th floor of the Columbia Center, with a potential secretarial station if needed. One is approx. 10x11 with stadium view, for $1,200/mo. The other is approx. 10x12 with post-obstructed stadium view, for $950/mo. Offices include kitchen, internet, conference room(s), work room, with the potential for secretarial assistance. Access to Columbia Center gym and facilities. Available now, 1 yr. minimum term, and underlying lease runs until at least October 2021. Potential for referrals. Call Lisa at 206-223-0335.

Large NW corner office with gorgeous, unobstructed Sound view located on 25th floor, Wells Fargo Center, Third and Madison, Seattle. Share space with business, IP, and tax/estates firm and with other attorneys engaged in PI, bankruptcy, litigation, and family law matters. Includes receptionist, telephone answering, conference rooms, library, kitchen, and access to the building’s fitness center. Fiber internet, new phones, copier, scanner, and fax also available. $2,100/mo.

Large, immediately adjacent assistant space also available. 206-382-2600.

Pine and Melrose office space: Four private offices for rent in classic historic building. Easy access to freeways and transit. Office spaces range in sizes from 9x12 to 12x14 SF. Rents vary from $950 to $1,100 per month depending upon office size. Will consider reduced rent if a single business is interested in leasing all four offices. Building amenities include reception, conference rooms, and kitchen. Contact Julie Jetland at jjetland@groffmurphy.com or call 206-948-9257.

Downtown Seattle, 1111 3rd Ave., Class A space. Receptionist, voicemail, conference room, copier, scanner, phone, gym, showers, bike rack, light rail and bus stop across the street, several offices available now, secretarial space available, share space with an existing immigration law firm, $1,275 per office. 206-294-5060, ask for Jeri.

Shared office space in Edmonds: Shared office space available in convenient Edmonds location with one other established attorney. Lease includes: 12x14 office suite with windows, receptionist, conference room, free onsite parking, copy/print/scan capability, janitorial services and desirable location with easy access to both Snohomish and King County Courts. Contact Jolene at office@johansonlaw.com or 425-776-5547.

Bellevue Offices. AV business/estate plan law firm has office suite available with two offices and kitchenette. All other occupants are attorneys. Situated in a relaxed park-like setting near downtown Bellevue. Receptionist, mail/fax/copier/scanner/shredding, conference/seminar rooms, tax library, kitchen, shower plus FREE PARKING for tenants/clients, and with easy in-and-out, plus freeway access (I-405, I-90, and 520). Street signage and details at www.bellevueprofessionaloffices.com. Call Hans, Mike, David, or George at 425-453-4455.

Private and virtual office suites in downtown Seattle available now! Located close to courts on the 32nd floor of Safeco Plaza Building. Includes fiber internet, reception services, conference rooms, kitchen facilities, fitness center. Call 206-624-9188 or email adm@bscofficespace.com to schedule a tour, www.bscofficespace.com.

Up to four partial western view partner offices available in downtown Seattle. Professional and collegial environment, reception services, conference rooms included. Workstations also available. Cross referrals possible and encouraged. One- to four-year sublease terms. Contact Barbara Jacobson, The Jacobson Group Commercial Real Estate, for more information: 206-343-5636.

VACATION RENTALS

Enjoy the desert sun—recently remodeled, mid-century modern, three-bedroom, two-bath with private pool in Indian Wells, CA, near Palm Springs available for rent. Thirty-day rental restriction but weekly rental available once per month. Call Kirsten for more information: 360-739-8056.

PARIS APARTMENT – At Notre Dame. Elegant 2-bedroom, 2-bathroom apartment, in the heart of Paris. PROVENCE HOUSE – In Menerbes, France. 4-bedroom, 3.5-bathroom house. Incredible views 503-227-3722 or 202-285-1201; angpolin@aim.com.
My husband, Joshua, and I have lived in the Seattle area for over four years and currently own a home in beautiful Snoqualmie. We moved here from Kansas when he took a job in the area. We love Seattle and feel fortunate to live here now. I work for Seattle City Light in the Regulatory Affairs Office. I advise on regulatory policy for the utility primarily at the federal level. I currently serve on the Mandatory Continuing Legal Education (MCLE) Board and was the chairperson last year.

- I became a lawyer because I knew I wanted to develop my skills to advocate for causes I cared for.
- Before law school, I thought I might be a marine biologist! My undergraduate major was ecology, biodiversity, and evolutionary biology.
- The best advice I have for new lawyers is work hard to meet as many people as you can: attorneys, paralegals, judges, administrative assistants. They all have a role to play in helping you succeed.
- I wish that more lawyers would work civilly with each other while still being strong advocates for their clients.
- I keep up with legal news and developments by reading NWLawyer magazine!
- During my free time, my husband, Joshua, and I play with our darling boys, Malcolm (almost 3 years old) and Conrad (1 year old). Everything I do at work to succeed now is so I can provide for them but also show them that their mom is a strong leader.
- The most memorable trip I ever took was when I studied abroad in college. I did Semester at Sea, where you are on a boat sailing around the world for 3½ months. We left from Vancouver, B.C., and traveled to Japan, Hong Kong, Vietnam, Malaysia, India, then went up through the Suez Canal to Egypt, Turkey, Croatia, Italy, and Morocco before coming back to Miami.
- If I took one day off in the middle of the week, I would probably do something boring like get caught up on laundry, and maybe take a good nap!
- My fitness routine is a combination of running and hot yoga. Last year I joined FIT4MOM in Issaquah and worked out a couple times a week with other moms. It is actually a pretty intense workout and fun to connect with other moms who go through the same struggles of having little children. I also am going to try in 2019 to run a race every month!
- My favorite place in the Pacific Northwest is the Olympic Peninsula. We have been there a couple times but really want to go more often. It is so beautiful and has such a diverse climate.
- I grew up in Wichita, KS.
- My best parenting advice is do not try to win an argument with a toddler. I think talking to my son about what he wants is the hardest negotiation I have ever had to do.
- This is on my bucket list: scuba diving the Great Barrier Reef in Australia.
- I am thankful that my family is happy and healthy.
- My motto is “start each day with a grateful heart.”
- You’ll find my family outside in the Northwest doing this: Like everyone else, we love to get out and hike! My husband and I are excited for when the boys are just a little bit older and can start going on hikes with us other than in a hiking backpack.
- My dream trip would be taking a safari in Africa.
- If $100,000 fell into my lap, I would be practical and pay off the remainder of my law school loans, and use the rest to either take a fun trip with my husband or maybe buy a new car.
- My all-time favorite movie or TV show is Friends.
- I would like to learn another language, either Italian or Spanish.

MELISSA SKELTON
Bar No. 48862
Law School: Washburn University School of Law

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