EXEMPTING MINORS FROM PROSECUTION FOR PROSTITUTION  P. 22

WSBA’s New Bar Exam
The UBE Comes to Washington  P. 43

PREPARATION
KEY TO CONSTRUCTION BID PROTESTS  P. 13

THE COURT’S FRIEND
WSBA AS AMICUS CURIAE  P. 41

HUMILITY
WISDOM FOR YOUNG LAWYERS  P. 18

TOP 10
GIFT IDEAS FOR GRADS  P. 28
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The Court’s Friend: The WSBA as Amicus Curiae
by Paul Graves

The WSBA’s New Bar Exam: The UBE Comes to Washington
by Robert W. Henry

Introducing the Slavic Bar
by Aryna Anderson
7 President’s Corner
IOLTA and Legal Aid
Recognizing the Good Work of Non-Lawyers
by Michele Radosevich

9 Bar Notes
The Post-Referendum WSBA
The State of the Association
a Year Later
by Paula Littlewood

68 The Bar Beat
Bar Beat’s Fashion Tips for Guys
by Michael Heatherly

4 From the Editor

5 Inbox

27 Online
A Side of Sidebar
What’s Happening at the NWSidebar Blog

28 Top 10
Gift Ideas for Grads
by Kurt E. Kruckeberg

31 OnBoard
A Report on the Work of the WSBA Board of Governors
by Michael Heatherly

49 Beyond the Bar No.
Rachel Z. Hunter

50 2013 Winter Bar Exam Pass List

52 Need to Know
News and Information for WSBA Members

55 Disciplinary Notices

56 CLE Calendar

58 Announcements

60 Professionals

63 Classifieds
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 on or about the first of the month. The current circulation is approximately 31,000.
Disciplinary Details Missed

Add my voice to the chorus of those requesting the return of the substantive summaries of disciplinary notices.

Cynthia Dale Turner, Seattle

The disciplinary notice summaries were useful to know how to address potential issues with conduct. I would not ever follow up with the online versions. I think some form of summary of conduct should be included.

Frederick Hetter, Steilacoom

I think that the new format for disciplinary notices should be tweaked. Most lawyers won’t bother to go online to read the details. I can see why you would want to shorten the notices to save space. But a few more sentences per item, explaining basically what the lawyer did to screw up, would provide more in the way of lessons and reminders to the practicing bar. The new version is so short that no one will learn a darn thing.

Hugh Spitzer, Seattle

After practicing 46-plus years, I think the curatively instructional value of full content disciplinary notices, however depressing, justifies their restoration in NWLawyer.

Don M. Gulliford, Mercer Island

I would like to add strong objection to what I hope is a growing chorus of those disappointed with the elimination of meaningful disciplinary notices from NWLawyer. While the interest of a few may be purely salacious, I have little doubt that the vast majority of us find the notices to be educational and a helpful reminder of conduct and practices to be avoided. I just went to the website to look up the first disbarment in the April-May issue, and the hearing officer’s findings are 13 pages long! Should I ever need that detail, I appreciate knowing where to find it, but I certainly don’t have the time to wade through 13 pages of findings for each of 17 offenders referenced in that issue. If space in the magazine is the problem, then bring back the summaries and drop the list of violated rules (which has never been particularly useful). However it has to be done, please do bring back the substantive summaries.

Thomas M. Culbertson, Spokane

Although historically I personally have reviewed disciplinary summaries to stay abreast of interpretive nuances in applying RPC in my own practice/professional relationships, I agree with NWL’s move away from more lengthy disciplinary coverage of WSBA news variety — actually, my preference is for bandwidth/plate space to be devoted to quite useful material such as Douglas Pierce’s recent “Mediation Top Ten”!

However, the NWL updated format seems to move toward overly sparse. An additional short one- to two-sentence synopsis of factual circumstances would assist readers in contextualizing a particular disciplinary proceeding so as to assist in determining whether one might benefit from reviewing supportive documentation online. I have no standing to comment on whether such additional effort might address letters/comments independently raised, yet appreciate that any such synopsis does require someone’s time (often inordinately so . . .) to review and distill broader material into a concise presentation.

In any event, merely an alternative to consider, and more importantly, personally and on behalf of my fellow readers, many thanks for your time and attention in assembling this publication (both in its current NWL and prior Bar News iterations).

Stephen Faciszewski, Seattle

Since discipline is one of the key functions of WSBA, I am stunned that you have discontinued printing the details of disciplinary actions. Reading the old disciplinary notices was a way for lawyers to stay up to date on the RPCs. Like others who have written, I am sorry to register complaints about this new publication, but it truly is substandard. As far as the cover goes, you published a letter of complaint about it in the April-May issue, yet that issue’s cover is arguably worse than the previous cover designs. The woman lawyer looks like she is falling off the ladder, not climbing up. The decrease in the number of issues per year might have been understandable due to your budget, but deleting the substance on discipline and ethics and unattractive design are not understandable. I can’t help but feel that the Bar News changes are some kind of “punishment” to members for voting to lower the bar dues. Please put back the disciplinary notices and please work to improve NWLawyer (if you must call it that).

Bernadette Foley, Squamish

I am writing to join the chorus of voices encouraging you to reverse your change in policy towards disciplinary notice details. The disciplinary notices are the primary and most effective educational tool for lawyers, new and seasoned, to reflect on appropriate behavior for our profession. Frankly, aside from Mr. Heatherly’s always fabulous “Bar Beat,” the great competitive draw the State Bar magazine has over our local county bar publications is the “how, why, and when” of the WSBA’s disciplinary process. In fact, given that it is a primary function of the bar association, and NWLawyer is focused on issues of interest to the members of the Bar, and no other media outlet regularly reports on WSBA disciplinary proceedings, one could argue that coverage of disciplinary hearings and their details, should be NWLawyer’s primary concern. As it is, NWLawyer is the primary window into the disciplinary proceedings for most lawyers, that keeps the WSBA disciplinary proceedings from being a Star Chamber.

Rajeev D. Majumdar, Blaine

WSBA CHIEF COMMUNICATIONS OFFICER
DEBRA CARNES RESPONDS: The decision to change the format of the disciplinary notices in NWLawyer involved extensive discussions and deliberations over time. It wasn’t an easy decision, but a necessary one. Our goals are to increase transparency, eliminate subjectivity in the notices, be more timely, and reduce the extensive amount of staff resources required to produce the notices. These changes have enabled WSBA to provide additional information promptly and at a lower cost. No longer do the notices provide a summary of facts prepared by WSBA staff, the current focus is on providing more accurate unbiased information for a more compre-
Thank you for all your work on NWLawyer. I am writing, however, to add my voice to those who are requesting the return of the Washington State Bar News.

Over the years, I had three articles published in the Bar News. When I provide one of these articles to clients, legislators, newspaper reporters, etc., the article is obviously in the official publication of the Washington State Bar Association. There is the presumption of a certain minimum quality and authority.

On the other hand, “NWLawyer” could be anything. This is especially true given the magazine’s tag line, “Connecting Washington’s Legal Community.” With all due respect, this sounds like dating. Nowhere does the magazine say that it is the official publication of the Washington State Bar. Our profession is not treated with the dignity it deserves.

I have signed the petition to the Board of Governors of the Washington State Bar Association, which is currently seeking the return of the Bar News. Thank you again for all your work on NWLawyer.

Margaret Dore, Seattle

Women and the Law

After years of being lectured on tolerance, diversity, and so on and so on, one would almost begin to wonder why it is all right now for our current president, Michele Radosevich, in her column in the April-May issue of NWLawyer to employ the phrase “white men” not once but twice in order to make her quite negative point about this particular group. The point being apparently that somehow this particular group may not be doing all we should to encourage women and minorities to increase their presence in the profession. And that’s putting the best possible face on her words. It’s also patently false. Other readings could include some kind of conspiracy theory on Ms. Radosevich’s part.

In either case, when did the Board of Governors become so obsessed with identity groups instead of lawyers as lawyers? How does that obsession serve the profession? Women and minorities are consistently increasing in numbers regardless. Law schools are now made up of a majority of women students. The day will come soon enough that “white men” will be a minority of practitioners. What is accomplished by publishing what is clearly intended to be a negative stereotype about one group when it is established orthodoxy that stereotyping is outmoded and offensive to every other group?

David D. Cullen, Olympia

Regarding President Michele Radosevich’s “glass ceiling” article, there is such a thing as the market system. People hire lawyers and doctors because they need help and they do not care if their lawyer is green or plaid or male or female as long as the lawyer can help them. Law firms want to flourish and therefore must hire associates who are best at helping their clients. If one looked at lawyers in the same class, such as third-year associates at insurance defense firms in city areas, I bet you would find that the salaries of men and women are about equal.

This is a model. Prejudice exists, and it is frustrating. No model of human behavior is perfectly accurate. Networking and mentoring are good ways to become better at helping clients. New lawyers can mentor old lawyers.

Regarding collegiality, lawyers should consider the welfare of opposing parties and all the players and they should negotiate creatively and imaginatively. This is scary. Lawyers must also know the vicissitudes of the law, and it is hard to be creative and simultaneously predict litigation prospects, but that is why lawyers are well-paid. The bar should get rid of Rule 11, sanctions for spurious pleadings, or excise it from litigation culture, because Rule 11 increases antagonism among lawyers. And lawyers should follow the Golden Rule with everyone in the court system.

Roger B. Ley, Svensen, Oregon
IOLTA and Legal Aid
Recognizing the Good Work of Non-lawyers

Recently marked the 10th anniversary of the United States Supreme Court’s decision in Brown v. Legal Foundation of Washington, which preserved the constitutionality of IOLTA (Interest on Lawyer Trust Accounts), a critical funding source for legal aid in our state and across the country.

In those 10 years, IOLTA-funded grants have helped approximately 400,000 low-income families and individuals in our state. Since the Brown decision, daycare workers, food stamp recipients, incarcerated women who were abused by prison guards, young immigrants eligible for relief under new federal policy, and foster children are just a few of the populations who have received much-needed help only because IOLTA funds were available.

IOLTA exists in all 50 states to help fund nonprofit organizations that provide civil legal aid for low-income clients. Here in Washington, IOLTA monies flow to the Legal Foundation of Washington, which was created by our Supreme Court in 1984. There they mix with contributions to LAW Fund and the Campaign for Equal Justice, and recently with class-action residuals. It has been a difficult few years, but hard work and creativity have kept funds flowing to civil legal services.

One of the stalwarts of the ATJ community for more than 20 years has been June Krumpotick, the lead paralegal and self-help program manager at Legal Voice (formerly the Northwest Women’s Law Center). June was hired in 1989 to formalize the organization’s system of answering phone calls from women with legal problems.

During her years at Legal Voice, June was a leader in so many ways: serving on the planning committee of the ATJ conference in its inaugural years; helping to conceive and establish the Domestic Violence Family Law and the Cross Cultural Clinics; and creating such an extensive database of agencies and organizations to which she could refer callers that, when CLEAR was being established, the folks setting up the line copied her entire list.

Because of her attention to pro se needs, June realized before just about anyone else that grandparents and other relatives were increasingly being called on to care for their grandchildren, leading to publication of the first Kinship Care book. And she was an early and persuasive advocate for unbundled legal services. After nearly 25 years, June is retiring. She’ll be missed by those she worked with and collaborated with, but her example of steadfast dedication to the needs of low-income residents of our state will continue to inspire us all.

Let’s thank these individuals and all the others who work hard to ensure that justice is available to all!
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The Post-Referendum WSBA
The State of the Association a Year Later

A year ago the WSBA was facing its new reality of a reduction in its budget of $1.4 million based on the passage of the member referendum that reduced license fees from $450 to $325. The Board of Governors and staff fully committed to transforming the organization into a more effective and efficient one that better serves you, our members, and the public.

Along the way, we’ve kept you apprised of the reductions we made that totaled $1.4 million in our FY13 budget. We made staff reductions and cut staff costs; reduced the number of board meetings and associated expenses; transitioned support for young lawyers from a more costly division infrastructure into a leaner and more integrated model throughout the organization; transitioned the WSBA Leadership Institute to a new home at the University of Washington School of Law; and implemented other cost-saving measures that allowed us to reduce our footprint.

During all these changes, it was critical we not lose sight of our mission-focus areas that drive our work. They are: to ensure competent and qualified legal professionals and promote the role of lawyers in society. It is through this lens I’d like to share what looks different a year later and how we’ve taken your feedback and melded it with our mission to better meet your needs.

You told us that the services and resources offered by the Law Office Management Assistance Program (LOMAP) were important. We listened, and added another practice advisor to help meet the growing demands of members who want help with such things as setting up a practice, managing an office, becoming proficient with today’s technology, or closing a practice.

We also heard a lot from our solo and small practice lawyers, many who’ve struggled through the recession. Our Lawyer Assistance Program recognized the need for greater networking and developed a Solo/Small Firm Support Group. Additionally, we heard from you that a growing number of legal professionals are applying mindfulness-based skills and training to lawyering, so WSBA hosts the Washington Contemplative Lawyers group weekly at the WSBA offices.

Employment still remains an issue for many members. We’re continuing to provide bi-monthly and weekly Job Search Groups. And we launched our Career Center on the WSBA website with a robust job board that allows job-seekers to not only post their résumés but also search for legal jobs throughout the state. And, more recently, we added a Practice Transition Opportunities component to our Career Center so those interested in selling their practice soon, or making a slower transition, can connect with potential buyers or those seeking more of a mentorship transition.

On-boarding new lawyers is a key focus for the WSBA, and we’ve strengthened our support in New Lawyer Education (NLE) to help better prepare our newest members to achieve success in the profession. We’ve also continued to expand our public service programs that help narrow the justice gap in our state.
Bar Notes

Without question, we’ve made significant cuts and equally significant changes to better realign resources in ways that allow us to meet the needs of a changing profession and a changing membership. It’s been a year of a good, healthy, productive change and the WSBA is a stronger, leaner organization because of it.

WSBA Moderate Means Program not only provides much-needed legal help to those who don’t qualify for other types of aid, but it also provides critical mentoring opportunities for our new lawyers and provides law school students with invaluable practical experience.

Another change this year is that, for the first time, the WSBA gave members a choice to support the bar’s access to justice, diversity, and public legal education work through a voluntary contribution on the license form. More than 5,000 members made the choice to help sustain this work, and their combined contributions help take pressure off of license fees. We’re also putting a heavier emphasis on how we communicate to members and the tools we use. You may have noticed changes to what was formerly called Bar News, and is now NWLawyer. The publication was renamed to better reflect our audience. We also reduced its distribution to nine times a year, refocused its content with an eye on increasing the value to all members, and took steps to bring down costs. Overall, we’ve cut the expense of producing and mailing it by more than 25 percent. We’ve added a user-friendly digital version of NWLawyer that is fully searchable and shareable. And we’ve launched a blog called NWSidebar as a way to open up greater opportunities for members to contribute content, share opinions and thoughts, and participate in open forums of discussion.

Without question, we’ve made significant cuts and equally significant changes to better realign resources in ways that allow us to meet the needs of a changing profession and a changing membership. It’s been a year of a good, healthy, productive change and the WSBA is a stronger, leaner organization because of it. Thanks to all of you for your input over this past year. I welcome your continued input as we continue to progress down this exciting path into the future. NWL

Paula Littlewood is the WSBA executive director and can be reached at paulal@wsba.org or 206-239-2120.

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The phone rings. One of your construction contractor clients is beside himself with angst over a bid opening for a project his company badly wanted, but just learned it did not get. Your day just changed dramatically. Toss your to-do list aside, because bid protest issues have shorter fuses than any other bombshells you are likely to be tossed. As a result, you need to have a solid understanding of what can or should be done before the phone rings.

The lay of the land regarding bid protests on most public works contracts in Washington is rocky, filled with pitfalls, and must be traversed within hours of your first notice of a problem from a client. Washington courts have made it abundantly clear that they have very little interest in reviewing decisions made by public agencies concerning claims by “disappointed bidders” of improper contract award and/or improper rejection of bids. The potential remedies for disappointed bidders are limited, the basis to challenge the contract award is limited, and the procedure to challenge the contract award takes a combination of speedy intervention and knowledge of the temporary restraining order/preliminary injunction process in your local jurisdiction.

FACTORS TO CONSIDER BEFORE PROTEST

Through a number of decisions, the Washington courts have developed the following legal principles that significantly impact a bidder’s decision to protest, all of which your potential bid protester client must quickly analyze before deciding to go forward. (Caveat — this does not apply to federal government projects and may not apply to some state public works projects where federal funding may impose additional or distinct bid protest rights and procedures; some public agencies may also establish either a contractual or an administrative process for bid protests.)

No Monetary Damages
Even if it is ultimately determined by a
court that a public works contract has been improperly awarded to another bidder, the court will not allow the disappointed bidder to recover monetary damages against a public agency. See Mottner v. Mercer Island, 75 Wn.2d 575, 452 P.2d 750 (1969); Peerless Food Products v. State, 119 Wn.2d 584, 835 P.2d 1012 (1992). Nor does Washington law support a claim for the reimbursement of the costs of preparing the bid. See Mottner, 75 Wn.2d at 579. Generally, the exclusive remedy of a disappointed bidder is injunctive relief (preventing the public agency from awarding the contract to another bidder).

Timing Issue on Standing

Once the contract is awarded to another bidder, the disappointed bidder loses his standing to challenge any improprieties in the procurement process. There is a question regarding whether it is the contract award or the contract signing and execution by the public agency which acts as the “trigger point” to cut off the disappointed bidder’s standing to challenge the public agency’s contract procurement procedure. See Dick Enterprises, Inc. v. Metropolitan King County, 83 Wn. App. 566, 922 P.2d 184 (1996). While some standard contract specifications and invitations to bid may provide specifically that the contracting agency shall not be bound to the contractor or proposal until the contract signing, the safest thing to do is to assume that an injunction or restraining order must be obtained prior to contract award by the public agency. This may create problems because many times a public agency awards the contract shortly after bid opening, and the bid documents sometimes establish either a contractual or an administrative protest procedure that may need to be exhausted before seeking injunctive relief. In any case, there is a very narrow launch window for seeking relief.

A disappointed bidder may sometimes be able to avoid the standing issue . . . by bringing a “taxpayer suit” challenging the public agency’s ability to continue with the contract.

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
contract award and/or contract signing) by bringing a “taxpayer suit” challenging the public agency’s ability to continue with the contract. See Dick Enterprises, 83 Wn.App. at 569. However, the plaintiff must allege and show that it pays taxes of the type funding the project, and that it first asked the Attorney General’s office to take action before bringing suit as a taxpayer. Id. at 573.

Injunction Bond Required
A bid protester must generally be prepared to post an injunction bond in an amount determined by the court to be sufficient to cover potential damages caused to the public agency by a delay in the award of the contract. RCW 7.40.085.

No Writ of Mandate Issued
A long-standing (and still active) principle is that if the bid protest prevails and the injunctive relief is granted, the court still will not issue a writ of mandate compelling the award of the contract to the bid protester. Times Publishing Co. v. Everett, 9 Wash. 518, 521, 37 P. 695 (1899); Bellingham Am. Pub. Co. v. Bellingham Pub. Co., 145 Wash. 25, 28-29, 258 P. 836 (1927). Thus, while the court can enjoin the public body from awarding a contract to another bidder, the agency is still free to reject all bids and rebid the project.

Potential Liability for Other Parties’ Attorney’s Fees
In the event the other party is successful in moving to dissolve or modify the TRO or preliminary injunction, or if it is ultimately determined to have been issued improperly, the court may award attorney’s fees and damages to the party dissolving the TRO or preliminary injunction. See Cornell Pump Co. v. City of Bellingham, 123 Wn.App. 226, 98 P.3d 84 (2004); see also, RCW 7.40.085.

BASIS FOR PROTEST
Once these factors are taken into consideration, there of course must also be a substantive basis for the protest. The trusted, most common grounds for a bid protest are a lack of a) bid responsiveness or b) bidder responsibility.

Bid Responsiveness
Most, but not all, state public agencies operate under competitive bidding statutes that require that a contract “shall be awarded to the lowest responsible bidder.” To be “responsive” to the bid request, the bid must conform in all material respects to the terms of the invitation to bid. If a contract is awarded to a bidder whose bid does not conform in all material respects to the bid invitation, or is irregular in any way, a disappointed bidder can attempt to protest the award. A “material” bid irregularity is one that gives one bidder a material advantage over other bidders; while the rule is easy to state, in application it somewhat becomes a matter of “I know it when I see it.” Bid irregularities that raise an issue of bid responsiveness come in countless different ways, including late bids, unsigned bids, bid bond irregularities, and failure to bid all items or complete the bid form properly. All will be analyzed on a case-by-case basis.
Bidder Responsibility

Broadly speaking, bidder “responsibility” generally concerns a bidder’s ability to perform the work, including competence, resources, and financial ability. Until recently, there were very few bid protests involving bidder responsibility, because a public agency’s determination of this issue was largely discretionary.

In addition, unlike bid irregularities concerning bid responsiveness (which cannot generally be cured after the bid opening), bidder responsibility is typically determined after bid opening, and information or documentation supporting bidder responsibility can normally be furnished post-bid opening. See VMS Hotel Partners v. U.S., 30 Fed. Cl. 512 (1994).

However, the recent advent of legislation allowing public agencies to consider so-called “supplemental bidder responsibility” criteria may have significantly expanded the landscape of bid protests concerning bidder responsibility. In 2007, the Washington Legislature introduced the concept of supplemental bidder responsibility criteria into the competitive bidding picture. RCW 39.004.350(2). Simply stated, this legislation allows public owners to adopt relevant “supplemental” criteria for determining bidder responsibility for a particular project, which must be included in the bid documents; such criteria must outline the basis for evaluation and provide the deadline for appealing a determination that the bidder is not responsible. Additionally, prior to bid, the public agency must allow potential bidders the opportunity to request in a timely manner the modification of such criteria. Depending on the type of supplemental criteria developed, or the modification of the criteria for different bidders, this could create a new basis for challenges to bidder responsibility, and thus a new basis for bid protests.

PROCEDURE FOR PROTEST

Your client has established a substantive basis for protest (or convinced you in the limited time a reasonable basis exists), and wants to proceed, even considering all the potential issues above. Now what? Typically, you are in a race to the courthouse to obtain the injunctive relief to stop the contract award so that the protest can proceed.

Injunctive Relief/Temporary Restraining Order

The typical civil rules and case law apply to the temporary restraining order/injunction process in a bid protest. See, RCW 7.40; CR 65(c). There are always the challenges of notice to the appropriate parties, and finding an available judge and courtroom on an emergency basis can be extremely difficult. It is a good practice to have the temporary restraining order/preliminary injunction pleadings for bid protest in outline form so you can quickly get them together on your own facts. Each jurisdiction may have some common practices in relation to the TRO/injunction procedure as well. Once the TRO is obtained, it has to be served, and additional hearings set for preliminary/permanent injunction proceedings.
Written Bid Protests — Municipality

In some very limited circumstances (and also a very limited window of opportunity), a bid protester may temporarily prevent certain public agencies from awarding the contract. Under RCW 39.04.105, when a “municipality” receives a written bid protest from a bidder on a public works project that is subject to competitive bids, the municipality shall not execute a contract for the project with anyone other than the protesting bidder without first providing at least two full business days’ written notice of the municipality’s intent to execute a contract for the project. However, the statute goes on to provide that it only applies if the protesting bidder provides written notice to the municipality of its protest no later than two full business days following bid opening. The statute applies only to municipalities (and thus apparently not to the state or state agencies), and it apparently does not apply more than two days after the bid opening—which is problematic because many irregularities do not become identified until more than two days after the bid opening. There are similar bid protest statutes that pertain to the GC/CM procurement process, and certain subcontract and equipment supplier bid packages awarded by the GC/CM. These statutes have similarly narrow timeframes for those making written bid protests. See, RCW 39.10.380(6) and 39.10.385(6).

Lessons Learned

If you intend to pursue a bid protest of any Washington public works contract of any sort, it is absolutely critical that you proceed immediately. Once the contract has been awarded or entered into with another bidder, it is generally too late to successfully challenge the awarding agency’s action(s). This process is fairly expensive because it is done on an expedited basis and involves a considerable effort; there are also issues concerning your client’s financial ability to obtain a bond if you are successful. Ultimately, the key to a bid protest is to have a well-planned course of action with the appropriate research and pleadings at your fingertips to give your client any hope of success. NWL

Lawrence H. Vance is a principal at Winston & Cashatt with over 35 years of experience in construction law; his practice emphasizes public and private construction contracts, insurance and surety law, and dispute resolution. Beverly L. Anderson is a principal at Winston & Cashatt, with extensive experience in research and litigation support in construction law.

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Humility

A Word of Wisdom for Young Lawyers

by Karen Koehler

Trial lawyers are often perceived by the public as arrogant and phony. One explanation for this social perception is because the art of braggadocio is so prevalent and even sometimes necessary in our profession. Behind the show, lie those memories that need to be periodically replayed, so we don’t buy into the myth of our professional persona.

For my first solo superior court appearance, I was given a file and told it was a simple entry of an order; I didn’t have to do anything other than show up. Unfortunately, I had been set up. The judge was furious about something that had happened previously and gave me a tongue-lashing that seemed to last forever. When it was over, I walked briskly from the courtroom, opposing counsel silently beside me. As we rode down the elevator, tears began to slip out. I was mortified. We walked out the revolving door and as we parted, the lawyer spoke kind words of encouragement.

LESSONS: 1) An adversary can be compassionate and gracious but still be a worthy advocate; 2) Always be prepared and know why you have showed up; 3) Tears of humiliation can be suppressed until one escapes from a courtroom.

A year later, I was assigned to defend a product liability case involving DES (drugs given to women which caused birth defects in their daughters). Depositions were held in big conference rooms. The drug manufacturers’ attorneys were seated around the table and again around the perimeter of the room. We all wore suits. The plaintiff’s lawyer wore beads and dangling earrings. I didn’t have a clue what I was doing.

Questions would be asked and everyone would have a turn. I always tried to sit at the end of the line. I quaked in fear that I would miss a question or objection, or do something wrong. I felt like the phrase “really young dumb attorney” was emblazoned across my forehead.

LESSONS: 4) If you don’t know what you’re doing, keep quiet, listen, mimic, and try to implement; 5) It is possible to appear confident, even when you’re not; 6) There’s something different about the plaintiffs’ bar.

My mentor in insurance defense was Richard Foreman. Dick decided I was ready to try my first case. It was a premises liability action and I was prepared to the max (and beyond). I was so nervous. Dick discussed my need to somehow let the jury know this was my first trial so they wouldn’t hold my performance against our client. Eventually it was time for opening statements. I was shaky, scared, and had notes I couldn’t read. Lo and behold, as I talked, I began to feel the ground beneath my feet and I became more secure. I was doing it! Just when I was gathering steam, I heard a hissing sound from the defense table. I ignored it and continued. The hissing came again and again. Don’t be sidetracked, I told myself. Finally, I heard Dick yelling (quietly) in frustration: “Karen, you’ve got all the names mixed up!” The 12 jurors, judge, bailiff, court reporter, parties,
other attorney, and my mentor stared at me. What a dunce. I looked at the jury, smiled sheepishly and said, “You know, this is my very first trial. I’m not nearly as experienced as my opposing counsel. If from time to time, I make a mistake, I apologize. Please bear with me.”

Four days later, the jury came back with a defense verdict.

LESSONS: 8) Jurors appreciate humility and honesty; 9) You can’t just focus on the presentation, you must notice what is happening in the courtroom; 10) It’s not whether you might make a mistake in trial, it’s simply a question of when you do, are you going to be able to laugh at yourself, deal with it, and move forward?

When I was an older lawyer, smug in my ways, I defended a case where the target defendant was trying to wrongfully implead my client who was a coworker of the injured plain-tiff. “You can’t sue the coworker,” I explained to the young defense lawyer. It’s crystal clear. Duh. The day of the motion hearing, I arrived at 1 p.m. ready to squish her flat. The courtroom doors were locked. I waited and waited until a terrible thought crossed my mind.

Where was everyone? I called my office. It was at 11 a.m., not 1 p.m. I’d missed it!

I crumpled down on the bench in the hall and tried to stop hyperventilating. Through a haze of misery, I called my opponent. There was nothing to do but lay my soul bare. I could tell she would have liked to lord it over me, but since I had eaten humble pie, she didn’t have the heart. Later, I appealed the court’s decision, which Division I overturned on an abuse of discretion standard.

LESSONS: 11) If you think you’re invincible, you will be unpleasantly surprised; 12) Don’t get too discouraged when you lose the skirmishes, the thing to do is win the war; 13) Learn how to type.

Recently in a small trial, I floated through voir dire, I was excellent in opening, and I presented the plaintiff, who was wonderful. The next witness was my client’s treating doctor. It was his first time testifying during trial. I figured the jury would like him and be favorably disposed because he was not a professional witness. Wrong.

First, he forgot to bring the chart about which he was supposed to testify. I gave him my ER 904 copies, which he fumbled through, but he still couldn’t find anything. When he did, he would lose his place. The injuries were on the left side, but he couldn’t find any reference to left-sided injuries. He was sincere, humble, believable, but not persuasive nor authoritative. He was the only care provider who treated my client. The pleasant look on my face grew fixed. I couldn’t wait to get him off the stand. I figured out ways to deal with this “slight” setback, mainly having different witnesses (including the defense medical examiner) read the doctor’s notes into the record, but the case had suffered a blow.

Lessons: 14) You can’t control everything; 15) When things do go sideways, try not to panic or give up; 16) Do your best and forgive yourself for not being perfect.

I love helping victims of injustice. One morning, I decided to bring my three girls to court so they could watch me in action. On the way out the door, my 10-year-old looked at me critically and told me my outfit was “okay, but those shoes, Mom!” I trundled my kids down to the King County Superior Courthouse and as we walked from the parking lot to the Second Avenue entrance, they whined about the smell and marveled that the courthouse was so “ugly.” Their favorite part was going through security.

Our case was special set and counsel argued for a good 20 minutes. When it was over, I proudly asked my girls what they thought. “Well,” said my oldest, “it wasn’t too bad, but I didn’t understand a word you said.” “Boring,” piped in my nine-year-old. The six-year-old was the most impressed: “You weren’t scared.”

LESSONS: 17) Our sense of self-importance is self-imposed; 18) Our job is just that.

Karen Koehler is a partner at Stritmatter Kessler, a plaintiffs’ personal injury law firm. She is past president of WSAJ and a recipient of its Trial Lawyer of the Year award. She can be reached at 206-448-1777.
Treat Yo Self
When the Rewards Aren’t So Apparent

by Trent Latta

I recently spent a year preparing a complicated securities case for arbitration. During the tense weeks before the hearing, I burned through late family-less nights in preparation — the hearing brief was polished; motions to exclude evidence were ready; the exhibits were ordered; and nearly a dozen witnesses were prepped.

But then, the Friday afternoon before opening statements, everything changed: the case settled. Poof. Fzzzz.

The anticipation I felt toward seeing my hard work come to fruition was replaced with a smelly lump of disappointment as my written work would be seen not through the watery eyes of a profoundly moved judge, but making its way through the oiled teeth of a paper shredder. My effort felt like it was for nothing.

Settlement or other informal compromise is often the best result for a client. And for that reason, most litigation never reaches full-scale trial mode. Few lawyers will ever emerge triumphantly from the courtroom, verdict in hand, to celebrate an unequivocal victory with a grateful client. And many verdicts split the baby.

This is not bad for our clients, and those of us who counsel them, for arbitration. During the relevant episode (the particular scene from which is readily available on YouTube) the pair explains their ritual with fluent seesaw exchange:

TOM: Once a year, Donna and I spend a day treating ourselves. What do we treat ourselves to?

DONNA: Clothes.

TOM: Treat yo self!

DONNA: Fragrances.

TOM: Treat yo self!

DONNA: Massages.

TOM: Treat yo self!

DONNA: Mimosas.

TOM: Treat yo self!

DONNA: Fine . . . leather . . . goods.

TOM: Treat yo self!

DONNA: Clothes.

TOM: Treat yo self!

DONNA: It’s the best day of the year.

None of these items are necessary. Tom, for example, doesn’t need the velvet slippers, cashmere socks, velvet pants, cashmere sweater outfit he models in a high-end fashion store (Tom: “I’m a cashmere velvet candy cane”), but Donna insists that he buy it simply as a gratuitous reward. “Treat yo self!”

Rewarding oneself for good work accomplished — rather than relying on external validation for a job well done — can be an effective stress-reducing tool and a useful quality-of-life enhancer. Don’t spend your legal career waiting for big payoffs such as a trial victory, but instead treat yo self.

Dan Crystal, a mental health counselor, approves of Tom and Donna’s tradition. Crystal provides individual consultation to attorneys as part of the WSBA’s Lawyers Assistance Program. He explains that, according to research, “peak performers” are not defined by large, lofty goals that are easily reached. Rather, professionals who do well in their work “have small goals which they are constantly rewarding themselves for completing.” These professionals “have the consistent sense of fulfillment for their efforts.” So, Crystal urges that attorneys schedule personal “reward time” as part of their regular work life.

There is plenty of popular literature to support this advice. To name just a few, Geoff Colvin’s 2008 book Talent Is Overrated: What Really Separates World-Class Performers from Everybody Else and Daniel Pink’s 2009 book Drive: The Surprising Truth About What Motivates Us both explain these principles and its supporting research at engaging length. Pink’s book includes the added benefit of practical tools for the reader’s use.

The advice, I think, is valid. And because attorneys are habitual to-do listers, the advice should be easy to follow. For example, an attorney could schedule a massage for the evening of a major filing deadline; schedule dinner at a nice restaurant to coincide with the final day of a taxing deposition; or buy a nice bottle of wine to share with friends to celebrate a successful settlement.

Rewarding oneself for good work accomplished — rather than relying on external validation for a job well done — can be an effective stress-reducing tool and a useful quality-of-life enhancer. Don’t spend your legal career waiting for big payoffs such as a trial victory, but instead treat yo self.

Trent Latta is an attorney with McDougald & Cohen, PS, in Seattle. He can be reached at tlatta@mcdougaldlaw.com or 206-448-4800.
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A Case for Exempting Minors from Prosecution for Prostitution in Washington State

by Debra Boyer

WASHINGTON STATE HAS LED THE NATION WITH ANTI-SEX TRAFFICKING LEGISLATION AND STRONG LAWS AGAINST DOMESTIC MINOR SEX TRAFFICKING. It was among the first states to pass what is known as Safe Harbor legislation, which directs minor victims to services and out of the juvenile justice system. Beyond legislation, a victim-centered protocol providing a non-criminal response for prostituted youth identified by police is in the process of statewide implementation.\(^1\) It is time to erase the final long-standing contradiction of treating minors as offenders, which serves the fallacy that they are able to consent to their own sexual victimization. It is time to make minors specifically exempt from the offense of prostitution in the criminal code.
Arrest and prosecution of youth under the age of 18 for prostitution and prostitution-related crimes contradict the status extended to minors under the United Nations Protocols on Human Trafficking, the Trafficking Victims Protection Reauthorization Act of 2003 (TVPA), and Washington state laws on sex trafficking and commercial sexual abuse of minors.\(^2\)

The TVPA governs the treatment of juveniles taken into federal custody and defines them as “victim[s] of a severe form of trafficking in persons” based on their status as persons under age 18. The TVPA grants immediate assistance to trafficked minors and cooperation in investigating and prosecuting traffickers is no longer a condition for receiving assistance. The TVPA further forbids detention in “facilities inappropriate to their status as crime victims,” meaning they should no longer be processed through juvenile detention systems or held with other minor detainees.

Multiple Washington state statutes in fact shield minors from criminal prosecution for prostitution. Under the prostitution section of the Juvenile Justice Act of 1977 (RCW 13.40.219), it is stated: “There is a presumption that the alleged offender meets the criteria for certification as a victim of a severe form of trafficking in persons as defined in Section 7105 of Title 22 of the United States code, and that the alleged offender is also a victim of commercial sex abuse of a minor.” Additional laws support this position: 1) Persons under the age of 18 cannot enter into a contract (RCW 26.28.020); 2) It is a violation to communicate with a minor for immoral purposes (RCW 9.68A.090); and 3) In many cases, minors involved in prostitution are victims of child rape, child molestation, and sexual misconduct with a minor (RCW Chapter 9A.44). Other state laws were developed with specific reference to commercial sexual abuse of a minor, minor “victims” of commercial sexual exploitation, and/or sex trafficking.\(^3\)

**MYTHS**

In order to move forward, it is important to disabuse ourselves of a number of myths regarding the “benefits” of a juvenile justice response to minor victims of sex trafficking.

**Myth No. 1**

Minors involved in prostitution are arrested for their own protection and to separate them from pimps.

Until the report “Who Pays the Price: Assessment of Youth Involvement in Prostitution in Seattle” was released, youth arrested for prostitution in King County were seldom screened into detention.\(^4\) In fact, they were often not detained even on other charges and were released without assessment or services within hours.

Exempting minor victims of domestic trafficking from arrest and prosecution does not remove the resource of law enforcement from assisting in addressing the problem. Law enforcement has several options for taking a child into custody. Under the Family Reconciliation Act (RCW Chapter 13.32A.50), law enforcement...
can take a child into custody if they reasonably believe — considering the child’s age, the location, and the time of day — that a child is in circumstances that constitute a danger to the child’s safety. The Becca Bill provides for enforcement of truancy laws and allows for the involuntary commitment of minors to drug, alcohol, and mental health treatment. Although controversial (due to the lack of attention to due process), the Becca Bill permits detention of status offenders in secure Crisis Residential Centers (CRCs) and authorizes police officers to take a child into custody under specific conditions. SB 6476, passed in 2010 and based on the Safe Harbors model of New York state, directs that minor victims of sex trafficking identified by law enforcement can utilize a Child in Need of Services (CHINS) petition to gain access to the Secure Crisis Residential Centers (funded under the Becca Bill) like other at-risk youth. Police officers may also act on their own volition to take a child into custody if officers reasonably believe the child is in danger, taking into account the time of day and location of the child.5

Myth No. 2
Prostituted youth will run from community services and shelters.

Service providers understand that because of the effects of multiple traumas, leaving prostitution requires establishing a safe connection for youth. This seldom occurs via the juvenile justice system. There is a clear need for community-based services for prostituted youth, whether minors are subject to prosecution or not. Services are needed under either condition. It should be kept in mind that a short time in detention offers absolutely no guarantee that a child will not return to a pimp upon release. The trend nationwide is toward Safe Harbor models and providing alternative response frameworks to delinquency status. Washington state has the system in place that offers the “mid-range” solution between jail and a non-secure shelter: the secure crisis residential centers. Other states do not have this option and they should be supported to operate with the legislative intent originally envisioned.

Myth No. 3
Arrest and/or prosecution can be deterrents to discourage youth from acts of prostitution.

This myth is predicated on the belief that prostitution is a choice. All prostitution and sex trafficking of minors is coerced. Adults should be able to make the decision to protect child victims of sexual violence and end the power to punish them. The juvenile justice system presents a confusing array of responses to sexually exploited youth, who often slip back and forth between the status of victim, status offenders, and offenders. Eliminating a criminal charge for prostitution will help clarify the protocol for minors. The myth regarding the usefulness of arrest is in direct contradiction with the approach spelled out under federal law. It has also been undermined by recent research. Even minimal detention time has been shown to have profound negative impacts, worsen behavior, and increase incidents of self-harm.6

A Non-Criminal Response
At least three states have decriminalized minor victims of prostitution and sex trafficking: Connecticut, Illinois, and Minnesota. Multnomah County, in Oregon, offers another example of taking the victim status seriously by not arresting and charging minors for prostitution for the past five years. These states have taken important steps to transfer jurisdiction of children previously arrested for prostitution from the criminal system to the child protection system and sexual assault victims’ resources. These steps were taken in recognition that children have no capacity to consent to their own commercial sexual exploitation and thus are not prostitutes but victims of a serious sexual offense.

The first step is to amend the age-neutral criminal codes on prostitution (RSMC 12A.10.020 and RCW 9A.88.030) to designate age 18 as the threshold age for prostitution crimes. This recommended change is a logical outcome of current state and federal laws relating to domestic minor sex trafficking. The proposed amend-
ment would address fundamental inconsistencies within state penal codes that simultaneously define a juvenile exploited in prostitution as a criminal and a victim. As long as minor victims of prostitution and sex trafficking remain subject to criminal codes, other child welfare systems will continue to respond as they do now, by abdicating to the juvenile justice system.

The proposed statute change is necessary to move the reframing of juvenile prostitution as sexual victimization, sexual violence, and child maltreatment forward. Otherwise, who is served and who benefits? We know this is sexual abuse. This should be enough to move from prosecution to protection and stop criminalizing minors for what adults have done to them. NWL

NOTES
1. For information on “Project Respect,” contact the Center for Children and Youth Justice in Seattle, Washington. www.ccyj.org/initiatives/project-respect.

Debra Boyer is a cultural anthropologist in private practice and an affiliate assistant professor in the Department of Gender, Women and Sexualities Studies at the School of Social Work at the University of Washington. She has over 25 years’ experience as the principal investigator of studies on runaway and homeless youth, urban street subcultures, sexually exploited adolescents, adult prostitution and criminal behavior, adolescent pregnancy, and women’s reproductive health. Dr. Boyer’s current work focuses on ethnographic methods to inform policy and practice. She recently completed two studies on homeless street populations, and is the author of “Who Pays the Price: An Assessment of Youth Involvement in Prostitution in Seattle.” She is a co-founder and serves on the board of the Committee for Children, which develops and supports implementation of abuse prevention and social and emotional learning curricula. These curricula are implemented in 25,000 school districts in the United States and 26 countries.

Haring-Larson has joined SNS

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by the City of Seattle, Human Services Department, Division of Domestic Violence and Sexual Assault Prevention. Available online at www.seattle.gov/humanservices/domesticviolence/report_youthinprostitution.pdf.

5. See RCW 13.32A.050(1)(a),(c),(d), 13.32A.050(1)(b), 13.32A.050(2), and 13.32A.060(1)(a).


RESOURCES AND PUBLICATIONS


Washington’s Marijuana Law — Sorting Out the Myths and Facts

How have DUI laws and investigations changed as a result of the passage of I-502? Attorney William Kirk explains.

Your Turn: Is Work-Life Balance a Myth?

ABA President Laurel Bellows created buzz when she said, “Talking about work-life balance is fraud.” What do Washington attorneys think? Join the conversation.

Friday 5

Things Young Lawyers Should Never Say at Work

What you don’t say at work can be as important as what you do. Attorney Devon Thurtle Anderson provides a list of five things young lawyers should never say at work. Her answers may surprise you!

Facebook Can Cost You More Than Your Lawsuit: Allied Concrete Co. v. Lester

http://bit.ly/SidebarAlliedConcrete
Step away from social networking! Attorney Ada Ko Wong discusses Facebook use gone awry in Allied Concrete Co. v. Lester and offers advice on the dos and don’ts of using social media when you’re involved in a lawsuit.

Your Lawyer Horoscope For Today

Is corn on the cob in your future? NWLawyer editor and Bar Beat columnist Michael Heathery fashions light-hearted horoscopes tailored for WSBA members.

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.
Gift Ideas for Grads

Suggested by Kurt E. Kruckeberg

1

A classic. Not only will BLACK’S LAW DICTIONARY come in handy, but the book’s heft is impressive and looks good on your office bookshelf.

2

Nothing says “Welcome to the practice of law” like a nice watch. Perfect for measuring life in those six-minute increments.

3

With the expense of bar-prep courses and school-loan repayment looming on the horizon, every grad will appreciate a little cash. Tuck it in a heartfelt card welcoming your favorite grad into the profession.

4

Get creative and build your own bar-prep survival kit. Throw some coffee, snacks, and maybe a bottle or two of your favorite beverage into a basket or gift bag. Tie a ribbon on it and you’re done.

5

Pass along a copy of To Kill a Mockingbird or another book that inspired you to join the legal profession.

6

Forget your troubles with Nancy Levit and Douglas O. Linder’s The Happy Lawyer: Making a Good Life in the Law. The book is a great primer on job satisfaction among lawyers.

7

A stylish business card holder can help your grad start off networking on the right foot.

8

If you think cash is too impersonal, gift cards are a slightly less impersonal option. Consider a gift card to a coffee shop (for bar studies), a clothing store (for work clothes), or a travel website (for that post-bar-exam trip).

9

For the altruistic grad in your life, consider making a donation in his or her honor to a legal aid provider or other nonprofit. Legal Voice, the Northwest Justice Project, and Washington Lawyers for the Arts are just a few good examples.

10

The perennial favorite: a professional-looking briefcase or messenger bag. Your grad will be reminded of you (and your support) every morning as he or she walks out the door. (Thanks, Mom and Dad!)

Kurt Kruckeberg is an associate at Hillis Clark Martin & Peterson P.S., in Seattle, where he works on a variety of matters related to business, intellectual property, real estate, and finance. He is a member of the WSBA Editorial Advisory Committee. Contact him at kek@hcmp.com or 206-470-7640.
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WSBA Board of Governors Meeting, April 26–27, 2013
Spokane

Debate over possible changes to the Board of Governors’ process for handling politically sensitive issues highlighted the Board’s meeting in Spokane on April 26–27, 2013. Meanwhile, the Board heard reports on the 2013 bar exams, the Moderate Means Program, and the WSBA budget, and discussed issues including a proposed WSBA diversity plan and a court rule amendment involving the shackling of juvenile defendants in courtrooms.

Handling Political Issues
The Board had its first reading of a proposed amendment to the WSBA Bylaws that would require more formal analysis, a mandatory opportunity for member comment, and possibly a supermajority vote before the board could take a position regarding legislation, public ballot issues, and other political matters.

The Board’s involvement in social/political subjects has become a particular issue in recent years, as the Board has voted to take positions on certain topics, most notably same-sex marriage. At its September 2012 meeting, the Board voted to endorse Referendum 74 to legalize same-sex marriage, after having voted twice previously to support that position. Some WSBA members have objected to the Board’s taking a position on this and other issues on which WSBA members’ personal opinions are deeply divided. WSBA members and some Board members particularly objected to the September vote, as the matter had not appeared on the meeting’s agenda.

At the April 26–27 meeting, the Board discussed the proposed Bylaw amendments. Most notably, the provisos would require that before publicly taking a side on a political issue the Board would need to address the matter in a public session of a Board meeting, with advance notice to WSBA membership that the issue was on the agenda. In addition, the Board would need to first find by vote that the issue was within the scope of General Rule 12.1, which allows the WSBA to take a position on political or social issues only if they “relate to or affect the practice of law or the administration of justice.” It is already implicit in the Board’s consideration of such issues that the Board will take a position only on matters within Rule 12.1; there is no Bylaw explicitly requiring a vote on that question. Under the proposed Bylaw amendment, if the Board found by vote that consideration of the issue was allowed under GR 12.1, it would then need to vote on whether and what position to take on the issue.

The proposed amendments contain four options for the voting threshold regarding the GR 12.1 determination and taking a position on an issue: 1) a two-thirds majority of those voting, 2) a 75 percent majority of those voting, 3) a 75 percent of the members of the Board, and 4) a simple majority of the members of the Board. The Board will need to choose one of the options (or draft an additional option) to implement.

In debate, virtually all Board members who spoke on the issues favored the notice and hearing requirements, as well as the one requiring a vote that the issue met GR 12.1. However, the proposals requiring a supermajority vote prompted arguments on both sides, from Board members and others who spoke at the meeting. Proponents of a supermajority requirement — which included WSBA Legislative Liaison Kathryn Leathers (who is not a member of the Board) — argued that such a requirement would reassure WSBA members that the Board could take a political position only where the position enjoyed overwhelming support on the Board. Meanwhile, the requirement would increase WSBA’s credibility in the Legislature by demonstrating that the Board only involved itself in issues if it was convinced the position was well supported, they argued.

Immediate Past-president Steve Crossland (a non-voting member of the Board) spoke in favor of a supermajority requirement, noting that while serving as president he spoke to many WSBA members who were opposed to the Board taking positions on sensitive issues, even when they personally agreed with the position the Board was taking. President-elect Patrick Palace (also a non-voting member of the Board) noted that when the Board had voted to take positions on recent political issues — such as same-sex marriage — the proposed position was approved by a supermajority anyway. Thus, formally requiring a supermajority would represent a small price to pay in exchange for increased credibility with the membership, he said.

However, several others spoke in opposition to a supermajority requirement. Gov. Susan Machler argued that imposing such a high threshold would be a “knee-jerk reaction” to criticism the Board heard from some members regarding the same-sex marriage issue. Gov. Jerry Moberg agreed, noting that a 75 percent threshold would allow a few Board members to effectively overrule the majority by withholding their votes.

However, Gov. Brian Kelly, who favored a supermajority requirement, said, “I’m doing it in the members’ best interests,” and noted that future Board members could always change the rule again if it proved ineffective.

The proposed amendment will be refined in light of the Board’s comments and is expected to be addressed again — and possibly voted on — at the May 31 meeting in Seattle.

February 2013 Bar Exam and Examiner Recognition
The Board heard a report on the February 2013 bar examination and presented honors to the current and two past chairs of the Board of Bar Examiners. The February 2013 exam was the last to follow the essay-only format that has been used in Washington, the only state still using essays for the entire exam. A new format, which incorporates the Uniform Bar Examination (UBE), begins with the July 2013 exam (see article on page 43).

To commemorate the end of the essay-only era of the Washington exam, WSBA President Michele Radosevich presented plaques to three Bar members who have chaired the Board of Bar Examiners, which previously wrote and scored the bar exams and, in the future, will only serve the multi-state essay and performance portions of the exams. Honored were the current chair, Craig Beles, as well as former chairs Joe Nappi Jr. and Frank Slak.

Moderate Means Program
The Board watched a presentation updating them on the progress of the WSBA Moderate Means Program, which makes legal services available at reduced fees to people whose income
The program to date has 156 law students and 469 lawyers involved, and it has resulted in 895 client referrals. Students from all three Washington law schools volunteer to do income screening and client intake...

is within 200 to 400 percent of the federal poverty level. Megan McNally, WSBA director of advancement/chief development officer; Ana Selvidge, public service program manager; and Kaitlin Roach, a Gonzaga law student and a trustee for the Washington State Bar Foundation, reported on the progress of the program after its first two years of service.

The program to date has 156 law students and 469 lawyers involved, and it has resulted in 895 client referrals. Students from all three Washington law schools volunteer to do income screening and client intake then refer appropriate cases to participating lawyers, who agree to provide their services on a sliding-fee scale depending on the clients’ income.

Diversity Plan
The Board heard a first reading of the proposed WSBA Diversity Plan, which would be the foundation of the bar’s ongoing comprehensive diversity efforts aimed at member- and public-focused programs. The plan would be the direct descendant of WSBA diversity efforts that began in 2003, when the bar officially established diversity as one of its nine strategic goals. In 2006, the Board formed its own Diversity Committee, meant to help improve diversity within the elected leadership of the Board of Governors. In 2007, the WSBA established its five guiding principles, of which one is focused on promoting “diversity, equality, and cultural understanding...
Fiscal Report

Gov. Phil Buri, who also serves as WSBA treasurer, and WSBA Chief Operations Officer Ann Holmes updated the Board on the WSBA’s finances. They noted that the WSBA investment stock portfolio has nearly recovered from the 2008 financial crisis. When the account was created in March 2007, its value stood at $1.2 million. With the mortgage and investment market crash, the value dropped to $600,000 by February 2009. However, with the gradual recovery of investment markets since then, the account’s value has rebounded to $1,147,981, nearly returning it to its original value.

Meanwhile, Holmes projected that with increased revenues and reduced costs so far this year, the WSBA budget will avoid a net loss for the fiscal year. During the budget-making process last fall, it had appeared that a shortfall was likely, which would have necessitated dipping into reserves.

Juvenile Shackling Issue

The Board heard the first reading of a proposed juvenile court rule amendment that would create a strong presumption against the mandatory shackling of juvenile respondents in the courtroom, a practice followed in some counties. The amendment was requested by the Council on Public Defense, which feels that shackling is unduly punitive. Under the proposal, judges would have the discretion to order the use of shackles only on juvenile respondents specifically found to present a risk of violence or escape. Further consideration of the proposal, and a possible vote, is expected at the May Board meeting.

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Michael Heatherly is the editor of NWLawyer and can be reached at nwlawyer@wsba.org or 360-312-5156. For more information on the Board of Governors and Board meetings, see www.wsba.org/bog.
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Civil RICO litigation engenders complex intensity and infinitely difficult pleading issues. A plaintiff asserting RICO claims confronts the task of satisfying a daunting pleading threshold to comply with FRCP 9(b) and companion federal rules of practice and procedure. A number of federal courts have entered orders called “RICO Standing Orders” or “RICO Case Statement Orders,” and a few courts specifically include such a mechanism within the local rules. A RICO litigant initiating a racketeering action will be required to respond to such order or local rule by submitting a written response specifically addressing the multi-constituent components that comprise a RICO claim. Although the vast majority of federal courts still do not issue such orders or have a local rule addressing the question, individual judicial officers will automatically generate such orders when a RICO claim appears in a pleading.

RICO practitioners will find both constructive guidance and pragmatic counsel by filing a motion for entry of a RICO Case Statement Order simultaneously with initiating the action. The practical advantage to the litigant is that it provides a distinct opportunity to demonstrate to the federal court that by entering a RICO Case Statement Order, the litigant will respond with both factually — even evidentiary factual — material, as well as include legal analysis supporting the RICO case in each of the statutory elements that comprise a RICO claim. Moreover, the litigant can advance the motion in the context of supplementing a RICO complaint for purposes of FRCP 9(b) and 11. A defendant would be hard-pressed to oppose such a motion.

RICO civil litigation has increased exponentially. The complexities and technicalities of litigating RICO claims varies based upon the nature of the underlying subject matter. The litigation pathway is virtually strewn with unfore-
seen obstacles for the attorney lacking preparedness to address and comprehend the multi-constituent components comprising the RICO statute.

Counsel, when confronted with a potential RICO action, whether representing a client victim of commercial fraud or a client being pursued for committing commercial fraud, must exercise due caution when contemplating whether to embark upon such representation in the event counsel lacks specific experience or knowledge of RICO law.

Statement Order Practice and Procedure
When faced with this challenge, a practical approach for counsel to consider is moving the federal court for entry of a RICO Case Statement Order. The support for advancing such a motion is embodied within Title 28 United States Code § 2071, Fed. R. Civ. P. 83, and Fed. R. Civ. P. 11(b).

Many federal district courts issue standing orders in civil RICO cases requesting that a RICO plaintiff’s counsel provide certain details concerning their civil RICO claims. Responses to such orders are sometimes referred to as RICO Case Statements. RICO Standing Orders typically are routinely issued soon after the commencement of a RICO action by the filing of a RICO complaint, but some federal district courts have issued RICO Case Statement Orders and RICO Standing Orders at later stages as a means of clarifying the matters remaining at issue. RICO Standing Orders and RICO Case Statement Orders resemble interrogatories and inquire for specifics upon the plaintiff’s allegations. Nonetheless, RICO Standing Orders and RICO Case Statement Orders issued by a judicial officer offer at least two advantages over defense interrogatories: first, plaintiff’s counsel are less likely to provide evasive responses to a court; second, in jurisdictions that numerically restrict interrogatories, such as the 25 interrogatory limit of FRCP 33(a), RICO Standing Orders and RICO Case Statement Orders provide a means of obtaining discovery concerning a plaintiff’s contentions without using up valuable interrogatories.

In two separate opinions, the Fifth Circuit Court of Appeals has sustained and upheld the use of RICO Standing Orders requiring RICO plaintiffs to file RICO Case Statements as appropriate under Rules 8(a) and 9(b) of the Federal Rules of Civil Procedure. See Elliott v. Foufas, 867 F.2d 877, 879 (5th Cir. 1989) and Old Time Enters. v. International Coffee Corp., 862 F.2d 1213, 1217 (5th Cir. 1989); see also O’Malley v. O’Neill, 887 F.2d 1557, 1559 (11th Cir. 1989); Obee v. Teleshare, Inc., 725 F. Supp. 913, 915 (E.D. Mich. 1989); Marriott Bros. v. Gage, 717 F. Supp. 458, 460 (N.D. Tex. 1989); (RICO Standing Orders routinely entered by District Courts to permit the court and the parties to proceed with greater understanding; FRCP 83 expressly empowers a District Court to “make and amend rules governing its practice not inconsistent with” the Federal Rules).

The unprecedented, increasingly sheer magnitude of civil RICO filings has produced a correlative response by federal district courts to address the
burgeoning influx of racketeering litigation, especially exceedingly technically complex, multi-faceted, multi-party federal RICO actions. Responding to this increase, various federal courts have amended their local civil rules to command the litigant to submit written replies to a series of specific inquiries embodied within a RICO Case Statement Order. Many federal district courts — acting pursuant to, and exercising their inherent power — will order a civil RICO plaintiff to respond to such an order when deemed necessary.

Second Court of Appeals
Judicial recognition of, and adherence to, the entering of RICO Case Statement Orders is significant. A federal court may acquire instructive and constructive input and guidance by the following legal analysis addressing this subject matter.

The U.S. Court of Appeals for the Second Circuit has adopted a more logically measured approach to RICO Standing Orders. In *Commercial Cleaning Services, L.L.C.* v. *Colin Service Systems, Inc.*, 271 F.3d 374 (2nd Cir. 2001), the Second Circuit reviewed dismissal of a civil RICO claim by United States District Court for the District of Connecticut based, in pertinent part, upon the plaintiff’s contravention of a RICO Standing Order. The appeals court remarked that the district court had not explained whether the dismissal was attributable to the plaintiff’s purported failure to provide sufficient information required by a rule of law (either Fed. R. Civ. P. 12 or Fed. R. Civ. P. 56), or as a sanction for purportedly failing to obey a court order. The Second Circuit observed that, while either ground could be a permissible basis to rationally justify dismissal, neither justified dismissal under the facts of the case pending before it.

*Commercial Cleaning* expressly rejected dismissal for plaintiff’s failure to provide and infuse sufficient information in the RICO Case Statement because: 1) the Standing Order required information in excess of the essential elements of a RICO claim, and 2) the district court did not accord the plaintiff the opportunity to conduct discovery to address and remedy the alleged deficiencies in the RICO claim. The Second Circuit duly noted that the RICO Standing Order required the plaintiff to identify all wrongdoers, victims, or enterprises, whereas a RICO plaintiff need not submit this particular degree of detailed specificity to establish a legally cognizable, sufficient claim. According to the Second Circuit, a RICO standing “may not make the prosecution of the action dependent on the plaintiff’s ability to furnish more information than is required, as a matter of law, to prove the essential elements of the claim.”
dismissal as a sanction because plaintiff’s failure on the first try to supply all the information called for by the Standing Order was not such an egregious, abusive disregard of a court order as would justify grant of judgment in the action.

Indeed, Commercial Cleaning clearly exemplifies a welcome judicial effort to retain the benefits of RICO Standing Orders while maintaining such orders within the context of traditional pleading and proof burdens for a RICO plaintiff. Often, a RICO plaintiff may not have access to the detailed information about a RICO defendant’s conduct that RICO Standing Orders mandate. While this requirement necessarily imposes substantial Fed. R. Civ. P. 11 responsibilities upon a RICO plaintiff and his or her counsel, it should not prove an unintended windfall to RICO defendants whose complete activities can be gleaned only through discovery.

The Ninth Circuit convincingly opined upon the employment of RICO Case Statements by citing and following Commercial Cleaning.

**Ninth Circuit Court of Appeals**


Federal courts in other districts enter RICO Case Statement Orders based upon the factual complexity and legal technicality of the underlying subject matter of the litigation. Certain federal district courts have adopted an optional RICO Case Order. The United States District Court for the District of New Jersey expressly provides for the entry and issuance of a RICO Case Statement Order pursuant to Local Rule 16.1(B)(4). The Local Rule is consistently invoked, regardless of the underlying subject matter of the RICO action, whether exceedingly and technically complex or straightfor-

The United States District for the Northern District of New York similarly requires that a RICO Case Statement be filed, and the form for a RICO Case Statement Order is available for review and retrievable for use by accessing the United States District Court for the Northern District of New York website or the New York Bar Association website. The United States District Court for the Eastern District of Tennessee also requires the filing of a RICO Case Statement, as explicitly exemplified by the court in Anderson v. Thompson, 2007 WL 1490596 (E.D. Tenn. May 21, 2007). A comparable order exists within the United States District Court for the Middle District of Tennessee. And certain judicial officers within the United States District Court for the Western District of Pennsylvania require filing of a RICO Case Statement as part of that particular judicial officer’s standing order.

The Ninth Circuit in Wagh adopted the Second Circuit’s reasoning in Commercial Cleaning Services, L.L.C., relative to the function and utility of RICO Standing Orders and RICO Case Statement Orders:

We find the reasoning of the Second Circuit persuasive. The use of RICO Standing Orders to compel plaintiffs to produce detailed RICO Case Statements, which are then treated by the district court as part of the party’s pleadings, can in certain circumstances require far more information from plaintiffs than is required under either Rule 8(a) or 9(b) of the Federal Rules. Nevertheless, in this case, we hold that Wagh’s pleadings failed to satisfy even the basic requirements of those rules, and that the dismissal for failure to state a claim was therefore correct. (363 F.3d at 828.)

Indeed, the Ninth Circuit’s treatment of appropriateness and propriety is especially compelling for assessment and consideration of this RICO Case Statement. The Ninth Circuit devoted substantial analysis to addressing the specific contentions raised by the plaintiff regarding the employment of the RICO Standing Order and whether the use thereof addressed the issue of their compliance with federal notice pleading requirements. Indeed, such a contention is warranted when confronted with the heightened pleading standard subsequently enunciated by the United States Supreme Court in both Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-556 (2007) and Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009). The appellate court’s...
review and assessment of this issue clearly illustrates the underlying reasoning for entering RICO Standing Orders and RICO Case Statement Orders.

Conclusion

A RICO Case Statement can function as a useful vehicle in advancing a racketeering action. Moreover, the RICO Case Statement is an opportunity to specifically incorporate therein pertinent legal authorities and judicial analysis to support the RICO claims. Especially in light of the United States Supreme Court’s decisions in both Bell Atlantic Corp. v. Twombly, 127 S. Ct. 1955, 1965 (2007) and Ashcroft v. Iqbal, 129 S. Ct. 1936 (2009), exacting a heightened pleading requirement to satisfy RICO pleading and practice, entry of a RICO Case Statement is significantly appropriate here. See In re Managed Care Litigation, 2009 WL 812257 (S.D. Fla. Mar. 26, 2009)(RICO § 1962(d) conspiracy and RICO § 1962(c) claims advanced within Sixth Amended Complaint dismissed with prejudice upon plaintiffs’ failure to comply with Twombly, notwithstanding filing of Fifth Amended Civil RICO Case Statement). See also The Knit With v. Knitting Fever, Inc., 2011 U.S. Dist. LEXIS 34233 (E.D. Penn., 30 March 2011)(RICO Case Statement ordered notwithstanding the fact that defendants filed answers to the complaint). See also Reyes v. Zion First National Bank, 2012 U.S. Dist. LEXIS 38238 (E.D. Penn., 21 March 2012)(court directed RICO plaintiff to file a RICO Case Statement to provide additional information regarding elements of plaintiff’s claims after all defendants moved to dismiss plaintiff’s original complaint, plaintiff having then filed an amended complaint pursuant to FRCP 15(a); court denied FRCP 12(b)(6) motions to dismiss, finding allegations within amended complaint, examined in connection with RICO Case Statement, sufficient to satisfy Twombly/Iqbal). See Fremont Reorganizing Corp v. Duke, 811 F. Supp. 2d 1323, 1332 (E.D. Mich. 2011) (specific incorporation of RICO Case Management Statement with allegations underpinning plaintiff’s federal RICO claims arising from sub-prime mortgage origination and promotion fraud sufficiently stated cognizable racketeering claims for relief).

Dean Browning Webb focuses on complex RICO litigation with emphasis on application of the Pinkerton Doctrine in RICO conspiracy. James N. Gross, of Philadelphia, and the author represented plaintiffs in the RICO conspiracy case of Smith v. Berg, 247 F.3d 532 (3rd Cir. 2001). A member of both the RICO Law Reporter Advisory Board and the Civil RICO Report Advisory Board, Webb publishes extensively upon RICO conspiracy law and the Pinkerton Doctrine. The author expresses sincere appreciation and recognizes the significant contributions to this article by legal assistant Mary Jacqueline Evans. The author dedicates this article in loving memory to Juretta Elizabeth Oliver.
How does the Bar choose its cases?
As with so much the Bar does, its role as amicus begins with a committee — the aptly named Amicus Curiae Committee. Established in 1998, the committee is the first stop for requests asking the Bar to serve as amicus. The requests typically come from attorneys involved in cases on appeal. The committee reviews the requests and recommends to the Board of Governors whether to grant them. The Board has the final say on whether to file an amicus brief. (Occasionally an appellate court itself will request the Bar’s input; only in extraordinary circumstances will the Bar refuse a request from an appellate court.)

The Bar submits amicus briefs not only on the merits, but occasionally in connection with petitions for review to the Washington State Supreme Court. In some instances, it is more important from the Bar’s perspective that the Supreme Court addresses an issue than how it addresses the issue. The Bar is often uniquely situated to opine on whether a case should be reviewed. Two of the criteria for accepting review include whether a case presents a significant question of law under the state constitution and whether the case involves an issue of substantial public importance. (RAP 13.4(b).) The Bar can offer insight into those criteria that few other amici can.

When the Committee and the Board of Governors review a request, they decide whether the case involves issues of substantial interest to the Bar. Issues are of substantial interest when they involve 1) the independence or integrity of the judiciary or the Bar, 2) the effectiveness or accessibility of the legal system, 3) the practice or business of law, or 4) diversity and equality in the legal profession.

A few examples
King v. King, 174 P.3d 659 (Wash. 2007), is a quintessential example of the type of case that deserved the Bar’s attention (full disclosure: one of the parties in the case was represented by attorneys at the author’s law firm). King centered on a custody dispute. The father hired private counsel. The mother, who had only a ninth-grade education, could not afford one, so she represented herself during the five-day trial. Her efforts were unsuccessful and she lost custody of her children. She asked for a new trial, one at which she would be appointed counsel, but was denied. Her case eventually made its way to the Washington State Supreme Court, which was asked to decide whether parents in custody disputes have a constitutional right to counsel. The case involved access to the legal system, so the Bar submitted an amicus brief outlining the recent literature on pro se representation in family law cases, but not advocating a specific position on the issue of a Constitutional right to counsel. The Court eventually held that the decision to fund counsel for indigent parents was for the Legislature, not the judiciary.

State v. Athan, 158 P.3d 27 (Wash. 2007), is another example of an issue of substantial interest. To obtain DNA from a criminal suspect, the police sent a letter from a fake law firm asking the subject to join a purported class action. The police even set up a working telephone number with a recorded message announcing the caller had reached the law firm. The suspect licked the return envelope and mailed it to the police, who used it to link him to a decades-old murder. The Bar submitted an amicus brief to the Washington State Supreme Court, arguing that the police in fact entered into an attorney-client relationship with the suspect. If police could pose as attorneys to trick suspects, the Bar submitted, the attorney-client relationship would be adulterated; criminal defendants would be distrustful of their attorneys. The Bar took no position on whether the defendant’s conviction should have been upheld, but requested a firm statement that no one may impersonate attorneys. The Court affirmed the defendant’s conviction on the narrow grounds that saliva is not a “communication” capable of being privileged, but it warned that “such a ruse has the potential to gather privileged and confidential information, thereby implicating the concerns raised by” the Bar and others.

Occasionally, the Bar is called upon to submit a brief on a complex and unexplored area of the law. For instance, Chadwick Farms Owners Assoc. v. FHC, LLC, 160 P.3d 1061 (Wash. Ct. App. 2007), involved several thorny issues
pertaining to newly-amended statutes governing limited liability companies (LLCs). The statutes allowed LLCs that dissolve to sue and be sued while winding up their affairs. The statutes were less than clear, however, whether they could do so after their certificates of formation were cancelled — the death knell of LLCs. Given the complexity of the law, the court asked the Bar — and in particular the WSBA Business Law and Corporation Law sections — to file an amicus brief. The Bar submitted a brief that supported no party in particular, but instead walked the court through the maze of statutes governing LLCs. The resulting opinion adopted the Bar’s explanation of the law. Indeed, it block-quoted the Bar’s brief, which the court said “summarizes the genesis of LLCs ably and succinctly.”

Who writes the briefs?
Once the Bar agrees to submit an amicus brief, it relies on volunteers to draft them. The briefs are submitted under the name of the drafting volunteer as well as the WSBA president. The amicus committee maintains a roster of volunteers whom it can ask to draft briefs. To apply as a volunteer, email current Committee Chair Fred Corbit at fredc@nwjustice.org and WSBA General Counsel Jean McElroy at jeann@wsba.org.

How to submit a request
If you are involved in an appeal and believe the issues may be of substantial interest to the Bar, submit a request to questions@wsba.org. The request should include a statement of the legal issues for the Bar to address, a survey of the significant cases, a statement explaining how the case relates to the issues of substantial importance, and whether you will allow the Bar time at oral argument. Also include the appellate briefs filed in the case. Make sure to submit your request far in advance of the deadline for submitting amicus briefs, because the process of reviewing a request and drafting a brief can be lengthy.

Summing up
The Bar offers appellate courts an independent voice on issues impacting the practice of law. When it speaks, courts listen. The Bar relies on its members to identify cases that may be of interest. The next time you have a case on appeal that includes an issue meriting the Bar’s attention, consider submitting a request for an amicus brief. You’ll find that the Bar can be a wonderful friend.

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by Robert W. Henry

This July, the WSBA will administer the Uniform Bar Exam (UBE) for the first time. This is a significant change for the WSBA. For many decades, we have proudly administered our own all-essay exam and steered clear of any use of the multistate exams (except for a brief period of time in the 1970s when Washington used the Multistate Bar Exam in conjunction with its own essay questions). However, times are changing and the WSBA is riding forward with that change in order to provide our applicants and new lawyers with the best options available and to continue to provide the public in Washington with new lawyers who can handle their legal needs competently.

What is the Uniform Bar Exam?
The Washington bar exam, administered for the last time this past February, was (in its previous formulation) a two-and-a-half day, all-essay exam consisting of 18 substantive law questions on general and Washington law and six shorter questions covering the Washington RPCs. The UBE is a very different exam.

The UBE is made up of three multistate exams developed by the National Conference of Bar Examiners (NCBE) and administered over two days. Most lawyers from other states are familiar with the Multistate Bar Exam (MBE), which is administered in all states except Louisiana. The MBE consists of 200 multiple-choice, fact-pattern questions administered in two three-hour sessions on the second day of the exam. The MBE is weighted as 50 percent of the total UBE score.

During the morning session of the first day of the July exam, we will administer the Multistate Essay Exam (MEE). The MEE consists of six essay questions to be answered in three hours. This is the part of the exam that is most similar to Washington’s old all-essay exam; however, the questions are shorter. The MEE is weighted as 30 percent of the total UBE score.

In the afternoon of the first day, we will administer the Multistate Performance Test (MPT). Many practicing lawyers are not familiar with this newest component to bar exams, but they are definitely familiar with the skills this component is designed to test. The MPT consists of two written projects to be completed in three hours. Applicants are provided a factual scenario and a set of research materials such as caselaw, statutes, and rules. Based on the facts and the supplied research, they are asked to prepare a document such as a brief, memorandum, motion, or letter to a client. The MPT is weighted as 20 percent of the total UBE score.

The three components above must be taken together in one administration in order to receive a UBE score. You can’t take the MBE in July and the other two parts the following February, for instance, and have that count as a UBE score. (You can, however, take only your MBE score from one administration of the UBE and use that score as part of your application process in another state that requires the MBE but not the UBE, even if you took that MBE as part of a two-day UBE administration.)

In addition to the UBE, all applicants for admission must take and pass the Multistate Professional Responsibility Exam (MPRE). The MPRE is based on the ABA Model Rules of Professional Conduct and the ABA Model Code of Judicial Conduct. The MPRE is currently administered by the NCBE separately from the UBE, three times a year. Applicants may sit for the MPRE up to three years prior to the UBE and most take the MPRE right after finishing their ethics course in law school.

Finally, all applicants for admission must also pass the Washington Law Component (WLC). The WLC is a separate test that applicants can self-administer any time after filing their application. Applicants must pass with a score of 80 percent or more correct before admission. The purpose of the WLC is to test knowledge about those areas of law that are unique to Washington or substantially different from the law tested on the UBE. The WLC is a 60-question online, open-book test based on the WLC materials. The WLC materials are a set of 15 outlines on various substantive subjects, including one about the WSBA. The WLC materials and test questions are written and maintained by the WSBA Board of Bar Examiners. The WLC materials are posted on the WSBA website and are available as a resource for all lawyers in Washington.

Why the Uniform Bar Exam?
There are two key reasons for using the Uniform Bar Exam — reliability and portability.

As with any high-stakes professional licensing exam, the bar exam needs to be reliable. More specifically, the exam must be a reliable means for ensuring minimum competency to practice law in order to protect the public. The NCBE has a substantial process for the creation and review of the UBE (well beyond what is permitted by available resources in
WASHINGTON). Experts from across the country work together to create a comprehensive exam on subjects and skills that every lawyer should know. All the questions are thoroughly vetted and go through several review cycles before being used on an exam. The NCBE also uses experts to ensure that there are not significant differences in the difficulty of the exams from one administration to the next.

The UBE is also reliable because it employs several testing methods — fact-pattern-based multiple choice, essay, and performance. By not being limited to any one method, the UBE provides a method for all applicants to demonstrate that they know the required material and skills regardless of where their testing strengths lie. We hope that this reliability factor will help to increase the diversity of those entering the profession by removing unintentional barriers created by using a single method exam.

For those taking the UBE, portability may be the best consideration. A UBE score may be transferred from one UBE jurisdiction to another. The jurisdiction receiving the score determines whether the score meets its minimum requirements, reviews the character and fitness of the applicant, and ensures that any other additional requirements for admission are met. Each jurisdiction also sets its own limit on how old the UBE score can be for transfer. Generally, it is two to three years; in Washington, it is 40 months. (After the UBE scores “expire,” presumably those lawyers will be eligible in most jurisdictions to seek admission by reciprocity or admission on motion.1)

Everyone knows the world is becoming a smaller place, with this change being spurred on by advances in technology. Lawyers move around the country and need to be admitted to practice in additional U.S. jurisdictions for all sorts of reasons — they get new jobs, their spouses get new jobs, they need to take care of family, they are in the military, or their company or law firm needs them in a new state or multiple states. Sometimes they simply don’t want to move away from where they went to law school before taking the exam, but intend to move later. Whatever the reason, the UBE, with its portability, makes it simpler for lawyers to get admitted in another U.S. jurisdiction.

**Change Can Be Good**

The Uniform Bar Exam is a new and change for Washington. But change can be good, and the UBE provides many benefits to those entering the practice of law, to the members of the Washington State Bar, and to the public. NWL

Robert Henry is the associate director for the WSBA Regulatory Services Department. He can be reached at roberth@wsba.org.

**NOTE**

1. If proposed amendments to the Admission to Practice Rules are adopted by the Washington State Supreme Court, Washington will have an admission by motion rule that will permit lawyers from any U.S. jurisdiction with active experience in three out of the last five years to apply for admission in Washington without taking a new exam. This is an intentional design so that lawyers can use the UBE score to transfer to Washington for the first three years of practice and then use admission by motion later in their careers.
Do you like pierogi?

Are Tchaikovsky and Chopin near and dear to your heart? Was your grandpa an immigrant from Ukraine? Do you know three words in Czech? Do you enjoy lively conversations over hearty meals and beverages? Do you aspire to help Eastern and Central European immigrants with their legal needs? Are you eager to meet other legal professionals or law students with diverse backgrounds and interests? If you answered “yes” to any of these questions, you are, at heart, a member of the Slavic Bar.

The Slavic Bar Association of Washington (SBAW) is only a year-and-a-half old and already it boasts a dedicated board and a group of enthusiastic members. The Slavic Bar was created to educate others about Slavic culture, history, and people; to aid its community and those within it aspiring to enter the legal field; and to support members of the Bar and law students with Slavic ties.

Who are Slavs?
The Slavs are an ethnic and linguistic group of Eastern and Central European origin. It includes Serbs, Croats, Bosnians, Macedonians, Montenegrins, Russians, Ukrainians, Belarusians, Poles, Czechs, Slovaks, and Bulgarians.

So, why do we need a Slavic bar association in Washington?
We estimate that there are at least a few hundred Slavic attorneys licensed in Washington state, and this number is growing as students with Slavic ties and interests graduate law schools and enter the profession. We also hear from practitioners and students who are ethnically not Slavic, but have other ties to Slavic cultures or languages — Slavic homelands, undergraduate studies, travels, or friends. SBAW welcomes any connection with our association — even if it is sheer love of pierogi or cabbage rolls! We have a lot in common and wanted an opportunity to meet, compare experiences, and work on common goals.

Mentoring and networking
The Slavic Bar hears from many students looking for mentorship and networking opportunities. They need information, professional guidance, and a sense of belonging. I can identify with them. Five or six years ago, I, too, was looking for someone to answer my questions about the professional paths I was considering and the obstacles that I might face as an immigrant from Ukraine. I wanted my mentor...
Despair Defined

There is no event more joyful than the birth of a healthy child and none more devastating than when a baby is neurologically damaged during labor or delivery. We have extensive experience in birth injury cases. We would appreciate the opportunity to work with you to help your client.

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Aryna Anderson is an assistant attorney general and practices juvenile law in Tacoma. She is a 2009 graduate of Seattle University School of Law. She can be reached at aryna.anderson@gmail.com. This column is edited and overseen by the WSBA Committee for Diversity.
“Forgiveness is the fragrance that the violet sheds on the heel that has crushed it.”

~ Mark Twain

The car driver made an illegal left turn. He struck my bicycle. I hit the pavement. My thigh bone splintered. My helmet helped but could not prevent a brain injury. I needed SKWC to hold the driver accountable. And they did.

— John LaMacchia, M.D./Ph.D candidate, UW

Learn more about John’s story at Stritmatter.com

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- Featured speaker at DUI defense seminars in eight states
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- Founding Member, National College of DUI Defense (1995)
- Litigator and counselor for clients from all walks of life including workers, executives, and professional athletes

Giving to the Washington State Bar Foundation is an easy choice for me.

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

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

Learn more & give at wsba.org/foundation
My greatest talent as a lawyer is recognizing that there are multiple sides to every situation.

In my practice/life, I work on maintaining my integrity and being respected by the courts and colleagues on both sides of the bench.

During my free time, I enjoy taking my one-year-old Vizsla, Scout, to the dog park.

Nobody would ever suspect that I grew up fishing and hunting with my family. I enjoy grouse hunting and I am working on training my dog to bird hunt.

If I could pick a superpower, it would be to have the ability to teleport myself to Australia to visit my sister who lives there.

One of the greatest moments in my legal career was when I successfully prosecuted an Assault in the Fourth Degree—Domestic Violence case in which the victim was unavailable by obtaining a conviction based only on the photos and 911 call recording.

An embarrassing story that happened to me while practicing occurred during my second jury trial. I sliced my finger open with an X-Acto knife while making exhibits for trial and had to go to the emergency room. I conducted the entire trial with my left hand wrapped in gauze and my index finger stuck in a straight, pointing position by a splint. Luckily, I forgot about the pain of my throbbing finger when the jury announced that I prevailed at the trial.

The best advice I have for new lawyers is to not be afraid to ask questions of your colleagues, to recognize that there is always more to know about the law, and to treat each experience, negative and positive, as a learning moment in your career.

If I was planning a road trip, I would travel along the Pacific Northwest coast or head to the ski slopes in Whistler.

If I was not practicing law, my dream job would be a professional dancer. I grew up dancing and took lessons for over 20 years.

My first car was a red Volkswagen Cabriolet, which was perfect for parallel parking around the University of Washington.

If I got free tickets to an event, I would want to see the Seahawks if they were playing in the Super Bowl. Or the Grammys.

Friends would describe me as genuine, thoughtful, kind, organized, social, level-headed, and a person with an overall positive outlook on life.

My professional routines include practicing my oral arguments out loud to myself.

The hardest part of my job is the amount of discretion and decision-making associated with criminal prosecution as the case disposition needs to be appropriate and just, and it can have a significant impact on one’s liberty and life.

My name is Rachel Hunter and I am a prosecutor with the Law Offices of Zachor and Thomas, Inc., P.S. My firm handles criminal misdemeanor prosecution for nine cities in Snohomish County and I am the primary prosecutor for the City of Edmonds. I am a proud graduate of the University of Washington, and Thomas M. Cooley Law School in Grand Rapids, Michigan. I enjoy outdoor activities, exploring new places, and spending time with friends, family, and my energetic Vizsla puppy, Scout.
The Washington State Bar Association congratulates the 247 candidates who passed the Bar Exam administered in February 2013! Of the 421 candidates who took the exam, 58.7 percent passed.
2013 Winter Bar Exam Pass List

Neidzowski, Elizabeth Y., Bainbridge Island
Neighbors, Deborah Kelly, Eugene, OR
Nijjar, Elizabeth Kaur, Surrey, BC
Nutt, Jessica Erin, Seattle

O

Odonami, Lola O., Antioch, CA
Ohlig, Brigitte Lotte, Lakewood
Ondra, Erin Kelsey, Seattle
O’Neal, Travis Michael, Vancouver

P

Parker, Matthew G., Lake Forest Park
Patterson, Jeffrey David, Seattle
Petersen, Inez P., Renton
Petiprin, Benjamin D., Huntington Beach, CA
Pettersen, Elizabeth Ann, Woodinville
Pham, Bryan Viet-Hung, Portland, OR
Pitcher, Brittany Jean, Federal Way
Pomponio, Alyssa Casey, Seattle
Potter, Dylan Spencer, Reese, Bend, OR
Potter, Jennifer Michal, Mountlake Terrace
Powell, William Chambers, Seattle
Power, Nicholas, Friday Harbor
Pratt, Trevor Robert, Edmonds
Price, Nicholas, Seattle
Price, Gregory, Emil Warren, Bellevue
Prince, Deirdre Maureen, Silverdale
Pritchett, Nathan, Brinnon
Purcell, Mathew Michael, Camarillo, CA
Quinonez, Veronica Alexis, Auburn

R

Rachey, Ross, Everett
Rampersad Elizabeth, Rania, Bellevue

Ramsey, Maridith Elizabeth, Woodinville
Rei-Perrine, Amanda J., Seattle
Rey-Bear, Daniel I.S.J., Albuquerque, NM
Rice, Joshua DeWitt, Bellevue
Ring, Nathan Russell, Los Vegas, NV
Robinson, Katherine Anne, Olympia
Rodriguez, Ana Cristina, Seattle
Rubenstein, David Stewart, Vancouver

S

Santiago, Thomas Tyler, Lynnwood
Schmidt, Heather Nichol, Seattle
Schuttelnheim, Jared, Bellevue
Schulman, Laura Nicole, Port Orchard
Scherer, Charles, Orange, CA
Seidenstein, Julie Harris, Seattle
Serko, Alice Coles, Tacoma
Sharp, Tara Sheryl Guffrey, Atlanta, GA
Shearer, Christie Michelle, Edmonds
Shenefield, Kelly A., Seattle
Shogren, William Parker, Redmond
Signer Hill, Devorah, Seattle
Silk, Jordan Ross, Portland, OR
Singh, Jasdeep, Renton
Smith, Brian, Kirkland
Smith, Chantelle, Lolo, MT
Smith, Forrest Robert, Seattle
Smith, Sarah Nickel, Seattle
Sobotta, Matthew M., Henderson, NV
Solberg, Elisa T., Seattle
Soldato, Anthony C., Son Francisco, CA
Solomon, Shirin M., Seattle
Sperger, Erin Cheyenne, Seattle
Sperry, Peter Thomas, Granville, OH
Stamme, Ian Wilder, Tumwater

Stemmler, Alexandra, Seattle
Stewart, Miles John, Malcolm, Seattle
Stirling, Richard James, Auburn
Stoddard, Anita, Bothell
Stokesbury, Andrew Ryan, Covington
Stough, Jacqueline, Seattle
Sullivan, Promise Marie, Kennewick

T

Takahashi, Daisuke, Shoreline
Taylor, Hayden James, Tacoma
Taylor, Judson, Hot Springs, AR
Trethewey, Kyle Beckman, Seattle

U

Vana, Lauren Eileen, Seattle
Vasilev, Angel Nikolaev, Renton
Vassall, Vivian, Seattle
Vozeiko, Anton A., Howell, MI

W

Walker, Zachary Blay, Portland, OR
Weiss, Neil, Everett
Welch, Catherine A., Seattle
Westre, Nicole, Bellevue
Whitcomb, Mason Todd, New York, NY
White, Matthew Robert, Tacoma
Williams, Aaron Michael, Seattle
Wolfson, Adam, Olympia
Wong, Ada Ko, Seattle
Woods, Gregory, Arlington, VA
Woodward, Kelly Marie, Port Orchard

X

Xia, Emily, Seattle
Ybarra, Christine S., Marysville
Yraneda, Roberto Alexandre Lim, Bellevue
Zakharova, Lola S., Renton

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Questions? Contact nwlawyer@wsba.org.

Get published!

NWLawyer is looking for a few good writers.

See your name in lights (well, in ink, anyway) in NWLawyer! If you have an article of interest to Washington lawyers or have been meaning to write one, see page 4 for article submission guidelines. NWLawyer relies almost entirely on the generous contribution of articles from WSBA members.
Opportunity for Service

Certified Professional Guardian Board
Application Deadline: June 14, 2013
The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving on the Certified Professional Guardian Board for a three-year term starting Oct. 1, 2013. The board was created by the Supreme Court to regulate the practice of certified professional guardians and agencies to help assure that qualified professional guardians are available to assist incapacitated individuals. For further information and application instructions, see www.wsba.org/legal-community/volunteer-opportunities/other-volunteer-opportunities.

Paper Form 1 Fee Increase for CLE Sponsors
On Aug. 1, 2013, the MCLE course accreditation application fee for paper Form 1s will increase to $100. All sponsor paper Form 1s that are postmarked or delivered on or after this date will be assessed the new $100 fee. The online Form 1 course accreditation application fee will remain at $50. The increase will cover the extra time and resources required to process paper applications. The decision was made at the WSBA Board of Governors meeting on April 26, 2013.

Sponsors who currently submit paper Form 1s are encouraged to submit Form 1s online as a less expensive alternative. It is a quick and easy process for submitting Form 1s, as well as attendance reports. VISA, MasterCard, and American Express cards are accepted for payment. Another option, for sponsors that do not have one of these cards, is to use a “purchasing card” from one of the three credit card vendors. This form of company charge card allows goods and services to be procured without using a traditional purchasing process. Many government agencies and other companies use these in place of credit cards.

For more information about submitting Form 1s online and to access the sponsor MCLE website to set up a sponsor online account, go to www.wsba.org/mcle and click on the “CLE Accreditation” LEARN MORE button. If you have any questions, please contact the WSBA Service Center at 206-443-9722, 800-945-9722, or questions@wsba.org. Ask to be connected with an MCLE analyst.

Paul Mack Elected Legal Foundation of Washington’s 2013 President
The Board of Trustees of the Legal Foundation of Washington has unanimously elected Paul Mack, of Paul B. Mack Law Offices in Spokane, the Foundation’s 2013 president. Elizabeth Thomas, a partner at K&L Gates Seattle, was elected vice president; Judge Frank E. Cuthbertson was elected secretary; and Loren Etengoff, of the Law Offices of Loren Scott Etengoff in Vancouver, was elected treasurer.

Additional Trustees of the Legal Foundation of Washington Board include M. Laurie Flinn Connelly, of Eastern Washington University, appointed to her first term by the Washington State Supreme Court, and returning Washington State Supreme Court appointee Richard E. Mitchell, of Graham & Dunn, in Seattle. Returning WSBA Board of Governors appointee is Martin S. Garfinkel, of Schroeter Goldmark & Bender, in Seattle.

Governor Inslee has also appointed Judge Johanna Bender, of the King County District Court, and Gerald T. Schley, of Merrill Lynch, to their first terms.

The Legal Foundation was established in 1985 at the direction of the Washington Supreme Court to support legal aid and law-related education through the Interest on Lawyers’ Limited Practice Officers’ Trust Account (IOLTA) program. The Foundation is a supporter of the Alliance for Equal Justice, a statewide network of organizations providing legal aid to those with nowhere else to turn.

Gonzaga Law Review Call for Submissions
Deadline: October 2013
The Gonzaga Law Review is seeking articles for its upcoming Northwest Edition. It is hoped that the Northwest Edition will both educate and inform subscribers on issues that are important to the Northwest. Articles may have an
academic or practical focus and should generally address topics related to legal issues in the greater Northwest. The Review has a special interest in articles related to marijuana legalization or same-sex marriage in Washington. Submissions for this edition will be due in October, with a final date to be determined. If you have already written an article, you may submit it by email. If you have an idea for a prospective article, please contact the Review to discuss publication requirements. For questions, contact Kate Meier or James Blankenship at gulr@lawschool.gonzaga.edu.

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

Just Starting a Practice?
Think “outside the box” and consider purchasing “Law Office in a Box.” For $119, you receive an hour of consultation time plus everything you see here: http://tinyurl.com/3rn75hj. Questions? Contact Peter Roberts at peter@wsba.org, 206-727-8237, or 800-945-9722, ext. 8237.

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

Advisory opinions are issued by the WSBA to assist members in interpreting their ethical obligations in specific circumstances. The opinions are the result of study and analysis in response to requests from WSBA members. For assistance, call the Ethics Line at 206-727-8284 or 800-945-9722, ext. 8284.

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.

Individual Consultation
The WSBA Lawyers Assistance Program provides individual consultation services for those struggling with depression, work stress, addiction, and life transition, among other topics. The initial consultation appointment costs $20, and any additional sessions are on a sliding scale based on your financial situation. Consultations are an opportunity for assessment of the problems you may be facing, identifying useful tools you may utilize to address these issues, and referral resources to find the right resources for you. Our licensed counselors can offer up to six consultation sessions. We also provide consultations with job seeking and can offer informational and referral resources on a range of topics. Contact us at 206-727-8268, 800-945-9722, ext. 8268, lap@wsba.org, or go to www.wsba.org/lap.

WSBA-CLE Releases Environmental Regulation Volume of Real Property Deskbook Series
Update your library now: The 2013 revised environmental regulation volume (Volume 7) of the fourth edition of the Washington Real Property Deskbook series is now available. Guided by Editor-in-Chief Michael Dunning, of Perkins Coie, Seattle, top Washington-
ton practitioners have written and edited a new and completely revised environmental regulation volume that replaces Volume 7 of the third edition. Volume 7 comprehensively covers state and federal environmental statutes and regulations. Coverage includes climate change, protection of air and waters of the state, and protection of endangered species, along with regulation of toxic substances, hazardous materials transport, and other related topics. To review the full table of contents or to purchase, go to www.wsba.org and click “Deskbooks,” or call 206-733-5918 or 800-443-9722, ext. 5918 to order by phone.

Mindful Lawyers Group
A growing number of legal professionals across the nation are applying mindfulness-based skills and training to lawyering. The Washington Contemplative Lawyers group meets on Mondays at the WSBA Lawyers Assistance Program office from noon to 1 p.m. For more information, contact Sevilla Rhoads at srhoads@gsblaw.com or go to http://wacontemplativelaw.blogsot.com.

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 (LAP) 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.

Weekly Job Search Group
The Weekly Job Search group provides strategy and support to unemployed attorneys. The group runs for eight weeks and is limited to eight 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/7xheB8b. For more information about monthly and weekly job group programming or to schedule a career consultation, contact Dan Crystal at danc@wsba.org, 206-727-8267, or 800-945-9722, ext. 8267.

Solo/Small Firm Support Group
The WSBA Lawyers Assistance Program is now offering a new group service, the Solo/Small Firm Support Group. This is a weekly drop-in group for attorneys wanting to address the major challenges facing professionals in solo or small-firm settings. It takes place on Thursdays from noon to 1 p.m. on the 11th floor of the WSBA, in the Lawyers Assistance Program offices. For questions or more information, contact Heidi Seligman at 206-727-8269, 800-945-9722, ext. 8269, or heidis@wsba.org.

Worried?
A little anxiety is a good thing — it motivates us to get things done. But too much anxiety can result in procrastination or paralysis, and you can get far behind in your work before you know it. If anxiety has become a problem, call the WSBA Lawyers Assistance Program at 206-727-8268 or 800-945-9722, ext. 8268, to schedule a confidential consultation.

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

Upcoming WSBA Board of Governors Meetings
July 26–27, Cle Elum; Sept. 26–27, 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, 800-945-9722, ext. 2125, or pamela@wsba.org. The complete Board of Governors meeting schedule is available on the WSBA website at www.wsba.org/bog.

Usury Rate
The average coupon equivalent yield from the first auction of 26-week treasury bills in May 2013 was 0.081 percent. Therefore, the maximum allowable usury rate for June is 12 percent.
These notices of imposition of disciplinary sanctions and actions are published pursuant to Rule 3.5(d) of the Washington State 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**

Janyce Lynn Fink (WSBA No. 24894, admitted 1995), of Seattle, was disbarred, effective 3/20/2013, by order of the Washington State Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.15A (Safeguarding Property), Linda B. Eide represented the Bar Association. Kurt M. Bulmer represented Respondent. The online version of NWLawyer contains links to the following documents: Disciplinary Board Order Approving Stipulation; Stipulation to Disbarment; and Washington Supreme Court Order.

David R. Fox (WSBA No. 24317, admitted 1994), of Port Angeles, was disbarred, effective 3/20/2013, by order of the Washington State Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.7 (Conflict of Interest: Current Clients), 1.8 (Conflict of Interest: Current Clients: Specific Rules), 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), 8.1 (Bar Admission and Disciplinary Matters), and 8.4 (Misconduct). Erica Temple and Scott G. Busby represented the Bar Association. David R. Fox represented himself. Andrekita Silva was the Hearing Officer. The online version of NWLawyer contains links to the following documents: Hearing Officer’s Decision; Disciplinary Board Recommendation; and Washington State Supreme Court Order.

Bruce Michael Hull (WSBA No. 18943, admitted 1989), of Bellevue, was disbarred, effective 3/20/2013, by order of the Washington State Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.4 (Communication), 1.15A (Safeguarding Property), and 8.4 (Misconduct). Marsha A. Matsumoto represented the Bar Association. Bruce Michael Hull represented himself. James Myron Danielson was the Hearing Officer. The online version of NWLawyer contains links to the following documents: Hearing Officer’s Decision; Disciplinary Board Recommendation; and Washington State Supreme Court Order.

**Suspended**

Philip A. Dunlap (WSBA No. 10636, admitted 1980), of Renton, was suspended for 60 days, effective 3/20/2013, by order of the Washington State Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.3 (Diligence) and 1.4 (Communication). Joanne S. Abelson represented the Bar Association. Philip A. Dunlap represented himself. Gregory John Wall was the Hearing Officer. The online version of NWLawyer contains links to the following documents: Disciplinary Board Order Approving Stipulation; Stipulation to 60-day Suspension; and Washington State Supreme Court Order.

Kevin L. Gibbs (WSBA No. 23990, admitted 1994), of Bothell, was suspended for 30 months, effective 3/20/2013, by order of the Washington State Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), 3.2 (Declining or Terminating Representation), 5.3 (Responsibilities Regarding Non-lawyer Assistants), and 8.4 (Misconduct). Craig Bray and Natalea Skvir represented the Bar Association. James Joseph Rosenberger represented himself. William Edward Fitzharris Jr. was the Hearing Officer. The online version of NWLawyer contains links to the following documents: Disciplinary Board Order Approving Stipulation to Nine Month Suspension; Stipulation to Nine Month Suspension; and Washington State Supreme Court Order.

James Howard Robinson (WSBA No. 28282, admitted 1998), of Seattle, was suspended for six months, effective 3/20/2013, by order of the Washington State Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.5 (Fees), 1.15A (Safeguarding Property), and 8.4 (Misconduct). Jonathan Burke represented the Bar Association. James Howard Robinson represented himself. Donald William Carter was the Hearing Officer. The online version of NWLawyer contains links to the following documents: Disciplinary Board Order Approving Stipulation; Stipulation to Suspension; and Washington State Supreme Court Order. James Howard Robinson is to be distinguished from James Allan Robinson, of Tucson, James Alan Robinson, of Seattle, and James Jack Robinson, of Anniston.

James Joseph Rosenberger (WSBA No. 16043, admitted 1986), of Seattle, was suspended for nine months, effective 3/20/2013, by order of the Washington State Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), 3.2 (Declining or Terminating Representation), 5.3 (Responsibilities Regarding Non-lawyer Assistants), and 8.4 (Misconduct). Craig Bray and Natalea Skvir represented the Bar Association. James Joseph Rosenberger represented himself. William Edward Fitzharris Jr. was the Hearing Officer. The online version of NWLawyer contains links to the following documents: Disciplinary Board Order Approving Stipulation to Nine Month Suspension; Stipulation to Nine Month Suspension; and Washington State Supreme Court Order.

David A. Stirbis (WSBA No. 26037, admitted 1996), of Lakewood, was suspended for 18 months, effective 3/14/2013, by order of the Washington State Supreme Court. The lawyer’s conduct violated the following Rule of Professional Conduct: 8.4 (Misconduct). Linda B. Eide and Scott G. Busby represented the Bar Association. James Elliot Lobsenz represented Respondent. Lawrence R. Mills was the Hearing Officer. The online version of NWLawyer contains links to the following documents: Disciplinary Board Order Approving Stipulation to Nine Month Suspension; Stipulation to Nine Month Suspension; and Washington State Supreme Court Order.
contains links to the following documents: Hearing Officer’s Decision; Disciplinary Board Recommendation; and Washington State Supreme Court Order.

Reprimanded

**Yong J. Han** (WSBA No. 26825, admitted 1997), of Snoqualmie, was reprimanded, effective 11/21/2012, by order of the Hearing Officer. The lawyer’s conduct violated the following Rule of Professional Conduct: 5.3 (Responsibilities Regarding Non-lawyer Assistants). Natalea Skvir represented the Bar Association. Leland G. Ripley represented Respondent. The online version of *NWLawyer* contains links to the following documents: Order Approving Stipulation; Stipulation to Reprimand; and Reprimand.

**Andrew Francis Hiblar Jr.** (WSBA No. 7648, admitted 1977), of University Place, was reprimanded, effective 3/14/2013, by order of the Disciplinary Board. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.16 (Declining or Terminating Representation), 5.5 (Unauthorized Practice of Law; Multijurisdictional Practice of Law), 5.8 (Misconduct Involving Disbarred, Suspended, Resigned, and Inactive Lawyers), and 8.4 (Misconduct). Marsha A. Matsumoto represented the Bar Association. Andrew Francis Hiblar Jr. represented himself. The online version of *NWLawyer* contains links to the following documents: Order Approving Stipulation to Reprimand; Stipulation to Reprimand; and Reprimand.

**Gary C. Hugill** (WSBA No. 4713, admitted 1972), of Tacoma, was reprimanded, effective 7/16/2012, by order of the Hearing Officer. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 2.1 (Advisor), 5.5 (Unauthorized Practice of Law; Multijurisdictional Practice of Law), and 8.4 (Misconduct). Debra J. Slater represented the Bar Association. John Graham Schultz and Larry C. Stephenson represented Respondent. The online version of *NWLawyer* contains links to the following documents: Order on Stipulation to Reprimand; Stipulation to Reprimand; and Reprimand.

**Grant Kinnear** (WSBA No. 8935, admitted 1979), of Seattle, was reprimanded, effective 3/8/2013, by order of the Hearing Officer. The lawyer’s conduct violated the following Rule of Professional Conduct: 8.4 (Misconduct). Marsha A. Matsumoto represented the Bar Association. Grant Kinnear represented himself. The online version of *NWLawyer* contains links to the following documents: Stipulation to Reprimand; Order Approving Stipulation to Reprimand; and Reprimand.

**Michael John McLaughlin** (WSBA No. 13367, admitted 1983), of Newport, was reprimanded, effective 3/14/2013, by order of the Disciplinary Board. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.15A (Safeguarding Property) and 1.15B (Required Trust Account Records). Scott G. Busby represented the Bar Association. Michael John McLaughlin represented himself. The online version of *NWLawyer* contains links to the following documents: Stipulation to Reprimand; Order Approving Stipulation to Reprimand; and Reprimand.

**Paul David Pless** (WSBA No. 34629, admitted 2004), of Normal, IL, was reprimanded, effective 3/19/2013, by order of the Chief Hearing Officer. The lawyer’s conduct violated the following Rules of Professional Conduct: 5.3 (Responsibilities Regarding Non-lawyer Assistants) and 8.4 (Misconduct). Craig Bray represented the Bar Association. Paul David Pless represented himself. The online version of *NWLawyer* contains links to the following documents: Order Approving Stipulation to Reprimand; Stipulation to Reprimand; and Reprimand.

**Eugene C. Wong** (WSBA No. 31957, admitted 2001), of San Francisco, CA, was reprimanded, effective 11/01/2012, by order of the Hearing Officer. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.5 (Fees), 1.15A (Safeguarding Property) and 1.16 (Declining or Terminating Representation). Francesca D’Angelo represented the Bar Association. Patrick Christopher Sheldon represented Respondent. The online version of *NWLawyer* contains links to the following documents: Order on Stipulation to Reprimand; Stipulation to Reprimand; and Reprimand. Eugene C. Wong is to be distinguished from Eugene W. Wong, of Seattle.

**Animal Law**

**Animal Law Seminar**


**Construction Law**

**Annual Construction Law Section Midyear Meeting and Seminar: Public Works Update — Pitfalls of Contracting in the Public Arena**

June 14 — Seattle and webcast. 6.5 CLE credits, including .5 ethics pending. By the WSBA Construction Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbcle.org.

**Employment Law**

**Workers’ Compensation**

June 14 — Tacoma and webcast. 7 CLE credits, including 1 ethics pending. By WSAJ Legal Educational Seminars; 206-464-1011; www.washingtonjustice.org.

**20th Annual Employment Law Institute**

June 25 — Seattle and webcast. CLE credits pending. By the WSBA Employment Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbcle.org.
Employment Law Essentials: Litigating the Employment Case from Start to Finish
July 10 — Seattle and webcast. 6.5 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Lincoln on Professionalism
June 18 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Family Law
Divorce, Washington Style: Exploring the Unique Financial Aspects of Marriage Dissolution
June 5 — Seattle and webcast. 6.25 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Family Law Midyear Meeting and Seminar: Revitalizing Your Practice
June 28–30 — Yakima. 15 CLE credits, including 2 ethics. By the WSBA Family Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

General
Lincoln on Professionalism
June 18 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

8th Annual WSBA Solo and Small Firm Conference
July 18–20 — Vancouver. 14.5 CLE credits, including 2.25 ethics. By the WSBA Solo and Small Practice Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

WSAJ Annual Meeting and Convention

Health Law
Marijuana Pot-Pourri: How the New Marijuana Law Changes Everything
June 7 — Tacoma. 6.5 CLE credits, including 1 ethics. Sponsored by the Tacoma-Pierce County Bar Association 253-272-8871. www.tpcba.com.

Healthcare Law
June 13 — Seattle and webcast. CLE credits pending. By the WSBA Health Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

8th Annual WSBA Solo and Small Firm Conference
July 18–20 — Vancouver. 14.5 CLE credits, including 2.25 ethics. By the WSBA Solo and Small Practice Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Real Estate Law
2013 Real Property, Probate and Trust Midyear Meeting and Seminar
June 7–9 — Pasco. 11.5 CLE credits, including 1 ethics. By the WSBA Real Property, Probate and Trust Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Solo and Small Practice
8th Annual WSBA Solo and Small Firm Conference
July 18–20 — Vancouver. 14.5 CLE credits, including 2.25 ethics. By the WSBA Solo and Small Practice Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Sports Law
Baseball and Law: Covering All the Bases w/ BBQ and Game

Trust and Estates
2013 Real Property, Probate and Trust Midyear Meeting and Seminar
June 7–9 — Pasco. 11.5 CLE credits, including 1 ethics. By the WSBA Real Property, Probate and Trust Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Divorce, Washington Style: Exploring the Unique Financial Aspects of Marriage Dissolution
June 5 — Seattle and webcast. 6.25 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Healthcare Law
June 13 — Seattle and webcast. CLE credits pending. By the WSBA Health Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Annual Construction Law Section Midyear Meeting and Seminar:
Public Works Update – Pitfalls of Contracting in the Public Arena
June 14 — Seattle and webcast. 6.5 CLE credits, including .5 ethics pending. By the WSBA Construction Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Workers’ Compensation
June 14 — Tacoma and webcast. 7 CLE credits, including 1 ethics. By WSAJ Legal Educational Seminars; 206-464-1011; www.washingtonjustice.org.

Lincoln on Professionalism
June 18 — Seattle and webcast. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

20th Annual Employment Law Institute
June 25 — Seattle and webcast. CLE credits pending. By the WSBA Employment Law Section and WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.

Employment Law Essentials: Litigating the Employment Case from Start to Finish
July 10 — Seattle and webcast. 6.5 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA; www.wsbacle.org.
Announcements

The American Academy of Matrimonial Lawyers
Washington Chapter

is pleased to announce our new fellow

Stella L. Pitts, 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 H. Marshack
Christina A. Meserve
Elizabeth A. Michelson
Gail B. Nunn
Lisa Ann Sharpe
James D. Shipman
Edward R. Skone
David B. Starks
J. Mark Weiss
Gordon W. Wilcox

Groff Murphy, PLLC
is pleased to announce that

Allison L. Pehl

has joined the firm as an associate.

Ms. Pehl is a 2010 graduate of
the Seattle University School of Law,
where she graduated cum laude.

Ms. Pehl’s practice
will focus on construction law, commercial
litigation and government contracts.

300 East Pine Street
Seattle, WA 98122
Tel: 206-628-9500 • Fax: 206-628-9506
Email: apehl@groffmurphy.com

Robert V. Boeshaar
is pleased to announce the formation
of the law firm

Robert V. Boeshaar
Attorney at Law, LL.M., PLLC

Mr. Boeshaar’s practice focuses on IRS tax
controversies. He has over 10 years of experience
as an attorney for the IRS Office of Chief Counsel.

1111 Third Avenue, Suite 2890
Seattle, WA 98101
206-623-0063
boeshaar@boeshaarlaw.com
www.boeshaarlaw.com

American Academy of Matrimonial Lawyers
11300 Roosevelt Way, NE, Ste. 300
Seattle, WA 98125
www.aaml-wa.org
SALMI & GILLASPY, PLLC

is pleased to announce that

Elizabeth K. Rhode

has become a partner of the firm.

Liz’s practice focuses on complex litigation with an emphasis on construction defect, property damage, and other construction-related matters.

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821 Kirkland Ave.
Suite 200
Kirkland, WA 98033
425-646-2956

Oregon Office
520 SW Yamhill St.
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503-688-5020

FORSBERG & UMLAUF, P.S.

is very proud to announce that

Patrick C. Sheldon

has become a Fellow of the American College of Trial Lawyers

The American College of Trial Lawyers is composed of only the best trial attorneys in the United States and Canada. It is widely considered to be the premier professional trial organization in America.

Fellowship is extended by invitation only to those experienced trial attorneys who have mastered the art of advocacy and whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility, and collegiality.

Congratulations, Patrick!

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Graham Lundberg Peschel

is proud to announce

Heather D. Webb

has become the managing partner for our North Washington office in Burlington.

Heather started her career in the legal field in 1990, progressing from paralegal to Rule 6 Law Clerk to an associate attorney for Graham Lundberg Peschel in 2007. Heather has been instrumental in developing Graham Lundberg Peschel’s personal injury practice in North and Central Washington, and in opening our staffed office in Burlington in 2011. Heather is fluent in Spanish, and provides representation to all of Graham Lundberg Peschel’s Spanish-speaking clients across the state.

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**REED LONGYEAR MALNATI & AHRENS, PLLC**

is pleased to welcome

**Jason W. Burnett** 
& **Julie R. Sommer**

as Members of the Firm.

Jason will continue to practice general litigation, real estate, business, contract, and probate law.

Julie will continue to practice estate and trust planning and litigation, probate law, guardianship, social security, and Medicare matters.

Jason and Julie exemplify our firm’s creed of representing clients and solving legal issues with creativity, sensitivity and proactive planning for sensible solutions.

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**CURRAN LAW FIRM, PS**
is pleased to announce that

**David Hokit**

has been named Managing Partner of the firm.

Dave has practiced with Curran Law Firm since 1983. His practice is devoted to the representation of public school districts in Washington State.

We are also very excited to announce the addition of a new associate,

**Sam Chalfant**

Sam graduated from the University of Wisconsin in 2012 with a Master of Science in Educational Leadership & Policy Analysis and Juris Doctorate degree from The University of Wisconsin Law School. His primary focus for the future will include School and Municipal Law.

555 West Smith Street, Kent, WA 98032
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[www.curranfirm.com](http://www.curranfirm.com)

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**FREEDOM OF SPEECH**
(See, e.g.):

- *City of Seattle v. Menotti*, 409 F.3d 1113 (9th Cir. 2005)
- *Fordyce v. Seattle*, 55 F.3d 436 (9th Cir. 1995)

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- Breach of fiduciary duty claims
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- Attorney’s lien foreclosures

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**Reed Longyear Malnati & Ahrens, PLLC**
is pleased to welcome

**Jason W. Burnett** 
& **Julie R. Sommer**

as Members of the Firm.

Jason will continue to practice general litigation, real estate, business, contract, and probate law.

Julie will continue to practice estate and trust planning and litigation, probate law, guardianship, social security, and Medicare matters.

Jason and Julie exemplify our firm’s creed of representing clients and solving legal issues with creativity, sensitivity and proactive planning for sensible solutions.

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**Sam Chalfant**

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- Attorney’s lien foreclosures

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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.
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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.

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Benton County prosecutor’s office is seeking DPA I beginning May 1, 2013, or August/September 2013. Duties include: maintains criminal prosecutions including screening law enforcement referrals, pretrial hearings, and plea negotiations; trial preparation including legal research, trial organization, witness interviews, and victim support. This requires both academic and personal skills, trials, appeals including writing briefs, and oral arguments. We are a progressive office that is looking for a hard-working deputy prosecutor who enjoys going to court and is dedicated to the concept of public service. Salary: $4,197–$4,431/mo., DOE and DOQ — full-time with benefits. Requirements: member of Washington State Bar Association or law school graduate who is taking the summer 2013 Bar Exam, valid Washington State driver’s license. Send cover letter and résumé to: Andy Miller, 7122 West Okanogan, Kennewick, WA 99336, fax to 509-736-3066, or email to margaret.ault@co.benton.wa.us.

The Washington State Board of Industrial Insurance Appeals is seeking qualified individuals to fill Industrial Appeals Judge (IAJ 3) positions as they become available in Olympia, Seattle, Spokane, Tacoma, and Yakima. We currently have an opening in our Yakima Office. Positions are full-time and require some travel. We offer comprehensive compensation and benefit packages. For more information and to apply, please visit www.careers.wa.gov and search for jobs at the Board of Industrial Insurance Appeals.

Seattle boutique IP firm seeks an Intellectual Property associate with a minimum of two years’ experience to work with our established and growing client base. Work will focus primarily on patent preparation and prosecution with the opportunity to expand based on experience. Technical background must be the mechanical arts. The successful candidate must be registered to practice before the U.S. Patent and Trademark Office, have an excellent academic record, exhibit outstanding written and verbal communication skills, and be proficient in drafting and prosecuting patent applications. All applicants should submit undergraduate and law school transcripts in addition to a résumé to kris@lowegrahamjones.com.

Associate — commercial litigation and white collar criminal defense — A Seattle, AV-rated, 19-lawyer firm, which focuses on complex commercial litigation and white-collar criminal defense, seeks to hire an associate. This is an excellent opportunity for a motivated individual who desires a challenging and rewarding practice. Candidates should possess excellent interpersonal, writing, and research skills, strong academic credentials, and a desire to take on significant case responsibility. Send résumé and appropriate sample to: Randall Thomsen, Calfo Harrigan Leyh & Eakes LLP, 999 Third Ave., Ste. 4400, Seattle, WA 98104. All inquiries kept confidential.

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The Seattle office of Davis Wright Tremaine LLP seeks an attorney with a minimum of three years of experience in the areas of securities and mergers and acquisitions. The strongest candidates will be those who blend experience in reviewing and counseling clients regarding Securities Act registration and exemptions and Securities Exchange Act reporting requirements, with private- and public-company M&A practice. Candidates should have the ability to assume second-chair responsibilities in large corporate transactions, and first-chair responsibilities in smaller ones. To apply, please upload a cover letter, résumé, and law school transcript to Dan DiResta’s attention at http://www.dwt.com/Securities-and-MA-Associate-Lateral-Lawyers. Ideal candidates will have experience with executive compensation disclosures and related corporate governance matters. We prefer candidates with big-law-firm experience, immediately transferable skills, excellent client relationship and interpersonal skills, and a strong academic background.

Brock Law Firm, a small downtown Spokane law firm with offices throughout Eastern Washington, is seeking a qualified candidate to work in the Spokane Office. Brock Law Firm primarily works in the areas of estate planning/transition planning for business owners/farmers, and related work in the area of business and real estate. Candidate must be highly organized and detail-oriented and have high proficiency on the computer. Candidate must enjoy working in this area, including tax planning and trust planning, and working with clients. Contact information: Corey Brock, corey@brocklif.com or 509-622-4707.

Associate with at least four years of litigation experience sought for small Eastside commercial litigation firm with an emphasis in commercial landlord/tenant disputes and representation of banks. Must be experienced in motion practice and have trial experience. If you desire to work on quality matters in a first-class environment, please email your résumé, cover letter, and a writing sample to jgraham@noldmuchlaw.com. All inquiries kept confidential.

Personal injury law firm, with offices in Olympia and Tacoma, is looking to hire an associate litigation attorney for the Olympia office. Applicants must be licensed to practice in Washington, preferably have at least two years of litigation experience, have the ability to work effectively on a team and handle an individual caseload, possess strong oral and written communication skills, and have a strong commitment to advocating for those injured by the negligence of others. It is also preferred that the applicant live within a reasonable commuting distance to Olympia or have the desire to relocate to the area. Contact information: Karen Kay; Karen@haroldcarrattorney.com or 360-455-0030.

Associate attorneys — Pacific Law Recruiters is stepping up its search for associate attorneys interested in affiliating with some of the Northwest’s finest law firms, as they project steady growth and expanding practices. Two or more years of practical experience in one or more of the following areas: medical malpractice; white-collar criminal; corporate law; intellectual property litigation; commercial real estate finance; patent prosecution (one year qualifies); securities litigation; product liability; public finance; technology and intellectual property transactional; tax law; and complex commercial litigation generates immediate consideration, provided candidates also demonstrate excellent writing, interpersonal, and academic attributes. Positions feature quality work, approachable mentors, strong compensation, and great places to build a practice. Eligible candidates will be given immediate attention and are encouraged to forward a confidential résumé and letter of interest to Greg Wagner, Principal, at gww@pacificlawjobs.com. Visit our website: www.pacificlawjobs.com.

Seattle/Portland firm seeks exceptional WSBA attorney with litigation experience for Seattle office. Practice is commercial premises liability, professional liability, construction defect and personal injury defense. Send résumé and sample of motion written solely by you to Suzanne Pierce, spierce@davisrothwell.com. Judicial clerkship experience and immediate availability are plusses. All inquiries kept confidential.

Eisenhower Carlson, a mid-size business law firm in Tacoma, is seeking an associate with general litigation experi-
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something that resembles a $1,000 or $1,500 suit, which you can probably find on sale for $500 to $750 at an upper-end department store or men’s shop. At these stores, the employees are usually more than happy to help you without condescension. Just be upfront about how you want to look and how much you’re willing to pay.

For longevity, look for a suit with modern but classic styling, rather than something too old-fashioned or too edgy. A well-made, classic-styled suit in a neutral color (navy, gray, black) will serve you for years as long as you hang it up in a garment bag and don’t go clam-digging in it. Unless you’re actually trying to make a fashion “statement” (in which case you probably know more about this subject than I do and aren’t reading this article), there’s no need for the suit itself to stand out. Like the paint on a wall, a suit is the background for the gear you’re going to decorate it with, depending on the image you want to project at a given time.

Shirts & Ties
With shirts, the key again is fit, fit, fit. Have someone measure your neck and sleeve length. That will give you a start, but these days there are additional variables to consider. Many shirts come in different fit profiles (full cut, normal cut, “fitted,” athletic, etc.). Try them all on and take a good look in the mirror. You want the shoulder seams to sit right on the curve of your shoulder, and the rest of the shirt should be neither too tight nor too blousy. Go ahead and tuck it in to make sure there isn’t excess fabric bunched up above your pants, which makes you look like a high school kid going to his first job interview.

You’ll be buying shirts more often than suits, so don’t be afraid to try something more colorful or patterned in addition to basic white. And, since ties are relatively disposable, tie selection is where you can release your inner pimp. If you get a colorful shirt and you’re going to be wearing it with a tie, try some ties with it right in the store. Most employees at good stores are experts at coordinating shirts and ties. It’s a pain to go shopping for ties later, because you have to bring the shirts with you to make sure they look good with the ties you’re considering.

When your tie is in place, it should hang to just above your belt buckle. If the two ends are even and it’s still too long, try using a bigger knot (e.g., a double Windsor) to take up the excess length. Or, if you’ve tied it properly but it only goes halfway down your chest, like something from a 1940s Humphrey Bogart movie, ask the store if they have extra-long ties, or try a big-and-tall shop.

I can’t conclude this section without mentioning bowties. I admit to extreme anti-bowtie prejudice. I enjoy seeing bowties about as much as I enjoy seeing those replica bull testicles that some people attach to their trailer hitches. So I’m probably the wrong guy to consult regarding bowties. On the other hand, if a guy were to have the gillets to show up in court wearing one of those Colonel Sanders ribbon ties, I’d be willing to eat a bucket of Original Recipe KFC just out of respect.

Belts
There are three important things to know about belts: 1) you should always wear one if you’re sporting a suit or dress slacks, 2) they should fit, and 3) they should match, or at least nearly match, your shoes. As for fit, if your buckle is clenching to the belt’s last hole for dear life, get a longer belt. If the end of your belt is long enough to tuck into your pocket or go another half-loop around your waist, get a shorter belt.

Socks
There are two important things to know about socks: 1) unless you are either an actual bad-boy movie star or an eccentric billionaire — and your feet never sweat — you should wear socks any time you’re wearing pants, and 2) your socks should match or complement your pants, not your shoes. Oh, and white socks should be worn only by school nurses and by members of the Chicago White Sox during batting practice and games.

Shoes
As with suits, well-made, classically styled shoes will last a long time if you take care of them. It will make you feel like a fastidious dork, but buy some of those wooden “trees” to put in the shoes whenever you’re not wearing them. The trees keep your shoes from curling up at the toe end, which wrinkles and eventually deteriorates the leather. (It is not necessary to also put a sachet of potpourri in your underwear drawer for this to work.) Also, use a shoe horn to avoid wearing out the leather by mashing your foot into it. If you buy shoes that come with a cloth bag, keep the bag and store the shoes in it. Then you won’t have to brush the dust off if you haven’t worn them for a while. And, when you travel, you can just throw the bag in your suitcase and not worry about dirt or shoe polish getting on your clothes.

I can’t talk about shoes without addressing the subject of boots, specifically cowboy boots. For the record, I love cowboy boots and always have a pair or two in my closet. But I would jump on the back of a bucking bronco before I would wear them with a suit — and I’ve even lived in Montana. My position is that if you are actually going to be competing in a rodeo that night and won’t have time to change clothes after work, then go ahead and wear cowboy boots with your suit. Otherwise, wear shoes and save the boots for when you’re having more fun.

Hats & Coats
One of our biggest fashion challenges in the Northwest is something we can’t do anything about: it rains all the dang time. If we’re wearing a suit and have to go out while it’s raining, most of us do one of two things: just walk right out in the rain getting drenched, or pull our hooded, Gore-Tex mountain-climbing parkas over our suits and walk like dweebs.

Fortunately, there is a third way. You can instantly transform yourself from Napoleon Dynamite to Cary Grant by simply buying a dress raincoat or top coat, and a hat. Even inexpensive dress coats and hats look pretty good, way better than a soaked suit or an overtaxed parka. Actually, I guess there’s a fourth way — namely, the umbrella. All I can say about umbrellas is that I’ve lost every one I’ve ever bought, and usually within a day or two of when I bought it (but not before I poked one or two fellow pedestrians in the eye with it, by accident for the most part). On the other hand, I’ve never lost a raincoat or poked anyone in the eye with one.

Now get out there and work it, gentlemen. The spirit of Gianni Versace is watching over you.

NWLawyer Editor Michael Heatherly practices in Bellingham. He can be reached at 360-312-5156 or nwlawyer@wsba.org. Read more of his work at nwsidebar.wsba.org.
One of the distinguishing characteristics of our species is that perhaps only 10 or 20 percent of our bodies are exposed to view most of the time. The rest is covered by various accoutrements we hang, snap, tie, or zip onto ourselves. Although we presumably devised clothing to guard against hypothermia, poison ivy, tsetse flies, etc., over time we also began using it to reflect our personal traits and social status. In other words, we fashioned our protective garments into, well, fashion.

This anthropological development notwithstanding, I lived the first 30 years or so of my life without ever thinking about fashion. Like many guys, I was able to do my annual clothes shopping in about 10 minutes. Each January, I would take my $1,000 Christmas bonus to the Bon Marché at Southcenter, locate a pair of pants and a shirt that were the same general size and shape as the ones I had bought the year before, plunk down $75 at the checkout, then cross the street to Car Toys and drop the other $925 on a subwoofer and power amp. Once, during the “Miami Vice” era, I visited the hippest dance club in Bellevue rocking an ensemble that included pleated, cuffed, pastel-blue slacks and a white woven-cotton belt. I went home alone, but you should have heard the bass thump in my Toyota MR-2.

Eventually, I was forced to evolve sartorially, thanks to fashion-conscious female family members, plus working in jobs that required me to look at least professional. Shopping with women taught me the cardinal rule of buying clothes, something many intelligent and rational men never grasp: try stuff on before you buy it. Buying pants without trying them on is like buying a car without sitting in the driver’s seat, let alone taking a test drive. You’re just setting yourself up for failure.

Of course, trying stuff on is paramount because the most important element of fashion from an ordinary consumer’s perspective is fit. If buying real estate is all about location, location, location, then buying clothes is all about fit, fit, fit. Having been enlightened, I now proudly carry an armful of clothes into the dressing room and try on everything, in all the possible permutations. You can tell all the women-and-their-shopping jokes you want, but any man can improve his wardrobe 50 percent or more by taking this approach.

Do I have any other qualifications to proffer these fashion tips? Yes. I have been watching “What Not to Wear” (U.S. version) throughout its decade of existence. Although I continue to believe that “My Dog Ate What?” was the greatest reality show in history, perhaps the best television program ever produced, it lasted only one season. So, it’s fair to say that “What Not to Wear” is my all-time favorite reality show.

Upon that foundation, here are the tips, organized by type of garment.

**Suits**

For better or worse, the practice of law generally doesn’t require the wearing of a uniform. But the de facto uniform of lawyers remains the suit, regardless of the recent trend toward more casual clothing in law offices and elsewhere. And even if someone is going to look down on you for wearing a suit at all, you might as well be looking better than them while they’re doing so.

All you really need to be consistently fly, suit-wise, is two to four good suits, replacing one every few years. By “good,” I mean...
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