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On the cover: Courthouse Dog Jeeter gets a hug. Photo by Tapani Romppainen
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UBE Debut
The article, “UBE Debuts in Washington” [OCT 2013 NWLawyer], brought back memories of taking the Oregon Bar exam in 1980 (then called the multi-state exam). There were 200 questions, 100 in the morning and 100 in the afternoon. We were prepped that three answers would seem either completely right or wrong, and one would be close. At the break I decided there was no reason to return for the afternoon session, since I was sure I answered eight correctly. Only by having lunch with other equally depressed classmates, and learning that we answered the same on several questions did I decide to return. We all passed. I took the Washington Bar exam in 1982 and found it much more reasonable, since I did not have to “guess” on many of the questions. My biggest fear was that they could not read my handwriting.

James B. Parsons, Bellevue

Bar Beat Fan
Just a quick note to say how much I enjoy Michael Heatherly’s columns. They are the first thing I turn to when I get my Washington State Bar magazine! I always find myself laughing out loud in my office. Thanks very much and please keep them coming!

Cathryn Ruckle, Portland, OR

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As we celebrate the career and retirement of Kaye Gorlick, we look to the future with our newest Commercial Account Managers, Kelly Molitor and Steven Paravia.

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It’s Time to Change the Conversation

The old economy is not coming back; neither is yesterday. A wise man once advised, “Give up all hope of a more perfect past.” It’s not about more protections, rebuilding the lawyer monopoly, or crushing the non-lawyer legal service uprising.

Let’s change the conversation.

It is about the future right in front of us. It is about creating a business model for law firms that will allow lawyers to provide instantly available access, quick issue resolution, and specialized knowledge — all wrapped in an affordable package that allows lawyers to grow a viable profitable firm while at the same time making legal services available to a new market of citizens that had been previously priced out of justice.

The $100 Million Market

In 2003, the Task Force on Civil Equal Justice Funding completed a civil legal needs study based only on Washington data that proved that the market for legal services was vast, unmet and untapped, and is, according to some estimates, a billion-dollar industry. Washington has a population of 6,897,000 people. At a minimum, if 1 in 7 spent $100 on legal services it would be a $100-million industry annually.

Regardless of the exact size of the market, the questions for each of us, and for the profession, are, “What does the business model look like for small and solo practices to effectively capture this market?” and “Who is going to be the first amongst us to break this market wide open?”

The answers are closer than you may think. We have all the key ingredients here today: a bar populated with the newest generation of tech-savvy natives, an untapped robust legal market, immense need for a new legal services delivery model, an underemployed population of young legal minds, and an antiquated business model that is no longer competitive, causing thousands of solo and small practitioners to rethink their careers and social equality for the have-somes and have-nots.

Innovation Is Our Future

It has been said, “There’s no shortage of remarkable ideas; what’s missing is the will to execute them.” In today’s market, for the first time, we are finally cresting the tipping point of change. There is will. There is smoke; fire is coming. And a firestorm looms on the horizon because technology is opening doors to opportunities never before available to us as lawyers. New legal tools abound for those who find them, learn to use them, and apply them to their practice.

For example, LawZam (www.lawzam.com) produces an app that helps clients find a lawyer and then provides free video conferencing with the lawyer from a smartphone. Docracy (www.docracy.com) is a sharing site for contracts and legal documents. Lawyers can upload documents in exchange for branding, a web presence, and recognition when the document is downloaded by a consumer (lawyers also may access the free share pool documents produced by other lawyers). LawGives (www.lawgives.com) and LawPivot (www.lawpivot.com) are matching sites that partner private lawyers and firms, as well as partnering with legal aid organizations to match lawyers and services. Velawsity (www.velawsity.com) and Clio (www.goclio.com) offer cloud-based practice management systems.

Lawyers have been scared of technology in the past, but those who don’t
We as a profession need to imagine a new way to do business . . . to imagine a working business model that partners with other legal service providers that embraces current and future technology and serves the enormous market of unmet need.

embrace it will not survive the tide. Steve Jobs said, “Sometimes when you innovate, you make mistakes. It is best to admit them quickly and get on with improving your other innovations.”

In another famous example, Thomas Edison was interviewed by a reporter who boldly asked Mr. Edison if he felt like a failure and if he thought he should just give up. Perplexed, Edison replied, “Young man, why would I feel like a failure? And why would I ever give up? I now know definitively over 9,000 ways that an electric light bulb will not work. Success is almost in my grasp.” And shortly after that, and over 10,000 attempts, Edison invented the light bulb.

Our fear of change, of failure, and of risk must give way to our will to succeed. And while it is true that innovation derives from failure, fortunately the process does not require great risk for any of us.

Imagine if we as a profession created an incubator for new legal business models. What if we had an R&D department at the WSBA to test models and to build a successful prototype business model? What if legal educators, practicing lawyers, the access to justice community, and others in the treunches of the profession partnered together to design a business model powered by a new generation of skill-diverse lawyers? What if we produced lawyers serving low- and moderate-income clients to become not just good advocates, but good business-people who would both thrive and prosper in the new economy?

These ideas can be reality. At City University in New York, Fred Rooney started an incubator for low bono attorneys in 2007. In his program, lawyers pay rent for shared space for 12-18 months while training in business skills and professional development. The program has now expanded to nine incubators run by Rooney and more are starting up around the country.

Closer to home, the WSBA has partnered with Washington’s three law schools to provide services to those with moderate means. Seattle University School of Law has also launched a new program and taken steps towards actually creating a new business model. Its new Low Bono and Solo Initiative program provides training, guidance, and resources to help new lawyers launch practices designed to assist low-bono clients. Alumni are trained for a year with up to $3,000 funding to create and sustain a low bono solo practice.

A New Business Model
We as a profession need to imagine a new way to do business. We need to imagine a working business model that partners with other legal service providers that embraces current and future technology and serves the enormous market of unmet need. Most importantly, we need to imagine a business model that defines success with real sustainable profits, justice, and greater access.

Right now, there are those in our legal community right on the front lines in small offices who are forging the path towards this new model. You are creative. You have the will to innovate, and the necessity to succeed. And you are driving our future.

You know who you are and I want to meet you. I invite you to share your model, your tools, and your ideas. Call me. Write me. Find me on Facebook or Twitter (@PalaceLaw). Let me hear about your vision and your story. We are all in this together and you may hold a piece to the solution or the best answer.

The more we build together, the sooner we succeed together. Let’s commit our Bar to being an incubator that supports young entrepreneurs and solo and small practices, innovates new models, blends new technology, builds profitable and sustainable practices, and brings real access to those in need. Join me. Join the conversation. Namaste. NWL.

Imagination is everything. It is the preview of life’s coming attractions.
— Albert Einstein

WSBA President PATRICK A. PALACE practices in Tacoma. He can be reached at patrick@palacelaw.com or 253-627-3883.
We are very excited about the new benefits that the WSBA is offering to its members: expansion of the services provided in association with the WSBA Lawyers Assistance Program and Casemaker. For this issue’s column, I have asked WSBA Human Resources Director Frances Dujon-Reynolds and WSBA General Counsel Jean McElroy to tell you all about it. — Paula

Expanded WSBA Lawyers Assistance Program Services

WSBA Connects

We all know that practicing law can be an extremely stressful, demanding profession — even more so now with the fast-changing world in which we live. Anxiety, depression, chemical dependency, and other physical and mental illnesses are all issues that lawyers face and that often go undiagnosed or ignored. Failing to get help and support for these issues can have catastrophic consequences.

The Bar recognizes the importance of providing resources and support for lawyers who are struggling with these issues and the need to provide these support services in a confidential, respectful manner. We know that the health and well-being of lawyers is critical to their success and to the effective functioning of the legal system and that the pressure of dealing with life’s everyday demands can be overwhelming. With this in mind, we are expanding our services to better serve all members across the state with the introduction of WSBA Connects. WSBA Connects is a statewide benefit for members to address these issues through the WSBA Lawyers Assistance Program in partnership with Wellspring.

For the last 26 years, the Lawyers Assistance Program (LAP) has provided services to support the mental health and well-being of lawyers through a variety of confidential services ranging from web-based educational materials on a variety of self-care topics to individual assessment, treatment, and referral services.

Because the LAP program is located in Seattle, there have always been limitations on the availability of in-person services for members in other parts of the state. With the new partnership with Wellspring, we are breaking down that barrier, and lawyers across the state will be able to connect with a trained clinician in their local communities at no initial cost to assist them on getting started on the road to resolving their mental health or work/life balance issue. Lawyers will be able to get free consultation and assistance with many issues affecting their daily lives, including child care, elder care, financial management, identity theft, and more.

By calling our dedicated toll-free number (855-857-WSBA), a lawyer will be able to get up to three free consultations on any of a multitude of issues that may be creating challenges for their everyday life. In addition, a rich library of web resources (articles, tip sheets, interactive self-assessment, extensive video library, on-demand webinars, etc.) are available for reference as needed. LAP staff will also continue to be available to provide consultation, assessment, treatment, and referral services, with the first three sessions free of cost.

As President Patrick Palace says in his President’s Corner in the October 2013 issue of NWLawyer, “Why shouldn’t all . . . lawyers . . . find happiness as lawyers?” We think they should and this is why we are providing more support to help make that a reality. See www.wsba.org/connects for more information.

Expanded Legal Research Services

Casemaker

What do you get when you combine the value of Casemaker, WSBA’s free legal research member benefit, with the kinds of tools usually only available using high-cost research services? The updated Casemaker services — now including
We know that the health and well-being of lawyers is critical to their success and to the effective functioning of the legal system and that the pressure of dealing with life’s everyday demands can be overwhelming. We are expanding our services to better serve all members across the state with the introduction of WSBA Connects.

### WSBA Connects at a Glance

- Available for all WSBA members across the state.
- No cost to the member to use the service.
- Up to three face-to-face individual counseling sessions free of charge for any WSBA member per issue.
- Confidential 24/7 phone access to Masters-level clinicians via a toll-free number: 855-857-WSBA.
- Customized web access to over 5,000 articles, tip sheets, interactive self-assessments, audio files, video library, live and on-demand webinars, and much more.
- Sample issues for which consultation, assessment, and referral can be provided: addictions, alcohol/drug abuse, anger control, anxiety, child care issues, communication, depression, divorce, eating problems, elder care issues, financial management, gambling, grief, Internet overuse, legal problems, marital problems, parenting issues, retirement planning, stress, theft/fraud resolution.

### Casemaker at a Glance

- User-created folders.
- Track research by client.
- Add notes to documents
- Identify whether cases are good law.
- Receive summaries of the most recent decisions handed down by state and federal courts by email or an RSS feed.
- Upload a Word or searchable PDF document and run it through a citation checker.
- Receive confirmation of good law in a matter of moments.
- Check your legal documents before submission to court.
- Quickly see whether there is any later case that negatively affects the case you are considering.
- Red and green thumb indicators show the status of a case.
- Click the link and go directly to the case where the negative treatment exists.
- Download a free mobile app to your iPhone, Android, or tablet for research on the go.

As continued services, you are still able to download a free mobile app to your iPhone, Android, or tablet and have the power to research on the go. And you will still be able to access CasemakerDigest free of charge. See www.wsba.org/casemaker for more information. Frequently asked questions can be found at http://bit.ly/casemakerfaqs.

We hope that you will benefit from using these and other services that the WSBA makes available to you. We want to help you thrive and be successful in your practice of law! NWL

**Paula Littlewood** is the WSBA executive director and can be reached at paulal@wsba.org. **Frances Dujon-Reynolds** is the WSBA director of human resources and can be reached at francesd@wsba.org. **Jean McElroy** is the WSBA general counsel and chief regulatory counsel and can be reached at jeanim@wsba.org.
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I have not taken a sick day during my seven-year legal career. I have been fortunate to have avoided the flu and other illnesses that fit into the “involving vomit” category during this time. (My impressive immune system is one of my greatest attributes, appearing on my résumé under the “Personal Strengths” heading.) As my current condition demonstrates, however, I do fall prey to the common cold, probably once or twice a year. I usually only catch colds after my boyfriend, a Canadian germ sponge, gets a case of the sniffles. He is the kryptonite to my immune system of steel. I am not a sympathetic caregiver: When he has a cold, I am more likely to quarantine him in a room sealed off with plastic sheeting and duct tape than make him a cup of soup. As a busy professional, I can already barely keep up with my life when I am not suffering from sinus pressure and operating in a pseudoephedrine-induced haze, thanks to my generic cold medication.

My colds usually feature a one- or two-day Apex of Misery during which it feels like an invisible bully has stepped on my face, and my nose is so raw it looks like I have swapped out Puffs Plus for sandpaper. I am also typically so loaded up on cold medicine that my pupils dilate like an anime character. And yet, I always try to bill at least a couple of hours, usually in my office with the door (and my nasal passages) closed. I have also worked remotely on occasion, on my couch in a damp nest of used tissues. Of course, once recovered, I always have to recheck my work and write time off. This absurd charade has caused me to ask myself why I always try to stay (or at least appear) productive while clearly debilitated by illness. Is my drive to work while sick its own sickness? And I am the only practitioner who is infected with this bug?

It turns out I am by no means the only attorney in our state who feels compelled to keep working even when sick. Indeed, I conducted a completely unscientific survey through a couple of state and county bar list serves, and learned that working while sick appears to be the rule rather than
Why Do We Work While Sick?

Common sense tells us that taking time off to recover from illness is a no-brainer. Our motivations to work while sick are both external and internal. In my case, I have paid time off that does not differentiate between vacation and sick days. I do not want to use up a day being sick at home that I could spend kayaking in the Everglades, or visiting my 99-year-old Grandma Taylor in Detroit. But I also feel you must work and you feel you have to get it done,“ she adds."

Those who work alone or have special knowledge of the tasks that need to be done often do not feel they have the option to delegate. “I had to get work done and there was nobody else to do it,” explains one attorney who worked while ill. Financial considerations are a strong motivation for lawyers who own their practices and those who are paid hourly. “If I am suffering and feel horrible, I might as well be at work — no work, no money,” concludes one solo practitioner.

For lawyers who work in firms with billable hour requirements, concerns about falling behind on billable time keeps lawyers at work — even if paid sick leave is available through office policy or the Seattle Paid Sick and Safe Time Ordinance.

Attorneys with children meanwhile feel obligated to set aside any available sick time to tend to ailing sons and daughters. (38 percent of WSBA members are parents and caregivers.) One attorney parent has accrued a week of sick leave under the Seattle ordinance. But because she is paid hourly and has to take time off to take her children to appointments and stay home with them when they are ill, she does not take time off when she herself is not well.

Some lawyers work while sick as part and parcel of a lifetime of keeping their noses to the grindstone. “I am not happy when I don’t get my hours in for the day,” says one veteran attorney, a founding partner at an established firm. “I don’t have a sense of accomplishment if I don’t work.” She believes that all lawyers probably feel the same way, even when ill: “We are lawyers because we have worked hard all of our lives.” (Another motivation to keep working: “We can be sued if we don’t get something done,” she adds.)

From a psychological standpoint, our impulse to work while sick may be a combination of both nature and nurture. It is probably built into the dominant personality type to some degree, and reinforced by a competitive culture, and the burden of the professional environment, posits one attorney. To be sure, we come into law school already propelled by the overachieving drive from our typically Type-A personalities, and then we enter a legal profession where the ability to suck it up and tough it out is both an expectation and a point of pride. The “lone wolf” atmosphere in which lawyers train and practice may indeed play a role, observes psychologist Michael Badger, associate director of the WSBA Lawyer Services Department. “Lawyers entering into law school are in a competitive environment and not encouraged to rely on one another,” he notes. “Part of lawyer training reinforces the idea that ‘I am a lawyer, I am in my profession on my own.’” This can lead to lawyers having a predisposition to feel that “whatever I take on, I will have to get it done,” he says.

But Badger does not think that the tendency to work while ill is uniquely true for lawyers. Instead, he says, “It is true for an awful lot of us who are involved in the delivery of professional services, whether you are a physician in a small group practice, an accountant or an engineer.” He believes that, for all such professionals, “the most precious things you have as a professional advisor are relationships.” Because of the “great currency attached to” these relationships, professional services providers “convince yourselves that, unless you are on your deathbed when you are ill or in another situation where you should not be working, you feel you must work and you feel you...
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should work.” In fact, the phenomenon of working while sick appears to extend its reach far beyond this subset of professionals. A 2006 study polling employees of more than 1,000 companies revealed that 77 percent of employees report going to work while sick. That percentage has likely increased as the recession has pushed workers to prove their value.

Several responding attorneys appeared to confirm Badger’s service-based hypothesis. “Illness doesn’t matter; what matters is serving the client,” a 40-year practitioner succinctly states. “My feeling is that we are in a service business and clients want, need, and demand service,” says another lawyer. “If we do not provide, they’ll go elsewhere.”

My review of attorney responses indicated that while everyone confessed to working while sick, younger members of the Bar tended to be less gung-ho about the prospect of working while under the weather. They recognized that sometimes it is unavoidable because of the demands of the job, but were reluctant to go through the motions of working while sick for its own sake. For example, one newer lawyer opines that working while sick “should be because we have to get something important done for our client, not because we have some [billable hour] quota to meet . . .”

Sick Policies: One Size Fits None?
Respondents described a wide variety of sick policies where they work. Some lawyers get a set number of sick days. Some offices provide a set number of paid days off to be used as the attorney chooses. One lawyer, compensated hourly for billable time only, reported that she only has paid sick time because of the Seattle Ordinance.

Several offices provided for discretionary sick time, so long as that attorney meets billable hour requirements and other work commitments. This model seems to work for some workplaces, one lawyer describes her firm’s policy as follows: “Our general policy is ‘get your work done, but take time off when you need to.’ We have a written sick leave policy, but we rarely count up sick days. Our easygoing policy works well for a small office full of trustworthy, hard-working people. Otherwise, I think earning a certain amount of PTO or sick leave for each week is a good program.”

But some lawyers think an “at your discretion” policy, though attractive to employees on its face, actually discourages lawyers from taking time off. “The fact that attorneys do not feel like they can actually take time off makes it beneficial to the firm in the end,” notes one attorney.

Some respondents think we need to take a step back and approach this issue of handling attorney sick time from scratch. One newer attorney posited that the whole system appears to be broken: “Attorneys at all levels should be encouraged to stay home when they are sick. I think administrators and senior-level attorneys are afraid to actively encourage people to stay home because making it a policy might open a can of worms or start a trend that could be harmful to overall productivity. I also think that lawyers who work high billable hours and are assigned absurd amounts of work are more likely to get sick, and the entire model needs to recognize that.”

Working from Home
Today’s technology has enabled us to work from home with the assistance of remote servers. Per the attorneys who responded to my queries, this has proved to be a mixed blessing. On one hand, it allows us to keep working without exposing colleagues to our illnesses, and to keep up with our workload and our billable-hour requirements from the comfort of home. On the other hand, working remotely may defeat the primary purpose of staying home while sick. “While I love the option, I think it almost makes it worse in this situation,” acknowledges one attorney. “The whole point of staying home while you are sick is to rest and to allow your body to heal. If you have access to work from home, the expectation (self-imposed or otherwise) is that you can work from home even if you are sick.” But “even if you are in bed while reading cases, it really does not allow you to rest,” she concludes.

The general sentiment among respondents was that having the ability to work remotely while sick is a plus. Working remotely “allows you to manage high priority tasks and put out fires from afar, even if you do not feel well enough to do everything you would normally do,” says one respondent. But the same attorney adds that sick lawyers often choose not to work from home based on the perceived need to put in “face time” at the office. “When I was at a firm or in-house, I would come in, even if pretty sick, just to ensure that everyone knew I was sick and not playing hooky; then I would go home,” says another respondent. One attorney was simply against it: “We need people in the office working together with others. Most jobs can’t be done at home by yourself.”

Should We Work While Sick?
Several lawyers accept the practice of working while sick as the straightforward obligation of someone who decided to go into the legal profession. “No one should have to work while they are not feeling well,” says one respondent. “But in the real world, it is part of the game.” Another respondent confirms this approach: “My philosophy is that if you are physically able, you meet your commitments, including work.” He adds, “Work comes
In the spirit of the holiday season and as a respite from empty dugouts and snow covered diamonds (of the baseball variety), Johnson Flora is pleased to present biographies of the three best Major League Baseball players born on Christmas.

Rickey Henderson
Born December 25, 1958
Rickey Henderson played 25 years, from 1979 to 2003, almost exclusively in left field. Rickey was elected to the Hall of Fame in 2009.

Pud Galvin
Born December 25, 1856
James Francis “Pud” Galvin played from 1875 to 1892. A pitcher, Galvin was nicknamed “Pud” because he was said to turn hitters into pudding. He was elected to the Hall of Fame in 1965 by the Veteran’s Committee.

Nelson Fox
Born December 25, 1927
Nellie Fox played 19 years in the majors and was the American League MVP in 1959. He played second base for the Chicago White Sox for most of his career. Fox was elected to the Hall of Fame in 1997 by the Veteran’s Committee.

Happy Holidays from Mark, Donovan and Michael at JOHNSON | FLORA PLLC
That same lawyer takes what I think of as the “gladiator approach”: Be there unless something is physically holding you back — and you can’t fight it off no matter what you do. “Working while sick is mind over matter,” he says. “If that is not possible, you should certainly not be working. But if you have a cold or allergies or something that allows you to continue to function, then don’t give into it.”

But many lawyers expressed concerns about the impact of a habit of working while sick on a lawyer’s health and overall well-being. And other respondents professed concern that working while ill does not work as a long-term solution to maintaining productivity — for both individuals and groups. Continuing to work “extends recovery time, in my opinion,” said one respondent. And lawyers who feel compelled to come into the office when ill can expose all of our colleagues to illness, slowing down the whole office. (In a perfect example of “do as I say, not as I do,” everyone seemed to think their individual need to come into the office when sick was justified, but almost everybody preferred that sick colleagues stayed home.)

RECOMMENDATIONS: What I Think Everyone Else Should Do

I am not a human resources expert, but I have worked while sick plenty of times and I have now heard from a number of other attorneys who have kept at it while under the weather. Based on what I have learned, I have a few recommendations for both attorneys and the people who employ them:

**EMPLOYERS**

- Promote a “culture of health” in the workplace. A study by Integrated Benefits Institute, a nonprofit research firm, investigated the link between an employer’s health culture and work performance, using a database of information from 1,268 employees at 53 U.S. organizations. The study found that a workplace that prioritizes employee health results in employees who work more and accomplish more than at organizations with a weak health culture. A culture of health could include allowing for flexible schedules to permit exercise during the work day and providing time off for illness.
- Examine your company’s attendance policy and determine whether it encourages or discourages employees from taking time off when they are sick.
- Deduct anticipated sick days from the annual billable hour requirements, so lawyers will not have to worry about playing catch-up on billables after they are ill.
- Set up a remote office system so that sick lawyers can work from home if needed.
- Pay for or subsidize the cost of flu shots before and during flu seasons, and provide paid time off to go get the vaccine.

**LAWYERS**

- If you must work while seriously ill, work remotely. Bring home what you need from the office if you suspect an oncoming ailment.
- If possible, reschedule calendared events that require your personal attendance. People do not think: “Wow, I am so impressed that this deathly ill person dragged himself out of bed to be here.” They instead worry about whether they are going to have to shake your germ-blanketed hand.
- Develop strong working relationships with your clients the other attorneys in your office. You will feel more confident about taking time off if you can delegate to someone whom you feel can get the job done in your absence, and your clients will trust you and know you are working hard for their interests.
- Prioritize your health. Prevent illness in the first place by taking care of yourself. Eat right, exercise, and see your doctor and dentist regularly. This sounds obvious to some of us, but many of us (me, for example, between 2007 and 2010) become so consumed by my job, I decided a while back that my work was going to be an important part of my life, but not the only part. The surprising result is that, since I now feel empowered to choose whether to work late or on weekends or while ill (and the answer is still typically “Yes, if needed”), I am a more successful, confident practitioner.

Finally, when you do get sick, give yourself permission to recover. While a lot of us feel compelled to soldier on like everything is business as usual when we are sick, downplaying the impact of illness is a good way to extend recovery time. While we like to project an image of invincibility, we are not superhuman.
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WORKING LIKE A DOG . . .

My grandpa always said every child needs a dog. One Sunday after breakfast, my dad drove my sister and me to look at English Springer Spaniels to give to my grandpa. He was slowing down and needed a companion who was smaller and less rambunctious than his usual Labrador retriever. We picked out the perfect dog. He had splashes of black in his white coat and when I sat down on the ground, he was the first dog of the litter to come and sit in my lap. Clearly, this dog would be perfect for my grandpa. For two weeks, we kept the puppy at home as excitement built for Grandpa’s visit and the unveiling of the dog. Finally, the day arrived when Grandpa would meet his new puppy. My heartstrings tugged a little as we passed the dog over to my smiling grandpa. I was the puppy’s keeper those two weeks and grew quite attached, but I knew he was going to the best home. Grandpa held the dog gently for a little bit and whispered something in his ear. Then, with a smile, he passed the dog back to me and said, “Keep him. He’s yours. Every child needs a best friend.”

Ellen O’Neill-Stephens, a former prosecutor and founder of Courthouse Dogs, knows firsthand how the presence of a dog can change someone’s life. Since Courthouse Dogs’ founding in 2004, O’Neill-Stephens has partnered with retired veterinarian Celeste Walsen to connect service dogs with victims testifying against their abusers. A dog helps victims of abuse and violence by sitting next to the victim during his or her testimony and placing his head in the child’s lap. The dogs provide silent comfort in what can be the most difficult moment
The mission of Courthouse Dogs Foundation is to promote justice with compassion through the use of professionally trained facility dogs to provide emotional support to everyone in the justice system.

in someone’s life. The mission of Courthouse Dogs Foundation is to promote justice with compassion through the use of professionally trained facility dogs to provide emotional support to everyone in the justice system.

O’Neill-Stephens started the foundation after noticing positive changes in her son Sean from having Jeeter, a yellow Labrador service dog, in her home. Sean has cerebral palsy and cannot speak. O’Neill-Stephens introduced Jeeter to Sean and an instant friendship formed. Jeeter’s calming presence convinced O’Neill-Stephens that service dogs could have a positive impact on the scared and timid victims of violent crimes and sexual abuse she worked with in the King County Prosecutor’s Office.

One day, O’Neill-Stephens brought Jeeter to work. That day, a fellow prosecutor borrowed Jeeter to assist in an interview with two young female victims too shy to speak. The prosecutor was trying to get the twin girls to talk about how their father abused them. Like many new attorneys, Jeeter was thrown snout-first into his new career without much guidance. Unlike most of us, Jeeter immediately excelled at his new job and provided the girls with the courage they needed to talk about their abuse. Once the prosecutor brought Jeeter in the room, the girls began to whisper their story to Jeeter. O’Neill-Stephens took hope in her new discovery — that a stable, calming presence of a dog places humans at ease much better than any human could. This discovery inspired O’Neill-Stephens to dedicate her retirement to getting service dogs like Jeeter in the courtroom.

Many prosecutors’ offices and child advocacy centers across the country now benefit from having a facility dog on staff. Former prosecutor and now Superior Court Judge Janice Ellis remembers Courthouse Dogs’ training day at the Snohomish County Prosecutor’s Office. “It was the best training we ever had. The most people we have ever had. People were sitting on the edge of their seats just to get close to Jeeter, who was lounging around all day.” That office was thrilled when victim advocate Heidi Potter applied for a professional dog handler’s license and courthouse dog. After an application process and training period, Heidi returned to the prosecutor’s office with Stilson, a black Labrador retriever.

Stilson impressed those he worked with; little kids whispered things to Stilson they refused to tell anyone else. Stilson made the children feel safe enough to speak. Once they saw how Stilson interacted with kids, many people volunteered their own pets for service. Despite their good intentions, only a dog with Stilson’s courthouse training can perform such special work.

Last September, a small girl took the stand in Snohomish County to testify how her caregiver starved her, beat her with extension cords, burned her skin with cigarettes, and forced her to sleep outside without blankets. As she faced her abuser at trial, she had an invisible source of strength. Stilson accompanied the child on the stand, but the jury was never aware of his presence. Before the trial, the defense agreed Stilson could accompany the girl so long as
he was completely concealed and the jury would not see him. Stilson remained calm and out of sight during the lengthy direct- and cross-examination, even when defense counsel spilled a glass of water into the witness box. Stilson gave the little girl the courage to testify when she otherwise may not have told her story. After over seven years of service to Snohomish County, Stilson retired in 2013.

Dogs with Stilson’s discipline and temperament are few and far between. Not just any dog can be a Courthouse Dog. Facility dogs are golden retrievers or Labrador retrievers specially bred and selected to be highly trained professionals. Once selected, these chosen pups are expertly trained during the first years of their lives. After their training, the dogs are partnered with a trained handler in the criminal justice system. A dog gains the title of a facility pup when it graduates from a service dog organization that is a member of Assistance Dogs International. Courtroom dogs are trained to the same standards as guide dogs for the blind or service dogs. A facility dog’s career is approximately eight years, during which time the dog can assist thousands of people.

Once people meet Stilson or O’Neill-Stephens’ service dog Molly B., they truly understand the ability of service dogs to remain calm in all situations. Courthouse dogs have two different personalities. When the dog is wearing her blue vest identifying her as a facility dog, she acts calm, quiet, and unobtrusive. When the dog is vest-free and off-duty, she is a whole different dog; she becomes a typical pup that loves playing fetch and chasing other dogs.

The Courthouse Dogs Foundation is celebrating its 10-year anniversary this year with a favorable ruling from the Washington Supreme Court. Last September, the Supreme Court issued a decision upholding the use of facility dogs in the courtroom. In Washington v. Timothy Dye, the court upheld the trial court’s decision to allow Ellie, a yellow Labrador service dog, to accompany burglary victim Douglas Lare on the stand. Lare suffers from developmental disabilities and expressed extreme anxiety over testifying. The prosecutor and Ellie’s handler moved to allow Ellie to accompany Lare. Dye’s counsel objected to Ellie’s presence unless Dye could hold his baby while he testified. Dye’s counsel argued that the prejudice was extreme and the dog’s presence would compromise Dye’s right of confrontation. Further, the defense argued that Ellie impermissibly gave Lare’s testimony an aura of truth and sympathy, and made Lare look pitiful to the jury. The defense even argued the prosecutor might give Ellie conscious or unconscious behavioral cues. The court found Dye’s counsel’s theories had no basis in the record.

Despite this win for Courthouse Dogs, concerns about a fair trial will always exist when a canine is in the courtroom. When asked about the potential prejudice of a dog in the courtroom, Courthouse Dogs suggests various techniques to minimize these concerns. First, not all testifying victims require a service dog to sit next to them; a dog lying under counsel table or in front of a gallery bench can provide the needed comfort. Further, facility dogs can be concealed in the witness box and out of the view of the jury. Courts can also issue limiting instructions to jurors to not attribute any significance to the dog’s presence. Most importantly, Courthouse Dogs stresses that facility dogs should be available to any person requiring support while testifying, including defendants and defense witnesses.

As of this fall, the Courthouse Dogs Foundation has helped place 49 facility dogs in 21 states and in various locations in North and South America. At least two dozen programs are in development to place dogs in other jurisdictions at any given time. O’Neill-Stephens thinks the program is successful because “it’s just so personal . . . we build friendships over this.” She and Executive Director Celeste Walsen travel the country providing training to professional organizations and speak at criminal justice conferences.

According to Walsen, “People always approach us and ask how they can become part of the conversation. It’s just amazing . . . the outreach of people wanting to connect to these dogs and the way the dogs connect to people.”

If you are interested in starting a similar program in your jurisdiction, or are interested in learning more about the foundation, visit the Courthouse Dogs website at www.courthousedogs.com. NWL

“People always approach us and ask how they can become part of the conversation. It’s just amazing . . . the outreach of people wanting to connect to these dogs and the way the dogs connect to people.”

Amanda Beard is a law clerk to Snohomish County Superior Court Judge Ellen J. Fair. She loves dogs, especially her trusty Labrador retriever, Chief. She can be contacted at amanda.marie.beard@gmail.com.
I started practicing law with Hanson Bridgett LLP in San Francisco. The firm’s list of outstanding qualities stretched the length of the West Coast. But one, for me, stood out more than the rest: the firm created an atmosphere in which it was easy for partners and associates to connect on a personal level.

Much of Hanson Bridgett’s commitment in this regard can be attributed to the firm’s managing partner, who I’ll call Andrew because that’s his name. He’s an imposing yet approachable athletic man with a loud voice and a quick wit who dreams large enough to have once argued the firm should buy its own blimp, like Goodyear. When the firm decided to move office buildings in San Francisco’s Financial District, he and the other partners agreed that all attorney offices would be the same size; the most senior partner’s office was the same size as the most junior associate’s office. After learning about Hanson Bridgett during law school, I concluded without much effort that it was where I wanted to start my career.

But Hanson Bridgett didn’t conduct on-campus interviews at my law school. So I defied the standard convention that said applications must be submitted through a law firm’s “Recruiter Contact,” and I instead pled my case directly to Andrew. I sent him an email, followed by handwritten notes that were practically love letters. (I think I even included sparkly stickers in one note and I might have cracked a stupid lawyer joke: What do you buy a friend graduating from law school? A lobotomy.)

I knew it was a risk: attorneys are busy people — a fact I didn’t entirely appreciate during law school — and
the managing partner of a highly regarded San Francisco law firm might view my advances as annoying and overstepping a rule in the legal profession that I'd yet to have the benefit of learning. I knew it was possible that my emails could get forwarded and go viral. I could even picture what people would say about it: “Did you read that law student’s email where he practically gushed his abandonment issues to that managing partner?! How sad. Funny. But mostly just sad.” These were risks I was willing to take.

My unconventional tactic, as it turned out, worked. Andrew read my email, and saw my notes, and connected with me personally. To him, I wasn’t just a résumé, a GPA, or an Ivy League institution (though my grades were excellent and I had a strong résumé that included having ex-termed at California’s Supreme Court). I was a real person. As a result, I landed a cushy summer associate gig at Hanson Bridgett — wine flowed like water, $200 lunches were commonplace, and squishy-stress-ball-schwag was free for the taking — after which I accepted a full-time employment offer.

Working for a large firm, like Hanson Bridgett, usually comes with the benefit of a big-firm salary. When I joined Hanson Bridgett in 2007, most San Francisco firms were paying first-year associates $145,000 annually, and many were paying $160,000 to rival New York firms. Today, the median annual salary for all first-year associates, according to the 2013 Associate Salary Survey by the National Association for Law Placement, is $125,000. The NALP reports the steady uptick of salaries for first-year associates that the industry saw between 2006 and 2009 has essentially remained flat since then. But these big-firm salaries come with big-firm expectations — aye, there’s the rub.

Once the summer associates perks vanish (oh, you thought those would last forever?), a big firm’s expectations become apparent rather quickly. There’s an expectation that you will bill hours, be at the office every day, and produce a superior work product. The NALP reports in 2007, the average billable hour requirement for firms with 251-500 attorneys was 1,903 hours/year. During that same period for same-sized firms, attorneys actually worked on average 2,097 hours annually. NALP’s most recent information shows those numbers basically remain the same today.

To put these figures in perspective, the average associate is at her desk working 8.1 hours per day, Monday through Friday, every single week of the year: no vacation days, no leaving early on a Friday, no sick days. And to satisfy the average billable hour expectation means that an associate must bill a minimum of 7.3 hours per day, Monday through Friday, every week: no vacation, no leaving early on a Friday, no sick days.

I was willing to accept this tradeoff — major bankroll, major obligation — because of one reason: I knew Hanson Bridgett’s management team personally. I eventually got to know Andrew — mostly sitting in his and the firm’s box seats during San Francisco Giants games — and I concluded we were similar in many ways...
They didn’t know me any more than I knew them.

Let me be clear: the national firm for which I worked isn’t a bad firm. It’s only that my experience leads me to conclude that a firm cannot be anything more than a loose collaborative of attorneys billing hours and producing work product (sometimes in the same office, sometimes not) if there are no personal relationships between associates and partners. Associates will be more inclined to produce a better work product, and be happier doing so, if they personally know the partner for whom the work is being done. Partners must take seriously the fact that the associates who work hard for them are real people. Likewise, associates must make the effort to show that they are worth keeping around for their personality, as much as for their billing tenacity. There’s more to a successful firm than dollars and cents.

I resigned my position with the national firm not long after starting. I was grateful for the paychecks, but I didn’t leave with any of the lasting fondness I have to this day for Hanson Bridgett. After I resigned, I got lucky once again. In my current role as an attorney with the Seattle firm McDougald & Cohen, I know the founder, Shannon McDougald, personally. We attend Sounders games together, get drinks once in awhile, and we even live down the street from each other. Twice a month, Shannon himself walks into my office with an appreciative smile and places a cool envelope in my hand that contains a paycheck. Each night when I gather my things and walk out the door, I pass his office and say, “Have a great night.” And his response is always the same: “I’ll be here!”

**Trent Latta** is an attorney with McDougald & Cohen, PS, in Seattle. He can be reached at tlatta@mcdougaldlaw.com or 206-448-4800.
50-Year WSBA Members Celebrate Milestone

by Stephanie Perry
On Oct. 4, guests gathered at the Sheraton Hotel in Seattle to pay tribute to 44 attorneys and judges who celebrated 50 years of WSBA membership in 2013. WSBA President Patrick Palace welcomed honorees, their families, and guests and proudly expressed heartfelt gratitude to the 50-year members for their decades of dedication to the law. The WSBA class of ’63 has seen many changes—cultural, political, and social—during their years in the legal profession. Those who have joined the Bar since owe these individuals a debt of gratitude for their inspirational work, achievements, and half-century of public service. In appreciation, President Palace presented certificates and lapel pins to the members who joined the Bar in 1963.

Pres. Palace spoke about how he had phoned some 50-year members days before the luncheon and had asked what advice they would give to new lawyers. Responses included, “Serve the client and help people”; “For every satisfied client, two will come back”; “Be a good lawyer and money will follow”; and “Law may not be the oldest profession, but it should be the most noble.” Pres. Palace noted the importance of passing on wisdom gained from experience. He also reviewed notable events from 1963 worldwide, in Washington, and at the WSBA and provided a brief history of how Bar numbers were assigned. Washington Supreme Court Chief Justice Barbara A. Madsen congratulated the honorees and spoke of the importance of pro bono work. John G. Bergmann, chair of the WSBA Senior Lawyers Section, encouraged members to stay involved through the Senior Lawyers Section. The luncheon concluded with the 21 attending honorees gathering for a commemorative group photo.

1963 was full of historical milestones. Some noteworthy events:

In *Gideon v. Wainwright*, the U.S. Supreme Court rules that state courts are required to provide counsel in criminal cases for defendants who cannot afford to pay their own attorneys.

In April, Martin Luther King Jr. issues his *Letter from Birmingham Jail*.

In June, John F. Kennedy gives his “Ich bin ein Berliner” speech in West Berlin, East Germany.

In July, ZIP codes are introduced by the U.S. Postal Service.

On Nov. 22, John F. Kennedy is assassinated.

The Beatles’ “I Want to Hold Your Hand” and “I Saw Her Standing There” are released in the U.S., marking the beginning of international Beatlemania.

Betty Friedan publishes feminist classic *The Feminine Mystique*.

In June, Soviet astronaut Valentina Tereshkova becomes the first woman in space.

The cancellation of Mercury-Atlas 10 effectively ends the U.S. manned spaceflight Project Mercury.

Tom Jones wins Best Picture and Best Director Oscars.

The Academy Award for Best Actor goes to Sidney Poitier (*Lilies of the Field*), while Best Actress goes to Patricia Neal (*Hud*).

At the Grammys, Henry Mancini’s *Days of Wine and Roses* wins Record of the Year. Best Male Solo Vocal Performance goes to Jack Jones for “Wives and Lovers.” The Best Female Solo Vocal Performance award goes to Barbra Streisand for *The Barbra Streisand Album*.

In February, the Central Association of Seattle announces a controversial plan to tear down the Pike Place Market. The debate will continue for eight years, until Seattle voters approve an initiative prohibiting alterations or demolition of the market.

PONCHO (Patrons of Northwest Civic, Cultural, and Charitable Organizations) is formed to help the Seattle Symphony pay off a $35,000 debt resulting from its 1962 World’s Fair production of Verdi’s *Aida*—its first opera. Over the next 50 years, the nonprofit will provide over $35 million in support of Washington arts organizations.

Washington Governor Albert Rosellini convenes the Washington State Commission on the Status of Women.

The first sit-in of Seattle’s civil rights movement occurs in July in the offices of Mayor Gordon S. Clinton, protesting the under-representation of African Americans on a 12-member human rights commission proposed by Clinton.

125 candidates pass the 1963 bar exams. By comparison, 974 candidates passed the 2013 bar exams. To commemorate Law Day on May 1, KING-TV airs a special program, “Juveniles and Justice,” in Seattle and Spokane. The WSBA provides materials for classroom speakers. The *Bar News* reports that a new Mount Vernon courthouse annex includes a juvenile detention facility with room for nine children.
Class of 1963

Grant L. Anderson  
Virginia Oldow Binns  
Professor David Boerner  
David L. Bovy  
Jerome Richard Cronk  
William John Deasy  
Robert John Frederick  
Roger A. Gerdes  
Keith Gerrard  
Richard J. Glein Sr.  
Phelps R. Gose  
Thomas P. Graham III  
H. Edward Haarmann  
Robert Elliott Heaton  
Howard Harold Herman  
Odine Harris Husemoen  
James R. Irwin  
Elmer Edward Johnston Jr.  
R. Michael Kight  
James M. Lindsey Jr.  
Joyce L. Lucas  
C. James Lust  
Daniel Gabe Marsh  
Patrick James Morrissey  
Hon. William F. Nielsen  
Argal Dean Oberquell  
Mark Theodore Patterson  
Hartley Paul  
Richard William Pierson  
Richard John Powers  
Llewelyn G. Pritchard  
David Allen Richdale  
John Wayne Rusden  
Richard J. Schroeder  
John Graham Schultz  
Morris G. Shore  
Lawrence Ralph Small  
Arthur Dean Swanson  
Hon. Richard J. Thorpe  
Laurel Lee Tiller  
Thomas Michael Treece  
John J. Van Buskirk  
Anthony P. Wartnik  
S. Alan Weaver  

Row 1: Thomas Treece and David Richdale celebrate 44 years in practice together; Alan and Nancy Weaver, Carol and Michael Kight, Michale and Odine Husemoen. Row 2: Mary Pat and Richard Thorpe; WSBA Senior Lawyers Section Chair John Bergmann; WSBA Pres. Patrick Palace with Washington Supreme Court Chief Justice Barbara Madsen. Row 3: Linda Treece, Thomas and Joyce Treece, Pete Patterson, Mark Patterson, Kathy Webber. Row 4: Laurel and Priscilla Tiller; Penny and John Schultz; Pamela and David Richdale. Row 5: Anthony Wartnik, James and Nancy Irwin, WSBA President-Elect Anthony Gipe, Patti and Grant Anderson.

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The Board of Governors set 2015 license fees at its September meeting. For the third consecutive year, the license fee for an active member will be $325. Your license to practice law in 2015 will cost the same as it did in 2001, 14 years ago.

License fees account for about 75 percent of our revenue. The $325 license fee amount was initially set by a 2012 member referendum. It was not based on any analysis or consideration of the revenue required to support our regulatory agency and member-focused, Board-directed programs and operations.

In the wake of the fee reduction from $450 to $325, WSBA has worked diligently to shrink the organization’s footprint as we continue to advance our mission and remain fiscally viable with a substantially reduced revenue stream.

Reducing Expenses
In FY12, to absorb the 28 percent reduction in license fee revenue (which approximated $2 million), we laid off staff, cut staff expenses, reduced board meetings and related costs, integrated young lawyer support throughout the organization from a more expensive division-based model to a committee structure, and implemented other cost-saving measures, including a reduced production schedule of NWLawyer (from 12 to 9 issues per year) and additional steps that garnered substantial savings in printing costs. These actions helped to facilitate our transition to the reduced revenue model.

In FY13, we reduced the budget by $1.4 million. We continued to support all member-focused, Board-directed programs with fewer staff. We deferred critical infrastructure issues. Although we budgeted to a deficit, we were again able to increase reserves by the end of FY13, through operational efficiencies, open position savings, and increased non-license fee revenues. However, an organization cannot defer critical infrastructure issues indefinitely.

Developing the FY14 Budget
In taking stock, the Board found that:

1) salaries for over 80 percent of our mid- and long-term employees (those in position for at least four years) had fallen behind in the market, 2) there were significant gaps in our disaster preparedness, and 3) outdated technology infrastructure, platforms, and programs impeded member services and communications.

The Board considered this, our regulatory functions, our mission, and your needs in developing the FY14 budget. In addition to sustaining member-focused, Board-directed programs, the FY14 budget prioritizes critical infrastructure issues and enhances member support. Although we cut other costs further and increased non-license fee revenues, we must use reserves to support the budget at this fee structure level. Through hard work and prudent planning, we have sufficient reserves to support programs and operations in FY14 and FY15, while maintaining appropriate reserves for unforeseen circumstances.

Remaining Sustainable
We are pleased we have been able to keep license fees flat for three years, but we cannot operate on the 2001 license fee rate indefinitely. The cost of doing business today is much higher than it was in 2001, and continues to rise. WSBA programming has changed significantly over the years to support the evolving needs of our members. In the coming months, we will continue to look closely at expenses, revenue and reserves — and keep you informed — as we continue to plan for and maintain our long-term sustainability.

Brian J. Kelly is a WSBA governor and the WSBA treasurer. Both a lawyer and a certified public accountant, Kelly is a principal in the Chehalis law firm Hillier Scheibmeir Vey & Kelly P.S., where his practice focuses on business, tax, real property, probate, and municipal law, with an emphasis on business succession and estate planning. He can be reached at bkelly@localaccess.com.

Treasurer’s Report
SEX OFFENSES REQUIRE A DEDICATED DEFENSE

The Best Defense. Always.

Refer with Confidence.
During the holidays, lawyers like meeting their billable hour requirements for the year. They also like receiving gifts. Here are a number of gift ideas targeted to please the attorneys in your life — including you, if you like to get yourself presents. Note that Jamila’s picks are a lot more chic and refined. If you are stingy and like to give cheap gifts, like Allison, check out her picks.

JAMILA’S PICKS

1. Banya 5 Gift Card
   www.banya5.com
   Starting at $40
   Purchase a gift card online to Banya 5, an urban spa and health facility in Seattle. Banya 5 offers a blend of old-world wellness rituals in a friendly, contemporary environment. With relaxing dry and wet heat experiences and pool plunges, the stressed-out lawyer in your life can undergo a vivid circulatory experience with numerous mental and physical benefits. This is perfect for the lawyer who is need of the serene (or a detox). It’s public bathing — so probably not great for the modest.

2. Rocky Ridge Ranch Community Supported Agriculture Membership
   www.rockyridgeranchspokane.com
   $1,450
   Rocky Ridge Ranch is a small family farm near Spokane. They help people rediscover the value of knowing where food comes from and developing a relationship with that food. With a “variety meats” membership, the lawyer in your life can get 16 weeks of delivery. A sample delivery may include chicken, beef steaks, lamb chops, pork cutlets, soup bones, etc., as available. Not for the vegetarian or the weak of (beef) heart.

3. Fluevog Jeff Bag
   www.fluevog.com
   $349
   It may sound cliché, but lawyers need a good bag, and few bags are better than the ones from Fluevog. The Jeff Bag is a classy and well-organized portfolio case, handmade in Mexico with strong brass hardware and bottero leather. This bag will last. Under the front panel are three pen/pencil holders, a notepad holder, a smartphone pocket, and additional zippered compartment to keep items safe. The bag will fit a 19” laptop, but warning, not a Redweld.

4. Nixon Passport Watch
   www.nixon.com
   Starting at $400
   We will be the first to admit that many people have eliminated watches from the wardrobe, but if your lawyer has not followed the trend, the Nixon Passport watch is fantastic for the traveling lawyer. The watch lets you easily choose the proper time zone for your trip anywhere in the world, making it much easier to keep on top of the time. The watch is rugged and practical for travel, yet not too flashy.

5. Mini Elephant Fan
   www.momastore.org
   $75
   Let’s face it: lawyers work questionable hours and days, and the office tower set frequently finds that the HVAC may not keep the same schedule. The Mini Elephant fan is a USB-powered desktop fan with an elephant trunk that allows users to adjust the wind direction by moving the flexible duct. There is also the option of adding a “soothing” aroma (which, frankly, is a little weird). It is available in the Museum of Modern Art store and is manufactured by IDEA International Co.
ALLISON’S PICKS

6. “You’ve Been Served”
   Personalized Pyrex Serving Dish with Lid
   $30

For the lawyer who cooks (or who does not cook and likes to take home other peoples’ leftovers after dinner parties), this serving dish seems like a useful — though not particularly elegant — gift. Plus you can personalize it, which lets its recipient know that you did not wait until the last minute to get her a gift. Also, you will be supporting a friendly looking Pyrex-dish-engraving entrepreneur who lives in Idaho, which is sometimes lumped in with the Pacific Northwest.

7. LAWSUIT! The Board Game
   www.amazon.com
   $29.99 (free shipping)

My friends love having board game nights, and can spend hours building farms, fiefdoms, or whatever the heck it is that they do. I usually sit in the corner with a book and a glass of white wine while the “fun” carries on without me. But this board game might give lawyers — litigators, at least — the chance to show non-lawyer friends and family what it is that we actually do for a living.

8. Deluxe Tabletop Zen Garden Kit
   $23.99 (smaller versions available)

Zen gardening is supposed to clear the mind. This is good for lawyers, who have minds full of thoughts all day. Displaying a Zen garden on a desk may also give clients and other visitors the false impression that the recipient lives a serene, balanced life, or that he bought it on an enlightening trip to Japan and came back with all sorts of wisdom.

9. Law Wine Charms
   $19.95

There is not a single lawyer in this state right now who is not dealing with the harrowing problem of identifying her wine glass among all the other wine glasses out there at this very minute. Help her with these legal-themed wine charms. I am not an ardent fan of this particular set, since it is a little too heavy on the Americana for me. But there are many sets available on various websites, one of which includes a ginormous flip-phone charm.

10. Bento Lunch Box
    $35.95

Bringing a lunch to work saves time and money, and cuts down on calories. Also, it prevents you from having to develop that awkward relationship with the lunch counter guy who knows that you are boring and always order the same thing. Bringing lunch to work in a reusable container is also one way to give the planet a figurative hug. The Monbento Original Bento Box features two individual containers, a removable separator, and comes in lots of colors. The website provides a video to show you how to use it. There are lots of bento lunch boxes available online, but the other ones have lots of little containers that seem only big enough for doll food. NWL

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During the 2013–14 WSBA program year, many significant events in civil rights history and law from 50 years ago will be observed and remembered for their lasting impact and impetus to move the United States forward toward equal justice and rights for all. The Civil Rights Law Section held its annual meeting on Sept. 13, 2013, and kicked off the Section’s observance of the 50th anniversary of the passage of the Civil Rights Act of 1964. This major legislative act is known mostly for codifying the prohibition of employment discrimination on the basis of race, color, religion, sex, or national origin; the establishment of the Equal Employment Opportunity Commission; striking down segregated and discriminatory practices in public accommodations; and barring recipients of federal funds from being discriminated on the basis of race, color, and national origin. The Civil Rights Law Section’s annual meeting took a look back at life in the United States and in the state of Washington 50 years ago, to recognize that the 1964 Act was the result of significant struggle in the civil rights movement.

Lem Howell was the speaker for the concurrent CLE. He has been a WSBA member since 1966, practicing in Seattle. His career has been dedicated to seeking justice for individuals who have been injured and unfairly treated. Howell was the first African American to serve on the board of governors of the Association of Trial Lawyers. He has also served on the WSBA Board of Governors and was a member of the WSBA Civil Rights Committee (fore-runner of the Civil Rights Law Section). In 1984, he was elected chairman of the Washington State Delegation to the Democratic National Convention. He has also argued cases in the Washington Supreme Court and is admitted to the United States Supreme Court. Mr. Howell is a founding member of the Loren Miller Bar Association, a founding member of the Association of Trial Lawyers for Public Justice, a life member of the Association of Trial Lawyers of America, an Eagle member of the Washington State Trial Lawyers Association, an advocate member of the American Board of Trial Advocates, and a member of the Damage Attorneys Round Table.

Mr. Howell shared personal reflections on his witness to history as an attendee to the 1963 March on Washington, and as a young law school graduate from New York University Law School in 1964, reflected on calling ahead to get motel reservations for him and his young family when they moved to Washington, lest he be confronted with “no vacancy” responses as they made their way west. He also shared various Washington state cases where race was a limiting factor for African Americans seeking legal redress in various aspects of life. Lem Howell gave our audience an idea of restrictions and struggles for civil rights laws and enforcement, particularly in the few years prior to and following the passage of the Civil Rights Act of 1964.

Each year at its annual meeting, the Civil Rights Law Section recognizes organizations or individuals who have made a notable contribution to the cause of civil rights. This year’s honorees are:

Washington United for Marriage

In recognition of the work done to pull together diverse interests in support of marriage equality, the Section bestowed its Civic Leader Award to Washington United for Marriage. In 2012, Washington United for Marriage successfully led the effort to get marriage equality approved by Washington voters. Only a few short years ago, it seemed impossible to imagine that same-sex marriage would become legal in Washington. A large step forward occurred when the Washington Legislature approved marriage equality. However, when the referendum challenging the legislation was filed, it left the decision to the voters.

As voters in other states had not been willing to approve marriage equality, it was unclear what Washington voters would do. Washington United for Marriage ran a successful campaign leading to the voters’ approval of marriage equality. They brought together diverse groups, crafted moving and positive messages that resonated with voters, and raised millions through successful fundraising. Washington United for Marriage is an inspiration for civil rights work still going on today. Its work showed that civil rights, now and throughout history, have only been won through dogged determination and bringing people together to see the justice of the cause. It is inspiring to see how quickly marriage equality became popular, lending support to hope for other civil rights progress.

Judge Charles V. Johnson (Ret.)

In recognition of his lifetime commitment to the cause of civil rights, the Section bestowed its Distinguished Service Award to Judge Charles V. Johnson. Judge Johnson was an influential member of the Seattle African-American community from the moment he moved out west in 1954 to attend law school at the University of Washington. Judge Johnson was one of a few black graduate students at the University of Washington when he completed his law degree in 1957. Upon graduating, he was recruited by
the late Jack Tanner (appointed years later to the U. S. District Court), a law school colleague and president of the Northwest Branches of the National Association for the Advancement of Colored People (NAACP), to revive the Seattle chapter. Judge Johnson joined the leadership of the Seattle Branch, and by 1959, he became its president. He served as the president of the Seattle NAACP until 1964, as president of the NAACP’s Northwest Area Conference from 1965 until the early 1970s, and finally became a member of the national NAACP Board of Directors from 1968 to 1995. For several of these years, he was also active in the Central Area Civil Rights Committee, a coalition of civil rights leaders in the area. One of his projects, a demonstration for open housing in the city, resulted in the passing of the Open Housing Ordinance in 1968. Judge Johnson’s distinguished career continued when in 1969 he was appointed Seattle Municipal Court judge, a position he held until 1980. In 1981, Judge Johnson was appointed to the King County Superior Court by Governor Dixie Lee Ray. He served as a Superior Court judge until his retirement in 1998 and was instrumental in the reorganization of the court and the clearing up of a backlog of over 68,000 cases. In 1999, Judge Johnson served as the chair of the Blue Ribbon Panel that made recommendations for civilian oversight of the Seattle Police Department.

**Observing the Anniversary**

In 2014, the Civil Rights Law Section will focus much of its programs and activities around the observance of the 50th anniversary of the 1964 Civil Rights Act. We encourage WSBA members to attend our CLE, which is in the planning stages, to highlight the status of this important law.

**About the Civil Rights Law Section**

Approved by the WSBA Board of Governors in Dec. 2008, the Civil Rights Law Section invites you to become a member of the Section. Section membership is open to any active member of the WSBA, as well as specially admitted members such as emeritus, military, or foreign counsel. Inactive attorneys, law students, and non-attorneys are encouraged to join as non-voting members. See www.wsba.org/sections for more information on joining a section.

The Civil Rights Law Section sponsors CLEs on civil rights law and provides a forum for activities with civil rights organizations throughout the state. The Section focuses on the practice and policy of civil rights law, which includes the rights of racial, ethnic, religious, and sexual-orientation minorities, immigrants, those who are mentally or physically disabled, the impoverished, and the homeless; freedom of speech; freedom from state-promulgated religion; and privacy rights.

**Key Civil Rights Events from 1963–64**

50 years ago, a series of famous and infamous events took place that were a part of the civil rights struggles leading up to the passage of the Civil Rights Act.

- **April–May 1963:** The Birmingham Campaign. Dr. Martin Luther King writes “Letter from a Birmingham Jail.”
- **June 11, 1963:** President John F. Kennedy calls for a bill in a speech devoted to the topic of civil rights.
- **Aug. 28, 1963:** The March on Washington for Jobs and Freedom, concludes with King’s “I Have a Dream” speech.
- **Sept. 15, 1963:** The 16th Street Baptist Church in Birmingham, Alabama, was bombed. A major gathering place during the Birmingham Campaign, the explosion killed four girls aged 11 to 14.
- **Nov. 1963:** Civil Rights Bill introduced; President Kennedy is assassinated; President Lyndon Johnson addresses Congress calling for passage.
- **Feb. 10, 1964:** After being initially stalled in the Rules Committee, the Bill passes House of Representatives by a vote of 290–130.
- **June 19, 1964:** After nearly 60 days of filibuster, the 1964 Civil Rights Act is passed by a vote of 73–27.
- **July 2, 1964:** President Johnson signs the bill after final passage by both houses of the Senate version of the Bill.


**Dimension M**

Scott Wyatt; 2013; approx. 447 pp.

**reviewed by Stephanie Perry**

A uthor and WSBA member Scott Wyatt’s second novel, *Dimension M*, is a political thriller that imagines the disappearance of a top-secret document whose contents could throw the entire Middle East into chaos. Yet Wyatt hopes the message that resonates with readers is his Companion Flag Project, aimed at celebrating all that human beings share, regardless of nationality.

Set in the near future, the story begins as two activists are arrested for breaking into a public school in Uzbekistan to raise a humanitarian flag — Fatimah Ibrahim, granddaughter of the president of the (fictional) Islamic Republic of Tashir, and Alden Frost, a 60-something American man who invented the “companion flag,” then abandoned his home and family to travel the world teaching its message of compassion.

Unbeknownst to them, the school is also the secret hiding place of the Sahin Diary, an exposé on the Armenian genocide written by a Turkish aide-de-camp during World War I, and kept under seal since the end of the war. Under the terms of a postwar treaty, the diary was not to be opened or made public for 200 years. If the explosive contents of the diary are revealed, the Turkish government, which has long denied the Armenian genocides, will likely collapse, destabilizing the entire Middle East. Now the diary has vanished — and Fatimah and Alden are being hunted by the shadowy international cabal known as the Committee of Nine, which monitors and intervenes in political situations around the globe. Can they prove their innocence and find the missing diary in time?

If you’re not usually a fan of political thrillers, *Dimension M* might be for you. The issues of high-level surveillance and national security vs. the public’s right to know couldn’t be more timely. Unfortunately, the sectarianism and violence of the book’s Middle Eastern setting also reflect current events. While there’s plenty of the action you’d typically find in a political suspense novel — bombings, abductions, and high-speed motorcycle chases — the heart of the story is a message of shared experience, empathy, and the importance of trust in an uncertain world. Conflicts are ultimately solved by communication, rather than our heroes rushing in with guns blazing. And in the end, the emotional connections forged by the characters prove to be the most valuable treasure of all.

THE COMPANION FLAG PROJECT

*Dimension M* includes a lengthy appendix, which is the transcript of a debate (a major plot point in the story) as to whether the nation of Tashir should adopt the companion flag, a symbol of all that human beings have in common. The flag incorporates the colors of the host country’s own flag, and is meant to be flown with the host flag as a reminder of what is shared by all of humanity. While the debate is fictional, the flag is real; Wyatt himself created the Companion Flag Project in 1999, and the companion flag now flies in 16 countries. Learn more at www.companionflag.org.

**Clarence Darrow: Attorney for the Damned**

John A. Farrell; Doubleday, 2011

**reviewed by Collette Leland**

John Farrell’s *Clarence Darrow: Attorney for the Damned* is the first biography of Darrow in over 30 years, and makes use of archives and personal letters that previous biographers did not. The result is a Darrow who is a charismatic mixture of compassion and ego, whose ethical and personal fail- ures were every bit as large as his courtroom victories.

We meet Darrow on the cusp of becoming a legend. It is 1893. He is 36 and has just gotten a $500,000 judgment for the Chicago & North Western Railway Company. He is on the front page of the Chicago papers and rubs elbows with the rich and famous. But when his mentor suddenly dies in front of him of a heart attack, Darrow abandons life as a corporate lawyer. Bit by bit, he shakes off the railroad, his comfortable house, his marriage, and the conventions of the late 19th century. Or as Darrow himself explained, “I came to Chicago. I determined to take my chances with the rest, to get what I could out of the system and use it to destroy the system.”

Farrell writes frankly of Darrow’s participation in the free love movement and his use of its tenets and his fame to further his own promiscuity. Using the letters of Mary and Sara Field, Farrell provides details of Darrow’s long-standing affair with Mary and repeated propositioning of Sara. And Farrell writes of Darrow’s boundless thirst for admiration and money — attributes that did not endear him to his partners. Edgar Lee Masters concluded Darrow played the radical for one reason: to get money.

Nevertheless, Darrow did take great personal and professional risks to defend society’s outcasts. In his first big criminal defense case, he fought for a new trial and then a stay of execution for Patrick Pendergast, who had murdered Chicago’s popular mayor and Darrow’s former boss. Typically, he argued passionately and at great length in court, and out of court pushed the envelope ethically by falsely assuring Illinois’ lieutenant governor that in...
private talks the prosecution had spoken in favor of a reprieve.

Darrow brokered a deal for the bombers of the Los Angeles Times building, knowing it would alienate him from the AFL. The trial took place against the backdrop of union violence and corporate corruption. The AFL was picking up the tab for the McNamara brothers. Yet, in order to save their lives, Darrow denied the union both a victory and an opportunity to turn the brothers into martyrs by urging them to enter a plea. His relationship with the AFL was further damaged when he was charged with jury tampering.

A dedicated opponent of the death penalty, Darrow argued against free will to evoke pity for two privileged young men who killed a 14-year-old for the thrill. Nathan Leopold and Richard Loeb had not given Darrow much to work with. They had confessed the crime to the police, led a scavenger hunt for evidence of their crime, and rejected any suggestion that they were mentally incompetent. Darrow gambled by entering a guilty plea and then essentially trying Leopold and Loeb before a judge at sentencing. Though Darrow’s strategy saved Leopold and Loeb from the gallows, their wealthy families balked at paying the $200,000 fee he proposed.

In his chapter on Darrow’s defense of John Scopes, Farrell does not shy away from exposing Darrow’s personal animus toward William Jennings Bryan. An avowed atheist, Darrow had little respect for Bryan’s religious views and resented his political success. Of his famous examination of Bryan at trial, Darrow bragged, “I made up my mind to show the country what an ignoramus he was and I succeeded.”

Clarence Darrow is an engaging read. Farrell’s descriptions of Darrow’s famous courtroom battles, in all their drama and eloquence, are inspiring, as are Farrell’s discussions of Darrow’s generosity to the poor and passionate opposition to racism and the death penalty. But Farrell also reveals a Darrow who cheated his law partners, betrayed confidences, nursed petty jealousies, was repeatedly unfaithful to his wife and his mistress, and was willing to break the law to win a case. In the end, Farrell seems to ask us to evaluate what it is that makes a truly great lawyer, and suggests greatness is more about personal integrity than our prowess in the courtroom. NWL.
In my practice devoted to disputed lawyers’ fees, I have learned that lay clients frequently do not pay their lawyer’s billings and many dispute the billings and the reasonableness of the fees charged them, particularly as client sophistication with our practice grows. The attorney’s lien can be an important tool in assisting lawyers to ensure that reasonable fees charged are paid by clients. Most lawyers may be aware that Washington has an attorney’s lien statute, but few even know the citation or have carefully read it. The attorney’s lien, largely as it exists today, was created by enactment of the Territorial Legislature in 1863,¹ roughly about the time the Battle of Gettysburg was being fought, and only a few years after the Washington territory began to be settled. In 150 years, it was amended only twice.² I find that most lawyers have grave misunderstandings about this statute, what rights it confers, and how it works. These misunderstandings periodically result in the abuse of clients by the misuse of an attorney’s lien.

The Washington Attorney’s Lien Statute
Isn’t It Time for an Update?

by Michael Caryl
Before my first disputed fee case came along in 1994, I had used attorney’s liens to ensure payment of my fees. Like most lawyers, I knew almost nothing about the statute. My first contact with our existing lien statute, now codified at RCW Chapter 60.40, was probably in the mid-1980s. I quickly realized the lien statute was the last place to learn about how to use an attorney’s lien. The attorney’s lien statute, even when studied by lawyers, provides little help in overcoming this misunderstanding. In court proceedings involving lawyer’s liens, including state, appellate, and even in bankruptcy courts, most judges have had little experience with the attorney’s lien statute and its shortcomings, both substantively and procedurally. This makes for inconsistent applications of the law.

Since my first real disputed fee case for a client in 1994, in which an attorney’s lien played a part, I have studied the statute and have learned about all there is to know about Washington attorney’s lien law and procedure, which is not all that much. Over the past decade, I have been giving almost annual CLE presentations relating to attorney’s liens. In my own disputed fee practice, I would guess that attorney’s liens have played a part in maybe 30 cases or more. From my own experience and my study, I long ago concluded that the existing attorney’s lien statute has long outlived its usefulness. It is well past time for a complete re-write of the statute — a total make-over, if you will.

To do so would create more certainty for lawyers, clients and judges. I have discussed such a re-draft of the attorney’s lien statute with the WSBA’s and KCBA’s creditor/debtor section members and the WSBA’s legislative people. Both were supportive. I have also spoken with other groups and with many professional colleagues about getting a new, modern attorney’s lien statute that meets the needs of lawyers and clients in this new century. All so far have been supportive. This article encourages further support for this re-drafting project among the Bar, to solicit suggestions on what should go into this re-drafting, and to enlist assistance with the re-drafting.

A Brief History of Attorney’s Lien Law in Washington
The existing statute has been codified
and re-codified several times but remained in largely the same form from 1863 until 2004. There is no legislative history of any kind before 2004. As originally drafted, the statute is poorly worded, incomplete, and lacks the kind of detail and precision that characterize modern lien statutes.

Now codified at RCW Chapter 60.40, the attorney lien statute was amended only for the second time in 2004, and only then because the Legislature was troubled by federal tax code interpretations that permitted double taxation of attorney’s fees in employment and civil rights cases. With these amendments in 2004, the Legislature intended to give the Washington statute a gloss like that of Oregon, which now provides Washington lawyers with a property interest in the client’s recovery to secure his or her fee. The 2004 amendments did little to alleviate most of the severe shortcomings of the statute.

This statute is about what one might expect from legislators in 1863 living on the frontier, where most legislators were laymen, not lawyers, and where a law library had to fit in saddle bags. The first section of the current statute (RCW 60.40.010) spells out, however ambiguously, to what the lien attaches (with a lot of help from the 2004 amendments), but prescribes no way to perfect the lien, how notice is given, or how a lawyer realizes on a lien. The existing statute provides two basic lien types, possessory and charging. RCW 60.40.010(1)(a) and (b) provide the basis for possessory liens attaching to papers and money of the client being held in the possession of the lawyer. The other basic lien type is the charging lien, one that charges the client’s claim or right of action, any action actually brought, or a judgment entered on that action.

The second section (RCW 60.40.020) addresses how the client might compel production of money or papers belonging to the client but being held by the lawyer as security for the lawyer’s fee claim. The last section (RCW 60.40.030) purportedly deals with the manner in which only possessory attorney’s liens on money and papers of the client in the lawyer’s hands are resolved. An archaic procedure for presumably a “referee” to resolve the dispute is mentioned in this section, but is not spelled out. I have never once heard of this process being used. The statute offers no procedure at all on how realization on the charging (non-possessory) lien is accomplished. Only about 30 or so appellate annotations exist for a law dating back 150 years. Even so, these cases afford only slight guidance for the foreclosure process.

Published Criticisms of the Lien Statute

I have found only three articles published in law publications about the Washington lien statute over the past 60 years. One is by the former dean of the University of Washington School of Law, George Stevens, in 1956. Dean Stevens ended his article with the following conclusion: “It is quite apparent that the attorney’s lien statute is inadequate. It should also be apparent that the defects are such that correction should come through legislation rather than judicial decision and interpolation.”

Dean Stevens outlined a proposed re-drafting of the attorney’s lien statute in his article. Fifty-seven years
have passed since this article was published, and the effort to entirely rewrite the attorney’s lien statute has yet to catch on generally.

The second article is a student note by a Seattle University School of Law student in 2004.6 Zach Elsner raises many of the same criticisms discussed in this article and he concludes that “the Washington Attorney Lien Statute is now limited in ways that prevent it from serving its purposes.” He has urged that the lien statute be amended to alleviate some of the criticisms.7 No one has yet taken him up on his suggestion. A third article addressed the impact of the 2004 amendments on the so-called Blaney cases.8

Professor Marjorie Rombauer, University of Washington School of Law faculty, has written Volumes 27 and 28 of the Washington Practice series on Creditor’s Rights and Debtor’s Remedies. She has a chapter on the attorney’s lien statute, where she politely points out some of the statute’s shortcomings.

Shortcomings of the Statute

When is notice required? While notices of claims of lien filed with the clerk are commonly used by lawyers, some parts of the statute require notice and other parts do not. The statute fails to provide any guidance on the matter of notice. The statute should spell out when notice is essential to the “perfection” of the lien as to third parties.

What must the notice of lien contain, and to whom? Nothing in the statute spells out what a required notice of claim of lien must contain other than the inadequate provisions in RCW 60.40.010(1)(e) relating solely to liens on judgments. Nowhere in the statute will one find who must receive notice. The statute is silent on the consequences of failing to give adequate notice.

Attorney’s lien on an “action.” The existing statute states that an attorney has a lien on “an action, including one pursued by arbitration or mediation,” and that this lien exists as a matter of law. No requirement of notice of this lien is contained in the statute, as amended in 2004.9 However, the statute makes no provision for the situation where a lawyer is entitled to an attorney’s lien by operation of law but where a stakeholder, not having received notice of the lien, disburses the secured recovery in derogation of the lawyer’s lien. Is any stakeholder where an action is pending deemed constructively on notice of a lien in an indeterminate amount? Who bears that loss? The statute as amended in 2004 is silent on this.

Lien terminology and jurisprudence. Other lien statutes and their jurisprudence typically use terms like vested, perfected, attaches, priority, and foreclosure. None of these terms appear in RCW Chapter 60.40, although some case law interpreting this statute uses some of these terms. The attorney’s lien statute as redrafted should clarify whether these concepts are part of the statute and the statute should contain definitions so the subsequent sections of the new statute are clearly understood.

Priority of liens. The existing statute is not as clear as it could be as to priorities between competing liens, and under what circumstances an attorney’s lien

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relates back. The 2004 amendments state merely that an attorney’s lien is superior to all other liens. If a prior creditor has attached or executed on a client’s cause of action before the attorney’s lien attaches, who has priority? This is still unclear.

**Possessory liens.** Problems exist with both of the parts of the statute affording “possessory liens.” This is true of both possessory liens, including the lien on the papers of the client, the one under “money in the attorney’s hands belonging to the client.” The latter lien on money belonging to the client is a classic possessory lien — the money belongs to the client; the lawyer holds possession. In *Ross v. Scannell*, 97 Wn.2d 598 (1982), the Supreme Court was faced with what was clearly a charging lien on the fruits of a lawyer’s legal work, the obtaining of title to property to be sold. Lawyer Ross had asserted an attorney’s lien on the fruits of his legal services, obtaining title to real property. Ross won the case but still had to obtain clear title. A fee dispute arose before Ross completed this last project, and another lawyer completed the work. The most serious problem Ross created for himself was his assertion of his claim of attorney’s lien against the client’s real property when he gave notice to a title company. Ross’ lien against the property prevented a sale from going through, damaging his client. The *Ross* case was largely addressed to the impropriety of this lien against real property and the ethical consequences for Ross.

The *Ross* court opened its discussion of the legal issues with a description of attorney’s liens available under the lien statute. The court first described the possessory liens available under RCW 60.40.010. In this description, the court stated in *dicta:* “This statute, in existence since 1881, provides a delineated and limited statutory attorney’s lien designed to be a tool in the collection of fees. The statute in part is merely declaratory of the general or retaining lien recognized at common law. This possessory and passive lien gives an attorney the right to retain papers and documents which come into the attorney’s possession during the course of his professional employment. It is a possessory and passive lien and is not enforceable by foreclosure and sale. See *Gottstein v. Harrington*, 25 Wash. 508, 65 P. 753 (1901). (*Ross*, supra at 604. WSBA in Advisory Opinion 181, citing the *Ross dicta*, advised members of the Bar that “The [possessory lien on client’s papers] may merely be used to embarrass the client, or, as some cases express it to ‘worry’ him into the payment of the charges.”)

The Supreme Court’s *dicta* in *Ross* merely addressed papers and documents of the client which come into the attorney’s possession during the course of his professional employment, and never addressed the possessory lien on money of the client in the attorney’s hands. The court in *Ross* did not distinguish between the possessory lien on papers and documents from that upon the client’s money in the attorney’s hands. This is amply criticized in Elsner, “Rethinking Attorney’s Liens: Why Washington Attorneys are Forced into Involuntary Pro Bono,” 2004 *Seattle Univ. Law Review*, p. 827, at 849–50. The Elsner Note recognizes that the
court’s dicta in Ross did not address liens on money in the attorney’s hands.

However, WSBA Advisory Opinion 181 purported to expand the Ross dicta to money of the client in the lawyer’s hands, and concluded, “Since the retaining or possessory lien cannot be foreclosed, any funds held pursuant to the lien must be held in the lawyer’s trust account,” presumably forever if the client fails to act. With all due respect, WSBA Opinion 181 and the Ross dicta as to client money in the lawyer’s hands, if followed, would effectively emasculate the possessory lien on the client’s money. The Elsner Note recommends the lien on the client’s money in the lawyer’s hands be treated as a possessory lien, where it may be adjudicated under RCW 60.40.030.

In my opinion, the characterization of possessory versus charging should not affect whether the lawyer can realize on client money in his or her hands. The new statute can provide simply that such a lien exists and may be resolved by foreclosure. This is yet one more example of the mine fields in the attorney’s lien area, waiting to destroy the lawyer’s claim when it is least expected.

**Attachment of charging liens.** The statute is very unclear as to what a charging lien attaches. The original charging lien on a client’s right of action is phrased as “money in the hands of the adverse party in an action or proceeding, in which the lawyer was employed.” What does that mean? I and many other lawyers have always interpreted it to mean it attaches to the client’s right of action, or claim for damages against a third party, even one merely in negotiation, not actually in court, mediation, or arbitration. Remember that subsection (1)(d) that extends the right to lien to “an action, including one pursued by arbitration or mediation,” was not even enacted until 2004. “Actions” have always been interpreted before as lawsuits, not arbitrations, mediations, or merely settlement negotiations. If a lawyer has negotiated a settlement without litigation, he/she should have the right to assert a lien if the client fires that lawyer in order to defeat the contingency fee. See, e.g., *Taylor v. Shigaki*, 84 Wn. App. 723, 930 P.2d 340 (1997), based on substantial performance. Lawyers who can settle
Gene Moen Named 2014 Medical Malpractice Lawyer of the Year

Chemnick | Moen | Greenstreet congratulates Senior Partner Gene Moen, who has been named by U.S. News-Best Lawyers® as the 2014 “Lawyer of the Year” in the plaintiff’s medical malpractice field in the Seattle area. This designation reflects the high level of respect Gene has earned among other lawyers in the same practice area for his ability, his professionalism, and his integrity.

Best Lawyers also named CMG as one of only three firms in the 2014 top tier among medical malpractice firms in Seattle.

In addition, Gene has been named a Washington “Super Lawyer” for over 10 years.

Mechanics of foreclosure of a charging lien. As for charging liens, the statute provides literally no guidance on how an attorney’s lien is reduced to judgment via foreclosure. The term “foreclosure” is not even used in the statute, and no procedure for realizing on a charging lien is even discussed in the existing statute. The only guidance available to lawyers and clients on how a lien is determined and the lawyer is paid comes from a handful of appellate opinions, some very old. The newly re-drafted lien statute should spell out the parameters of what a lien foreclosure determination must consist, whether discovery is permitted, under what circumstances an evidentiary hearing should be required, whether expert testimony is permitted, and under what circumstances (perhaps liens for small amounts of fees) may be determined on the written evidence and briefing alone without an open hearing. If a “summary procedure,” as currently exists by case law,16 is to be permitted in the foreclosure of an attorney’s lien, that should be spelled out in the new statute.

Possessory lien on client files and papers. RCW 60.40.010(1)(a) provides a possessory lien upon the files and papers of the client in the possession of the lawyer. This presumably includes the client file. Nonetheless, WSBA Advisory Opinion 181 all but guts the effectiveness of this possessory lien. Lawyers may not withhold a client’s file as leverage for payment, where to do so would harm the client’s ongoing case. See RPC 1.15(d). The ethics rules trump the statute, RCW 60.40.010(1)(a), but lawyers unfamiliar with the ethics opinion and rule still frequently withhold the client’s file from the client as leverage to get paid. This possessory lien on the papers of the client should probably be eliminated, at least as far as a case file. The possessory lien should probably have “the papers of a client” defined per the case law.

No charging lien on real property of the client. A major failing of the existing lien statute, as interpreted by the Supreme Court, deprives the lawyer of the right for the lien to attach to real property that the lawyer’s own services have procured for the client in the engagement through settlement or judgment. For instance, if an attorney recovers a judgment for $5 million in cash, that cash when available for disbursement is subject to the lawyer’s lien and would serve as the basis from which the lawyer is ultimately paid. However, if the lawyer’s legal services result in a quiet title decree in the client’s favor to a piece of real property worth $5 million, under existing law, the lawyer has no security in the real property at all. See Ross v. Scannell, supra at 608.

The Supreme Court not only deprived Ross of any lien but remanded to the trial court to determine if such constituted slander of title, and whether such was a breach of fiduciary duty. The Supreme Court approved of this Ross rule in In re Vanderbeek,16 a disciplinary case, where with little discussion, the Court not only reaffirmed the rule...
in Ross that attorney’s liens could not be recorded against a client’s real property but held that the lawyer could not assert a lien against the proceeds of the sale of real property that the lawyer’s efforts obtained for the client.

The court’s concern in Ross was that a lawyer can tie up real property with an unadjudicated attorney’s lien that clouds the title to that property. This is a legitimate concern and those who redraft the lien statute must explore how best to accommodate the legitimate needs of lawyers to get paid while not allowing the lien against real property to be abused by lawyers.

The Supreme Court’s decisions in Ross and Vanderbeek that make for a very unjust result is discussed not only in the Elsner article but by Division II in Voshell v. Baum, 2006 WL 1633706. Lawyer Baum represented client Voshell in a dissolution of marriage, and the case was tried to the court, which fashioned a property division in which husband Voshell was granted real property. Baum and his client had a falling out as the final papers were being prepared, and Baum was allowed to withdraw with leave of court. Baum asserted an attorney’s lien under RCW 60.40.010(1)(c), money in the hands of an adverse party, and under sub§(1)(e) “on a judgment.” The decree awarded cash to the wife and the real property to Voshell. The wife owed Voshell no money. Baum claimed he was entitled to a lien on the proceeds of the sale of real property awarded to the husband Voshell. Division II rejected this contention, based specifically on the Supreme Court’s opinions in Ross and Vanderbeek, leaving Baum with no fees.

Division II recognized the injustice of this result in the statement: “Baum is correct that Ross and Vanderbeek produce unsettling results from a policy perspective. If, instead of a building, Voshell had been awarded the couple’s bank account, Ross and Vanderbeek do not prevent Baum from obtaining a lien on those funds (assuming, without deciding, that dissolution-related judgments are fair game for attorney liens). The only thing preventing Baum’s lien in this case is Washington’s common law rule that an attorney has no lien if the recovery his client obtains is real property. However problematic Ross’s rule is, the Washington Supreme Court created it and recently reasserted it in VanDerbeek.” Baum, supra, slip op at 4.17 This situation exemplified in Baum — that there is no lien right of the fruit of the lawyer’s efforts is real property, but there is a lien right if the fruits are cash, urgently calls out for a fix, which as the Baum opinion makes clear, can only occur legislatively.

Should attorney’s liens attach to property of a party to a dissolution of marriage action? By case law, an attorney’s lien may not attach to child support in a dissolution. It is questionable whether an attorney’s lien attaches to pension, IRA, and SEP accounts awarded in a dissolution of marriage action, even if obtained as a result of the lawyer’s efforts. As the court in Baum v. Voshell queried in the quote above, are there strong policy reasons that the fruits of the lawyer’s efforts in dissolution cases should be exempt from the attorney’s lien? The current law is wholly silent on this issue.

These are the worst of the failings of the existing lien statute. With a lit-
It is clear that specific failings exist in our current attorney’s lien statute, but what general subjects should the newly redrafted lien statute contain? My plan would be to come up with a draft new statute to be the subject of discussion by bar and bench.

Where Do We Go from Here?
I have identified and begun study of the attorney’s lien statutes and case law providing for attorney’s liens in about a dozen other states. I have identified dozens of outside-of-Washington case law opinions as well. It is my plan to compare those statutes and the case law rules of other states with those of Washington, and determine if one or more have very sensible attorney’s lien schemes that are worthy of emulating. I intend to review several other lien statutes in Washington, including the mechanics lien statute, and identify key lien concepts that typify such lien statutes generally. Using prior legislation for which the Legislature has previously approved language (such as definitions and procedures) might well make it easier to obtain legislative approval.

It is clear that specific failings exist in our current attorney’s lien statute, but what general subjects should the newly redrafted lien statute contain? My plan would be to come up with a draft new statute to be the subject of discussion by bar and bench. I solicit the vocal support of all Washington lawyers for this process of modernization and encourage specific written suggestions and stories from members and judges that support the plan to bring about this change. I would also encourage members of the Bar with an interest in this arcane subject (and law students as well) to join me in re-drafting the statute. I urge those with suggestions or who wish to participate to contact me by email. Together we can make a major improvement in this small area of the law.

Michael Caryl, a graduate of Georgetown University Law Center (J.D.) and George Washington School of Law (LL.M.), is a civil trial lawyer in his 42nd year of practice. His practice is limited to matters of disputed attorney’s fees, including lawyer ethics relating to attorney’s fees. He also provides expert testimony in litigated matters involving disputed attorney’s fees. He can be reached at michaelc@michaelcaryl.com.

NOTES
2. It was first amended in 1881 when the lien statute was codified (Code of 1881, §3286), and what is now subsection (1)(e) of RCW 60.40.010 providing for a lien on a judgment was added. It was amended only once more, in 2004, when the Legislature tried to address double taxation of attorney’s fee awards in employment and civil rights cases. See Brookings, “Strange Bedfellows: The New Washington Attorney Lien Statute and the Blaney Cases,” 58 Wash. State Bar News, p. 19 (December 2004).
3. The preamble to the bill containing the 2004 lien statute amendments reads: “The purpose of this act is to end double taxation of attorneys’ fees obtained through judgments and settlements, whether paid by the client from the recovery or by the defendant pursuant to a statute or a contract. Through this legislation, Washington law clearly recognizes that attorneys have a property interest in their clients’ cases so that the attorney’s fee portion of an award or settlement may be taxed only once and against the attorney who actually receives the fee. This statute should be liberally construed to effectuate its purpose. This act is curative and remedial, and intended to ensure that Washington residents do not incur double taxation on attorneys’ fees received in litigation and owed to their attorneys. Thus, except for RCW 60.40.010(6), the statute is intended to apply retroactively.” (2004 c 73, § 1)
4. Dean Stevens’s article is titled, “Our Inadequate Attorney’s Lien Statutes — A Suggestion,” 31 Washington L. Rev. 1 (Spring 1956). In this article, Dean Stevens raises many of the same criticisms of the attorney’s lien statute expressed in this article, only a few of which involve what is the extent of the possessory liens, to what does the charging lien attach, when notice is required, what are the consequences of failure to give notice, to what extent a client may defeat a lien by settling with the opposing party, what impact does an assignment on the attorney’s lien rights, and how an attorney realizes on his lien, charging or possessory. 531 Washington L. Rev at 19–20.
6. Id, at 857.
9. “Upon the papers of the client, which have come into the attorney’s possession in the course of his or her professional employment”; RCW 60.40.010(1)(a). The court’s exploration of the possessory lien on client papers was wholly unrelated to the legal issues in Ross and played no part in the court’s holding.
10. “Upon the papers of the client, which have come into the attorney’s possession in the course of his or her professional employment”; RCW 60.40.010(1)(b). That this was dicta is obvious. The lien in Ross was not a possessory lien but a charging lien. No papers or money belong to the client was ever in attorney Ross’ hands. The court’s exploration of the possessory lien on client papers was wholly unrelated to the legal issues in Ross and played no part in the court’s holding.
11. WSBA Advisory Opinions are only that — advisory. They carry no force of law. See In re DeRutzi, 152 Wn.2d 558, 99 P.3d 881 (2004).
12. RCW 60.40.010(1)(c).
15. To add insult to injury, there was a fee-shifting clause in Baum’s fee agreement with Voshell. The Court of Appeals awarded Voshell his attorney’s fees against Baum.
Howard C. Anawalt
Howard Anawalt was born and raised in Seattle, but finished high school in California. He earned his A.B. from Stanford University and his J.D. from the University of California, Berkeley, School of Law. He was admitted to practice in the states of California and Washington and in the Supreme Court. Anawalt was a teacher and scholar at Santa Clara University’s School of Law from 1967 to 2003. At Santa Clara Law, he was the inaugural director of Santa Clara’s International Institute, and served as the first director of the Santa Clara University School of Law High Tech Advisory Board. Anawalt is considered to be the father of the nationally recognized intellectual property program at Santa Clara Law.
Howard C. Anawalt died Aug. 6, 2013.

Judge Robert D. Austin
Judge Robert Austin was born and raised in Spokane. He attended Gonzaga Prep before attending Gonzaga University, where he received a degree in political science. During this time, Judge Austin also served six years in the Army National Guard. He attended law school at Gonzaga University and received his J.D. in 1971. After law school, Judge Austin practiced family law for over 11 years and then was elected to Spokane County Superior Court, where he served from 1988 to 2008. Judge Austin was known for his sense of humor, and he loved to hunt, fish, golf, and boat.
Judge Robert D. Austin died on Nov. 19, 2013, at the age of 68.

Steven A. Branom
Steven A. Branom was born and raised in Seattle, where he attended Lincoln High School and the University of Washington. After receiving his degree from the UW, he attended the UW School of Law and received his J.D. in 1969. Branom spent the majority of his 40-year career as an attorney for Hackett, Beecher and Hart. Branom enjoyed many hobbies, including fishing in Alaska, golfing, and piloting.
Steven A. Branom died on July 4, 2013, at the age of 69.

Joseph H. Brinster
Joseph Brinster was born in Queens, NY. He served as a navigator on a B17 in Europe during World War II. He graduated from Cornell University and the University of Michigan Law School. He lived and worked in Everett for over 50 years. Brinster was a field trial enthusiast who raised many champion English pointers. He also enjoyed pigeon racing, sailing, golfing, and attending community theater events.
Joseph H. Brinster died on July 31, 2013, at the age of 88.

Andrew G. Burnfield
Andrew Burnfield was born in Minnesota, where he attended high school. He attended Concordia College in Moorhead, Minnesota, and was admitted to the University of North Dakota School of Law. Upon graduation, Burnfield and his family moved to Washington and he began to practice law in the Seattle area. Burnfield practiced in Everett, Ferndale, and Seattle from 1963 until his passing.
Andrew G. Burnfield died on Aug. 29, 2013, at the age of 81.

Harry Robert Calbom Jr.
Harry Calbom Jr. was born in Mount Vernon and grew up in Longview. He received his undergraduate degree from Willamette University. Calbom served in the U.S. Army Air Corps during World War II, stationed in India and Burma. Following his military service, he earned a law degree from Gonzaga University School of Law. Calbom was a committed civic leader and proud contributor to Longview’s growth. He served on the Longview School Board for 13 years, was a deacon in the Longview Community Church, and was a member of the Lions, Elks, and Longview Country clubs.
Harry Robert Calbom Jr. died on July 16, 2013, at the age of 94.

David R. Chappel
David Chappel was born in Burbank, CA, and was raised in Santa Maria, CA. After attending the University of California at Santa Barbara, he travelled through Europe, Central America, and Mexico before returning to receive his law degree from the University of Puget Sound in 1979. Chappel served as deputy prosecuting attorney in the Criminal Division at the King County Prosecutor’s Office, where he earned the nickname of “Clint” for his rugged good looks and commanding courtroom style. In 2002, he co-founded the firm ChappelWang PLLC, which focuses on immigration law.
David R. Chappel died on Sept. 14, 2013, at the age of 63.

Charles D. DeJong
Charles DeJong was born in Iowa and grew up in Wenatchee. He received his undergraduate degree from Washington State University and his law degree from George Washington Law School. DeJong began his career in the Washington Supreme Court as an intern, and then in private practice in Seattle and Wenatchee. He worked for Microsoft from 1997-2009. After leaving Microsoft, he found what he considered to be his true vocation at World Vision, leading major donor ministries and working with Holy Apostles youth and adult ministry. He was active in promoting the building of the Wenatchee Performing Arts Center and enjoyed playing Scrabble, literature, fly fishing, and music.
Charles D. DeJong died on June 9, 2013, at the age of 52.

Judge James J. Dore
Judge James Dore was born in Seattle. He received an undergraduate degree in business from Seattle University and his law degree from the UW School of Law. He practiced with his brother Fred at the firm Dore, Dubuhr and Cummins for five years before joining the bench; he served...
serving for 54 years, retiring in 2013, at the age of 82.

John J. Farrell
John Farrell was born in Hartford, Connecticut. He received his undergraduate degree in electrical engineering from the University of Minnesota and his law degree from the UW School of Law. A world traveler, Farrell enjoyed spending time with his lifelong friends.

John J. Farrell died on July 10, 2013, at the age of 82.

James B. Finlay
James Finlay received his undergraduate and law degrees from the University of Washington. He served in Korea with a U.S. Marine Corps aviation unit from the former NAS Sand Point during the Korean Conflict. In 1968, Finlay and a colleague opened a law office at Raymond, near the Pacific County seat of South Bend. The following year, they opened a second office in Long Beach, where Finlay practiced for 45 years of his 54-year legal career.

James B. Finlay died on Nov. 1, 2013, at the age of 82.

Donald DeForest Fleming
Donald Fleming was born and raised in Jennings Lodge, Oregon. He received a degree in business administration from the University of Washington and served in the U.S. Army for two years during World War II. In 1945, he was re-deployed to the Philippines, where he served in the U.S. Court of Claims and was later appointed a commissioner. Fleming received his law degree from the UW School of Law. He practiced law for over 50 years, becoming a senior partner at LeSourd, Patten, Fleming & Hartung before starting his own solo practice in Bellevue. Fleming co-founded the Juvenile Court Conference Committee in Bellevue that provided counsel to at-risk youth to help them avoid prosecution and incarceration. He was also a co-founder and legal counsel for the Bellevue Schools Foundation. He enjoyed racing the family sailboat and cruising in the San Juan and Canadian Gulf Islands; he served as commodore of the Meydenbauer Bay and Corinthian yacht clubs.

Donald DeForest Fleming died on Aug. 4, 2013, at the age of 92.

Edward Gross
Edward Gross was born in a small town in Romania; his family emigrated to Vancouver, Canada. He graduated from the University of British Columbia, pursued postgraduate studies in economics and sociology at the University of Toronto, and earned a Ph.D. in sociology at the University of Chicago. Gross held many academic positions at Washington State University, the University of Minnesota, and the University of Washington until his retirement in 1989; he was also a Fulbright Fellow at the University of Queensland and Griffith University, in Australia. After retiring from his first career, Gross returned to school, earning a law degree and briefly practicing at a small firm before returning to teaching. He taught at a university honors program on the subject of law and community. He enjoyed film studies.

Edward Gross died on July 21, 2013, at the age of 91.

Murray B. Guterson
Murray Guterson was born in Seattle on Dec. 17, 1929. He received his undergraduate and law degrees from the University of Washington and began his legal career as a King County deputy prosecutor and an assistant U.S. attorney in Seattle. In 1958, he joined the Seattle firm of Culp, Dwyer, Guterson & Grader; Guterson practiced at the firm until it disbanded in 1995, and then at its successor, McNaul Ebel Nawrot & Helgren. His law career spanned more than 50 years, and he generously mentored young lawyers throughout. Guterson enjoyed acting in community theater, and was famed for his storytelling and jokes and his
ubiquitous suspenders. He was the father of David Guterson, the acclaimed Bainbridge Island author of *Snow Falling on Cedars*.

Murray B. Guterson died on Oct. 4, 2013, at the age of 83.

**George F. Hanigan**

George Hanigan was a fourth-generation Wahkiakum resident and a third-generation lawyer. Hanigan received his undergraduate and law degrees from Gonzaga University. He owned Wahkiakum Title & Escrow and the Hanigan Law Office for more than 45 years; during this time, he was elected and served as Wahkiakum County prosecuting attorney and coroner for 20 years. Hanigan served on the board of the Association of Prosecuting Attorneys, including a term as president. He was involved in the establishment of public projects such as the Elochoman Slough Marina, Skamokawa Vista Park, County Line Park, and the Wahkiakum County Timber Trust reserve funds, which set aside timber harvest revenues that continue to fund local government and schools.

George F. Hanigan died on July 11, 2013, at the age of 75.

**Rodger M. Hepburn**

Rodger Hepburn was born and raised in Seattle. He attended Willamette Law School where he received his doctorate degree in law. Hepburn lived in Salem, Oregon, and in 2000, moved to West Linn, Oregon. Hepburn worked as an attorney for Reinisch Mackenzie Law Firm in Portland for 21 years. He had many hobbies, including cycling, running, basketball, and attending his children’s sporting events.

Rodger M. Hepburn died on July 14, 2013, at the age of 49.

**George A. Kresovich**

George Kresovich was born in Chicago and received his undergraduate degree from the University of Notre Dame. After serving as a lieutenant in the U.S. Marine Corps, he received his law degree from the University of Michigan Law School. Kresovich began his legal career in Chicago as an assistant state’s attorney; in 1978, he moved to Seattle and joined Hillis Clark Martin & Peterson, where
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High School and earned his B.A. in sociology from the University of Washington, where he was an active member of the Sigma Alpha Epsilon fraternity. He attended law school at the University of Texas School of Law and returned to Seattle to work as a family law attorney. Preston was licensed to practice law in both Washington and Texas. He retired at the age of 55 so he could spend the rest of his life cooking for family and friends, traveling, and spending time with his grandchildren.

Peter D. Preston died on June 27, 2013, at the age of 71.

Harvard P. Spigal
Harvard Spigal was born in Tacoma. He graduated from the UW School of Law and worked in private practice and for the City of Bellevue. He moved to Portland and held a variety of positions working for the Bonneville Power Administration. After 26 years, he joined the firm of Preston Gates and Ellis (now K&L Gates).

Harvard P. Spigal died Aug. 22, 2013, at the age of 68.

Irwin L. Treiger
Irwin Treiger was born in Seattle and was a graduate of Garfield High School and the UW School of Law. He received a LL.M. in taxation from New York University. His 56-year legal career began at Bogle & Gates and ended at Dorsey & Whitney and Stoel Rives where he was of counsel. He helped revive the Seattle Symphony in the 1980s, was a trustee for the Samis Foundation, which renovates historic Seattle buildings, and was president of the Jewish Federation of Greater Seattle. He enjoyed summer vacations at Lake Chelan, trips to Israel, baseball, and fishing.

Irwin L. Treiger died Oct. 20, 2013, at the age of 79.

James A. Trujillo
James Trujillo grew up in Richland. He served in the U.S. Marine Corps and graduated from the UW School of Law. He was deputy prosecutor for King County and the started a private practice in Bellevue that became Trujillo Peick Lingenbrink & Maglady. He served as president of the Washington State Hispanic Bar Association (now LBAW), as a state bar examiner, and as a volunteer attorney for the Eastside Legal Assistance Program. He liked hunting, fishing, skiing, and the Huskies.


Benjamin L. Westmoreland Jr.
Benjamin Westmoreland was born in Everett, where he lived all his life. He farmed and raised cattle until he became an attorney after graduating from UW School of Law. He was active at Bethel Baptist Church and enjoyed cruising the Pacific Northwest waters.

Benjamin L. Westmoreland died Sept. 27, 2013, at the age of 95.

The WSBA has also learned of the deaths of John J. Farrell on July 9, Douglas J. Hansen on Aug. 11, James E. Kennedy on Sept. 30, Dale K. Parham on Oct. 3, and James H. Rustan on March 29.
WSBA BOARD OF GOVERNORS MEETING

Nov. 8, 2013, Seattle

BY MICHAEL HEATHERLY

Appointing a set of legislative priorities for 2014 and voting to sponsor two bills were among the items on the agenda of the WSBA Board of Governors at their meeting in Seattle on Nov. 8, 2013. The Board also took action relating to a juvenile justice policy and approved funding support for an update to the 2003 statewide civil legal needs study.

Legislative Committee Priorities

The Board approved a set of priorities for its Legislative Committee for the 2013–14 fiscal year. The priorities were the same as those approved a year ago, which were reviewed by the committee before being resubmitted to the Board. The priorities are:

1. Support legislative proposals initiated by WSBA sections that are approved by the Board of Governors.
2. Support continued progress on the Justice in Jeopardy Initiative, which includes efforts to improve support and to provide sufficient funding for civil legal aid, indigent criminal defense, and the judicial system.
3. Monitor proposals that would increase existing court user fees; oppose efforts to create new court user fees.
4. Support efforts to promote and enhance civics education.
5. Monitor proposals that would impose a sales tax on professional services; oppose efforts to impose a sales tax on attorneys’ services.
7. Monitor other proposals of significance to the practice of law and administration of justice, and take appropriate positions on legislation.

Sponsored Legislation

The Board voted to sponsor two bills expected to be introduced in the 2014 Legislative session. Both involve legal procedure and appear noncontroversial. The first would streamline existing conversion procedures for corporations and limited liability companies. The new provisions would allow such transactions to occur directly through a single filing with the Secretary of State, consistent with provisions adopted in 28 other states, including Delaware.

The second bill would create a Washington version of the International Commercial Arbitration Act, based on the United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Arbitration. The model law has been adopted in 66 nations and eight U.S. states. British Columbia, Oregon, and California are among the jurisdictions in which it is in effect. The Washington proposal was drafted by the WSBA Alternative Dispute Resolution Section. Proponents believe enactment of the measure would help Washington promote itself as a favorable venue for arbitration of commercial disputes, a growing field that economically benefits communities where it is practiced. The statute would resemble Washington’s general arbitration statute, RCW 7.04A, with a key difference being that the international arbitration process gives the arbitrator, rather than the courts, the authority to decide whether arbitration is the proper resolution procedure for a given dispute.

Juvenile Rehabilitation Policy

The Board voted to authorize the WSBA Juvenile Law Section to voice the Section’s opposition to a state Juvenile Justice and Rehabilitation Administration (JJRA) policy regarding reporting of juveniles to U.S. Immigration Customs Enforcement (ICE).

Under JJRA’s Policy 38, which is up for review, the agency notifies ICE whenever a juvenile meeting the definition of a foreign national comes into JJRA custody. The policy further requires that certain foreign national youth committed to JJRA reside in an institution and are not eligible for community placement or authorized leave unless ICE communicates to JJRA that it does not have an interest in the youth.

The Board’s vote does not commit the Board or the WSBA to a position on

The Board watched a presentation on the Washington Leadership Institute’s 2013 community service project, a 50-page resource book for people residing in Washington under asylum or on refugee status. The book includes information on housing, employment, public assistance, childcare and education… the justice system, and emergencies and crimes.

Civil Legal Needs Study

The Board approved a request for $15,000 in funding toward a 2014 update of the Washington State Civil Legal Needs Study, originally conducted in 2003. The 2003 study evaluated the prevalence and consequences of civil legal problems experienced by low-income and vulnerable people throughout the state. It has been used since then to help guide administration of assistance programs by the WSBA and other organizations. The 2014 project
Bar Foundation Report
The Board received the annual report of the Washington State Bar Foundation, the fundraising arm of the WSBA, which supports programs that promote diversity within the legal profession and enhance the public’s access to, and understanding of, the justice system. Bar Foundation President Judy Massong reported that in fiscal year 2013, 5,060 Washington lawyers (15 percent of the total WSBA membership) contributed via the annual WSBA licensing form, the first year such contributions appeared as a check-off item on the form. In addition, 134 people donated to the Foundation at the annual WSBA Annual Awards dinner, an eight percent increase over 2012 and 24 percent increase over 2011. For the year, the Foundation was able to award $275,136 to support WSBA programs. NWL

Michael Heatherly is the editor of NWLawyer and can be reached at nwlawyer@wsba.org or 360-312-5156. For more information on the Board of Governors and Board meetings, see www.wsba.org/bog.

Leadership Institute Project
The Board watched a presentation on the Washington Leadership Institute’s 2013 community service project, a 50-page resource book for people residing in Washington under asylum or on refugee status. The book includes information on housing, employment, public assistance, childcare and education, travel and transportation, money and credit, health care, the justice system, and emergencies and crimes.

The WLI was established by the WSBA and is now a partnership with the University of Washington School of Law where the program is currently housed. The program accepts a class of fellows each year focusing on lawyers from minority and traditionally under-represented groups. They receive training and mentorship throughout the year and complete a project dedicated to public service.

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Learn about open positions on the WSBA website: www.tinyurl.com/WSBAvolunteers. Applications will be accepted from Jan. 6 to March 3. Most positions begin Oct. 1.
A Side of Sidebar

What’s happening online at NWSidebar, the blog for Washington’s legal community [nwsidebar.wsba.org]

Navigating the Affordable Health Care Act Series
This ongoing series from the WSBA Law Office Management Assistance Program helps solo and small practitioners understand the Affordable Care Act and how it affects them. Catch up on what’s been posted and look for new posts each week.

Crash Courses for Writing and Citations
http://bit.ly/SidebarCrashCourse
Write a compelling brief and avoid a citation blunder with legal writing crash courses from NWLawyer Editor Michael Heatherly and attorney Vitaliy Kertchen.

5 Myths About Police Officers
Bremerton Police Chief Steve Strachan dispels common myths about cops: who they are, what they do, and what they think of attorneys.

Men’s Fall Fashion: Overcoats!
Attorney and Young Lawyers Committee member Trent Latta offers a few laughs and three handsome choices for overcoats to keep you warm this winter.

Why Do We Raise Our Right Hands When Testifying Before the Court?
Raising your right hand while taking an oath — whether as a witness or when taking the Oath of an Attorney — is a commonplace scene in modern courtrooms. This post provides the painful history of why we raise our right hands.

Bloggers Wanted!
Add your voice to NWSidebar! Whether you maintain your own legal blog or have never written a blog post, we welcome submissions from all members of the legal community.
Giving to the Washington State Bar Foundation is an easy choice for me.

“I’m proud not only to be a donor, but to serve as a trustee of the Washington State Bar Foundation. The Bar Foundation gives members like me the choice to support WSBA programs I care about, like the Moderate Means Program. My gift – together with the donations of more than 5,000 of my fellow lawyers – is providing needed legal help to people all across Washington beyond the reach of other types of aid. I’m proud to support great programs like this, and to do it in a way that takes pressure off of WSBA license fees. That’s a win-win we can all celebrate.”

Teru Olsen
Associate
Ryan, Swanson & Cleveland, PLLC
Admitted 2008

Learn more & give at wsba.org/foundation
Disciplinary Notices

These notices of imposition of disciplinary sanctions and actions are published pursuant to Rule 3.5(d) of the Washington Supreme Court Rules for Enforcement of Lawyer Conduct. Links to relevant documents can be found by viewing the online version of NWLawyer at http://nwlawyer.wsba.org or by looking up the respondent in the lawyer directory on the WSBA website (www.wsba.org) and then scrolling down to “Discipline History.” As some WSBA members share the same or similar names, please read all disciplinary notices carefully for names, cities, and bar numbers.

Disbarred

Paul D. Jacobson (WSBA No. 26939, admitted 1997), of Issaquah, was disbarred, effective 10/09/2013, 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), 8.4 (Misconduct). Joanne S. Abelson represented the Bar Association. Paul D. Jacobson represented himself. The online version of NWLawyer contains links to the following documents: Order Approving Stipulation; Stipulation to Disbarment; and Washington Supreme Court Order.

Disbarred

James Robert Watt (WSBA No. 12177, admitted 1981), of Redmond, was disbarred, effective 10/09/2013, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.5 (Fees), 1.7 (Conflict of Interest: Current Clients), 2.4 (Misconduct). Paul D. Jacobson represented the Bar Association. Paul D. Jacobson represented himself. The online version of NWLawyer contains links to the following documents: Order Approving Stipulation; Stipulation to Disbarment; and Washington Supreme Court Order.

Resigned in Lieu of Disbarment

Erasmio John Compatore (WSBA No. 19376, admitted 1990), of Seattle, resigned in lieu of disbarment, effective 10/02/2013. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.5 (Fees), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation), 8.1 (Bar Admission and Disciplinary Matters), 8.4 (Misconduct). Joanne S. Abelson represented the Bar Association. Leland G. Ripley represented Respondent. The online version of NWLawyer contains a link to the following document: Affidavit of Erasmio John Compatore Resigning from Membership in Washington State Bar Association (ELC 9.3(b)).

Suspended

John Joseph Baker (WSBA No. 22951, admitted 1993) of Placitas, New Mexico, was suspended for one year, effective 10/09/2013, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer), 1.3 (Diligence), 1.4 (Communication), 8.4 (Misconduct). Erica Temple represented the Bar Association. John Joseph Baker represented himself. David Bruce Condon was the hearing officer. The online version of NWLawyer contains links to the following documents: Hearing Officer’s Decision; Disciplinary Board Recommendation; and Washington Supreme Court Order. John Joseph Baker is to be distinguished from John Holmes Baker of Portland, OR.

Suspended

Jeremy D. Benson (WSBA No. 34163, admitted 2003) of Spokane, was suspended for one year, effective 10/09/2013, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.16 (Declining or Terminating Representation). Joanne S. Abelson represented the Bar Association. Jeremy D. Benson represented himself. Jane Bremner Risley was the hearing officer. The online version of NWLawyer contains links to the following documents: Hearing Officer’s Decision; Disciplinary Board Recommendation; and Washington Supreme Court Order.

Suspended

Kenneth Bromley Rice (WSBA No. 4973, admitted 1973) of Kennewick, was suspended for two years, effective 10/09/2013, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.4 (Communication), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation), 8.4 (Misconduct). Joanne S. Abelson represented the Bar Association. Kenneth Bromley Rice represented himself. James Stuart Craven was the hearing officer. The online version of NWLawyer contains links to the following documents: Hearing Officer’s Decision; Disciplinary Board Recommendation; and Washington Supreme Court Order.

Reprimanded

Marlene K. Wenger (WSBA No. 35478, admitted 2004), of Winlock, was reprimanded, effective 7/02/2013, by order of the hearing officer. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.15A (Safeguarding Property). Natalea Skvir represented the Bar Association. Leland G. Ripley represented Respondent. Randolph O. Petgrave was the hearing officer. The online version of NWLawyer contains links to the following documents: Order on Stipulation to Reprimand; Stipulation to Reprimand; and Reprimand.

Legal Lunchbox Series

Dishing up free CLEs!

WSBA invites you to lunch and learn while earning 1.5 CLE credits. And the tab is on us! The Legal Lunchbox Series is at noon on the last Tuesday of each month. WSBA will host a 90-minute, 1.5 credit, live webcast CLE on topics such as e-discovery and ethics in social media.

Mark your calendars now!

To register and for more information, visit www.wsbaonline.org.
Opportunities for Service

Washington State Court Interpreter Commission

Application Deadline: Dec. 31, 2013

The Washington State Court Interpreter Commission is seeking letters of interest from individuals interested in serving on the Commission. Generally, an appointment to the Commission is for a three-year term. Members of the Commission are expected to attend meetings on a regular basis. Members are reimbursed for travel and commission-related expenses.

If you would like to volunteer your time and expertise to help develop policies for the Language Access Program; address issues, complaints, and/or requests regarding access to interpreter services in the courts; provide ongoing opportunities for training and resources to judicial officers and court staff regarding interpreting; and ensure that qualified interpreters are available to facilitate access to justice for limited English proficient court users, submit a résumé and a letter explaining your interest and experience to: Shirley Bondon, AOC Staff to the Commission, Washington State Court Language Access Program, c/o Administrative Office of the Courts, PO Box 41170, Olympia, WA 98504-1170. Submitting a letter of interest does not guarantee appointment; appointments occur on an as-needed basis.

Interested in Running for the Board of Governors?

Nomination/Application Deadline: Feb. 15, 2014

Five positions on the WSBA Board of Governors will be up for election this year. The open positions represent the following congressional districts:

- District 3
- District 6
- District 7N
- District 8
- At-Large position

The three-year term of office begins Sept. 26, 2014. These positions are currently held by Brian Kelly (District 3), Vern Harkins (District 6), Dan Ford (District 7N), Bill Viall (District 8), and James Armstrong (at-large position).

Eligibility: Any active member except one previously elected to the Board of Governors may be nominated or run for the office of governor from the congressional district in which the member is entitled to vote. Any active member may be nominated or run for the at-large governor position.

Becoming a candidate: To run for the Board of Governors or to nominate another WSBA member, you must file a statement of interest and a biographical statement of 100 words or less. The required forms are available on the WSBA website at www.wsba.org/elections or by contacting Pam Inglesby at pami@wsba.org or 206-727-8226. The WSBA executive director must receive the forms for district races by 5 p.m. PST on Feb. 15, 2014. Note: Biographical statements of nominated candidates will be published in the April/May issue of NWLawyer. The deadline to run for the at-large position is 5 p.m. PST on April 19, 2013.

Voting: The four district-based positions are elected by their peers. Generally, a member is entitled to vote in the congressional district in which he or she resides. All out-of-state active WSBA members are eligible to vote in the district of the address of their agent within Washington for the purpose of receiving service of process as required by APR 5(f), or, if specifically designated to the executive director, within the district of their primary Washington practice. Paper ballots for district elections will be mailed on March 15 and must be received by 5 p.m. PDT on April 15. The WSBA will also use an electronic voting system, and members with email addresses on file with the WSBA will not receive a paper ballot unless they request one. Email ballots will also be sent on March 15 and must be received by 5 p.m. PDT on April 15. The at-large governor will be elected by the Board of Governors at its June 6 meeting.

BOG Candidate Forum: A candidate forum is scheduled for March 4, 2014. All candidates for any of the open seats are strongly encouraged to participate. The forum will be held at the WSBA Conference Center in Seattle beginning at 5:30 p.m. Members are encouraged to attend and bring questions for the candidates. It will also be webcast and accessible statewide for live viewing.
House Counsel – Admission Required in 2014

Under amendments to the Rules of Professional Conduct (RPC) and the Admission to Practice Rules (APR) effective Jan. 1, 2014, house counsel who are not admitted in Washington will be required to be admitted in Washington to continue practice as house counsel. Amended RPC 5.5(d) and APR 8(f). House counsel in this situation will have three options available without having to sit for the bar exam:

1. Admission by Motion (amended APR 3(c)). This is the best option for house counsel admitted in another U.S. jurisdiction. It provides full admission to the practice of law in Washington. There are two primary requirements for admission by motion.
   a) Active legal experience for three out of the last five years; practice as house counsel in Washington (or anywhere) counts as active legal experience.
   b) Passing the Washington Law Component (WLC) test (http://bit.ly/19SSMvy), which is an online, open-book, multiple-choice test that applicants can complete anytime and anywhere they have a computer with an Internet connection. The WLC is meant to be an educational tool so lawyers practicing in Washington are aware of unique or unusual aspects of Washington law. All questions on the test come from the WLC research materials (http://bit.ly/1aw9nZP).

2. Limited Admission as House Counsel (amended APR 8(ff)). This is the best option for those who do not have three years of active legal experience and who do not have a Uniform Bar Exam score. Any lawyer admitted anywhere in the world may apply under this rule. (Admission by exam will no longer be a requirement under this rule for foreign house counsel.) House counsel admitted under this rule will not be permitted to appear in court and the practice will be limited to the corporate client/employer. However, despite the limited admission, house counsel under this rule will have the same application process and fees, and the same licensing requirements (license fees, MCLE, etc.) as a full member of the WSBA. For this reason, we recommend that anyone with at least three years of active practice apply for admission by motion.

3. Uniform Bar Exam Score Transfer (amended APR 3 and Admission Policies). This option is for those who have a UBE score of at least 270 and who have been admitted less than 40 months (and have less than three years of active legal experience). House counsel in this situation may apply at our online admissions site (www.admissions.wsba.org/account/logon) at any time.

   RPC 5.5(d) currently governs house counsel practice without licensure and is being amended so that practice under that provision will be temporary only. House counsel applying for admission can use this rule while waiting for the application and admission process to be completed.

   Applications for admission by motion will be available online on Jan. 1, 2014. Application for limited admission as house counsel will require submission of a paper application, which will be posted on the House Counsel page (http://bit.ly/housecounsel) after Jan. 1, 2014. No applications can be accepted until after Jan. 1, 2014, when the amendments take effect. There is a $620 application fee and a separate investigation fee that must be paid to the NCBE for all applications. The application/admission process will take up to six months. Please address questions about house counsel to admissions@wsba.org or call 206-727-8209.

Important Changes to Rule 9, Effective Jan. 1, 2014

The Supreme Court of Washington has amended Admission to Practice Rule 9. These changes will be effective Jan. 1, 2014. Both supervising attorneys and licensed legal interns will be significantly affected. Changes include scope of practice, supervising attorney’s responsibilities, terms of the license, and eligibility. Learn more at www.wsba.org/rule9.

S25 MCLE Comity Certificate Fee Information

There is a $25 fee for ordering or submitting MCLE comity certificates. Ordering comity certificates can be done online or via mail. See wsba.org/mcle for more information.

Email Address Required for All Members

Effective Jan. 1, 2014, all WSBA members will be required to have an email address on file with the WSBA. See Admission and Practice Rule (APR) 13 and the WSBA Bylaws, both as amended effective Jan. 1, 2014. This email address will be used for important official WSBA email communications. Members may request that their email not be published on the online lawyer directory.

Upcoming Events

Save the Date: Open Section Night

Thursday, Jan. 16, 2014; 5:30 – 7:30 p.m.
WSBA Conference Center, Seattle

This professional networking event provides new and young lawyers the opportunity to learn about the benefits of a WSBA Section membership, mingle with new and experienced attorneys, and to learn about the Washington Young Lawyers Committee (WYLC). This event is sponsored by the Washington Young Lawyers Committee (WYLC). You may learn more about this event, the WYLC, and WSBA Sections, visit www.wsba.org/legal-community. For inquiries, please email newlawyers@wsba.org.

WSBA Board of Governors Meetings

Jan. 23, 2014, Olympia; March 7–8, 2014, Seattle

With the exception of the executive ses-
Need to Know

sion, Board of Governors meetings are open, and all WSBA members are welcome to attend. RSVPs are appreciated but not required. Contact Pamela Wuest at 206-239-2125, 800-945-9722, ext. 2125, or pamela@wsba.org. The complete Board of Governors meeting schedule is available on the WSBA website at www.wsba.org/bog.

Save the Date: Goldmark Award Luncheon, Feb. 21, 2014

The Legal Foundation of Washington will present the 2014 Charles A. Goldmark Distinguished Service Award to Washington Supreme Court Justice Steven Gonzalez, Seattle University School of Law Professor Robert Chang, and Office of Administrative Hearings Judge Nicole Gaines at the 28th Annual Goldmark Award Luncheon. The luncheon will be held Feb. 21, 2014, at the Sheraton Seattle Hotel from noon to 1:30 p.m. The nomination of representatives on the Race & the Criminal Justice System Task Force emphasized the effort to mobilize the community to initiate change concerning racial disparity in the justice system. Visit www.legalfoundation.org for more information.

Ethics

Facing an Ethical Dilemma?

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

Search WSBA Advisory Opinions Online

WSBA advisory opinions are available online at www.wsba.org/advisoryopinions. You can search opinions by number, year issued, ethical rule, subject matter, or keyword. Advisory opinions are issued by 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.

Lawyers Assistance Program

New Member Benefit: WSBA Connects

We have expanded our Lawyers Assistance Program to offer statewide access to support with referrals to providers in your local area. Through WSBA Connects, our partnership with wellness provider Wellspring, support is now available across the state with 24/7 phone access whenever you are experiencing emotional or behavioral concerns that may be affecting your practice or the quality of your life. Contact WSBA Connects for issues related to mental health and addiction concerns, career management, family, care-giving, daily living, health and well-being, and more. For additional information, please visit www.wsba.org/connects or call toll-free 1-855-857-9722 and see page 9 of this issue of NWLawyer.

Individual Consultation

The Lawyers Assistance Program provides individual consultation services for those struggling with depression, work stress, addiction and life transition, and other topics. The first three appointments are offered at no charge; up to three more sessions can be offered on a sliding scale based on your financial situation. Consultations are an opportunity for assessment of the problem(s) you may be facing, identifying useful tools you may utilize to address these issues, and referrals to provide the right resources for you. We also provide consultations around job seeking and can offer informational and referral resources on a range of topics. Contact 206-727-8268, 800-945-9722, ext. 8268, lap@wsba.org, or go to www.wsba.org/lap.

Seeking Peer Advisors

Would you like to provide support to another lawyer in your community addressing topics such as mental health and self-care, alcoholism and addiction, or guidance in one’s practice? Lawyers are often uniquely able to be resources to one another in these areas. The WSBA Lawyer Assistance Program is launching a new initiative to reconstitute its peer advisor network. The goal is to build a robust network throughout the state. Skills trainings are being developed and planned. To participate or learn more, see http://bit.ly/104fw7N, contact lap@wsba.org, or 206-727-8268 or 800-945-9722, ext. 8268.

Weekly Job Seeker Group and Bi-Monthly Job Search Presentation

On Wednesday, Jan. 15, from noon to 1:30 p.m., the Lawyers Assistance Program is proud to welcome Carol Vecchio to the Bi-Monthly Job Seeker meeting. Carol founded the Centerpoint Institute for Life and Career Renewal in 1992, and since then has impacted thousands of participants with her pioneering career development programs. Carol is also a nationally recognized career counselor, earning the National Career Development Association Outstanding Career Practitioner Award in 2010. She is the author of the recently published book The Time Between Dreams, has contributed to numerous articles about job and career transitions, and also hosts her own radio show on career development. Carol will be sharing her unique perspectives and insights into how to integrate your vision, your energy, and your passion into the work and career choices that are right for you. There is no cost for this presentation but registration is required; attendance is offered either in person at the WSBA Conference Center or via webcast.

The Weekly Job Search Group provides strategy and support to unemployed attorneys. The group runs for seven weeks and is limited to seven attorneys. We provide the comprehensive WSBA job search guide, “Getting There: Your Guide to Career Success,” which can also be found online at www.tinyurl.com/7xhebb8. If you would like to participate or to schedule a career consultation, contact Dan Crystal at dan@wsba.org, 206-727-8267, or 800-945-9722, ext. 8267.
Mindful Lawyers Group
A growing number of legal professionals across the nation are applying mindfulness-based skills and training to lawyering. The Washington Contemplative Lawyers group meets on Mondays at the WSBA Lawyers Assistance Program office from noon to 1 p.m. For more information, contact Sevilla Rhoads at srhoads@gsblaw.com or go to http://wacontemplativelaw.blogspot.com.

LOMAP (WSBA Law Office Management Assistance Program)
Casemaker Online Research
Casemaker is a powerful online research library provided free to WSBA members. Read about this legal research tool on the WSBA website at www.wsba.org/casemaker. As a WSBA member, you already receive free access to Casemaker. Now, we have enhanced this member benefit by upgrading to add Casemaker+ with CaseCheck+ for you. Just like Shepard’s and KeyCite, CaseCheck+ tells you instantly whether your case is good law. If you want more information, you can find it on the Casemaker website, or by calling 877-659-0801 and a Casemaker representative can talk with you about these features. For help using Casemaker, call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA. For additional information, see page 9 of this issue of NWLawyer.

Learn More about Case-Management Software
The WSBA Law Office Management Assistance Program maintains a computer for members to review software tools designed to maximize office efficiency. LOMAP staff is available to provide materials, answer questions, and make recommendations. To make an appointment, contact Charity Anastasio at charitya@wsba.org.

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

Just Starting a Practice?
Think “outside the box” and consider purchasing “Law Office in a Box®.” For $119, you receive an hour of consultation time plus everything you see here: http://tinyurl.com/3rn75hj. Questions? Contact Charity Anastasio at charitya@wsba.org, 206-727-5949, or 800-945-9722, ext. 5949.

Usury Rate
The average coupon equivalent yield from the first auction of 26-week treasury bills in November 2013 was 0.086 percent. Therefore, the maximum allowable usury rate for December is 12 percent.

Brewe Layman, PS
Is pleased to announce that

Sara M. Epler
has joined our firm. Sara is a 1996 graduate of the University of Washington. She received her Juris Doctor degree from Seattle University School of Law in 2000. Sara was admitted to the Washington State Bar Association in June 2001. She is a member of the Snohomish County, King County, and Washington State Bar Associations. Sara will be working exclusively from our Seattle office location.

Kyle M. Turner
has joined our firm. Kyle was admitted to the Bar in September 2013. He is a 2008 graduate of University of Washington and received his Juris Doctor degree from Seattle University School of Law in May 2013.

Sabrina A. Layman
has been admitted as a Fellow to the American Academy of Matrimonial Lawyers (AAML).

Brewe Layman is one of Washington State’s preeminent Family Law firms in matters involving:

Significant estates
Complex business or professional-practice issues
Prenuptial and marital agreements
Litigation/resolution of marital relationships
Living-together predicaments

Brewe Layman, PS
425-252-5167
Seattle, Everett and Mount Vernon
www.brewelaw.com
Morton McGoldrick, P.S. Inc
is pleased to announce that

Marywave Van Deren

former Washington State Court of Appeals, Division II, Judge and Pierce County Superior Court Judge, has rejoined the firm focusing on mediation, arbitration, and pre-trial settlement conferences in the areas of domestic relations, trust and estate disputes, and litigation. And that

Erik M. Walters

former clerk for the Washington State Court of Appeals, Division II, has joined the firm as an Associate.

820 A. Street, Suite 600, Tacoma, WA 98402
253-627-8131

www.bvmm.com

Piskel Yahne Kovarik, PLLC
is pleased to announce that

Whitny L. Norton
Gonzaga University School of Law, J.D. 2013, cum laude

has joined our firm as an associate.

Whitny’s practice focuses primarily on complex civil litigation, construction law, employment law, and real estate law.

Piskel Yahne Kovarik, PLLC
522 W. Riverside Ave., Ste. 410
Spokane, WA 99201
Tel: 509-321-5930 • Fax: 509-321-5935

Aggressive Litigators. Creative Solutions.

www.pyklawyers.com

We are excited to announce

The Law Offices of David L. Harpold
has changed its name to

Harpold Thomas PC

For over 40 years, David Harpold has represented plaintiffs seeking workers’ compensation benefits and personal injury recovery in South King County and the surrounding area. Attorneys Lee Thomas, Courtnei Milonas, and Christina Mach plan to continue that tradition under the new name

Harpold Thomas PC.

8407 South 259th Street, Suite 101
Kent, WA 98030
253-852-5615

www.HarpoldLaw.com

Stella L. Pitts & Associates PLLC
announces the relocation of its Seattle Office to

719 Second Avenue, Suite 500
Seattle, WA 98104
Tel: 206-447-7745 • Fax: 206-447-7746
Email: Reception@slpitts.com

Seattle Office
Stella L. Pitts & Associates, PLLC
719 Second Avenue, Suite 500
Seattle, WA 98104

Santa Monica Office
S L Pitts & Associates, LLP
2500 Broadway, Suite F-125
Santa Monica, CA 90404

www.stellapittsllaw.com
Announcements

Ken Masters and everyone at MLG congratulate

Shelby R. Frost Lemmel

on her induction into the

Shelby is celebrating 10 years as an appellate lawyer, during which she briefed and argued many appeals, earned the respect of her peers, became a partner at MLG, and — most importantly — became the mother of two wonderful children.

Real Property Law Group PLLC

is proud to announce

Sharon Eldredge

has joined the firm as an associate

Sharon’s practice has a strong emphasis in residential and commercial real estate transactions and related corporate matters.

Real Property Law Group PLLC
1326 5th Avenue, Suite 654
Seattle, WA 98101
seldredge@rp-lawgroup.com
206-625-0048
www.rp-lawgroup.com

Real Property Law Group PLLC

is proud to announce

Sharon Eldredge

has joined the firm as an associate

Sharon’s practice has a strong emphasis in residential and commercial real estate transactions and related corporate matters.

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Seattle, WA 98101
seldredge@rp-lawgroup.com
206-625-0048
www.rp-lawgroup.com

Groff Murphy, PLLC

is pleased to announce that

Scott M. Kranz

has joined the firm as an Associate.

Mr. Kranz is a 2010 graduate of
William Mitchell College of Law,
where he graduated magna cum laude.

His practice will focus on construction law,
commercial litigation, and government contracts.

Groff Murphy, PLLC
300 East Pine Street
Seattle, WA 98122
Tel: 206-628-9500 • Fax: 206-628-9506
E-mail: skranz@groffmurphy.com

Gardner Trabolsi & Associates

is proud to announce that

Jeffory E. Adams

has joined our firm as Of Counsel.

Jeff previously practiced at Murray Dunham & Murray and brings over 33 years of experience to the firm. Welcome, Jeff!

Gardner Trabolsi & Associates PLLC
2200 Sixth Ave., Ste. 600
Seattle, WA 98121
Tel: 206-256-6309 • Fax: 206-256-6318
Email: jadams@gandtlawfirm.com
www.gandtlawfirm.com
CLE seminars are subject to change. Please check with providers to verify information. To announce a seminar, send information to clecalendar@wsba.org. Information must be received by the first day of the month for placement in the following month’s calendar.

Animal Law

21st Annual Endangered Species Act
Jan. 23–24 – Seattle and webcast. 12 MCLE credits, including 1 ethics. By The Seminar Group; 800-574-4852 or 206-463-4400; www.theseminargroup.net/seminar.lasso?seminar=14.esawa.

Animal Law

Creditor/Debtor

Judgments: Winning is Only Half the Battle! How Will You Collect?
Dec. 12 – Seattle and webcast. 6.75 CLE credits, including .5 ethics. Presented in partnership by WSBA and the Creditor Debtor Rights Section; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Estate Planning

Moving On: A Pragmatic Approach to Succession Planning for Owners of Closely Held Businesses
Dec. 6 – Seattle and webcast. 6 CLE credits. Presented in partnership by WSBA and the RPPT Section; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethics

The Trial of Salim Ahmed Hamdan: Constitutional Challenges to Executive Power and the First War Crimes Trial of a Guantanamo Detainee
Dec. 5 – Seattle. 2 CLE ethics credits. Presented by WSBA and the ELUL Section; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

How to Avoid and Handle Fee Disputes

When the Limelight Comes to You: Ethical Issues in Dealing With The Media
Dec. 6 – Seattle and webcast. 2.75 ethics credits. By WSAJ Legal Educational Seminars; 206-464-1011; www.washingtonjustice.org.

Annual Law of Lawyering – Day One

Annual Law of Lawyering – Day Two
Dec. 20 – Seattle and webcast. 6.25 ethics credits. By WSBA; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Ethical Business Development and Client Service
Dec. 10 – Seattle and webcast. 6 MCLE credit, including 6 hours of ethics credit. By The Seminar Group; 800-574-4852 or 206-463-4400; www.theseminargroup.net/seminar.lasso?seminar=13.ethwa.

Family Law

Practical Aspects of International and Interstate Family Law Issues
Dec. 10 – Seattle and webcast. 6.5 CLE credits. Presented in partnership by WSBA and the Family Law Section; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

General

Best of CLE – Day One
Dec. 30 – Webcast. 6.5 CLE credits, including 2.25 ethics. By WSBA; 206-443-WSBA; www.wsbacle.org.

Best of CLE – Day Two
Dec. 31 – Webcast. 3.25 ethics credits. By WSBA; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Law Office Management

Solo and Small Practice Seminar: Practice Management Check-Up – Transforming Your Firm from Surviving to Thriving

Litigation

Personal Injury Law: Making Your Case (New Lawyer Education)
Dec. 3 – Seattle and webcast. 6 CLE credits, including 1 ethics. By WSBA; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Insurance Law: The Litigation Process
Dec. 11 – Seattle and webcast. 6 CLE credits, including 1 ethics. Presented in partnership by WSBA and Litigation Section; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Deposition Techniques, Strategies, Tactics, and Skills
Dec. 16 – Seattle and webcast. 6 CLE credits. By WSBA; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Negotiations

Negotiation Strategies for Lawyers

Real Property

20th Annual Fall Real Estate Conference: Real Estate Forms and Provisions
Dec. 4 – Seattle and webcast. 6 CLE credits. Presented in partnership by WSBA and the RPPT Section; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.
wsbacle.org.

**Taxation**

International Tax and Estate Planning – What to Avoid and How to Plan for Your Clients
Dec. 17 – Seattle and webcast. 6 CLE credits, including 1.5 ethics. Presented in partnership by WSBA and the Taxation Section; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Deposition Techniques, Strategies, Tactics, and Skills
Dec. 16 – Seattle and webcast. 6 CLE credits. By WSBA; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

International Tax and Estate Planning – What to Avoid and How to Plan for Your Clients
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Will Search: Searching for the last Will of Thomas Scott Faison. If you have any information, please contact: L. Paul Alvestad, Gordon & Alvestad, PLLC, P. O. Box 1189, Gig Harbor, WA 98335 or 253-383-0775.
My path to becoming a lawyer did not start as a childhood dream. I lived with the ever-present hopelessness for a better life due to the circumstances of my parents. My father grew up feeling slighted due to his native heritage. As a young adult, he left Montana and tried to blend in as a white man in Seattle. My assumption was that I was a poor white kid, and I never really paid attention to the oral family history my grandmother attempted to provide for me. Due to the help of some good high school teachers and counselors, my older brother and I were both accepted to the University of Washington. This was quite the accomplishment because we were the first in the Ford family to have completed high school, let alone college, and attain graduate degrees. It was in college when I wondered what I would do with a degree in political science — studying the law was my conclusion.

For some reason when I started college, my father decided to seek enrollment in the Blackfeet Tribe of Montana. Why then? I don’t know; it might have been because he began to feel proud of himself. The funny thing was, my father was seeking enrollment in the wrong tribe.

As a part of his process, I learned of my Indian heritage and our family history. I began to realize why there was a lack of opportunities in our past. I became excited about my tribal ancestors and mentioned it in my application letter to law school. I was admitted to the University of Puget Sound as a minority candidate. My vision was to be an environmental lawyer and I studied the appropriate courses for that direction in the law. But my search to learn about my native heritage went on the back burner, so to speak, as I finished school. I moved our young family to a small town on the Washington coast to begin my law practice. After a year, and missing “big city life,” we moved back to Tacoma and I started with the Pierce County Prosecutor’s Office. Thirty-one years later, I am still here. I have worked both criminal and civil law, doing a variety of work primarily on the civil side. My favorite practice area remains family law, where I have been for 20 years.

Can anyone smile when they practice law? I do when the underdog wins. What I mean by this is when I go to court and face a pro se representing themselves due to financial struggles. You see the emotional energy of trying to explain their situation, and when the judge rules in their favor, it does make me smile, that the regular citizen sees justice in its purest sense. On the other hand, I roll my eyes when dealing with the system obstacles the government creates getting in the way of common sense. The worst part of it is trying to explain silly rules to the people I interact with on a daily basis.

Working in the public sector gave me family time that my peers said they could not do as they started their own law practices. I could be involved in Girl/Boy Scouts, Little League, and school activities that my own parents never did for me. Once my children were older, I decided to take up the search for my tribal identity that my father had started many years before. I spent many hours in the library (this was pre-Internet) and soon discovered that my family was not only Indian but had lived on various reservations and had attended the
mission schools run by the Catholic Church. I still couldn’t figure out which tribe I belonged to and eventually gave in to frustration and quit looking.

In 2003, while working in the Family Support Division of my office, I learned the Puyallup Tribe had a Child Support Program. I was curious, made contact, and set out to learn everything I could about tribal child support and tribal courts in general. I attended an Indian Court Seminar in Las Vegas. At the seminar, I met an instructor who looked like he could be my brother and with a last name that sounded familiar. I asked him what tribe he belonged to and he told me it was the Little Shell Chippewa Tribe of Montana. He suggested I look them up. Of course, it went to the back of my mind and I simply forgot the conversation. Several weeks later, I awoke in the middle of the night and remembered the conversation. I got up, went to the computer and found the tribe. I discovered the original list of tribal members and looked through it. I was in tears as I found my father, aunt and uncle, and both grandparents. No wonder my father never had luck with the Blackfeet; he was looking at the wrong tribe. The next day I sent applications for enrollment for myself and my two children. I can say that this was a true turning point in my life. I realized that I belonged to two different worlds in life and in my practice.

The two greatest accomplishments in my legal practice have been the working relationship I have established with the Indian Child Support community and becoming an appellate judge for the Native Intertribal Court System. Over the last 10 years, I have learned about Indian culture, enabling me to advocate for fair orders for tribal children. Dealing with issues confronting tribal members in state court and advocating for native cases to be heard in tribal court has become a daily activity for me. I hope that my efforts aid in the understanding by others of the differences, as well as the commonalities, of these two systems in our society. As a tribal judge, I am humbled by the responsibility I hold to know the law of each sovereign nation and to be sensitive to the unique culture of each tribe. I enjoy the work and the opportunity to grow both as a lawyer and a tribal member.

My long-term goals: I am hoping to someday finish my legal career as a full-time tribal judge. Being fortunate to break many of the native stereotypical barriers, I want to give back to tribal communities. I have a great desire to help the tribes do justice to all who come into court. When it is all said and done, I want to have made a difference.

Something I’d do over again would be to be more attentive when I sat with my father and grandmother; those tribal oral histories have disappeared. They were not educated people, but had so much to offer that I simply ignored. I would like to learn the Chippewa language, which was lost two generations ago in my family. My tribal journeys have given me a spiritual connection with the ones that came before me; learning the language would honor them.

Those that I admire the most in my personal life are my children. My daughter Stephanie traveled the world as a Fulbright scholar and is filled with a great sense of humanity. Her gritty determination and dedication to living her life with integrity and adherence to her beliefs has given me great inspiration. My son Peter was one of the first American Indian Studies Program graduates at the University of Washington. He is a man who gives more then he takes. He has the desire to help others and the heart and imagination so lacking in this world today. I look up to him in our evolved relationship as adult peers and I always take his advice seriously, as it is well thought out.

I have been caught taking a day off in the middle of the week. I live in Tacoma, a community that is so much more than the tide flats seen from I-5. If I were to take the day off, I would spend it with my wife, Sue, the love of my life for the past 40 years. There is no greater pleasure than walking along Ruston Way, grabbing a beer at Cheney Stadium, or riding bikes home after a hotdog at the Red Hot. Then I come back from my daydream by the cat meowing for me to open the door for her and my wife telling me where to place the next bucket of Tagro in her garden!

I like to ride my bike, read military books, and spend time with family and friends. One adventure I enjoyed recently was in Montana, where I camped and argued military strategy at the Little Bighorn for three days with a good friend. Best part was I didn’t feel guilty because my wife said that trip would have been worse than pulling out toenails. Instead, she got good quality sewing and gardening time without my interruptions. We do enjoy being together at our vacation home in Albuquerque, New Mexico. Walking around town looking for filming locations of Breaking Bad is a current favorite activity.

I am a rabid sports fan. My fall weekends are filled with Seahawks and Huskies football. My wife and I traveled in 2006 to Ford Stadium in Detroit to support Seattle in Super Bowl XL! I also enjoy watching baseball, be it the Tacoma Rainiers or my son pitching in his adult league. I sometimes think it would be fun to sport an Isotope jacket and usher at the Albuquerque Minor League stadium, watching baseball and telling outlandish stories to spectators.

My name is Jerry Ford. I grew up a poor white kid on the south end of Beacon Hill in Seattle. I attended the University of Washington, graduating in 1976 with a B.A. in political science. I moved to Tacoma in the fall of 1978 and I received my law degree from the University of Puget Sound in 1981. I have practiced for the last 30 years in Tacoma as a Pierce County deputy prosecuting attorney. I currently work in the Family Support Division, where I focus on the modification of child support orders and troubleshooting tribal child support issues. In 2009, I was selected to serve as an appellate judge for the Native Intertribal Court System and have heard cases of various tribes in Western Washington. I have been married for 36 years and have two grown children; and I have a bossy cat and a grandpuppy.
Alphabet of names in a green field.
Names in the small tracks of birds.
Names lifted from a hat
Or balanced on the tip of the tongue.
Names wheeled into the dim warehouse of memory.
So many names, there is barely room on the walls of the heart.

— From “The Names” by Billy Collins, former poet laureate of the United States, dedicated to the victims of September 11 and their survivors.

Funerals and weddings. As a young man, I hated them. One marked the dark moment when those of us who remained were forced to accept that life had shifted, leaving us to forge on without our fallen friend. And funerals were even worse. But as the years have progressed, I’ve come to enjoy weddings and funerals, although “enjoy” seems incongruous for a funeral. Maybe “appreciate” is more appropriate. Weddings and funerals are among the few occasions when we purposefully gather, often with people we haven’t seen in years or decades, to appreciate the good times we’ve had and look forward to those yet to come.

My son got married recently, which is weird because he’s only six years old — in my mind, anyway. One day he was sprawled on the living room floor playing velociraptors-versus-Barbie with his sister and the next he was walking down the aisle. A large percentage of the people I know best were there for the ceremony, including my mom as well as the extended family of my ex-wife, a group of relatives for which there is no adequate name. Ex-in-laws? That doesn’t seem right, as we remain on good terms. And, of course, there were my new in-laws, who are equally fine people. At a period in history when you can’t avoid hearing about the latest shooting, stabbing, or bombing, here for a couple of hours was a building full of people just having a good time, celebrating two kids starting their life together.

I found myself doing the things you only do at this kind of event, like shaking my son’s lifelong buddies’ hands and thanking them for being lifelong buddies to my son, even though they were the same punks who used to shoot paintballs at our cars when we left them home alone. I congratulated the father of the bride for having such a nice family, then danced with his wife, and my mom. I even wore a bow tie for the occasion, and I hate bow ties. That is, I used to hate bow ties. But I bought one (a real one, not the clip-on kind) and spent the better part of an evening watching YouTube videos on how to tie it. It was more complex and subtle than I had realized. But the effort I had to put in made me appreciate it. I was proud to show up with my fairly-well-executed bow tie and may wear it for the next wedding or funeral to which I’m invited.

Another reason I have come to appreciate these family-oriented events is that, genetically speaking, I was plunked down on this planet randomly. I was an adopted child with no siblings, and I adopted my kids. From time to time it dawns on me that I represent the end of a genetic line that had managed to survive from when our distant forebears crawled out of the primordial stew. I’m past the age where I care to debut a new model for my genetic line, if you get my drift. So I’m as far as it goes.

At my son’s wedding, something happened that happens at every wedding, but to which I had given no forethought. After the bride and groom pronounced their vows, the minister had them face the congregation and introduced them for the first time as “Mr. and Mrs. Heatherly.”

Wait — Mr. and Mrs. Heatherly were my parents, or my now ex-wife and I; I mean . . . what?

Until that moment, it had never occurred to me, that thanks to the still-common practice of handing down the paternal family name upon marriage, a new Heatherly — and the potential for a new line of Heatherlys — would be created that day.

It was startling. Although my DNA had reached its end, my name had not. My brain populated with possible identities and accomplishments of generations of future Heatherlys I had never previously imagined: Professor Heatherly, Admiral Heatherly, Doctor Heatherly, President Heatherly, Emperor . . . well, you get the idea. I felt as though I was given new life.

Even if represented only by a name, some part of me and the ancestors I embody might live on after all. I feel a new commitment to take good care of the name for as long as I walk the planet, and I ask only that any future Heatherlys do so as well.
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