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NWLawyer will inform, educate, engage, and inspire by offering a forum for members of the legal community to connect and to enrich their careers.

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The Rule of Flaws

If I’ve learned anything in my half-century on this wondrous blue planet, it is this: every one of us is imperfect. In Catholic school, we called it original sin. In college literature class, we called it the fatal flaw. Now I just call it being human. We go to extraordinary lengths to pray, meditate, meditate, and counsel our imperfections away, with mixed results at best. Although we work around it as much as we can, we’re defective.

On page 10 of this issue, you’ll find “Life after Meth: A Journey of Addiction and Recovery,” by WSBA member Wil Miller, whose flaw was a vulnerability to methamphetamine addiction. The story of his descent into drug-induced anguish while struggling to maintain his sanity and his job—as, of all things, a deputy prosecutor—is the most riveting thing we’ve published in my six-plus years as editor. You’ll be stunned but inspired by this account of your lawyerly peer who endured rehab, solitary confinement (where he was housed for his own safety because, as it turns out, former prosecutors aren’t especially popular in the big house), cross-country relocation, and parole before eventually returning to Washington, passing the bar exam again, and regaining his license to practice.

I assume methamphetamine addiction is rare among lawyers, although I doubt Miller is the only one who has been there. But there’s a good chance you or someone close to you is addicted to something, whether it’s 12-year-old scotch, prescription medication, gambling, flirying online with strangers until 3 a.m., or just buying stupid stuff you can’t afford because it temporarily makes you feel more important or admired.

Miller’s story was particularly poignant for me because my father was an exquisitely flawed man whose addiction tormented not only him, but all of us who loved him, until it killed him at the age of 63, by which time he had alienated everyone who might have helped him. He was simultaneously my hero and my greatest embarrassment—a tough, funny, intelligent, personable guy who could do all sorts of things well but who could never escape his alcohol-fueled demons.

Like Miller, my dad managed to remain a high-achiever longer than you would have imagined if you had seen him when he was drinking. He worked his way through high school toiling in the silver mines of northern Idaho, then joined the Navy and served aboard a submarine in the Korean War. Fellow submariners in his fleet included one James Earl Carter Jr., later the 39th president of the United States. After the war, my dad went to college on the G.I. Bill, got a degree in accounting, and went to work for what was then called Boeing Aerospace. By the end of his career at Boeing, he was on a team that negotiated sales of billion-dollar missile defense systems to foreign governments. He had the highest government security clearance and couldn’t say in advance where he was traveling. But he’d return with souvenirs and stories from, say, London or Bangkok.

But by the time I was in high school, he was spending all his non-work hours drinking and smoking. At about age 60, it caught up with him, and he had both lung cancer and liver disease. He had no choice but to dry out and quit smoking while he was in the hospital to have part of a blackened lung removed. Consequently, he was actually in better health in post-surgical chemo and radiation therapy than he had been in years. For a while we dared to hope he might have one of those later-life redemptions people experience in the movies. But within the next couple of years he isolated himself, returned to both drinking and smoking, and faded away, literally and figuratively.

Few of us will have as dramatic a decline and recovery as Wil Miller. Fortunately, few of us will experience as steep and irreversible a decline as my dad. But if you haven’t sat down for a heart-to-heart chat with yourself to acknowledge your own shortcomings, you might as well do it now while you can still help yourself. Besides being imperfect, we all have another thing in common: we’re all getting older. It’s never too late to fight back against a bad habit, improve your relationships, or get yourself into better health. As Mickey Mantle, another high-functioning alcoholic, said late in his life, “If I had known I was going to live this long, I would have taken better care of myself.”

Or if you happen to be one of the fortunate, wise, self-disciplined among us with only a benign, virtually undetectable flaw or two (you’re too adorable for your own good, you slurp when you eat soup), you can always direct your attention to the rest of us and take pity. Your opposing counsel, your spouse, your kids (at any age), your employees, the college kid serving you at your favorite eatery—they all have problems you’ll never really know. So give them a break, and thank your lucky stars.

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Author’s Note

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Wil Miller being photographed by Lara Wilson.
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Choosing Our Future

Today access to the courts and access to justice are no longer simple, especially in this new economy. The general practitioner and the small storefront lawyer of years ago are a dying breed. Taking cases as they walk in our door isn’t feasible anymore. Maybe the case is too small, maybe it would cost too much to pursue, or maybe the would-be client doesn’t have money to pay. There are many reasonable possibilities for not taking a case. But to the person who is denied services and others who see lawyers denying access to those in need, it might look like lawyer self-dealing and a breach of our promise to serve the public. It wouldn’t be the first time lawyers were misunderstood.

The California Experience
In California, their bar leadership had a similar problem. At the center of their controversy was trust: the bar was accused of protecting lawyers and not citizens. The bar leadership is undergoing significant reform. While six lawyer members will be elected from the appellate districts, 13 lawyer and non-lawyer members will be appointed by the California Supreme Court, legislature, and governor. The main focus of the mission of the California Bar, now stated in law, is “public protection.”

At the WSBA, our Bar’s mission is, and has been, to “serve the public and the members of the Bar, ensure the integrity of the legal profession, and to champion justice.” We have taken our duty to the public seriously, and as California demonstrated, if we appear to breach our obligations to the public, we risk compromising our image — and worse, our independence.

So, have we done enough in the public’s eye? My answer to this is, “No.” That’s hard for me to say in light of all we do, but there is good reason. It is true that we have created many programs to provide access to justice to serve the public: the Moderate Means program, the Home Foreclosure Legal Aid Project, and the Call to Duty program for veterans are just a few of many, and we as a profession have given thousands of hours as pro bono and low bono lawyers to those in need. And this just begins the list of selfless and honorable actions taken by our Bar and by you as members to provide access to those in need.

We have done so much and worked so tirelessly for our citizens. Unfortunately, a new supply and demand is driving our profession now. We no longer have a monopoly on legal services and no longer control the supply of legal services. As a result, we face a new and previously unseen economic challenge; if not faced, it may threaten our independence, limit our relevance to society, alienate us from our citizens, and put us at odds with our Legislature, and maybe even the courts. The question some are asking is whether lawyers are refusing to take low-profit cases, demanding high fees, and thus denying citizens access to the court system in order to make more money.

The facts don’t leave much room for debate: We are failing to provide the majority of citizens of low and moderate means the legal services they need. However, the truth is that such actions are not making us any more money, despite the perception otherwise, and in reality, we are losing money and opportunity because of it. It seems a real catch-22, but there are solutions.

The Need for Legal Services Is Enormous and Growing
In 2003, our Civil Legal Needs Study showed that 85 percent of low-income people had three legal issues a year requiring legal services, yet three of four could not afford a lawyer to help them. In 2011, the U.S. census showed that one of every five Americans qualified for free legal services. That equates to 60 million people. As the economy has worsened, the need for assistance has only grown larger.

According to the Alliance for Equal Justice, in Washington our Bar members volunteered 133,385 hours in free legal services, valued at over $30 million. Similarly, the
...we must find a solution to the access catch-22 before other stakeholders – including underserved citizens, those in politics, and big businesses – find a solution for us.

Northwest Justice Project assisted 27,383 people, including nearly 12,000 children, and closed over 12,600 cases in 2013. These numbers are staggering, but still demonstrate that only a fraction of the two million low-income people who need legal assistance obtain it. Yes, I did just say two million people.

These statistics do not consider our “moderate means” population. People who earn 200–400 percent of the federal poverty level qualify for reduced fees for legal services. Often these are called low bono services or moderate means services. A family of three who earns between $39,580 and $79,160 qualifies for legal assistance. The latest Washington census shows that the median income of Washington families is $59,000 and that the average household is a little over 2.5 people. In other words, the average household in our state is “moderate means” and entitled to low bono services. These moderate means citizens cannot afford the standard attorney fees charged by lawyers.

Today, neither those of moderate means or low income are able to obtain the legal services they need. Their access to justice is decreasing. That’s bad for them, bad for us, and bad for the economy.

Despite our widespread and valiant efforts to give assistance, this population is too large and growing. Most firms’ ability to reduce fees and/or offer pro bono services, especially solo and small practitioners, is limited in today’s economy. And so the gap grows.

In Washington, we’re launching a first-of-its-kind program to provide low-cost legal services. The Supreme Court issued an order to create limited license legal technicians, or LLLTs. While this step has been viewed locally and nationally as an innovative and progressive step, it’s just a part of the solution. Much more needs to be done if we are to avoid the peril that awaits us.

Choosing Solutions and Outcomes

Solutions to the access problem are rooted in one fundamental principle: Access to legal services for moderate income citizens can only be made possible if we make legal services affordable. For the moderate means population who cannot afford our $225–500 legal fees, we need to shift to fees that they are more likely to afford at the $50–150 per hour range, and no more than $200 at the high end. But how do we do that?

One method to bring down fees and costs is to systemically retool our profession one office at a time using technology, new business models, innovation, improved and less expensive legal education, and systematized, automated, unbundled and packaged legal services.

If you read my columns, you know this is a passionate topic for me. I have a lot to say about it and, indeed, it has become a national conversation. But for today, suffice to say that we must find a solution to the access catch-22 before other stakeholders — including underserved citizens, those in politics, and big businesses — find a solution for us.

It’s no secret that large corporations see a marketable and lucrative opportunity left by the void lawyers are failing to fill. When they access to the existing lawyer dominated legal market estimated at $300 billion annually, and know that access to that market comes by entering through (and then owning) the “moderate means” market first. Some believe that this underserved middle income market that lawyers seem to be simply abandoning may be worth $100 billion annually.

As lawyers, our role today remains as accessible and trusted problem solvers. We must help our clients find solutions to disputes at an affordable rate. If a majority of our citizens continue to be denied access to justice, then we threaten more than just our independence: we threaten our democracy, the rule of law, and the relevance of concepts like “liberty and justice for all.”

Just as importantly, if a majority of our low- and moderate-income citizens continue to be denied access to justice, then we invite and hand legal service providers billions of dollars of legal business that we will never regain again. Others speculate that this path leads to a time in the next decade where lawyers lose most of their market share to more affordable providers like Rocket Lawyer and LegalZoom, to name two of hundreds in existence, and we are left with a comparably small niche market segment limited to large business litigation. Maybe this is all crazy talk, but then again, just last month Walmart opened the first of a chain of low-cost legal services in one of its stores in Toronto.

The Choice

Regardless of your take on all of this, one thing is clear: the time is upon us. The economy, coupled with technological innovation, has created either the perfect storm or the perfect opportunity for our profession to rebound and lead. For now, it’s our choice: Do we regain our role in society by retooling the way we practice law in order to provide affordable access for all? Or do we maintain our current methods of practice and watch our market shift from beneath us and endure the cascade of consequences? It’s a choice each of us makes beginning with the next case you take, the next partners’ meeting you attend, the next investment in technology you choose, and the next business decision you make. What different choices might you consider? What path will you follow? And, in a decade, will you have regrets or great success?

These decisions are in your hands as stewards of the future of the profession. Choose wisely.

WSBA President Patrick A. Palace practices in Tacoma. He can be reached at patrick@palacelaw.com or 253-627-3883. Follow him on Twitter: @palacelaw.
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LIFE AFTER METH
A Journey of Addiction and Recovery

by Douglas Wilson “Wil” Miller
n the summer of 1997 at the age of 35, I fell in love. That relationship exposed me to many new things. Unfortunately, one of them was methamphetamine.

I didn’t know a lot about meth the first time I tried it. It wasn’t a common drug where I was from. I knew it was a stimulant and I knew it was illegal. And although I had been employed as a prosecutor in New York City and Seattle for the preceding nine years, I had always been a vocal opponent of the “War on Drugs” and refused to handle drug cases because of it. That left a dangerous void in my knowledge of meth.

From the very first time I tried meth, I loved it. Nothing had ever made me feel as happy or alive or confident as meth did. That’s because no natural experience can make your brain produce dopamine like meth can. Dopamine is a neurotransmitter that makes you experience pleasure. Normally there are about 100 units of dopamine in the pleasure centers of your brain; when you have sex, those levels double up to around 200 units. Cocaine can make your dopamine levels go up to 350 units and keep them there for over an hour. That’s why cocaine is so addictive. But when you use meth, your dopamine levels shoot up to 1,250 units and stay high for up to 12 hours. At the same time your dopamine levels are spiking, meth is also reducing blood flow to your frontal lobes, hobbling that section of your brain that helps you make good and responsible decisions. It’s a dangerous combination — a perfect storm of addiction.

**Barreling towards addiction**

By the third time I tried meth, I knew I wasn’t going to stop, and soon what started as a weekend ritual of getting high quickly snowballed into extended periods of use followed by debilitating periods of withdrawal. Meth withdrawal can leave you feeling impossibly weak, apathetic, and depressed, sometimes for days. You eat and sleep uncontrollably and sometimes experience crying jags or bouts of paranoia for no reason. It can make you feel like you’re losing your mind.

By December 1997, I couldn’t take it anymore. I became an addicted, daily subsistence user just to avoid withdrawal. Suddenly, for the first time in my career, I started showing up late to work. I couldn’t stay organized anymore. I was losing my temper for no reason and being really rude to some of the defense attorneys.

Many people believe it’s easy to figure out when someone is using meth by their violent or erratic behavior, but that’s a myth. Like any drug, individual responses to meth vary widely. Just as some alcoholics can maintain the appearance of sobriety with relatively high blood-alcohol levels, many meth addicts can do the same with meth. In many ways, my meth-influenced behavior was not unlike the behavior of many trial attorneys who are short-tempered and stressed out, and for the most part it went unnoticed.

Being a prosecutor certainly made my addiction much more complicated. I was overwhelmed with feelings of guilt and hypocrisy. And although I knew I desperately needed help, I had no idea where I could get it without losing my job.

And I really didn’t want to lose my job. I loved being a trial attorney and a victims’ advocate. After graduating from Duke Law in 1988, I started my career in the Brooklyn D.A.’s Office, where I focused on prosecuting sex crimes. Three years later, I took a job as a trial attorney and supervisor in the Special Victims Bureau in the Queens D.A.’s Office. Then in 1995, I moved to Seattle to work for Norm Maleng as a King County deputy prosecutor.

Being a prosecutor was all I had ever done. I was also really good at it. In nine years of trying cases back-to-back, I rarely lost. Trial work felt completely natural to me — like the thing I was born to do.

**Caught at the courthouse**

That all ended one day in March 1998, three months into my addiction, when a security guard at the King County Courthouse asked me to open my briefcase, which had just gone through the X-ray machine. It was a common request; I frequently had my briefcase searched when entering the courthouse. Only this time, inside, there was an Altoids tin containing drugs and drug paraphernalia — I recognized the Altoids tin. It belonged to me and my significant other. But I had no idea why it was in my briefcase, where it would so obviously be found by security.

In an instant, I saw my life crumble before my eyes. I was about to lose everything: my job, my friends, and my reputation. I denied the drugs were mine, but I knew it didn’t matter. The damage was done. A few days later, I resigned my job and a special prosecutor was appointed to handle the investigation.

As I saw it, I had two choices at that point: 1) stop using meth and face reality, or 2) keep using a drug that made me insanely happy, no matter how bad my life became. I knew if I kept using meth there was a good chance it would eventually kill me, but that was no longer a reason not to use it. My life already felt like it was over. I wanted it to be over.

But I had a different problem now. Snorting meth no longer put enough of the drug into my bloodstream to make its magic work. I needed to get a lot more in me, a lot faster. So I started injecting it. At $25 a shot, that was expensive, and within a few weeks, I was completely broke. Not surprisingly, that’s also when my relationship ended. Once my significant other was gone, I felt completely lost.

All my former friends were prosecutors who couldn’t have any contact with me. All I had left was meth. However, I was still an experienced criminal attorney — one who now knew dozens of meth addicts, most of whom desperately needed representation from a lawyer they...
2014, a year into my addiction, my ex was no longer facing potential drug utilities were turned off. Even though I with foreclosure, and then my phone and from my mortgage lender threatening me to hire me. Soon I started getting notices off all my paying clients. No one wanted desperately needed.

Drug Court, where I would have gotten I’m not sure why I wasn’t charged; in first time as the person involved. His decision provoked an angry backlash of editorials and newspaper articles claiming preferential treatment by one prosecutor for another — editorials and articles that named me publicly by one prosecutor for another — editorials and articles that named me publicly for the first time as the person involved. I’m not sure why I wasn’t charged; in retrospect, I really wish I had been. If I had, my case would likely have gone to Drug Court, where I would have gotten the kind of life-saving intervention I desperately needed.

That burst of publicity quickly scared off all my paying clients. No one wanted to hire me. Soon I started getting notices from my mortgage lender threatening me with foreclosure, and then my phone and utilities were turned off. Even though I was now no longer facing potential drug charges, my life kept getting worse and worse. That’s when I finally gave up trying to save myself.

About a month later, in December 1998, a year into my addiction, my ex started calling me again. He said he needed my help getting some meth for a friend of his. He told me if I could fi-nance the deal, we could split the profit. It didn’t take a lot of convincing at that point: I could no longer see any future, and like most meth addicts, it wasn’t the first time I had done something like this. My ex set up the initial meet- ing and I obtained the drugs. Over the course of the next two months, I sold drugs to his friend three times.

On Feb. 16, 1999, the fourth time I was supposed to sell his friend drugs, the friend showed up at my house with a SWAT team, a battering ram, and a KOMO 4 News team to film my arrest live on television. It turned out the “friend” was an undercover cop and my ex was making money setting me up for the police.

Well, that was the luckiest thing that ever happened to me. It was the only inter-vention I was ever going to get, and it started the chain reaction of events that eventually saved my life. Only it didn’t happen quickly. After my arrest, I used my knowledge of the criminal justice sys-tem to stall my trial for over a year and a half. I still had my license to practice law, but it was almost impossible for me to concentrate on the little bit of work I had. It was during this time between my arrest and my trial that I made my first serious attempt at drug rehab.

When word went out among the meth addicts in Seattle that I was going to start practicing criminal law again, they quickly became my client base and my friends.

The public learns my name
So I made a plan: I’d save up enough mon-ey to pay for rehab and get my mortgage current, then block out enough time in my schedule to go. It may not have been realistic, but it was a huge improvement over my earlier plan of just using meth until it killed me. Unfortunately, my plan got interrupted when the special pros-ecutor handling the courthouse incident decided not to charge me with drug pos-session. His decision provoked an angry backlash of editorial and newspaper articles claiming preferential treatment by one prosecutor for another — editorial and articles that named me publicly for the first time as the person involved. I’m not sure why I wasn’t charged; in retrospect, I really wish I had been. If I had, my case would likely have gone to Drug Court, where I would have gotten the kind of life-saving intervention I desperately needed.

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Rehab and picking up where you left off
There are two basic schools of drug recovery programs. One is the 12-step approach, which uses a person’s faith in God, or a “higher power,” to help recover from addiction. The other approach is based on cognitive behavioral therapy — a school of psychology that employs a variety of techniques to help a person understand their addictive behavior and quit using. My first rehab was based exclusively on the 12-step model. I’m a huge fan of the 12-step program; I’ve seen it help a lot of people, and I have witnessed firsthand the amazing power of faith.

But I am also a lifelong atheist. So “faith” just isn’t one of the tools in my toolbox. At rehab, I openly questioned the appropriateness — for me — of a “faith-based” or “spiritual” recovery program. After 10 days of arguing, I was told by the facility director that I was in the wrong place and that I needed to leave. I returned to Seattle and stayed clean for a few months, but by late autumn of 1999, I relapsed with a vengeance. It was during that first major relapse that I learned the truth of one of many valuable sayings taught to me by the 12-step program: “You pick up where you left off.” What does that mean? That means when you’re dealing with addiction, and you stop using your drug of choice for a while, then relapse, you don’t get to go back to the feelings you had during the first few fun times you used. The drug won’t do that neat little trick for you anymore. Instead, you go right back to the crappy feelings you had just before you quit.

With chronic meth use, you reach a point where the drug no longer makes you feel good, because you have literally worked the dopamine-producing cells in your brain to death. They’re gone. The meth still gives you an adrenaline rush, but now the drug starts to make you crazy — paranoid, delusional, or severely A.D.D. But you know that if you stop using meth, you’ll become incredibly weak and depressed. So every day you use, you’re choosing between being crazy and being depressed.

When I relapsed, I became really an-gry, distracted, and convinced everyone was out to get me. My law practice was in shambles. It was impossible for me to
be an effective advocate when I couldn't even predict when I'd be awake. Even with planning, alarm clocks, and the best of intentions, I missed court dates and important appointments because I had stayed awake for too many days, run out of meth, and fallen unconscious. The judges and prosecutors were completely fed up with my behavior — and with good reason. It was obvious to everyone I had relapsed and that I should no longer be practicing law.

I continued to use meth right through my trial in July of 2000. I wasn't surprised when I got convicted. I expected it. That's when the Washington Supreme Court finally disbarred me.

Even after my conviction, I managed to stay out of custody while my case was on appeal. I was homeless at that point and living on the couches of other drug addicts all over Seattle. That's when I finally hit my rock bottom. I knew that, compared to where I was at that moment, prison was going to be a step up for me — at least in prison I'd have a bed, clean clothes, and regular meals. Only I was determined not to go to prison addicted. So I made a new plan to get clean — a much more realistic plan.

I got myself into a state-funded rehab (this time based on the cognitive behavioral therapy model of recovery), moved into clean and sober housing, and found work as a housekeeper at a Victorian bed and breakfast on Seattle's Capitol Hill. The owners of the B&B were a woman and her elderly mother who had followed my story in the newspapers, felt sorry for me, and miraculously agreed not only to be my employers but also my surrogate family as I struggled through the first years of my recovery. They were difficult years. I gained 50 pounds. I was often severely depressed. My brain still didn’t function well. The cravings for meth were intense. But at least I had some income, a job with lots of leftovers to eat, and the love and support of those two women who owned the B&B. I knew they genuinely wanted to see me succeed and it made all the difference. If it weren't for them, I probably wouldn’t have made it.

**Serving time**

After successfully completing six months of rehab and staying meth-free for over a year, I knew what had to happen next. In August 2002, I withdrew my case from the Washington State Court of Appeals, and on Sept. 22, I turned myself in to the Department of Corrections to start serving my sentence.

My situation in prison was precarious. After all, I was an openly gay former prosecutor forced to serve my time in the same jurisdiction where I had spent years putting violent felons behind bars. Most of that time I went unrecognized, and I was fine. But there were times when I was recognized by men I had prosecuted for...
serious violent offenses, and things got dangerous quickly. As a result, I spent more than two months locked up in solitary confinement for my own protection, in a 9 x 6 foot cell with bright fluorescent lights that could never be turned off. There were many days when I thought I would lose my mind.

Despite that, I will always value the time I spent in prison, the vast majority of which was really helpful. In prison, I was safe from temptation during the early fragile years of my recovery. I could never have afforded the two-year inpatient drug rehab I needed. Prison served that role in my life. In prison, I met hundreds of men whose lives had been destroyed by drugs, especially meth. For many of them, the drug had taken their teeth, destroyed their skin, and left them with horrible burns from meth lab accidents. Some had lost their minds.

In prison, I learned that this was the insanity I had helped foster when I got involved with meth, and this is what I would become if I went back to using it. It was a life-changing lesson and an amazing gift. And although I will always do everything I can to keep my clients out of prison, I genuinely feel I was lucky to go . . . and even luckier to have lived through it.

It was also from prison that I started writing letters to everyone I knew. That’s how I finally reconnected with family and friends. When their letters came flooding back in, I realized I was no longer alone in my struggle, and I began to believe that if I could stay clean, I just might be able to get my life back.

Gaining hope
The Washington Supreme Court doesn’t allow disbarred attorneys to work as paralegals in Washington, but other states don’t have that rule. So after my release from prison on Sept. 12, 2004, I moved my parole from Seattle to Wilmington, North Carolina, where I reunited with my family and got a job in a civil litigation firm as a paralegal and office manager. I worked there for the next eight years.

During those eight years, I got involved with the North Carolina State Bar’s lawyers assistance program (or LAP, as it’s called). LAP trained me to be a volunteer and let me serve as a mentor, monitor, and recovery coach for other drug-addicted lawyers. LAP also got me speaking at CLEs, high schools, and community groups about
It was through LAP that I started going to lunches for lawyers in recovery. The lunches were like 12-step meetings just for attorneys. I went reluctantly at first, but after going for a while I came to understand why 12-steppers are so passionate about their program. It was in those meetings that I learned just how much shame I was still carrying around with me about the things I had done to other people while using meth — things like worrying my family and friends, embarrassing my co-workers, disappointing my clients, and worst of all, enabling the addictions of other addicts. Those lunch meetings gave me a safe place to talk about my guilt and remorse and the lawyers there helped me find a way to live with those feelings. I had recovered from meth addiction long before I ever went to my first LAP-lawyer-lunch, but it was the things that happened to me at those meetings that finally made me feel like I was healed.

It turns out you don't really need “faith” to benefit from a 12-step meeting. All you really need to do is talk and listen. And it was also at those lunches that the other lawyers convinced me to try and get my law license back in Washington. I knew with four felony convictions the chances were slim, but they had faith I could pull it off.

**Reinstatement**

It took me almost a year to get ready for my hearing before the WSBA Character and Fitness Board in 2009. I was still a total control freak about all things resembling trials. I represented myself. The hearing lasted over seven hours. After a lot of testimony, a lot of argument, and quite a bit of deliberation, the Board voted to reinstate me.

After retaking the bar exam, I was officially reinstated as a lawyer in Washington in June 2010. Although my original plan was to then get admitted to the bar in North Carolina, part of me never gave up on the idea of moving back to Seattle. As fate would have it, after 12 years of being single, I ended up getting married just a few months before Washington passed marriage equality by popular vote. I took that as a sign. So a year ago in June, my husband and I packed the car and headed west.

I’ll always miss North Carolina, but Seattle feels like home. It feels like where I belong. And it feels like the place where my personal history and skill set can do the most good for other people struggling with addiction. But I realize I can’t be a proper role model for recovery if the people who need me most can’t see me. So I make sure I’m visible to them by representing them and telling them my story. Not surprisingly, many of my criminal and family law cases involve issues of addiction.

Recovery from meth is not impossible or uncommon. In my experience, it often takes a lot of external support to get through those first crucial years of recovery. The reason my addiction blew up in such a spectacular way had a lot to do with how isolated I became from...
my sober family and friends, and even more to do with my false belief that recovery from meth addiction was not possible. People have recovered from meth addiction, but the stigma makes it very hard to identify themselves publicly. If recovered meth addicts don’t start coming out of the shadows and showing their recovery to the world, the lie that you can’t recover from meth addiction will continue and be a huge obstacle for those trying to quit.

Getting help
If you have a problem with addiction, the WSBA Lawyers Assistance Program is ready to provide confidential help. You can meet with a LAP counselor personally, or LAP can set you up with a peer counselor (a fellow attorney) who can speak to you about your options. Best of all, anything you tell your peer counselor is confidential pursuant to APR 19(b)(2). Don’t be afraid to ask for help and don’t be afraid to accept help when it’s offered.

But what if the problem isn’t with you? What if someone you care about or work with is struggling with addiction? What can you do to help? Those are really difficult situations, often complicated by a host of other issues. All I can say for certain is that it’s important that you don’t enable them. Don’t give them opportunities, or excuses, or resources that make it easier for them to continue using. But don’t give up on them, either. Don’t stop caring about them. Tell them their substance abuse is scaring you. Tell them you want them to stop. And remind them that when they’re ready to stop, you’ll still be there for them, because you care about them.

It can make all the difference.

Douglas Wilson “Wil” Miller is a litigator in Seattle with a private practice focused on criminal defense, family law, and personal injury. During his career, he had the honor of working for three remarkable county prosecutors before going into private practice: Elizabeth Holtzman—district attorney of Brooklyn, New York; Richard Brown—district attorney of Queens, New York; and Norm Maleng—King County prosecuting attorney in Seattle. Miller devotes much of his spare time to providing pro bono legal services to the survivors of domestic violence and serving as a recovery coach to meth-addicted lawyers throughout the country. He volunteers with the WSBA Lawyers Assistance Program. He can be reached at wil@wilmiller.com.

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Brewe Layman, one of Washington State’s preeminent family law firms for matters involving significant or complex estates and business/professional practice issues, prenuptial agreements and the litigation/resolution of marital and living together predicaments.
Grievances are a paralyzing fear for many lawyers. Lawyers see their license, their reputation, and their future at stake. Most grievances are dismissed following review or investigation by the Office of Disciplinary Counsel (ODC). But even if a grievance is not dismissed, public disciplinary action is not always the result. Between 2006 and 2012, about 250 lawyers were successfully diverted from the public discipline path in cases involving less serious misconduct. During that same time period, there were more than 500 instances of public discipline. There were more diversions than any one particular form of disciplinary action (disbarments, suspensions, reprimands, or admonitions).

The lawyers who accepted a diversion proposal followed through by completing a contract composed of straightforward terms designed to address the reasons for the grievance. At the end of the process, the grievances were dismissed without public disciplinary action. In many instances, it appears the experience of diversion helped those lawyers improve their practices and, it is hoped, helped prevent future grievances or disciplinary proceedings.

Cases of “less serious misconduct,” as defined in the Rules for Enforcement of Lawyer Conduct, can be referred to diversion by disciplinary counsel. The next step in the process is a meeting with the WSBA diversion administrator. As the WSBA diversion administrator, I have completed about 170 diversion evaluations since 2008. Following a review of referral information regarding the conduct and applicable Rules of Professional Conduct (RPC), I briefly discuss with disciplinary counsel potential terms for a contract that would address the reasons for the grievance. I then meet with the lawyer to explore what happened in this particular situation.

As a psychologist, I think a respondent needs to have some insight into his or her misconduct and be motivated to comply with terms that prevent misconduct from recurring. I am sometimes asked why a psychologist and not a lawyer is handling this evaluation. While disciplinary counsel has analyzed the grievance from a legal and ethics perspective (for example, the lawyer might have missed some hearings, or failed to call a client back on several occasions in violation of RPC 1.3 and RPC 1.4), this does not necessarily capture the full scope of what conditions in the lawyer’s life or practice led to this to occur. The causes could include disorganization in an office system, taking on too many cases, unreliable office staff, clinical depression, or an addiction that makes it hard to focus on work. I am trained to conduct evaluations and pull together multiple streams of information to make recommendations.

Most diversion contracts range from six months to one year. All participants are required to pay a fee for participating and are required to attend ODC’s Ethics School in Seattle. Ethics School is a widely appreciated element of the diversion program, with well-credentialed speakers presenting on topics like confidentiality, conflict of interest, office management, and trust accounts. I also speak on making positive changes in practice and in life. If disorganization in the office has played a role in the RPC violation, one of the WSBA’s Law Office Management Practice (LOMAP) advisors can consult with the lawyer and offer methods for improving office systems. If a mental health issue is involved, confidential counseling may be included as a term. Of course, law office management assistance and counseling services are available to all WSBA members, regardless of diversion, through LOMAP and the WSBA Lawyers Assistance Program.

If education on the nature of the RPC violation involved in the grievance is appropriate, consultation with WSBA professional responsibility counsel or with an ethics lawyer who does not work for the WSBA can be included among the diversion terms. Attendance at CLE programs with specified topics is another possibility for those who need updated information in a practice area. For some solo practitioners, a diversion contract may include a provision requiring the lawyer to join a WSBA section or other organization like the American

**Diversion**

**Addressing Less Serious Lawyer Ethical Misconduct**

By Dan Crystal

Diversion can help a lawyer identify and address an instance of less serious misconduct and allow the lawyer to continue practicing and thriving without the consequence of a record of public discipline.
A Prescription Error . . . .

“I was prescribed Reglan to ease stomach pains, but because it was overprescribed, I developed major side effects. There was a “black box” warning on this drug, but the doctor apparently ignored it and the list of side effects it can cause. A specialist confirmed I had developed tardive dyskinesia, a movement disorder, and it could take 5 years for my body to get back to normal.

Tyler Goldberg-Hoss was such a Godsend – so easy to work with, and he negotiated a surprising settlement. Both were welcome gifts.”

~ Lila P., Port Angeles, WA

Dan Crystal is a psychotherapist with the WSBA Lawyers Assistance Program and the WSBA diversion administrator. He received his doctorate in clinical psychology from the University of Denver in 2007 and completed a postdoctoral fellowship at the Seattle VA Hospital in 2008. He can be reached at danc@wsba.org.
I stared at my surroundings. I was in Seoul, Korea, over 5,000 miles away from my home in Seattle. My office at the Ministry of Justice was enormous. It had closets, a wide-screen television with about 1,000 cable channels, and a plate of fresh fruit and a basket of candy on my desk. (I assumed that this was the welcome fruit and candy — until I showed up the next day and discovered more fruit and candy.) I was even more surprised when an aide brought me a newspaper, along with a choice of coffee or tea. This happened the following day and every morning after that. In the United States, I was usually the one buying my paralegals coffee and lunch to ensure that they would help me meet deadlines. In Korea, these employees were paid to make my professional life easier by running personal errands. “I could definitely get used to this,” I thought.

How did I get there? Let’s back up a few years.

From the Courtroom to Korea
Since 2000, I have been with the King County Prosecutor’s Office in Seattle. I felt incredibly fortunate to make my living trying cases. After 12 years in the office, I had tried almost 100 jury trials. I was proud of my public service and my role in ensuring justice for the citizens in my neighborhood. In addition, as an Asian American, I helped break down stereotypes. During jury selection, the room is typically filled with about 50 to 100 potential jurors, the majority of whom are Caucasian. Asian Americans seem to be a more common sight in the health professions or science-related industries than in the courtroom. By simply being myself and trying cases in front of these jurors, I have helped negate stereotypes that Asian Americans cannot be effective and articulate oral advocates.

While I thoroughly enjoyed my position as a prosecutor, I sometimes regretted that I rarely had the opportunity to use the Korean language skills that I had worked so hard to acquire. Learning Korean greatly enhanced personal communications with my family, but all those years of translating documents for my immigrant parents, working in my family’s restaurant taking orders for sushi and teriyaki, and spending numerous hours in upper-level Korean language courses at the University of Washington had not benefited me professionally. How could
I combine my passion for both criminal litigation and the Korean language? I realized that achieving this goal in America was problematic — but perhaps I could achieve it in Korea.

In the summer of 2011, I learned that the South Korean government was offering Korean-American prosecutors an opportunity to attend a Korean Prosecutors Association conference in Los Angeles. I was suspicious at first, since nothing in life is actually free. In preparing for the conference, I discovered that South Korea’s justice system was in transition. In 2007, South Korea moved to an “advisory jury system,” whereby the jurors were required to declare their “advisory verdicts” on some criminal matters but three-judge panels still made the final binding decisions. This system would continue for five years, and then the government would consider if South Korea was ready for a “binding jury system,” whereby jurors, instead of judges, make the decisions in criminal cases. I thought that maybe South Korea was looking for a Korean-American prosecutor with extensive jury trial experience to prepare the country for this transition. After speaking with a few Korean prosecutors at the conference, I realized that I was right.

A few months later, in November 2011, I received a call asking me to consider serving the Ministry of Justice, Republic of Korea for a year as a visiting scholar prosecutor. The Korean government would provide housing, three meals a day, and a hefty stipend for any additional living expenses. Having a five-year-old daughter and a three-year-old son, I initially dismissed the idea. My wife urged me to reconsider. Although she could not go with me because of her dental practice and my daughter’s enrollment in elementary school, she suggested that I take my three-year-old son and my mother. She made a convincing argument that my son would learn the language and culture at an early age, and my mother could experience the “new Korea” that was so different from when she was there during the Korean War and the poverty that followed.

After conferring with family members, friends, and colleagues, it was clear that this kind of opportunity — the chance to potentially and fundamentally alter another country’s justice system — does not come along very often. Even my boss, King County Prosecutor Daniel Satterberg, told me that it was an opportunity of a lifetime and a chance to export some of our country’s fundamental principles to Korea. Satterberg praised my mission and even guaranteed my job upon my return to the U.S.

Despite this overwhelming support, I was still nervous. I had never left the United States for more than a couple of weeks in the 36 years that I had lived here, and now I was leaving for a year to live in the country I would have grown up in had my parents not emigrated to America in 1974.

Introduction to Korean Culture
Two months later, we traveled to Seoul and got situated in our snug 900-square-foot apartment. Almost immediately after arriving, I was whisked away to pay my respects to the minister of justice. Nobody told me that five high-ranking prosecutors would accompany me, nor did anyone inform me that this was a ceremony in which the minister of justice officially “knighted” me as a Korean prosecutor. It was assumed that I would know to bow at a 90-degree angle, to use both hands when shaking his hands, and to say nothing and simply nod and smile as if I was just grateful for the opportuni-

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When counsel screws up, they wanted me to give as many lectures as I could handle at the Institute of Justice, law schools, and various government entities; and they wanted me to write a book documenting trial tactics and issues that I had encountered while trying cases. Daunting but doable, or so I thought.

As I started preparing for my talks, I realized how unfamiliar I was with Korean legal terminology. My first lecture was at Seoul National University School of Law. I was asked to give a one-hour lecture to second-year law students on comparative law and the benefits of the American jury system. I spent over 100 hours preparing for this lecture due to my need to decipher Korean legal terminology. Presenting an opening statement in a homicide case in the U.S. was much simpler than talking about our jury system in Korean to 90 law students! However, after this first lecture, it became a lot easier.

All of my other speaking engagements were a variation of that speech. The theme of every lecture that I gave was the advantages of the democratic American jury system compared to the Korean “advisory jury” system. I stressed that a jury of peers, not the government, should decide a criminal defendant’s fate and that the U.S. system left little room for manipulation and cronyism. After touring the top seven law schools (Seoul National, Korea, Yonsei, HUFS, Seoul University, Ewha Women’s, and Dankook), I gave lectures to prosecutors, judges, and government officials at the Institute of Justice.

I was also tasked with writing a book in English about my experiences and the tactics and strategies used to prevail in jury trials. Once I completed this book, I presented it to 50 government officials and the minister of justice. I was told that they wanted an informative hour-long presentation and I prepared accordingly. I later learned that the presentation was, in fact, a test given by the minister of justice to determine whether my book should be translated and officially published. I passed the test. I was further told that once published, my book would become part of the required curriculum for all first-year prosecutors in Korea. Upon hearing this, I spent hours and
Focused for 18 years on defending those accused of child abuse. No other Washington firm can match that record of dedication to child abuse defense.

I edited the manuscript about seven times. I then worked with a team of eight prosecutors and two law students to help translate the book. The title of the book is *Trial by Jury: In-Depth Trial Strategies*. I am extremely proud of this accomplishment, since writing does not come naturally to me.

**Impacting the Advisory Jury System**

After completing the translation of the book, it seemed as though I had very little left to do before returning to Seattle in a couple of months and reuniting with my family. Skyping on a weekly basis helped, but I missed my wife and daughter, my son missed his mother and sister, and we all missed being together as a family. Imagine trading your wife and daughter to live with your mother for a year.

However, my mother was in paradise. She had family and friends, no real responsibilities, and the use of my credit card in a Korea that was completely different from the one she lived in during the first 25 years of her life. She took all kinds of free lessons that were available to her as a senior citizen, including golf, art, and dance lessons.

After finally adjusting to living with my mother, it was almost time to go home. However, the Ministry of Justice had one more task for me — to observe some Korean advisory jury trials and give some input.

I watched two trials, and it quickly became apparent that the rules of evidence were extremely relaxed. Hearsay, character evidence, prior bad acts, and irrelevant evidence were all admitted without much resistance or foundation. However, the most important flaw was that the judge not only questioned the witnesses but implicitly commented on the evidence. After the prosecution and defense examined a witness, the judge would ask a leading question (for example, “So you really didn’t suffer too much at all, did you?”) that would steer the jurors one way or another on a pivotal disputed fact.

Just as troubling was the process of how the jurors rendered an advisory opinion. If the jurors were unanimous in reaching their advisory opinion within a “reasonable period of time” (according
to prosecutors, a reasonable period of time was about an hour), their advisory opinion would be official and the panel of three judges would then have to render a binding verdict. If the jurors did not reach a unanimous verdict within a reasonable period of time, the judges would first render their verdict, then inform the jurors, and finally require the jury to determine its advisory opinion, using a majority of jury standard (five jurors out of nine), not a unanimity standard (nine jurors out of nine).

After observing the two trials, the deficiencies of Korea’s advisory jury system came into clearer focus. Koreans thought that this system was fairer than their traditional bench trials. But under the bench trial system, at least the parties knew exactly who was deciding the case instead of being falsely led to believe that their peers were making the important decisions. As I explained these concepts to Korean prosecutors, it dawned upon me that this was an “issue of first impression” for some of these young lawyers. Having to explain the safeguards that we have in place in the U.S. made me realize how young Korea was regarding jury trials.

I was asked to take what I had observed and present my findings and opinions to the minister of justice and the highest-ranking officials at the Institute of Justice. During the presentation, I laid out each rule of evidence that would have been enforced in a U.S. trial and discussed why these rules exist. I then explained the influence that a judge’s question or comment about the evidence can have on a jury trial and the safeguards that we take in the U.S. to prevent such improper influence.

After the meeting, I offered to write a legal advisory opinion on behalf of the Institute of Justice. However, the minister of justice called me into his office and told me that nobody would actually read a legal advisory opinion, but he felt that this was an issue that needed to be publicized.

The next day, I met Ms. Shim, a leading reporter for Joongang Daily, the most influential national newspaper in Korea. The minister of justice wanted the reporter to interview me, exposing what I had observed in the two advisory jury trials. I have to admit, I had serious reservations. The last thing I wanted was to speak negatively about the justice system just before departing after having been welcomed by Koreans and treated like a Korean. Further, I did not want an entire branch of government upset with me during the last couple of months of my stay. After some negotiations, it was decided that I would submit to the interview, but the article would be printed on the same day that I departed for Seattle to ensure that no one had a chance to confront me while I was still in Korea.

Return to the United States: Continuing to Inspire Improvements

After returning to the United States, I was interviewed by the Seattle Times, Korean American TV, and several other media sources. I also spoke multiple times about my experiences in Korea and what I had observed.

As I suspected, after the first wave of
interviews and speaking engagements, some people, mainly Korean immigrants and Korean citizens, were upset with me. They felt that I was hurting the image of Korea. A few even demanded an apology.

This was difficult for me to understand as I was working diligently to help Korea. If just one person read the article in the Joongang Daily and was inspired to improve the current system, I felt that I had done my job. In fact, the top officials at the Ministry of Justice urged me to continue to talk about what I observed in Korea, in order to inform those who are interested and thus help continue the evolution of the Korean judicial system.

This type of advocacy is one of the many reasons why I accepted the presidency of the Korean American Bar Association of Washington in December 2012. I wanted to raise awareness of issues concerning not only Korean-American attorneys but also the Korean-American population in general.

Even though I was previously not actively involved in minority bar associations, my gratitude for the opportunities afforded to me in Korea made me eager to get involved and give back.

**Feeling Included**

After working for the Republic of Korea for a year, I realized that Korean prosecutors and government officials saw me as a Korean, not a Korean American. They ensured that I felt included as a Korean and convinced me to persuade Korean Americans that they should feel the same. This inclusiveness was one of the reasons why I continue to make people aware of the Korean judicial system: My love for the country spurs me to do what I can for those in Korea who are trying to make the judicial system more democratic.

After the year that I spent in Korea, however, I came to one clear conclusion — the United States may not have a perfect criminal justice system, but it has one of the best in the world.
You have your J.D., you just found out that you passed the bar (or didn’t pass), you’re searching for a job, and thinking about expanding your search beyond the traditional legal realm — that is, jobs that don’t require a J.D. or bar passage. Should you do it? What will your peers think? Should you worry about that? Will your law degree be a waste if you don’t practice? Are you still a lawyer if you never practice?

From my experience, the right non-traditional job can be rewarding and educational. I graduated from Seattle University School of Law in 2011, when legal jobs were scarce. On the advice of a friend, I applied for a new position as the part-time attorney coordinator for the Foreclosure Mediation and Outreach Project at Seattle University School of Law. The program was being funded by a new grant from the Attorney General and housed in the acclaimed Access to Justice Institute (ATJI).

I went to law school to pursue a call to social justice work. The jobs I held before law school each affirmed my value for positions that allowed me to have autonomy, lots of responsibility, flexibility, and meaning. My goal was to work with low- to moderate-income clients on civil legal issues who would otherwise not have access to a lawyer. The position with Seattle University offered all this and was timely. And even though the job started out as part-time, my husband had a good job, so I had the freedom to take a lower-paying salary in hopes that I would be able to grow the position into something more substantial. (I realize this is not an option for everyone and I feel fortunate that my husband supported my decision.)

But the job had very little to do with practicing law. Instead, it required establishing a pro bono program for law students to assist attorneys representing homeowners under Washington’s
Foreclosure Fairness Act and creating a community outreach plan to promote the program. The ideal candidate was self-directed, entrepreneurial, effective at building coalitions, and experienced with community outreach. My skill set seemed to fit the bill, and the work appealed to me, so I applied and was offered the job, but I had some things to consider before accepting.

By taking this job, I knew that I would not gain the same type of legal skills as my peers who chose a “traditional” practice setting. For instance, I would rarely have to do legal research; I would never have to file legal documents; I would not have any clients outside of pro bono work; I would never have to go to court; and though I would likely prepare many written communications, I would not prepare pleadings and other documents traditionally considered “legal writing.”

But these concerns, I ultimately decided, were outweighed by the benefits I stood to gain. I would have the opportunity to provide leadership for the project, engage in strategic planning, learn how to do effective grant writing, oversee a budget of $100,000, build coalitions with legal aid service providers and local pro bono programs, recruit and retain volunteers, and gain entrance into marginalized and vulnerable communities. I accepted the job.

**Did I make the right choice?**

Now that I have been in this position for two and a half years, I can confidently say that I did. I really enjoy my job and know that I am making a positive impact on students and homeowners facing foreclosure. Since I started, over 67 students have participated in the program, assisting attorneys representing over 350 homeowners facing foreclosure and contributing over 2,500 pro bono hours. Plus, after the first nine months, I was awarded a three-year grant that also converted my position to full-time. I have made great connections in the legal community through ATJI and our collaboration with partners such as the Northwest Justice Project.

However, given the fact that the grant for my project ends next year and I need to make sure that I am in a position to transition to my next challenge, I have been thinking a lot about the implications of taking a non-traditional job early in my career.

**What will other lawyers think?**

Having taken a non-traditional path, I have found that I have had to overcome a credibility gap with practicing lawyers. Lawyers love to share war stories, discuss recent decisions that affect their practice area, and complain about opposing counsel’s less-than-civil behavior. In my experience, sharing about the hard-fought-for partnership I just won with a key stakeholder, the transformative experience a student had through my project, or the latest volunteer engagement strategy I’ve learned from the non-profit world does not resonate easily with “traditional” lawyers.

**Am I still a lawyer?**

Recently, I have been asking myself the question, “Am I still a lawyer if I never practice law in the traditional sense?” Answering this question in the positive was harder for me because, within the legal profession, being a lawyer often implies that one has practiced at some point. A mentor of mine put it this way: choosing not to practice law is like being a surgeon who chooses never to cut anyone open. So, I’ve decided that practice at some point in one’s career is an essential component of being a lawyer. You may come to a different conclusion, but I think you will find that you are in the minority.

Having decided that practicing law is a goal that I want to accomplish, I want to leave you with some tips on how to set yourself up to transition into a traditional legal job in the event you choose a non-traditional job early in your career.

**Create a narrative:** Develop a compelling narrative around why you accepted a non-traditional path before...
practicing, what transferable skills you learned that your legal employer would benefit from, and why your experience makes you a better-rounded attorney. Questions you may ask yourself include: Did you take the non-traditional job because it was in an area you’re passionate about? Did you gain specialized knowledge or experience with relevant subject matter, such as a permitting process? Do you have relationships with people or organizations that could help the firm gain clients?

**Look for mentors**: Seek out practicing, formerly practicing, and non-practicing (i.e., never) attorney mentors. You will likely receive very different advice from each of these groups, but having varied opinions in your “cabinet of success” will help you to make the best decision for your career. Each of these groups has helped me to grapple with the hard questions, given me courage to step out of the box, held me to my values, pushed me out of my comfort zone, and inspired me to be creative when I felt stuck.

**Get pro bono experience**: If you decide you want to practice, get as much experience as you can through pro bono work. In accepting a job that was not going to help me build legal skills, I made sure that I had the flexibility to pursue pro bono work. In addition to receiving valuable training, pro bono work provides the opportunity to try out a practice area with relatively low long-term commitment. Also, through volunteering at various organizations, I have been able to test how my non-legal skills would be transferrable to meet that organization’s current needs.

Depending on what your ultimate career goals are, taking a non-traditional path early on can feel like a risk or like the best decision you ever made. For me, it allowed me to grapple with whether I really wanted to practice law, gave me extra time after law school to figure out what kind of law I may want to focus on, and gave me valuable skills and connections to the public interest community. **NWLaw**

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**Angeline Thomas** joined the **Access to Justice Institute staff** at Seattle University School of Law in March 2012 after serving as session counsel at the Washington State Senate Committee Services office during the 2011 special session and 2012 regular session. She is the staff attorney overseeing the Foreclosure Mediation and Outreach Project (FMOP). She can be reached at thomasan@seattleu.edu.
A widespread dissatisfaction with traditional billable hour fee arrangements, both among clients and among many members of the Bar, has increased the interest in flat-fee agreements of the type which have been commonly used by immigration, family law, and some criminal law attorneys for many years. Bar associations, including the Washington State Bar Association, have urged attorneys to consider flat-fee agreements both as a means of satisfying client demand for value and as a way to address the embarrassing lack of access to crucially important legal services among low and moderate income individuals.

The advantages of a flat fee, especially to clients of modest means, is clear. As the Arizona Supreme Court explained in Matter of Connelly:

A non-refundable flat fee reflects a negotiated element of risk sharing between attorney and client whereby the attorney takes the risk that she will do more work than planned, without additional compensation; and the client, in return, agrees that the attorney will earn the agreed-upon amount, even if that amount would exceed the attorney’s usual hourly rate because the client often has limited resources and therefore requires the certainty of a pre-set fee. Because a non-refundable flat fee reflects a balancing of the risk to both client and lawyer, a flat fee can be larger than the fee generated by hourly rates without being excessive.

Carefully calculated and ethically drafted flat-fee arrangements have been touted as “a win-win proposition for both parties; they can help reduce expenses for clients, which in turn enables more clients to pay for legal services.” Similarly, law practice management experts such as Pete Roberts emphasize that not only do flat-fee agreements provide access to legal services to people who could not otherwise afford them, if the attorney works efficiently, flat-fee agreements may yield a profit higher than the attorney’s regular hourly rate.

And, as in Connelly, this potentially sweet deal for the lawyer is generally thought to be reasonable under RPC 1.5(a) (prohibiting “unreasonable fees”) because of the risk that the matter will be more complex and require more attorney time than anticipated. RPC 1.5(f) (2) sets out explicit guidelines and helpfully provides suggested language to be incorporated into flat-fee agreements. If a client signs a written agreement complying with the five requirements listed in RPC 1.5(f)(2), a flat-rate fee becomes the property of the lawyer upon receipt. Because the fee is attorney property, it cannot be placed into a firm’s client trust account.

The Prospect of a Refund

But here’s the rub: even though the fee becomes the property of the lawyer “upon receipt,” the client may still be entitled to be refunded a portion of the fee if the entire scope of work is not completed, even if the attorney is not at fault. This holds even if the legal work is not completed due to the client’s failure to cooperate in the representation or the client’s decision to terminate the attorney-client relationship.
Finding that the attorney could instruct the couple to terminate work on the matter. A fee refund was requested. Noting that RPC 1.5 requires that an attorney's fee must be reasonable, the Advisory Opinion states that the refund is a matter of contract law and indicates that it would be reasonable for the attorney to keep only as much of the fee as she could prove in quantum meruit.

“Whether the fee is fixed or contingent” is the eighth of nine “reasonable-ness” factors listed in RPC 1.5(a). The rule seems to imply that it is “reasonable” for flat-fee agreements to result in a larger than usual, potentially much larger than usual, attorney’s fee in flat-fee cases. This compensates the attorney for accepting the risk of what one California ethics expert has called “financial disaster if the amount of work necessary turns out to be much greater than anticipated when the amount of the flat fee was agreed to.” The Arizona Connelly decision sensibly interpreted RPC 1.5 in this manner, holding that any reasonableness analysis of a flat-fee agreement must consider “the appropriateness of the non-refundable flat fee in light of the negotiated risk involved.”

The ABA concurs, having issued a formal opinion stating, “The reasonableness of a lawyer’s fee typically is assessed in light of the circumstances as of the time the original fee agreement was made.” In contrast to the approach taken by the ABA and Arizona, other states, including Washington, have required the return of almost an entire attorney’s fee despite the reasonableness of the fee agreement at the time it was made. For example in a 2012 case, the Iowa Supreme Court held a minimum fee agreement to be unreasonable in light of the “limited and insignificant services” the representation turned out to require. Finding that the attorney could not “use the contract to justify the minimum fee he charged and collected from his client,” the court not only required a full refund, it imposed a 30-day suspension. Washington state attorneys should bear in mind that Washington courts tend more toward the Iowa approach than the ABA’s. The Washington Court of Appeals has held “if at the conclusion of a lawyer’s services it appears that a fee, which seemed reasonable when agreed upon, has become excessive, the attorney may not stand upon the contract; he must reduce the fee.” In Washington, “[c]ontracts for attorney fees are continually reviewed for reasonableness throughout the relationship of the client and attorney.”

Washington courts’ focus on ongoing analysis of fee agreements for reasonableness, in combination with the client’s absolute right to fire her lawyer at any time, may make Washington attorneys especially vulnerable in flat-fee representations. WSBA Advisory Opinion 1864 is consistent with analyses like...
that of the Indiana Supreme Court holding that “[a] corollary of the client’s right to discharge a lawyer is that a contract between the client and the lawyer that unduly impairs that right is invalid.”15 Such analyses essentially take the position that a client’s inviolable right to discharge the lawyer is not much of a right at all if it would be too costly to assert. Like WSBA Advisory Opinion 1864, courts in Indiana, Georgia, and Colorado have strongly suggested that regardless of the fee agreement, a client who fires her attorney, at whatever stage of the representation, for whatever reason, is entitled to a refund based in quantum meruit.

In our opinion, courts are unaware that clients can manipulate these precepts in order to deprive attorneys of fair compensation for work done or risk assumed.16 For example, a 2009 Washington case almost certainly involved a situation where the client “deliberately fired her attorney to maximize her share of the generous verdict.”17 Washington attorneys can be somewhat heartened by the fact that the court indicated that, in instances of egregiously unconscionable client behavior, more than an hour-based quantum meruit attorney’s fee is permissible, even if the client discharges the attorney.18

**What’s the Liability?**

How should an attorney protect herself for the eventuality that a client will come knocking, wanting reimbursement in a partially completed flat-rate matter where the fee has been paid pursuant to an agreement that complies with RPC 1.5(f)(2)? In many years of handling trademark applications on a flat fee basis, attorney Mark Jordan of Invicta Law Group has never had a dispute with a client about a partially earned flat fee. In the event the full representation is not completed, “I sit down with the client and explain what portion of the fee I’ve earned based on the work performed,” Mark explains. Indeed, flat fee matters generally tend to represent relatively smaller fees, and in a majority of scenarios the attorney will likely have the cash on hand to return some or all of a single flat fee.

What happens, though, if all of an attorney’s flat fee clients come knocking? What if the attorney — through no fault of her own — is unable to continue her work due to disability or family crisis? What if she has an entire caseload of partially completed flat-fee cases and can complete none of them?

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How does an attorney track her level of financial exposure for collected flat fees that she may need to partially reimburse? Experts recommend that lawyers track time on all flat-rate matters just as they would with traditional billing. As Roberts points out, this also gives the lawyer important data to assess the value she is investing in flat-rate matters, and she may want to adjust fees accordingly.19 This approach offers a means to ensure that the attorney always has cash on hand to reimburse a client for a partially-earned, as defined by RPC 1.5(f)(2), fee. The attorney deposits each flat fee into her operating account, but allows herself access only to the portion of the fee that she has earned at a

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Perkins Coie partners Stewart Landefeld and Eric DeJong have co-authored Volume I of *Washington Business Entities: Law and Forms*, Second Edition. This indispensable treatise is packed with critical information on creating, maintaining and dissolving Washington State business entities, including corresponding forms.


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Given time. Such a system is what we call “Pez Dispenser Accounting”—the attorney owns the entire dispenser full of candy, but only gets to eat the candies as they pop up.

While Pez dispenser accounting is possible with a single bank account, practitioners may find it cleaner to deposit unearned portions of flat fees into a separate operating account. That second operating account becomes treated as off-limits. If the firm will be maintaining large sums of unearned flat fees, it may make sense to use a money market account or other interest-bearing account. Unlike monies kept in a trust account, nothing prohibits an attorney from profiting from interest earned on these monies, because the money is considered fully earned upon receipt (RPC 1.5(f)(2)).

But for an attorney, a major appeal of flat fee matters is precisely that she may believe flat fees relieve her of the hassle and administrative expense of time tracking and trust accounting. If an attorney is forced to carefully track what she has actually earned on a flat-rate case, the procedure seems to create the same administrative overhead as does trust accounting.

Note also that time tracking will not necessarily show the amount of a fee that an attorney has earned in a flat-fee case. Under RPC 1.5(a), time spent on a matter is only one of nine factors used to assess the reasonableness of a fee. In other words, just because an attorney has expended 50 percent of the time she anticipates to invest in a representation does not mean the client would be entitled to a 50 percent reimbursement of the fee.

In addition to the catastrophic “all clients come knocking” scenario, Pez dispenser accounting safeguards attorneys who take on large flat-rate matters, as a single one can mean substantial financial exposure to the attorney. Immigration attorneys, for example, routinely charge a flat rate for an entire removal (deportation) defense case. The total representation can involve hundreds of hours, entail many thousands of dollars in legal fees, and stretch over years. Pez dispenser accounting ensures any client could be reimbursed a pro rata portion of her fee at any time.

The Sky Is Not Falling

The situation may not be as dire as it initially seems. As most attorneys appreciate, virtually any violation of the technical trust accounting rules may expose an attorney to bar discipline. The same is not true for Pez dispenser accounting with flat fees if the client has agreed in advance, in writing, that the fee is the lawyer’s property upon receipt. Such accounting will be tested only if a client comes to collect an unearned portion of a flat fee. Without minimizing the importance of safeguarding client interest, the accuracy of Pez dispenser accounting is a professional risk calculation for the attorney to make.

One way to streamline Pez dispenser accounting can be with familiar landmarks in cases commonly handled by an attorney. If the attorney knows that she generally finishes 60 percent of work in Case Type X in the first month of work, she might adopt a general accounting protocol of releasing all but 40 percent of the fee to herself after the first month. Or an attorney could create a menu of landmarks in common flat-rate cases. If an attorney knows the typical number of hours expended, for example, to produce an initial court or administrate filing, prepare discovery requests, attend an initial hearing, and prepare for a settlement conference, she can allocate funds to herself accordingly, out of her operating account, as each of these landmarks is reached. The finer-grained the landmarks, the less financial risk is assumed by the attorney.

Milestone Agreements

Especially in large flat-fee matters, an attorney may want the protection afforded by a client trust account, but recall that flat-fee monies may not be deposited into a trust account. Instead of collecting a single lump-sum flat fee, the client may be asked to advance the full amount of the representation up front, which must be deposited in a trust account until earned, from which a series of flat fees will be removed from the trust account as each stage of the representation is undertaken. Comment 12 to RPC 1.5 specifically approves this “milestone” approach. To avoid commingling lawyer-owned monies, it is critical that a milestone agreement clearly designate the event upon which each portion of the fee advance becomes lawyer property.20 The milestone approach requires careful drafting of the representation agreement and use of a trust account.

At least one commentator believes that such agreements are appropriate only for “reasonably sophisticated clients.”21 While we disagree, we are mindful of the Washington Supreme Court’s advice that all fee agreements, but especially flat-fee agreements, should be “written in clear language that the client can understand.”22 By clearly setting out the fee for each stage of the representation, “milestone” flat-fee agreements may actually help clients better understand exactly what they are paying for.

Can Insurance Help?

There is no “off-the-shelf” insurance policy that will protect an attorney from the liability of having to reimburse her flat fee clients. An attorney’s malpractice policy will be of no use. John Chandler of Kibble & Prentice explains “the return of legal fees is specifically excluded from the definition of ‘damages’ in most, if not all, malpractice policies.” Could an attorney otherwise insure her exposure for collected but unearned flat-rate fees? Probably not, explains John Gray of Basin Insurance. “Ultimately the unearned fees are just a business debt of the firm.” A general liability policy would not cover that debt, nor would an umbrella policy, which simply “is in excess” of a liability policy. The only clear option, says Gray, would be for the attorney to increase coverage for disability and life insurance policies, though this would not cover every scenario where an attorney could not continue work.

Conclusion

Attorneys need not lose sleep over every theoretical ethics quandary under the sun. The WSBA does not possess statistics for how often fee disputes arise from flat-fee billing or if an attorney has ever been faced with the catastrophic “all clients come knocking” scenario. However, demands for flat-fee refunds are not merely theoretical. Some attorneys who use flat-fee agreements may choose to take the ostrich approach, ignoring their ethical and financial exposure in flat-rate matters and hoping the worst never comes to pass, but we recommend Washington lawyers take systematic, proactive measures to track their progress on all flat-rate matters and implement either Pez dispenser accounting or milestone agreements. Flat fees increase the abil-
ity of modest-income clients to obtain vitally important legal representation. In the interest of accessible legal services, we express our hope that in cases where a quantum meruit refund is appropriate, Washington will give more serious consideration to the amount of financial risk the attorney has assumed.

NOTES
2. See, e.g., Pete Roberts, “Alternative Fee Agreements: Are They Right for Your Practice?,” Practice Success 101, De Novo (Dec. 2011); see also, Littlewood, supra n. 1.
5. Roberts, supra n. 1.
6. RPC(6)(c).
11. Id.
14. See RPC 1.16(2).
16. See, e.g., O’Farrell, 942 N.E.2d at 807; Olsen, 867 P.2d at 98.
18. Id. at 301.
20. See RPC 1.5, cmt. 16.
21. Gregory R. Hanthorn, “Ethical Principals Applicable to Alternative Fee Arrangements and Related Areas” at 7 (presented at ABA Section of Litigation 2012 Section Annual Conference).
23. Clients who are unable to read and write in any language present special issues beyond the scope of this article.
Defining Family — *De Facto* Parentage

BY ELIZABETH HOFFMAN

**The last decade has seen a significant expansion of the definition of family, both culturally and legally.** This is particularly true in Washington, as the courts and the Legislature have created a variety of avenues for non-traditional families to obtain legal recognition. While marriage equality represents a substantial expansion of legal rights for many non-traditional families, our courts continue to recognize that family relationships — particularly parent-child relationships — develop outside of existing legal structures, even in the era of marriage equality.

Emblematic of this recognition is the adoption and ongoing evolution of the doctrine of *de facto* parentage. First adopted by the Washington Supreme Court in the 2005 case *In re Parentage of L.B.*, the *de facto* parentage doctrine can afford parental status to a non-parent if the non-parent can demonstrate that:

1. the natural or legal parent [of a child] consented to and fostered the parent-like relationship,
2. the petitioner and the child lived together in the same household,
3. the petitioner assumed obligations of parenthood without expectation of financial compensation, and
4. the petitioner has been in a parental role for a length of time sufficient to have established with the child a bonded, dependent relationship, parental in nature. (*In re Parentage of L.B.*, 155 Wn. 2d 679, 708, 122 P.3d 161, 176 (2005)).

*L.B.* (which involved two former lesbian partners and a child born to one of the women) arose in the era prior to the enactment of Washington’s domestic partnership bill and the subsequent changes to Washington’s law of parentage, a time when individuals in same-sex relationships had very few avenues to obtain legal parent status of a child to whom they had no biological relationship. The doctrine was thus initially adopted to bridge a “statutory gap” which has since been closed. Two recent cases before the Washington Supreme Court brought into question whether — given the closure of the statutory gap identified in *L.B.* — the doctrine should be limited in its applicability, or abrogated altogether.

The Supreme Court issued its opinions in *In re Custody of B.M.H.* (86895-6, 2013 WL 6212020 (Wash. Nov. 27, 2013)) and *In re Custody of A.F.J.* (314 P.3d 373 (2013)) on Nov. 27, 2013. In each case, the alleged *de facto* parent was a person many understood to be ineligible to seek *de facto* parent status: the first, a stepfather, who was divorced from a biological mother for nearly a decade; the second, a woman who served as a foster parent to her on-again, off-again partner’s child during a dependency proceeding. The court in both cases declined to make what it referred to in one opinion as “arbitrary categorical distinctions” as to who may be a *de facto* parent to a child, and the doctrine was affirmed as a mechanism through which individuals may be legally considered a “parent” to a child to whom they otherwise have no biological or legal relationship, on a case-by-case, fact-specific basis.

To some, the Court’s decisions in *B.M.H.* and *A.F.J.* represent a radical expansion of a doctrine that appeared to be limited to a very specific petitioner, and an intrusion into a legal parent’s fundamental liberty interests. To others, the decisions are a victory for the children of non-traditional families who form parent-child bonds with persons to whom they are not otherwise legally related. Now that the Court has endorsed this liberal, fact-specific approach to determining who can be a child’s parent, modern family law practice in Washington requires an understanding not only of the doctrine’s
L.B. and the Adoption of the De Facto Parentage Doctrine

L.B. arose in the context of a long-term same-sex partnership between two women who endeavored to bring a child into their relationship through artificial insemination. Paige Britian and Sue Ellen Carvin raised L.B., who was the biological daughter of Britian, together for six years. At the time of L.B.’s birth, there was no avenue available for Carvin — a person with no biological relationship to L.B. and no legally recognized relationship with L.B.’s mother — to establish a legal relationship with L.B.

After their relationship ended, Britian limited Carvin’s access to L.B. In November 2002, Carvin filed a petition to establish parentage of L.B. under Washington’s Uniform Parentage Act (UPA) or, alternatively, as a de facto or “psychological” parent, a doctrine adopted in other jurisdictions. Her petition was dismissed by a family court commissioner for lack of standing under the UPA, and because Washington’s UPA at that time did not recognize “psychological parents.” Carvin, of course, appealed.

In 2005, the Washington Supreme Court issued a lengthy opinion in which it adopted the doctrine of de facto parentage as urged by Carvin. Critical to the Court’s decision was the question of whether, due to “the absence of an adequate remedy at law, equity and the common law should accord Carvin standing as a de facto parent.” (In re Parentage of L.B., 155 Wash.2d at 688.) The Court ultimately concluded that because there was indeed no adequate remedy available to Carvin at law, equity and the best interests of L.B. did in fact permit Carvin to have her parental rights to L.B. adjudicated. This particular consideration came to be referred to in the short hand as “the statutory gap” and was seen by many practitioners as a fundamental, if not threshold, consideration in any de facto parentage matter.

Subsequent Controversy and Confusion

While L.B. created a viable path to legal parenthood for individuals like Carvin (a good thing in the eyes of the LGBT community and beyond), the doctrine was also a source of controversy and confusion in the family law bar and the wider community, as individuals very unlike Carvin sought to have their alleged parental rights adjudicated in the trial courts.

In addition, significant changes were made to Washington’s domestic relations laws in the years after L.B. In 2009, the “Everything but Marriage” domestic partnership bill was signed into law, which afforded many of the same rights of marriage to same-sex couples who chose to register as domestic partners. In 2011, the UPA was amended to be gender-neutral and provided that a person will be presumed to be a parent of a child if that child is born while the person is in a marriage or registered domestic partnership with the child’s parent (RCW 26.26.116(1)(a)). The UPA was also amended to provide that parentage was presumed where a person resided with a child and the child’s parent for the first two years of the child’s life and “held out the child as his or her own” (RCW 26.26.116(2)). And, in 2013, marriage equality was affirmed by the voters of this state.

With these sweeping changes and major expansion of legal rights to same-sex couples in the post-L.B. era, many in the family law community questioned whether there was even any need for the doctrine. After all, weren’t all of those statutory gaps that prohibited Sue Ellen Carvin from becoming a legal parent to L.B. now filled?

Stepparents, De Facto Parentage, and the Statutory Gap

In 2010, the Washington Supreme Court addressed the applicability of de facto parent doctrine to a stepparent for the first time in In re Parentage of M.F. (168 Wn.2d 528, 228 P.3d 1270 (2010)). M.F. was born to a married heterosexual couple in 1993. Her parents separated shortly after her birth and divorced in 1995. At that time, a parenting plan was entered which designated M.F.’s mother, Patricia Reimen, as her primary residential parent, but provided for M.F. to spend alternate weekends and some holidays with her biological father. It is unclear whether M.F. actually had regular visitation with her biological father after her parents divorced, but there was no dispute that M.F.’s biological father maintained legal rights to her.

Reimen began dating John Corbin when M.F. was about 14 months old, and they were married in 1995. During their marriage, Corbin and Reimen had two additional sons. They divorced in 2002. For about three years after the divorce, M.F. usually lived with Corbin at the same time as Corbin’s two legal children with Reimen. In 2006, Corbin filed a petition to establish de facto parental status in respect of M.F. Reimen’s motion to dismiss the petition was unsuccessful.

On March 10, 2010, the Supreme Court ruled that Corbin could not be established as M.F.’s de facto parent because M.F. already had two legal parents whose rights would be infringed upon if Corbin was deemed a de facto parent. Furthermore, the Court held that Corbin had no standing to adjudicate parentage of M.F. because there was another legal avenue available to him to attain custodial rights to M.F., namely, Washington’s non-parental custody statute, RCW 26.10.2 Thus, M.F. had a means to obtain custody of M.F. outside of the equitable doctrine of de facto parentage, which, if applied to M.F., would infringe on the rights of M.F.’s biological father. M.F. appeared to set forth a bright line rule that the de facto doctrine was categorically not available to stepparents, at least not when a child had two living legal parents like M.F. It further appeared to require a petitioner to identify a “statutory gap” in order to proceed with a de facto parentage petition.


Many in the family law bar speculated that B.M.H. and A.F.J. would result in the abrogation of de facto parenthood in
Washington. The petitioner in *B.M.H.* was B.M.H.’s former stepfather, a category of petitioner already found ineligible to assert *de facto* status in *M.F.* A.F.J. had been placed into the custody of the petitioner for foster care, in the context of a dependency proceeding. This seemed to clearly be a bar to seeking *de facto* status, given that the child was technically placed in the petitioner’s care at the behest of the state in the context of a dependency proceeding. With neither petitioner appearing to be a viable candidate for adjudication of parentage under the *de facto* doctrine, and with the statutory gap identified in *L.B.* closed, what, if any, viability did the doctrine have?

The biological mothers and *amicus curiae* opposing the extension of the *de facto* doctrine in both cases presented these (among other) arguments to the Court, urging that the doctrine be limited only to cases that are factually similar to *L.B.*, and raising the constitutional concerns identified by the Court in *M.F.*

However, the Court declined to adopt this narrow interpretation — and effective abrogation — of the doctrine. Holding that both Holt and Franklin lacking a meaningful remedy at law for establishing a parent-child relationship, the Court opened the door for both parties to do so under the *de facto* analysis in the trial courts. In so holding, the Court reaffirmed the policy it promoted in *L.B.* — that “where the legislature remains silent with respect to determination of parentage because it cannot anticipate every way that a parent-child relationship forms, we will continue to invoke our common law responsibility to ‘respond to the needs of children and families of children and families in the face of changing realities.’” (*In re B.M.H.*, 86895-6, 2013 WL 6212020 at *8*).

In declining to adopt a bright line rule as to who can petition for *de facto* parent status, the Court has provided for the extension of the doctrine to petitioners very unlike the original *de facto* petitioner, Sue Ellen Carvin. The Court, in declining to limit the doctrine to specific categories, relies upon the trial court’s ability to determine who is a parent on a case-by-case, fact-specific basis under the *L.B.* factors. Does this open the door for anyone to seek an adjudication of parentage of a child with whom they have formed a loving, connected relationship?

In some respects, the answer to this question is “time will tell.” As the *de facto* doctrine continues to be litigated in the trial courts, it can be reasonably expected that aggrieved parties will appeal, thus putting the doctrine up for further scrutiny in the appellate courts. However, *B.M.H.* and *A.F.J.*, when considered in the context of prior *de facto* cases, do not lack guidance as to who can meritoriously seek a determination of parentage under the doctrine.

The Court in both cases relied heavily on the first factor — consent to and fostering of the parent-child relationship — in finding that the petitioners had standing. The “consent” factor is a meaningful limit, as it will not permit a non-parent to proceed with a *de facto* petition with regard to a child who has two legal parents — because only one of the parents could meaningfully consent to a new partner becoming a “parent” to a child. Indeed, this is what occurred in *M.F.* We do not know the level of involvement that M.F.’s father had in M.F.’s life, but this was not something that the Court even considered in determining that Corbin had no standing.

The consent factor is not just about consenting to a familial relationship; it is about a parent consenting to the development of a parent-child relationship. Our family courts have the ability to distinguish between a parent promoting a healthy and bonded relationship with a relative or family friend, and a parent who intends to create a true parent-child relationship between their child and a non-parent.

Finally, although there are presently no “categorical bars” as to who may petition for a determination of *de facto* parentage, the *L.B.* factors place a high burden on the petitioner to prove that they undertook “a permanent, unequivocal, committed, and responsible parental role in the child’s life.” So, although it can be argued that the courthouse doors are now open to “anyone” who wishes to file a *de facto* parentage case, not just “anyone” can prevail.
Elizabeth Hoffman is an associate at McKinley Irvin, which serves clients in Western Washington and Portland. Her practice areas include divorce, adoption, and child custody. For more information, visit www.mckinleyirvin.com.

NOTES
1. In formulating Washington’s de facto parentage doctrine factors, the Court relied on persuasive authority from the Wisconsin Supreme Court in In re Custody of H.S.H.-K., 199 Wis.2d at 659–63, 533 N.W.2d 419, and the Massachusetts Supreme Judicial Court in E.N.O. v. L.M.M., 429 Mass. 824, 828–30, 711 N.E.2d 886 as a “well reasoned and just template for the recognition of de facto status in Washington,” In re L.B., 155 Wash.2d at 702-706.

2. RCW 26.10 permits a third party to have temporary custody of a child if the child is either not in the custody of his parents, or if neither parent is a suitable custodian. RCW 26.10.032(1). The superior court may grant a decree granting the nonparent custody only if the court finds that the parent is unfit or placement with the parent would result in actual detriment to the child’s growth and development. In re Custody of Shields, 120 Wn.App. 108, 142–143, 84 P.3d 905 (2004). The burden for obtaining third-party custody is thus much higher than the burden for obtaining de facto parent status.

3. In the case of A.F.J., the State of Washington Department of Social and Health Services asked the court to preclude extension of the doctrine to a foster parent, noting that “the goal of [a dependency proceeding] is to safely reconstruct the family unit, during which time children are placed in temporary placements while their parents attempt to remedy their parental deficiencies. Placements with relatives or other who have an existing relationship with the child are strongly encouraged in order to reduce trauma experienced by children who are removed from their parents’ care. It would undermine the remedial nature of dependency proceedings if a temporary caregiver could become a de facto parent, with all of the concomitant rights of a parent merely because a child was placed with her during a dependency proceeding.”

The effect of A.F.J., if any, on dependency proceedings is somewhat outside the scope of this article, as well as this author’s area of legal expertise.

4. In holding that Franklin had standing to bring a petition for de facto parentage determination, the Court recognized that “a de facto relationship will not arise out of a foster care relationship, [but] foster parent status itself is no bar.” In re A.F.J. 314 P.3d at 378.
Hit by a Bus at the Intersection of Probate and Family Law

by Lisa DuFour and Chandra Lewnau

There are at least two things a person cannot avoid: death and taxes. There are numerous misconceptions about what happens if a person dies while involved in a family law proceeding. The surviving spouse often believes that they inherit everything from the other spouse and this is not always true. In addition, if a person is legally separated, they may believe that their spouse no longer has authority to act on their behalf or inherit their property and that is also not always true. This article will explore the different ways that probate, estate planning, and family law intersect. It should be noted that the issues apply equally to both marriages and registered domestic partnerships.

Death while dissolution pending. If the deceased spouse had a will during marriage leaving his or her estate to the spouse, the estranged spouse will inherit as stated in the will. If there was no will, then the estranged spouse could inherit from the deceased spouse under the laws of intestacy. It is only after the marriage has been dissolved or invalidated that any provisions in a pre-existing will in favor of the ex-spouse are revoked by statute. Without a will, the surviving spouse is entitled to at least all of the net community property and at least half of the separate property.

Bifurcation of issues during dissolution. Some clients know their death may be imminent and do not want to die still married to their estranged spouse. In that case, it may be possible to ask the court to bifurcate the dissolution from the other financial issues.

Changes to will or power of attorney during a family law proceeding. A person contemplating divorce can change his or her will and power of attorney. If they have never done a will or power of attorney, this is an excellent time. The interim or “bridge will” should name a new executor and designate who will receive his or her one-half of the community property and all of the separate property. (Of course, the person can’t give away their spouse’s half of the community property and may be temporarily prohibited from updating any beneficiary designation, such as life insurance or retirement accounts, until after the divorce or at least the property division is complete.)

The prudent family attorney should advise their client to change their power of attorney so that their estranged spouse is not the person to decide whether or not to pull the plug if something horrible happens. Unlike a will, a pre-existing power of attorney in favor of an estranged spouse is revoked by a legal separation as well as by dissolution, invalidation, or termination of the marriage. But without an alternate attorney-in-fact or guardian in place, the estranged spouse would still have first priority to make medical decisions ahead of any blood relatives where the person is temporarily or permanently incapacitated. Clients should also be advised that their estranged spouse has control over their remains if death occurs prior to dissolution unless they have written directives otherwise.

Intimate committed relationships. People involved in an intimate committed relationship should also address what happens if one of them dies or becomes temporarily or permanently disabled. In the emotional aftermath of a medical tragedy, family members may not honor the partner’s wishes to be part of the medical decision-making, or even to
In the fell clutch of circumstance I have not wincéd nor cried aloud. Under the bludgeonings of chance my head is bloody, but unbowed.

~ “Invictus” by William Ernest Henley

For twenty six hours I lay alone in a hospital bed with the wrong diagnosis. By the time the doctors realized their error, my legs had completely died.
Note also that Washington law relates to Social Security is supposed to be paid in the case of paternity. Based on the genetic proof, the Social Security benefits can be paid based on the relationship with the deceased parent.

To add the deceased dad to the child’s birth certificate is more difficult. In one case, the court appointed a guardian ad litem on behalf of the decedent and then used the GAL’s recommendation based on the DNA testing to establish the paternity of the child. The Legislature has specified that genetic testing can be determined by a voluntary test or by testing pursuant to an order of the court. In other cases, it may be necessary to have a probate filed so that the deceased can be a party to the paternity action. The statute does allow for a “representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased.” Venue for the proceeding to adjudicate parentage can be the county where the child resides, or where a proceeding for probate of the presumed or alleged father’s estate has been commenced. The parentage action can be joined with the probate proceeding.

A parentage action can be commenced prior to the birth of the child. If a parent knows they may die prior to the birth, they may want to file a petition to establish parentage. The alleged parent can have genetic testing samples collected to be tested against the child’s genetic test sample after birth.

**Death of alleged father.** If an alleged father dies prior to paternity being established or even prior to the baby being born, paternity may still be established. The coroner usually saves blood or tissue samples of the deceased, which can be used for paternity establishment. The decedent’s next of kin can sign a release to have the sample or the court can order genetic testing of a deceased individual for “good cause shown.” If there is no blood sample or DNA sample available, a genetic testing laboratory can test the decedent’s parents and/or siblings to determine the probability that the decedent is a parent of the child. Social Security is supposed to accept the genetic test results as proof of paternity. Based on the genetic proof, the Social Security benefits can be paid based on the relationship with the deceased parent.

**Distribution of assets that are not controlled by will beneficiary designations.** Family law parties should be reminded to review and update their designated beneficiaries on bank accounts, investment accounts, and retirement funds. Temporary orders may prohibit this during the dissolution process, so clients should be reminded to do so once the dissolution is finalized. Some people wrongly assume that because state law revokes any provision favoring an ex-spouse made in a will written before a marriage is dissolved or invalidated, or before a state-registered domestic partnership is terminated, the same is true for nonprobate assets that pass outside of a will. This is the general rule, but is not true in all cases. Washington law explicitly recognizes that federal law might be controlling, and even in states that don’t have significant consequences if the parties separate because the property is then a community asset. The other option is to hold the property as tenants in common with right of survivorship.

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**Death of child during or after dissolution.** There is nothing worse than the loss of a child. The loss is even more difficult to deal with if the parents are not a family unit. Both parents are the child’s next of kin if they are on the birth certificate. If they disagree over disposition of the child’s remains, there is not an easy resolution. Although extremely unusual, a motion could be filed on the family law motions calendar to deal with issues involved, although the assistance of a counselor may be more beneficial rather than a counselor at law. Under the law, either parent can authorize an autopsy. Although it may sound morbid, there is nothing that prohibits a person from ...
establishment of parentage after the death of a child.20

**Child support orders and death of child or parent.** Child support orders are no longer valid if the child dies or if the obligor parent dies. To protect the best interests of the child, the parties by agreement may add language that the child support obligation is to be insured by life insurance on the obligor parent.

**Update wills at conclusion of family law matter.** At the conclusion of a dissolution case, family law attorneys should remind their clients to change or update their wills and power of attorney documents, and to review and change their beneficiaries on bank accounts and retirement accounts.

Discussions about death and dying are difficult. Nothing is easy when family law and probate law issues collide. We hope this article will assist in deciding how to proceed when the unthinkable happens. Hopefully you can assist your client in a way that encourages their long term well-being and let them know they can make some of these decisions now, so that the decisions are not left to their loved ones upon their death. NWL.

NOTES
1. RCW 11.12.051.
2. RCW 68.50.106.
3. RCW 11.94.080.
4. RCW 7.70.065.
5. RCW 26.50.160 and 200.
7. RCW 11.07.010(2)(a) and (b). (a) describes the general rule that pre-dissolution grants in favor of an ex-spouse are revoked, and (b) describes several exceptions to that rule, including that the instrument governing disposition expressly provides otherwise. For purposes of this section only, “non-probate asset” is defined at 11.07.010(5).
9. RCW 68.50.106.
12. Social Security Handbook, Section 1712, see also POMS GN 00306.125.
15. RCW 26.26.520(3).
19. RCW 68.50.101.
Dan Ford represents the Seventh Congressional District-North on the WSBA Board of Governors. He works for Columbia Legal Services in Seattle, where his practice focuses on employment and civil rights representation on behalf of immigrants. This is his third and final year serving on the Board of Governors.

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

Among many reasons, I wanted to further the WSBA’s efforts to advance equal justice for low- and moderate-income people. The WSBA has played a key role in helping to fund legal services programs during the great recession, developing pro bono home foreclosure programs, and working with law schools on moderate means legal representation. The Bar is now working to expand pro bono services in rural areas, and support “low bono” efforts. As part of equal justice, the WSBA must also address changing technology in the profession. Technology can provide a degree of access to the legal system, but it can also tilt the playing field when parties have disparate resources.

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

The WSBA has an incredible number of devoted volunteers. Thousands of volunteer lawyers serve in areas including diversity, court rules, judicial recommendations, amicus briefing, professional ethics, and discipline. On the Board, we see excellent, demanding work done by committees, sections, and individual lawyers. The WSBA could not accomplish nearly what it does for the profession and the public without our outstanding volunteers.

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

I was privileged to work with the Latina/o Bar Association of Washington and other minority bars and organizations in a successful petition for the Supreme Court to declare that using immigration status for intimidation is unethical. Attorneys representing immigrants had reported that immigration coercion was a serious, recurring problem that interfered with the fair administration of justice. After years of effort and consultation with ethics experts, the Board recommended that the Supreme Court adopt a formal Comment to RPC 4.4, addressing the use of immigration status in civil matters (see “The Unethical Use of Immigration Status in Civil Matters,” MAR 2014 NWLawyer, p. 30). The Supreme Court unanimously adopted the proposed Comment, stating that express or implied threats to report immigration status, or actually reporting immigration status, is unethical where a lawyer seeks to intimidate, coerce, or obstruct a party or witness. The Comment went into effect in September 2013.

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

Like my colleagues on the Board, I struggled with the budget realities resulting from the referendum on WSBA licensing fees. One affected program was the WSBA Leadership Institute (WLI). This exceptional program recruited, trained, and developed traditionally underrepresented attorneys for future leadership positions in the legal community. Each class of WLI participants produced community legal resources, such as a legal guide for youth turning 18. Graduates of the program quickly became leaders in the legal community. When the budget crunch hit, the WSBA and the University of Washington found a collaborative way to continue the program, housing it at UW. While the program had to be restructured with fewer Bar resources, I believe that the WSBA will do what is necessary to support the program and continue its ties to the Bar.

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

I’ll swim in Lake Washington when it’s cold enough that it’s just me and the dogs out there — but I won’t chase sticks.

*Take 5 lets you learn a little more about your Board of Governors. If you have further questions for Gov. Ford, he can be reached at dan.ford@columbiamlegal.org or 206-287-9652.*
Did you know that three out of four low-income people in Washington State will face an urgent civil legal crisis this year, but only one in five will be able to secure the legal help they need? Fortunately, law firms across King County are working to ensure that cost is not a barrier to the justice system.

In 2013, a record-setting 120 law firms contributed over $561,000 to support civil legal services in the county and across Washington State through the King County Law Firm Campaign for Equal Justice. Of these firms, 49 supported the campaign at the Champions of Justice Level — at least $250 per attorney.

Because of their leadership, thousands of our neighbors have a safe place to call home, food on the table, and access to a safety net to lead healthy, stable, and productive lives.

Thank you to these generous law firms for their continued support of justice for all:

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WSBA BOARD OF GOVERNORS MEETING

April 25, 2014
Seattle

At the April 25, 2014, regular meeting in Moses Lake, the WSBA Board of Governors conducted its first discussion of a draft report by an independent task force that recommends fundamental changes to the WSBA governance structure. The 16 recommendations include alterations in makeup and selection of the Board, increased emphasis on the Bar’s role as regulator of the legal profession for protection of the public, and increased involvement of the Supreme Court in oversight of the Bar, consistent with existing case law that has previously established the Court’s role in the administration and functioning of the Bar. The report further recommends renaming the Bar and its governing body as part of a move to emphasize that, while part of the Bar’s mission is to provide professional support to its members, it is not a “trade association” as that term normally is understood, and that WSBA Board members’ duties are to the organization as a whole rather than to the constituencies of members who elect them individually. The Board also elected a new 8th District governor for the coming three-year term, Andrea Jarmon is the new WSBA governor-elect from the 8th District.

The Board discussed the draft report of the Governance Task Force, created by the Board in September 2012 to consider a number of big-picture issues regarding leadership of the Bar, the basic governance of which has changed relatively little since the Bar became a mandatory organization in 1933.

The task force submitted the draft of its report to the Board and the Supreme Court for review before the report is finalized by the task force. However, task force members indicated to the Board that while they will correct any factual errors in the draft, they do not expect to make substantial changes to their recommendations before submitting the final version to the Board and court. The Task Force assumes that the Board and the Court will review the final report when it is available and determine what further action is appropriate.

Many of the substantive changes recommended by the task force would require amendments to the court rules that govern WSBA operations, rules over which the Supreme Court, not the Board, has authority. However, the Board voted at the meeting to allow a 60-day comment period (beginning the day of the meeting, April 25) for the Board itself, WSBA members, and other stakeholders to voice their opinions before the report is finalized by the task force. The Board intends to have a second public discussion of the report at the June 5–6, 2014, regular Board meeting in Seattle.

Based on comments in the report itself and those voiced during discussion at the April 25 meeting, it appeared likely that decisions by the Board of Governors and the Supreme Court on whether to adopt any or all of the recommendations will be made over a period of time and will be taken into account input from WSBA members and other stakeholders under the Board of Governors’ general issue discussion protocols and the court’s rulemaking process.

Among the task force recommendations that drew discussion at the April 25 meeting were the following:

- Clarify the duties of the governors in the WSBA bylaws and other relevant materials. The bylaws would be amended “to eliminate characterization of the Board as a representative body whose members represent a constituency of the WSBA,” the report states, and “[p]rovisions should be added to highlight the responsibility that the Board bears to the public and the fiduciary duties owed by Governors to the organization.”
- Change the name of the “Board of Governors” to the “Board of Trustees” and change the name of the Washington State Bar Association to The State Bar of Washington. The report states that the term “governor” is misleading in that it is usually used to refer to the chief executive of the state. “As an elected official, the governor has accountability to his or her constituents,” the report continues. “Governors on the Board of Governors, while responsible for governing the WSBA, do not have the same relationship with their constituents. . . . The name ‘Washington State Bar Association’ also carries erroneous connotations; it suggests that the organization is an ‘association’ of members akin to a
trade association. It is not.”

- Make dismissal of the WSBA executive director or chief disciplinary counsel subject to veto by the Supreme Court.
- Increase governor terms to four years and permit former governors to serve a second term at a later date. Currently, each governor serves a three-year term and cannot serve again.
- Select the WSBA president from the Board of Governors and have the president continue to serve as a voting member of the Board. Currently, the Board may elect any active WSBA member as president, and the president may cast a vote on Board matters only if the president’s vote will affect the result.
- Reduce the number of WSBA member-elected positions on the Board from 11 to nine to allow for the inclusion of two public, non-attorney members and one member who is either a limited practice officer or limited license legal technician. These three members would be appointed by the Supreme Court. The three current “at-large” positions would be retained to ensure participation by a young lawyer and members who reflect historically under-represented groups. To continue to ensure geographical diversity, the geographical districts represented by the elected Board members would be the three state Court of Appeals divisions rather than the U.S. congressional districts used now.
- Create a search committee, appointed by the Board of Governors, to solicit qualified candidates for the Board, while still permitting members to self-identify and apply for election.
- Repeal most provisions of the State Bar Act, with that statute then serving simply to create the WSBA as an agency “within the judicial branch” under the Supreme Court’s control. Although the State Bar Act is the statute that created the WSBA in its current form, many of its procedures have been superseded by court rules and conflict with the way the Bar operates today.

WSBA President Patrick Palace limited discussion of the report to one hour to ensure time for the remaining items on the day’s agenda. It was clear the discussion could have lasted much longer, as Board members and other meeting participants voiced their reactions to the recommendations.

Much discussion focused on three major themes woven throughout the report: 1) that it is the Supreme Court, not the Board, that holds ultimate legal authority over the WSBA, 2) that the WSBA’s primary duty is to regulate the practice of law for protection of the public, rather than acting as a trade organization for lawyers, and 3) that Board members are guardians for the interests of the WSBA as an organization rather than politicians beholden to their “constituents” (the members who vote for them or support their appointment).

Concerns expressed by governors about the recommended changes included the following: that they would reduce WSBA members’ belief that the Board gives them a voice in the governance process and that Bar services that assist and support members will remain valued by the organization; that changes such as the reduction in elected positions and switch from congressional to appellate court districts will reduce geographical diversity; and that the proposed search committee and a related recommendation regarding minimum standards for candidates would increase the “elitist” perception some Bar members already hold regarding Board selection and governance. Board members and others also questioned the practicality and appropriateness of giving the Supreme Court veto power over a Board decision to fire the executive director or chief disciplinary counsel, which the task force intended as a protection against the unlikely but conceivable prospect of a board “going rogue” at some point.

Task Force Chair Rima J. Alaily, who presented the report at the meeting, replied to the concerns by explaining that the task force kept an open mind throughout the process but also paid heed to the applicable law that makes the Supreme Court the ultimate authority over the Bar and makes protection of the public the highest priority. Gov. Paul Bastine, who served as the Board’s liaison to the task force, remarked that...
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Washington State Bar Association
the overall purpose of the recommendations was to maintain the integrity of the profession, which would in turn increase the chances that it will be allowed to remain primarily self-regulated rather than being turned over to an entirely independent regulatory body, as is periodically proposed by legislators and others.

**District 8 Governor Election**
The Board elected Andrea Jarmon as the new governor from the 8th District. She begins a three-year term, replacing outgoing Gov. Bill Viall. No candidates filed for regular membership election for the 8th District position this year. Accordingly, as required by the WSBA Bylaws, the Board solicited candidates for election by the Board. Besides Ms. Jarmon, WSBA members Jean Bouffard, Roberto Castro, Stephania Den- ton, and Nikolay Kvasnyuk applied and were interviewed by the Board at the April 25 meeting. Ms. Jarmon was then elected by secret ballot.

A 2004 graduate of the University of Washington School of Law, Ms. Jarmon is a tenure track faculty member in the paralegal program at Tacoma Community College. She has previously served as an assistant attorney general for the Washington State Attorney General’s Office, an assistant city attorney for the Seattle City Attorney’s Office, and city prosecutor for the Auburn City Attorney’s Office.

**Indigent Defense Standards**
The Board voted to approve amendments to the Standards for Indigent Defense, which had been discussed at the March 7-8 Board meeting. The amendments include clarification that attorney experience is a factor in the composition of case types, but is not a factor in adjusting the applicable numerical caseload limits. They also provide that those with less than six months of full-time criminal defense experience as attorneys should not be assigned more than two-thirds of the applicable maximum numerical caseload limit. The amendments further recognize that first appearance, arraignment, or routine review hearing calendars call for a proportional reduction of an attorney’s maximum caseload limits that take into account attorney preparation for and appearance at such calendars, and establish that this provision applies even if case weighting is not used by the jurisdiction involved. The amendments are subject to approval by the Supreme Court.

**Executive Director Evaluation Process**
The Board approved a proposal to spend up to $20,000 to hire the Waldron consulting firm to design and carry out an upgraded annual evaluation of the WSBA executive director, a task that previously had been performed by an in-house personnel committee. Continued evaluations by the firm would require additional authorization by the Board and likely would cost less, as the initial fee includes the cost of setting up the process. NWL

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Writers have long asked whether they should use one space or two after a period. People often express vehement opinions on the matter. The debate is important enough to merit a Wikipedia entry (www.en.wikipedia.org/wiki/sentence_spacing).

Given this debate, how should a writer go about deciding whether to use one space or two? I have identified four salient factors: 1) readability; 2) aesthetics, including consistency of appearance; 3) effort; and 4) environmental cost. Based on my review of these factors, I recommend using one space after periods.

Before I begin this analysis, let me note that I have excluded the recommendations of style manuals. Style manuals are not sources of immutable law. They are merely compilations of opinions held by other mortals, as fallible as any of us. If a writer is submitting a document to a publication that adheres to a particular style manual, then he or she should follow that manual — not because that manual is undeniable correct but simply because the publication has chosen to adhere to that convention. I am directing my comments here to writers who are more or less free from the dictates of style manuals.

Readability?
The first and most important factor, readability, concerns how easily readers can comprehend a written passage. If we could determine conclusively that either one space or two spaces after a period resulted in improved readability, then the analysis would end there.

But no one has yet demonstrated that either one space or two makes a document more readable. The Wikipedia entry “Sentence Spacing Studies” reports that scientific studies fail to support either single spacing or double spacing (www.en.wikipedia.org/wiki/Sentence_spacing_studies#leo03). I have not reviewed the original sources, but I believe that they are correct.

People do not read in linear fashion, one word at a time. Our eyes jump rapidly, almost randomly, from one part to the other of the visual field in movements called “saccades.” Our brains then stitch this almost chaotic information into a more or less coherent whole. This process is entirely unconscious: we are not aware of the saccades or of the neurological effort that results in our false impressions of a smooth, coherent world (see, e.g., Daniel C. Dennett, Consciousness Explained, at 54, 111–13, 354–55, 361–62 (Boston: Little, Brown, 1991)).

Because our eyes work this way, it should be no surprise that we do not in fact read word by word, but in phrases or clumps of words. Accordingly, it should be no surprise that relatively minor differences in spacing have no measurable effect on readability.

Aesthetics
The factor of aesthetics covers multiple topics. Most aesthetic preferences devolve into mere convention or personal preference. If a writer learned to type using two spaces after a period,
then he or she is far more likely to believe that documents look better when prepared the old-fashioned way. By contrast, persons trained in typesetting or typography are more likely to prefer using one space after periods, as that has been the dominant typographical style for the past few decades.

If everyone adheres to a harmless convention, then there is no need to change it. At this time, though, we are engaged in a style war important enough to warrant the spilling of at least digital ink. Because we cannot identify a single convention, we should base our conclusion on some principle other than conventional or personal taste.

One aesthetic claim — that is, a preference for consistency of appearance — has greater persuasive power. Good writers generally strive to make their documents appear consistent even in nonessentials, as consistency is a hallmark of carefulness in writing. This perception about nonessentials carries over to perceptions about essentials — that is, the validity or reliability (or beauty) of the writer’s claims. Accordingly, I recommend that writers in general adopt approaches or techniques that will be more likely to achieve consistency of appearance.

Writers will generally find it easier to achieve consistency of appearance by using one space after periods, rather than two. I can attest that documents prepared using two spaces after periods will often feature inconsistent spacing. Some sentences may have one space after the period; others may have three spaces after the period; and others may have two or more spaces between words within a sentence.

If a word-processed document uses single spacing, it is relatively simple to eliminate all extra spacing. I search for two spaces and replace them with single spaces. I repeat the process until I cannot find any instances of double spacing. I know then that the document does not contain any instances of double spacing after periods and is thus consistent, at least in that regard.

It is much more difficult to ensure consistent spacing in documents using two spaces after periods. A writer (or proofreader) could follow a multistep process: 1) search and replace all “period + two spaces”; 4) review the document to correct all instances in which it is improper to have two spaces after a period — for example, in ellipses, in abbreviations, in citations, and after honorifics or titles such as “Mr.,” “Ms.,” and “Dr.” This process is obviously more complicated than the simpler process of replacing two spaces with one. Moreover, because this process relies on a proofreader to notice problems, it is more likely to result in errors than the more machine-oriented approach that I suggest.

In short, the factor of aesthetics, including the subfactor of consistency of appearance, weighs in favor of using one space after a period rather than two.

**Effort**

This analysis also applies to the factor of effort — that is, how hard it is to prepare a document that uses consistent spacing. In general, it is easier to use one space rather than two after periods. Obviously, it takes less effort to press the space bar once rather than twice. And it takes less effort to use the search-and-replace function to create a consistent document using single spaces after periods.

In regard to effort, some writers claim that they have used two spaces after periods for such a long time that they cannot train themselves to use one space. That claim may be true for individual writers, but such a claim cannot logically support the very different claim that everyone should use two spaces after periods. It may be the case that some smokers cannot give up smoking, but that does not mean that everyone should smoke.

I also doubt the general truth of the claim. I learned to type in 1972, using a manual Royal typewriter. I typed many thousands of pages using two spaces, rather than one, after periods. I cannot remember when I adopted the one-space style, but I believe that I did so at some time after 2002 — in short, after at least 30 years of using two spaces. Admittedly, I had to work hard to change my style. But I did it. Given my experience, I suspect that many people who claim that they cannot change simply do not want to change. Further, even if an individual writer simply cannot retrain himself or herself to use one space rather than two, he or she can achieve a more consistent style by using the simple search-and-

**Environment**

The final factor is environmental cost. Documents that use two spaces after periods will necessarily be somewhat longer than documents that use one space. In some cases, the difference will be insignificant. But sometimes the use of two spaces after periods will result in higher page counts. If the document is long enough, it will almost necessarily have a higher page count. I have been able to reduce the page length of briefs simply by converting from two spaces to one after periods.

I personally believe that we should take all reasonable steps to use less paper. Because the one-space style uses less paper overall, I recommend that all writers use that style consistently. If we do, we will decrease the amount of paper that we use. And that is a good thing.

**Summary**

To summarize, research regarding the most critical factor, readability, does not favor either the one-space or the two-space style. But the other three factors — aesthetics, effort, and environmental cost — weigh in favor of using one space rather than two. In particular, it is undeniable the case that using one space after periods will reduce paper use.

I therefore recommend that all writers use one space after periods rather than two. NWL.

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Daniel Gunter is an attorney with Riddell Williams P.S. of Seattle. Before attending law school, he earned bachelor’s and master’s degrees in English and taught writing at the college level. He also spent 10 years editing scholarly books for university presses. He can be contacted at dgunter@riddellwilliams.com.
In 1851, physician Samuel A. Cartwright described a “mental illness” called “dopetomania” that caused slaves to run away from their masters. In support of this new diagnosis, Cartwright referenced passages of the Bible that called for a slave to be submissive to his masters. Slaves who failed to submit, therefore, must be mentally ill. The cure was to punish slaves until they “fall into that submissive state which was intended for them to occupy.”

While such a diagnosis is bizarre to modern ears, could states bar practice of Cartwright’s proposed “treatment” of dopetomania, or would it violate Cartwright’s freedom of speech or religion? This issue arises today in the context of sexual orientation change efforts (SOCE), also known as conversion therapy or reparative therapy.

What are Sexual Orientation Change Efforts?

SOCE is a method of therapy intended to convert a person’s sexual orientation from gay to straight. SOCE techniques have been described as:

including both aversive and non-aversive treatment . . . In the past, aversive treatments included inducing nausea, vomiting, or paralysis; providing electric shocks; or having an individual snap an elastic band around the wrist when aroused by same-sex erotic images or thoughts. Even more drastic methods, such as castration, have been used. Today, some non-aversive treatments use assertiveness and affection training with physical and social reinforcement to increase other-sex sexual behaviors. Other non-aversive treatments attempt to change gay men’s and lesbians’ thought patterns by reframing desires, redirecting thoughts, or using hypnosis, with the goal of changing sexual arousal, behavior, and orientation.

A small number of mental health providers continue to practice and advocate for SOCE therapy. However, many professional medical and psychological associations oppose SOCE stating that being gay or lesbian (or “being homosexual”) is not a disease and that SOCE is cruel and ineffective.

This issue arises in Washington in the context of proposed legislation which would prohibit licensed mental health practitioners from using SOCE on children under the age of 18. The bill cited SOCE’s effects of inducing guilt, anxiety, suicidality and many other dangers, as well as being a violation of human rights.

Washington’s law would also bar similar techniques to change children’s gender expression. Like attempts to alter sexual orientation, professional organizations oppose attempts to alter gender identity as harmful and ineffective. The World Professional Association for Transgender Health explains, “Treatment aimed at trying to change a person’s gender identity and expression to become more congruent with sex assigned at birth has been attempted in the past without success.” The American Psychological Association confirms that “It is not helpful to force the child to act in a more gender conforming way.”

Limitations of SOCE Bills

Anti-SOCE laws do not prohibit SOCE in all circumstances. Particularly, SOCE laws do not:

- Prevent mental health providers
For guidance, the court looked to Supreme Court precedent on whether information related to medical treatment is protected speech.

The laws therefore prohibit mental health practitioners from practicing SOCE on minors, but do not entirely bar advocacy or use of it in other contexts.

Current Legal Status of SOCE

Within the United States, it is now unprofessional conduct in California and New Jersey for licensed mental health providers to employ SOCE. Washington, along with Massachusetts, Pennsylvania, Ohio, New York, and Illinois, have all considered similar legislation. Both California’s and New Jersey’s laws have been challenged on First Amendment grounds, and both have, thus far, withstood those court challenges.

The California Cases

Plaintiffs including SOCE practitioners, SOCE advocacy organizations, and children and parents of children undergoing SOCE challenged the California law as infringing upon the First Amendment. The challenge in California hinged on whether psychotherapy is protected speech under the First Amendment. Federal district courts in California split on the constitutionality of its law. The court in Welch v. Brown granted an injunction, holding that the California bill restricted the content of speech and was therefore subject to strict scrutiny, a level of scrutiny the state was unlikely to meet. The district court in Pickup v. Brown held that because the California bill barred only treatment, but not communication about treatment, the bill was a regulation of conduct rather than speech. The Ninth Circuit consolidated the cases to review the decisions.

Speech or Conduct?

The Ninth Circuit began by examining whether a law barring SOCE treatment constituted a ban on speech or instead a ban on conduct. For guidance, the court looked to Supreme Court precedent on whether information related to medical treatment is protected speech. In the plurality opinion in Planned Parenthood v. Casey, the court held that a physician’s First Amendment rights not to speak did not protect the physician from having to provide state-mandated information about abortion. As the plurality noted, “the physician’s First Amendment rights not to speak are implicated, but only as part of the practice of medicine, subject to reasonable licensing and regulation by the state.”

From this, and its prior precedents on whether psychotherapy is protected speech, the Ninth Circuit concluded that “communication about treatment must be closely scrutinized. But a regulation of only treatment itself . . . implicates free speech only incidentally, if at all.” To hold otherwise would “make talk therapy virtually immune from regulation.” The court also rejected the idea that talk therapy was protected expressive conduct, explaining that “any effect . . . on free speech interests is merely incidental” and that “doctors are routinely held liable for giving negligent medical advice to their patients . . . A doctor may not counsel a patient to rely on quack medicine. The First Amendment would not prohibit the doctor’s loss of license for doing so.”

Additionally, plaintiffs raised claims that the statute was vague in defining “Sexual Orientation Change Efforts” and “sexual orientation,” overbroad, violated rights of free association, and violated the fundamental rights of the parents who wanted to have their children exposed to SOCE. The court dismissed each of these challenges based upon the fact that the statute only affected the rights of the licensed medical practitioners to practice SOCE, and they would understand what was meant by the term of art “SOCE.”

The Ninth Circuit denied a petition for rehearing en banc, with three judges dissenting, asserting that the decision, “contrary to common sense and without legal authority, simply asserts that some spoken words are not speech.”

The New Jersey Case

In King v. Christie, the Federal District Court of New Jersey heard a First Amendment challenge to New Jersey’s law regulating SOCE. The court agreed with the analysis the Ninth Circuit employed in
determining whether talk therapy constituted conduct or speech, and rejected a freedom of speech challenge to the statute.28 Additionally, the court added, “the mere fact that counseling is carried-out speech is not alone sufficient to show that [the statute] has an incidental effect on speech. Plaintiffs must also show that counseling is inherently expressive conduct — i.e., that talk therapy 1) is intended to be communicative and 2) would be understood as such by their clients.”29 The court also dismissed vagueness and overbreadth claims for similar reasons as the Ninth Circuit.30

The New Jersey district court went on to consider a free exercise claim that barring SOCE infringes upon mental health practitioners’ religious freedom. “Here, [the statute] makes no reference to any religious practice, conduct, or motivation. Therefore, on its face, the statute is neutral.”31 The court also concluded that the statute did not discriminate between minors seeking sexual orientation change for religion or for another purpose.32

The plaintiffs in King v. Christie have appealed to the Third Circuit.33

**Potential Differences in the Washington Statute’s Constitutionality**

Although the Washington legislation failed to pass in the 2013–14 legislative session, questions remain as to whether, as proposed, it would be constitutional under the Washington Constitution. In particular, the Washington statute raises the issue of how the Washington State Constitution might, on free exercise grounds, independently restrict the bill.

Article I Section 11 of the Washington Constitution is more protective of free exercise claims than the First Amendment. In order to make a claim under Article I Section 11, a plaintiff must show that the government practice has a coercive effect on the practice of religion. If so, the burden shifts to the government to prove the restrictions serve a compelling state interest and are the least restrictive means of accomplishing the state’s objectives.35 “[Article I, Section I] of the Washington Constitution provides broader protection of religious freedom” than the First Amendment by subjecting even laws of general applicability to higher scrutiny if they have a coercive effect on religion.36

The version of the Washington bill that passed the House has attempted to avoid a conflict with religion by providing that the bill would not “be construed to apply to religious practices or counseling under the auspices of a religious denomination, church, or organization that do not constitute the performance of” SOCE.37 Whether this kind of exemption would save the law from an Article 1, Section 11 challenge remains to be seen.

**Ongoing**

The constitutional issues involved with barring SOCE therapy are complicated, and legislative efforts and litigation are ongoing. The Sexual Orientation and Gender Identity Legal Issues (SOGILI) section of the Washington State Bar is dedicated to providing up-to-date information on important topics for the community, and will be providing further education on issues regarding SOCE at its annual meeting later this fall. NWL

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**Lucy K. Sharp is the attorney resource and support project liaison of the WSBA Sexual Orientation and Gender Identity Legal Issues Section. She is also a genderqueer pansexual attorney and activist who has collaborated with Legal Voice, the ACLU of Washington Foundation, and Ingersoll Gender Center.**

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**NOTES**

3. Id. at 1049.
5. Id. at Sec. 2.
8. Supra n. 2 at 10409–50.
14. Supra n. 12.
16. Supra n. 2 at 1050.
18. Supra n. 2 at 1051.
20. Id.
22. Supra n. 2 at 1056.
23. Supra n. 2 at 1056-1061.
24. Supra n. 2 at 1055.
25. Supra n. 2 at 1057.
26. Supra n. 2.
30. Id. at 51–60.
31. Id. at 50.
32. Id. at 62.
33. Id. at 63.
36. Id. at 381.
Conversion of Washington Domestic Partnerships to Marriages and Immigration Law

by Caleb M. Oken-Berg and André Olivie

When Washington voters approved marriage for same-sex couples in 2012, a lesser-known provision of the marriage equality law will cause all existing registered domestic partnerships to automatically convert to marriages at the end of this month. Same-sex couples who registered as domestic partners in Washington will find themselves legally married on June 30, unless one partner is over the age of 62 or the parties have commenced or finalized a dissolution of the domestic partnership in court. Given that marital status can be a key factor in immigration law, this automatic merger of partnerships to marriage stands to impact gay and lesbian individuals navigating the U.S. immigration system.

This article will review the relevant background of Washington’s auto-conversion law, as well as the history of U.S. immigration laws for lesbian, gay, bisexual, and transgender (LGBT) individuals and families. The potential negative and positive impacts of Washington’s auto-conversion law on U.S immigration law, specifically as it relates to gay and lesbian individuals and their families, will also be explored. Practitioners are advised that because this is a rapidly changing area of the law, up-to-date information should always be sought when advising clients in this area. This article is intended to provide general information at the time of writing, and should not be construed as legal advice or opinion.

Auto-conversion: How Did We Get Here?
The Washington Legislature passed the state’s first domestic partnership law for same-sex couples in 2007. The initial law provided registered domestic partners with limited legal protections. The state expanded the rights afforded to domestic partners in 2008. In 2009, Washington voters approved the state’s “everything but marriage” law, which conferred over 500 state-based rights and obligations of marriage (with some limited exceptions). On December 6, 2012, following the passage of Referendum 74 by the voters, Washington legalized marriage for same-sex couples.

Although same-sex couples in Washington were able to legally marry in 2012, they were unable to access over 1,100 federal rights and benefits afforded to opposite-sex married couples. This inequity existed because of the Defense of Marriage Act (DOMA), passed by the United States Congress and signed by President Clinton in September 1996. DOMA defined
“spouse” as referring to a person of the opposite sex who is a husband or a wife. Section III of DOMA federally defined marriage as “a legal union between one man and one woman as husband and wife.” DOMA required that the one man/one woman definition be used exclusively when determining the meaning of any act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States (including the United States citizen and Immigration Services and the U.S Department of Homeland Security). Section II of DOMA, which remains in effect today, allows for states to refuse recognition of any act, record or judicial proceedings or a right or claim arising from a same-sex marriage or legal union formed in other jurisdictions.

The U.S. Supreme Court struck down Section III of DOMA on June 26, 2013, in the landmark case of United States v. Windsor. In a 5–4 decision, the U.S. Supreme Court held that Section III of DOMA was an unconstitutional violation of the due process clause of the Fifth Amendment. For married same-sex couples living in Washington (and other states that recognize such marriages), the Windsor ruling meant full access to all federal rights and obligations of marriage. It also meant that federal immigration agencies began to recognize the marriages of same-sex couples.

**Merging to Marriage on June 30**

Shortly before marriage was legalized for same-sex couples in Washington, around 10,000 couples had registered as domestic partners in Washington. Washington law will limit domestic partnerships exclusively to seniors as of July 1, 2014. The Secretary of State sent out notices to all state registered domestic partners in January 2013 and March 2014, informing them that their partnerships would automatically merge into marriages on June 30, 2014, if they did not get married first or no action was taken to dissolve the partnerships.

The Washington State Department of Health established in March 2014 that marriage certificates for former registered domestic partners will reflect both the date of marriage and the legal date of the union (the date a couple registered as domestic partners).

For those couples who registered as domestic partners in Washington, but have since moved to a state that does not recognize same-sex unions, an auto-conversion of the partnership to marriage may not be avoidable. In order to file for dissolution of a domestic partnership or marriage in Washington, at least one party must be a resident of the state or be a member of the armed services and stationed in the state. Resident is defined in Washington as being domiciled in the state by both physical presence and an intention to remain permanently in the state.

Auto-conversion only applies to domestic partnerships registered in
Washington state. Same-sex couples who reside in Washington, but who have entered into a legal union other than marriage (such as a domestic partnership or civil union) outside of Washington, will not have their status automatically converted to marriage on June 30. Washington state will recognize a legal union other than marriage that is entered in another jurisdiction and treat it as a marriage, as long as the union provides “substantially” the same rights, benefits, and responsibilities as marriage and is not prohibited by kinship or marital status. However, if a couple with a domestic partnership or civil union from another state moves to Washington, the couple must get married in Washington within one year of becoming residents of the state if they wish to continue having the rights of marriage.

The Alien Spouse
Nearly all avenues of immigration to the United States include options for married spouses, but there are very few avenues for domestic partners or members of civil unions. A U.S. citizen or lawful permanent resident (LPR) may petition for permanent residence for their alien spouse. An alien wishing to study in the U.S. on an F-1 visa may obtain an F-2 visa for his or her spouse. An alien working in Washington on an H-1B visa may bring their spouse to the state on an H-4 visa. Spouses of refugees and those granted asylum can receive derivative refugee status or asylum as long as the marriage took place prior to the grant of refugee or asylum status.

U.S. immigration law defines spouse, but does not specifically address same-sex marriage. Marriages will be considered valid for the purposes of U.S. immigration law if the marriage complies with the laws in the jurisdiction where the marriage ceremony has taken place, as long as any prior marriages have been terminated. Spouses must be physically present during the marriage ceremony, unless the marriage was consummated. Marriages that would be void under state law as contrary to public policy, or that are not recognized by federal law, will not be considered valid for immigration purposes. The place of marriage, the date of marriage, and the manner in which a couple is married impacts how a couple is treated under U.S. immigration law.

LGBT Aliens and Same-Sex Bi-National Couples
The treatment of LGBT aliens in U.S. immigration law has evolved over time. For several centuries, gay and lesbian aliens were prevented from immigrating to the United States. Immigration law barred LGBT aliens on health grounds, stating that they were afflicted with psychopathic personality, sexual deviation or mental defect, including homosexuality. The U.S. law excluding “sexual deviants or psychopathic personalities” was not formally repealed until 1990. The U.S. banned aliens with HIV from immigrating to this country until 2009.

Decades before DOMA was enact-
ed, the U.S. immigration and naturalization agencies refused to recognize same-sex marriage. When the U.S. did begin allowing gays to immigrate, immigration agencies found other ways to deny benefits to same-sex spouses. For example, in the 1982 case of Adams v. Howerton, a gay U.S. citizen petitioned the INS for family recognition of his Australian spouse. The INS adjudicator denied the petition, writing that the couple “failed to establish that a bona fide marital relationship can exist between two f**gots.” The U.S. citizen filed suit in federal court, but the United States Court of Appeals for the Ninth Circuit held that the term “spouse” referred to an opposite-sex partner for the purposes of immigration law and that the agency’s definition met rational basis review.

In 1996, when DOMA was enacted, the law gave INS a clearer directive regarding same-sex spouses. As federal agencies, U.S. immigration authorities were prohibited from recognizing same-sex marriages, even if the unions were lawful in the jurisdiction in which they were performed. In 2004, United States Citizen and Immigration Services (USCIS) issued a policy memo confirming that the agency had no legal authority to permit recognition of homosexual relationships as marriages for immigration purposes.

On June 26, 2013, following the U.S. Supreme Court’s decision in Windsor v. United States, the U.S. Department of Homeland Security (DHS), and the U.S. Department of State immediately issued statements reversing their policy on same-sex marriage and confirming that the agencies would treat all married couples equally. Aliens who previously registered as domestic partners in Washington and will now have their partnerships converted into marriages must consider a number of immigration consequences. In practical terms, this auto-conversion may have both positive and negative consequences for same-sex couples navigating the immigration system in the United States.

**Potential Immigration Benefits of Backdating a Marriage**

The date of marriage can be particularly important in U.S. immigration law. When the auto-conversion takes effect, the legal date of marriage will be backdated to the date the domestic partnership was first registered with the Secretary of State. The following types of immigration situations may be impacted by this conversion:

**Conditional Permanent Residency.** Spouses who seek green cards based on a marriage to a U.S. citizen or lawful permanent resident are treated differently depending on the length of the marriage at the time the case is being adjudicated. An alien spouse who has been married more than two years will receive lawful permanent residency with no end date to his or her residency in the United States. However, an alien spouse who has been married less than two years is only eligible to receive a conditional lawful permanent residence for two years. Prior to the expiration of con-
ditional residency, the spouse must apply to remove the conditions and again prove the *bona fides* of their relationship to the federal government. This process has significant financial costs, can include processing times of six months to a year, and for some, may lead to placement in removal proceedings if he or she is unable to prove *bona fides*.

Marriage equality for same-sex couples is less than two years old in Washington, which means that many of Washington’s bi-national same-sex couples have been married for less than two years in the eyes of U.S. immigration authorities. Even if a couple has been registered as domestic partners for more than two years, up until June 30, such couples are only eligible to receive conditional residency for the foreign spouse, instead of permanent residency status.

**Derivative Asylum/NACARA/TPS Benefits.** Spouses of refugees, asylees, and beneficiaries of humanitarian immigration statuses such as protection under the Nicaraguan Adjustment and Central American Relief Act and Temporary Protective Status are eligible to receive derivative status based on their marriage to the principal applicant. However, derivative status will only be granted if the marriage took place prior to the date the principal applicant’s case was granted. For example, if a foreign national in a Washington state same-sex domestic partnership has applied for and received asylum, his or her domestic partner would not have been eligible to receive derivative status. However, if auto-conversion slides back the date of marriage such that it now occurred prior to the grant of asylum, the spouse may now have an opportunity for derivative asylum. This situation has clearly not been tested in Washington, but certainly highlights the legal gray areas that are likely to be litigated in asylum law in the coming years.

**Naturalization.** Lawful permanent residents are generally eligible to apply for admission for naturalization after five years of living continuously in the United States. However, those persons who have been both an LPR for three years and a spouse of a U.S. citizen for the same three years are eligible to apply for naturalization two years early. If an LPR has been living in the U.S. in a Washington same-sex domestic partnership with a U.S. citizen for three years, auto-conversion should backdate the effective date of the marriage and allow the LPR to apply early for naturalization.

**Potential Negative Immigration Effects of Auto-conversion**

**Immigrant Intent.** The U.S. immigration system is divided into two categories: immigrants and non-immigrants. Visitor, student, and temporary work visas require that the alien have a
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non-immigration intent along with an intent to return to the home country following the temporary stay in the United States. At each entry into the U.S., Customs and Border Patrol will evaluate whether or not the alien entering on a non-immigrant visa has immigrant intent. Marriage to a U.S. citizen or LPR would be a red flag to an officer looking for immigrant intent. Prior to the Windsor decision, many same-sex couples tried to avoid separation from their spouses by remaining on non-immigrant visas. Many of these couples may have deliberately chosen to register as domestic partners and not to get married in the U.S. in order to avoid the potential hazard of having “immigrant intent.” The auto-conversion of domestic partnerships to marriages may affect those individuals who must remain on non-immigrant visas from demonstrating non-immigrant intent. However, given the federal government’s recognition of same-sex marriage, such couples may now be eligible to obtain a more legitimate and permanent means of remaining in the U.S.

**Termination of F2-B Visa Priority Date.** LPRs may sponsor their unmarried children over the age of 21 for F2-B immigrant visas. Unlike immediate relatives of U.S. citizens, these relatives must wait for a visa to be available. The current wait for this preference category has been about seven years for most countries, but over 20 years for Mexicans and 11 years for Filipinos. Each category has a different wait time, depending on the number of petitions filed.

In the case of LPRs, there is no preference category for married children (although there is a preference category for U.S. citizens). This means that if an unmarried child over 21 has been sponsored by their LPR parent and marries before the visa becomes available, they will lose their place in line. An adult child of an LPR waiting for a F2-B visa who has his or her domestic partnership automatically convert to a marriage will thus become ineligible for the visa upon merger of the partnership to marriage. A subsequent divorce does not get this person back in line. Any individual in such a situation would have to commence a domestic partnership dissolution proceeding prior to June 30, so his or her legal status will not automatically converted to marriage and eliminate the chance of obtaining an FB-2 visa.

**Transfer from FB-1 to FB-3.** Unlike children over 21 of LPRs, children over 21 of U.S. citizens will not lose a place in the visa lines if a marriage automatically occurs before the visa is available. However, a marriage would move these adult children from the FB-1 category for unmarried children over 21 of U.S. citizens to the FB-3 preference category for married children over 21 of U.S. citizens. The current wait for FB-1 is seven years for most countries and 21 years for Mexicans and 12 for Filipinos. In practical terms, auto-conversion for an adult alien child of a U.S. citizen will mean that his or her wait time for a visa could be extended by at

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[Image of chess board with images of Mark Johnson and Donovan Flora]
least several years, if not more.

Conclusion
Practitioners should be advised that the issues discussed in this article are part of a new and changing area in U.S. immigration law. U.S. citizen and Immigration Services and the Department of Homeland Security has confirmed that the law of the place where the marriage was celebrated determines whether the marriage is legally valid for immigration purposes.\textsuperscript{32} The potential outcomes discussed in this article are subject to change and may vary depending on each client’s particular circumstances. \textit{NWLawyer}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{image.jpg}
\caption{Caleb Oken-Berg practices family law at Skellenger Bender, P.S. in Seattle. He represents clients in dissolution matters, contested parenting cases, and LGBT-specific legal issues. Caleb serves on the Board of Directors for QLaw (the LGBT Bar Association of Washington). He can be reached at coken-berg@skellengerbender.com.}
\end{figure}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{image2.jpg}
\caption{André Olivie practices LGBT immigration and asylum law at the Law Office of André Olivie, PLLC, located in Seattle. He is a 2009 graduate of the Seattle University School of Law and a member of QLaw, South Asian Bar Association of Washington and the American Immigration Lawyers Association. He can be reached at andreolivie@yahoo.com.}
\end{figure}

5. 1 U.S.C §7.
6. 28 U.S.C. §1738C.
9. WSR 14-04-092.
13. INA §101(a)(35).
14. 9 FAM 401.1 N1.1.
17. 74 FR 56557-62 (Nov 2nd, 2009).
18. \textit{Adams v. Howerton}, 673 F.2d 1036 (9th Cir. 1982).
22. WSR 14-04-092; RCW 26.60.100(4).
23. INA §201(b)(2)(A)(i).
24. INA §216(h)(1)(c).
25. INA §(208(b)(3)(A).
26. 8 CFR 208.21.
27. INA §316(a).
28. INA §319(a).
29. INA 214(b).
30. INA §203(a)(2)(B).

Notes
1. RCW 26.60.100(3).
3. RCW 26.60.015.

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Congratulations to those who passed the Bar Exam administered in February 2014! Of the 334 candidates who took the exam, 237 passed.

A
Abdul-Fields, Amina | Spokane
Acosta, Raquel | Ellensburg
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Campos, Derik Ramon | Kirkland
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Carlson, Joel Russell | Spokane
Case, Brian Rene | Spokane
Chase, Andrew | Okanogan
Coats, David | San Diego, CA
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Cox, Emily Carole Eleanor | Seattle
D
da Costa, Cassandra Marie | Seattle
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Davidson, Nolan Forrest | Bellingham
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Earl, Michael Glen | Moses Lake
Edwards, Judson | Columbia, SC
Eichman, Charissa Ann | Boise, ID
Espinosa Arguello, Rita Maria | Seattle

F
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Farleigh, Jenna Golda | Seattle
Farquhar, Stephen John | Los Angeles, CA
Fay, Nicholas A. | Bellingham
Feinstein, Joshua David | Seattle
Federer, Jake Tyler | Redmond
Foerster, Drew Harrison | Seattle
Foss, Emily Ann | Seattle
Fung, Carina Yea-Fae | Mukilteo

G
Gamble, Katherine Rose | Port Townsend
Garcia-Salgado, Rafael Ramon | Chicago, IL
Garrett, Desean | Portland, OR
Gasper, Nikki Marie | Federal Way
Ginapp, Micah Isaiah | Oxford, OH
Glaesman, Lucas | Lake Saint Louis, MO
Glenn, William | Seattle
Goze, Yuno | Ferndale, WA
Gregersen, Chelsea Maureen | Raleigh, NC
Grisel, Richard Allen | Portland, OR

H–I
Hancock, Julie | Los Angeles, CA
Hansford, Brian Jeffrey | Olympia
Hartman, Brock MacCabe | San Diego, CA
Hassakis, Greta Ann | Seattle
Hata, Andrew | Oakland, CA
Heah, Li Yew | Olympia
Heilman, Garrett | Spokane
Henry, Emily P. | Snohomish
Herrman, Sarah Lindsay | Bellevue
Herrmann, Alicia Bernardine | Seattle
Hilliard, Elizabeth Bodwell | Washougal
Hockett, Kari Lynn | Mount Vernon
Hughes, Heidi Ann | Seattle

J
Jager, Ryan Wayne | Seattle
Janz, Matthew | Pullman
Jenkins, Lynnette Rene | Renton
Johnson, Allegra Sims | Edmonds
Johnson Blessing, Bernice L. | Mercer Island
Jones, Nicole Marie | Steilacoom
Jorgensen, Paul | Renton

K
Kaplan, Laura Gabrielle | Olympia
Kendall, Adam Wolford | Seattle
Kerber, Sarah Rae | Seattle
Kiewik, Nicholas | Olympia
Kim, Steve | Mukilteo
Kim, Tony Hyungtaek | Bothell
Kim, Theresa Minjung | Calgary, AB
Kim, Yong Seong Seong | Bothell
Kinsey, Wayne | Chandler, AZ
Kirschner, Jeramy | Las Vegas, NV
Koch, Tim William | Yakima
Kwon, Sun Jae | Duluth, GA

L
Lam, Lillian My-Hoang | Federal Way
Leavitt, Eric Andrew | Spokane Valley
Lee, Claire Sehwa | Akron, OH
Lee, Sangmin | Gyeonggi-Do, South Korea
LePierre, Dallas | Tampa, FL
Lewis, Christopher John | Seattle

Liebenzon, Matthew William | Seattle
Lovelace, Teja Michel | Seattle
Lucas, Michelle Corpuz | Seattle
Lutzenhiser, Jeannine Blackett | Poulsbo

M
Maginnis, Kristen | Sammamish
Maher, Ian Benzerl | Longview
Malyon, Kelsie Ann | Redmond
McClain, Alysoha Conan | Portland, OR
McElearney, Charles Edmond | Seattle
McKelvey, Patrick | Seattle
McKinley, Christy May | Covington
McKinnie, Shane Jacob Martin | Seattle
McLaughlin, Michael David | Tacoma
McNally, Megan E. | Seattle
Metzler, Andrew Logan | Seattle
Miller, Lariari Catherine | Spokane
Milton, Nicholas Adam | Spokane
Mineo, Nicholle Safavi | Bellevue
Mitchell, Anita Janee | Bonney Lake
Moceri, Mike | West Richland
Moffitt, Jonathan | Seattle
Mohan, Maryanne Elizabeth | Olympia
Montana, Marcus Trent | Seattle
Montané, Kristina René | Seattle
Mroczek, Danielle Renée | Seattle
Muir, Melissa | Seattle
Munroe, Lorelei Lise | Mercer Island

N
Nelson, Aaron Ward | Centralia
Nguyen, Olivia Tho-Xuan Thi | Seattle
Nguyen, Nam Duc | Sugar Land, TX
Nguyen, Peter | Seattle
Nigro, Autumn Nicole | Camas
Noble, James | Vancouver, BC

O
O’Donnell, Timothy Patrick | Mercer Island
Ohler, Nathan | Boise, ID
Olson, Lisa Marie | Vancouver
Oml, Desiree Montano | Los Angeles, CA

P
Parker, Matthew J. | Seattle
Parker, Heath A. | Auburn
Pastor, Alison Erin | Lakewood
Pederson, Holly Nicole | Redmond
Peger, Nicole Emily | Bothell
Perez, Mark | Portland, OR
Perry, Megan M. | Albany, OR
Petraszak, Theresa Janon | Bremerton
Pflug, Cheryl Ann | Tacoma
Pierce, Emily | Sonoma, CA
Piotke, David Aaron | Seattle
Polo, Jennifer Kathleen | Gig Harbor
Portarole, Nicholas Joseph | Cheney
Price, Dominique Yvonne | Newcastle

Q
Quick, Matthew Dean | Kirkland
Quinn, Eric Thomas Madsen | Lakewood

R
Rafter, John Grant | Seattle
Ragin, Caryn Varnessia | Tacoma
Rajunus, Matthew Dan | Seattle
Raymond, Kristin Mary | Seattle
Reibel, Josef Theodore | Seattle
Riedlinger, Caroline Allison | Odenton, MD
Riordan, Corey Patrick | Renton

Rose, Melanie Elizabeth | Beaverton, OR
Ross, Allin Kay | Seattle
Rothbose, Justin Robert | Anacortes

S
Sakamoto, Colin Brice | Ewa Beach, HI
Sanchez Batista, Nicole B. | Edmonds
Sanders, Christopher Michael | Seattle
Sandoval, Veronica | Seattle
Saunders, Scott | Palm Springs, CA
Scalia, Dominique Renee | Seattle
Schiewetz, Katie Grace | Federal Way
Scholz, Jack Robert | Portland, OR
Schreiber, Jennifer Elizabeth Moore | Seattle
Schoeder, Aiz | West Linn, OR
Scott, Brett Preston | Wenatchee
Segue, Ryan Dennis | Seattle
Sefarin, Jennifer | Tacoma
Serrano, Barbara Ayala | Seattle
Sherwood, Kelly Dale | Olympia
Shutts, Susan | Palmer, AK
Sigurdson, Christine | Silver Spring, MD
Sirianni, Kathleen O’Connor | Mercer Island
Skeel, Adam Justis | Seattle
Skidmore, Gregory Mark | Falls Church, VA
Sluman, Shaun Nathan | San Ramon, CA
Smith, Scott David | Bellevue
Stedman, Todd | Shoreline
Stein, Daniel | Chatsworth, CA
Stuart, Steven | Vancouver
Sullivan, Ryan P | Seattle
Sullivan-Leppa, Tristin Elizabeth | Lake Tapps
Swier, Wayne Kenneth | Eugene, OR
Switzer, Callie Catherine | Centennial, CO
Sy, Paolo Nario | Seattle

T
Thomas, John Edward | Seattle
Thomsen, Gregory Glen | Federal Way
Totten, Amy Lyn | Bellevue
Tran, Laurence | Bothell

U, V
Umetu, Laura | Seattle
Van Ackeren, Cheryl Lynn | Normandy Park
Van Vechten, Christopher Courtlandt | Tacoma
Vankirk, Anne Renee | Tacoma

W
Wade, Stephanie Catherine | Seattle
Waldo, Christine | Vancouver
Walters, Hayley Louise | Seattle
Wang, Shaw-Juin | Shaker Heights, OH
Wechseiblatt, Deborah Rose | Rochester, NY
Weitzel, Walker Griffin | Shoreline
West, Alex Kirby | Seattle
Weyant, Breezy Marie | Carnation
Whitehead, Nancy Karen | Seattle
Wickell, Leigh | Covington
Williams, Thomas Michael | Laie, HI
Wojciech, Maciej | Seattle
Wojaranowicz, Bethany Ann | Gig Harbor
Woo, Michael Pong Tai | Tacoma
Wood, Elisa Jean | Seattle
Wright, Christopher Phillip | Warren, PA
Wright, Katherine A. | Ormond Beach, FL
Wu, Dan Y. | Spokane
Wyrostek, Christopher Loren | Portland, OR

X, Y, Z
Yamada, Takao | Seattle


Need to Know presents news and information of interest to WSBA members.

**WSBA News**

**Just Released by WSBA-CLE Publications: Shareholder Litigation in Washington State**
(2014; softbound; 242 pages; $59) A ready reference for the Washington practitioner faced with potential shareholder litigation or considering legal remedies on behalf of a shareholder of a Washington corporation. With an editorial board consisting of five members of the securities defense bar and five members whose practice has traditionally been on the plaintiffs’ side of securities litigation, this publication provides a non-biased and fair description of the state of Washington law related to the issues most commonly raised in shareholder litigation. Order at www.wsbaCLE.org and enter SHBUS14D in search field.

**WSBA-CLE Recorded Seminars Now Available in Streaming Video and Audio MP3 Formats**
Did you know that half of the 45 CLE credits Washington attorneys must report every three years (including all 6 ethics credits) may come from audio/visual (A/V) credits provided by recorded seminars? Visit the WSBA online store at www.wsbaCLE.org and browse the newly expanded catalog of hundreds of full-day and shorter recorded seminars, including selected individual segments. All seminars include a PDF of the written course materials and are delivered directly to your “My CLE” account, making it easier than ever to receive timely and topical continuing legal education accessible at any time.

**WSBA Board of Governors Meetings**

**June 5–6, Seattle; July 25–26, Stevenson**
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 pamelaw@wsba.org. The complete Board of Governors meeting schedule is available on the WSBA website at www.wsba.org/bog.

**Legal Community**

**New Binder Policy for Western District of Washington**
Effective July 1, 2014, the U.S. District Courts of the Western District of Washington will no longer accept courtesy copies that are bound in three-ring binders. Courtesy copies must be three-hole-punched, tabbed, and bound with rubber bands or binder clips. Any courtesy copies delivered in three-ring binders will be returned to the filing party immediately. This policy does not apply to the submission of trial exhibits; parties are encouraged to contact each chambers prior to the filing of trial exhibits to determine how trial exhibits should be packaged. For more information, contact steven_crozier@wawd.uscourts.gov.

**Ethics**

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

**Search WSBA Advisory Opinions Online**
WSBA advisory opinions are available online at www.wsba.org/advisoryopinions. You can search opinions by number, year issued, ethical rule, subject matter, or keyword. Advisory opinions are issued by the WSBA to assist members in interpreting their ethical obligations in specific circumstances. The opinions are the result of study and analysis in response to requests from WSBA members. For assistance, call the Ethics Line at 206-727-8284 or 800-945-9722, ext. 8284.

**WSBA Lawyers Assistance Program (LAP)**

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

**Work + Wellness Webcast Series**
On Wednesday, June 18, from noon to 1:30 p.m., the WSBA Lawyers Assistance Program welcomes Patrick Palace and Sherry Williams to our monthly Work + Wellness Webcast Series Presentation, “Stress Less: Mindfulness 101.” Patrick is an award-winning and proud plaintiff’s trial lawyer, owner of Palace Law Offices and president of the WSBA Board of Governors; he is also a dedicated yogi and practices meditation and mixed martial arts to find balance in his life and practice. Sherry has been a family law attorney, a prosecutor, and most recently, a public defender for Pierce County; she currently teaches yoga, meditation, and mindfulness-based stress reduction (MBSR). Together, they will provide tools to utilize the strategy of mindfulness to cope more effectively with the stresses and demands of the legal profession. Learn how this scientifically proven stress-reduction strategy could not only benefit you in your practice, but enhance your quality of life. There is no cost for this presentation, and attendance can be either in-person at the WSBA Conference Center or via live webcast; registration is required. Learn more at www.wsba.org/lap.

**Individual Consultation**
The WSBA Lawyers Assistance Program provides individual consultation services for those struggling with depression, work stress, addiction, life transition, and other topics. The first three appointments are offered at no charge; up to three more sessions can be offered on a sliding scale.
Seeking Peer Advisors
Would you like to provide support to another lawyer in your community addressing topics such as mental health and self-care, alcoholism and addiction, or guidance in one’s practice? Lawyers are often uniquely able to be resources to one another in these areas. The WSBA Lawyer Assistance Program is launching a new initiative to reconstitute its peer advisor network. The goal is to build a robust network throughout the state. Skills trainings are being developed and planned. To participate or learn more, see http://bit.ly/104fpwN, contact lap@wsba.org, or go to www.wsba.org/lap.

Weekly Job Search Group
The Weekly Job Search Group provides strategy and support to unemployed attorneys. The group runs for seven weeks and is limited to seven attorneys. We provide the comprehensive WSBA job search guide, “Getting There: Your Guide to Career Success,” which can also be found online at www.tinyurl.com/7xheb8b. If you would like to participate or to schedule a career consultation, contact Dan Crystal at danc@wsba.org, 206-727-8267, or 800-945-9722, ext. 8267.

Help for Judges
Judicial Assistance Services (JAS) was created in 2004 by a committee of Washington state judges exploring how to get judicial officers confidential help and intervention when they need it. Because of their unique positions and responsibilities, judges often find themselves with limited avenues for help. JAS is modeled after and affiliated with WSBA’s Lawyers Assistance Program, and offers help from trained peer counselors at no cost and referral to confidential professional help. Telephone or in-person sessions are available on a sliding-scale basis. For more information, call the JAS program coordinator at 206-727-8268 or 800-945-9722, ext. 8268.

WSBA Law Office Management Assistance Program (LOMAP)

LOMAP Roadshow — Yakima, Aug. 15
The LOMAP Roadshow will be traveling to Yakima on Friday, Aug. 15, 2014. Join us to hear from local members and WSBA staff on topics geared to the solo or small practice attorney. From technology to financials to ethics, our goal is to help you increase your efficiency and take your practice to the next level. Earn up to 7 CLE credits, including 2 ethics credits; half-day options are available. A networking reception will follow the program. For more information, contact LOMAP at lomap@wsba.org or 206-733-5914 or 800-945-9722, ext. 5914.

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

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

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

LOMAP Lending Library
The WSBA Law Office Management Assistance Program Lending Library is a service to WSBA members. We offer the short-term loan of books on the business management aspects of your law office. How does it work? You can view available titles at www.wsba.org/resources-and-services/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, email lomap@wsba.org.

Usury Rate
The average coupon equivalent yield from the first auction of 26-week treasury bills in May 2014 was 0.046 percent. Therefore, the maximum allowable usury rate for June is 12 percent.
Disciplinary Notices

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

Disbarred

John Joseph Baker (WSBA No. 22951, admitted 1993), of Placitas, NM, was disbarred, effective 3/19/2014, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), 8.4 (Misconduct). Erica Temple acted as disciplinary counsel. John Joseph Baker represented himself. David Welles Wiley was the hearing officer. The online version of NWLawyer contains links to the following documents: Findings of Fact, Conclusions of Law and Hearing Officer’s Recommendation; Disciplinary Board Recommendation; and Washington Supreme Court Order. John Joseph Baker is to be distinguished from John Holmes Baker of Portland, OR.

Disbarred

David Scott Engle (WSBA No. 21935, admitted 1992), of Maple Valley, was disbarred, effective 3/19/2014, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 8.4 (Misconduct). Jonathan H. Burke acted as disciplinary counsel. David Scott Engle represented himself. Andrekita Silva was the hearing officer. The online version of NWLawyer contains links to the following documents: Findings of Fact, Conclusions of Law and Hearing Officer’s Recommendation; Disciplinary Board Recommendation; and Washington Supreme Court Order.

Disbarred

Jae H. So (WSBA No. 29915, admitted 2000), of Federal Way, was disbarred, effective 3/31/2014, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.5 (Fees), 1.7 (Conflict of Interest: Current Clients), 1.8 (Conflict of Interest: Current Clients: Specific Rules), 1.15A (Safeguarding Property). Jonathan H. Burke acted as disciplinary counsel. Brett Andrews Purtzer represented the respondent. The online version of NWLawyer contains links to the following documents: Order Approving Stipulation; Stipulation to Disbarment; and Washington Supreme Court Order.

Disbarred

Jonathan H. Burke acted as disciplinary counsel. Paul Taylor Ferris (WSBA No. 20483, admitted 1991), of Ellensburg, was suspended for three years, effective 3/19/2014, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation), 3.2 (Expediting Litigation), 8.4 (Misconduct). Jonathan H. Burke acted as disciplinary counsel. Paul Taylor Ferris represented himself. James Myron Danielson was the hearing officer. The online version of NWLawyer contains links to the following documents: Findings of Fact, Conclusions of Law and Hearing Officer’s Recommendation; Disciplinary Board Recommendation; and Washington Supreme Court Order.

Suspended

Paul Taylor Ferris (WSBA No. 20483, admitted 1991), of Ellensburg, was suspended for two years, effective 2/12/2014, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.15A (Safeguarding Property), 8.4 (Misconduct). Joanne S. Abelson represented herself. Dawn Marie Hiller represented the respondent. The online version of NWLawyer contains links to the following documents: Disciplinary Board Order Approving Stipulation; Stipulation to Two Year Suspension; and Washington Supreme Court Order.

Suspended

Timothy Michael Greene (WSBA No. 17499, admitted 1987), of Puyallup, was reprimanded, effective 1/07/2014, by order of the chief hearing officer. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), 1.16 (Declining or Terminating Representation), 5.3 (Responsibilities Regarding Nonlawyer Assistants). Natalea Skvir acted as disciplinary counsel. Timothy Michael Greene represented himself. The online version of NWLawyer contains links to the following documents: Findings of Fact, Conclusions of Law and Hearing Officer’s Recommendation; Disciplinary Board Recommendation; and Washington Supreme Court Order.

Suspended

Timothy Richards Strader (WSBA No. 35184, admitted 2004), of Portland, OR, was suspended for 30 days, effective 11/08/2013, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of Oregon. For more information, see www.osbar.org/publications/bulletin/14jan/discipline.html. Joanne S. Abelson acted as disciplinary counsel. Christopher Ray Hardman represented the respondent. The online version of NWLawyer contains a link to the following document: The Washington Supreme Court Order.

Reprimanded

Paul Michael Donion (WSBA No. 25053, admitted 1995), of Tacoma, was reprimanded, effective 1/30/2014, by order of the hearing officer. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.4 (Communication), 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), 5.3 (Responsibilities Regarding Nonlawyer Assistants). Marsha Matsumoto acted as disciplinary counsel. Brett Andrews Purtzer represented the respondent. Joseph Nappi, Jr. was the hearing officer. The online version of NWLawyer contains links to the following documents: Order on Stipulation to Reprimand; Stipulation to Reprimand; and Notice of Reprimand.

Reprimanded

Timothy Michael Greene (WSBA No. 17499, admitted 1987), of Puyallup, was reprimanded, effective 1/07/2014, by order of the chief hearing officer. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.15A (Safeguarding Property), 1.15B (Required Trust Account Records), 1.16 (Declining or Terminating Representation), 5.3 (Responsibilities Regarding Nonlawyer Assistants). Natalea Skvir acted as disciplinary counsel. Leland G. Ripley represented the respondent. The online version of NWLawyer contains links to the following document: Order Approving Stipulation to Reprimand; Stipulation to Reprimand; and Notice of Reprimand.
John R. Ruhl acted as special CLE. Information must contains links to the following CLE.

Transferred to Disability Inactive

Randi J. Austell (WSBA No. 28166, admitted 1998), of Seattle, was by stipulation transferred to disability inactive status, effective 4/01/2014. This is not a disciplinary action.

Mark J. McGranaghan (WSBA No. 34243, admitted 2003), of Portland, OR, was by stipulation transferred to disability inactive status, effective 4/01/2014. This is not a disciplinary action.

Ivan Orton (WSBA No. 7723, admitted 1977), of Seattle, was by stipulation transferred to disability inactive status, effective 4/01/2014. This is not a disciplinary action.

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• Front page of Seattle Times “Drivers fighting tickets and winning” June 3, 2006
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CLE seminars are subject to change. Please check with providers to verify information. To announce a seminar, send information to clecalendar@wsba.org. Information must be received by the first day of the month for placement in the following issue’s calendar.

Construction Law

Annual Construction Law Meeting and Seminar — Construction Disputes: Picking the Right People and Forum
June 13 — Seattle and webcast. 6.75 CLE credits, including 1 ethics. Presented in by WSBA in partnership with the WSBA Construction Law Section; 800-945-WSBA or 206-443-WSBA; http://bit.ly/WSBA-CLE.

Corporate Counsel

Transitioning from Outside Counsel to In-House: Tips on Positioning Yourself for the General Counsel Position
June 11 — Bellevue. 1 CLE credit. Presented by WSBA in partnership with the WSBA Corporate Counsel Section; 800-945-WSBA or 206-443-WSBA; http://bit.ly/WSBA-CLE.

Family Law

2014 Family Law Section Midyear Meeting and Conference
June 20–22 — Ocean Shores. 15 CLE credits, including 2 ethics. Presented by WSBA in partnership with the WSBA Family Law Section; 800-945-WSBA or 206-443-WSBA; http://bit.ly/WSBA-CLE.

Health Law

Health Law
June 27 — Seattle and webcast. CLE credits pending. Presented by WSBA in partnership with the WSBA Health Law Section; 800-945-WSBA or 206-443-WSBA; http://bit.ly/WSBA-CLE.

Law Practice Management

July 24–26 — Vancouver, WA. 15.25 CLE credits, including 3 ethics. Presented by WSBA in partnership with the WSBA Solo and Small Practice Section; 800-945-WSBA or 206-443-WSBA; http://bit.ly/WSBA-CLE.

Legal Lunchbox Series

Legal Lunchbox Series: Foundational

Practices for Your Firm
June 24 — Webcast only. CLE credits pending. Presented by WSBA; 800-945-WSBA or 206-443-WSBA; http://bit.ly/WSBA-CLE.

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

New Lawyer Education

NLE Commercial and Residential Tenant Law

Probate/Trust

2014 Real Property, Probate and Trust Midyear Meeting and Conference
June 6–8 — Tulalip. 11.75 CLE credits, including 2 ethics. Presented by WSBA in partnership with the WSBA Real Property, Probate and Trust Section; 800-945-WSBA or 206-443-WSBA; http://bit.ly/WSBA-CLE.

Real Property

2014 Real Property, Probate and Trust Midyear Meeting and Conference
June 6–8 — Tulalip. 11.75 CLE credits, including 2 ethics. Presented by WSBA in partnership with the WSBA Real Property, Probate and Trust Section; 800-945-WSBA or 206-443-WSBA; http://bit.ly/WSBA-CLE.

NLE Commercial and Residential Tenant Law

Taxation

The Intersection of State, Local, and Tribal Taxation in Washington State
June 25 — Seattle. 1 CLE credit. Presented by WSBA in partnership with the WSBA Taxation Section; 800-945-WSBA or 206-443-WSBA; http://bit.ly/WSBA-CLE.

Work + Wellness

Work + Wellness Series: Stress Less – Mindfulness 101
June 18 — Seattle and webcast. No CLE credit. Presented by the WSBA Lawyers Assistance Program; 800-945-WSBA or 206-443-WSBA; http://bit.ly/WSBA-CLE.
James P. Murphy
Brian C. Armstrong
Katherine L. Felton
and Tracy Y. Williams

are pleased to announce the formation of

**Murphy Armstrong & Felton LLP**

The firm represents clients throughout the Pacific Northwest in state and federal courts on matters of employment law and employer liability, environmental law, products liability, insurance coverage, business litigation, contractor liability and construction defect litigation, lender and financial institution disputes, and appeals.

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719 Second Avenue, Seattle, WA 98104
206-985-9770

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**TERRELL MARSHALL DAUDT & WILLIE PLLC**

is pleased to announce the addition of four talented attorneys to the firm:

- **Mary Reiten** – Member
- **Whitney Stark** – Associate
- **Sam Strauss** – Associate
- **Blythe Chandler** – Associate

TMDW is also pleased to announce that attorney **Marc Cote** has become a Member of the firm. Marc concentrates his practice on employment law and complex civil litigation and has been an attorney with TMDW since 2009.

**TERRELL MARSHALL DAUDT & WILLIE PLLC**
936 N 34th Street, Suite 300, Seattle, WA 98103
Tel: 206-816-6603
www.tmdwlaw.com

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**SOHA & LANG, P.S.**

is pleased to announce that

- **Mark W. Conforti**
- **Megan E. Graves**

have joined the firm Of-Counsel.

**SOHA & LANG, P.S.**
1325 Fourth Avenue, Suite 2000
Seattle, WA 98101-2570
Tel: 206-624-1800 • Fax: 206-624-3585
E-mail: mail@sohalang.com
www.sohalang.com

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**REED LONGYEAR MALNATI & AHRENS, PLLC**

is pleased to announce the addition of

- **Franklin W. Shoichet**

as Of Counsel to our team of knowledgeable and professional attorneys.

Mr. Shoichet will continue to concentrate his law practice and consultation efforts in litigation for victims of violent crime, civil rights, malpractice (medical, legal and dental), probate litigation, personal injury and other civil litigation.

**REED LONGYEAR MALNATI & AHRENS, PLLC**
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Gary N. Gosanko, Mark W.D. O’Halloran, and Nicholas J. Lepore of **Gosanko & O’Halloran, PLLC** are pleased to be joined by **Wesley N. Edmunds** as Of Counsel.

Gosanko & O’Halloran, PLLC continues to litigate and resolve serious-injury cases for plaintiffs in Washington State.

**Gosanko & O’Halloran, PLLC**
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**RaShelle Davis**
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**I became a lawyer because** I wanted to make a difference in the lives of children, our most vulnerable population. As an undergrad, I interned at the Pierce County YWCA’s Legal Services Department where I was able to see how critical access to legal services are for those most marginalized. After I graduated from law school, I became a policy advisor at the Department of Early Learning providing policy guidance for child care and early learning programs serving low-income families. I now work as a policy advisor for Governor Inslee working on issues of education, and human and civil rights.

**My greatest talent as a lawyer** is bringing together individuals with diverse interests to achieve a common goal.

**My career has surprised me by** taking a route different than I expected. As a law student, I spent my summers working abroad in Shanghai, China, and I believed I would have a career in international human rights. After graduating from law school, I returned home to Tacoma and realized that I could use my skills and talents to help the community where I was raised.

**The best advice I have for new lawyers is to network and develop your own board of directors who are individuals you can turn to for advice and guidance.**

**The most rewarding part of my job is knowing that I’m making a positive impact on the lives of children and other vulnerable populations across the state.**

**If I could have tried one famous case, it would be Brown v. Board of Education.**

**During my free time, I go to musical theater and the movies, walk 5Ks, hike, try new restaurants, and hang out with friends.**

**The most memorable trip I ever took was to Seoul, South Korea, with my college friend Eri who lives in Japan. We had a blast learning to make kimchi, trying on hanbok (traditional Korean dresses), visiting the Korean Broadcasting System to watch the taping of Korean dramas, and exploring the nightlife.**

**I look up to my mom, Debra Durkee. She is a single mother who has devoted her life to serving and inspiring others. She is my biggest champion and I am so fortunate to call her my best friend.**

**If I took one day off in the middle of the week, I would relax by going to the spa.**

**My favorite place in the Pacific Northwest is the waterfront in Tacoma, which has views of Mt. Rainier, the Olympics, and Puget Sound.**

**Nobody would ever suspect that I speak Chinese.**

**This is on my bucket list:** to summit Kilimanjaro.

**My greatest fear is not living life to the fullest.**

**If I had a time machine, I would travel to Jane Austen’s Regency-era England.**

**If I could pick a superpower, it would be to read people’s minds.**

**If I could get free tickets to any event, I would go to the Oscars.**

**My all-time favorite movie is The Usual Suspects.**

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