DEDICATED TO OUR CLIENTS.
ACKNOWLEDGED BY OUR PEERS.

McKinley Irvin congratulates eleven of our attorneys recognized as some of the top family law lawyers in Washington and named to the 2014 Washington Super Lawyers and Rising Stars lists.

David Starks
Anthony Zorich
Annelisa Smith
Collin McKean
Jennifer Payseno
Elizabeth Hoffman
Jamie Walker
Mark Arend
Laura Carlsen
Marc Christianson
Kim Schnuelle
Isn’t this the real reason we all practice law...

Workers Compensation is about healing families. That’s what we do.

PALACE LAW OFFICES

1-800-270-3883
www.PalaceLaw.com

PERSONAL INJURY  WORKERS’ COMPENSATION  SOCIAL SECURITY

Top 100 National Trial Lawyers
Million Dollar Advocate  •  Washington Top Lawyers 2013  •  Super Lawyer
16 Tool or Trap?  
The Trouble with Technology and Lawyers (or How Lawyers Can Get into Trouble with Technology)  
by James W. Gayton and Greg Tolbert

24 Big Deal (Maker)  
Startup Attorney Lee Schindler Shepherds Tech Entrepreneurs from Idea to IPO  
by Allison Peryea

30 The Millennials Are Coming  
New Lawyers Use Tech Savvy to Their Advantage  
by Autumn T. Johnson

33 The Digital Afterlife  
It’s Not Just Dust to Dust and Ashes to Ashes Anymore  
by Trent Latta

36 Big Case, Small Firm  
Using Discovery Databases to Punch Above Your Weight  
by Isham Reavis

39 The Cheese Stands Alone  
Washington Is the Odd State Out with U.S. Electronic Signature Law  
by Elizabeth de Bagara

54 Serving Up Software  
9 Legal Technology Companies You Should Know  
by Dan Lear

57 Tech Stress  
If We Can’t Make Technology Stand Still, We Can At Least Make It Run  
by Brian P. McLean

60 iPad Tips & Tricks  
There’s Gotta Be an App for That!  
by Denise Lukins
COLUMNS
5 Editor’s Note
The (tech) times, they are a-changin’
by Michael Heatherly

7 President’s Corner
Redefining the Practice of Law
by Patrick A. Palace

9 BarNotes
Digital Immigrants vs. Digital Natives: Who’s the Tech Generation?
by Paula Littlewood

DEPARTMENTS
12 Treasurer’s Report
by Brian J. Kelly

45 Literary Lawyer
Best Technology Books for Lawyers

46 Top 10
Tech Lawsuits
by Vi Duong

48 A Side of Sidebar
What’s Happening on the WSBA Blog

49 Electronic IQ
Competence in an Era of High-Tech Lawyering
by Mark J. Fucile

52 Perspectives
UPL Restrictions: Hurting Lawyers More than Helping
by Mark Britton

64 Section Spotlight
Low Bono: Serving Those with Real Needs but Limited Means
by Rachel Rappaport, Diana Singleton, and Mark Baumann

70 Take 5
with WSBA Gov. Brian Kelly

84 Beyond the Bar Number
Matthew M. Purcell

ESSENTIALS
72 2014 WSBA Annual Awards Dinner Registration Form

73 Need to Know
News and Information for WSBA Members

76 Disciplinary Notices

77 CLE Calendar

78 Announcements

80 Professionals

82 Classifieds
WSBA Board of Governors
Patrick A. Palace, President
Anthony D. Gipe, President-elect
Michele Radosevich, Imm. Past-President
Kenneth W. Masters, 1st Dist.
Bradford E. Furlong, 2nd Dist.
Brian J. Kelly, 3rd Dist.; Treasurer
Gerald J. Moberg, 4th Dist.
Hon. Paul A. Bastine, 5th Dist.
Vernon W. Harkins, 6th Dist.
Daniel G. Ford, 7th-North Dist.
Barbara J. Rhoads-Weaver, 7th-South Dist.
Wilton S. Viall III, 8th Dist.
Elijah Forde, 9th Dist.
Philip L. Brady, 10th Dist.
James W. Armstrong, At-large
Karen Denise Wilson, At-large
Robin L. Haynes, At-large (YLC)

WSBA Editorial Advisory Committee
Allison N. Peryea, Chair
Sharonda T. Amamilo
Scott T. Ashby
Dominic M. Carucci
Mario M. Cava
Angela L. Humphreys
Kurt E. Kruckeberg
Collette C. Leland
Renée McFarland
Douglas A. Pierce
Isham M. Reavis
Scott E. Snyder
Gregory R. Tolbert
Randy J. Trick

NWLawyer Advertising
Display Ads (call or email for specifications and rate sheet), Announcements (1/4 page=$250; 1/2 page=$450), and Professionals ($50 per copy inch): Contact advertisers@wsba.org or 206-498-9880.
Classifieds: Advance payment required. See classified pages for rates, submission guidelines, and payment information. Questions: email classifieds@wsba.org.

Contact Information
WSBA SERVICE CENTER
800-945-WSBA (9722) | 206-443-WSBA (9722) | questions@wsba.org
WSBA Ethics Line (for lawyers only): 206-727-8284 or 800-945-9722, ext. 8284
WSBA Lawyer Services (for lawyers only): 206-727-8268 or 800-945-9722, ext. 8268 — Lawyers Assistance Program; Law Office Management Assistance Program
WSBA Website: www.wsba.org
NWSidebar, the WSBA Blog: blog@wsba.org; http://nwsidebar.wsba.org
NWLawyer: nwlawyer@wsba.org
NWLawyer CLE Calendar: cecalendar@wsba.org
NWLawyer Online: http://nwlawyer.wsba.org

Submission Guidelines
NWLawyer relies on submissions from WSBA members and nonmembers that are of interest to readers. Please contact the editor if you have questions about your submission or to discuss a topic for an article. Send articles to nwlawyer@wsba.org. Articles should not have been submitted to any other publications and become the property of the WSBA. Articles typically run 1,500 words. Citations should be incorporated into the body of the article and kept to a minimum. Please include a brief author’s biography, including contact information, at the end of the article. High-resolution graphics and photographs are requested. Authors should provide a high-resolution digital photo of themselves with their submission. The editor reserves the right to edit articles as deemed appropriate. The editor may work with the writer, but no additional proofs of articles will be provided. The editor reserves the right to determine when and if to publish an article. NWLawyer is published nine times a year (FEB, MAR, APR/MAY, JUN, JUL/AUG, SEP, OCT, NOV, DEC/JAN) on or about the first of the month. The current circulation is approximately 31,000.
The (tech) times, they are a-changin’

This communiqué is coming to you from my living room couch, where my laptop computer and I are connected to the outside world via Wi-Fi. Within arm’s reach are a smartphone, two TV-related remote controls, a tablet computer, and a video game controller. About the only thing in the room made entirely from natural materials and not controlled by a microprocessor is my cat, Kitty Bob, who is watching birds outside the window.

By contrast, when I graduated from college in 1981, the communication technology at my disposal consisted of a landline telephone I shared with two roommates, a then-state-of-the-art Canon AE-1 film camera, and a battle-tested IBM Selectric typewriter that weighed about 40 pounds and shook the room when I hit the return key.

When I got to the University of Washington Law School seven years later, cellphones existed but were still in their primitive infancy. Meanwhile, we got maybe a day or two of instruction in online legal research but otherwise buried our noses in the mountains of dusty reports, supplements, pocket parts, indexes, and treatises at the law library. As I sit here today, I literally cannot remember the last time I set foot in a law school library. The most helpful legal document template I’ve found in the past year was something from a Florida court that popped up not on Westlaw or Lexis, but in a simple Google search.

I neither worship nor curse high technology, just as I neither worship nor curse lower technology, like the automobile or the chainsaw. Our species is distinguished by its advanced use of tools, but we each decide for ourselves whether to use them for good or evil.

Much has changed in our profession and in society over the past few decades. What hasn’t changed, and isn’t likely to, is people’s need for someone to help them navigate the ever-more-complex legal infrastructure on which our society is based. Regardless of whether they’re communicating with us via telephone, text message, social media, video conference, or old-fashioned face-to-face gabbing, clients are concerned with a few fundamental things: Is this lawyer honest? Is he or she paying attention to me and treating me with respect? Can this lawyer solve my problem or otherwise assist me in the best possible way? If I’m paying for this out of my pocket, does the price make it worthwhile for me to pursue this at all?

How we as lawyers can address these questions in the era of high technology while also making a living and maintaining our personal well-being is the subject of this special double issue of NWLawyer. We have a lot in store for you.

Mark Britton suggests that for the good of our clients and ourselves, we must rethink our natural disinclination toward things like allowing lawyers to share law-practice ownership and certain types of legal work with non-lawyers. Allison Peryea provides a fascinating profile of Seattle lawyer Lee Schindler, whose job it is to guide tech entrepreneurs through the thrillingly harrowing startup process. Autumn Johnson tells how young lawyers are using their familiarity with technology to overcome experience-related career obstacles, while Denise Lukins provides tips and tricks for using one particular piece of popular technology, the iPad, to power your litigation practice. And Vi Duong runs down 10 tech-related lawsuits that have rocked our world, starting with United States v. Microsoft, the Ali v. Frazier of tech litigation.

Dan Lear introduces us to nine young tech companies that are developing astonishing products and services for lawyers, including research, analysis, and communication tools that were inconceivable even a couple of years ago. Isham Reavis explains how small litigation firms are leveraging advanced information technology to look and perform like much larger firms. Learn how blazingly fast computers and finely tuned software can find the evidentiary needle in a haystack of data in no time. My mom used to tell me to always wear clean underwear because you never know when you’re going to get run over by a bus (and you don’t want the coroner to see you in dirty underwear, I suppose). Now we worry about what’s going to be left in our email queues and browser histories if we get run over by a Google car. Trent Latta addresses the very real concern of how lawyers can ensure that their practice-related digital data is properly handled upon the lawyer’s death or incapacity.

I hope these and the many other articles in our tech lineup will make for excellent summer reading, whether on paper or on the screen of your favorite electronic device.NWL

NWLawyer Editor MICHAEL HEATHERLY practices in Bellingham. He can be reached at 360-312-5156 and nwlawyer@wsba.org. Read more of his work at nwsidebar.wsba.org.
CNA understands the potential risks lawyers face every day. Since 1961, our Lawyers Professional Liability Program has helped firms manage risk with a full range of insurance products, programs and services, and vigorous legal defense when it’s needed. As part of an insurance organization with over $60 billion in assets and an “A” rating from A.M. Best, we have the financial strength you can count on.

See how we can protect your firm by contacting John Chandler at 800-767-0650.

As part of the USI family, only Kibble & Prentice can offer you the benefits of WSBA-sponsored professional liability insurance. We are dedicated to handling the professional insurance needs of Washington State lawyers.

www.lawyersinsurance.com
Redefining the Practice of Law

The wise man must remember that while he is a descendant of the past, he is a parent of the future.
— Herbert Spencer

The empires of the future are the empires of the mind.
— Winston Churchill

The Supreme Court authorized the creation of the Practice of Law Board a decade ago to stop rogue non-lawyers from practicing law. Because the WSBA has diligently and thoroughly investigated hundreds of unauthorized practice of law (UPL) complaints, spent slightly more than $1.4 million, and secured only five unauthorized practice of law criminal prosecutions, it may be time to reconsider another direction. In fact, I wonder if we are not completely backwards in our approach.

Maybe we should be opening the doors to legal service providers, tech startup companies, and investors. Maybe we should be writing new regulations, lowering barriers to entry in order to invite outside investment into the legal field. Maybe we should be looking for new business partners in order to create better access to the law and more affordable legal services. This might all make sense in today’s economy.

As lawyers, our specialty is the law and in this arena we are the experts. But when it comes to developing innovative methods to change business models, building new apps, creating new software, building tech startup companies, and driving investment to spark growth, we are not the experts. In these areas, we need business and tech partners to grow forward, expand cash flows, and offer meaningful access to millions of unserved and underserved citizens.

Even if we had the expertise, we don’t have the money (or maybe the desire) to invest in the future of the profession. Without fresh capital investment, innovation and growth stall and the status quo prevails.

For these reasons, the legal profession has historically not attracted the attention of venture capitalists or any other significant investors. Additionally, UPL regulations have been a barrier to entry and given little hope for a lucrative market for non-lawyers.

Those who have tried to enter the legal market have been met with UPL lawsuits. For example, LegalZoom provides online access to legal forms at prices far below the cost that a lawyer could deliver the same form to a client. As a result of its entry into the legal market, it has faced UPL lawsuits in Alabama, Ohio, Arkansas, Missouri, North Carolina, and South Carolina.

Recently, in one LegalZoom lawsuit, the South Carolina Supreme Court’s settlement order recognized that “the sale of blank legal forms is not the unauthorized practice of law and their sale in South Carolina is permitted.” There have been similar results in the litigation in the other states. UPL lawsuits are no longer maintaining the barrier to entry they once did. As testament to this fact, LegalZoom continues to offer online services in 50 states.

Because of the new financial success of companies like LegalZoom and Rocket Lawyer, to name a few, the legal services market is now attracting the
attention of the outside business world. Significant inroads have been made by online companies to enter the markets once dominated by lawyers. As a result, the market environment is shifting without our control.

According to Tech Cocktail, a media company covering startups, in 2012 venture capitalists invested a modest $66 million in legal service startups (not law firms, just law). In 2013, the level of investment skyrocketed to $458 million.

The current legal services market now offers many necessary ingredients to continue attracting outside companies and investors. There is 1) a vast untapped legal services market that 2) may be as large as 85 percent of our low-income and moderate means (middle-income) citizens which 3) may be worth billions of dollars nationally, and 4) is not being serviced by lawyers. As a result, there is very little competition for market dollars right now. These factors and others have led to increased investment from non-traditional sources and increased market penetration by legal service companies.

However, legal regulation like UPL remains a limiting barrier and a disincentive to innovation and investment from those outside the legal field. Remove this barrier and we open the floodgates to innovation, investment, and unprecedented growth in the legal industry.

There are those like myself who believe that, with increased investment, improved technology, greater online access and support, legal startup growth, new business structures, and new legal partnerships, the cost of delivering legal services would make legal services available to those unable to afford them previously. In other words, the opportunity for access to justice for everyone could be a reality.

We as a profession retain the power to self-regulate and that is a big deal. The power to enforce the unauthorized practice of law and to require a license to practice law provides us opportunities and risks.

If we continue to use our power to remain purely protectionist, then we cannot expect to hold our market. Indeed, this path is showing signs of failure now against online legal services.

If we modify our regulation and choose our partners and investors, then we can expand our profession, grow our market, and provide greater access to justice for the poor and middle class than we ever have before.

So, spend another million dollars attempting to enforce UPL regulations or spend our collateral leveraging the evolution of the legal profession to unprecedented growth and secure meaningful access for our citizens? It’s worth thinking about.

We are pleased to announce Michael McCormack has joined Tousley Brain Stephens

Michael joins our team of superb lawyers and business advisors with a reputation for solving complicated problems throughout the Pacific Northwest and around the country.

NOTE


WSBA President Patrick A. Palace practices in Tacoma. He can be reached at patrick@palacelaw.com or 253-627-3883. Follow him on Twitter: @palacelaw.
Digital Immigrants vs. Digital Natives
Who’s the Tech Generation?

I am a digital immigrant. I went off to college with a new suitcase and typewriter in hand. I not only have seen an 8-track tape, I had friends with 8-track tape collections. By comparison, some kids today have never seen a CD — it’s all MP3s for them. My eight-year-old daughter excitedly held up an iPod cover at one those kiosks in the mall recently and said, “Mommy, I want this one!” I asked her if she knew what the image on the cover was and she confidently exclaimed, “A radio!” It was designed to look like a cassette tape. No, she’s probably never seen a cassette tape. Yes, she’s a digital native.

There has been much written in the last decade or so about having four generations in the workplace for the first time. Digital natives tend to be Gen Xers and Millennials who grew up with a mouse in hand; the Traditionalists and Baby Boomers are digital immigrants (see above reference to typewriter and suitcase). We know that more than 50 percent of the WSBA membership will transition out of the practice in the next 10–15 years, so what will it look like as the Gen Xers and Millennials begin to take center stage?

First, it might be helpful to get a snapshot of the five generations currently alive. Of course these descriptions are broad generalizations, but they begin to help orient the generations to each other and ourselves to each generation.

The Great Generation
Members of the Great Generation were born between 1901 and 1924. Key events that shaped this generation include: Born in high times, experienced the Great Depression, watched the New Deal take shape, fought and won World War II, and came home to build the strongest economy in history while also giving birth to the Baby Boomers.

The Baby Boomers
Born between 1946 and 1964, the Baby Boomers are the largest generation in the history of the U.S. Key events that shaped this generation include growing up in an era of huge social change (e.g., the Civil Rights Movement and Women’s Rights), but in a wealthy nation, often overindulged by their parents. Because of the Cold War, Boomers, until they were well into their adulthood, lived in a world that might be snuffed out in a day. They were the first generation in nearly 200 years to rebel openly against the government, and nearly every social, scientific, and cultural institution underwent significant change during their adolescence.

Key values are optimism, cynicism about institutions, competition, focus on career, and endless fun, sense of entitlement, and a desire for work-life balance.

The Traditionalists
(or Silent Generation)
This generation was born between 1925 and 1945. Traditionalists were shaped by many key events. Most of this generation missed serving in World War II, but lived through it as children and adolescents who matured in the 1950s. They grew up with a military draft, came of age during the tension of the Cold War, experienced a long period of social stability and family unity, and then experienced significant disenchchantment when the Vietnam War and the Watergate scandal challenged their core beliefs about authority. Over 40 percent of the men in this generation served in the military, and they believe in top-down control and centralized decision making.

Key values for this generation are loyalty, self-sacrifice, stoicism, faith in institutions, and intense patriotism. The critical technological change in their lives includes the spread of private automobile ownership, the use of early office “machines,” and massive industrialization.

Generation X
Born between 1965 and 1980, the key events shaping this generation include images of the American troops fleeing Vietnam, Watergate and Nixon’s resignation, the Jonestown massacre, AIDs, the Exxon Valdez spill, the space shuttle Challenger explosion, and being the first latch-key kids. The key values that developed as a result are independence, self-reliance, desire for stability, informal, fun, sense of entitlement, and a desire for work-life balance.

The critical technological changes in their lives are the rise of the personal computer, cable TV, microwaves, and video games.
Millennials (sometimes called Generation Y)

Born between 1981 and 2002, the Millennials are almost as large in size as the Boomers. Children of the Boomers, they are the first generation born into a true high-tech society and are hardwired to the Internet. They are civic-minded, even more than their parents, and have a value structure that includes lifelong learning and work-life balance. More than any other American generation, they are wired for collaboration and for working in groups.

Their key values are work-life balance, confidence, social commitment, complete comfort with technology, networking, realism, and superb time management. The critical technological change in their lives was the connection between the personal computer and the Internet, accented by the rapid pace of technological advances and innovation. They are connected.

Bar association leadership over the last 5 to 10 years across the nation has been discussing these generational changes: What does it mean for association membership and what does it mean for the profession? I’m heartened most by the Gen Xers and Millennials desire for work-life balance. When I served as assistant dean at the University of Washington School of Law, I heard from many older alumni that they wished they had spent more time with their kids growing up. By using technology to access their work, Xers and Millennials have helped all of us learn that we can get our work done and not be tied to the office.

The other big discussion among bar leaders has been about Xers and Millennials not being “joiners.” In other words, they don’t join the local bar because “that’s just what you do,” rather, they seek value and ways for meaningful engagement. Interestingly, I don’t think this characteristic means they aren’t joiners — it just means they join based on other criteria. These generations have been described as project-oriented. Give them a meaningful project to engage in and they are the hardest workers at the table, and they’re the first to sign up for the next project when it comes around.

While some look at the mix of generations as a challenge, I think it brings a wonderfully rich mixture into the fabric of our work and culture. Technological advances over the decades have clearly helped to shape each generation, and I think we digital immigrants have benefited greatly from the technological prowess of the digital natives. The real question, it seems, is what technological advances await us and how will they shape the next generation and our profession?

Paula Littlewood is the WSBA executive director and can be reached at paulal@wsba.org.

NOTE
Since our company’s inception in 1980, NAEGELI Deposition and Trial has offered the highest level of litigation support services to the legal community. We utilize only the most qualified professionals to assist you and your client at every stage of the legal discovery process.
The WSBA is currently developing its FY15 budget and analyzing 2016 license fee options. We’re often asked about the process and what it entails. Below are some additional details that you may find helpful.

Developing the FY15 Budget
The WSBA budget is a policy document and management tool that allocates funds to fulfill our regulatory responsibilities and support our members in maintaining success in the practice of law. Each year, we work to build a fiscally responsible budget designed to meet the needs of our members in a diverse, rapidly changing profession. We set budget parameters based on current and multi-year projections of revenues, expenses, and reserves; we look closely at programs, operations, and resources to see what is working and what isn’t.

Through this process, we made a number of changes over the last several years. We laid off staff, cut staff expenses, reduced board meetings and related costs, implemented a management reorganization, replaced the young lawyer division model with a more cost-effective and integrated strategy for supporting new lawyers, and implemented other cost-saving measures. We increased our capacity to perform regulatory functions more efficiently through the use of technology. We also introduced and expanded needed programs, including: financial accommodations through the WSBA Hardship Option and Payment Plan; employment tools (Job Target website and Job Seekers Group); free benefits, including the Legal Lunchbox CLE series, Casemaker (legal research), and WSBA Connects (member assistance program); new lawyer education and support (free and low-cost seminars and resources); Public Service programs (Moderate Means and Call to Duty); and webcast educational programs and forums, connecting members statewide.

In developing the FY15 budget, we are continuing to look at cost-effective ways to support members as the practice of law continues to change. Among other things, we believe that modest investments in technology will increase our efficiency and enhance online resources for you.

Setting 2016 License Fees
License fees are the major source of funding for WSBA programs and operations, historically supporting 75 percent of this work (other revenue sources include investment and interest income; donations from the Washington State Bar Foundation; fees related to mandatory CLE, regulatory, and member services; advertising and sponsorships; recovery of discipline costs; and reimbursement from sections).

The 2012 license fee referendum arbitrarily reduced license fees to the 2001–02 level, without regard to the actual cost of programs and services.
Brian J. Kelly is a WSBA governor and the WSBA treasurer. Both a lawyer and a certified public accountant, Kelly is a principal in the Chehalis law firm Hillier Scheibmeir Vey & Kelly P.S., where his practice focuses on business, tax, real property, probate, and municipal law, with an emphasis on business succession and estate planning. He can be reached at bkelly@localaccess.com.

This year, license fee revenue will only cover 64 percent of programs and operations. We have been able to cover the shortfall by increasing operational efficiencies, expanding non-license fee revenue, and using WSBA’s diminishing reserves.

We strive to provide you with meaningful value for your license fee. The cost to practice law in Washington (including the $30 annual Supreme Court assessment for Lawyers’ Fund for Client Protection) is lower than nearly all other jurisdictions in the western United States, as shown in the chart above.

Moving Forward
We are proud that efficiencies and prudent use of reserves have enabled us to keep fees at the 2001 rate for three years — through 2015 — while continuing to deliver value to the WSBA membership and maintain a high level of regulatory effectiveness.

However, the cost of doing business is much higher than it was in 2001 — and our reserves are diminishing. As the Bar’s fiduciaries, we must set license fees at a level that enables us to continue to meet our regulatory obligations, advance our mission, and provide value to you at reasonable cost. To continue to support our obligations to the public, to you, and to the profession, we will be considering increased license fee options that would be effective beginning in 2016. The Board of Governors will take up the FY15 budget and 2016 license fee for initial consideration in July and action in September. We will keep you informed about our deliberations and welcome your input. NWL
Put 31 years of experience in your client’s corner . . .

Fox DUI Defense

Your referrals are appreciated and handled with care.

- Co-Author, Defending DUlS in Washington State (Lexis Nexis Publishing)
- Presenter to judges at DUI regional seminars regarding DUI law and technology
- Featured speaker at DUI defense seminars in eight states
- Founding Member, Washington Association of Criminal Defense Lawyers (1987)
- Founding Member, National College of DUI Defense (1995)
- Litigator and counselor for clients from all walks of life including workers, executives, and professional athletes


Brewe Layman, one of Washington State’s preeminent family law firms for matters involving significant or complex estates and business/professional practice issues, prenuptial agreements and the litigation/resolution of marital and living together predicaments.


Brewe Layman, Kenneth Brewe

Locations in Seattle, Everett, and Mount Vernon

425.252.5167 p
brewelaw.com
ACCOUNTABILITY.

Chemnick | Moen | Greenstreet
Medical Malpractice. It’s All We Do.
155 NE 100th St., Ste. 400 | Seattle, WA 98125 | 206-443-8600 | www.cmglaw.com

Why Do This? When You Can Do This?

Beginning NOW through Sept. 14, 2014 take advantage of saving time, hassle and a stamp by saying “YES” to paperless license renewal.

Whether you’re already doing online renewal or you’re ready to give it a go, say yes today and save your mail carrier the hassle of delivering that bulky paper packet in the fall.

Say “YES” to paperless license renewal by Sept. 14 and we’ll send you an email reminder in the fall when it’s time to renew online.

The time is NOW! Log on to myWSBA.org today!
When it comes to using technology, it appears that common sense is a lot like Bigfoot. You hear people talk about it, but you don’t invest your own money looking for proof.

The legal profession and the practice of law — like many other professions and businesses — are undergoing profound transformative changes driven, in large measure, by rapid technology changes. Most lawyers will be impacted, including large multi-office firms who face greater competition for their services, small firms and sole practitioners who lack in-house IT staff but must file electronically and connect with clients, in-house counsel who face increasing cost pressures to rationalize their legal spending, and litigators who must address age-old disputes with the rules of civil practice and the modern realities of stored electronic information.

Before identifying some of the myriad ways in which lawyers can get into trouble with technology (as well as offering a few practical suggestions), let’s first scope the opportunity.

• As of 2012, every day, people create 2.5 quintillion (yes, that’s a word — just add 18 zeroes) bytes of data;¹
• It is estimated that 90 percent of the data in the world today has been created in the last two years;
• Collectively, each day, people send approximately 145 billion email messages; and
• A great deal of this data either is stored on a mobile device or may be accessed remotely.

In short, there is a lot of electronic information out there that lawyers, along with almost everyone else on the planet, store, access, and use. Of course, that also means there is no shortage of opportunities for things to go horribly wrong. For example:

• Companies’ IT systems are attacked an average of two million times . . . per week;²
• Annually, travelers lose thousands of mobile devices at U.S. airports, including laptops, mobile phones, and portable data drives;³ and
• According to a recent study by a mobile security company, every 3.5 seconds, someone in America loses a cellphone.⁴ Usually, it occurs in a coffee shop. And if you live in Seattle, well, it stands to reason that it’s the number-two city for lost cellphones.

What to Do?
What is a lawyer to do? Well, according to the ABA Commission on Ethics 20/20 report in 2012, there are a couple of things.⁵

First, lawyers who wish to be considered competent (presumably, that’s most of us) should “stay abreast of changes in the law and its practice, [which] includes understanding relevant technology’s benefits and risk.” This doesn’t mean that lawyers must have a computer science degree. It does, however, mean that you cannot turn a blind eye to the technology-driven global economy; rather, lawyers must “remain competent in a digital age.”

Second, lawyers who wish to be considered ethical (again, presumably that’s most of us) should “take reasonable measures to protect a client’s confidential information from inadvertent disclosure, unauthorized disclosure,
and unauthorized access, regardless of the medium used.” Lawyers, of course, are not required to guarantee digital security, but should take into consideration whether their information technology provides protection appropriate to the risk and the data entrusted to (or created by) them.

Today, in the 21st century (and more than half a decade past the introduction of the iPhone), attorneys must address the obvious tension between safeguarding client data and confidentiality on the one hand, and the business realities of data mobility and security on the other. For example, while technology is ever more ubiquitous and enables mobility, carries the potential for easier client communication, and places enormous resources into the palm of an attorney’s hand, it also escalates the risk that data (including client confidences) can be compromised — e.g., theft (hacking; stolen devices); loss (lost smartphone or tablet); and carelessness (unsecure connections; free email accounts where data is mined; corrupted via virus).

How to Get Into Trouble with Technology

Like anyone else, lawyers have a variety of ways to create trouble with technology. Space limitations preclude an exhaustive list, but the following examples are illustrative.

Email. Perhaps because of its easy availability, immediacy, and casualness, email continues to provide a target-rich environment for trouble. In the recent criminal action against certain leaders of the Dewey & LeBoeuf LLP law firm, the 106-count indictment references email messages alleged to provide evidence of concocting a scheme to cover a financial shortfall. One email bragged, “We kicked ass! Time to get paid.” Little wonder why the prosecutors included that. What is a mystery, however, is why anyone would write and send such an email.

Altering Documents. The advice that many parents use with their toddlers — i.e., “just because you can, doesn’t mean you should” — is also useful for attorneys. It should go without saying that altering documents and email messages — used in court — should have mental alarm bells going off. Not always. In King County Superior Court, a case had to be stayed while a party sought new counsel after their attorney acknowledged that he falsified a memo and emails before turning them over to plaintiffs in a nationwide class-action lawsuit. Similarly, this spring, U.S. District Court Judge Lewis Kaplan, in a 500-page opinion, blasted a legal team (who previously had “won” a $19 billion judgment in an Ecuadorian court) for their “egregious fraud” which included ghostwriting “independent reports.”

Cellphones. It’s not 1990. We know you have a cellphone — it’s probably even a smartphone — with a quirky ringtone. But do you really need to take it to court to field your calls? Before mobile phones, would you ever have considered dragging a landline around with you and plugging it in regardless of where you happened to be? Increasingly, judges are getting fed up with cellphones in the courtroom and are sanctioning attorneys when their phones ring.

Zombie Counsel. Clients — just so you know — don’t like to be represented by zombie counsel. Quite the contrary. Clients expect their counsel to be present . . . in the moment. That means, quite
often, that you should resist the temptation to mentally check out of meetings or court hearings to check your email, text messages, stock portfolio, or social media posts. While some may think that such behavior makes you seem busy or important, more seasoned clients (and counsel) will recognize you as a zombie counsel — there only physically and, during meetings, having an undue fascination for staring at your lap and making faces . . . er, checking your email on the sly. Some leaders now insist that meetings be device-free simply to ward off the zombies and actually get things accomplished efficiently.

**Identity Theft.** It does not matter if you are a lawyer. Lying (er, “pretexting” for those with professional degrees) to obtain records is not only poor form, it increasingly is illegal. For example, a pretexting scandal at Hewlett-Packard in 2006 (which was designed to obtain telephone records of HP board members) implicated the highest levels of the corporation, including its chairwoman and its general counsel, both of whom resigned.

**Gadgets.** There are many differences between super-spy James Bond and lawyers. While he has a license to kill, you have a license to practice law. Which you can lose. As counsel — subject to the Rules of Professional Conduct — you will want to remain mindful of these differences. Just because you have the ability to use technology and deceive people doesn’t mean it is prudent. Washington’s Court of Appeals recently ruled that Washington’s anti-SLAPP act does not protect a law firm and its attorneys who transcribed telephone calls with an opponent’s former employee without his knowledge from possible liability for invasion of privacy.9

**Social Media.** Hopefully, this is not news: People (including opposing counsel) read your Internet postings. That seems obvious, but counsel and their clients need to be mindful of that reality. Recently, a single Facebook post cost a family $80,000 when, following the post (which evidenced breach of a confidentiality agreement), a Florida court tossed out a settlement agreement. In that case, the daughter of the plaintiff took time to post that her parents “won the case against Gulliver. Gulliver is now officially paying for my vacation to Europe this summer. SUCK IT.”10

**Data Theft.** The conventional wisdom is that bank robbers rob banks because that’s where the money is. For at least a generation, however, some criminals have figured out that law firm data also is where the money can be found in the form of deal data. In one case, it appears that the Chinese government may have targeted several Canadian law firms in an apparent effort to derail a $40 billion acquisition.11 In another, a firm’s managing clerk is alleged to have accessed inside information about the firm’s clients as part of an insider-trading scheme.12 Also, it recently was revealed that hackers working for the Chinese military targeted one company for information useful in ongoing litiga-
tion. Failure to secure such data from malicious employees, cyber-attacks, or carelessness can cause drastic reputational damage as well as liability.

**Practical Suggestions to Reduce the Opportunity for Trouble**

Notwithstanding the large number of opportunities for trouble with technology, there are practical ways to reduce your risk. Again, these examples are not meant to be exhaustive. We’ve divided these tips into four categories.

**CLIENT DATA**

Lawyers and their staff — on a daily basis — often deal with vast amounts of confidential or sensitive information. It used to be that the physical form of the data imposed obvious transaction costs that tended to minimize the potential for loss, theft, or corruption. However, digital data — which is now the vast majority of client data — is mobile and readily recordable at astonishingly low costs. Accordingly, the risk for loss, theft, or corruption is substantially greater and continues to grow. Client data and firm data, need to be safeguarded from loss, theft, and corruption. There are practices to address these risks:

**Minimize.** Obviously, you have no obligations for data you do not have. But because lawyers tend to squirrel away data, and online data tends to stay online forever, this strategy has limited application. But for those who wish to reduce risk and minimize security costs, it’s an option. Your records management practice should be disciplined and cognizant of changing technology.

**Protect.** Okay, you’re not going to minimize. We get it. Fortunately, there are strategies to reduce risk to the data that you retain:

- Use firewalls, current antivirus software, strong passwords, and other security measures.
- Practice safe data disposal — e.g., remove hard drives and memory devices from scrapped, sold, or swapped devices.
- For off-site data (e.g., cloud computing), use reputable providers, with robust data security and redundancy practices (and insurance).
- Back up your data — including the easy stuff such as networked computers as well as your mobile devices.
- Password protect sensitive documents and encrypt confidential information.

**MOBILE DEVICES**

Mobile devices (e.g., laptops, tablets, smartphones, data drives) and data mobility are inextricably connected. These

---

In 1994, 800,000 people were slaughtered in 100 days in Rwanda. Twelve years later, the United Nations was still sorting out the legal issues involved in this genocide. I was privileged with a clerkship at that tribunal. My involvement at the UN confirmed my **Passion to Fight Injustice.**

But injustice isn’t always massive, and it can happen anywhere. I recently defended someone falsely accused of domestic violence. At trial, the complaining witness took the stand.

My rigorous cross-examination proved the entire story was a lie. The judge called a recess. The prosecution dismissed the case. After months of hardship, my client got justice.

*DEMETRI HELIOTIS*

Attorney at Law

---

1-800-DUI-AWAY  •  Seattle  Everett  Tacoma
As the number of cyber attacks increase overall, there is nothing to indicate law firms are immune; in fact, some consultants now see professional firms as likely targets for cyber attacks.

devices, which enhance productivity, also present obvious risks. Accordingly, you will want to use security measures and data protection strategies:

**Security Measures.** Password-protect all mobile devices. Use encryption tools for sensitive communications.

**Data Protection Strategies.** You should minimize data storage on mobile devices and:

- Install and utilize data wiping technology to help manage risks pertaining to lost/stolen devices.
- Consider partitioning smartphones to segregate business and personal data and apps.
- Use tracking software to locate the device once it is connected to the Internet.
- Preclude installation of applications that may create security issues.
- Regardless of the temptation, don’t use your laptop (and its sensitive client information) as payment collateral with an alleged prostitute.
- Use a firewall to reduce unauthorized access.

**DATA BREACH RESPONSE PLAN**
As the number of cyber attacks increase overall, there is nothing to indicate law firms are immune, in fact, some consultants now see professional firms as likely targets for cyber attacks. While reducing vulnerabilities is important, law firms — like other businesses — also need to figure out how to respond to a breach.

**Start (and End) at the Top.** Make sure your organization’s leaders are aware of the risks associated with potential breaches. Educate them about best practices, your response plan, and provide periodic updates.

**Know What Information You Have.** Learn what is stored (personal information, health information, client trade secrets), where it’s stored (on premises, cloud), how it’s stored (encrypted or not), and who has access to it (internal IT, subcontractors, service providers). Answers to these questions will help inform the details of your plan.

**Identify Response Team Members and Roles.** Establish a team leader and specific members from different teams within your organization.

---

**The power of difference**

Legal expertise. Business acumen. **Neutrals like no others.**

With a panel of nearly 300 full-time neutrals, we set the standard in mediation and arbitration. Impeccable credentials backed by rigorous training and our proprietary processes provide us with an understanding of underlying issues that others often overlook. Solving complex legal challenges isn’t something we just happen to do—it is in our DNA and has been for 30+ years. That’s the JAMS difference—one that’s impossible to replicate.

Resolving Disputes Worldwide

800.352.5267
www.jamsadr.com
(executive, IT, HR, communications) and outline their responsibilities beforehand. For smaller organizations, consider selecting, after appropriate due diligence, an outside consultant in advance to perform tasks that can’t be staffed in-house.

**Practice, Practice, Practice.** Having a plan is a good first step. Making sure everyone with a role to play knows what to do and how to do it is the next. Regularly test your plan and consider, if you have the resources, inviting third parties to conduct an audit.

**BEHAVIOR**
Technology consultants will tell you that users don’t properly evaluate technology risks (e.g., hard drive failure) until an event occurs, at which point they over-value the risk. Which is to say that individual behavior is difficult to manage and, quite often, is your biggest risk.

**Educate.** Those same technology consultants will tell you there is no firewall for stupid. Stated more kindly, you don’t know what you don’t know. The same is true for the people around you as well as your clients. You should make it a priority for you and your clients to appreciate the advantages as well as the risks of utilizing various technologies in your practice. Accordingly, you should consider:

- Regularly educating your staff and clients. A little bit of knowledge goes a long way — e.g., email guidelines, and data security best practices. As with data breach plan testing, this training should be an ongoing activity.
- Regularly update computer operating systems with the latest security protection or risk leaving a vulnerability in place for hackers to exploit, as was recently revealed at the Oregon Secretary of State.\(^{15}\)
- Alert clients to the risk that forwarding your legal advice or updating their blog postings with it may waive the attorney-client privilege.
- Remind clients that — even though convenient — communicating with you on someone else’s equipment (e.g., the employer they may be asking you to sue) entails risk.
Use Common Sense. Unless you are a reality television star, data leaks don’t create value. Therefore, you will want to exercise common sense.

• Use private networks. Although handy (and free), public Wi-Fi lacks security for your mobile data.
• Avoid communicating with “free” email services and use encryption for sensitive information.
• Avoid third-party computers that may have key logging or viruses (e.g., the hotel business center).
• Use caution — e.g., thumb drives (even new ones) may come with pre-loaded malware. Don’t connect them to a device that does not have current anti-virus software.
• Scrub metadata before distributing documents.

Shift the Risk. As with any transaction, deal terms involving firm or client data should not be limited to price and a service description.

Try to avoid click-through agreements. Not surprisingly, these are not pro-consumer terms. Look for cloud service providers or third-party resellers who are willing to accept some risk for storing sensitive data.

Obtain cyber liability insurance (generally speaking, your comprehensive, umbrella, and E&O insurance likely will not cover cyber liability issues).

Stay Aware

Today, we’re half a generation removed from the chatter about whether communication by cellphone or email-waived attorney-client privilege and what, precisely, needed to be included in sometimes shockingly long facsimile and email notices and disclaimers. The technology scolds notwithstanding, we’ve long left the days when one of the biggest risks to client confidentiality was leaving the file cabinet unlocked or leaving behind a deal sheet on a photocopier. Today’s technology enables users to have orders of magnitude greater data in their pocket . . . or left behind on a coffee counter. Accordingly, the need for common sense — and keeping abreast of technology — is even more urgent. NWL
Focused for 18 years on defending those accused of child abuse. No other Washington firm can match that record of dedication to child abuse defense.

WASHINGTON STATE INJURY ATTORNEYS
Tacoma Office
5316 Orchard Street West
Tacoma, WA 98467
tel: (253) 472-6000
www.messinalaw.com
toll free: (800) 992-9529
fax: (253) 475-7886

Seattle Office
2025 First Avenue, Suite 1130
Seattle, WA 98121
tel: (206) 838-6000

Attorneys
John L. Messina
Stephen L. Bulzomi
John R. Christensen
Jeremy A. Johnston
James W. McCormick
Gemma N. Zanowski

Up against an auto insurance powerhouse? Let MBC assist you.

- $3 million settlement for death of an adult male and severe brain and orthopedic injuries to a small child.
- $2.7 million settlement for paralysis to a 27-year-old client in truck vs. motorcycle collision.
- $1.2 million verdict for brain injury to a young woman.
- $750,000 settlement for death of a teenage boy due to negligence of the driver of car in which he was a passenger.

MBC knows how to meticulously evaluate every detail pertinent to vehicle collisions to determine fault. We can help you find the justice your client deserves.

When DUI means CPS

The law now requires an officer making a DUI arrest to notify Child Protective Services if a child is in the car. We can help you and your clients defend against CPS – by referral, association, or consultation.

Law Offices of David S. Marshall
206.826.1400 • www.ChildAbuseDefense.pro

NOTES
An idea, that’s where it starts.

Lee Schindler is a young partner in Perkins Coie’s Emerging Companies & Venture Capital practice in Seattle. He counsels technology companies from initial public offerings to going public and after. But he is often involved before a company even exists. Indeed, he says, there might not even be a product yet — only a shot of inspiration that could turn into something more.

“An idea, that’s where it starts.”

Lee Schindler is a young partner in Perkins Coie’s Emerging Companies & Venture Capital practice in Seattle. He counsels technology companies from initial public offerings to going public and after. But he is often involved before a company even exists. Indeed, he says, there might not even be a product yet — only a shot of inspiration that could turn into something more.

Advocate ... and Teacher

Schindler serves as corporate counsel to what are known as “high-growth” entities. These are companies that have the potential to “scale quickly,” starting from nothing but with the promise to generate or sell for millions of dollars in a short period. Despite the high-dollar amounts often at stake, Schindler’s clients are not typically members of the suit-and-tie crowd. Instead, the company founders he works with are more likely to show up to an important meeting dressed in hoodies, skinny jeans, and Converse sneakers. Often still in college or recently graduated, Schindler’s clients are typically more accustomed to dorm life than the business world, which means they face a steep learning curve when their companies are transitioning from idea to reality.

“Most of my clients are not people who have ever run a business before, or even been a part of a business,” explains Schindler, who advises clients on both legal and business issues. As a result, he does a lot of client educating: “We start with a discussion of the legal issues, such as the type of entity to create and how to allocate equity.” Standard legal issues involve questions concerning business organization, patents, trademarking, licensing, and employee and customer contracts. He gets assistance from his intellectual-property colleagues as needed.

Schindler represents tech clients who make things like software and consumer and social networking applications. He notes that most of these clients have a “software” element in what they produce or offer, whether...
A startup lawyer would “never write a 10-page legal memo,” says Schindler. “You send a bullet-point email instead. You have to understand the context of the client and the issue, and match the advice and service to that context.”

Hitting the Pavement

Though his job involves a good deal of document drafting, Schindler notes that only a fraction of startup attorney time is spent at a desk. “A lot of legwork is involved,” he says, since he and other startup attorneys attract and select clients by attending startup-focused networking events. Indeed, says Schindler, a major goal of a startup attorney is simply to “be out there.” For example, in Boston, Schindler held pro bono “office hours” at Massachusetts Institute of Technology and Harvard. During office hours, he held 30-minute meetings with students, “many of whom had no familiarity with business development.” His efforts in making businesses successful are not always focused on high-growth companies: Schindler was recognized by the Lawyers’ Committee for Civil Rights Under Law for his volunteer work at Boston-area legal clinics, at which he advised small community businesses locally owned by women and minorities.

A continuing task for a startup lawyer is keeping a full stable of clients. Notes Schindler, “We have to deal with high client turnover — we start the business, grow it, and then sell it, at which point the business ceases to exist or another attorney usually takes over representation.” The biggest source of clients for Schindler — who has led more than 100 companies through preferred stock financings — is through referrals, which can come from current clients, investors, and other service providers. Schindler also retains clients as more of his first-time founders become successful “serial entrepreneurs,” who continuously come up with new ideas and start new businesses.

“Investing” in Clients

Since startup clients — especially student entrepreneurs — often come to the table without the financial ability to pay a typical hourly attorney rate, choosing who to represent is typically a matter of spotting potential. “We view it as an investment decision,” says Schindler. “We look at the team and the business model, and look for a model where, if successful, it would scale big.” Investing in a client typically means entering into a deferred-fee arrangement, in which there is no attorney payment until the business is financed.

One helpful indicator of a company’s ability to “scale big” — and therefore qualify as a worthwhile “investment” — is whether the founders are already a part of a well-respected business incubator such as 9Mile Labs, a “high-tech accelerator” based in Seattle, which is focused on B2B (business-to-business) software and cloud technologies. “Just to get into the program, you must be a promising candidate,” says Schindler. “They have tremendous resources and a high likelihood to succeed.”

Once a client signs on, the first step is typically to “structure the entity in a manner that is familiar and will work for future investors.” Costs are reined in at the outset because a lot of the needed attorney work is standardized. “We usually help set up a Delaware corporation; we don’t have to reinvent the wheel,” says Schindler. Down the road, Schindler helps with growing the company, obtaining financing, navigating employment and investor issues, making introductions, and explaining and completing the sale process.

Even though a startup client may not pay a monthly bill, “the fact that we are deferring fees does not change expectations about the quality of service,” says Schindler. Meanwhile, startup clients present typical concerns regarding fee sensitivity. They also want information communicated quickly and efficiently. A startup lawyer would “never write a 10-page legal memo,” says Schindler. “You send a bullet-point email instead. You have to understand the context of the client and the issue, and match the advice and service to that context.”

Businesses Born in Boston

A core group of Schindler’s first technology clients came from Massachusetts Institute of Technology’s Media Lab, a cutting-edge research “laboratory” focused on projects that combine technology, multimedia and design. These days, he listens to teams practicing their investment pitches at Seattle business incubators such as 9Mile Labs.

One of Schindler’s notable clients that originated in Boston is Cloudant, a “distributed cloud service” provider that helps developers in creating mobile and web apps by storing a good
(and growing) chunk of the massive amount of Internet data created by users. Sample clients include Internet word game Words With Friends and Samsung’s streaming music service. Cloudant was founded by three student innovators at MIT, who were accepted by high-profile startup accelerator Y Combinator. The co-founders had backgrounds in physics and realized that their experience with building and running globally distributed systems to store one of the world’s largest data sets (from Switzerland’s Large Hadron Collider) made them well-suited to jump into cloud computing. The cloud market is predicted to grow to more than $100 billion annually by the end of the decade, making it both competitive and potentially quite lucrative.

The problem: “We had no idea what we were doing,” says Michael Miller, a Cloudant co-founder. “Without solid starting advice, we would have been dead.” Y Combinator and their first attorney helped create the company, and then Schindler—who took over when their first attorney left her firm—“was instrumental in the growth and acquisition phase,” said Miller. Schindler helped Cloudant expand “through the most legally intensive phase of startup, taking us from seven employees through 85 and two rounds of funding,” says Miller.

In March 2014, Schindler assisted in the sale of Cloudant to IBM for undisclosed financial terms. “I am not sure if any deal in the history of IBM has ever happened so quickly,” marvels Miller.

Other notable student-entrepreneur clients include Panjiva, a platform for international trade buyers and sellers to get information about trade activity. The CEO was a Harvard business-school student, and the chief technology officer was a Ph.D. student at MIT. Schindler started working with the company as a young associate. “We worked for six years through a multitude of rounds of financing in New York and Boston,” he recalls. “At the earliest stages, they were two students in grad school, and were more comfortable calling me as a second-year associate [rather than the partner who was involved]. We grew up together.”

Schindler also represents Mark43, which is developing “next generation law enforcement software” that began as a class project involving three Harvard undergraduates. Their idea sprang from “looking at new ways to take approaches to counter-terrorism used by the military in Afghanistan and apply them domestically to law enforcement.” The company raised $1.95 million in seed funding from backers in summer 2013.

Seattle Startup Storm
Since moving from Boston, Schindler has enjoyed the “positive energy” associated with the Seattle startup community. “It is not the scale of San Francisco or Silicon Valley,” he notes, “but more and more people down there are moving to Seattle, since those areas are too expensive and crowded.” These newcomers are keeping their contacts and clients from California, strengthening Seattle’s presence in the national startup scene. He compares Seattle’s
A Long Night (or Four) at the Office

While Schindler represents business entities, he notes that “there is a big difference in a schedule for a startup lawyer versus a corporate lawyer.” For one thing, Schindler’s representation of many small companies rather than a few large ones means his “timesheet has a lot of different clients in a day.” There is also that expectation to be “out

Smith Goodfriend, P.S.
CIVIL APPEALS

Available for referral or association in insurance coverage and bad faith appeals


contact Howard Goodfriend or Catherine Smith at Washington’s Appellate Law Firm
www.washingtonappeals.com 206-624-0974


EXPERT ANALYSIS AND TESTIMONY — ALL ASPECTS OF ATTORNEY’S FEES

As the Northwest’s “go to” authority on disputed attorney’s fees, Mike Caryl is available to provide expert testimony on all aspects of disputed attorney’s fees. Mike has given live and written testimony (before juries, the bench and in arbitrations) in over 40 litigated cases. Consult with Mike all aspects of disputed attorney’s fees:

Reasonableness determinations
Court awards of attorney fees
Attorney’s liens/foreclosures
Attorney terminations/substantial performance

Fee agreements/billing practices – RPC 1.5
RPC violations/discipline – fees
Breach of fiduciary duty – fees

Have an attorney’s fee issue? Call Mike.

MICHAEL CARYL
ATTORNEY | COUNSELOR AT LAW
200 First Avenue West, Ste 412, Seattle, WA 98119  206.378.4113  michaelc@michaelcaryl.com

tech community to Boston’s in size, but Seattle is notable for its major players such as Amazon and Microsoft. Boston, meanwhile, is known for the strong alumni who graduate from its wealth of universities.

A technology background is not required to succeed as a startup lawyer, says Schindler. But, when representing a tech client, startup attorneys do have to become well-versed in the company’s product or service. “You are expected to understand their business — not necessarily how it works, but what it does, and what’s unique about it,” he explains. However, Schindler does not spend all of his time submerged in the latest technology. “I use LinkedIn all the time, and Twitter daily,” he says. He also plays around with client apps to familiarize himself with them. But he admits that he still takes notes by hand on occasion.

Schindler’s law firm has also harnessed technology to efficiently push information and materials out to cash-strapped entrepreneurs. It created a startup “percolation” website (www.startuppercolator.com), which, for example, facilitates the automatic creation of documents to set up a Delaware corporation. It also maintains an active startup Twitter feed (https://twitter.com/perkinscoieecg) that is updated several times a day and aggregates articles and updates of interest to emerging companies and their attorneys. A recent post described “10 African startups that are driving valuable innovation,” for example.

Though he is routinely involved in top-secret projects and deals, Schindler says the ethical minefield is no more treacherous for startup attorneys than for other types of practitioners. “We do get approached by founders of ‘stealth’ startups, who are very cautious about sharing information,” he notes. “But the attorney-client privilege applies here, just as it would in any other situation.”

Representing emerging companies does require dealing with the recurring question: “Who is the client?” There is a “distinction between representing the founders and the company,” explains Schindler. “At the outset, the issues are largely aligned. The conflict arises when we are advising about investment in shares and things like that.” When issues come up about employment and compensation, Schindler says his team has to “remind the founders that we represent the company.” It is not unheard of for founders to get their own attorneys after a couple of rounds of financing are complete. It is, however, important to try to keep things amiable between co-founders. “Founder breakup is the number one reason that startup companies fail,” notes Miller, who has maintained strong friendships with his co-founders.
in the community” meeting with investors and others. “There are a lot of late nights — sometimes the whole day is spent at board meetings, then you go to the university to meet with students, and you do not get to your desk until seven or eight, when you have to start reviewing financing documents.”

Things get even busier when a deal is in the works. “At the end of the day, most clients get acquired, but it takes an all-out effort, sometimes more effort than for a big company,” says Schindler. Recalls Miller: “I think there was a period where [Schindler] left the house on a Thursday morning and returned Monday night” while working on the Cloudant-IBM deal. At one point, Miller says, the Cloudant team even sent lawyers to Schindler’s wife to let her know “how much they appreciated her husband’s hard work during crunch time.”

**Want to Launch a Startup — or Represent One?**

Though he has never been interested in launching his own startup, Schindler has advice for young people — including law students — who do: “Team up with students from the business school and the computer science department. Your company will probably fail,” he warns, “but it would be the best learning experience.” He also has a crucial tip for law students who are drawn to the role of startup lawyer: “The big thing is to learn the business side — there is a tremendous opportunity to connect as a peer with people launching businesses,” he advises. “Once you are a lawyer, there is more of a feeling that you are selling something. There is a different dynamic before you actually become a lawyer.”

Lawyers interested in representing startups should also keep in mind that startup clients look for a certain type of attorney: Someone who is willing and able to think outside the box, and to have a little fun while doing so.

**Lawyers interested in representing startups should also keep in mind that startup clients look for a certain type of attorney: Someone who is willing and able to think outside the box, and to have a little fun while doing so.**

A startup attorney’s job goes far beyond representing emerging companies: “The best way to learn the business side of a startup is to work as general counsel to the company,” Schindler says. “That extends to every portion of the business, including counsel.”

Startups also look for an attorney with the brains to make sure things happen the right way. Miller says that his company’s confidence in Schindler to get the job done correctly was paramount when growing and selling the business. “We had to be sure that we had a clean balance sheet, our IP was in the clear, and that we weren’t going to be snarled five years down the road by some stupid legal issue we got wrong because we didn’t know what we were doing,” says Miller. “Above all else, we knew that [Schindler] wasn’t going to let us screw up. Moreover, as first-time founders, it was critical for us to get perspective from somebody knowledgeable about what was ‘normal’ in many situations.”

**Up Close and Personal**

A startup attorney’s job goes far beyond the role of mere legal and business advisor. “These are once-in-a-lifetime events for most of my clients,” says Schindler. “There is a huge amount of emotion involved for the team.” Startup lawyers must usher their clients through extreme changes in their personal and professional lives. “It is so personal for these clients, it is not just a business transaction, it is their whole lives, their identity, their baby, their future,” says Schindler. “They are so emotionally invested, with competing interest and thoughts, and it puts a lot of pressure on you.”

Miller says, “We put big portions of our lives on hold, and also put our personal finances at risk. We did not take salaries for quite a long time, and that left us behind on certain things.” Schindler helped the Cloudant team “through the quiet realities of being founders,” Miller recalls.

Schindler maintains that the best part of being a startup lawyer is the relationships that are made. “When you help them solve problems, you are not just a service provider,” he says. “Some of my best clients are clients I have worked with.” Indeed, when Cloudant money was tight, Schindler helped Miller — who had recently learned that his wife was expecting twins — broker a “last-second” deal with a supportive board member to raise funds for a down payment on a new home for the Miller family. “That is just one small example of the impact that [Schindler] has had on my life,” says Miller.

The powerful emotions in play add to the pressure, says Schindler, but those involved say the stress is well worth it. “Startups are intense,” says Miller. “But they are also thrilling and potentially very lucrative, world-changing entities. That excitement extends beyond founders to the legal team.”

**Allison Peryea is an attorney at Leaky McLean Fjelstad in Seattle. She is the chair of the WSBA Editorial Advisory Committee and a member of the Judicial Recommendation Committee. She is a co-chair of the Washington State Community Association Institute Communications Committee. She can be reached at allison.peryea@leahy.com.**
Cowan Miller & Lederman

The Northwest’s premier business immigration law firm, providing quality immigration legal assistance to individuals, small businesses, emerging companies and established corporations and organizations since 1985.

Left to right: Kevin Lederman, Abby Loomis, Steve Miller, Pam Cowan, Felicia Gittleman, Kohei Yamamoto, Kate Lopez Ley

1000 Second Avenue #1620, Seattle, WA 98104
206-340-1033 | www.cmiseattle.com

Justice for Victims of Asbestos Diseases

Mesothelioma • Asbestos • Lung Cancer

THE NORTHWEST’S LEADING ASBESTOS LITIGATION FIRM
At Bergman Draper Ladenburg Hart, we have just one practice area; we represent families struggling with mesothelioma and other asbestos related cancers and diseases.

We are the largest plaintiff asbestos firm in the Northwest with over $500 million in recoveries for Washington and Oregon clients.

614 First Avenue, Fourth Floor
Seattle, WA 98104
(206) 957-9510

803 SW Broadway, Suite 2540
Portland, OR 97205
(503) 548-6345

www.bergmanlegal.com (888) 647-6007
I started law school in 2007, blissfully unaware of the looming economic recession that would change the face of the legal profession possibly forever. Since 2008, the practice of law has changed tremendously and many experts think it will never look the same again. Law firms are hiring fewer associates and more paralegals. DIY and eDiscovery services have created entirely new industries. What first-year associates used to do can now be outsourced to India.

It’s easy to get down about the changes or for post-recession law grads to get discouraged. But the truth is, when one door closes, another opens. Big Law may be in decline, but boutique law firms are on the rise. New lawyers are ditching the ladder for a nail and shingle. What used to be impossible for a new lawyer to manage is made doable by technology. New lawyers might have an uphill battle to gain market share from our bigger, more experienced competitors, but we have one major ally, technology.

Who Are We?
Who are millennials, anyway? We are the 75 million people born between 1981 and 2000. According to the Bureau of Labor Statistics, millennials will outnumber baby boomers in the workplace by 2015. Some of those millennials are new lawyers like me and what we lack in experience, industry recognition, or an established client base, we make up for by leveraging technology.

Leveraging Technology
Let’s start with costs. It used to be expensive to start a solo law practice. New lawyers needed an office, staff, furniture, legal books, etc. Now we just need a coffee shop, a laptop, and an Internet connection. Virtual law offices help keep new lawyers’ overhead low so we can either compete with our bigger competitors on price or stick it out until we have enough experience to turn the heads of potential clients. Online research tools have replaced those volumes of legal books — and
I don’t mean Westlaw or Lexis. I know those paid services aren’t a must-have, but I’d argue they aren’t even a luxury anymore. I have access to a staggering array of legal resources just through Google, and what I can’t find there, I get through Casemaker. I don’t even know what I would do with a volume of RCWs or case law.

The days of needing a big office downtown with staggering rent (plus utilities, phone, Internet, furniture, computers, etc.) are also gone. Some still cling to the idea that you need an expensive office to impress potential clients, but the clients have changed, too. Many clients don’t want to pay higher fees so they can use monogrammed paper towels in the bathroom, and if they do, those mega-firms are still available. Like millions of Americans, I work primarily from home. Clients appreciate that I make house (or office) calls. Some clients request to meet at coffee shops near their places of employment. When I’m not working from home, I work from a collaborative working space, which are popping up all over Seattle. I pay a fraction of what rent at a traditional office (even in an office share) would cost and get all of the amenities. These spaces include Internet, utilities, furniture, copy machines, printers, and even coffee and tea. They range in price from about $35 to $550 a month and come complete with conference rooms, event spaces, and an army of potential clients and colleagues. Many of my clients have actually been members of my collaborative workspace.

Many young solos like me also go without staff. I am comfortable with email and voicemail to get my messages (I even have a free phone number through Google Voice). But if a new solo wanted to get fancy, she could hire a virtual assistant, someone who answers calls without ever meeting face-to-face or becoming an employee. There are similar services for mail, service of process, etc.

Millennials aren’t just leveraging technology to cut office and research costs. We are also using it to attract customers. How can new lawyers get customers if we have limited experience and don’t know very many people to refer us cases? We get a web presence. It is shocking how many of my clients just found me on the Internet, but even if that wasn’t the goal, most prospective clients will want to easily be able to look me up, so my online footprint is critical. A web presence allows me to be found once someone has heard of me or been referred to me. In an age when everything can be rated and reviewed online, lawyers are no exception. Avvo, Yelp, Angie’s List, and the like are changing the way consumers make decisions.

SEO and You

New lawyers are using the Internet and social media, in particular, to get found, establish a brand, and build a reputation. I have gotten multiple clients just through Avvo or Yelp. Generally, I have accounts on every free social media platform available except those that are video- or image-based, since a law office isn’t particularly visually appealing. Twitter, LinkedIn, Yelp, Avvo, and Facebook all have great SEO, which means when someone searches for me or my firm, I am all over the first page of Google. So, what is SEO and why is it important? SEO is search engine optimization. When someone searches for something — anything — the top few results are paid ads. The rest of the page is organic search results, ordered by a ranking attributed to the link by Google (or Bing). SEO improves that ranking.

Organic SEO results (i.e., unpaid listings) obtain 85 percent of the clicks from search engine searches. Of those, almost all clicks are obtained by results on the first page. Being within the top three links of the first page accounts for over half of all clicks. The farther down a company is, even on the first page, the lower the clicks to its link. Often, my social media accounts come up above my law firm’s website in search results. New lawyers pay attention.
to what contributes to SEO and what Google is looking for in our websites. We are careful about search terms, can custom-build our own websites, and think about how different hosts utilize servers that impact our rankings.

The Internet also makes marketing more affordable and easier to track. I have experimented with a host of online marketing and advertising. I like email marketing (free), blogging (also free), and social media (free again). But I’ve also tried paid online advertising. It’s often more affordable than traditional advertising, but, most importantly, it is easier to track its efficacy. While I always ask new clients how they found me, I also track my analytics (you guessed it, free!). I know how many people are viewing my website, blog, ads, social media pages, e-newsletters, etc. If the return on investment doesn’t meet my expectations, I stop doing it.

Of course, some clients aren’t tech-savvy. My research suggests that most clients choose their lawyer based on a referral from someone they already know, so getting out there and building relationships is still critical for young lawyers. I suppose there may be some clients that won’t use a computer and won’t ask for a recommendation from someone they trust, but I think those clients are few and far between. I did once turn down representation because the client did not have an email address and I operate a paperless office. She wanted me to mail her everything, but that just wasn’t a good fit for my model and I think that’s OK. Just as there are big firms with monogrammed towels, there are still lawyers with desks covered in paper and an office full of boxes of client files.

**The Great Equalizer**

The economic recession was, and continues to be, a huge impediment to new lawyers, especially people like me who started law school before the recession and were surprised, to say the least, about how drastically the market could change in such a short period of time. Everything is more competitive. Jobs and clients are a challenge to come by. But I see the Internet as the great equalizer. With technology, new lawyers can work more efficiently than ever before. Anyone with a computer can find me and compare me to other lawyers that might meet their needs. Being a new attorney and a solo is not easy, but it is possible, and I attribute that to hard work and technology.

Times are changing. Arguably, many of these changes are not for the better. But, even if the recession had never happened, I’d take being a solo over being an associate wading through files in the basement of Big Law any day. I actually interact with clients, get to pick my cases, and see as much of the inside of the courthouse as I’d like. If it weren’t for being tech-savvy, I wouldn’t have that choice. NWL

---

Autumn T. Johnson is the founder and chief legal officer of SoundLaw, a boutique law firm in Seattle that partners with small businesses, entrepreneurs, and nonprofits to help them get established, grow, and succeed. She can be reached at soundlawoffice.com.
My will designates that the following inscription be written on my tombstone: “Trent Latta: Born 1980, Died 2376.” My will also designates that, should I die prematurely, my body be stuffed and posed in a likeness of Rodin’s *The Thinker* for display in the family room. (Human taxidermy is, of course, illegal, but regardless, I think my wife is warming to the idea.) What my will does not identify, however, but definitely should, is a digital executor — someone to oversee the distribution of my digital assets.

The Digital World
When bricks and mortar housed our money, when shoeboxes held our letters and pictures, and when paper cuts drove Band-Aid sales, the estate of a deceased person was easier to ascertain than by today’s standards. But the line between the “real world” — the land of apples, gravity, stone — and the “digital world” — that of pixel romances, intangible currency, what’s trending — matters less. Today, people’s lives are composed of that which is both flesh and not: a good deal of people’s important information, and valuable property, is digital.

Like Wonkavision, in millions of tiny pieces our digital assets and information are whizzing through the air. Family pictures, bank account and credit card information, medical history data, music, books, email communications, blogs, and social media accounts (Facebook, Twitter, Flickr, Tumblr, LinkedIn, Shutterfly) — it’s all in the cloud, accessible by screen. Not to mention there are entire virtual worlds (*Second Life*, *World of Warcraft*), and online shopping markets (eBay, Amazon, PayPal). Cryptocurrency such as Bitcoin, and notably, programming code itself — the Internet’s DNA — is all virtual.

These are all examples of digital personal effects, the distribution of which after death is made difficult by the inability to readily ascertain the estate property. That is why

**THE DIGITAL AFTERLIFE**

It’s Not Just Dust to Dust and Ashes to Ashes Anymore

*by Trent Latta*
estate planning attorneys are making recommendations, and legislative bodies are developing laws, to address issues concerning the dissemination of digital assets and property. Meanwhile, opportunists are creating businesses designed to help ease the post-mortem difficulties of property distribution in our evolving immaterial world.

Digital Assets
While not yet final, the Uniform Law Commission is currently debating model legislation that would “vest fiduciaries with at least the authority to manage and distribute digital assets, copy or delete digital assets, and access digital assets.” Washington state legislation doesn’t directly address the testamentary disposition of digital assets and property, which is why the task of tackling this issue is falling largely to frontline estate planning attorneys.

Glenn Price, one of Washington’s premier estate planners, recommends that an estate plan distinguish between “financial” and “personal” digital property. Financial data includes online bank accounts (and related passwords) and similar items, while personal digital property includes social networking accounts, pictures, personal computer hard drives, iPhone data and apps, and the like. Price recommends that appropriate authority be granted in your estate planning documents, such as a power of attorney and a will, to appoint a digital agent and executor with specific powers to administer digital assets.

An external list referenced in your testamentary documents should also be created, Price advises, that identifies relevant user names and current passwords for your digital financial assets: bank account login information and passwords, for example. (Washington law permits a will to incorporate an external list of this kind; thus, a person need not create a new will each time a password is changed.) Memorializing this information will make settling a deceased’s estate and distributing funds a much easier chore. Without making such a list, it’s possible that funds may be denied to an entitled and needy surviving spouse or other beneficiary until an executor completes a potentially lengthy process through the court and with appropriate financial institutions.

Further complicating the distribution of digital assets at death is the rate at which the tech industry evolves. That means it’s difficult to craft meaningful, comprehensive, lasting regulations to govern the distribution of digital assets when the field is in constant flux.

After You’re Gone
But distribution of a deceased’s “personal” digital property — your LinkedIn account, your WordPress blog, or in my case, my struggling “Hot or Not” profile — is complicated by online account service terms and conditions, which can trump state laws and estate planning documents. Suppose a loved one dies without leaving instructions for the disposition of his or her emails, and fails to disclose the needed password and login info. In that case, to access the dead person’s Gmail account, Google’s policy provides that it “may be able to provide the contents of the Gmail account to an authorized representative of the deceased person,” but not before satisfying a two-step process. The process, according to Google, is lengthy and involves submitting paperwork such as a death certificate, copies of the deceased’s emails, and even a court order.

Twitter will work with an authorized agent to deactivate a dead person’s account, but under its terms and conditions Twitter is “unable to provide account access to anyone regardless of his or her relationship to the deceased.” Again, if the deceased, while living, doesn’t permit someone access by disclosing current login information, a surviving family member or friend is not likely to gain access to the deceased’s account. LinkedIn is similar: its help center provides that “there may be a time when you come across the profile of a colleague, classmate, or loved one who has passed away. If this happens, we can close that person’s account and remove their profile on your behalf.”

Facebook’s terms and conditions provide that it will memorialize a deceased’s profile once notified of the user’s death. Anyone who knew the deceased may visit Facebook’s Memorialization Request page and submit proof of the user’s death, such as a link to an online obituary or a news article. Once converted to an “In Memory of” page, the deceased’s account can acquire no new friends or wall posts, but certain non-private information remains visible. “Birth” identifies the start of a user’s Timeline, so an In Memoriam page — a kind of virtual tombstone — seems the natural conclusion. (Will a point come when Facebook’s pages are populated with more dead people than living?)

Further complicating the distribution of digital assets at death is the rate at which the tech industry evolves. That means it’s difficult to craft meaningful, comprehensive, lasting regulations to govern the distribution of digital assets when the field is in constant flux. But there are many emerging businesses that offer to help ease a person’s transition into the digital afterlife.

PasswordBox is one such company. PasswordBox acts as an extension of your Internet browser (e.g., Explorer, Firefox, Chrome, Safari). Once installed, a PasswordBox button appears in your toolbar. After populating the passwords you want stored, PasswordBox creates a simple one-click login. What’s fascinating about PasswordBox is that the company has partnered with Bionym, the company that makes the Nymi wristband (set for release sometime this year). The Nymi is a smart bracelet that authenticates its user’s identity by recognizing his or her heartbeat. Using the Nymi wristband, authorized users can login to computer devices and online accounts simply by wearing the bracelet (similar to a keyless car ignition). It’s sci-fi enough to qualify as something Johnny Depp might have
worn in the movie *Transcendence*.

**Last Wishes**

Some companies allow users to virtually send messages from beyond the grave. Parting Wishes is a website that will deliver emails you compose while living to friends and family members (or enemies) when you die. Nothing is off limits when it comes to message content: parting instructions to an executor, deeply held secrets, closeted skeletons, unexpressed romantic desires, voice messages, pictures, documents — any ghostly message is deliverable from six feet under. There are many other similar services. Here are just a few notable and interesting ones:

**DeathSwitch.com:** This service will contact you at frequent intervals to make sure you're still alive. If, after several attempts, you do not confirm you are living, it will notify individuals of your death. (I envision this service best suited for the unmarried single person who wants to replicate the feeling of a significant other with dependency issues.)

**Perpetu.co:** Perpetu has the added feature that it will delete information stored on your computer or online accounts when you die. This is a priceless feature that can ease users’ fears over what might be posthumously discovered amidst his or her web-browsing history.

**Vuture:** This is a forthcoming iOS app that will allow users to take pictures, record secrets or videos (or even secret videos), and capture thoughts that will be shared with specific people at some later date. Information can be sent to a recipient’s phone or email, or even posted to his or her Facebook page.

“No one is more interested in your estate planning than you are,” is Glenn Price’s motto. This is sage advice: one should take seriously his or her digital estate planning. Without making appropriate afterlife accommodations for your digital remains, valuable memories and assets may be lost, drifting aimlessly in the ether. Then again, perhaps some of us prefer that a few digital effects be left undiscovered. College pictures, anyone? NWL

---

**Trent Latta** is an attorney with McDougald & Cohen, PS, in Seattle. He has extensive experience litigating a wide range of cases including employment matters, complex commercial disputes, and real property cases. He graduated from Western Washington University and earned his J.D. at Golden Gate University in San Francisco. Latta serves as the YLC liaison to the WSBA Editorial Advisory Committee. He can be reached at tlatta@mcdougaldlaw.com or 206-448-4800.
On my first day at my firm, I discovered I would be sharing my office with 25 Banker’s Boxes of discovery. The boxes enjoyed a panoramic view of South Lake Union (we’re near the U.S. District Courthouse); I enjoyed a view of the boxes. This was fair — they had seniority.

Amazingly, my cardboard office-mates were merely the runts of an enormous litter. Total discovery in the case, a tax-fraud prosecution covering some 13 years of allegedly felonious bookkeeping, ran to over 100,000 document pages, 1.8 terabytes of forensically imaged data, dozens of disks containing subpoenaed third-party material, and a steady tattoo of IRS investigative memoranda. It was a big case.

My firm, counting newly-hired me, was a three-lawyer outfit. Even with our three tremendously competent support staff, we didn’t look like Big Law. But looks deceive: with fewer lawyers than Skadden, Arps, Slate, Meagher & Flom has name partners, we prepared the case for a 16-day trial, tended to our other clients, and coordinated discovery for 25 other complex federal cases across the country. I still managed to spend most of my weekends with my family.

This time period was not an anomaly for the firm. We can handle the scope of these cases, going toe-to-toe with firms whose IT departments dwarf our entire team, because we leverage the services of legal technology vendors — including discovery databases.

**Discovery Databases**

Discovery databases are tools for sifting haystacks for needles, and the reason my wife and daughter saw me at all during that first year. Whether you are trying to glean responsive documents from years of business records and emails, making sure you don’t accidentally produce privileged communications, or culling a data-dump for the handful of documents that are actually relevant to your case, a few reviewers with a database can perform the work of a much larger team. Databases allow small firms to emulate large ones.

In practice, though, solo and small-firm practitioners often treat e-discovery technology such as databases as the exclusive playthings of large firms. But John Tredennick, founder and CEO of Catalyst Repository Systems, thinks technology should be a leveler. “It used to be the size of your law library was a measure of how attractive you were to clients. Now I’ve got more resources on my phone than the biggest firms,” he says. But even though Catalyst’s technology is aimed at helping the little guys, its biggest customers are still those big firms. And according to Tredennick, many of Catalyst’s small-firm customers are lawyers who left big firms to set up boutique practices and continue using databases they became familiar with at their old jobs. Outside of the realm of silk-stocking firms with dedicated e-discovery departments, lawyers hesitate to try technology for the first time. Caitlin Murphy, marketing director at AccessData, also has experienced lawyerly trepidation — which she thinks is no longer warranted. “‘We don’t do ESI’ is shortsighted. The tools of yesteryear were complicated, but they’ve been simplified. Now, you can get up to speed in half an hour.”

But let’s say you’re an early adopter...
who ran your last trial off an iPad, and you’re still leery of discovery databases because of their cost. Fair enough — depending on the product, they can be spendy. But consider that for each of the federal criminal cases in which your firm coordinates discovery, the courts have to approve funding. We’ve been very successful petitioning for database funds because courts recognize their value in containing costs while preserving quality representation.

Database Products
Different products are tailored to suit different budgets and needs. AccessData offers a one-year license for Summation Express, the small-firm version of its flagship database, for around $2,000 a year. Catalyst’s services are cloud-based and available à la carte without the need to download software or purchase hardware. In a survey of Washington litigators conducted earlier this year, over half — 57.4 percent — reported they would decline some cases because of discovery costs. Roughly the same percent reported eschewing databases or other e-discovery services. Next time you’re presented with a big case, think whether you want to add to that statistic. A discovery database could allow you to take the case both effectively and cost-effectively.

Using Discovery Databases
Let’s say you’re sold — how do you use a discovery database? Vendors offer demonstrations and trainings to help with the different features of each database. But to answer the more general question of how to fit a database into your case preparation, I offer as an example a streamlined workflow for tackling a big, document-intensive case. This workflow was developed defending fraud cases in federal court. It should still apply in broad strokes to civil litigation, though it does not reflect civil rules dealing specifically with proportionality, ESI production, and the like.

Assess the scope of the case. The goal at this stage is to estimate how much discovery will be involved, and in what form. Meet and confer with opposing counsel to address discovery issues. If you have co-defense counsel, meet to discuss sharing discovery database costs, and pooling information and resources during discovery review.

Assemble a team. After estimating the work the case will require, the next step is ensuring you have enough hands to meet that need. If not already on staff, consider hiring or contracting additional attorneys, paralegals, investigators, or experts — especially technology experts — as required by the case.

Select a database. Litigation database services are not one-size-fits-all. It’s a competitive and constantly changing industry; vendors offer up an ever-changing spread of technical support services, review platforms, and search tools. Consider security features, accommodations for collaborating with co-counsel and experts, ease of use, and technical support. Also consider whether to use an online or a locally hosted database. In general, online discovery databases better facilitate collaborative discovery review, offer more powerful review tools, and host more data than desktop programs.

Receiving discovery. Quality-control check discovery as you receive it. Make sure scanned documents are properly unitized (i.e., all pages are correctly grouped together) and computer-searchable. Perform optical character recognition (OCR) as necessary to make documents searchable. Scan and OCR physical documents. Remember to maintain a discovery log and share discovery with your client.

Determine what data to process and host. You don’t necessarily need to put all received discovery onto the database — especially as this will drive up the cost of hosting. If discovery includes forensic images of hard drives, there may be irrelevant or duplicate data the database vendor can programmatically exclude through de-duping (removing duplicate files) and de-nisting (removing operating-system files, program files, and other data not created by a computer’s user). You can work with the vendor to further reduce data volume by eliminating file types or date ranges that are unlikely to prove irrelevant — you (probably) don’t need to load anyone’s iTunes library or YouTube collection.

Configure the database. Begin by organizing the discovery database to aid issue-based searching. Most often this will mean asking the vendor to load data by custodian, having your review team run searches on these custodian-based folders to identify documents relevant to specific issues, then adding those relevant documents to issue-based collections. Database features such as predictive coding — think Netflix suggestions for discovery — can also help you identify relevant documents.

Work with the discovery. Conduct a team review of the discovery to investigate likely issues — and uncover new ones. For collaboration with co-counsel and experts, use public and private fields to control what work you share. Meet regularly to keep preparation coordinated and your hand on the rudder.

“It used to be the size of your law library was a measure of how attractive you were to clients. Now I’ve got more resources on my phone than the biggest firms . . .”
Legal Malpractice: A Two-Tiered Chess Game

Proving the “case within a case” is required in every legal malpractice action, and the underlying case may be more complex than the professional negligence claim itself. We have the experience, resources and ability to make the right moves. These are some of our legal malpractice results:

- $3.9 million, underlying back surgery medical malpractice;
- $3 million, underlying obstetrical medical malpractice;
- $3 million, underlying business transaction;
- $1.25 million, underlying personal injury;
- $1.2 million, underlying real estate transaction.

We would appreciate the opportunity to work with you to help your client.

NOTES
1. The results of the survey, conducted by the WSBA Task Force on the Escalating Costs of Civil Litigation, have not yet been published.
2. The term comes from the National Institute for Standards and Technology (NIST). “De-nisting” involves comparing the digital profile of files to a list of profiles of common noise files compiled by the NIST.
Washington lawyers regularly conduct business through the use of electronic signatures. Filing documents in a court’s electronic case filing system, sending an email with a standard, personalized signature identifying the attorney and law office, and logging into a subscription online database or bank account website are all examples of everyday lawyer transactions that verify identity electronically rather than with a traditional pen-and-paper signature. Washington is also home to e-commerce pioneers and startups including Microsoft, Blue Nile, and Amazon, as well as more traditional companies that increasingly transact online, such as Nordstrom and Tommy Bahama.

Yet today Washington stands alone as the last state to enact a broad definition of electronic signatures; 47 states adopted the Uniform Electronic Transactions Act (UETA), a model law promulgated by the Uniform Law Commission (ULC), and New York and Illinois drafted their own state statutes that define electronic signatures and integrate their use into the existing legal structure. Washington, in contrast, has only the Washington Electronic Authentication Act (WEAA), an 18-year-old statute that addresses digital signatures, a small subset of electronic signatures, but otherwise merely acknowledges electronic signatures as potentially valid without providing an approach for their use in electronic commerce, government, or contract law. Washington has refused to adopt the UETA and has not legislated in this area since making some minor revisions to the WEAA in 1999 — a 15-year gap during which the use of electronic signatures, once rare, became exponentially more important to daily transactions in retail, commerce, and government.

Electronic Signatures Are Ubiquitous
An electronic signature is an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. These signatures became increasingly important to commerce and law in the last two decades as computers took over most administrative tasks performed by business and government and permeated our day-to-day lives at home and at work.

In addition to the examples above, common usage of electronic signatures includes clicking “I agree” to a list of terms and conditions when uploading an application to a smartphone or updating software on a laptop, paying a cable or credit card bill online, buying a book from Amazon or another online retailer, and entering the number of hours worked in a day on an employer’s time-tracking software program. Even people who eschew smartphones and rarely use a computer are expected to conduct transactions online with increasing frequency.

Many government programs, including Social Security and Medicaid, now typically enroll beneficiaries online because of the time, trouble, and expense saved by not using paper applications which could be lost, misfiled, or contain errors that are difficult to correct via mail. Healthcare authorizations, including those under HIPAA, can now also be signed, submitted, and stored electronically in states that recognize electronic signatures.

Outpaced by Technology
Despite the pervasive nature of electronic signatures and the widespread adoption of laws governing their use, legislators in Washington state have taken few steps to clarify the law in this area since 1999. Paradoxically, Washington was one of the first states to legislate in the field. The WEAA was adopted in 1996 and updated in 1999. For perspective, in 1996 Google did not exist, the World Wide
A public key encrypts the information, and the corresponding private key decrypts it. The WEAA provides detailed rules for issuing certificates to subscribers, licensing of certificate authorities, and duties that correspond with acceptance of the certificate. A shorter way to remember it is as “signature by process.” Of available electronic signatures, digital signatures are the most like a pen-and-paper signature.

Although this seems straightforward enough, the technology is now outdated, just as Congress feared it would be. The technology is difficult for ordinary users to understand — for example, most people will just click through to a site, even after being warned — and has become increasingly vulnerable to hackers as criminals develop software programs that can crack complicated mathematical algorithms and gain access to secure sites. The WEAA was updated in 1999 to include the UETA definition of an electronic signature. Unfortunately, the law does not incorporate that definition into any existing legal structure. This leaves Washington courts struggling to interpret electronic signatures in a way that incorporates state-level consumer protections and the realities of technological advances, as will be discussed here in *Neuson v. Macy’s*. In 2011, the WEAA also had to be updated to allow government agencies the option to use or not use digital signatures because the technology had proved difficult for many government agencies to adopt and maintain.

Technology in day-to-day life has far outpaced the WEAA’s superficial definition and reliance on a digital signature as a one-for-one replacement of a paper-and-ink signature with a computer simulation of two users making a unique mark. As mentioned before, electronic authorizations now include transactions that were undreamed of in 1996. Many people typically manage multiple social media sites each day, juggling online identities and activities in ways that were previously impractical, if not impossible. People with online profiles on a site such as Facebook or a profile created in a developer’s application can use a smartphone to do things such as rent temporary lodging in each other’s homes (Airbnb), accept rides from the airport from strangers (Lyft, Uber), and set up a date with an attractive stranger (OkCupid, Tindt), all without ever meeting in person. The parties might not be in the same state, time zone, or continent. Online rating of businesses and professionals has exploded on sites such as Yelp and Avvo. While only 58 percent of people overall have a presence on social media, the practice is moving toward near-ubiquity as the population ages. Of those 18–24 years old today, 98 percent use social media daily. It has been 18 years since the WEAA was adopted. When another 18 years have passed, today’s 24 year olds will be middle-aged, and two-thirds of the United States’ adult population will have grown up managing social media and other forms of online identity. Washington’s current law was created to deal with a world that will have ceased to exist.

The Problem of Consent and Individualization

As discussed, Washington’s Supreme Court justices wrestled with the problem of electronic signatures most notably in *Neuson v. Macy’s Department Store Inc.* The case turns on evidence that the plaintiff’s store employee file contained an electronic signature acknowledging the plaintiff’s receipt of a mandatory arbitration clause. The electronic signature was a series of numbers unique to the employee and connected to the employee by use of her zip code, birthdate, and Social Security Number, which she used...
to log into a secure site. The employer’s computer system used these unique identifiers to create a form that was marked with an electronic signature acknowledging receipt of a set of documents distributed to all new employees and kept in the employee’s file — the Social Security Administration uses a similar program to allow online benefits enrollment. The court in Neuson noted that the specifics of the case satisfied the WEAA’s definition of an electronic signature. The court, however, could not accept as valid the electronic signature thus created because the employer also had access to the employee’s identifying information. The forms submitted and verified with an electronic signature relying on information possessed by both parties could have been completed by either party. “We do not find evidence of how or why the information contained in this electronic signature would be unavailable to anyone other than Ms. Neuson, and ultimately why it was the same or better than a traditional signature.” The court ruled that an electronic signature was therefore not sufficient proof that the plaintiff had received information about a binding arbitration clause in the company’s policy, and so the employee’s electronic signature could not be used as evidence of consent to that clause.

It is clear from this case that Washington’s statutory construction and case law leave attorneys, consumers, and businesses grappling with the issues posed by electronic signatures, even as electronic transactions requiring electronic signatures become an increasingly common and important part of day-to-day life.

**The UETA, ESIGN, and the Law of Electronic Signatures**

In the late 1990s, the Uniform Law Commission and other states took a neutral approach to technology when legislating in the field of electronic signatures. This approach differed from that of Washington and Utah, which adopted the first statute in this field in 1994 and also incorporated only digital signatures. The UETA was promulgated in 1999 by the Uniform Law Commission as a comprehensive national effort to address the issues raised by e-commerce and has been adopted by 47 states. UETA applies only to transactions that the parties have agreed to conduct electronically. The terms of the UETA govern by default in the absence of other agreement or waiver. The act mostly governs transactions that are not covered by the Uniform Commercial Code, except for UCC Articles 2 and 2A. UETA does not apply to wills, codicils, or testamentary trusts. If a state has enacted UETA, the state’s laws on consumer protection and other areas affecting e-commerce will not be preempted. Legislators working on the issue at the time for the never-adopted Millennium Digital Commerce Act chose a technology-neutral approach. Discussions of this act reveal an intent to encourage all states to adopt the UETA in order to create a consistent framework of laws as electronic commerce dramatically extended the number of transactions occurring between and among states.

The purpose of UETA is to enforce the validity of electronic transactions conducted via computer, telephone, or other means. UETA treats electronic sig-
Washington should continue the goals adopted in 1999, and move to a framework that is consistent with the Legislature’s intent in 1999 and the state’s continued position as a world leader in the field of electronic commerce.

Washington State’s Early Objections to UETA

The executive committee of the WSBA Business Law Section reviewed the UETA in February of 1999. In a passage that now seems incongruous, given the law’s widespread adoption in the rest of the country, the committee recommended that Washington avoid the UETA because of the danger of “non-uniform amendments and adoption” and because the state remained “committed to modernizing its legal structure to enable electronic commerce.” The committee identified 13 problems with the law, and recommended a task force to examine the public policy surrounding the issue of electronic records and electronic signatures in government and business.

The committee’s report did not represent an official position of the WSBA, and its opposition to the UETA was thoughtful and well-considered, however moot its stand became as the rest of the states quickly adopted the law. Working at a time when only California had enacted UETA (although more than 20 states would enact it within a year), the committee found that the UETA “unintentionally does more to disable electronic commerce than to enable it.” The committee reported that many provisions were ambiguous or created additional burdens on electronic transactions. The committee agreed to review its stance if the Uniform Law Commission addressed its concerns. The ULC has declined to do so, given the 47 states that have already adopted the law, and the WSBA has never taken a position. While a representative of the WSBA Business Law Section’s Cyberspace Committee testified in a 2012 hearing about adopting UETA in Washington, the testimony focused more on the specifics of the way the law being considered would repeal and replace the WEAA, merely noting that “no harm had resulted” from Washington’s continued lack of legislation on electronic signatures.

Congress’s encouragement of UETA negated most of the issues raised by the committee by encouraging its near-universal adoption, which effectively made UETA the law of the land despite its problems. For example, the committee objected to the UETA definition of “electronic signature” as improperly conflating the concept of a “signature” and “consent.” The broader definition allowed by UETA creates the kind of problem that would later appear in Neuson, permitting an electronic signature to be construed as consent, although its specific meaning under the circumstances was more ambiguous. The committee also objected to formatting requirements of UETA, Section 8, that create unnecessary work and expense when combined with existing state law. The ULC noted the problem as well, stating, “If other State law requires the information to appear in purple ink sprinkled with glitter, you can furnish the information electronically only if
you can assure that it appears to the recipient in purple sprinkled with glitter.” The committee also noted that, while UETA requires that both parties consent to an electronic transaction, this emphasis is an awkward fit with many government agency interactions. While UETA tends to assume a consensual transaction or contract, “many government dealings with the public are neither,” and so the committee felt different rules might be appropriate.

The committee concluded that it would revisit its recommendation if the ULC amended the law to address the 13 concerns raised by the committee. The ULC has not amended the law, and the committee has so far not changed its position, even as every other state but Illinois directly adopted the offending provisions (and, as will be discussed, Illinois still faces problems in its electronic signature definitions that Washington also has not been able to solve).

In 2012, the Washington Legislature considered a law that would adopt UETA and repeal the WEAA and references to digital signatures in the RCW. A representative of the WSBA Business Law Section’s Cyberspace Committee testified about the Committee’s 1999 report and recommendation against adoption of UETA in Washington, but neither the Business Law Section nor the WSBA took a position on the 2012 proposed legislation. A solution was proposed to adopt a state version of ESIGN, but that would still leave Washington without access to the legal framework that the rest of the country is using to clarify the conflicting and confusing law in a fast-changing field, and creating a complicated preemption situation that is beyond the scope of this article. The 2012 proposal to adopt UETA was left in committee. To date, neither that law nor any other has been proposed in the area of electronic signatures.

Achievable Consistency Trumps Impossible Perfection
Washington should continue the goals adopted in 1999, and move to a framework that is consistent with the Legislature’s intent in 1999 and the state’s continued position as a world leader in the field of electronic commerce. The committee was correct in pointing out the clunky aspects of UETA. But there is little value in being proved right if the rest of the country has already moved past the original debate, given the greater need for consistency and clarity among states in the area of electronic commerce.

There is value in being among the last to adopt, as other states have had time to address the problems with UETA. For example, New York’s Electronic Signatures and Records Act adopts the definitions and structure of UETA, but with certain improvements that do not conflict with the law. ESRA requires a unique identifier PIN when a document is electronically signed via a sign-on authentication process. This eliminates the problems of consent and verification of identity that the court found in Neuson, where an employee electronically signed a file with a birthdate. Texas took a similar approach, although it adopted UETA rather than a state version of the law. In its guidelines for implementation, Texas added...
a provision that is similar to New York’s in encouraging a unique identifier such as a “PIN, digital signature, smart card, or biometric.” (A biometric is a physical characteristic that can be expressed as data, such as a fingerprint, face shape, retina, or DNA.) The lack of specific technology choice, however, leaves the specific option for a unique identifier up to the user. The open-ended approach could be valuable in the future, given the explosive growth of hackers creating mathematical algorithms that can easily generate and quickly test millions of password combinations, thereby making PINs less secure. Illinois adopted a similar provision in its Electronic Commerce and Security Act.

While ECSA adopts much of UETA, Illinois also deliberately avoided the UETA definition of an electronic signature, instead using a definition that identifies an electronic signature as any signature in electronic form that is attached to a document. Neither the term “signature” nor “document” are defined, and elsewhere in the law provisions prohibit any use of an electronic signature that could be inconsistent with the Legislature’s intent. Later case law in Illinois clarifies an electronic signature as “signing an /s before a name” or scanned copy of a signature.” Illinois case law regarding this definition still leaves some confusion because a document is also deemed to be signed when uploaded into a court’s electronic filing system. Illinois’s approach thus fails to settle the problem the Court found in Neuson of determining when a document that is electronically signed can be relied on as consent—a problem that was solved by New York and Texas with the use of unique PINs, biometrics, or other identifiers attached to an electronic signature granting consent.

Through this example of Neuson, it is clear that Washington has been able to watch and learn from others states struggle with and, in some cases, solve problems identified by the Washington Supreme Court and the committee that originally reviewed UETA.

Satisfying the Legislature’s Intent and Concerns Raised in Neuson

Given the previously discussed national regulatory framework in the area of electronic signatures, Washington has isolated itself and combined the worst of both worlds in the 18 years since the state’s first foray into this area of law. Had the state not adopted the WEAA in 1996, the federal ESIGN would prevail when questions related to electronic signatures reached our courts. The WEAA’s narrow digital signature requirements with specifications of certifying authorities were what Congress hoped to avoid. And had Washington not amended the WEAA in 1999 to include a UETA definition of electronic signatures without any other clarification or incorporation into the existing regulatory framework, those trying to do business in Washington could, at least in theory, incorporate decisions from other states and use the developing body of law given UETA’s near-total adoption by the rest of the country.

By passing a technology-specific law and then updating it only superficially, Washington has left the question of electronic signatures in limbo. This was understandable in 1999, when no one could have foreseen the ways electronic signatures would permeate our lives. The committee’s caution of that time were, in fact, proved right for the most part. It is unfortunate, however, that the ensuing search for a perfect solution allowed confusion and paralysis to develop in an area of law that is so vital to every citizen’s rights and protections.

Washington would benefit from the consistency, clarity, and emphasis on state consumer protection laws that adoption of UETA would provide. The Washington Legislature has already ratified a purpose and construction that closely mirrors UETA. And Washington courts have outlined the importance of unique identification and consent, two problems that states adopting UETA and its principles have solved. Adoption of UETA, or a state statute that closely mirrors its provisions, is thus consistent with what we know of legislative intent and jurisprudence in this otherwise poorly defined area. Further, ESIGN’s issues with preemption would leave the problems of Neuson unaddressed, and fail to provide clarity and consistency across state lines, as the example of Illinois shows. A move to UETA, or adoption of a similar state statute, would provide security, consistency, and the ability to anticipate likely outcomes to the individuals, businesses, and, of course, lawyers who use electronic signatures every day.

NOTES
5. Id.
6. Supra n. 1.
7. Id at 850.
8. Supra n. 1.
9. Id at 796.
10. Supra n. 3.
11. Id at 796.
12. Id at 850.
13. Id at 850.
14. Id.
Literary Lawyer

Best Technology Books for Lawyers

by Stephanie Perry

Whether you embrace technology or grudgingly tolerate it, it’s an unavoidable part of the modern law practice. But incorporating technology into your office doesn’t have to be painful. These handy guides will show you everything from how to create a LinkedIn profile or start your own legal blog to the best iPad apps created just for law offices. (And — perhaps unsurprisingly, given the subject matter — many of them are in e-book form.)

iPad in One Hour for Lawyers
3rd ed.; Tom Mighell; 2014; 109 pp.; $50

As anyone who owns an iPad knows, it’s a lot of fun — but it can also be a powerful tool for lawyers when you put it to work. In the third edition of this ABA best-seller, author and lawyer Tom Mighell explains how you can use your iPad in your law practice, as well as the newest apps designed specifically for lawyers. You’ll learn to view and manage pleadings, case law, contracts, and other legal documents; see how to take notes and manage your documents; and discover time-saving shortcuts and tips. At just 109 pages, this guide is a quick read to get you up to speed with your new iPad.

LinkedIn in 30 Minutes: How To Create a Rock-solid LinkedIn Profile and Build Connections That Matter
Melanie Pinola; 2013; 102 pp.; $10

Have you always vaguely intended to set up a LinkedIn profile, but never gotten around to it? Did you create your profile once and never go back? Or maybe you’re still unclear on what LinkedIn can do for you. Then you need this little guide, which will take you through the profile process, how to effectively choose keywords and communicate your professional strengths, and how to connect with the people you’re looking for. Job seekers will learn how to use LinkedIn’s job listings, as well as how to address unemployment gaps or career changes. Whether you’re a complete novice or a regular user, you’ll pick up some helpful hints and tricks to make the most of your LinkedIn profile.

The Legal Side of Blogging for Lawyers
Ruth Carter; 2014; 204 pp.; $80

Before you start that law blog, make sure you understand the legal issues surrounding blogging, including intellectual property, client confidentiality, professionalism, and more. Written by blogger Ruth Carter for lawyer-bloggers, The Legal Side of Blogging for Lawyers explains your rights as a blogger, discusses real-life examples of what can go wrong, and offers advice about how to avoid some common legal pitfalls of blogging.

Tech Savvy Attorney: Starting a Law Practice in the Virtual and Mobile Technology Age
Joshua Sutterfield; 2014; 97 pp.; $10

The 21st-century lawyer has plenty of options for using technology to better manage and operate a law practice. Intended primarily for new lawyers, this guide covers topics such as physical vs. virtual offices, mobile technology, cloud computing, and client communications. However, topics such as online marketing, website design, and social media will be relevant to anyone practicing law today. An inexpensive basic guide that will help newer lawyers navigate technology issues as they establish their practices (physical or virtual).

The 2014 Solo and Small Firm Legal Technology Guide
Sharon Nelson, John W. Simek, Michael C. Maschke; 2014; 366 pp.; $90

Solos and small firms, this one is just for you. This comprehensive annual guide includes the most current information and recommendations on computers, servers, networking equipment, legal software, printers, security products, and more. You’ll learn whether you should upgrade to Windows 8 or avoid it; which smartphones are best for lawyers; how to use social media ethically and effectively; and where legal technology will be heading in 2015. It’s written in clear, accessible language to help you decide which solutions are right for you and your practice.

Stephanie Perry is the editor of Literary Lawyer and the WSBA communications specialist. She can be reached at stephaniep@wsba.org.
I still remember the days, growing up in Vietnam during the 1980s, when my life did not revolve around modern technology. Sunlight was my alarm clock. A face-to-face conversation was the only way I chatted with friends. Most of what I read was written on paper. My family did not have a telephone or any household appliances. Now, I am dependent on modern technology and the Internet. For almost everything I need to do, there’s an appliance, a device, or an app that helps me do it better or quicker.

As a consumer, I tend to think of modern technology in terms of new products in the market. But, as an attorney, I also pay attention to legal disputes that may have an effect on the products I use. And in the Pacific Northwest, where tech companies have major commercial influence, legal disputes that affect the industry are of particular importance. Here are 10 notable tech cases.

**United States v. Microsoft Corp.**

Before 1996, Netscape Navigator was the browser that most people used to surf the Web. To gain traction for its own browser, Internet Explorer (IE), Microsoft combined IE with Windows 95, so that everyone who used the Windows operating system also had Explorer. The Department of Justice, 18 states, and the District of Columbia filed suit, alleging that Microsoft violated antitrust laws. The main issue was whether Microsoft was allowed to combine Explorer with Windows, manipulate Windows to favor Explorer over other browsers, and execute restrictive licensing agreements with computer manufacturers to exclude competing Internet browsers. Ultimately, Microsoft settled. The settlement required Microsoft to ensure that Windows would interoperate with software made by other companies. The lawsuit reminded technology companies that antitrust laws do apply to them and that ignoring antitrust concerns can result in grave consequences.

**A & M Records, Inc. v. Napster, Inc.**

Napster was a file-sharing network that made it easy for users to find and download digital music files for free. Songwriters, producers, and record companies, who were members of the Recording Industry Association of America, sued Napster for contributory and vicarious infringement. Even though Napster lost, it changed the entertainment industry and the intellectual property landscape. Napster first tried a paid subscription business model, but the music industry was still more interested in selling albums than individual songs. After Napster was shut down, more file-sharing sites opened and remained in business. Eventually, the entertainment industry adapted. Now, we buy songs individually with a click of a button and rent movies and TV episodes over the Internet.

**In re: High-Tech Employee Antitrust Litigation**

Employees of Adobe, Apple, Google, Intel, Intuit, Pixar, and Lucasfilm brought a class action against their employers. These tech employees alleged their employers entered into agreements not to hire their competitors’ employees, which reduced competition for skilled labor, restricted employees’ mobility, and suppressed and fixed employees’ compensation. Intuit, Pixar, and Lucasfilm negotiated a $20 million settlement.

**Soverain Software, LLC v. Newegg, Inc.**

Soverain owns an e-commerce software system called Transact, and its accompanying patents, that was created in 1996 by a company called Open Market. Soverain began suing online retailers for patent infringement, beginning with Amazon. Soverain won or settled in every case, except in its fight against Newegg. In 2013, Newegg won because the U.S. Court of Appeals for the Federal Circuit held that the patents were invalid for obviousness. The Federal Circuit’s decision was unexpected. The U.S. Patent and Trademark Office examined the Transact patents three times (once during issuance and twice during re-examinations) and left the patents intact. Many other judges and juries had also determined that the patents were valid. Thus, the Federal Circuit’s decision is a big win for Newegg and for all online retailers, many of whom owed Soverain substantial sums of royalty payments. The decision allows new companies to enter into e-commerce without having to pay licensing fees to Soverain under its prior patents.

**Eolas Technologies Inc. v. Amazon.com Inc.**

Eolas and the University of California owned two patents that allow web developers to embed interactive programs, such as music clips, games, search features, and maps, in webpages. In 2003, Eolas won a verdict against Microsoft, and the parties settled. In 2009, Eolas went on to sue more than...
20 companies on the same patents, including Amazon, Apple, Adobe, eBay, Citigroup, and Google. Many companies settled and signed licensing deals with Eolas. In 2012, Eolas’ patents were deemed invalid, and the Court of Appeals for the Federal Circuit affirmed the finding. Before reaching a license agreement with Eolas, Microsoft created a workaround for Internet Explorer, to avoid infringing the Eolas patents. Once the license agreement was in place, Microsoft reverted to Internet Explorer’s pre-workaround functionalities, but many users had already switched to Firefox.

**ConnectU LLC v. Mark Zuckerberg and The Face Book, Inc.**

Mark Zuckerberg is considered the founder of Facebook, but Divya Narendra, Cameron Winklevoss, and Tyler Winklevoss, who founded ConnectU — a similar social networking site — at Harvard University felt otherwise and sued Zuckerberg and Facebook. The parties settled: the ConnectU founders received some shares of Facebook, and the ConnectU website was shut down. However, the ConnectU founders remained unsatisfied, claiming that Facebook misled them into believing that its shares were worth four times as much and fought all the way to the Ninth Circuit appellate court, which rejected their claims. Even though the ConnectU founders decided not to appeal to the U.S. Supreme Court, they filed a new lawsuit claiming Facebook suppressed evidence.

**United States of America v. Edward Snowden**

The U.S. charged Edward Snowden for theft of government property, unauthorized communication of national defense information, and willful communication of classified intelligence to an unauthorized person. Snowden worked for the C.I.A. and as a contractor of the National Security Agency (NSA). In June 2013, Snowden released thousands of classified documents to the press, which reveal details about mass surveillance programs conducted by the NSA in partnership with other foreign intelligence agencies. These agencies have access to certain information stored by major tech companies, such as Apple, Facebook, Google, Microsoft, and Verizon about their users. Snowden’s disclosure has divided many over privacy, mass surveillance, and tech issues, as well as cooperation between corporations and the government. Many see Snowden as a hero who rightly unearthed the NSA’s Orwellian, Big Brother nature; others call his conduct treason that threatens national security.

**Oracle America, Inc. v. Google, Inc.**

Oracle sued Google in August 2010, claiming that Google’s Android operating system infringed Oracle’s copyright and patents. The jury found that Google did not infringe Oracle’s patents but did infringe Oracle’s copyright with respect to the application programming interface (API). But the District Court decided that the API was not copyrightable. Oracle appealed. The Federal Circuit reversed the District Court’s decision and concluded that the API is entitled to copyright protection and remedied for further consideration of Google’s fair use defense. An API enables software to interoperate with one another, even if they are not created by the same developer. Many developers use Oracle’s Java API to build Apps for computers, tablets, and smartphones. The ability to share and to use APIs for free contributes to the proliferation of apps for mobile devices. If developers wishing to improve on an existing API will need to obtain a license, we may see a decrease in the number of apps.

**Alice Corporation Pty. Ltd. v. CLS Bank International**

Alice Corp. owns patents for software that facilitates financial transactions. CLS Bank uses a similar technology and sued Alice. The U.S. Court of Appeals for the Federal Circuit upheld the District Court’s decision that Alice’s patents were invalid. However, the Federal Circuit did not agree on a standard to determine when software is patentable. At the time of this writing, the Supreme Court is expected to rule in June 2014. Google, Microsoft, Amazon, and Verizon, and other major technology companies submitted amicus curiae briefs in favor of CLS Bank. Many are looking to the Supreme Court to clarify the patentability of software. But the Court might avoid making any sweeping decision regarding software patents and instead only issue a narrow decision with respect to the specific patents owned by Alice.
A Side of Sidebar
What’s happening online at NWSidebar, the blog for Washington’s legal community [nwsidebar.wsba.org]

Toolbox Favorites to Add

http://nwsidebar.wsba.org/2014/05/27/lawyer-links
Attorney Liz Silvestrini provides a quick list of important and useful websites every Washington attorney should bookmark.

Windows XP: After the Funeral
http://nwsidebar.wsba.org/2014/05/13/windows-xp-after-the-funeral
On April 8, Microsoft stopped supporting Windows XP, a favorite operating system for many. Learn what this means and what steps you should take if you’re still relying on Windows XP.

Heartbleed and Passwords
http://nwsidebar.wsba.org/2014/04/23/heartbleed-passwords-lawyers
This Spring, the Heartbleed bug took the Internet by storm. By now, most sites have fixed any potential vulnerabilities, but here are the steps you need to take to protect your information.

ONLINE

Bloggers Wanted!
Add your voice to NWSidebar! Whether you maintain your own legal blog or have never written a blog post, we welcome submissions from all members of the legal community.

5 Keys to Getting Paid for the Work You Do
http://nwsidebar.wsba.org/2014/05/15/getting-paid-lawyer-work
Pro bono and low bono are admirable and important, but you can only do these things if you can afford to keep your office running. These five tips from Pasco attorney Jeremy Bishop can help you do just that.

5 Quick Tips to Streamline Your Writing
http://nwsidebar.wsba.org/2014/05/22/better-legal-writing
Shorter is almost always better, so long as meaning remains clear. NWLawyer editor Michael Heatherly offers his tips for concise writing.
Electronic IQ

Competence in an Era of High-Tech Lawyering

by Mark J. Fucile

Competence is one of our fundamental duties. RPC 1.1 defines competence in the regulatory context to include “the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.” The Washington Supreme Court in *Hizey v. Carpenter*, 119 Wn.2d 251, 261, 830 P.2d 646 (1992), described the related civil concept of the duty of care in similar terms: “To comply with the duty of care, an attorney must exercise the degree of care, skill, diligence, and knowledge commonly possessed and exercised by a reasonable, careful, and prudent lawyer in the practice of law in this jurisdiction.”

We often associate “competence” — or any shortcomings — with our substantive knowledge of the law. But office practice failures such as missed deadlines have long been a staple of both regulatory discipline (see, e.g., *In re Lopez*, 153 Wn.2d 570, 106 P.3d 221 (2005) (brief not timely filed)) and legal malpractice (see, e.g., *Huff v. Roach*, 125 Wn. App. 724, 106 P.3d 268 (2005) (underlying action not timely filed)).

Increasingly, our “competence” in both a regulatory and civil sense is also being measured by how we use technology. Particularly as it applies to digital files, any asserted negligence must have caused the damages sought to support a claim for legal malpractice (see *Daugert v. Pappas*, 104 Wn.2d 254, 257-63, 704 P.2d 600 (1985)).

**Electronic Competence**

Newly revised Comment 18 to ABA Model Rule 1.6 neatly summarizes the interplay between competence and confidentiality:

**Acting Competently to Preserve Confidentiality**

Paragraph (c) requires a lawyer to act competently to safeguard information relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer’s supervision. See Rules 1.1, 5.1 and 5.3. The unauthorized access to, or the inadvertent or unauthorized disclosure of, information relating to the representation of a client does not constitute a violation of paragraph (c) if the lawyer has made reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer’s efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer’s ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use).

The current version of Washington Comment 6 to RPC 1.1 discusses continuing education generally, but does not have the explicit tie between competence and new technology. This new ABA formulation, however, is also under review here.

**Example: Electronic File Storage**

Although technology has transformed many aspects of law practice, one of the best illustrations is file storage. Paper files are gradually giving way to various forms of electronic storage — ranging from local media to remote “cloud” services. The ability to store and retrieve data seamlessly both within and outside our offices affords many benefits for lawyers and clients alike.

At the same time, the consequences of data loss or theft are potentially more...
far-reaching as well. In years past, a paper file inadvertently left behind at a restaurant after lunch with a client raised potential confidentiality issues if not recovered quickly — but they were normally limited to the single client concerned. By contrast, a laptop left behind at that same restaurant today may magnify the confidentiality issues across the lawyer’s entire client base if the computer holds the lawyer’s “virtual file room.” Similarly, the theft of a law firm’s confidential information through hacking into its servers — whether on-site or maintained remotely — can present those issues even more starkly.

Beyond the RPCs, many states, including Washington (see RCW 19.255.010), have broad data breach notification laws. The federal district court in Seattle commented on both the rise of electronic data theft and related litigation in Krottner v. Starbucks Corp. (2009 WL 7382290 at *2-3 (W.D. Wash. Aug. 14, 2009) (unpublished; citations omitted)): Digital collections of thousands or even hundreds of thousands of people’s personal data are ubiquitous, and theft or loss of those collections is, if case law is any indication, becoming increasingly common. In some cases, information is compromised by hacking into computer networks that store personal information . . . Often, as in this case, plaintiffs raise claims arising from the theft of computers that contain collections of personal information.

Accompanying the rise in the theft or loss of such data collections is a rise in civil suits. The theft or loss of a data collection brings with it the possibility of what the court will broadly refer to as “identity theft.” In the hands of an identity thief, a plaintiff’s personal information can be used to gain access to his financial accounts, open new accounts in his name, and engage in other schemes limited only by the thief’s ingenuity.

The WSBA in Advisory Opinion 2215, which was issued in 2012, discussed the general factors that lawyers should consider in evaluating cloud computing services. Although remote storage presents some unique issues precisely because we are using an independent vendor often operating at significant physical distance from our office, much of the advice rings true even for storage that is located closer to (or in) our offices. Advisory Opinion 2215 also echoes the comments noted in weaving together the concepts of competence and confidentiality:

A lawyer using such a service must, however, conduct a due diligence investigation of the provider and its services and cannot rely on lack of technological sophistication to excuse the failure to do so. While some lawyers may be able to do more thorough evaluations of the services available, best practices for a lawyer without advanced technological knowledge could include:

1. Familiarization with the potential risks of online data storage and review of available general audience literature and literature directed at the legal profession, on cloud com-

SGB: LEADERS IN ASBESTOS LITIGATION.
40 YEARS OF EXPERIENCE ADVOCATING FOR ASBESTOS VICTIMS IN WASHINGTON STATE.

We give each client personal attention, heartfelt compassion, and hand-crafted representation. If you have a client who has received a diagnosis of mesothelioma or another asbestos-related disease contact Thomas Breen, Kristin Houser or Bill Rutzick.
puter industry standards and desirable features.

2. Evaluation of the provider’s practices, reputation and history.

3. Comparison of provisions in service provider agreements to the extent that the service provider recognizes the lawyer’s duty of confidentiality and agrees to handle the information accordingly.

4. Comparison of provisions in service provider agreements to the extent that the agreement gives the lawyer methods for retrieving the data if the agreement is terminated or the service provider goes out of business.

5. Confirming provisions in the agreement that will give the lawyer prompt notice of any nonauthorized access to the lawyer’s stored data.

6. Ensure secure and tightly controlled access to the storage system maintained by the service provider.

7. Ensure reasonable measures for secure backup of the data that is maintained by the service provider.

Finally, Advisory Opinion 2215 notes that our duties don’t end with selection of a service. It counsels that because technology changes rapidly, lawyers “must also monitor and regularly review the security measures of the provider.”

**Summing Up**

Lawyers don’t necessarily need to become computer nerds to meet their duty of competence if we have sufficient internal or external technical assistance. But any lawyer using technology has to understand it well enough to meet our many responsibilities to our clients — including our fundamental duty of confidentiality. NWL

---

**Mark Fucile**, of Fucile & Reising LLP, handles professional responsibility, regulatory, and attorney-client privilege matters and law-firm-related litigation for lawyers, law firms, and legal departments throughout the Northwest. He can be reached at 503-224-4895 and mark@frllp.com.
UPL Restrictions

Hurting Lawyers More than Helping

By Mark Britton

As the founder and CEO of Avvo.com, I recently spoke on a panel at Stanford’s FutureLaw Conference. Rather than attending only my session, I decided to hang around to hear others’ ideas regarding the future of law. There were a number of expected themes: The rise of the Internet, cloud-based computing, document automation, etc. But the unexpected star of the show was “unauthorized practice of law” (UPL) restrictions. I believe I was the first speaker to conjure this well-known ghost, but it wove itself through the day like a spectral smoke refusing to be ignored.

The FutureLaw conversation gravitated towards two closely related UPL restrictions: non-lawyer legal services and fee-sharing. In other words, those who are acting like lawyers and those who are simply trying to share in lawyers’ income. I believe these topics only receive more attention because so many lawyers are struggling to stay in business these days. Moreover, never has there been more competition from non-lawyer legal services like LegalZoom, Rocket Lawyer and Nolo, which all give consumers myriads of state UPL advisories.

The UPL rules purportedly exist to protect the unwitting legal consumer. The justification for restrictions against non-lawyer services is essentially that non-lawyers are likely to prioritize profits over quality legal services.

While each of these UPL arguments has theoretical merit, lawyers are being disingenuous if they don’t admit a vested and possibly primary justification of restricting potential competitors. Lawyers are panicked that anyone who spends much time at the regulatory table (accountants, insurance brokers, or mortgage brokers — just to name a few) might take a bite out of the lawyer pie. They are similarly concerned that those money-grubbing businesspeople might introduce streamlined operations or artificial intelligence that could further shrink the pie.

At the FutureLaw Conference, Stanford law professor Norman Spalding called this spade by name and suggested that we might commend lawyers for being so business-savvy in keeping their competition at bay. While I believe that Professor Spalding made this amusing observation to stoke debate, I assure you that many lawyers support this thinking. Not only have hundreds told me as much, but the proof is in the litigation pudding and the plethora of state UPL advisories.

Unfortunately, I cannot agree. The more time I spend both inside and outside the profession, I am increasingly convinced that UPL is hurting lawyers more than it is helping them.

How UPL is Hurting Lawyers

Let’s start with fee-sharing. My primary argument against restricting fee-sharing is that it keeps businesspeople and their innovation out of the legal profession by not giving them any incentive to participate. Let’s face it, monetary gain drives innovation. The father of economic theory, Adam Smith, put it very simply in his 1776 book, An Inquiry into the Nature and Causes of the Wealth of Nations. He said:

Every individual necessarily labours to render the annual revenue of the society as great as he can. He generally neither intends to promote the public interest, nor knows how much he is promoting it ... He intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention.

The UPL rules tie the “invisible hands” of businesspeople interested in the legal profession. The only free hands belong to the lawyers, and they have shown little interest in using them. Innovation and business excellence in the legal industry reside somewhere between stunted and non-existent. It is one of the reasons LegalZoom so easily acquired 70 percent consumer brand awareness: they had zero competition.

Lawyers’ lack of business intelligence also drives my arguments against restricting non-lawyer legal services. Put simply, by restricting non-lawyers, lawyers are reducing the size of their addressable market. Currently, lawyers service only roughly half of the high-income U.S. population and less than one-fifth of the low-income population. Principal factors in these low rates are that consumers don’t understand the value of legal services and don’t believe they can afford a lawyer. In other words, everyday people don’t understand what something as simple as a will could do for them — they just understand it will be really expensive.

To the extent that non-lawyer services can work with these consumers to help them enter the legal market, this is great for lawyers who will have a larger addressable market for their more sophisticated legal services in the future. Lawyers should dream of an exponentially larger addressable market — where legal advice is as accessible as travel advice, where a legal check-up is as common as the medical one. Non-lawyer legal services can help realize this dream.

I’m aware that while non-lawyer services can help expand lawyers’ future addressable market, they can also shrink it by competing with lawyers. In many ways, it is already happening with LegalZoom and its non-lawyer brethren unabashedly positioning themselves as faster, cheaper, and simpler than lawyers. But I still think the opportunities present-
ed by an expanded market outweigh the risks of enhanced competition.

**The Customer Is Always Right**

But even if we assume that the competitive risks outweigh the opportunities to the extent that lawyers hedge that risk with UPL, I believe it will be a losing long-term position. This is because, no matter how well lawyers use UPL, it is the legal customer who will decide whether non-lawyer services live or die. As Henry Ford so poignantly said, “It is not the employer who pays the wages. Employers only handle the money. It is the customer who pays the wages.” And right now, legal customers are increasingly paying legal wages to non-lawyers. LegalZoom alone already boasts over $200 million in annual revenue, which would solidly put them in the AmLaw 200. To me, the legal customer has already spoken: Non-lawyers are increasingly serving their needs better than lawyers.

In the face of this increasingly audible message from the legal customer, I believe that competition, rather than protectionism, is the only viable long-term option for lawyers. To do this, lawyers must take time to understand why their customers are choosing non-lawyer services. Then they need to build superior products that address that “why” and they need to communicate that superiority. With the right products and communication, it won’t matter if LegalZoom or anyone else is in the market because consumers will choose the well-communicated superior product over the inferior one.

Notwithstanding my admonitions in this regard, I’ve heard literally hundreds of lawyers indignantly tell me that I cannot expect them to compete with the likes of LegalZoom because they are J.D.s, not MBAs. Every time I hear this, I want to put the lawyer in a headlock until they submit to understanding that UPL gives them no choice! If businesspeople cannot truly have skin in the lawyering game, then lawyers must be the businesspeople. They must be the innovators.

As I envision the headlock, I have to check myself, because I understand why lawyers are so lost. It starts in law school and is largely propagated by CLE administrators who believe that the commingling of legal principles and business savvy is an unholy union that can only transform legal saints into sinners. And yet most lawyers operate businesses. In fact, many lawyers are forced to launch small businesses within five years of graduating from law school. Only then do they get business experience — in real time and with real consequences. The results are seldom pretty. Data shows that lawyers are leaving the profession at an alarming rate. Even “successful” law firms have little to brag about: Big firm attrition rates hover around 20 percent, and if you can show me any big firm that has brand awareness approximating LegalZoom’s 70 percent, I’ll buy you an elephant.

**How Businesspeople Can Help Lawyers**

If lawyers don’t want to be businesspeople, and the legal education system won’t teach them to be businesspeople, then lawyers need to partner with top-shelf businesspeople in order to maintain the heart of the legal customer. And I’m not talking about consultants. Consultants can help, but they will never bring the passion and innovation of a true business owner.

Not only could these businesspeople help lawyers fashion the aforementioned products and communication to compete with the non-lawyer services, they also could help attorneys run their businesses more efficiently. Most lawyers fail at business because they don’t really know how to run one. It also drives a lot of misconduct. For example, the lawyer doesn’t return a retainer because of poor accounting, or the lawyer misjudged her cash flow and needed to dip into her custodial account. Businesspeople could help their lawyer co-workers put together operating plans and systems that avoid the operational oversight or the cash flow pickle.

For these same reasons, I don’t believe businesspeople would make law firms or other legal operations prioritize profits over quality legal services. In my own business, we employ software developers, designers, brand marketers, and other technical talent whose jobs I could never do because their talent is just that — technical. They have education and experience that allows them to make decisions that exceed my abilities. I wouldn’t dream of replacing their opinion with mine because that would hurt our business. Instead, I play my role of being the businessperson: I set corporate goals and measure whether we are meeting them; I talk to our customers and study our competition to understand where we are weak and strong; I work with employees who are struggling. By playing this role, I enable our technicians to play theirs (and vice versa). Businesspeople helping run legal operations would be no different.

**Let’s Get off the UPL Couch**

As I contemplate the effects of UPL on lawyers, I’m reminded of the Benjamin Franklin quote, “We are all born ignorant, but one must work hard to remain stupid.” If lawyers continue to work so hard at keeping “business” out of the “legal” profession, it is only a matter of time before they completely lose touch with the legal customer.

It’s time for lawyers to get off the UPL couch, brush the trade-restrictive crumbs off our bellies, and take a stroll in the business neighborhoods of customer satisfaction and competition. It won’t always be safe or fun, but it will always be necessary.

We are not just lawyers; we also run businesses. Let’s start acting like it. NWL

---

**Mark Britton** is founder, president, and CEO of Avvo, a Seattle-based lawyer rating, directory, and information firm. Previously, he was the executive vice president of Worldwide Corporate Affairs of InterActiveCorp Travel (IACT) and the first counsel of Expedia, Inc. He is a frequent commentator on consumer issues, appearing on programs such as ABC’s Good Morning America, Fox Business’s America’s Nightly Scoreboard, CNBC’s Power Lunch, and CNN Money. He received his law degree from George Washington University. He holds a degree in finance from Gonzaga University and serves on Gonzaga’s board of regents. Views expressed in PERSPECTIVES are those of the author and not necessarily those of the WSBA.
Serving Up Software

9 Legal Technology Companies You Should Know

by Dan Lear

Mark Andreessen knows technology. As a co-founder of Netscape, he brought the Internet to the masses. He was an early investor in Twitter and has advised younger tech CEOs like Mark Zuckerberg and Mark Pincus and their respective companies, Facebook and Zynga.

So, when Andreessen makes predictions about technology, wise people — like, say, lawyers — should pay attention.

In an op-ed for the Wall Street Journal in 2011 titled, “Software is Eating the World,” Andreessen argued that technology, particularly software, is spurring a shift that will remake many, if not most, major industries in the United States economy. He wrote:

More and more major businesses and industries are being run on software and delivered as online services — from movies to agriculture to national defense... Over the next 10 years, I expect many more industries to be disrupted by software...

He added: “Companies in every industry need to assume that a software revolution is coming” (emphasis added).

Law should not be excluded from Andreessen’s statement. Exactly how technology will change the practice of law is debatable, but few argue that technology will not alter the profession.

In a nod to this fact, the American Bar Association recently revised Comment 8 to the Model Rule of Professional Conduct 1.1 to include the obligation to “keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology...” in the attorney’s duty of competence (emphasis added).

So far, Comment 8 has only been formally adopted in Massachusetts and Pennsylvania. However, even in states in which lawyers may not be obligated to keep up on technology — including, for the present, Washington — the comment suggests that lawyers cannot rely on technological incompetence as an excuse for inefficiency, poor lawyer-client communication, or similar failings.

In order to both help Washington’s lawyers see and understand the changing landscape of legal technology and to aid in efforts to stay competent (at least as competence is defined by the ABA), quick descriptions below provide examples of legal technology companies and tools. The examples are grouped into three categories: tools and companies to know about, companies and tools to watch, and legal technology companies to follow whose tools currently under development in Washington state.

COMPANIES TO KNOW

Lex Machina
(www.lexmachina.com)
Lex Machina provides legal analytics on intellectual property litigation for law firms and in-house counsel. It analyzes publicly available data from sources such as PACER, the individual websites of all 94 federal district courts, the United States Patent and Trademark Office site, and others. Lex Machina provides key insights regarding the success of a specific client or legal argument, both individually and with a given judge. It allows lawyers to begin to predict the behaviors and outcomes that different legal strategies may produce. Corporate customers include Microsoft, Yahoo!, eBay, and Shire Pharmaceuticals, along with startups and other companies. Law firm customers include Wilson Sonsini, Fenwick & West, Orrick, Morgan Lewis, and many others, from boutiques to AmLaw 100.

With nearly $11 million in venture funding and a head-start on the competition, Lex Machina has significant room to grow. Watch whether and how Lex Machina is able to provide similar services for legal litigation specialties outside intellectual property.

Clio
(www.goclio.com)
Clio is a cloud-based practice management solution. Through it, a lawyer can access cases, documents, bills, and invoices remotely. Clio also integrates with many applications that lawyers use, including most email providers — Google Apps, Dropbox, and Xero. Clio bills itself as a “productivity solution” helping lawyers save time by putting everything practitioners need in one place. Beyond that, Clio just raised $17.9 million in venture capital, so the company seems primed to lead others in the relatively crowded market for legal practice management technologies.

Avvo
(www.avvo.com)
While initially best known for its lawyer rankings, Avvo’s business has evolved significantly since it began seven years ago. Central to its site is a robust question-and-answer forum in which lawyers answer users’ questions about the law and legal issues. The Avvo forum is an “inbound marketing” juggernaut for lawyers and, as such, has become a ready source of good referrals in many practice areas. It is also a prime spot to advertise, providing attorneys an opportunity to market directly to end users who come to Avvo’s site to submit a question about, or for information on, a specific legal issue.

Beyond the question-and-answer forum on their website, Avvo offers “Avvo Ignite.” Launched in late 2012, Avvo Ignite is a suite of marketing tools designed to give lawyers insight on marketing effectiveness. It also provides client relationship management (CRM) functionality to assist lawyers in identifying, cultivating, and managing prospective and existing clients. As a
Seattle-based company that just raised $37.5 million in venture funding, Avvo probably fits in all three categories: it is currently a strong force in legal tech, it is local (with offices in the International District), and, with $37.5 million to spend, it is definitely a business to track.

COMPANIES TO WATCH

**DiligenceEngine**
(www.diligenceengine.com)

DiligenceEngine’s software helps lawyers extract information from contracts faster and more accurately. The system quickly finds user-specified contract provisions (such as assignment, change of control, term, and many more), puts its findings into summary charts, and shows users “apps” that can: 1) deliver online interactive advice on legal and compliance questions to business people, 2) route out-of-the-ordinary questions to lawyers for handling in traditional ways, 3) draft contracts, court forms, and other documents, and 4) guide lawyers through fact investigation, legal analysis, and case evaluation, among many other legal activities. Lawyers and other legal professionals with little or no programming experience can build apps on the Neota Logic Server.

Law firms using Neota Logic Server include Littler Mendelson, whose Affordable Care Act Advisor is available on the firm’s website, and Seyfarth Shaw, whose J.O.B.S. Act Crowdfunding Advisor was announced in March.

Neota Logic is also collaborating with Georgetown University Law Center and other law schools that offer courses during which students build Neota Logic applications for not-for-profit legal services businesses. Neota Logic is also working on other access to justice projects with the Legal Services Corporation, Pro Bono Net, New Mexico Legal Aid, and other organizations.

**Traklight**
(www.traklight.com)

Traklight is a self-guided software platform that creates a custom intellectual property strategy for a startup or small business. Using an online questionnaire, Traklight helps business owners perform a simple intellectual property audit of their businesses. Based upon the answers that a business owner provides, Traklight creates an automated snapshot of all intellectual property needs that attorneys can review with potential or existing clients. Business owners can also store their intellectual property reports online using Traklight’s IP Vault storage feature and make the reports available to attorneys or investors who want or need a better snapshot of the business’s intellectual property.

Traklight can help a small firm to qualify clients and educate them on intellectual property issues, saving the firm time and money. It can do the same for big firms, while also providing a valuable marketing and client development differentiator.

COMPANIES TO FOLLOW

**Vizibid**
(www.vizibid.com)

Vizibid is an online community that enables lawyers to find and share legal document templates. Vizibid gives lawyers access to a shared model document library comprising a wide variety of documents contributed by lawyers who have joined the site. Vizibid is a dramatic improvement on current state-of-the-art document sharing, e.g., email and list serve technology, by storing the shared documents in a centralized, searchable online database. It is also very cost-competitive vis-à-vis other form bank alternatives.

Vizibid was cofounded by an attorney and a software engineer in Seattle.

**MetaJure**
(www.metajure.com)

MetaJure is a smart document management system (DMS) that collects, stores, and makes available documents, email, and other materials through an intuitive Google-like search. The MetaJure DMS does not require data conversion and users generally require only a few minutes of training. MetaJure is available for both law firms and in-house legal departments, large and small. MetaJure was founded in Se-
attle by two veteran lawyers — Marty Smith and Kevin Harrang. Kevin is a former deputy general counsel for legal operations with Microsoft and Marty established the Intellectual Property Practice Group for Preston Gates & Ellis (now K&L Gates).

**Coyote**

(www.coyoteknights.com)

Coyote is an automated trademark docketing system. Coyote pulls and translates data directly from the United States Patent and Trademark Office (USPTO) and converts it into calendaring and docketing information. It uses a visual task board to present the status of an entire trademark portfolio. This visual layout is designed to help users focus on the trademarks that require attention. Coyote will even suggest a list of possible next steps in certain circumstances.

Other Coyote features include report generation, client correspondence templates, and an integrated chronology file key off event data received by the USPTO. Coyote can be particularly useful for small- to medium-sized firms in managing larger portfolios that, if managed in larger firms, would simply rely upon greater manpower.

**The Changing Tech Landscape**

This article discusses only a sampling of the legal technology companies and tools that are available or under development. Optimally, it provides a preview of what is happening in this rapidly changing area. Comment 8 to the new ABA model rule 1.1 and Mark Andreessen’s statements about the coming software “revolution” might seem unrelated when considered separately. However, together they evidence an emerging technology landscape that could dramatically change the tradition-bound legal profession.

To date, many lawyers have not chosen to follow the latest technological advancements. Further, the intersection of lawyers and readers of Wired magazine will probably remain low. However, lawyers who even stay aware of the emerging technologies will better meet their ethical obligations. They will also not be disadvantaged by the challenges and opportunities that the coming technology landscape will certainly bring.

Dan Lear is an attorney in Seattle. He maintains a business and technology advising practice at Ragen Swan PLLC. He is active in various groups thinking about the practice of law, legal education, and lawyer professional development. He blogs at www.right-brain-law.blogspot.com and you can follow him on Twitter: @rightbrainlaw.
Let us consider the many benefits of being a lawyer. Now, let us consider the many detriments: chronic lower back pain, blurry vision, headaches, confusion, memory problems, anti-social tendencies, prison sentences, narcissism coupled with delusions of grandeur, and being disrespected by everyone. There are countless nuisances as well, including excessive student debt and chronic unemployment. I think we can all agree that technology is largely to blame for everyone and everything wrong with the world. Life very well may have been better when we were trampled underfoot by woolly mammoths and eaten by saber-tooth tigers. But those days are long gone and now we must adjust to a technological landscape that would cause Jules Verne to soil himself.

The Ruinous Nature of Technology
Technology has changed the slings and arrows of stress, but not the armor. The modern lawyer’s quintessential technology-laden stress battlefield now includes toothbrushes incorporating “patented sonic technology,” automatic coffee grinders and brewers, 300 urgent emails a day seven days a week, Windows updates, voicemail, faxes, Skype, IT departments, lack of IT departments, tablets, viruses, trojans, keystroke loggers, phishing schemes, Amazon.com, scanners, automatic document feeders, color printers, PDF/A-1a, SSL, wpa2, smart TVs, 4K resolution, e-readers, Bluetooth-enabled Beamers, SkyDrive — I mean OneDrive, smartphones, CNN, a music-streaming device set to an online station located in the former Deutsche Demokratische Republik that plays infinite variations of the song of the humpback whale performed by retired Stasi officials, and a CPAP machine.

To combat the ruinous nature of technology, all you have to do is abide by the following eight principles:

• Take care of yourself to better manage stress.
• Delegate.
• Make your workspace ergonomic.
• Set aside time where you can get work done uninterrupted.
• Occasionally eschew email.
• Maintain at least three primary email addresses: work, personal, and other.
• Review your work email three times a day, not every six minutes.
• Embrace cryopreserving.

Stress management
Faced with an unpleasant environment or situation that you can’t easily avoid or change, such as Windows 8, you might think that technology can help. But it can’t. The good news for you? Non-technological woo-woo stress remedies are infinitely less expensive and more effective than any off-the-shelf technology, and you have the ability, right now, at little or no cost, to deal effectively with stress.

First piece of advice — when you can’t avoid a stressful situation, you change how you react to that situation. And it is easier to recognize stress and change how you react to a stressful situation when you are healthy and well-rested. Eat right, limit your alcohol intake, get plenty of rest, exercise regularly, and you can look forward to ending your legal career with no more than the usual wear and tear.

Ergonomics, including a good keyboard
Invest in a good chair, a good monitor, and a good keyboard. Sit up straight. Stand up and walk around every 60
There is probably no greater gift or curse than email. Email allows you to communicate, create to-do lists, archive messages, and waste billable time 24 hours a day, seven days a week.

minutes or so. Good chairs and good monitors are fairly easy to find, but most lawyers don’t give much thought to their keyboards. If you use the keyboard that came with your Dell or HP or Gateway computer, consider upgrading to a keyboard that may reduce your physical and mental stress. Check out the Das Keyboard Model S Professional, or the Microsoft Sculpt Ergonomic Keyboard, or the Kinesis Freestyle2, for example.

Reduce the interruptions — schedule time where you can work uninterrupted

Remember that every interruption adds about 23 minutes to a task. You are more valuable to your firm and your clients when you can concentrate for long periods of uninterrupted time on your work.

Manage your emails instead of letting them manage you

In 1971, Raymond Samuel Tomlinson sent on the ARPANET the first email to a user on a different host. A different host. No one kept a copy of that email. One can imagine, however, it said something like this:

Now I am become Death, the destroyer of worlds.

There is probably no greater gift or curse than email. Email allows you to communicate, create to-do lists, archive messages, and waste billable time 24 hours a day, seven days a week.

With email, you are obviously caught on the horns of a dilemma. On the one horn, you can communicate for pennies with just about anyone anywhere in the world; on the other horn, for the same pennies, just about anyone anywhere in the world can communicate with you many times a second for the rest of your life. Although you will eventually lose the battle, you can at least fight back and delay the inevitable. To do so, you must first take practical steps to retard email time. The phone can stop an email exchange from spiraling out of control: instead of using email, use your phone, video-conferencing, client meetings, and your feet.

It’s scientifically proven — people respond better to the warmth of your voice and that endearing twinkle in your eye. Phone calls and client meetings reduce the expense of e-discovery. Many clients value your phone time more than your email time. The phone can stop an email exchange from spiraling out of control: when an email thread starts to go sideways, pick up the phone. Or walk down the hallway.

If you must use technology, for less than $30 you can add a decent webcam to your computer with a built-in microphone. Then you can make videos during the work day with Big Star soundtracks to your computer with a built-in microphone. Then you can make videos during the work day with Big Star soundtracks. If you must use technology, for less than $30 you can add a decent webcam to your computer with a built-in microphone. Then you can make videos during the work day with Big Star soundtracks.

Don’t be Pavlov’s attorney

Turn off the ding that tells you, “You’ve got mail!” Instead, review emails 1) when you first get in, 2) after lunchtime, and 3) about 30 minutes before you leave for the day. At the end of the day, check your junk email folder. If you are going to make one million dollars responding to an unsolicited email, your junk folder is the place to look.

You can help others as well. Keep your emails short and to the point. You should be able to write succinctly; that is, you should be able to write what would otherwise be a lot of words and use fewer words to say the same thing that you were going to say with a lot of words.

Delegate

Learn to delegate, train to delegate. Do you have an assistant who can filter your emails? Do you have trouble accepting projects or delegating them? Put together

Don’t wait to get connected with personal injury clients!

1-800-IAM-HURT vanity number, website and email responses will be licensed to only one personal injury attorney in any city or state in the U.S. Availability limited!

CALL NOW!

310-417-0618

“People remember the phone number when they need a personal injury lawyer. If you want to “Take it to the next level,” then 1-800-IAM-HURT is the way to go.”

-Tim Bottaro of Vriezelaar, Edgington, Bottaro, Boden & Ross, L.L.P.
a checklist of standard questions that you can ask if something is delegated to you. If you must communicate by email, then you can always create a template to create a form and receive one email rather than 30 to gather the same information.

- Who’s the client?
- What’s the issue?
- What’s the desirable outcome?
- What’s the product or service to be delivered?
- When is the product or service to be delivered?
- How much time should reasonably be billed?
- Who’s the primary contact with the client?
- Who’s the secondary contact with the client?
- Are there any other limitations on our authority or my authority (e.g., can I enter into negotiations with opposing counsel?)

Work until you die at your desk

If all else fails, work until you die at your desk. Employ some of the advice in this article and you may live longer. Long enough for modern science to make cryopreserving your corpse an option for your loved ones. Who knows? Maybe science will revive you hundreds of years from now to a stress-free environment where you’ll be trampled by a woolly mammoth, then eaten by a saber-tooth tiger. NWL

Brian McLean is managing shareholder in the Seattle office of Leahy McLean Fjelstad, where he represents condominium and homeowner associations. He cannot be reached at prodigo.ambecil@crymeariver.com, but he can be reached at brianmclean@leahyps.com.

NOTES
1. Cf. “amour.”
2. Understanding technology has been both a blessing and a curse for me and for those who work around me. A former associate called me “IT Guy.” Once.
3. There was a time, before Altered States (Warner Bros. 1980), when many of us thought technology could help.
4. If you are starting to relax, note that each latte you cross the street for costs your firm a minimum of $60 in lost billable time. And you thought paying $4.25 for a latte was extravagant.
5. I am aware that I have just alienated most of the Bar. Send your complaints to my fourth unmonitored email address, prodigo.ambecil@crymeariver.com.
6. If that doesn’t work, ask your doctor about Bupropion.
7. There is an Internet site with a stopwatch. Use it. www.online-stopwatch.com.
8. If you have a Gateway computer, please note that Microsoft no longer supports Windows 95. If you have an Apple computer, you are not reading this article.
9. The equivalent of converting an attorney to energy, transporting that energy to a different law firm, and reconstituting that energy back into an attorney for purposes of conducting e-discovery.
10. Roughly translated back into Sanskrit as “kālo’smi lokāksayakṛpravrddho lokāṃsamāḥartumiha pravrddha.”
11. You are not going to make one million dollars responding to an unsolicited email found in your junk email folder.
12. I know several attorneys who change law firms like clockwork every 18 months. That is an effective and efficient way of reducing spam and cleaning out your inbox.
13. That’s 2,300 hours; most law firms have a modest expectation that young lawyers will bill a minimum of 2,300 hours in a year. Note that if you are a senior partner in a law firm where associates regularly bill 2,300 hours in a year, please feel free to sign up for as many pastries as you want.
14. Dear Office of Disciplinary Counsel: that last statement was not intended to be advice, nor have I ever, purposely, engaged in such conduct.
15. I obviously don’t know how people respond to your voice and face. It is entirely possible that they don’t work well for you. If that is the case, consider sticking with email or using a webcam cat avatar.
If you haven’t explored apps before, think of them as mini computer programs. Instead of having a program that does a number of things (i.e., Microsoft Office), apps for an iPad are generally designed to do particular tasks. All of them are available from the iTunes App store. While some are free, often there is a charge for a full-feature version. Sometimes, there are a number of apps that purportedly do the same thing. However, after experimenting with a number of different apps, the following are the ones I use most often.

NOTEBOOK APPS
One of the great things about the iPad is the touch screen. Notebook Apps are just like your yellow legal pad since they allow you to actually “write” on the screen in your own handwriting, although the keyboard can also be used. A stylus is a necessity to use these apps well. While the various notebook apps have different features, my favorite is Noteshelf.

In Noteshelf, the interface is really simple. To create a new notebook, you simply hit “New.” This opens up a screen that allows you to name your notebook, choose the type of pages you want, and a cover. The notebooks are easily opened by touching the screen.

HOW I USE IT — When I meet with a client, I take my notes using a stylus directly on the screen. If, for example, I am visiting a site, I can take pictures using the built-in camera on the iPad and drop them into the notes. I can also drop in documents from online sources, like case law or articles. Noteshelf links directly with Dropbox, so I can use the little binocular icon in the upper right-hand corner to open up a screen that...
allows me to select the pages I want to send to Dropbox. I can then move the notes directly to the Dropbox client file. Just go to the Dropbox app (also a must-have), go to the Notesshelf folder and swipe from left to right on the note you want to move. Various icons appear, including an option to save to a different folder.

While Notesshelf is my favorite in this category, Notability is also a great app for some situations. It allows you to both take notes and do an audio recording at the same time. The handwritten notes synchronize with the recording, so by touching the note, you can go directly to that part of the recording.

**HOW I USE IT** — For depositions and meetings where I would like to have both notes and an audio record. Of course, in either situation, I obtain permission from all other participants. One caveat is that the audio recording takes up lots of memory, so unless you have a lot of open memory on your device, you may well run out.

*Similar apps — Notes Plus, Notebook+.*

**FILE MANAGEMENT**

Do you ever get tired of hauling boxloads of files to court? File management apps can lighten your load. The purpose of these types of apps is to allow you to arrange documents in folders and have them available for review. This category of apps does allow for some limited notations and bookmarking of the documents, but the primary purpose is organization and reading. My favorite app in this category is Goodreader. Unlike some other apps that truncate the file name beyond recognition, Goodreader makes it easy to find what you are looking for.

**HOW I USE IT** — When I have one or more cases on the court docket, I download the entire files (or at least every document I think I might possibly need) from Dropbox to Goodreader. Then, if something unexpected comes up, I have the whole file at my disposal. I use Goodreader in conjunction with the PDF apps I discuss later on.

*Similar apps — File Manager, Documents2.*

**PDF APPLICATIONS**

These applications allow you to work with PDF format documents, including adding comments and annotations, adding photos or sound clips, and deleting or inserting pages. You can also use the apps to sign and email documents in situations where that is appropriate. The applications also connect with various cloud servers, like Dropbox, or documents can be sent to the application by using email.

My go-to in this category is iAnnotate. Because of the large number of functions included in this category of apps, a well-organized menu of features is really important. iAnnotate has that, and allows customization of toolbars for the functions I use most often. Another app in this category that has some great features is PDF Expert. I don’t find it as easy to use, but it does allow for the creation of forms, including text fields, check boxes, and radio buttons.

**HOW I USE IT** — For court appearances, I create a file in iAnnotate where I put the documents I am most likely to need to refer to, such as pleadings related directly to the hearing and applicable cases and statutes. I can take notes and make
other annotations as hearings or other matters progress. In addition, I can bookmark and label specific places in the documents so that I can quickly get to the part that I need. I have also used iAnnotate to sign and send documents when I am out of the office. I hope to create a series of intake and other forms that clients can fill out directly on the iPad.

Similar apps — These two have worked so well for me, I really haven’t looked into any others.

DOCUMENT CREATION
Document creation is not the iPad’s strong suit. However, it is possible to create and print Word and Excel (or Pages, if you are an Apple user) documents on your iPad. While it is still easier to create documents on a regular computer, document creation apps are handy for editing or if you need to prepare a document and all you have available is the iPad. There is somewhat of a learning curve, but once you learn the controls, they actually work fairly well. The app that I use that is compatible with Word is Smart Office 2.

HOW I USE IT — Although documents can be created from scratch, I primarily use this app if I need to edit a document. Smart Office 2 can be connected to Dropbox, which allows me to open the document I need in Smart Office 2. I can print the document using one of the various apps that connect with wireless printers, like iPrint&Scan, for Brother printers or Print Central Pro for other types of compatible wireless printers. Unfortunately, if your WiFi printer is not compatible for some reason, you can still print from the iPad, but you have to wirelessly connect to a computer to do so.

Similar Apps — Pages.

PRESENTATION APPS
This is an area where the iPad excels. I was never much of a PowerPoint fan, but putting together beautiful presentations is really easy on the iPad. I actually use two apps for this, Haiku Deck and Keynote.

HOW I USE IT — I use Haiku Deck to create my slides. This app allows you to choose a theme. Additional themes are available for in-app purchase. Then, you can choose a layout, import pictures and add text. The beauty of Haiku Deck is it limits the amount of text and bullet points you can add, so your slides don’t become too busy or boring.

Although Haiku Deck can also be used to control your slides when making a presentation, I prefer to download the deck to Keynote. Keynote allows you to include speaker notes and other information that is visible to you, but not the audience. I connect my iPad with a dongle attachment to a projector or use Apple TV to present on a television screen. If I want to move around the room, I can use a second iPad or my iPhone as a controller to advance the slides and check my notes.

LAW-SPECIFIC APPS
There are a number of apps geared specifically to lawyers. TrialPad, for example, is designed especially for presentation of evidence during trial. This app is used with Apple TV or a projector. At $99, it is relatively expensive, but is well worth the cost if you try a lot of cases. TabLit is a great app for motion practice. You can write your argument notes on the iPad (or on your desktop computer to sync with your iPad, with a paid subscription). TabLit allows you to include links to cases and statutes that you may need to access during your argument. It also includes a timer and allows you to take notes, although only via the keyboard, during arguments. This is my go-to application for motion practice.

Similar Apps — TrialNotebook.

GAMES
Because all work and no play... Walking Dead — This app is based on the TV show, and requires you to make moral and tactical decisions, which affect the story. RealMyst — Just like the computer game. NWL

DENISE LUKINS is a solo practitioner in Vancouver, WA, who practices real estate, business litigation, and animal law. After practicing law with various firms for 15 years, she noticed that lawyers tended to invest in great hardware and software, but rarely utilized all the features available. She decided to open her own office and use technology for a more efficient, cost-effective, and fun practice. She can be reached at dlukins@lukinslaw.com.
Shareholder Litigation in Washington State
(Wash. St. Bar Assoc. 2014)
A one-volume, comprehensive reference focused on Washington securities law.
Written and edited by Washington practitioners: members of the securities defense bar and members whose practice has traditionally been on the plaintiffs' side of securities litigation.
$59

Review full table of contents and order at www.wsbacle.org: enter SHBUS14D in search field.
Questions?
orders@wsba.org • 206-733-5918 • 800-945-WSBA
WSBA LOW BONO SECTION

Low Bono
Serving Those with Real Needs but Limited Means

BY RACHEL RAPPAPORT, DIANA SINGLETON, AND MARK BAUMAN

We know, “low bono” is bad Latin. Nevertheless, the term captures the essence of a movement to provide reduced fee services for the benefit of increasing access to justice. Many concepts naturally relate to this idea, including reducing the cost of litigation, increasing law office efficiency, increasing client communication and negotiation skills, the development of best and alternative practices, and mentoring for new lawyers.

Low bono practices are rapidly being developed and adopted by new and retiring lawyers, and by experienced lawyers interested in serving the nearly one million potential Washington clients with real needs but limited means. Law schools are developing low bono incubator and residency programs to support alumni, including Seattle University, the first law school in the Northwest to launch such a program. The WSBA has just created a Low Bono Section in order to facilitate discussion around what low bono means and support interested practitioners.

New, Seasoned, and Retiring Lawyers Who Are Doing Low Bono Work

Low bono has been part of Vancouver attorney Katie McGinley’s solo practice from the beginning. McGinley worked at Open Door Legal Services, an arm of Seattle’s Union Gospel Mission, before starting her own family and estate planning practice in 2011, and she carried her passion for serving the public interest into her personal business model. “Working at Open Door Legal Services opened my eyes to the need for affordable legal services, and offering a sliding scale was one way to address that need,” McGinley explains. Her practice also focuses heavily on unbundled services as a way to reduce fees. “Ideally, everyone wants an attorney’s representation for their entire case, but unbundled services address the cost limitations,” she says.

McGinley finds that she can meet her own financial obligations and those of her practice by balancing low bono work with full-fee cases. McGinley currently uses the Moderate Means sliding fee scale as a guide, which provides recommendations for rate reductions if a client’s income falls between 200 and 400 percent of the Federal Poverty Level. However, McGinley places limits on the number of sliding scale cases she can accept at a given time to ensure adequate revenue for her practice. McGinley also keeps her overhead low by leasing space in an office with other attorneys and sharing resources such as a common receptionist. Under this business model, McGinley has been able to provide low bono services while maintaining a profitable practice.

Like McGinley, Seattle lawyer and 2010 bar admittee Celeste Miller has built her family law practice on a low bono model. Miller learned about low bono business models from Jenny Anderson, a trailblazer applying low bono practices, and heeded her advice about transitioning into a solo low bono practice. “Jenny taught me the first year is the most difficult,” says Miller. “I decided in April 2013 to take the leap of faith and devote 100 percent of my time to my low bono solo practice. I knew that once I survived the first year, everything would be fine.”

Not only is Miller doing fine, but her business is thriving. The majority of Miller’s clients are on a reduced fee, yet she consistently operates at a profit by keeping overhead low. Miller started her practice with a virtual office arrangement and eventually began sharing part-time office space with other low bono practitioners. Miller explains, “I had no experi-
Low bono practices are rapidly being developed and adopted by new and retiring lawyers, and by experienced lawyers interested in serving the nearly one million potential Washington clients with real needs but limited means.

ence with family law when I started my practice, but I purposefully chose that practice area because of the high need for affordable legal services.” While Miller may not be working with the public defender’s office or in civil legal aid as she planned to do after finishing law school — such positions have been scarce for recent graduates — her low bono practice satisfies her desire to extend social justice to everyone regardless of income.

Seasoned attorney Mark Baumann, who has been litigating and mediating family cases in Port Angeles for 26 years, has incorporated a low bono approach to his practice. He uses the low bono model in his growing mediation practice. Baumann explains, “Mediating high-conflict cases can be time-consuming and expensive, but richly rewarding for all, and a low bono pricing model makes it feasible for clients who can still afford to pay their lawyer.” He has found that moving to this model has proven to make business sense while also providing a much-needed service. Some attorneys in the prime of their career are implementing a low bono model midway through a case, when clients are no longer able to make advance fee payments. When considering whether to keep those cases, attorneys like Baumann find it more effective to offer reduced rates rather than take the case pro bono. Baumann explains, “By offering reduced fees, I find that the client is more invested in her case and actively collaborates with me than if I provided free services.”

Semi-retired Renton attorney and mediator Ron Mattson has also incorporated low bono into his practice, but under a model that reduces fees for all clients. Mattson charges $150 per hour, less than half of his hourly billing rate when he worked at a prominent Seattle family law firm. Mattson also emphasizes that the $150 can be adjusted downward for clients showing exceptional need. Being semi-retired, he can focus less on income and more on the services he provides. Mattson says, “It makes me feel good to help someone who would otherwise not get help, and I am grateful to be in a position where I can provide low bono services to everyone.”

Low Bono around the Country

Getting on the low bono bandwagon makes sense, especially to law schools that have seen increasing numbers of their graduates struggling to find full-time employment. It makes even more sense for law schools that are mission-driven and want to be a part of the solution to addressing the legal needs of the growing moderate income population.

Law schools are developing low bono incubator and residency programs to support alumni, including Seattle University, the first law school in the Northwest to launch such a program.

There are now 22 law schools, including our local leader, Seattle University School of Law, with incubator and residency programs designed to help their alumni build a low bono practice. This number is rapidly growing not only in the U.S. but around the world, with incubator programs now in the Dominican Republic and India.

The basic premise of a low bono incubator program is to support attorneys who want to serve moderate income clients through a solo practice. Seattle University’s program is incubating the practices of four new alumni — Bret Sachter, Eleanor Doermann, Olga Owens, and Kate Rich. They received stipends from the law school and have use of office space donated by SU law alumnus and personal injury attorney Dean Standish Perkins, who also mentors each of them weekly and works with law school staff to offer monthly practice-related trainings at his office. The incubator attorneys are also tapping into the same support networks as McGinley, Miller, Baumann, and Mattson, as well as mentors from the WSBA Moderate Means Program, in which law students make referrals of moderate income clients to attorneys willing to charge reduced fees. The Incubator Program is part of the law school’s larger Low Bono and Solo Initiative, which offers training and resources to other lawyers serving clients of moderate means.

Bar foundations and associations and legal aid programs are also launching low bono programs. Last summer, the Chicago Bar Foundation launched the Justice Entrepreneurs Program with the goal of helping new lawyers use new
models of practice to serve low- and moderate-income clients. The incubator program participants are learning how to leverage technology, offering fixed and sliding fees, unbundled services, and increased collaboration with clients.

The Legal Aid Society of Orange County launched its Lawyer Entrepreneur Assistance Program (LEAP), which offers newer attorneys opportunities to work in the trenches, taking legal aid cases under staff supervision, while building legal skills and expanding their networks in the legal community. They are encouraged to join the legal aid-run Lawyer Referral Service and take private cases as well. Through LEAP, two retired judicial officers who have office hours covering each day of the week and weekly case review, meet with LEAP attorneys, who present not only their pro bono cases but also their private cases. A legal aid program in our own backyard, Eastside Legal Assistance Program, is developing a similar program called the Expansion Project, which will offer attorneys training, supervision, mentorship, and office space to work on ELAP family law cases. Through this program, ELAP hopes to increase its reach to 130 more clients while also helping newer lawyers who are looking for supervised, skill-building opportunities so they can more confidently practice family law.

The American Bar Association’s Standing Committee on the Delivery of Legal Services has its finger on the pulse of the low bono incubator and residency movement. It facilitates a list serve for all incubator and residency programs around the country, maintains online profiles of all existing programs, and just published a book called Reinventing the Practice of Law: Emerging Models to Enhance Affordable Legal Services.

The New WSBA Low Bono Section
The WSBA appears to be the first bar association to have a formal Low Bono Section. As part of the WSBA Alternative Dispute Resolution Section’s listening project two years ago, Jenny Anderson, a Seattle family law attorney who recently grew her solo low bono practice to a two-person small firm, and Mark Baumann, who uses the low bono model mostly in his mediation practice, formed a focus group to explore the low bono concept. That project spawned the effort to create a new WSBA Low Bono Section, which the Board of Governors approved in March.

The Low Bono section has a broad charter to support lawyers practicing low bono, help connect potential clients with low bono practitioners, provide mentoring, and continue exploring the low bono concept. The Low Bono section supports lawyers with a (free to all) list serve, webpage, education programs, client counseling skill development, development of best and alternative practices, and legislative efforts to help reduce the cost of litigation and improve lawyer-provided access to justice.

Traditional mentor programs have been difficult to maintain for many organizations. The Low Bono section is developing a multi-level program with a Yahoo! Group, hosting social networking events, and a new Coffee House Attorney Mentor Program (CHAMP). One-on-one mentoring may develop formally or organically. Advanced topic mentor training is anticipated.

Low bono is a concept that intersects with many other concepts and groups. The section is (or will be) working closely with other WSBA programs and committees, such as the Moderate Means Program, the Future of the Profession Work Group, and access to justice-oriented groups, as well as all three Washington law schools and other groups such as pro bono organizations and other bar associations.

Lawyers interested in learning how to incorporate low bono concepts into their practice, or becoming involved, can find more information on the Low Bono Section’s WSBA webpage.

An Approach that Works
McGinley, Miller, Baumann, and Mattson — and the growing number of low bono attorneys around the country — are making their practices work. They
do office shares; use virtual offices; maximize social media marketing; use technology like cloud sharing, virtual receptionists, electronic faxes, and voice-to-text voicemail; take advantage of low-cost online time and billing programs; and offer clients affordable ways to pay for the legal services they need. Mattson puts it this way: “My practice is not just about providing the biggest bang for the buck; it’s about providing a bigger bang than the buck.”

Rachel Rappaport operates a solo practice in Seattle focused on low-bono representation. She is also the chair of the WSBA’s Pro Bono and Legal Aid Committee. She can be reached at rachel@rappaportlegal.com.

Diana Singleton is the director of the Access to Justice Institute at Seattle University School of Law, which houses the Low Bono Incubator Program and the Seattle University arm of the WSBA Moderate Means Program. She can be reached at singletd@seattleu.edu. Mark Baumann focuses on high-conflict family law litigation and mediation, is developing new client counseling models based on interpersonal neurobiology, is the chair of the Low Bono section, and is an ADR section executive committee member. He can be reached at mark@markbaumann.com.

When you need advice on attorney fees, an evaluation of fees, a declaration on fees, or testimony on fees—CALL US.

We wrote the book on attorney fees in Washington:

Attorneys Fees in Washington
(Lodestar Press)

The Award of Attorneys’ Fees in Civil Litigation in Washington
16 Gonz. L. Rev. 57 (1980)

When Counsel Screws Up: The Imposition and Calculation of Attorney Fees as Sanctions
Thank you to the thousands of judges, lawyers and legal professionals who gave to the Washington State Bar Foundation during licensing season.

Learn more and join them at wsba.org/foundation
Brian J. Kelly was elected to the WSBA Board of Governors in September 2011. Both a lawyer and a certified public accountant, Kelly is principal in the law firm Hillier Scheibmeir Vey & Kelly P.S. His practice focus is business, tax, real property, probate, and municipal law, with an emphasis on business succession and estate planning. Gov. Kelly serves as the WSBA treasurer and previously served on the Client Security Fund Board, Judicial Recommendation Committee, and the Limited Practice Board. He earned both his bachelor’s degree and law degree from the University of South Dakota. This is his third and final year serving on the Board of Governors.

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

I previously served on the Budget and Audit Committee for six years. Just before I ran for the Board, then-President Steve Toole identified certain financial and governance issues. I felt my experience as a certified public accountant and lawyer would be beneficial in addressing these matters.

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

Although members have different views of our association, all care about our profession and have the highest regard for the judicial branch of government. We may vehemently disagree, but we have formed lasting friendships. Lawyers are good people!

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

My role in helping formulate the WSBA 2013–15 strategic goals. This year-long process is an organization priority. These goals were developed in a changing marketplace for the delivery of legal services and during a budget constraint on our association. The strategic goals will support members’ improved problem-solving skills, networking, inclusion, community building, and career transitions. These goals are the focus of WSBA programs and are an example of WSBA’s commitment to its members.

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

Being a minority voice against endorsement of Referendum 74, which authorized same-sex marriage. Many members of the Board of Governors were passionate in their support for the referendum. I did not believe the Board should take a position on it. It was too divisive and ultimately would be decided by the voters.

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

My political heritage. My great uncle, Ed Kelly, was a four-term mayor of Chicago from 1933 to 1947. He teamed up with Cook County Democratic Chairman Pat Nash to form the “Kelly-Nash Machine.” Mayor Kelly was known as the “Father of the Lakefront” parks, some of which are built on debris from the Great Chicago Fire. Mayor Kelly was revered by his five brothers, all of who were employed by the city as department heads, except for “Corn Beef” Kelly, who was in the meat-packing business.

Take 5 lets you learn a little more about your Board of Governors. If you have further questions for Gov. Kelly, he can be reached at bkelly@localaccess.com or 360-748-3386.
Annual subscriptions are available to:

- An “All-Publications” library that includes Deskbooks and selected coursebooks.
- “Practice area” libraries of Deskbooks and selected coursebooks in: business; estate planning; family law; litigation; real property; and environmental and land use.
- An individual Deskbook.

Included in the price of an annual subscription:

- Links to all cases, statutes, and administrative codes cited in the Deskbook or coursebook — just click through to the full text in the Casemaker Legal primary law database.
- All supplements and new editions to the deskbooks included in your subscription released during the subscription term.
- Additional coursebooks added throughout the year.

Special introductory pricing: If you are a new lawyer or a solo practitioner; subscribe now to the “All-Publications” library for just $100/month. For pricing based on number of attorneys in your firm, call 1-877-659-0801.

To subscribe, go to http://Washington.casemakerlibra.com
Questions? 1-800-945-WSBA or orders@wsba.org.
**The 2014 WSBA Annual Awards Dinner**

Please join us on **Thursday, Sept. 18, 2014**, at the Sheraton in Seattle for an evening of inspiration as we celebrate the accomplishments of the 2014 WSBA award recipients. All members of the legal community and guests are invited to attend.

Reception: 5:30 p.m. (no-host bar) • Dinner/Program: 6:30 p.m.
Sheraton • 1400 Sixth Ave., Seattle

---

**TO REGISTER ONLINE:** Go to [www.wsbaawardsdinner.eventbrite.com](http://www.wsbaawardsdinner.eventbrite.com).
To download the registration form as a PDF and submit via email, go to [www.wsba.org/awards](http://www.wsba.org/awards).

| Name ___________________________________________ | WSBA No. __________________ |
| Address _____________________________________________________________________________________ |
| Phone ____________________________ Email __________________________________________________________ |
| Affiliation/Organization ________________________________________________________________ |

Registration is $95 per person (table of 10 = $950). To make your reservation, please return this form (or a photocopy) with your credit-card information or check payable to WSBA. Space is limited, so please make your reservations early. Reservations and payment must be received no later than Sept. 11, 2014 (refunds cannot be made after Sept. 11). Seating will be assigned.

- [ ] MasterCard
- [ ] Visa

No. ____________________ Exp. date __________

Name as it appears on card ____________________________________________________________

Signature ____________________________________________________________

____ (no. of persons) X $ _______ (price per person) = $ ________ TOTAL

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

<table>
<thead>
<tr>
<th>Name</th>
<th>chicken</th>
<th>fish</th>
<th>vegetarian</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

---

SEND TO:
WSBA ANNUAL AWARDS DINNER
1325 Fourth Ave., Ste. 600
Seattle, WA 98101-2539
Tel: 206-239-2125 • 800-945-9722, ext. 2125 • Fax: 206-727-8310 • WSBAevents@wsba.org

If you need special accommodations, please check here and explain below.

WSBA office use only:
Date ____________________
Check No. ____________________
Amount ____________________
No. AAD 92014
Need to Know presents news and information of interest to WSBA members.

**WSBA News**

**New WSBA President-elect and Board Members Elected**

Congratulations to William Hyslop of Spokane, who was elected as WSBA’s 2014–15 president-elect by the WSBA Board of Governors at its June 6 meeting. Mr. Hyslop, a former WSBA Board member, is a principal in Lukins & Annis’s Litigation Department, and was the U.S. Attorney for the Eastern District of Washington from 1991 to 1993. His leadership experience includes serving as President of the Spokane County Bar Association, the Washington State University Alumni Association, and the Federal Bar Association of the Eastern District of Washington.

The Board also elected Mario Cava of Everett as an at-large governor. Mr. Cava, Senior Litigation Auditor at Liberty Mutual Insurance Group, joins four other new Board members: Jill Karmy, of Longview, a partner at Parham, Hall & Karmy (District 3); Keith Black, of Gig Harbor, former Pierce County Chief Civil Deputy (District 6); Ann Danielli, of Seattle, a general practitioner, judge pro tem and mediator (District 7 North); and Andrea Jarmon, of Auburn, a faculty member at Tacoma Community College (District 8). Ms. Jarmon was elected by the Board of Governors at its April meeting as no one initially declared for the open District 8 seat. The other three district positions were elected this spring by WSBA members from those districts.

These governors will serve three-year terms starting in September 2014. Read more about them, along with our new president and president-elect, in the October issue of *NWLawyer*.

---

**The WSBA 50-Year Member Tribute Luncheon**

Please join us Friday, Oct. 24, 2014, at the Renaissance Hotel in downtown Seattle for a luncheon honoring the careers of WSBA members who have been members for 50 years! Honored 50-year members will receive a personal invitation by mail from the Washington State Bar for themselves and one guest. All members of the legal community and guests are invited to attend this celebration.

Reception and registration open at 11 a.m. (no-host bar). Lunch and program begin at noon.

Registration is $45 per person (table of 10 = $450). Space is limited. To make your reservation, email wsbaevents@wsba.org for more information. We hope to see you at this very special event!

**59th Annual Estate Planning Seminar: Oct. 30–31**

Registration is now open for one of the oldest and largest estate planning conferences in the country, brought to you by WSBA-CLE and the Estate Planning Council of Seattle. Join hundreds of attendees from across professional practice areas and a faculty of more than 20 practitioners from around the country and around the state at the Washington State Convention Center in Seattle. Register at [www.wsbcle.org/seminars](http://www.wsbcle.org/seminars); enter 15436 in the search field.

**MCLE Notifications Mailed to Members in the 2012–14 Reporting Period**

The WSBA recently mailed notifications to active lawyers, house counsel, and administrative law judges due to complete MCLE credits by Dec. 31 of this year and to certify credits no later than Feb. 2, 2015. Each notification includes a report of the number of credits that still need to be earned by December 31 to complete the credit requirement. Instructions are also given for accessing your online MCLE roster. You are encouraged to review the roster for correctly reported credits, missing credits, as well as duplicate listings of courses. Correcting and updating records will allow you to determine the actual number of credits that still need to be earned before the end of the year in order to avoid a late fee. Keeping online records updated will ensure that a correct MCLE certification form is produced in September for the license packet and posted for online certification beginning in October. Contact the WSBA Service Center at 206-443-WSBA (9722), 800-945-WSBA (9722), or at questions@wsba.org if you have questions.

**WSBA-CLE Annual Online Summer Sale July 8–22**

40 percent off all recorded seminars in audio MP3 and streaming video formats

There will never be a better time to browse WSBA-CLE’s newly expanded catalog of recorded seminars — all titles are 40 percent off! Visit the WSBA online store at [www.wsbcle.org](http://www.wsbcle.org) and select from hundreds of full-day and shorter recorded seminars. Download audio MP3s to your computer or mobile device and stream videos to your computer or tablet. Both are delivered directly to your “My CLE” account. There is no longer a three-month limitation on accessing recorded seminars, making your purchases accessible at any time. Remember that half of the 45 CLE credits Washington attorneys must report every three years (including all 6 ethics credits) may come from recorded seminars. Mark your calendar now and stock up July 8–22.

**WSBA Board of Governors Meetings July 25–26, Stevenson; Sept. 18–19, Seattle**

With the exception of the executive session, Board of Governors meetings are open, and all WSBA members are welcome to attend. RSVPs are appreciated but not required. Contact Pamela Wuest at 206-239-2125, ext. 2125, or pamela@wsba.org. The complete Board of Governors meeting schedule is available on the WSBA website at [www.wsba.org/bog](http://www.wsba.org/bog).

**Volunteer Custodians Needed**

The WSBA is seeking interested lawyers as potential ELC 7.7 volunteer custodians. An appointed custodian is authorized to act as counsel for the limited purpose of protecting a client’s interests whenever a lawyer has been transferred to disabil-
Need to Know

Legal Community

Northwest Justice Project Board of Directors — Application Deadline: Sept. 5, 2014
The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving on the Board of Directors of the Northwest Justice Project (NJP). There are three attorney positions open for three-year terms commencing January 2015 and ending in December 2017. Notice of Board action will follow its November 2014 meeting.

NJP Board members play an active role in setting program policy, assuring adequate oversight of program operations, and must have a demonstrated interest in, and knowledge of, the delivery of high-quality civil legal services to low-income people. The NJP Board is a working board. Board members are expected to attend quarterly meetings in Seattle normally on the last Saturday of January, April, July and October. Board members also serve actively on one or more standing committees. The Board typically holds a one day annual Board retreat, which may be held in conjunction with an appropriate equal justice conference. Attorney Board members are expected to participate and support NJP efforts in legal community activities and limited resource development efforts. Travel and lodging expenses are reimbursed, as appropriate.

For more information, contact César Torres, NJP executive director, at cesart@nwjustice.org; or Joanne Whitehead, Board Development Committee chair, at jjwhitehead@gmail.com. Submit letters of interest and résumés on or before Friday, Sept. 5, 2014, to WSBA Communications Department, 1325 Fourth Ave., Ste.600, Seattle, WA 98101-2539; or email barleaders@wsba.org.

Seattle Prep Takes First at National High School Mock Trial Tournament
In May 2014, Seattle Preparatory School won the National High School Mock Trial Championship in Madison, Wisconsin, beating a team from South Carolina in the final round. The victory marked Washington state’s second national championship. The final trial took place in the Wisconsin Supreme Court room in the State Capitol. U.S. Magistrate Judge Stephen Crocker presided, and a distinguished panel of attorneys and judges from around the country served as the “jury” of scorers.

Seattle Prep benefitted from the support of Washington state’s generous mock trial community as it advanced toward the competition in Madison. The King County champions from Franklin High School worked up both sides of the case and scrimmaged, as did four WSBA members. King County Superior Court Judge William L. Downing presided over one of the Franklin scrimmages. Prep’s mock trial program had 45 students this year, nine of whom comprised the Nationals traveling team. Congratulations, Seattle Prep!

Gonzaga Law Review Call for Submissions — Deadline Sept. 5, 2014
The Gonzaga Law Review is seeking articles for its upcoming 50th anniversary edition. Articles may have an academic or practical focus and should generally address topics related to civil rights or constitutional issues. For the anniversary issue, the Review has a special interest in articles that reflect the way the law has changed over the past 50 years or that comment on significant advancements in the legal field. We are especially interested in articles related to same-sex marriage and the Establishment Clause. Submissions for this edition will be due in the beginning of September, with a final date to be determined. If you have already written an article, feel free to submit it. If you are interested in publishing and have yet to start on an article, feel free to contact the Review to discuss the requirements for publication. Contact Brittany Quinn or Silvia Irimescu at gulr@lawschool.gonzaga.edu, or visit our submissions page at www.law.gonzaga.edu/law-review/submissions.

New Constitution Annotated Mobile App Available for Free Download
The Senate Committee on Rules and Administration, the Library of Congress, and the Government Printing Office have launched a new app and web publication that make analysis and interpretation of constitutional case law by Library experts accessible for free to anyone with a computer or mobile device. The new resources, which include analysis of Supreme Court cases through June 26, 2013, will be updated multiple times each year as new court decisions are issued. The app can be downloaded for free from iTunes or by going to http://beta.congress.gov/constitution-annotated. An Android version is in development.

People to People Citizen Ambassador Programs
People to People Citizen Ambassador Programs is organizing a delegation of legal professionals to travel to Vietnam and Cambodia in October 2014. The delegation leader is Elizabeth Kelley, criminal defense lawyer and board member for the National Association of Criminal Defense Lawyers. A number of unique opportunities are planned, including dialogue with legal pro-

Members of the Seattle Prep team are the 2014 National High School Mock Trial Tournament champions.
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.

WSBA Lawyers Assistance Program (LAP)

Work + Wellness Webcast Series

Have you considered leaving the traditional practice of law, but have no inkling of the alternatives? Are you confused about how your experience translates in a non-legal arena? Do you have no idea how to start the process? On Wed., July 23, from noon to 1:30 p.m., the Lawyers Assistance Program is excited to welcome Shawn Lipton, founder of The Trusted Coach, LLC, to our monthly Work + Wellness Webcast Series Presentation program. Lipton will share what he has learned over the years providing career counseling to thousands of individuals, provide a framework and step-by-step guide to start the process of exploring what may be an ideal path, and concretely introduce how to begin the job search. There is no cost for this presentation, and attendance can be either in-person at the WSBA Conference Center or via live webcast; registration is required. Learn more at www.wsba.org/lap.

Individual Consultation
The WSBA Lawyers Assistance Program provides individual consultation services for those struggling with depression, work stress, addiction, life transition, and other topics. The first three appointments are offered at no charge; up to three more sessions can be offered on a sliding scale based on your financial situation. Consultations are an opportunity for assessment of any problems you may be facing, identifying useful tools you may utilize to address these issues, and referrals to provide the right resources for you. We also provide consultations around job seeking and can offer informational and referral resources on a range of topics. Call 206-727-8268 or toll-free 855-857-9722, email lap@wsba.org, or go to www.wsba.org/lap.

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

Weekly Job Search Group
The Weekly Job Search Group provides strategy and support to unemployed attorneys. The group runs for seven weeks and is limited to seven attorneys. We provide the comprehensive WSBA job search guide, “Getting There: Your Guide to Career Success,” which can also be found online at www.tinyurl.com/7xhebb8b. If you would like to participate or to schedule a career consultation, contact Dan Crystal at danc@wsba.org, 206-727-8267, or 800-945-9722, ext. 8267.

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

WSBA Law Office Management Assistance Program (LOMAP)

LOMAP Roadshow – Yakima, Aug. 15
The LOMAP Roadshow will be traveling to Yakima on Friday, Aug. 15. Join us to hear from local members and WSBA staff on topics geared to the solo or small practice attorney. From technology to financials to ethics, our goal is to help you increase your efficiency and take your practice to the next level. Earn up to 7 CLE credits, including 2 ethics credits; half-day options are available. A networking reception will follow the program. For more information, contact LOMAP at lomap@wsba.org or 206-733-5914 or 800-945-9722, ext. 5914.

LOMAP Roadshow – Seattle, Sept. 22
On Sept. 22, the LOMAP Roadshow visits Seattle! Topics such as how to buy a law office, how to go truly and completely paperless, and digital etiquette will be explored. In addition, a panel of outstanding lawyers will discuss alternative practice models that you can take back to the office and adopt individually to the practice you have now, or whole cloth by redefining your firm completely. These topics and more will stimulate and enlighten. Join us for the entire day or a half-day. Email lomap@wsba.org or call 206-577-5914 or 800-945-9722, ext. 5914, for more information.

Usury Rate
The average coupon equivalent yield from the first auction of 26-week treasury bills in June 2014 was 0.056 percent. Therefore, the maximum allowable usury rate for July is 12 percent.
These notices of imposition of disciplinary sanctions and actions are published pursuant to Rule 3.5(d) of the Washington Supreme Court Rules for Enforcement of Lawyer Conduct. Links to relevant documents can be found by viewing the online version of NWLawyer at http://nwlawyer.wsba.org or by looking up the respondent in the lawyer directory on the WSBA website (www.wsba.org) and then scrolling down to “Discipline History.” As some WSBA members share the same or similar names, please read all disciplinary notices carefully for names, cities, and bar numbers.

**Disbarred**

Robert Brian Jackson (WSBA No. 18945, admitted 1989), of Woodinville, was disbarred, effective 4/24/2014, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.4 (Communication), 1.7 (Conflicts of Interest: Current Clients), 1.8 (Conflicts of Interest: Current Clients: Specific Rules), 3.4 (Fairness to Opposing Party and Counsel), and 8.4 (Misconduct). Francesca D’Angelo acted as disciplinary counsel. Robert Brian Jackson represented himself. Bertha Baranko Fitzer was the hearing officer. The online version of NWLawyer contains links to the following documents: Findings of Fact, Conclusions of Law and Hearing Officer’s Recommendation; Disciplinary Board Recommendation; and Washington Supreme Court Order.

Kirk T. “Chip” Mosley (WSBA No. 29683, admitted 1999), of Federal Way, was disbarred, effective 5/08/2014, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.4 (Communication), 1.3 (Diligence), 1.8 (Conflicts of Interest: Current Clients: Specific Rules), 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), and 8.4 (Misconduct). Marsha Matsumoto and Francesca D’Angelo acted as disciplinary counsel. Kenneth B. Harmell represented the respondent. Gregory John Wall was the hearing officer. The online version of NWLawyer contains links to the following documents: Findings of Fact, Conclusions of Law and Hearing Officer’s Recommendation; Disciplinary Board Recommendation; Declining Sua Sponte Review and Adopting Hearing Officer’s Decision; and Washington Supreme Court Order.

Scott Daniel Campbell (WSBA No. 21811, admitted 1992), of Lake Stevens, resigned in lieu of discipline, effective 5/12/2014. The lawyer agrees that he is aware of the alleged misconduct in disciplinary counsel’s Statement of Alleged Misconduct and rather than defend against the allegations, he wishes to permanently resign from membership in the Association. The Statement of Alleged Misconduct reflects the following violations of the Rules of Professional Conduct: 1.4 (Communication), 1.5 (Fees), 1.7 (Conflicts of Interest: Current Clients), 1.8 (Conflict of Interest: Current Clients: Specific Rules), 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), and 8.4 (Misconduct). Erica Temple acted as disciplinary counsel. Scott Daniel Campbell represented himself. The online version of NWLawyer contains a link to the following document: Resignation Form of Scott Daniel Campbell (ELC 9.3(b)). Scott Daniel Campbell is to be distinguished from Scott Fremont Campbell of Seattle, Scott W. Campbell of Seattle, Scott Alan Campbell of Montesano, and Scott L. Campbell of Boise, ID.

Christopher L. Cauble (WSBA No. 32155, admitted 2002), of Grants Pass, OR, was suspended for 45 days, effective 12/11/2013, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of Oregon. For more information, see www.osbar.org/publications/bulletin/14februar/discipline.html. Joanne S. Abelson acted as disciplinary counsel. Christopher L. Cauble represented himself. The online version of NWLawyer contains a link to the following document: Washington Supreme Court Order.

Suspended

Jany K. Jacob (WSBA No. 30722, admitted 2000), of Seattle, was suspended for 18 months, effective 4/24/2014, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 3.2 (Expediting Litigation), 8.4 (Misconduct). Scott G. Busby acted as disciplinary counsel. Jany K. Jacob represented herself. Nadine Darlene Scott was the hearing officer. The online version of NWLawyer contains links to the following documents: Findings of Fact, Conclusions of Law and Hearing Officer’s Recommendation; Disciplinary Board Intended Decision; Disciplinary Board Adopting Intended Decision; and Washington Supreme Court Order.

Darren Lance Mckenzie (WSBA No. 25755, admitted 1996), of Caldwell, ID, was suspended for five years, effective 4/24/2014, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of Idaho. For more information, see https://isb.idaho.gov/bar_counsel/public_discipline.html. Joanne S. Abelson acted as disciplinary counsel. Darren Lance Mckenzie represented himself. The online version of NWLawyer contains a link to the following document: Washington Supreme Court Order.

Phillip Aaron (WSBA No. 6464, admitted 1975), of Seattle, was reprimanded, effective 4/14/2014, by order of the hearing officer. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.15A (Safeguarding Property), 1.15B (Re-
Reprimanded

Breyon Jahmai Davis (WSBA No. 43148, admitted 2010), of Beverly Hills, CA, was reprimanded, effective 4/17/2014, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of California. For more information, see http://apps.statebar-court.ca.gov/dockets/dockets.aspx. Joanne S. Abelson acted as disciplinary counsel. Breyon Jahmai Davis represented herself. The online version of NWLawyer contains a link to the following document: Washington Supreme Court Order.

Reprimanded

Thomas L. Dickson (WSBA No. 11802, admitted 1981), of Tacoma, was reprimanded, effective 4/10/2014, by order of the chief hearing officer. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), and 5.3 (Responsibilities Regarding Nonlawyer Assistants). Nataliea Skvir acted as disciplinary counsel. Anne I. Seidel represented the respondent. The online version of NWLawyer contains links to the following documents: Order on Stipulation to Reprimand; Stipulation to Reprimand; and Notice of Reprimand. Thomas L. Dickson is to be distinguished from Thomas Carroll Dickson of Mill Creek.

Reprimanded

Harvey S. Grad (WSBA No. 6506, admitted 1976), of Seattle, was reprimanded, effective 4/14/2014, by order of the hearing officer. The lawyer’s conduct violated the following Rule of Professional Conduct: 1.15A (Safeguarding Property). Nataliea Skvir acted as disciplinary counsel. Kenneth Scott Kagan represented the respondent. The online version of NWLawyer contains links to the following documents: Order on Stipulation to Reprimand; Stipulation to Reprimand; and Notice of Reprimand.

CLE Calendar

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

Alcohol Industry Law

5th Annual Wineries, Breweries and Distilleries: Practical Issues in the Alcohol Industry

Wineries, Breweries and Distilleries: Practical Issues in the Alcohol Industry

Civility

The Civility Promise: Foundations of Civility CLE/CJE

Creditor Debtor

Creditor Debtor Rights Section Seminar: Distressed Homeowners

Construction Law

21st Annual Washington Construction Law

19th Annual Oregon Construction Law
Sept. 25–26 – Portland and webcast. 12.75 CLE credits, including 1 ethics. By The Seminar Group; 800-574-4852 or 206-463-4400; www.theseminargroup.net/seminar.lasso?seminar=14.color.

Environmental Law

Hawaii’s Shoreline Coastal Law and Regulation

5th Annual Fisheries and Hatcheries

Estate Planning

59th Annual Estate Planning Conference

Ethics

Achieving Inclusion: Providing Culturally Competent Representation to Undocumented Survivors of Trauma
July 15 – Seattle. 2 ethics credits. Presented in partnership with the WSBA Committee for Diversity; 800-945-WSBA or 206-443-WSBA; http://bit.ly/WSBA-CLE.

General

How to Succeed in the “Hot Seat”
Sept. 16 – Seattle. 2.75 CLE credits. By The Seminar Group; 800-574-4852 or 206-463-4400; www.theseminargroup.net/seminar.lasso?seminar=14.hotwa.

Health Law

Summer Practice Academy – Health Law Certificate: Health Care Law and the Patient Protection and Affordable Care Act

Labor and Employment Law

17th Annual Labor and Employment Law
Aug. 21–22 – Seattle and webcast. 12 CLE credits, including 1 ethics. By The
Announcements

The American Academy of Matrimonial Lawyers – Washington Chapter
is pleased to announce our new fellow:

Lisa DuFour, Seattle

AAML Washington Chapter Fellows:

Sherri M. Anderson  Wolfgang R. Anderson
Lawrence R. Besk       Kenneth E. Brewe
Michael W. Bugni       Marc T. Christianson
Linda Kelley Ebberson  H. Michael Finesilver
Janet A. George        Thomas G. Hamerlinck
David P. Hazel         Scott J. Horenstein
William L. Kinzel      Peter S. Lineberger
Howard Marshack        Christina A. Meserve
Elizabeth Michelson    Gail B. Nunn
Lisa Ann Sharpe        James D. Shipman
Edward R. Skone        David B. Starki
J. Mark Weiss          Gordon W. Wilcox

American Academy of Matrimonial Lawyers
Contact: Lisa Ann Sharpe, Seattle
sharpe@lasher.com
www.aaml-wa.org

Stokes Lawrence p.s.
is pleased to announce that

Laura A. Sell

has joined the firm’s Family Law practice.
Laura’s practice focuses on all aspects of family law, including divorce, property division, child custody, support issues and relationship agreements. She can be reached at 206-626-6000 or at laura.sell@stokeslaw.com.

Stokes Lawrence
1420 Fifth Ave., Ste. 3000, Seattle, WA 98101
206-626-6000

Stokes Lawrence Velikanje Moore & Shore
120 N. Naches Ave, Yakima, WA 98901
509-853-3000
stokeslaw.com

CLE Calendar

Seminar Group; 800-574-4852 or 206-463-4400; www.theseminargroup.net/seminar.lasso?seminar=14.empwa.

Law Practice Management


Law Office Management Road Show

Legal Lunchbox

Legal Lunchbox Series: Life In Balance
July 29 — Webcast only. CLE credits pending. Presented by WSBA; 800-945-WSBA or 206-443-WSBA; http://bit.ly/WSBA-CLE.

Legal Lunchbox Series: Representing Clients in Other States

Legal Writing

Summer Practice Academy – Mastering Legal Writing Certificate Program

Litigation

Litigation Section Annual Seminar

New Lawyer Education

New Lawyer Education: Residential Leasing and Eviction
Aug. 5 — Seattle and webcast. CLE credits pending. Presented by WSBA; 800-945-WSBA or 206-443-WSBA; http://bit.ly/WSBA-CLE.

Real Property

New Lawyer Education: Residential Leasing and Eviction
Aug. 5 — Seattle and webcast. CLE credits pending. Presented by WSBA; 800-945-WSBA or 206-443-WSBA; http://bit.ly/WSBA-CLE.
Pivotal Law Group, PLLC

is very pleased to announce that

Ada K. Wong

has joined the firm as an Associate Attorney.
Ada will focus on Civil Litigation, Business Law, Employment Law, Personal Injury, and Civil Rights. Ada can be reached at 206-805-1493 and AWong@PivotalLawGroup.com.

One Union Square, Suite 1730
600 University Street
Seattle, WA 98101
Tel: 206-340-2008 • Fax: 206-340-1962
www.PivotalLawGroup.com

On the occasion of our 5-year anniversary, Hodgkinson Street LLC is very pleased to announce our firm name change to

Hodgkinson Street Mepham, LLC

and to announce Brad Piscadlo has become a partner in the firm. We also welcome Abby Miller to the firm as an associate.
Congratulations to Dave, Brad, and Abby!

Ms. Miller, Tracy Hooper, Brad Piscadlo, Dave Mepham, Jeff Street, and Martha Hodgkinson continue to represent their clients in the fields of medical malpractice defense, professional malpractice defense, commercial litigation, construction defects, real estate disputes, and defending claims against public entities in Oregon and Washington. Ms. Hodgkinson also continues her mediation and arbitration practice.

1620 SW Taylor, Suite 350, Portland, OR 97205
Tel: 503-222-1143 • Fax: 503-222-1296
www.hs-legal.com

The Schwarz~Garrison Law Firm, PLLC

announces the relocation of its Pioneer Square office to:

2601 Fourth Avenue, Suite 470
Seattle, WA 98121
Tel: 206-622-9909 • Fax: 206-622-6636

Andrew M. Schwarz and Leslie J. Garrison have decades of combined experience representing clients in Family Law Matters, including Litigation and Collaborative cases and Criminal Defense.

www.newwaylaw.com

CARSON | NOEL PLLC

is pleased to announce that

Merryn B. DeBenedetti

has joined the firm as Partner.

Merryn will continue to represent entities and individuals in litigation matters, particularly in the areas of environmental, employment, and general complex commercial litigation.

CARSON | NOEL PLLC
20 6th Avenue NE
Issaquah, WA 98027
425-837-4717
www.carsonnoel.com
ETHICS and LAWYER DISCIPLINARY INVESTIGATION and PROCEEDINGS

Stephen C. Smith, former Chair of the Washington State Bar Association Disciplinary Board, is now accepting referrals for attorney disciplinary investigations and proceedings in Washington, Idaho, Hawaii, and Guam.

HAWLEY TROXELL ENNIS & HAWLEY LLP
877 Main Street
Suite 1000
Boise, ID 83702
208-344-6000
scsmith@hawleytroxell.com

MEDIATION

Tom Richardson
Over 30 years of commercial litigation and mediation experience, including business torts, securities, intellectual property, trusts and estates, real estate and boundary disputes, and product liability.

University of Puget Sound Law School (now Seattle University), Assistant Professor – Alternate Dispute Resolution 1982–1989

J. THOMAS RICHARDSON
Cairnross & Hempelmann
524 Second Avenue, Suite 500
Seattle, WA 98104-2323
Direct phone: 206-254-4455
trichardson@cairncross.com

IMMIGRATION REPRESENTATION

Gibbs Houston Pauw
We handle or assist in all types of immigration representation for businesses, families and individuals seeking new or renewed status.

The firm has years of experience in all areas of immigration law, with particular expertise in employer workplace compliance, immigration consequences of crimes, removal defense, and federal court litigation.

Languages include: Spanish, Chinese, Russian, Hindu, Punjabi.

Robert H. Gibbs
Robert Pauw
Gibbs Houston Pauw
1000 Second Ave., Suite 1600
Seattle, WA 98104
206-682-1080
www.ghp-immigration.com

EMPLOYMENT INVESTIGATIONS

EXPERT WITNESS

Claire Cordon
Employment Lawyer
Ten years with the U.S. Equal Employment Opportunity Commission
More than 20 years as an employment law litigator
Experienced expert witness in the areas of:
Discrimination
Harassment
Retaliation
Reasonable accommodation
Workplace misconduct
Whistleblower claims
Adequacy of investigation
Adequacy of training
Employment policies and practices

CLAIRE CORDON
206-284-7728
claire@ccordonlaw.com
www.ccordonlaw.com

THE LAST-MINUTE TRIAL LAWYER

Trial outcomes described by other lawyers as “excellent results . . . absolutely fabulous job”

Significant accomplishments occurred when Bharti took cases at the eleventh hour. Bharti is an experienced trial lawyer who is hired shortly before trial to present the client’s case to a jury. If you are in a situation and you need an experienced lawyer to try your client’s case, even late in the game, contact:

Harish Bharti
BHARTI LAW GROUP, PLLC
Tel: 206-789-4556
mail@hbharti.com
www.hbharti.com
ALL JURY TRIALS

LAWYER DISCIPLINE AND LEGAL ETHICS

Former Chief Disciplinary Counsel
Anne I. Seidel
is available for representation in lawyer discipline matters and advice on legal ethics issues.

206-284-2282
1817 Queen Anne Ave. N., Ste. 311
Seattle, WA 98109
anne@anneseidel.com
www.anneseidel.com

HAWLEY TROXELL ENNIS & HAWLEY LLP
877 Main Street
Suite 1000
Boise, ID 83702
208-344-6000
scsmith@hawleytroxell.com

MEDIATION

Tom Richardson
Over 30 years of commercial litigation and mediation experience, including business torts, securities, intellectual property, trusts and estates, real estate and boundary disputes, and product liability.

University of Puget Sound Law School (now Seattle University), Assistant Professor – Alternate Dispute Resolution 1982–1989

J. THOMAS RICHARDSON
Cairnross & Hempelmann
524 Second Avenue, Suite 500
Seattle, WA 98104-2323
Direct phone: 206-254-4455
trichardson@cairncross.com

IMMIGRATION REPRESENTATION

Gibbs Houston Pauw
We handle or assist in all types of immigration representation for businesses, families and individuals seeking new or renewed status.

The firm has years of experience in all areas of immigration law, with particular expertise in employer workplace compliance, immigration consequences of crimes, removal defense, and federal court litigation.

Languages include: Spanish, Chinese, Russian, Hindu, Punjabi.

Robert H. Gibbs
Robert Pauw
Gibbs Houston Pauw
1000 Second Ave., Suite 1600
Seattle, WA 98104
206-682-1080
www.ghp-immigration.com

EMPLOYMENT INVESTIGATIONS

EXPERT WITNESS

Claire Cordon
Employment Lawyer
Ten years with the U.S. Equal Employment Opportunity Commission
More than 20 years as an employment law litigator
Experienced expert witness in the areas of:
Discrimination
Harassment
Retaliation
Reasonable accommodation
Workplace misconduct
Whistleblower claims
Adequacy of investigation
Adequacy of training
Employment policies and practices

CLAIRE CORDON
206-284-7728
claire@ccordonlaw.com
www.ccordonlaw.com

THE LAST-MINUTE TRIAL LAWYER

Trial outcomes described by other lawyers as “excellent results . . . absolutely fabulous job”

Significant accomplishments occurred when Bharti took cases at the eleventh hour. Bharti is an experienced trial lawyer who is hired shortly before trial to present the client’s case to a jury. If you are in a situation and you need an experienced lawyer to try your client’s case, even late in the game, contact:

Harish Bharti
BHARTI LAW GROUP, PLLC
Tel: 206-789-4556
mail@hbharti.com
www.hbharti.com
ALL JURY TRIALS

LAWYER DISCIPLINE AND LEGAL ETHICS

Former Chief Disciplinary Counsel
Anne I. Seidel
is available for representation in lawyer discipline matters and advice on legal ethics issues.

206-284-2282
1817 Queen Anne Ave. N., Ste. 311
Seattle, WA 98109
anne@anneseidel.com
www.anneseidel.com
INSURANCE BAD FAITH EXPERT TESTIMONY

- Insurance Fair Conduct Act
- Coverage Denial and Claim Handling
- Reservation of Rights Defense

Bill Hight has 32 years of experience in insurance coverage/bad faith litigation.

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

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

MEDIATION

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

Mac has over 20 years of experience mediating cases in Washington, Oregon, and Alaska. He has mediated over 1,500 cases in the areas of maritime, personal injury, construction, wrongful death, employment, and commercial litigation.

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

LAW OFFICES OF EDWARD M. ARCHIBALD
Mediation Services
601 Union Street, Suite 4200
Seattle, WA 98101
Tel: 206-903-8355 • Fax: 206-903-8358
Email: mac@archibald-law.com
www.archibald-law.com

CIVIL APPEALS

Jason W. Anderson
Clarity gets results.


206-622-0820
anderson@carneylaw.com

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

James E. Lobsenz
701 Fifth Avenue, Suite 3600
Seattle, WA 98104
206-622-8020
lobsenz@carneylaw.com
www.carneylaw.com

CIVIL APPEALS

David J. Corbett
Focused on the clear presentation of compelling legal arguments for civil appeals and summary judgment motions. Available for association or referral.

DAVID CORBETT PLLC
www.DavidCorbettLaw.com
253-414-5235

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

James E. Lobsenz
701 Fifth Avenue, Suite 3600
Seattle, WA 98104
206-622-8020
lobsenz@carneylaw.com
www.carneylaw.com

ARIZONA LAWSUITS?

William Rinaudo Phillips
available as 32-year experienced trial lawyer licensed in Washington (#12200) and Arizona (#19949).

602-271-7700
wrp@bowwlaw.com

ARIZONA LAWSUITS?

William Rinaudo Phillips
available as 32-year experienced trial lawyer licensed in Washington (#12200) and Arizona (#19949).

602-271-7700
wrp@bowwlaw.com

MCGAVICK GRAVES, P.S.

Mediation and Arbitration Group
Hon. Rosanne Buckner, Ret.
Barbara Jo Sylvester
Henry Haas
William P. Bergsten
Robert Beale
Cameron J. Fleury

Combined experience of over 240 years. Our team is ready to help resolve your complex matters.

Please visit our website for additional information.

MCGAVICK GRAVES, P.S.
1102 Broadway, Suite 500
Tacoma, WA 98402
Local: 253-254-5900
Toll Free: 800-709-7015
www.mcgavickgraves.com

ARIZONA LAWSUITS?

William Rinaudo Phillips
available as 32-year experienced trial lawyer licensed in Washington (#12200) and Arizona (#19949).

602-271-7700
wrp@bowwlaw.com
TO PLACE A CLASSIFIED AD

**RATES:**
- WSBA members: $40/first 25 words; $0.50 each additional word.
- Non-members: $50/first 25 words; $1 each additional word. Blind-box number service: $12 (responses will be forwarded). Advance payment required; we regret that we are unable to bill for classified ads. Payment may be made by check (payable to WSBA), American Express, MasterCard, or Visa. These rates are for advertising in *NWLawyer* only. To place a position-available ad on the WSBA website, see [http://jobs.wsba.org](http://jobs.wsba.org). Pricing can be found online.

**DEADLINE AND PAYMENT:** Text must be emailed to classifieds@wsba.org by the first day of each month for the issue following, e.g., Aug. 1 for the SEP issue. For payment information see [http://jobs.wsba.org](http://jobs.wsba.org). Pricing can be found online.

**MEDICAL RECORD SUMMARY:**

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

**APPRAISER:**
- Antiques, fine art, and household possessions. James Kemp-Slaughter ASA, FRSA, with 33 years' experience in Seattle for estates, divorce, insurance, and donations. For details, see [http://jameskempslaughter.com](http://jameskempslaughter.com); 206-285-5711 or jkempslaughter@aol.com.

**NATIONWIDE CORPORATE FILING Services**
- Headerquartered in Washington state. Online account to easily manage 1–1,000 of your clients’ needs. [www.northwestregisteredagent.com](http://www.northwestregisteredagent.com); 509-768-2249; sales@northwestregisteredagent.com.

**EFFECTIVE BRIEF WRITER**
- With 20-plus years of civil litigation experience and excellent references available as contract lawyer. Summary judgments, discovery motions, trial preparation, research memos, appeals. State or federal court. Lynne Wilson; lynnwilsonatty@gmail.com or 206-328-0224.

**EXPERIENCED CONTRACT ATTORNEY**
- With strong research and writing skills, drafts trial and appellate briefs, motions, and
researches memos for other lawyers. Resources include University of Washington Law Library and LEXIS online. Elizabeth Dash Bottman, WSBA No. 11791. 206-526-5777; ebottman@gmail.com.


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

Fast cash for seller-carry-back real estate notes, contracts, and divorce liens! We have 40 years’ experience buying private real estate notes. Contact us for an instant quote! Lorelei Stevens, President, Wall Street Brokers, Inc. in Seattle. 206-448-1160 email: lorelei.stevens@gmail.com; www.wallstreetbrokers.com; www.divorceliens.com. Member BBB.

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

Law practice consulting services to help sole practitioners and small firms have a successful law practice. For more information call lawyer/coach John Allison at 707-357-3732 or visit www.coachlawyers.com.

Space Available

Two offices to share in Gig Harbor newly renovated law office off Soundview. Please contact Jan Rinker at janrinker@aol.com.


Two offices, Wells Fargo Center. Congenial downtown Seattle law firm (business IP, tax); tenants include PI, family law. Adjacent assistant space also available. Price range: $900–1,900. Rent includes receptionist, conference rooms, law library, and kitchen. Multi-function copiers, fax, broadband Internet available. 206-382-2600. Photos on Craigslist ad: “Wells Fargo Center (SKSP).”

Offices Available In Downtown Seattle: Historic Art Deco Building, 11th floor with views, ideal for a professional sole practitioner or small firm in a suite with other attorneys. 10X12 office: $925/month. 10X16 office: $1100/month. 7.5X8 para-legal/assistant space: $300/month. Includes: reception and shared conference room. 206-284-2932.

Modern central Redmond office for attorney in suite with other attorneys and staff. Conference room, parking, fully equipped. $950. Gail at 425-867-0512 or gail@pnwlg.com.

Vacation Rental


SPEEDING TICKET? TRAFFIC INFRACTION? CRIMINAL MISDEMEANOR?

Keep it off your record, Keep insurance costs down

JEANNIE P. MUCKLESTONE, P.S.
PO BOX 565
Medina, Washington 98039
(206) 623-3343
jeannie@muckleston.com
www.muckleston.com

• Successful Results
• Extensive experience
• Former Judge Pro Tem in King County
• Featured in Vogue magazine May ’03 as a top lawyer for women in Washington
• Front page of Seattle Times “Drivers fighting tickets and winning” June 1, 2006
• Visa/Mastercard accepted
Matthew M. Purcell
WSBA No. 46219

I became a lawyer because my parents went through a very nasty divorce when I was young. The judge made some very difficult decisions that had an extremely positive impact on my life and I figured if I could one day help do the same, then it would all be worth it.

My greatest talent as a lawyer is finding an amicable resolution.

In my practice, I work on improving the view litigants have of divorce lawyers. Communication is key.

My career has surprised me by the amount of ties I feel like I need to own.

The best advice I have for new lawyers is work toward resolution, be respectful always, and make the clerk your best friend.

The most rewarding part of my job is helping people through incredibly difficult times.

I wish that more lawyers would practice family law. We need good attorneys that want to do it.

During my free time, I exercise, golf, snowboard, cycle, and enjoy family.

The most memorable trip I ever took: Too many — recently I was in New York for Superstorm Sandy — hard to say that one can have a good time, but we did. We were above the power cutoff in Manhattan, and aside from one day of things being closed, we really made the best of it. We had our hotel to thank for the trip, as they refused to refund our money, so we essentially had to go. We ended up being one of the last trains to Manhattan and one of the first ones out after we stayed for the week.

Look up to anyone who listens more than they speak. I could use some more of that.

If I took one day off in the middle of the week, I would work out, work on the house, and spend time with my family. OK, if it is summer, I’d go golfing. And in winter, I’d go snowboarding.

I enjoy reading. Or I used to enjoy reading before law school. Now, if I read it usually ends up being magazines or articles online. Something short. I catch up on daily Arsenal FC blogs/news, but if I end up grabbing a book, it is probably one of the Halo books (a guilty pleasure).

I create work/life balance by trying to stay fit, attending church regularly and staying in contact with my mentor.

My favorite place in the Pacific Northwest is the ’Burg. So many great memories and favorite places to visit. We make a point of going through Ellensburg when visiting Wenatchee, just so we can stop and grab a clausen and a scone at D&M Coffee. So good!

I worry about getting home on time. Or when my car is in the shop. For some reason, that really stresses me out.

I am happiest when I can help. I like helping.

Nobody would ever suspect that I have flown a plane.

Aside from my career, I am most proud of this: The way in which faith has shaped my life.

This is on my bucket list: London. Emirates Stadium. Arsenal match.

This makes me roll my eyes: Listening to a politician.

This makes me smile: My wife and son.

My greatest fear is that I would cause someone harm or hurt their feelings.

My favorite band/musical artists are Billy Talent, Saves the Day, AFI, and Ellie Goulding. I have a thing for girly pop music.

If I could get free tickets to any event, I would go to the World Cup!

You should give this a try: Alligator. It’s pretty tasty.

I have been telling others not to miss soccer. It really is the next big thing here in the U.S. Besides, it’s hard to complain about watching a game that is over in about 115 minutes with no commercials.

My name is Matt Purcell and I am an associate at Leavy, Schultz, Davis, Clare & Ruff, P.S., in Kennewick, where I am blessed to continue practicing family law. Email me at mpurcell@tricitylaw.com.

We’d like to learn about you! Go to www.bit.ly/nwbeyondthebar to fill out your own Beyond the Bar submission.
JdR
Judicial Dispute Resolution, LLC

ADR Solutions

- All panelists are former Washington State Superior Court Judges
- Mediation, arbitration, hearing officer, special master and litigation consultation
- Talented and responsive staff
- Comfortable mediation conference rooms
- Well-appointed arbitration courtroom with audio/visual technology and party breakout rooms

JUDICIAL DISPUTE RESOLUTION - Joshua Green Building - 1425 Fourth Ave., Suite 300 - Seattle, WA 98101 - 206.223.1669 - jdlrc.com
Making Life Simpler

We are a full-service wealth management team making life simpler for many individuals and families across the Puget Sound region, and we can do the same for your clients.

**Trust Services**

- Revocable Living Trusts
- Irrevocable and Testamentary Trusts
- SpecialNeeds and Settlement Trusts

**Estate Settlement**

- Probate Management
- Asset Consolidation and Valuation
- Tax Reporting

**Wealth Management Services**

- Investment Management Accounts
- IRA Rollovers and Inherited IRA’s
- Retirement Planning

Contact Us Today
Call us at 206-812-5176 or email us at becutrust@becu.org.

www.becu.org/trust

BECU Trust Services is a trade name used by MEMBERS® Trust Company under license from BECU. Trust services are provided by MEMBERS® Trust Company, a federal thrift regulated by the Office of the Comptroller of the Currency. Trust products not federally insured, not subject to credit union or affiliate guarantee, and may lose value.