The Naming of the Salish Sea

WSBA AWARDS LEADING THE WAY
WHAT WOULD LINCOLN SAY?

LAWYERS, HUMOR, AND A FEW GOOD JOKES
We make a living by what we get,
WE MAKE A LIFE BY WHAT WE GIVE.
- SIR WINSTON CHURCHILL

Thanks to our amazing staff and the superb volunteers who gave their time in 2015 to SGB/LBAW’s monthly free legal clinic at El Centro de la Raza. Because of your dedication, the legal clinic was not only a resounding success but SGB, along with LBAW and El Centro de la Raza, were also recipients of the WSBA Pro Bono Award for work done in the community with the clinic.

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On a Positive Note

In Michael Heatherly’s interview of himself (NOV 2015 NWLawyer), he revealed how rarely NWLawyer receives positive comments regarding articles. I’d like to share, then, how grateful I was to read Dan Satterberg’s “10 Ways Washington State Should Begin Criminal Justice Reform” in the October issue. Satterberg’s article was thoughtful, well-researched, and provided specific, concrete steps to take towards fixing our over-incarceration problem. I’ve shared and talked about it with many friends and colleagues. Thank you for printing it. And thank you for the reminder to provide feedback about the positive things in life, not just the negative.

Tina E. Poley, Olympia
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Redfin Rebuttal

I was disappointed reading the NWLawyer article (“Redfin is Cheaper and Better than a Real Estate Agent. Will You Be the Redfin of Legal?,” OCT 2015 NWLawyer) wherein Greg McLawsen promotes Redfin, despite his lacking sufficient experience to understand even his own transaction. McLawsen states that Redfin only charged him a 3% commission. Redfin’s website indicates they charge sellers 4.5–5%. Given what was offered buyers’ brokers, the only way Redfin charged 3% would be by mistake. Even if 6% were the best he could do elsewhere, the “savings” at 4.5% would be less than the difference in sales price from many other causes, including selection of broker. Picking a broker based on such a small difference is being penny wise and pound foolish, and would be like picking a PI attorney based on a 1.5% lower contingent fee.

As to list price, McLawsen claims another broker suggested a lower price than Redfin, using another likely exaggerated number the other broker denies. Apparently McLawsen sold his home without understanding that sellers set price, not brokers. In any case, both brokers interviewed likely intended to use an “offer review date” so the property could be exposed to buyers at a lower price, hoping to obtain multiple offers. Understanding how list price is set and listing strategies, any pricing benefit is completely illusory.

My main reason for responding to the article was the most misleading claim made, that Redfin brokers somehow offer superior service over other brokerages. Just as is the case with lawyers and law firms, there are good and bad brokers at virtually every real estate brokerage, including Redfin. Undoubtedly McLawsen could have obtained as good or better services elsewhere, and even greater net proceeds.

Finally, my aim is not to be critical of Redfin, which has some great brokers, but instead WSBA’s publication of an “infomercial” without fact-checking. Better care should be taken when an article outside an author’s area of practice is submitted.

Kary L. Krismer, Renton

Author Greg McLawsen responds: Mr. Krismer’s main beef is with my “most misleading claim” that I experienced better customer service with Redfin than I did with a traditional agent. But it’s not up to brokers, or attorneys, to decide if they offer great customer service — it’s up to consumers. Redfin brings a level of sophistication that is a real game-changer, and this sophistication is coming soon to a legal services industry near you. For lawyers, it’s not going to be enough for us to answer phone calls and return emails. We’re going to be competing with savvy, well-funded players with entire Client Happiness departments. Players who leave their customers so impressed that they write “infomercials” for the firm ... without even getting paid. NWL
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ANGIE MARSHLAIN
Ms. Marshlain defends private and public entities, including school districts, cities, counties, and fire districts. Angie has played an integral role in the development of the School Law practice. She has been crucial to the firm in her long-standing commitment to support of new attorneys.

CURTIS LEONARD
Curtis has a strong reputation and presence in the school law community. As a former District employee, Mr. Leonard has a unique understanding of the complex issues facing school districts. He brings a client-focused approach and is passionate about advocating for schools.

KEITH TALBOT
Mr. Talbot’s practice focuses upon complex litigation and general liability defense. He has played a crucial role in coordinating the firm’s representation of communities of faith. In addition, his leadership within the Asian Bar Association is well-founded.

SEAN JACKSON
Sean Jackson has been with the firm since its founding. Mr. Jackson’s practice focuses on the representation of public and private entities involved in civil litigation, with a particular emphasis on employment law matters and commercial general liability insurance defense.

MIKE PATTERSON AWARDED THE GOLDEN GAVEL
Founding principal Michael A. Patterson was presented with the 2015 Golden Gavel Award, by the Washington Association of School Administrators recognizing outstanding and lasting contributions to public education in the state of Washington. It is the highest award given for an attorney and joins a long list of awards for Mr. Patterson including his recent Elizabeth Anne Seton Award given by the National Catholic Education Association for outstanding support and service to Catholic education.

WE ARE PROUD TO ENTER THE NEW YEAR WITH FOUR NEW PRINCIPAL ATTORNEYS TO SERVE OUR CLIENTS
The Rising Cost of Litigation and Access to Justice

The WSBA Board of Governors is reviewing the report and recommendations from the Escalating Cost of Civil Litigation (ECCL) Task Force. We all have a role in helping to preserve access to justice (ATJ) for the public we attorneys serve. As the cost of civil litigation rises, more are excluded from being able to walk in the courthouse doors. The cost of the process has a substantive effect upon whether litigants even access the system, whether they can take their dispute to trial or not, and whether the cost forces decisions that diminish the effectiveness and fairness of our justice system.

The Justice Gap

Last month, I wrote about the 2015 Civil Legal Needs Update Study. That report tells us that approximately 70% of low-income individuals have civil legal problems, and that 82% of those are not served with the help of an attorney. Worse yet, it tells us that these individuals have an average of nine civil issues a year. My message was that we all need to be aware of this, we need to learn what we are doing today as a profession, and we need to determine how we can do more. The promise of “Equal Justice Under Law,” the words emblazoned above the entrance to the U.S. Supreme Court, cannot be achieved unless you and I each get involved, unless our WSBA is maximizing its impact, and unless each and every other member of the access to justice community works together.

The Effects of the Rising Cost of Litigation

Clearly, providing legal services to those who are underserved is critical. But working to ensure that those served by our legal system are not gradually excluded by the cost of representation is also of great importance.

The introduction to the Escalating Cost of Civil Litigation Task Force report sums up the issue:

The price of a lawsuit is high and growing higher. How costly and the history and rate of growth are difficult to measure directly, but lawyers — the individuals best positioned to witness the trend and effect of civil litigation costs — overwhelmingly report a problem.

In a nationwide survey of 800 lawyers, the American Bar Association found 80% reported that civil litigation costs have become prohibitive.1 Focusing only on members of its litigation section, a second ABA survey found that 81% of approximately 3,300 respondents believe that litigation is too expensive, and 89% believe litigation costs are disproportional for small cases.2 The WSBA surveyed its members in 2009, receiving 2,309 responses. 75% of those responding agreed (39%)
or strongly agreed (36%) that the cost of litigation has grown prohibitive.

A 2013 survey by the National Center for State Courts put a price tag on civil litigation, with eye-opening results: the median cost of civil litigation ranged from $43,000 for automobile cases, the least expensive category of case surveyed, to $122,000 for malpractice cases. Those figures are only for the average case — at the 75th percentile, the cost of an automobile case rises to $109,000, and a malpractice suit to $328,000. As these prices go up, plaintiffs and their attorneys will be more cautious in bring cases they believe are meritorious, and defendants will be less able to defend themselves.

As that same introduction to the ECCL report states:

If litigation costs grow increasingly prohibitive, more individuals with meritorious claims will be unable to pay the price necessary to vindicate their rights, and more defendants will be forced to abandon valid defenses because of the costs for asserting them. Reining in civil litigation costs means increasing access to the civil justice system for all.

Are we willing to do something about this problem? Surely, we must preserve the values and fairness of the justice system, but the ECCL Task Force reports that we can preserve those principles and at the same time address the cost of the system.

The Escalating Cost of Civil Litigation Report

The ECCL Task Force was chartered by the WSBA Board of Governors in 2011. Since then, over 50 WSBA members from all walks of practice and judges from every level of our court system have worked tirelessly to study the justice system in Washington. Over 500 Bar members responded to a survey; most of them self-identified as experienced litigators. Six subcommittees addressed specialized areas. These Task Force and subcommittee members considered court rules and pilot projects from jurisdictions around the country, and they reviewed reports and studies by institutions such as the National Center for State Courts, the Institute for the Advancement of the American Legal System, and the Public Law Research Institute, along with dozens of scholarly articles. Input on and review of draft recommendations were sought from litigation-related sections of the WSBA, the access to justice community, the minority bar associations, the Washington Association for Justice, the Washington Defense Trial Lawyers Association, and others. The Task Force met several times to discuss this input, which resulted in a number of changes incorporated into the Task Force’s recommendations.

The Task Force’s recommendations address nine different areas:

1. Case scheduling and judicial assignments
2. A two-tier case assignment system
3. Mandatory early disclosures and early discovery conferences
4. Proportionality and cooperation
5. E-discovery
6. Motions practice
7. Pretrial conferences
8. District Court practice
9. Alternate dispute resolution

After its extensive work, the Task Force’s final recommendations will now be considered by the WSBA Board of Governors. Ultimately, the Board will determine whether and what to forward to the Washington Supreme Court for its consideration. It is contemplated that recommendations adopted by the Court will then result in a special rule-drafting group preparing proposed civil rules implementing those recommendations. The Court would then consider the proposed additions or changes to the civil rules. The process will be slow and deliberate for good reason in order that the best result may be achieved.

Your Thoughts and Suggestions are Invited

A copy of the report can be found at the WSBA ECCL Task Force webpage. While significant input from multiple organizations has already been received and evaluated by the Task Force, the Board of Governors always welcomes input from all members. Your suggestions and views may be emailed to eccl@wsba.org.

A few thoughts as this process moves forward. What can be done to impact the cost of civil litigation in Washington? What changes to our system of litigation are achievable while preserving the impartiality and fairness of the process? Are we able to look beyond the way we have always done things? Are we willing to consider alternative approaches that help our clients reach results faster or in a less costly manner?

You and I are stewards of our justice system. Access to that system is essential for all, regardless of financial ability or otherwise. Let’s make our system of justice is the best it can be for everyone.

You and I are each stewards of our justice system. Access to that system is essential for all, regardless of financial ability or otherwise.

Bill Hyslop is the WSBA president and can be reached at whyslop@lukins.com.

NOTES

2. ABA Section of Litigation Member Survey on Civil Practice: Full Report 2 (2009).
Bill Veeck was one of the most colorful owners in the history of major league baseball. During his ownership of the Cleveland Indians, St. Louis Browns and Chicago White Sox, he:

- Signed Larry Doby, the first African American to play in the American league.
- Signed the shortest player ever, 3 foot 7 inch Eddie Gaedel. In Eddie's sole at-bat before being banned by the commissioner, he walked on 4 pitches.
- Introduced “exploding scoreboards” and players’ names on the backs of their uniforms.

Veeck died in 1986 and was inducted into the Baseball Hall of Fame in 1991.
E
each year, the Board of Gover-
nors appoints a new treasurer. I
am honored to have been unan-
imously selected by my fellow
governors to serve as your treasurer for
fiscal year 2016. It has been my plea-
ture to serve on the Budget and Audit
Committee of the Board of Governors
for the past three years. I particularly
want to thank my immediate predeces-
sor, Ken Masters, for his outstanding
leadership as your treasurer last year.
In this column, I’d like to introduce my-
self and identify some of the important
policy decisions that the Board will
make this year.

Law is a second career for me. I went
to law school after gaining business and
management experience in the bank-
ing world, where I was responsible for
strategic planning, budgeting, market-
ing, operations, security compliance,
and customer service. One of the most
fulfilling aspects of my banking career
involved helping low-income people
purchase their first homes. Through
that work, I saw how the law can make
a big difference in peoples’ lives. This,
as well as a strong family dedicated to
public service, drew me to the legal
profession.

I’ve been honored to spend my legal
career helping people in need: as a law
clerk for the Greater New Orleans Fair
Housing Action Center; as a civil rights
analyst for the City of Seattle; as a pro
bono attorney for adoption, immigra-
tion, and dependency matters; and cur-
rently, as a deputy public defender in
Skagit County.

I’ve also made it a priority to give
back to our profession. Extensive
volunteer work for the WSBA, which
includes serving on the Board and its
Budget and Audit, Diversity, Perform-
ance Review, and Court Rules and
Procedures committees, has given me
a deep understanding of, and apprecia-
tion for, the many wonderful programs
supported by the WSBA budget. I am a
fellow and advisory board member of
one of those programs — the Wash-
ton Leadership Institute. I have also
served as liaison to the Council on
Public Defense, Northwest Indian Bar,
Korean American Bar, and Criminal
Law section. I am also involved in the
Skagit County, Loren Miller, Latino/a
Bar and Washington Defender As-

sociations, as well as the Washington
Association of Criminal Defense Law-
yers. I bring the knowledge gained
from all of these experiences in my
service as your treasurer.

During my term, the Board will
make important policy decisions about
the FY17 budget, 2018 license fees,
and long-range planning to support
the Bar’s exceptional programming,
services, and operations well into the
future. Throughout the year, I hope to
provide insight and solicit your feed-
back on these and other fiscal issues
that face the organization. Please don’t
hesitate to contact me if you have any
questions.

At-large Gov-
ernor KAREN
DENISE
WILSON
joined the
WSBA Board of Governors
in October
2013. She was
appointed
treasurer in October 2015. Wilson is
a deputy public defender with the
Skagit County Public Defender’s
office. She is a 2012 alumna of the
Washington Leadership Institute
and attended Tulane University
Law School. She can be reached at
bog@kdwilsonlaw.com.

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Merry Christmas
Happy Hanukkah
Seasons Greetings
The Salish Sea extends from the north end of the Strait of Georgia to the south end of Puget Sound and west to the mouth of the Strait of Juan de Fuca.

Data Sources:
Did you know that when you gaze over Puget Sound from your office window, ride a ferry to the San Juan Islands, or go sea kayaking on the Strait of Georgia, you are engaging with the Salish Sea? The familiar waters in and around our state have a new name and an evolving identity as a complex and delicate marine ecosystem. The legal process that resulted

in the formal naming of the Salish Sea opened up the possibility for further study and environmental preservation of this “new” inland sea.

Last year, I received an unusual research request to track legal documentation for how the newly named Salish Sea — the body of water encompassing Puget Sound, the Strait of Juan de Fuca, and the Strait of Georgia — got its name. The geographic naming process turned out to be more complex than I imagined and involved as much law as it did culture, history, and ecology. Not much is written about how geographic naming works in our state and it was difficult to unravel the history of the Salish Sea. This article will explain how the geographic naming process works in Washington and at the federal level, using the Salish Sea as a contemporary example of how we regulate the names we give to the land and water around us.

Names Have Power
There are many practical, even powerful, reasons why it’s important and necessary to name the areas around us: to establish a sense of place and to offer stability and consistency to a region’s inhabitants, to describe geographical features and their relationships to other areas on the land and in the water, to honor our history and natural environment, and to put the world into context via maps and other recorded documents. Grounding ourselves in names, so to speak, is necessary if we want to describe where we are physically at any moment in time.

I discovered while researching the history of the Salish Sea that geographic naming has the potential to unite and describe special regions and geographical features for a greater purpose. In the case of the Salish Sea, giving these waters a name linked discrete but interrelated inland waters into something more understandable and recognizable. Naming gave these waters a consistent and protectable identity, which can now be used as the basis for environmental protection, study, and cultural awareness. But who gets to decide what names are applied to the water and land around us? In Washington, we have a state naming board that gets to decide. There is another naming board at the federal level. At the international level, there are also naming bodies, organizations, and policies.

History of the Salish Sea
The Salish Sea is now the formal name for the inland waters off the coast of Washington and British Columbia. The name was officially approved for use in 2009 by the Washington Board on Geographic Names, the U.S. Board on Geographic Names, the Geographical Names Board of Canada, and the Cabinet of the Province of British Columbia. The name Salish Sea must appear on all state, federal, and Canadian maps and publications. These waters include Puget Sound, the Strait of Juan de Fuca, and the Strait of Georgia, and together are an integrated and delicate
WEBBER HAD BEEN STUDYING THE AREA FOR SOME TIME AND RECOGNIZED A NEED TO FURTHER ANALYZE AND PROTECT THE SALISH SEA’S DELICATE ECOSYSTEM; TO DO SO REQUIRED THAT THE AREA HAVE A DOCUMENTED AND CONSISTENT NAME.

ecosystem of saltwater, freshwater, and marine life. The Salish Sea does not replace any names already established—it is simply an inclusive way by which to refer to this network of waterways.

Though the name Salish Sea was officially adopted in 2009, the effort to officially name these waters began much earlier with Professor Bert Webber, a marine biologist from Western Washington University in Bellingham. In 1989, Webber submitted an application to the Washington Board on Geographic Names to “raise consciousness about taking care of the region’s waters and ecosystems.” Webber had been studying the area for some time and recognized a need to further analyze and protect the Salish Sea’s delicate ecosystem; to do so required that the area have a documented and consistent name. Webber proposed the name “Salish Sea” to honor Indian tribes from Washington and British Columbia who shared a historical connection to the Coast Salish language and were the first peoples to live on the shores of this inland sea (www.wwu.edu/salishsea/history.html).

The Washington Board on Geographic Names denied Webber’s 1989 request, indicating that the name did not have popular usage. Years passed, and the name slowly worked its way into use, including a formal recognition by the Coast Salish tribes in 2008. Other recognitions followed, and in late December 2008 Webber approached the Washington Board on Geographic Names and asked for reconsideration of his 1989 request. Professor Webber reminded the Board about his environmental and preservation concerns and suggested that the time had come for a formal naming of the area. At the same time, Professor Webber also submitted an application to the British Columbia Geographical Names Office because the waters extend into Canadian territory (Id., see also Webber’s application and supporting documents, on file with the author).

Geographic Naming and the Legal Process

In Washington, we have a Board and a Committee on Geographic Names that work together to evaluate, establish, and document our geographic names (RCW 43.30.291 and 43.30.292). The Board and Committee, as currently organized, were created in 2011, but Washington’s first official Board on Geographic Names was established in 1973, though our state’s practices regarding geographic naming began much earlier than the 1970s. The 1973 Washington Board of Geographic Names automatically terminated in 1982 because of a sunset law. For approximately a year after that, the Board met informally and continued to make recommendations until it regained its legal authority. Later, in 2010, the Board was eliminated entirely because of budget concerns, but was reformed again in 2011, this time as a Board and a Committee (2011 Wash. Sess. Laws 2664).

The current Board on Geographic Names is charged with establishing and standardizing official geographic names throughout the state of Washington. Specifically, the Board “coordinates procedures and actions for naming, correcting, or renaming geographical features, as well as coordinating between local, state, and federal agencies [to] retain the significance, spelling, spirit and essence of names associated with the early history of Washington.” The Board has the authority to establish official names “for the lakes, mountains, streams, places, towns, and other geographic features within the state.” The Board also has the final say on geographic names and makes decisions based on recommendations received from the Committee (RCW 43.30.291).

The current Washington State Committee on Geographic Names’ role is to collect geographic name proposals from Washington citizens and to make recommendations to the Board about these proposals. The Committee is required to meet twice annually to review name proposals for features located within the state. The Committee’s main duties are to 1) serve as the contact for geographic name proposals; 2) request and collect comments related to geographic name proposals; and 3) make recommendations to the Washington Board on Geographic Names. The naming criteria, as set forth in the RCW and in the Washington Board’s Naming Guidelines, require, among other things, that proposed names be dominant in local usage and strongly supported by local residents, significant to the early history of Washington state, conform to the “flavor” of the other names in the area, and not be derogatory or defamatory (RCW 43.30.294 and the Board’s Naming Guidelines).

When the Washington Board votes to approve a geographic name proposal, the name becomes “official” for use on all state maps, records, documents, and other publications (RCW 43.30.291). The Board’s meeting minutes document its actions regarding individual name proposals. The RCW also requires that all geographic names approved by the Board be published in the Washington State Register, but this is an after-the-fact requirement; though approved geographic names will eventually appear on a list published in the Register, this does not appear to serve as the actual approval. The Board’s Naming Guidelines also state that names approved by the Board must also be published in the Washington Administrative Code (RCW 43.30.294).

In the case of the Salish Sea, the
Committee on Geographic Names did not publish a list of names in the Washington Register that included the Salish Sea until August 2014, nearly five years after it was approved. Likewise, the Salish Sea did not appear in the Appendix to the Washington Administrative Code, Chapter 237-990, until the same time the list of approved names was published in the Register in August 2014. Until the 2014 update, the last WAC list of approved names was published in 2008 (14-18-002 Wash. Reg. (Aug. 20, 2014)).

At the time that I was researching the Salish Sea, I was also serving as the WSBA appointee to the Washington Statute Law Committee. I asked the Code Reviser’s Office to update the Appendix of Geographic Names in the WAC because the last publication was in 2008 and the Salish Sea did not appear on it. The Code Reviser’s Office worked with the Committee on Geographic Names to get an updated list that it then published in August 2014. This lag in publication was but one wrinkle in my effort to track down official, legal documentation for the creation of the name Salish Sea and unraveling what happened with this particular naming.

U.S. Board on Geographic Names
Once the Washington Board on Geographic Names approved the name Salish Sea, the associated file (which contained the Board’s Minutes, public comments about the name, and so on) was forwarded to the United States Board on Geographic Names, another layer in the naming process. Once the U.S. Board receives a file from a state, it goes through a similar review process, and, if a name is approved for official federal use, it will be included in the national Geographic Names Information System (GNIS) as well as on all related federal maps and publications.

The U.S. Board on Geographic Names is responsible for standardizing and maintaining geographic name usage throughout the federal government. It provides the official names for use in all federal government publications, including maps, websites, and documents. Like the Washington Board, the U.S. Board does not create

Have you ever thought about naming your local creek or stream? Here’s how you’d do it

1. Find an unnamed geographic feature.
2. Complete a Geographic Name Application, including the proposed name, history of the feature and justification for why your name should be adopted.
3. Wait for the Washington Committee and Board on Geographic Names to make a decision about your application.
4. If your name is approved, it will appear on all state maps and publications and be published in the Washington Register.
5. Once Washington approves a name, it goes to the U.S. Board on Geographic Names for consideration at the federal level. If adopted, the name will also appear on all federal maps and other publications and in the Geographic Names Information System.

What’s in a name? Origins of some Washington state place names

BELLEVUE, (King County). A French term meaning “beautiful view” was selected by a post office naming committee in the early 1880s, purportedly because of the community’s excellent view toward the Olympic Mountains.

MESA, MEE-suh (Franklin County). The town name is a misnomer in two respects. Its origin is the Spanish word mesa (pronounced MAY-suh), meaning “table land.” Not only is the pronunciation altered locally, but the town is situated on rather low flat land surrounded by hills rather than on a steep-walled plateau.

SEQUIM, SKWIM (Clallam County). Name derived from the Indian word such-e-kwai-ing, meaning “quiet water.”

VADER, VAY-der (Lewis County). The town’s original name, Little Falls, duplicated that of another community served by the Northern Pacific Railway. The Northern Pacific suggested Sopenah; the townsfolk countered with Toronto. Finally the matter was referred to the state legislature in 1913, and as a compromise the town was named to honor an elderly German who was one of the early settlers. Mr. Vader was not flattered, but outraged, and promptly moved to Florida.

THIS STORY WOULD NOT BE COMPLETE WITHOUT SOME DISCUSSION OF THE ROLE THAT BRITISH COLUMBIA AND CANADA HAD IN THE NAMING OF THE SALISH SEA.

or establish geographic names, it approves or rejects names proposed by others in accordance with the Board's policies and procedures. The Board's authority only applies to the federal government and its decisions are not binding outside of the federal government. Practically speaking, however, its decisions and standards are almost always followed by state and local governments and other mapmaking organizations. There is a practical reason for this: the Board maintains the Geographic Names Information System (GNIS), the online database for all official geographic names.

The GNIS is the official repository of domestic geographic names information, and contains the “federally recognized name of each feature and defines the feature location by state, county, USGS topographic map, and geographic coordinates. Other attributes include names or spellings other than the official name, feature designations, feature classification, historical and descriptive information, and for some categories the geometric boundaries” (The United States Board on Geographic Names, “Getting the Facts Straight”). The GNIS serves as the national authority on names and it’s the most consistent and official names database that people can consult.

The U.S. Board was originally created in 1890 and established, in its current form, in 1947 by Public Law No. 80-242. The Board’s website explains that the “original program of names standardization addressed the complex issues of domestic geographic feature names during the surge of exploration, mining, and settlement of western territories after the American Civil War.” Surveyors, scientists, and mapmakers, in particular, required uniform names. Inconsistencies on maps became such a serious problem that “President Benjamin Harrison signed an Executive Order establishing the Board and giving it authority to resolve unsettled geographic names questions.” Over time, the Board’s work has expanded to include standardization of foreign, Antarctic, and undersea feature names (www.geonames.usgs.gov).

Before the development of the modern GNIS system, official names were published in a gazetteer, which was essentially a printed list of all approved geographic names. Not surprisingly, this became unwieldy and difficult to maintain. The GNIS system was developed as the replacement for a printed gazetteer and is freely searchable for anyone with access to the Internet.

The U.S. Board’s Involvement with the Salish Sea

As already explained, the Washington Board on Geographic Names approved the name Salish Sea at its Board meeting on Oct. 30, 2009. As far as I can tell, the minutes from that meeting serve as the official documentation for the approval because publication in the WAC and the Register was simply a formality that did not happen until nearly five years after the name was adopted. Once the Washington Board approved the name, the Board sent the file to the U.S. Board of Geographic Names for its review. The U.S. Board on Geographic Names then approved the name Salish Sea for federal use at its Nov. 12, 2009, meeting. As with the Washington Board, the minutes from the U.S. Board’s meeting appear to serve as the official record of approval. Once approved by the U.S. Board, the Salish Sea was included in the GNIS (you can locate the record by doing a simple domestic names search for “Salish Sea”).

British Columbia and Canada Geographical Names

This story would not be complete without some discussion of the role that British Columbia and Canada had in the naming of the Salish Sea. Indeed, Webber recognized that his proposal to name the Salish Sea included Canadian waters and submitted an application to the British Columbia Geographical Names Office at the same time he asked the Washington Board to reconsider his 1989 request. Because the Salish Sea is a “transboundary feature,” the Geographical Names Board of Canada also reviewed the request and agreed to the name in principle in August 2009 pending approval by all interested parties. The required approvals came from Washington, the United States, and British Columbia, and British Columbia announced its official approval of the name in a “Speech from the Throne” on Feb. 9, 2010. Canada uses a database called “Canadian Geographical Names Data Base” that appears to operate much like the United States’ GNIS.

What’s in a Name?

Much like the sea itself and its complex ecosystem, so too is the process of geographic naming. In the case of the Salish Sea, naming these waters was an important first step for further study and protection of this area and an opportunity to recognize the area’s first inhabitants. I hope that this article can be a starting point for those who need to do this kind of research or who are interested in proposing a geographic name.
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Se Habla Español
The industry of unmanned aircraft systems (UAS) — or, in everyday terms, “drones” — has for a long time been the province of military and government entities both abroad and domestically. More recently, drones have been used recreationally. In the last few years, utilization of drones has expanded to everything from aerial photography to monitoring wildlife. Presently, we are on the cusp of a large-scale increase in the number of drones in our skies. Whether or not we are prepared for the implications of the drone industry remains to be seen.

The Regulations, or the Lack Thereof

In the 2012 Federal Aviation Administration (FAA) Modernization and Reform Act, protections were outlined for the recreational use of unmanned “model aircraft.” These regulations did not authorize business or commercial use. The act also gave the FAA a deadline of Sept. 30, 2015, to achieve “safe integration of civil unmanned aircraft systems into the national airspace system.” Though this deadline is one that the FAA didn’t meet, proposed rules for commercial use of small drones were issued in February 2015.

Prior to issuance of the proposed rules, the FAA had issued waivers for governmental use of drones to public agencies and organizations (firefighting, border patrol, search and rescue, etc). As of this year, the FAA has begun issuing, on a case-by-case basis, waiver authorizations for civil commercial use subject to certain regulations.

The proposed rules include requirements such as limiting the weight of drones to 55 pounds, that the drones must remain in the operator’s visual line of sight, and that their air space is limited to 500 feet or below. The proposed rules do not apply to aircraft transport-
ing property or people for compensation, which constitute “air carrier operations” and are subject to more stringent regulations. The FAA has, however, invited comment on allowing this in future regulations. Further, no drone may be flown over people not directly involved in its operation unless covered by a structure. The proposed rules leave much to be desired, especially for companies like Amazon, who are proposing product delivery by drones. Currently Amazon has been granted an experimental authorization to test its drone delivery service, but the proposed regulations present significant hurdles before packages are being dropped on our doorsteps.

Regarding the rules that govern drone use, the question remains as to whether operators will be subject to FAA regulations or state regulations. Amazon has come out with a firm stance that only FAA regulations should apply. Paul Misener, the e-commerce retailer’s vice president for global public policy, stated in written testimony released by a U.S. House of Representatives oversight committee, “Uniform federal rules must apply. Given the interstate nature of drone operations, states and localities must not be allowed to regulate drones that the FAA has authorized, including with respect to airspace, altitude, purpose of operations, performance and operator qualifications.”

Unfortunately for Amazon and other potential users, due to the slow progression of FAA rules, many states already have pending legislation regarding the use of drones.

The Unknown Implications
While the expanded use of drones has tremendous promise to revolutionize a number of industry practices, as well as huge economic potential (upwards of $80 billion, according to an April 2013 economic study by the Association for Unmanned Vehicle Systems International), there are still many unanswered questions about the impacts of increasing numbers of drones in our skies.

Some of the essential questions that remain surround the broad integration of civil commercial drone uses and whether they will be subject to FAA and state regulations. There are significant concerns over the use of the airspace above private property, privacy concerns, and the issue of liability insurance. The issue of insurance coverage for drones is linked to many unanswered questions. Will the FAA issue insurance requirements with their proposed rules (the current proposed rule doesn’t include any such requirement)? Will state insurance commissions issue individual state insurance requirements? Will private property owners gain expanded rights to the airspace above them? Will insurance companies create or modify homeowners and commercial liability policies to include or exclude coverage for claims arising out of the use of drones?

Insurers’ Utilization of Drones and Risk Assessment
As of Sept. 14, 2015, there were as many as 1,546 exemption authorizations issued for the civil commercial use of drones. Many of the exemp-
tions granted have stated insurance claims assessment in their required listing of operations they will perform. Exemptions have been granted to at least three insurers. American Family Mutual Insurance Company has listed their operations as photography and research and development in catastrophe response. Liberty Mutual Insurance Company and State Farm Mutual Automobile Insurance Company obtained exemptions to perform aerial home and business roof inspections. Insurance companies, as with other industries, will no doubt see safety and efficiency benefits with the ability to send a drone to do the work that once required an actual person. This includes the ability to assess a property or respond to a catastrophe. With the implementation of the proposed regulations, we will likely see a significant increase in the number of insurers utilizing drone technology in insurance claims assessments.

The potential exposures to the insurer which arise from the utilization of drones are significant, both in coverage for the drone itself and in liability. Drones present exposures both in their potential for property damage and personal injury but also in their potential threat to individual privacy. Drones are often outfitted with cameras with infrared or facial-recognition technology and this ability to collect unsolicited data presents the potential for claims involving invasion of privacy.

Insurers’ ability to adequately assess the risk and write policies to cover these exposures will require significantly more information than may be available. Insurers will need to know things such as takeoff and landing locations of drones, whether they are operating over populated areas, the value of what is being transported, etc.

Most standard commercial and property policies exclude aviation risks. For example, most general liability insurance policies exclude bodily injury or property damage resulting from the ownership, maintenance or use of aircraft. This would arguably include drones. Additionally, homeowners’ policies exclude coverage for business or commercial activities. For example, a standard liability exclusion provides as follows:

**BUSINESS OWNERS LIABILITY COVERAGE FORM**

B. Exclusions

... 

g) Aircraft, Auto or Watercraft

In addition, most property policies also exclude coverage for property damage involving aircraft. For example, a standard property exclusion provides as follows:

**BUSINESS OWNERS SPECIAL PROPERTY COVERAGE FORM**

... 

B. Property Not Covered

a) Aircraft, automobiles, motor trucks and other vehicles subject to motor vehicle registration;

At least one specialty insurer in the United States is providing drone insurance using aviation insurance forms. This insurance covers drones only for "approved coverage uses" (e.g., law enforcement, agriculture, land management, videography) that are spelled out in the policy declarations.

At this time there is limited case law addressing drones specifically, not simply in the context of the applicability of insurance policies and their exclusions but the vast number of liabilities that increased drone utilization presents. We will likely be seeing a growing number of cases being litigated regarding everything from drones causing property damage, personal injuries, invasions of privacy and the claims that arise from them, the applicability of existing insurance policies and the potential exclusion of drones, and at some point potentially whether drones data collecting ability constitute an unconstitutional search under the Fourth amendment.

In summary, increasing use of drone technology in both the private and public sectors will certainly lead to increased litigation and the development of new regulatory rules and case law.

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**NOTE**


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**Thomas Lether** is the owner and managing shareholder of Lether & Associates, PLLC. His primary clients include international and national insurance companies, smaller insurers, and independent adjusting firms. His practice predominantly involves complex insurance coverage disputes and extra-contractual claims. He is a licensed U.S. Merchant Marine officer. Lether is a graduate of the University of Puget Sound and the University of Puget Sound Law School. He can be reached at tlether@letherlaw.com.
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WSBA Young Lawyers Committee Honors Four Local Leaders

by RaeLani Valaile

In 2014, the WSBA’s Young Lawyers Committee (WYLC) introduced the Local Leader Award to acknowledge new and young attorneys’ support to the public, their peers, and the profession. The award was presented during each quarter of the WSBA’s fiscal year to those with outstanding leadership, long-term service, or an extraordinary contribution to their community. Recipients are nominated by their peers and then selected by a sub-committee of the WYLC.

This year, the WYLC presents four individuals who embody these values. The following is a brief introduction to the recipients of the 2014–15 Local Leader Award.

ADA K. WONG
Ada Wong is the current president of the Vietnamese American Bar Association of Washington. She also sits on the executive board of the William L. Dwyer Inn of Court, whose mission is to foster excellence in professionalism, ethics, civility, and legal skills. As a University of Washington School of Law alum, Wong often volunteers as a mock trial coach for UW law students. When asked about Wong’s dedication to the legal industry, her nominator writes, “She’s always eager to give back to the legal profession and community when given the chance.”

Ada K. Wong is the owner and managing partner of AKW Law, PLLC located in the Northgate area of Seattle.

JOANNA P. BOISEN
Of Joanna Boisen’s leadership in the community, her nominator writes, “Joanna’s name is synonymous with leadership. She is a well-respected and well-known leader in the public interest and pro bono communities.” An avid volunteer, Boisen serves on multiple boards including LAW Fund and the Campaign for Equal Justice.

Boisen’s impact on the legal industry is one of purpose. As a founding member of the Holocaust Reparations Project in Seattle, she was able to help over 100 Holocaust survivors attain reparations from Germany. She was also a vital team member behind creating the Court Appointed Special Advocates Native American Manual, which helps volunteer lawyers represent abused and neglected Native American children in court.

Currently, Boisen is in collaboration with the King County Coalition Against Domestic Violence, the Sexual Assault Resource Center, and various domestic violence court advocates to create a new Domestic Violence Impact Project that will train lawyers to provide representation to victims of sexual assault (see “How to Save a Life,” JUN 2015 NWLawyer).

Joanna P. Boisen is an attorney at Foster Pepper in Seattle.

IAN FRANZEL
Ian Franzel’s commitment to service was firm before he went to law school. During his college years, Franzel worked for a convict rehabilitation program in Tacoma. He is also an alumnus of the AmeriCorps City Year program, working for a year as a teacher in the Washington, D.C., public school system.

Franzel currently serves as a trustee of the King County Bar Association Young Lawyers Division and manages the KCBA’s public law clinic that provides legal assistance to pro se litigants. Franzel also regularly volunteers with the Housing Justice Program, a homelessness prevention program providing accessible volunteer-based legal services for low-income tenants facing eviction in King County.

When asked how Franzel has contributed to the legal community, his nominator states, “Ian is what all new lawyers should be: kind, generous with his time, and willing to drop everything to assist another new lawyer in need. He is more deserving of recognition for all that he does for other new lawyers and the public.”

Ian Franzel is the owner of Franzel Law in Seattle.

AMBER M. RUSH
Amber Rush is the current president of the Clark County Bar Association Young Lawyers Division. As a law student at Gonzaga University School of Law, Rush founded the Family Law Attorney & Student Help...

(FLASH) program that connects law students with volunteer family law lawyers. Rush also volunteered regularly with the Spokane County Bar Association Volunteer Lawyers Program (VLP) providing pro bono family law assistance to low-income clients.

After relocating to Vancouver, Washington, Rush opened MRM Law Group, PLLC, a practice whose focus is to provide quality legal services at a reasonable rate. When asked if there's anything else about Rush people should know, her nominator says, “Everything she does is in furtherance of improving the way legal services are delivered, and to better the profession.”

Amber Rush is the founding partner of MRM Law Group, PLLC in Vancouver. NWL

ABOUT THE WASHINGTON YOUNG LAWYERS COMMITTEE
The Washington State Bar Association considers an active member a young or new lawyer if at least one of the two criteria is met: 1) the member has been admitted to practice for fewer than five years (in any state), or 2) the member is under 36 years of age. The Washington Young Lawyers Committee reports to the Board of Governors. Committee members work to connect young lawyers to available resources and opportunities; provide feedback and ideas as liaisons to WSBA programs or entities; and work on projects to support new lawyers.

RAELANI VALAILE is the WSBA communications assistant and can be reached at raelaniv@wsba.org.
A Priest, an Engineer, and a Lawyer
Walk into a Bar...

Lawyers, Humor, and a Few Good Jokes

by James W. Gayton

I’m sure we’ve all been there. The moment when, after you meet someone new, and the conversation invariably winds its way to the usual question, “So, what do you do for a living?” For me, this is often when I hesitate to say I’m an attorney (never a lawyer). I’m not concerned with being viewed as a bloodsucking parasite dragging this nation into some abyss, I’m just hoping to avoid a frequent response: “So you’re a lawyer, huh? I got a joke for you.” The real problem I have with lawyer jokes isn’t their frequently demeaning nature. I like to think I have a pretty good sense of humor and try not to take these things personally or my profession too seriously.

My real problem is much simpler than that: I hear the same two or three jokes over and over and over again. Sometimes with some slight twist, but not enough to make the joke fresh or, more importantly, funny. They usually involve a large number of lawyers in some harrowing traffic or boating accident, followed by a lamentation that there were some empty seats on the doomed vessel. Get it? Lots of lawyers died. That’s funny! Too bad it wasn’t all of them. That’s also funny!

Not so much.

But here’s the thing: there are some really funny ones. Why don’t I meet people who know these? I have a couple that I like to tell, but I figured there had to be more and I don’t want to be the guy repeating the same joke. So I scoured the earth to find the funniest lawyer jokes and attorney humor.

It was hard work, this humor research. Much of what I found wasn’t funny, including many versions of the jokes described above. But I did find — and enjoy — a lot that were new to me and very funny, a good portion of which can’t be printed here. Overall, it was time well spent. I thought you might like to read them as well.

I will not be so bold as to proclaim what follows to be the best lawyer jokes and funny anecdotes, but these are some of my favorites. If your favorite isn’t here, feel free to send it to me. I love a good joke, even if it’s partially at my expense.

LOWERING THE BAR
While there is no shortage of jokes about lawyers, there is also a great deal of humor for lawyers. Much of it exists in the form of blogs by legal professionals, but only one of those blogs has been named to the ABA Journal Blawg 100 Hall of Fame. Lowering the Bar is that one. “Lowering the Bar’s Kevin Underhill has been making us laugh . . . since 2010 with his legal musings.”

What is included in this blog is a rather large and varied collection of actual cases, laws, and news stories with (obviously) a legal bent. Categories include DSUWI (Driving Something Unusual While Intoxicated), Inmates Keeping Busy, and Assorted Stupidity. I’m confident that no matter what area of law you practice in — or if you don’t practice at all — you will find lots here to put a smile on your face.

THANKS, DAN
One of the benefits of YouTube and other social media is they create a new avenue for attorneys and firms that could not otherwise afford television commercials to advertise (within
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the bounds of the RPC, of course). Small firms and solo practitioners now have a cost-effective way to compete with larger firms, so the medium carries great potential for leveling the playing field. Practitioners can easily create and post materials designed to professionally and articulately inform the public of their skills and services. Then there’s Dan.

The video posted by Pittsburgh criminal defense attorney Daniel Mues-sig is heavy on bluntly communicating his skills and services, but perhaps a little light on the professionalism.3 To be fair, it clearly conveys who Dan is looking to serve and states how his experience and enthusiasm can be used to help clients stay out of jail to . . . um, enjoy their freedom a bit more, I guess. Without providing too many spoilers, the video includes quotes like, “Consequences. They sure suck, don’t they?” and, “Laws are arbitrary.” I don’t know much about the practice of criminal law, but I imagine there is a subset of defendants out there to whom this has great appeal.

However, it is the opening sequence that is truly noteworthy. Perhaps one benefit of associating with other attorneys is one of them can take a look at your video and say, “Hey, I really don’t think that’s a good idea.” It appears no one was there for Dan, and we all benefit. The web address is included in the notes, and is well worth your three-and-a-half minutes.

**SO YOU WANT TO GO TO LAW SCHOOL**

I remember when I first decided to go to law school, I asked an uncle for advice. He was a successful attorney working at a big firm in Detroit, and I thought if anyone I knew had pearls of wisdom about a legal career, he would. And he did. “Don’t do it, Jimmy,” he said. “Go and do something productive with your life.”

Not the advice I was hoping for, and I obviously didn’t heed it. However, the woman in this computer-animated (and voiced) video found someone with even harsher, but hilarious, advice: a practicing attorney who is rather disenchanted with his life. Like my uncle, he also is attempting to dissuade the woman from attending. Again, I don’t want to give away too much, but in response to her interest in his smartphone, he replies, “I do not like my Blackberry. I want to torture it until it begs me to kill it. Do you know I’m required to check it every six hours, 24 hours a day?”

**BRASS RAT**

A man walks into a curio shop in a large city. After a few minutes of casually walking around, he spots a small, beautiful brass rat at the back of a shelf of assorted knickknacks. He picks it up...
to inspect it closer and is mesmerized by the intricate details. With no price marked, he asks the cashier how much it costs.

“No, no. No. That item is not for sale. Sorry.”

“But I must have it. It’s gorgeous. Please, just name your price.”

“It’s cursed,” the cashier says. “It’s not for sale and should not have been on the shelf. Please, may I have it back? I’m sorry for the confusion.”

The man grows more interested by the thought of owning a wonderful cursed sculpture and refuses to hand it over. After further pressing, the cashier finally agrees to sell him the rat.

“You want it? Fine. But absolutely, positively no returns. I warned you about the curse. Don’t even try to bring it back.”

Pleased with his powers of persuasion, the man leaves the store, inspecting his find while walking home. After a block, he hears a strange noise behind him. He looks back and sees five or six rats following him. He’s a little creeped out, but it’s a big city, there are bound to be rats around.

After another block, the sound is getting louder. He looks back again and there are now several dozen rats following. More than a little scared now, he picks up his pace, occasionally looking over his shoulder. Each time, there are more and more rats behind him.

Now he panics, but remembers the brass rat and gets an idea. He starts sprinting for the waterfront. He hears the noise growing behind him, but doesn’t dare look back. When he reaches the water, he dashes down a pier and hurls the brass rat as far as he can into the ocean. Rats by the thousands race off the pier and dive into the water, drowning where the brass rat went under. Out of breath but relieved to be free of the rat hordes, he returns to the curio shop.

As he walks in the shop, the cashier starts shaking his head and waving a finger. “I told you it was cursed!” he yells. “I told you no returns!”

“Oh, I’m not here to return it,” the man says. “I’m here to see if you have a small, brass lawyer.”

**THE HOT AIR BALLOON**

A man is flying in a hot air balloon
when he realizes he is lost. He reduces his altitude and spots a man in a field below. He lowers the balloon toward the man and shouts to him, “Excuse me, can you help me? I am late to meet a friend, but I don’t know where I am.”

The man below says, “I’m happy to help. You are in a hot air balloon, hovering approximately 30 feet above this field. You are between 40 and 42 degrees north latitude, and between 58 and 60 degrees west longitude.”

After a brief pause, the balloonist declares: “You must be a lawyer.”

“I am,” replies the man. “How did you know?”

“Well,” says the balloonist, “everything you have told me I am sure is technically correct, but I have no idea what to make of your information, and the fact is I am still lost.”

The man below responds, “Indeed. And you … you must be a client.”

“How, yes, I am,” replies the balloonist, “how in the world did you know?”

“Well,” says the man, “you don’t know where you are, or where you are going. You have made a promise which you have no idea how to keep, and you expect me to solve your problem. The fact is, you are in the exact same position you were in before we met, but now it is somehow my fault.”

LAWYERS AND THE AFTERLIFE?

One day St. Peter noticed a mistake on the list of people who are supposed to be in Heaven. When he called upon Satan to straighten things out, he was shocked by the conditions he found. It was a comfortable 72 degrees with ample shade, a nice breeze, and a large swimming pool filled with the damned.

“How did this happen?” St. Peter demanded.

“I don’t know. We got a guy down here who’s an engineer and fixed the place right up.”

Consulting his roster, St. Peter said, “He shouldn’t be here. Bring him here so I can take him to Heaven.”

“Nah,” said Satan. “I think we’ll keep him.”

St. Peter was outraged. “This is a violation of our agreement. If you don’t bring him this minute, I’ll… I’ll sue you!”

Satan laughed in reply. “Oh yeah? Where are you going to find a lawyer?”
ATTORNEY RATES
A man in search of an attorney walks into a lawyer’s office. He asks her how much her rates are.

“It’ll cost $250 for me to answer up to three questions,” the lawyer says.

“Wow. Isn’t that a bit much for only three questions?” the man asks.

“Maybe,” she replied. “Now what’s your third question?”

CEMETERY VISIT
A mother and her daughter were visiting a cemetery on a crisp fall morning. Walking through the leaves, the little girl asked, “Mom, do they ever bury two people in one grave?”

A little shocked, her mom replied, “Why, no, honey. Why would you even ask such a question?”

“Because a gravestone back there said ‘Here Lies an Honest Man and a Lawyer.’”

SHORTER BUT GOOD
Q: What happens when you give a male lawyer Viagra?
A: He gets taller.

Q: How do you address a lawyer who doesn’t know the law?
A: Your Honor.

Q: What do a lawyer and a sperm have in common?
A: Both have a one-in-three-million chance to become a human being.

Q: How many lawyer jokes are in existence?
A: Only three. All the rest are true stories.

NOTES
1. By that, I mean I spent an hour or so doing Internet searches and asked some friends (lawyers and not) for their favorites. One of the websites I looked as Australian, so I think the reference to “the earth” is appropriate.
3. And this is coming from someone who is writing an article on lawyer jokes. Trust me, I see the irony.
4. www.youtube.com/watch?v=5kfctaopa0.
5. www.youtube.com/watch?v=nmvary0lble.
6. This was actually a random find on the Internet. It was familiar, but the above iteration is found at www.milwaukee-business-lawyer.com/my-favorite-lawyerclient-joke.
7. Again, there seems to be an unlimited number of iterations on this one, so I went with one told by a friend who happens to be a chemical engineer.

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James W. Gayton is an attorney working for the Washington State Department of Revenue in Olympia. His family and friends have said he has a great sense of humor, so if you didn’t find this article funny, blame them for him thinking it was. Gayton is a member of the WSBA Editorial Advisory Committee and can be reached at james.gayton@live.com.
On Sept. 17, Washington’s legal community gathered to honor some of its best and brightest at the WSBA Annual Awards Dinner. The theme was “Leading the Way” and individuals and organizations that exemplify excellence, professionalism, service, justice, courage, and leadership were acknowledged and celebrated. Ten individuals received awards for their contributions and service to the practice of law in Washington.

Outgoing WSBA President Anthony Gipe welcomed over 400 attendees. Past-president Patrick Palace and outgoing governors Paul A. Bastine, Robin L. Haynes, Kenneth W. Masters, Jerry Moberg, and Barbara Rhoads-Weaver were acknowledged and thanked for their service. Chief Justice Barbara Madsen presented a view of the state of the profession from the Supreme Court’s perspective. She then swore in new governors Sean M. Davis, James K. Doane, Angela M. Hayes, William D. Pickett, and Kim Risenmay, as well as President-elect Robin L. Haynes and incoming President William Hyslop.

Award honorees’ stories were shared via short videos as President Hyslop welcomed each honoree to the stage and read the award’s inscription summarizing each recipient’s achievements and how their work inspires the Washington legal community and the profession.

We hope you will draw inspiration from reading about the 2015 honorees’ achievements. You can also see the videos online at www.wsba.org/awards.

**PRO BONO AWARD**

This award is presented to a lawyer, non-lawyer, law firm, or bar association for outstanding cumulative efforts in providing pro bono services.

**The SGB/LBAW Legal Clinic at El Centro de la Raza**

The SGB/LBAW Legal Clinic at El Centro de la Raza is a partnership between Schroeter Goldmark & Bender (SGB), The Latina/o Bar Association of Washington (LBAW), and El Centro de la Raza. The award is in recognition of their work operating a free monthly bilingual legal aid clinic serving the Latino community.

The clinic was created in 2005, when attorneys from SGB partnered with El Centro de la Raza. In 2007, the LBAW joined the collaboration, bringing the clinic to a new level and recruiting additional Spanish-speaking attorneys. In addition to helping to staff the clinic with attorneys, SGB has a dedicated staff member in charge of administering the clinic, supplying materials, and recruiting volunteer attorneys. El Centro de la Raza hosts the clinic, promotes awareness among the Latino community, and administers volunteers for intake and interpreting. LBAW helps supervise and administer the clinic, recruits attorneys, and provides opportunities for law students to shadow attorneys while they serve clients.

The free clinic is offered monthly, typically helping 50–80 clients per clinic with the help of about 25 volunteer attorneys and 20 volunteers who help with intake and interpreting. In 2014, the clinic served over 500 clients in matters ranging from family law to immigration and landlord/tenant issues.

**COURAGEOUS AWARD**

This award is presented to an individual who has displayed exceptional courage in the face of adversity, thus bringing credit to the legal profession.

Hunter M. Abell

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**WebXtra**

Lieutenant Commander Hunter M. Abell is a senior associate at Williams Kastner, whose practice emphasizes civil litigation and Indian law. The award is in recognition of his overseas service in support of global counterterrorism efforts and his domestic work to foster relations between military attorneys from the U.S. and Canada.

In 2014, Abell received a short-notice recall to active duty in the Navy Judge Advocate General’s (JAG) Corps to serve a nine-month assignment as the chief of military justice at a major overseas U.S. military installation. Abell previously served on active duty in the Navy JAG Corps from 2006–10 as a defense counsel, a legal assistance attorney, and as the staff judge advocate for Naval Station Everett. In 2006, Abell was deployed to Iraq for six months in support of Operation Iraqi Freedom and was later awarded the Joint Services Commendation Medal for his efforts. He remains affiliated with the Navy JAG Corps Reserves.

Also in 2014, Abell was the liaison and course coordinator for the United States–Canada Military Law Training Symposium biannual program. The event promoted goodwill between U.S. and Canadian judge advocates and strengthened the positive professional relationships among colleagues.

WebXtra

PRESIDENT’S AWARD

The President’s Award may be given annually by the current president in recognition of a person’s or entity’s contribution to the WSBA and/or profession which the president deems worthy of acknowledgement during his/her term.

Center for Children & Youth Justice

Founded in 2006, the Center for Children & Youth Justice (CCYJ) is dedicated to the mission of advancing justice for and enhancing the lives of children and youth through juvenile justice, child welfare, and related systems reform. CCYJ’s eQuality Project, the first research effort designed to study the unique experiences of LGBTQ youth in Washington State’s child welfare and juvenile justice systems, was designed to identify the needs of LGBTQ system-involved youth and develop comprehensive reforms.

To gain insight into the barriers and challenges facing LGBTQ youth within these systems in Washington state, CCYJ gathered firsthand accounts from LGBTQ system alumni, collected the observations of system professionals and community-based service providers about their experiences working with LGBTQ youth, and conducted extensive reviews of existing research, laws, policies, and practices relevant to system-involved LGBTQ youth. Their findings were released in a report entitled “Listening to Their Voices: Enhancing Successful Outcomes for LGBTQ Youth in Washington State’s Child Welfare and Juvenile Justice Systems.”

PROFESSIONALISM AWARD

This honor is awarded to a WSBA member who exemplifies the spirit of professionalism in the practice of law, as defined in the WSBA’s Creed of Professionalism.

Matthew L. Clucas

Matthew Clucas is currently a partner at the firm of Tolman, Kirk, and Clucas in Poulsbo. At the Kitsap County Prosecutor’s Office, Clucas was the first deputy prosecuting attorney assigned to supervise the Kitsap County drug court, working closely with the Court and other stakeholders to establish the foundations for
a successful program that has become a model for other drug courts statewide.

During his term as the president of the Kitsap County Bar Association, Clucas worked to promote a sense of community among local attorneys, organizing a seminar and dinner that has become a popular annual event. He would regularly take new attorneys to lunch, introducing them to colleagues in the area and helping to create professional relationships.

An active member of the community, Clucas has served on the board of the Martha and Mary Organization and the Poulsbo Library Board and volunteers with Kitsap Legal Services.

▶WebXtra

LIFETIME SERVICE AWARD

This award is a special award given for a lifetime of service to the legal community and the public.

Hon. Susan W. Cook ⚫

For over 22 years, Judge Susan Cook has served Skagit County as its first female Superior Court judicial officer. She was a Superior Court commissioner for over four years before being elected as a judge. Among her colleagues and the legal community, Judge Cook is well known for her professionalism, integrity, and judicial demeanor, ensuring those appearing before her feel they have received a fair hearing.

Judge Cook was deeply involved in helping to implement a guardianship monitoring program, serving an increasing number of pro se parties representing themselves in court.

Judge Cook has served on the Skagit Preschool and Resource Center board of directors for over 10 years, helping to provide therapy and educational services for special-needs children in the community. She has also been involved in Kiwanis, Skagit Womens Alliance and Network Board (SWAN), and the Pioneer Association of Skagit County. She is a frequent presenter at continuing legal education seminars and an active supporter of access to justice issues.

In June 2015, Judge Cook received the Judge of the Year Award from the Washington State Association for Justice.

▶WebXtra

OUTSTANDING YOUNG LAWYER AWARD

This award recognizes one attorney who has made significant contributions to the professional community, especially the community of young lawyers, within their initial years of practice.

Vincent D. Humphrey II ⚫

Since 2011, Vincent Humphrey has been a solo practitioner at his firm, Humphrey & Associates, focusing on commercial and residential real estate, family law, and civil litigation. Humphrey is recognized among his colleagues for his positive attitude, energy, and enthusiastic leadership of new and young attorneys, inspiring them to take an active role as WSBA members. He is a dedicated advocate for fellow lawyers as well as youth in his community.

As a former Washington Young Lawyer Committee chair, Humphrey developed New Lawyer Education programs, was a continuing legal education presenter, and organized social events for new and young Washington lawyers. In addition, he regularly volunteers at legal clinics in the area.

“[Humphrey] has devoted a significant amount of time and energy to make the Washington Young Lawyer Committee meaningful for young lawyer volunteers and new and young lawyers in the state,” said WSBA President-elect Robin L. Haynes. “He has always led with a positive voice. He supports bar programs... and he finds new and creative ways to reach out to our newest members.”

▶WebXtra
EXCELLENCE IN DIVERSITY AWARD

This award is made to a lawyer, law firm, or law-related group that has made a significant contribution to diversity in the legal profession.

The Judicial Institute

Founded in 2012, the purpose of the Judicial Institute is to prepare qualified diverse attorneys for judicial positions through a comprehensive education and one-year mentorship program. By making the path to the judiciary more accessible, the program works to increase the number of diverse attorneys seeking and securing judicial positions, strengthening the justice system by including a variety of perspectives, life experiences, and professional paths.

Instructors include judges, MBA judicial evaluation committee members, judicial election consultants, and the Governor’s Counsel. Presenters address various topics including judicial ethics, the judicial appointment process, and preparing for a judicial campaign. Fellows are assigned judicial mentors who provide one-on-one feedback and guidance throughout the year.

Since the project’s inception, 59 diverse fellows (representing gender, ethnic/racial minority, GLBT, geography, and those living with a disability) participated in the Judicial Institute and nine have since been appointed and/or elected to the Superior Court, Municipal Court, or Tribal Court.

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OUTSTANDING JUDGE AWARD

This award is presented for outstanding service to the bench and for special contribution to the legal profession at any level of the court.

Hon. James P. Hutton

Judge James Hutton was appointed a magistrate judge for the Eastern District of Washington in 2008. Prior to his appointment, he had served as a Washington State Superior Court judge for Yakima County for 11 years. During his tenure as a Superior Court judge, he served as an officer and board member for the Superior Court Judges Association and also served on the Board for Judicial Administration. Before joining the bench, Judge Hutton was president of his former law firm, Velikanje, Moore & Shore, P.S., where he practiced litigation for 20 years.

In 2009, Judge Hutton and his court team founded the Sobriety Treatment and Education Program drug courts in Yakima and later Richland. The program gives convicted felons in the federal court system an opportunity to learn a new way of life in recovery. He has also worked to create an innovative residential recovery program for those who are being released from federal incarceration and re-entering the community.

In 2012, Judge Hutton received the James Oldham Award for his commitment to the recovery of chemically dependent individuals.

▶ WebXtra

PUBLIC SERVICE AWARD

This award recognizes a WSBA member who exemplifies the WSBA’s culture of service: one who gives back in meaningful ways to others, to his/her...
Kenneth G. Kieffer

A former partner at Gordon Thomas Honeywell, Kenneth Kieffer is now retired and serves as of counsel for the firm. For many years, he has dedicated his time to volunteering with a wide variety of causes and advocating for the rights of children. He has served as a Pierce County Court Appointed Special Advocate (CASA)/guardian ad litem since 1998, advocating for nine children during that time.

Kieffer has volunteered with the Make-a-Wish Foundation since 1997, including five years as a board member, and with the Special Olympics since he was a college student. He has volunteered with the Pierce County Sexual Assault Center since 1998, advocating for nine children during that time.

Kieffer was previously awarded the 2013 Outstanding New Volunteer Award by the Puget Sound Affiliate of Susan G. Komen for the Cure.

Robert K. Costello

Robert Costello was appointed an assistant attorney general in 1982, and in 1989 he was selected to head the Fish, Wildlife, and Parks Division. In 2001, he was appointed a deputy attorney general, assuming responsibility for eight legal divisions and taking a leadership role on key legal and policy issues. He has provided Washington’s governors, attorneys general, and state and national colleagues with advice, representation, and information on complex legal topics ranging from natural resource conservation to nuclear waste management; major transportation projects to major tort litigation; state land management to tribal-state jurisdictional disputes.

As an active member of his community, Costello has served on a number of advisory committees for the Olympia School District, the boards of the Capitol Area Youth Symphony Association and the Student Orchestra of Greater Olympia, and is an active supporter of programs to benefit arts education in Olympia.
adverse legal consequences, including detention, deportation, and/or permanent separation from family in the United States. Moreover, because unlicensed immigration law practitioners frequently claim or imply that they are attorneys, their operations undermine the reputation of and the public’s confidence in the legal profession, especially within vulnerable immigrant communities.

In 2014, Niedermeyer and Rios filed a consumer protection suit on behalf of a family which had been defrauded and seriously injured by a pair of notarios. After over 80 hours of pro bono representation, Niedermeyer and Rios reached a settlement with the defendants, who agreed to pay in full what the law anticipates: triple damages to the plaintiffs, plus costs and attorneys’ fees. Niedermeyer and Rios have donated 100% of their attorney fees to WA-AILA to set up a revolving fund to finance service of process and filing fees for future cases, to help promote the use of a “private attorney general” strategy to protect vulnerable immigration clients, and to educate immigration lawyers on how to successfully file similar consumer protection actions.

Niedermeyer is a contract attorney focusing in immigration, consumer protection, civil rights and Indian law. Her pro bono work includes nonprofit corporate governance advice and autism-related civil rights issues. She is the chair of the WA-AILA Professional Responsibility and Consumer Protection Committee.

Rios, a partner at the firm of Rios & Cruz, P.S. in Seattle, has practiced immigration law since 1997 and has been a consultant attorney for the Mexican Consulate in Washington for immigration matters since 2002. In 2009, Rios received the Latino Bar Association of Washington’s Miembro Excepcional Award for his pro bono work against notarios in the Latino community, and in 2013 he was awarded the Premio Othli by the Mexican government for his work on behalf of Mexican immigrants in the U.S. NWL

WebXtra
On Oct. 16, guests gathered at the Sheraton Hotel in Seattle to pay tribute to 67 attorneys and judges who celebrated 50 years of WSBA membership in 2015. WSBA President Bill Hyslop welcomed honorees, their families, and guests and proudly expressed heartfelt gratitude to the 50-year members for their decades of dedication to the law. In appreciation, President Hyslop and members of the Board of Governors presented certificates and lapel pins to the members who joined the Bar in 1965.

President Hyslop spoke about the changes in the legal profession and the changing face of diversity. He reviewed notable events from 1965, both worldwide and at the WSBA. Washington Supreme Court Chief Justice Barbara A. Madsen congratulated the honorees on their professional contributions. Carole Grayson, chair of the WSBA Senior Lawyers Section, invited members to join the Senior Lawyers Section. The luncheon concluded with the attending honorees gathering for a commemorative group photo.

The WSBA class of ’65 has seen many changes — cultural, political, and historical — during their decades in the legal profession. We salute them for their inspirational work, groundbreaking achievements, and half-century of public service.

What is one piece of advice you would give to new attorneys?

Think hard about what you want to achieve in your life and in your profession, and find a firm or job that will allow you to do that. That includes hours at work and fields of practice. Periodically, at least every four years, test that decision and see if you are achieving it or need to revise it. If not, find a place where you can. — Milton Smith

Your “word” to other attorneys is how you will be known among your fellow practitioners. We have a special privilege to be doing what we do. The integrity and credibility of your word is required. Do not become known as a lawyer whose word cannot be relied upon.

— John Bergmann

If you could change one thing about our legal profession, what would it be and why?

Much is said about professionalism and its importance to the effective practice of law. I wholeheartedly agree. But I wonder if part of the problem is that lawyers in this country don’t learn about and appreciate the long and rich history of the law and its importance to where we are today as a culture and society.

There are many examples in our legal professional history that, if known to young lawyers, could lead to a greater and hopefully ongoing respect for the law and the lawyers who further its historic goals. — Charles “Ted” Watts

Class of 1965

Hon. Patricia Aitken
George Akers Jr.
Edmund Allen
Daniel Allison II
Hon. Gary Bass
Stephen Bean
John Bergmann
Philip Best
Paul Blauert
Rock Cayley
Edward Campbell
Gerald Casey
Robert Castrodale
John Coart III
Patrick Cockrill
Hon. Howard Coleman
Gary Cunningham
Henry Dean
Richard Dejean
Richard Derham
Charles Diesen
Gary Eliaisen
Frederic Emry II
Donald Ferrell
Frederick Frederickson
Thomas Frey
Joseph Gordon Jr.
Chester Green
Camden Hall
James Hanken
Bruce Hanson
Carl Hultman
Edward Huneke
Robert Hutchins
Bertil Johnson
Madison Jones III
Alan Kane
Charles Kimbrough
Robert Lamp
Robert Larson
Peter Lucas
Walter Meyer Jr.
John Miller
Rudolf Mueller
Julian Nuxoll
Peter Oram
William Pease
Gerald Reitsch
Kenneth Rekow
W. Rockefeller
Charles Sandell
Terry Schmalz
Donald Senter
Milton Smith
Jacob Smith Jr.
Jack Strother
William Taylor
Phillip Thom
James Thompson
Curtis Thomson
Patrick Turner
George Velikanje
Thomas Wampold
Charles Watts
John Welsh Jr.
Edmund Wood
James Workland

1965: A Moment in Time

1965 was full of historical milestones. Here are some noteworthy events from that year.

In March, on “BLOODY SUNDAY,” some 200 Alabama state troopers attacked 525 civil rights demonstrators in Selma, Alabama, as they attempt to march to the state capitol of Montgomery. In response to the events in Selma, President Johnson sent a bill to Congress that forms the basis for the Voting Rights Act of 1965, signed into law on August 6.

In July, the ROLLING STONES scored their first U.S. #1 single, “(I Can’T Get No) Satisfaction.”

On March 18, Cosmonaut ALEXEY LEONOV, leaving his spacecraft Voskhod 2 for 12 minutes, became the first person to walk in space.

The Oscar for Best Picture went to My Fair Lady, but AUDREY HEPBURN was snubbed for Best Actress — that award went to JULIE ANDREWS for Mary Poppins. Best Actor went to REX HARRISON for My Fair Lady. My Fair Lady won a total of eight awards.

In May, Seattle City Council member WING LUKE, philanthropist and civic leader Sidney Gerber, and Gerber’s assistant Kate Ladue vanished during a flight over the Cascade Range in Gerber’s small airplane. Luke was the first Chinese-American to achieve high public office in the continental United States.

In January 1965, 97 people took the BAR EXAM and 56 passed. By comparison, in February 2015, 362 candidates took the exam and 238 passed. In July 1965, 157 took the bar exam and 107 passed. In July 2015, 814 candidates took the exam and 618 candidates passed.


In August, the BEATLES performed the first stadium concert ever, playing for an audience of 55,600 at Shea Stadium in New York City.

On April 29, the 1965 OLYMPIA EARTHQUAKE shook the Puget Sound region. The quake had a magnitude of 6.7 and caused the deaths of seven people and about $12.5 million in damage.

In January 1965, 97 people took the BAR EXAM and 56 passed. By comparison, in February 2015, 362 candidates took the exam and 238 passed. In July 1965, 157 took the bar exam and 107 passed. In July 2015, 814 candidates took the exam and 618 candidates passed.
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- Amy C. Lewis, Attorney

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Coping with the Death of a Spouse

A LAWYER’S PERSPECTIVE

by David Tift

The death of a spouse is the most stressful event a person can endure, exceeding the stress of a divorce, a jail term, personal injury or illness. My wife Gail, a longtime Seattle family law attorney, died in January 2014 after being diagnosed with pancreatic cancer three months earlier. Words cannot adequately express the devastating effects of such an event, but my family and I have learned certain lessons, which may be of benefit to those who will have to deal with this trauma in their own lives.

I am not trained in psychology, estate planning, or any other expertise relevant to coping with the death of a spouse. I have been a litigator my entire legal career. The perspectives in this article are observations and conclusions drawn from my experience over the last 18 months.

Listen and engage. My wife insisted in the weeks before her death that we have a series of conversations about how my life would be after she was gone. Remarkably, Gail opined several weeks before her death that her dying was easier on her than it would be for me to endure her death and go on. I did not want to hear these words or have these conversations, but they proved to be some of the most important conversations of my life, as she wanted me to know she recognized my life needed to go on without her. She suggested that I consider selling our longtime home after her death, for example. We had several conversations at her insistence about how I would have a new woman in my life someday.

Seek help. One of Gail’s legal partners passed away approximately one year before she did, and his widow reached out to me with a list of therapists she recommended I contact. I had never been in therapy or even contemplated it, but therapy proved to be incredibly beneficial in helping me understand what was happening to my family and me in the months after Gail’s death. My therapist told me on several occasions that the difficult conversations with Gail were very helpful in alleviating the guilt associated with decisions like selling the family home.

Get your affairs in order. Like the cobbler whose children have holes in their shoes, we lawyers may not be the best at having up-to-date estate planning. I was most fortunate that one of Gail’s partners is both a top-tier estate planner and a very caring friend. He made us a priority for planning that was no longer an esoteric exercise. A medical power of attorney is critical during end-of-life decision-making. Know all of those passwords that control your financial and social media accounts. Keep all of your estate planning documents together in a notebook.

Read. Near the end of Gail’s life, we contacted hospice and began to set up comfort measures that would have allowed...
her to come home. Pain management prevented this, but my contacts with hospice put me on their mailing list. I received numerous articles and pamphlets from them that proved to be very valuable perspectives on death and dying. A friend gave me a book on transitions in life. Read about the perspective of others on what you are experiencing.

Understand nothing is linear. We lawyers want life to unfold in an orderly way, with our procedures and processes superimposed over the lives and affairs of our clients. The death and dying process cannot be expected to be linear or orderly. Expect the weeks and months before and after your spouse’s death to be a roller coaster.

Understand organ donation. Long ago, Gail and I agreed to be organ donors at the time of death. This means that after you say your final goodbyes, the organ harvesting process immediately begins. I was unprepared for this. The surviving spouse is subsequently interviewed about the deceased’s health and lifestyle. Many of these questions border on the surreal. I was not prepared to be questioned extensively hours after my wife’s death, about whether she was ever exposed to HIV or AIDS, or whether she had ever used IV drugs recreationally.

Rely upon family and friends. I was seldom left alone in the weeks following Gail’s death. At the time I thought this intrusive, in part because I fear we lawyers can have difficulty leaning on others. Letting your family and friends provide the emotional support so desperately needed during a terrible time like this is invaluable to the healing process.

Take time off to contemplate your new life. I was fortunate that my law partners allowed me to take my sabbatical a year early, so that I was able to get away and think through what my life would be like without my dear wife. I went away for a month and contemplated what I wanted to do with the rest of my life. I elected to go back to my law firm and resume my law practice. A radical life change like the loss of a spouse may prompt a career change, extended leave or sabbatical, or even retirement.

THE DEATH AND DYING PROCESS CANNOT BE EXPECTED TO BE LINEAR OR ORDERLY.

Returning to work. When I returned to the office, several of my litigation partners “backstopped” me on all of my cases. We used a team approach to decision-making, tactics, and case strategy. These steps were of critical importance in the process of re-engaging in my professional life. Law firms and offices should have a plan as to how to backstop a colleague in times of crisis. I work in a mid-sized and supportive firm. Solo and small firm practitioners should consider a network of professional colleagues to provide this important backstopping during the first months back to work.

Expect expectations about how you are to go forward. Family and friends had expectations about what I should do in the months following Gail’s death. A good friend suggested I make no major decisions for one year, which generally proved to be good advice. However, as in every other facet of life, there are exceptions to this general rule. My three adult children and several close and caring female friends expressed discomfort with the idea of me dating. Be pragmatic about what is best for you.

As the Baby Boomer generation contemplates getting older, the stark realities of aging and dying come into sharp focus. The devastating effects of the death of a spouse are far-reaching. Forethought in these areas can soften the devastating impact during this difficult time.

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NOTES
As a lawyer, legislator, and president, Abraham Lincoln practiced persuasion with logic and stories. Because “so few [words] contained the exact coloring, power, and shape of his ideas,” explained his law partner William Herndon, Lincoln resorted to “stories, maxims, and jokes…to clothe his ideas, that they might be comprehended.”

Twenty-four years of trying cases in the courthouses of central Illinois taught Lincoln how to shred specious arguments, the same old ones that still show up in the briefs of opposing counsel (never in your own, of course), as abundant in the Land of Starbucks and Westlaw as in the Land of Lincoln and Blackstone. Here are some of Lincoln’s plain, yet pithy, rejoinders to assorted advocacy misdeeds.

Opponent Misrepresents Your Position
“When a man hears himself somewhat misrepresented, it provokes him — at least, I find it so with myself. But when the misrepresentation becomes very gross and palpable, it is more apt to amuse him.”

Opponent Interprets Critical Text by Moving Words Around
[This amounts to] “a specious and fantastic arrangement of words, by which a man can prove a horse chestnut to be a chestnut horse.”

Opposing Argument Based on Labels instead of Substance
Lincoln “likened the case to that of the boy, who, when asked how many legs his calf would have if he called the tail a leg, replied, ‘Five’; to which the prompt response was, ‘Calling the tail a leg would not make it a leg.’”

Opposing Argument Is Weak
“Has it not got down as thin as the homeopathic soup that was made by boiling the shadow of a pigeon that had starved to death?”

Opposing Argument Lays Down a Barrage of Verbiage
[Opponent] “is playing cuttlefish, a small species of fish that has no mode of defending itself when pursued except by throwing out a black fluid, which makes the water so dark the enemy cannot see it and thus it escapes.”

Opponent Makes Too Many Arguments
“Many silly reasons are given, as is usual in cases where a single good one is not to be found.”

Opponent Stays Only Technically within the Law
“That reminds me of an hotel-keeper…who boasted that he never had a death in his hotel … for whenever a guest was dying in his house he carried him out to die in the street.”

Opponent Adheres to Rigid Position Regardless of Changed Circumstances
When a boy who was plowing asked where to strike the next furrow, his father told him: “Steer for that yoke of oxen standing at the further end of the field.” The boy resumed plowing, the father left, and then the distant yoke of oxen started to wander. Following instructions and following the oxen, the boy ended up plowing a crooked circle.

Some of these may sound slightly smart-aleck, but how could a judge hold that against you when you are quoting Honest Abe? Whatever you do, be careful with the one Lincoln line known to all: “You can fool all the people some of the time; you can fool some of the people all the time; but you can’t fool all the people all the time.” Like many of Lincoln’s sayings, though, this may be one he never actually said.

by Patrick S. Brady
Patrick S. Brady
lived in six states and 10 cities in 15 years and taught U.S. history at the University of California, Riverside, before coming to Seattle in 1981. He cannot move again because he cannot face another bar exam. His litigation and appellate practice at Forsberg & Umlauf focuses on insurance coverage and bad faith issues. As program chairman of the Puget Sound Civil War Round Table, he has been lining up speakers on Lincoln and the War for 25 years. In October 2015, he presented a CLE on Lessons from the Law Practice of Abraham Lincoln at Seattle University School of Law. He can be reached at pbrady@forsberg-umlauf.com.

NOTES
3. Id. at 20.
5. Supra n. 2 at 245.
6. Id. at 169.
9. Supra n. 7 at 1: 575–76. Lincoln’s words are paraphrased.
10. Supra n. 8 at 277, 335–36, 533n271, 538n343.
The Washington Supreme Court has exclusive responsibility for lawyer discipline. Under delegated authority, the WSBA Office of Disciplinary Counsel (ODC) receives, reviews, and investigates complaints (grievances) against lawyers. The Rules for Enforcement of Lawyer Conduct (ELC) are the procedural rules for the lawyer discipline system. The ethical rules about lawyer conduct are the Rules of Professional Conduct (RPC). This article provides an overview of Washington’s lawyer discipline system and answers commonly asked questions about policies and procedures.

Grievance Files
ODC’s consumer affairs coordinators handle calls and email about public discipline against lawyers, pending discipline, and potential grievances. They resolve some client complaints informally, usually involving non-communication issues, file disputes, and fee disputes. ODC receives and opens files on more than 2,000 grievances against Washington lawyers each year. There is no time limit for filing a grievance, although timeliness may be considered by disciplinary counsel when evaluating a grievance. There is no filing fee. Grievances need not be submitted on ODC’s grievance form, but the grievance form captures important information and includes an affirmation that the information submitted is true and accurate. Grievance forms can be downloaded from www.wsba.org, or submitted electronically with attachments through www.wsba.org.

Under the ELC, there is no requirement of “standing.” Anyone can file a grievance against any lawyer. Clients, former clients, and opposing parties frequently file grievances. ODC grievances can be based on allegations from an anonymous or confidential source.

Although grievants raise a variety of issues, many grievances allege lack of diligence, competence, or communication. Many grievances involve the practice areas of family law and criminal law.

What Happens to a Grievance?
Every grievance file has a file number, relates to a single lawyer, and is separate from every other grievance file. ODC scans information received from the grievant and respondent in the grievance process and generally destroys the physical records.

Disciplinary counsel can dismiss a grievance without requiring a lawyer’s response, and the first notification that a lawyer may receive about a grievance is a copy of the dismissal letter with a copy of the grievance. Whether or not disciplinary counsel dismisses the grievance, the grievant and lawyer ordinarily receive notice of a file number and initial action within two weeks of filing.

After reviewing a grievance, disciplinary counsel can request a lawyer’s written preliminary response. The letter notifies the lawyer that he or she must respond to the grievance and
that disciplinary counsel will provide the response to the grievant. In this situation, after receiving a response from the lawyer and often a grievant reply, disciplinary counsel reviews the file information and decides whether the grievance should be dismissed or investigated. With all dismissals, disciplinary counsel sends the grievant a letter outlining the reason for the dismissal. The letter also informs the grievant of the right to request review of the dismissal.

Dismissed grievances are confidential. Disciplinary counsel will keep a lawyer’s response to a grievance confidential at the time received, although it might later become public, depending on the disposition of the grievance. Nevertheless, disciplinary counsel cannot restrict a lawyer’s ability or a grievant’s ability to communicate to third parties about the grievance or the lawyer’s response. Subject to some restrictions, ODC can release information from its files to authorities in any jurisdiction authorized to investigate alleged criminal or unlawful activity, judicial or lawyer misconduct, or disability.⁵

If Disciplinary Counsel Dismisses a Grievance
A grievant has a right to ask for review of the dismissal by a review committee of the Disciplinary Board within 45 days of the dismissal date. The Disciplinary Board is a volunteer body with lawyers and non-lawyers appointed by the Washington Supreme Court. Review committees have three Disciplinary Board members — two lawyers and one non-lawyer. If a grievant requests review, the lawyer is not required to respond, but if a lawyer chooses to respond, the response will be provided to the review committee and, generally, to the grievant. There is no further appeal if a review committee dismisses a grievance.

Review committees do not conduct hearings on dismissed grievances, and neither the grievant nor the respondent lawyer can appear at a review committee meeting. Review committees only consider a written record, which can include the information submitted by the grievant, the information submitted by the respondent, and disciplinary counsel’s dismissal letter.

Investigation of Grievances
If a lawyer does not respond to disciplinary counsel’s request for information, the lawyer may receive a letter requiring a response in 10 days, and cautioning that a deposition may be scheduled for failure to respond.⁶ Failure to respond is, in itself, grounds for discipline and may also result in the lawyer’s interim suspension.

If ODC investigates a grievance, the lawyer and the grievant receive the name, telephone number, and email address of the disciplinary counsel handling the file. Disciplinary counsel determines the scope of the investigation, and may require another written response or take other investigative action. Disciplinary counsel then determines whether to recommend a disciplinary proceeding or other form of disciplinary ac-
tion or to dismiss the grievance.

If there is related civil or criminal litigation, disciplinary counsel may defer investigation until the litigation resolves. Disciplinary counsel’s decision on deferral, similar to a decision on dismissal, can be reviewed by a review committee of the Disciplinary Board.

After Investigation
Many grievances that are investigated are then dismissed. Some grievances involving less serious misconduct result in a lawyer’s referral to diversion from discipline under ELC Title 6, where a lawyer enters into a contract with disciplinary counsel including terms, for example, that the lawyer seek counseling, resolve client disputes, or improve law office management. After successful completion of the contract terms, the grievance will be dismissed.

If disciplinary counsel does not dismiss a grievance after an investigation, disciplinary counsel could recommend an admonition (which, since 2014, is a permanent disciplinary record) or a public disciplinary hearing. Many factors influence disciplinary counsel’s recommendation — for example, whether evidence will prove an RPC violation by a clear preponderance of the evidence, whether the American Bar Association Standards for Imposing Lawyer Sanctions justify a sanction of reprimand or greater, and whether Washington Supreme Court precedent supports discipline.

Disciplinary hearings, which take place before hearing officers appointed by the Washington Supreme Court, are public, as are appeals to the Disciplinary Board and Washington Supreme Court. Public disciplinary actions include admonition, reprimand, suspension up to three years, and disbarment.

Many disciplinary proceedings resolve by agreement. A stipulation to discipline requires approval by a hearing officer, the Disciplinary Board, or the Supreme Court. Under some circumstances, a lawyer may permanently resign his or her membership in lieu of further disciplinary proceedings.

Resources
For additional information, see http://bit.ly/grievancefaqs for more answers to frequently asked questions about the grievance process and responding to a grievance, and follow links to the current RPC and ELC.

To discuss an ethical issue, call the Ethics Line at 206-727-8284. For other articles on lawyer discipline, read suggestions for responding to a grievance in the JAN 2014 NWSidebar, the JUL 2011 Bar News article by Gregory Dahl, and the AUG 2009 Bar News interview with Chief Disciplinary Counsel Douglas Ende.

Felice P. ConGalton is an associate director in the WSBA Office of Disciplinary Counsel.

NOTES
1. This article updates an article published in the MAY 2007 Washington State Bar News.
Since 2007, the ELC and ODC procedures changed. Any discrepancy between the information in this article and Washington Supreme Court rules and regulations, WSBA Bylaws and policies, or ODC policies and procedures is unintentional and will be resolved in favor of the rules, regulations, bylaws, policies, and procedures.

2. In non-communication situations, staff members encourage lawyers to comply with RPC 1.4, which requires a lawyer to keep a client reasonably informed about the status of a matter. In file disputes, staff members refer to WSBA Advisory Opinion 181 (Asserting Possessory Lien Rights and Responding to Former Client’s Request for Files) and WSBA Advisory Opinion 2211 (Obligation to Provide (redacted) Discovery Materials to Former Client). In fee disputes, staff members suggest alternative dispute resolution through outside mediation or arbitration. The WSBA does not offer mediation or fee arbitration programs.

3. ELC 1.4 provides that no “statute of limitations or other time limitation restricts filing a grievance or bringing a proceeding under these rules, but the passage of time since an act of misconduct occurred may be considered in determining what if any action or sanction is warranted.”

4. ELC 5.2 provides that ODC may conduct an investigation if “a person files a grievance or provides information to disciplinary counsel about a lawyer’s possible misconduct or disability, and asks to be treated as a confidential source.” Additional information for lawyers filing grievances is available in the September 2013 NWSidebar post entitled “Professional Misconduct: To Report or Not to Report,” and Comment [1] to RPC 8.3.

5. Under ELC 3.4(h), information subject to a protective order under ELC 3.2(e) will not be released.

6. Under ELC 5.3(h), if disciplinary counsel schedules a deposition, the lawyer is liable for the costs of the deposition and attorney fees of $500.

7. See ELC 5.3(d).

8. Generally, ODC destroys a grievance file and an electronic record of the grievance file three years after the initial dismissal date.

9. Under ELC 8.2(b), disability proceedings are not disciplinary proceedings and they are confidential under ELC 3.3(b).

10. See ELC 9.1.

11. See ELC 9.3.
A lawyer’s call to take on unpopular causes in our country most famously dates back to 1770 when John Adams, a leader of the American resistance movement, successfully defended eight British soldiers charged with firing into a crowd and killing five protesters during the Boston Massacre. The first lawyer elected U.S. president in 1797, Adams called it “one of the most gallant, generous, manly, and disinterested actions of my whole life.”

The Rules of Professional Conduct don’t require a lawyer to accept representation of a case. A lawyer may even decline appointment from a tribunal if the cause is “so repugnant” to the lawyer as to impair his or her ability to represent the client (RPC 6.2). However, the American Bar Association’s comment to such a rule is that a lawyer should accept a “fair share” of unpopular clients.

The unpopular-client issue recently came to national attention in two gay-rights cases. King & Spaulding withdrew from its defense of the Defense of Marriage Act before the U.S. Supreme Court, citing “inadequate vetting” prior to taking the case. Paul Clement, a former U.S. solicitor general, remained on the case, but resigned from the firm, stating:

I resign out of a firmly-held belief that a representation should not be abandoned because the client’s legal position is unpopular in certain quarters. Defending unpopular positions is what lawyers do. The adversary system of justice depends on it, especially in cases where the passions run high. Efforts to delegitimize any representation of one side of a legal controversy are a profound threat to the rule of law. When it comes to lawyers, the surest way to be on the wrong side of history is to abandon a client in the face of hostile criticism.

TheABA Journalreported that protests from gay-rights advocates, and dissent from within the firm, prompted the firm’s withdrawal from the case. But, in response, the Virginia Attorney General’s Office and the National Rifle Association announced they would no longer contract with the firm. Virginia AG Kenneth Cuccinelli explained that he wanted only firms that would defend his state’s interest even when “uncomfortable” for them, and he wondered why a firm defending Guantanamo would not defend DOMA.

A subsequent U.S. Supreme Court case challenged state bans on same-sex marriage. At least seven attorneys general declined to defend their state bans. TheNew York Times’Tony Liptak reported that while many of the county’s leading firms lined up to challenge the ban, no prominent national firm appeared on the other side. The task fell to John Bursch, a former Michigan solicitor general. While Burch remains with his firm, Warner Norcross in Grand Rapids, Michigan, the firm disassociated itself from the case, citing the “strong emotions” among the its clients and employees. Liptak concluded:

Leading law firms are willing to represent tobacco companies accused of lying about their deadly products, factories that spew pollution, and companies said to be complicit in torture and murder abroad. But standing up for traditional marriage has turned out to be too much for the elite bar.

In response, writing inSlate, David S. Cohen and Lenore Carpenter argued that the same-sex marriage supporters were represented by good attorneys;
that “elite” law firms were not needed to make the well-established arguments; and that law firms had every right to side with gay rights advocates. They argued that the firms had a legitimate business interest in not alienating their employees and clients, and that:

The current state of advocacy on this issue should not raise concerns about the loss of great lawyers taking on unpopular causes. Normally, when we talk about the notability of defending an unpopular cause we’re referring to a situation when a single person, often a criminal defendant, stands alone against the full power of the state. Think To Kill a Mockingbird. Think Guantanamo detainees. We dare not lose sight of the vast difference between defending human beings oppressed by the state and defending the state itself when it wishes to continue to oppress human beings.

A sharp contrast to the gay-rights cases has been the role of large law firms in defending a very controversial client: Guantanamo detainees. The Wall Street Journal reports that many large law firms are assisting in detainee cases. A senior Pentagon official, lawyer Cully Stimson, was forced to resign in 2007 for suggesting that clients should drop these firms. And Liz Cheney of Keep America Safe drew sharp rebukes from both Republicans and Democrats when she questioned the patriotism of these firms. The Wall Street Journal also reports that, despite widespread antipathy towards undocumented workers, undocumented minors fleeing violence in their native countries have been popular pro bono clients for many corporate lawyers.

Reluctance to side with proponents of same-sex marriage stems from the fact that these laws are viewed by many as the last vestige of government-sanctioned discrimination. According to a 2014 Gallup poll, 55% of Americans favor same-sex marriage. Gay people, and their family and friends, make known their strong feelings about the issue, giving the movement political and economic clout. Firms opposing same-sex marriage risk backlash from clients, employees, and perspective employees. Compared with other types of lawyers, an ABA survey found high public regard for civil rights lawyers, who are viewed as working in the public interest.

Of course, this country has greatly changed since Brown v. Topeka Board of Education in 1952 when it comes to alleged discrimination. A personal supporter of segregation, John W. Davis, argued the Board’s case. A former Democratic nominee for president, U.S. solicitor general, and ambassador to England, Davis was a member

**Legal Ethics**, “The legal profession has a unique character in that being a good lawyer does not necessarily mean being a good and moral person in the eyes of others.”

On the other hand, no ethical rule compels lawyers to accept cases. “Cause” lawyers choose to represent clients whose particular positions they focus on and personally believe in. Public interest law organizations routinely take on controversial cases. No one would criticize these lawyers for being unwilling to represent both sides of a particular case. In fact, doing so would damage their credibility.

Moreover, the public does not always give lawyers a “free pass” to represent any position they chose. For example, in 2013, the U.S. Senate failed to confirm Debo Adegbile’s appointment to head the Justice Department’s Civil Rights Division. The successful opposition was spearheaded by police groups who criticized Adegbile's role in defending a person who killed a police officer who was spared the death penalty. In a recent issue, Mother Jones criticized Senator Ted Cruz of Texas for having taken litigation positions seemingly at odds with his positions as a presidential candidate. The Associated Press has reported that lawyers for terrorist suspects have been threatened and reviled in some quarters. Lawyers for Big Tobacco are roundly criticized for defending companies that sell a deadly product. In his recent representation of a coal company, Harvard Law Professor Laurence Tribe was criticized for what some considered a baseless challenge to constitutionality of a climate-change rule.

The American Civil Liberties Union was founded in 1920 to defend individual rights and liberties, and has participated in more U.S. Supreme Court cases than any other private organization, according to its website. Several dozen Washington lawyers volunteer to work on ACLU cases, according to Doug Honig, the organization’s communications director for Washington. Speaking for many, the Washington Legal Foundation has criticized the
ACLU for representing “dope dealers, terrorists, serial killers, rapists, American Nazis, pornographers, and illegal aliens.”

Even court-appointed criminal defense lawyers come under criticism for who they represent. In a Wall Street Journal article, Stephen Jones described the threats to his life and the damage to his practice from his representation of Oklahoma City bomber Timothy McVeigh. But he explains:

I felt it important that a trial lawyer from Oklahoma be ready to accept the court’s appointment. If no competent or experienced trial lawyer in Oklahoma was willing to defend Mr. McVeigh, it would have been a black mark not only against justice but against the bar association and ultimately against our state and society.

On the other hand, declining representation of a paying client based on moral beliefs is also a principled stand. Moreover, in such a case, the lawyer’s personal beliefs may somehow affect the lawyer’s commitment to the case. A 2014 Gallup poll showed only 23% of Americans hold lawyers in “high esteem.” This low mark undoubtedly stems in part from a belief that lawyers are simply “hired guns” who take positions regardless of whether they believe that a position is morally defensible. An ABA poll found that 74% of those surveyed believe that lawyers are “more interested in winning than in seeing that justice is served.”

Many lawyers are uncomfortable with this reputation. For instance, in representing the coal company, Professor Tribe insisted that he actually believed in his Constitutional argument, and that his services were not “for sale.” As reported in the ABA Journal, surveys show that lawyers are generally more satisfied with their work if they believe they are promoting social good or at least not causing harm. That might explain why government lawyers report a 68% satisfaction rate with their work.

Issues in representing an unpopular position occurred when the New York law firm Craveth, Swain & Moore defended a bank accused of laundering millions of dollars’ worth of gold stolen from Holocaust survivors by the Nazis. The representation caused friction with the firm. According to the Los Angeles Times, the firm defended its representation by stating that its objective in taking the case was to produce a settlement that was fair to survivors and preserved the bank’s reputation. Indeed, in rendering legal advice, a lawyer may “refer not only to the law, but to other considerations such as moral, economic, social and political factors…” (RPC 2.1). The comments to the rule recognize that, while a lawyer is not a “moral advisor,” moral considerations may be called to a client’s attention because they “may decisively influence how the law will be applied.”

What drew unwanted attention to the two firms in the gay-rights cases was that they withdrew their representation. Writing for Law.Com Net-
works, Drew Combs reports that the experience has caused some firms to expand their intake procedures beyond the traditional conflict and credit assessment to include a risk-benefit assessment. This type of assessment has become more important, as the 24-hour news cycle and social media draws more attention than ever to lawyers who take controversial cases.

On one hand, controversial cases may generate fees, provide public exposure for the lawyer, provide the satisfaction of taking on a cause that the lawyer believes in, generate prestige for the lawyer if the cause is generally viewed as moral or socially responsible, resolve an important legal issue, or fulfill obligations to perform pro bono representation or to represent an unpopular or vulnerable client. On the other hand, these cases may upset other members of the law firm, as well as family and clients; generate unfavorable publicity; or involve a cause that is inconsistent with the lawyer’s beliefs of right and wrong. While accepting some unpopular cases is generally a lawyer’s duty, whether to take a particular case involves the difficult weighing of these varied factors. NWL

Richard A. McCarter, a 1977 graduate of Gonzaga School of Law, is a government lawyer from Olympia. He can be reached at richardamccartan@gmail.com.

NOTE
1. For discussion of the morality questions in the practice of law, the case for lawyers considering moral questions is made in The Moral Responsibility of the Corporate Lawyer, Digital Commons@ Boston College Law School (2010). An opposite perspective is offered in Good Persons, Good Lawyers, and Good Lawyering, James M. Fisher, Professor of Law, Southwestern Law School. See also Legal Ethics and the Separation of Laws and Morals, W. Bradley Wendel, Cornell Law Faculty Publications (2005).
The 2013-2015 reporting group (the reporting group that needs to finish credits by December 31, 2015 and certify by February 1, 2016) will need to meet the current requirements. The 2014-2016 reporting group will be the first group affected by the new MCLE rules.

Credit Requirements
45 total credits every three years
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Other ways to earn MCLE credit:

Writing
Published by a recognized publisher of legal works as a book, law review or scholarly journal article for the purpose of lawyer education - 10 pages minimum.

Teaching law school courses
Instructor cannot be a full-time law school professor.

Prep time
Presentation must be at least 30 minutes in duration. Limited to five credits per hour of presentation time.

Judging law school competitions
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2015 marked the WSBA’s 125th year as an organization!

*NWLawyer* has been celebrating all year long with in-depth articles that commemorate legal milestones, notable figures, and landmark cases of the past 125 years.

- We’ve gone around the state on a photo tour of Washington’s historic courthouses.
- We’ve profiled trail-blazing attorneys who broke new ground for the profession.
- We’ve taken a look at the history of environmental law, education, Native American law, and more in Washington.
- And we’ve revealed the stories behind selected items from the Barchives.

See the full list of *NWLawyer’s* 125th anniversary coverage and watch the “Voices of the Bar” video at [www.wsba.org/125](http://www.wsba.org/125).

Share your thoughts about the WSBA’s next 125 years! Email us at nwlawyer@wsba.org.
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. Active links to directory listings, RPC definitions, and documents related to the disciplinary matter can be found by viewing the online version of NWLawyer at http://nwlawyer.wsba.org or by looking up the respondent in the lawyer directory on the WSBA website (www.wsba.org) and then scrolling down to “Discipline History.” As some WSBA members share the same or similar names, please read all disciplinary notices carefully for names, cities, and bar numbers.

Resigned in Lieu of Discipline

Sally N. Rees (WSBA No. 17720, admitted 1988), of Olympia, resigned in lieu of discipline, effective 9/22/2015. The lawyer agrees that she is aware of the alleged misconduct in disciplinary counsel’s Statement of Alleged Misconduct and rather than defend against the allegations, she wishes to permanently resign from membership in the Association. The Statement of Alleged Misconduct reflects the following violations of the Rules of Professional Conduct: 8.4(c) Dishonesty, Fraud, Deceit or Misrepresentation.

Resignation Form of Sally N. Rees (ELC 9.3(b)).

Suspended

Edward A. Ritter II (WSBA No. 34499, admitted 2003), of Mill Creek, was suspended for three years, effective 9/11/2015, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), 8.1 (Bar Admission and Disciplinary Matters), 8.4(b) Criminal Act, 8.4(c) Dishonesty, Fraud, Deceit or Misrepresentation, 8.4(l) ELC violation. Erica Temple acted as disciplinary counsel. Peter Ehrlichman and Amy Sterner Nelson acted as special disciplinary counsel. David Allen represented Respondent. Noah Christian Davis was the hearing officer. Joseph Nappi Jr. was the settlement hearing officer. The online version of NWLawyer contains links to the following documents: Disciplinary Board Order Approving Stipulation; Stipulation to Suspension; and Washington Supreme Court Order.

Admonished

Todd M. Gruenhagen (WSBA No. 12340, admitted 1982), of Seattle, was ordered to receive an admonition, effective 6/18/2015, by order of the hearing officer. The lawyer’s conduct violated the following Rules of Professional Conduct: 8.4(l) ELC violation. M. Craig Bray acted as disciplinary counsel. Todd M. Gruenhagen represented himself. James D. Hicks was the hearing officer. John H. Loeffler was the settlement hearing officer. The online version of NWLawyer contains links to the following documents: Order on Stipulation to Admonition; Stipulation to Admonition; and Admonition.

Transferred to Disability Inactive Status

Matthew A. Miller (WSBA No. 28197, admitted 1998), of Seattle, was by stipulation transferred to disability inactive status, effective 9/29/2015. This is not a disciplinary action.

Carrie J. Molenda (WSBA No. 13196, admitted 1983), of Bellevue, was by stipulation transferred to disability inactive status, effective 9/29/2015. This is not a disciplinary action.

UPCOMING WSBA CONFERENCES AROUND THE STATE

March 11, 2016
Intellectual Property Institute
Washington State Convention Center, Seattle

May 4-7, 2016
Environmental and Land Use Law Section Midyear Conference
Suncadia Resort • Cle Elum

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

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

June 24-26, 2016
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Announcements

RIDGWAY LAW GROUP
is pleased to announce that

Michael May

has joined our firm as an associate. Mr. May graduated from Lewis & Clark Law School, where he was a Dean Scholarship recipient and an associate editor for the Animal Law Review. Mr. May’s practice will focus in the areas of probate, guardianships and trust, and estate litigation.

Ridgway Law Group, P.S.
701 Fifth Avenue, Suite 4110
Seattle, WA 98104
206-838-2501
www.ridgwaylawgroup.com

Davies Pearson, P.C.
Attorneys at Law
is pleased to announce that

Thomas L. Dashiell

has become an Associate of the firm and will practice in the areas of commercial litigation, general business, real property, real estate transactions, and probate. Mr. Dashiell graduated from Willamette University College of Law, cum laude, with a Business Law Certificate, in 2015. He received his B.A. in Political Science from the University of Washington in 2011.

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**WSBA News**

**Notice of Hearing on Petition for Reinstatement of Stephen Bruce Blanchard**

A petition for reinstatement after disbarment has been filed by Stephen Bruce Blanchard, WSBA No. 12294, who was admitted in 1982 and disbarred in 2008. At the time of his disbarment, Mr. Blanchard practiced in Snohomish County, Washington. A hearing on Mr. Blanchard’s petition will be conducted before the Character and Fitness Board on Friday, Jan. 22, 2016. Not later than 5 p.m. on Dec. 22, 2015, anyone wishing to do so may file with the Character and Fitness Board a written statement for or against reinstatement, setting forth factual matters showing that the petitioner does or does not meet the requirements of Admission to Practice Rule 25.5(a). Except by the Character and Fitness Board’s leave, no person other than the petitioner or petitioner’s counsel shall be heard orally by the Board. Communications to the Character and Fitness Board should be sent to Kevin Bank, Counsel to the Character and Fitness Board, Washington State Bar Association, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539, or to kevinb@wsba.org. This notice is published pursuant to APR 25.4(a).

**2016 License Renewal and MCLE Information**

Complete your license renewal and MCLE certification online — it’s easy. License renewal must be completed by Feb. 1, 2016. WSBA bylaws require a 30% late-payment fee if the annual license fee remains unpaid after that date. Please note: Our service provider will charge you a separate, non-refundable transaction fee of 2.5% on all bank card transactions. There is no transaction fee if you renew online and mail in your check.

**Certify MCLE compliance.** If you are in the 2013–2015 reporting period (Group 3), then you are due to report CLE credits and certify MCLE compliance. The deadline for completing credits is Dec. 31, 2015. The certification must be completed online or be postmarked or delivered to the WSBA by Feb. 1, 2016. Visit wsba.org/MCLE to learn more.

**Judicial members.** Please note that you are required to inform the Bar within 10 days of your retirement or your ineligibility for judicial membership (and you must apply to change to another membership class or to resign). Visit wsba.org/licensing to learn more.

**Two New Releases from WSBA Publications**

The new 2015 fourth edition of the Washington Appellate Practice Deskbook, edited by Catherine Wright Smith and Howard M. Goodfriend, provides comprehensive advice for effective appellate advocacy and oral argument under Washington’s Rules of Appellate Procedure. A 2015 Supplement to Volume 3 of the Washington Real Property Deskbook, covering real property interests and duties of third parties, has also just been released. For more information, or to order, go to www.wsbcicle.org or call 206-733-5918 or 800-945-WSBA and ask for Order Fulfillment.

**Join the WSBA New Lawyers List Serve**

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

**Washington Young Lawyers Committee Meeting**

The Washington Young Lawyers Committee will be meeting on Sat., Dec. 5, at the WSBA offices in Seattle. For more information or to attend, email newlawyers@wsba.org.

**New MCLE Rule Takes Effect in 2016**

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

At least 6 credits must be in ethics and professional responsibility. At least 15 credits must be from attending ap-
Volunteer Custodians Needed

The WSBA is seeking interested lawyers as potential ELC 7.7 volunteer custodians. An appointed custodian is authorized to act as counsel for the limited purpose of protecting a client’s interests whenever a lawyer has been transferred to disability inactive status, suspended, disbarred, dies, or disappears and no person appears to be protecting the clients’ interests. The custodian takes possession of the necessary files and records and takes action to protect clients’ interests. The custodian may act with a team of custodians and much of the work may be performed by supervised staff. If the WSBA is notified of the need for a custodian, the WSBA would affirm the willingness and ability of a potential volunteer and seek their appointment as custodian. Costs incurred may be reimbursed. Current WSBA members of all practice areas are welcome to apply. Contact Sandra Schilling at sandras@wsba.org. For more information, contact Sandra Schilling at sandras@wsba.org or 206-727-8244, or margarets@margaretshane.com.

VABAW’s 11th Annual Banquet and Fashion Show

The Vietnamese American Bar Association of Washington (VABAW) held its 11th annual banquet at the Triple Door on Oct. 14, 2015. The theme was “Our 40-Year Journey.” Keynote speakers Binh Mach, of RB Enterprises, and Miki Nguyen, from The Last Days in Vietnam, spoke about their stories and hardships. VABAW President Ada K. Wong celebrated with fellow judges, lawyers, law students, and professionals supporting VABAW’s mission to provide mutual support for attorneys in the advancement of their careers, to be a trusted guide and resource for students aspiring towards the legal profession, to serve as a voice for the local Vietnamese American community, and to represent Vietnamese American attorneys within the State Bar.

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.

WSBA Connects

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

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

Mindful Lawyers Group
A growing number of legal professionals across the nation are applying mindfulness-based skills and training to lawyering. The Washington Contemplative Lawyers group meets on Mondays on the 6th floor of the WSBA offices in the LAP group room from noon to 12:45. For more information, contact Greg Wolk at greg@rekhiwolk.com.

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

Procrastination
Do you keep putting off certain tasks? Do you worry about work you’re not doing? Procrastination can be hazardous to your professional and personal health. Try dividing the task up into small bites, then attack the first logical piece. If you’d like help breaking the procrastination habit, call WSBA Connects at 1-800-765-0770 to schedule a confidential consultation. Enjoy feeling in control again.

WSBA Law Office Management Program (LOMAP)

LOMAP Lending Library
The WSBA LOMAP and LAP Lending Library is a service to WSBA members. We offer the short-term loan of books on health and well-being as well as the business management aspects of your law office. How does it work? You can view available titles at www.wsba.org/resources-and-services/lomap/lending-library. Books may be borrowed by any WSBA member for up to two weeks. LOMAP requires your WSBA ID 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 lomap@wsba.org.

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

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

Usury Rate
The average coupon equivalent yield from the first auction of 26-week treasury bills in November 2015 was 0.285%. Therefore, the maximum allowable usury rate for December is 12%.

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(See, e.g.):
Yates v. Fithian,
2010 WL 3788272 (W.D. Wash 2010)
City of Seattle v. Menotti,
409 F.3d 1113 (9th Cir. 2005)
State v. Letourneau,
100 Wn. App. 424 (2000)
Fordyce v. Seattle,
55 F.3d 436 (9th Cir. 1995)
LIMIT v. Maleng,
874 F. Supp. 1138 (W.D. Wash. 1994)

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646 F.3d 659 (9th Cir. 2011).

State v. Pruett
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