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12 Achieving Your Personal Best
Gonzaga Law School Student and U.S. Olympic Hopeful
Monika Gruszecki
by Linda Jenkins

15 Fathers Figure...
The Mother of Father’s Day: Sonora Smart Dodd • Following the Path by Frank R. Siderius • How My Father Influenced My Life by Patrick Hanis • Working with My Dad by Christian Linville • Making Time: Thoughts on Being a Father and a Lawyer by Isham Reavis • Respect for the Law by Anthony Soldato

22 Annual WSBA Discipline Report Snapshot
A Quick Look at the Discipline System and the Numbers for 2015

29 Alternative Work Environments
Co-Working Spaces Can Benefit Solos and Small Firms
by Linda Fang

34 Fracking in the PNW
Washington’s Legal Community and the Expansion of Fracking Operations
by Michael W. Meredith

37 What Makes a Law Firm Leader?
by Connie Sue Martin

39 Veto Message
What the Washington Constitution and Supreme Court Say About the Gubernatorial Veto Power
by Daniel A. Himebaugh

42 Back from the Brink of Pavement
Conserving Farmland and Positioning Farmers for Success
by Adam Draper

46 Succession Planning Considerations for Virtual Practices
Do You Have a Plan?
by Michael Cherry

ON THE COVER: Monika Gruszecki, a recent Gonzaga School of Law graduate, is a javelin thrower who has been training intensively for the U.S. Olympic Track and Field Team trials in July. See “Achieving Your Personal Best” on page 12. Photo courtesy of John Slavin; johnslavinphoto.com; luckyjohn.blogspot.com.
COLUMNS

5 Editor’s Note
The Bonds of Family
by Linda Jenkins

7 President’s Corner
Prince Died Without a Will
by William D. Hyslop

DEPARTMENTS

10 Treasurer’s Report
by Karen Denise Wilson

26 Ethics
Statistically Speaking: Using Statistics to Guide Risk Management
by Mark J. Fucile

52 OnBoard
March 10, Olympia, and April 15–16, Bremerton, Meetings
by Susan Strachan

68 Beyond the Bar No.
Krista Shirin Mirhoseini

ESSENTIALS

55 2016 Winter Bar Exam Pass List

56 Discipline and Other Regulatory Notices

57 Need to Know
News and Information for WSBA Members

61 Announcements

63 CLE Calendar

64 Classifieds

65 Professionals
The editor reserves the right to edit articles as deemed appropriate. The editor may work with the writer, but no additional proofs of articles will be provided. The editor reserves the right to determine when and if to publish an article. For questions or a how-to guide on writing an article for *NWLawyer*, email nwlawyer@wsba.org. *NWLawyer* is published nine times a year (FEB, MAR, APR/MAY, JUN, JUL/AUG, SEP, OCT, NOV, DEC/JAN) on or about the first of the month. The current circulation is approximately 34,000.
The Bonds of Family

I come from a family of strong-willed, independent women, and over the years my sisters and I have mostly led our own lives, separated by distance, lifestyles, and the demands of motherhood and careers. Most often, we seem to get together only when my dad is involved. My dad is the calming presence in our family, and the glue that keeps us bound together. Not long ago, we nearly lost my dad in a car accident in another state. Like many lawyers faced with a catastrophe in the family, I switched into a kind of “brace for it like a lawyer/panic like a kid” mode, in that swirling mental state where law training meets family love and a good deal of fear. My dad, who is 70, was hospitalized in a faraway town, receiving what could not have possibly been adequate care in my mind. Ultimately it was my aunt, a nurse of NWLawyer, who stayed with him to advocate for his healthcare, settle the details, and eventually get him safely back home. The lawyer and the kid in me were grateful.

We all know that not every family has an involved father — a family is a bond and not a certain set of people. Still, Father’s Day is June 19, and in this issue of NWLawyer, we share personal stories about attorney fathers. Our members have written essays about fatherhood, growing up with an attorney father, working with their fathers, and the lasting influence of fathers and father figures. I hope you’ll set aside some time to read their stories.

The issue is packed with other great articles, including the benefits of co-working spaces, planning for the virtual law office, the gubernatorial veto power, preserving our state’s farmlands, the environmental issues around fracking, and law firm leadership. Our cover image is of Gonzaga School of Law’s recent graduate Monika Gruszecki, who will be competing for a spot on the U.S. Olympic Team in July. She is a javelin thrower who trained for the upcoming Olympic Trials while attending law school — no small accomplishment. I hope you’ll join us in sending her encouragement and best wishes on the road to Rio 2016.

As always, we welcome your comments. Send your letters to the editor and article ideas to nwlawyer@wsba.org.

Linda Jenkins
NWLawyer Editor

Linda Jenkins is the NWLawyer editor and can be reached at nwlawyer@wsba.org.

Get published!

See your name in lights (well, in ink, anyway) in NWLawyer! If you have an article of interest to Washington lawyers or a topic in mind, we’d love to hear from you. Need a topic? We have a list of subjects we’d like to cover. For a how-to guide on writing an article for NWLawyer, email nwlawyer@wsba.org. NWLawyer relies almost entirely on the generous contribution of articles from WSBA members and others.

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Father’s Day is June 19.

To our WSBA members and readers who are fathers, NWLawyer wishes you a HAPPY FATHER’S DAY!
An RPC 7.1 and 7.2 Compliant Comparison of Godzilla, a Lawyer and King Kong

Left to right: Godzilla, Mark Johnson and King Kong

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Prince Died Without a Will
Are You Taking Care of Yourself and Your Colleagues?

The entertainment headlines were abuzz recently when Prince, the iconic music star, was found dead in his home in Minnesota. And as I write this column, today’s news headlines include that Prince is believed to have died without a will. There is also speculation that his death may have been as a result of substance abuse, a factor that is left for the coroner to determine following a full investigation.

His tragic death is a real loss for music lovers, friends, and family. The question of whether it could have been prevented will be analyzed and reanalyzed.

His estate is expected to be in the hundreds of millions with current assets and future royalties. If no will is found, the net proceeds of his estate will ultimately be distributed according to the laws of intestate succession rather than how he may have wanted it distributed. How can a rock star who has had great financial success for many years and who undoubtedly had managers and handlers let this occur?

A quick internet search confirmed that he is far from the only famous person who has died with no will. And of course we all know that President Lincoln was an attorney!

Perhaps some may rationalize Prince and Jimi Hendrix dying without will or having other personal problems. But how could Lincoln, an attorney, not take care of his personal affairs much the same as he worked to take care of his clients’ affairs?

The simple fact is that we attorneys are no different than some of our clients. Some of us live for today and put off our personal affairs. We work hard for our clients, and we defer our own personal needs. “I’ll get to it later,” we think, and then we don’t.

But worse news than that: the legal profession has some significant additional issues that are less prevalent for many other folks. Not only are some attorneys known to forgo their personal estate planning, but attorneys are known to have some of the highest rates of alcoholism, substance abuse, and mental health issues compared to other walks of life. They simply aren’t taking care of themselves or they aren’t able to take care of themselves.

A recent column in the New York Times reported:

Lawyers struggle with substance abuse, particularly drinking, and with depression and anxiety more commonly than other professionals, according to a new study conducted by the American Bar Association together with the Hazelden Betty Ford Foundation.

One in three practicing lawyers are problem drinkers, based on the volume and frequency of alcohol consumed, 28 percent suffer from depression, and 19 percent show symptoms of anxiety, according to the study, which involved 12,825 licensed, employed lawyers in 19 states around the country.1

Do you find these rates shocking? I hope you do! The study, “The Prevalence of Substance Use and Other Mental Health Concerns among American Attorneys,” was published in the February edition of the Journal of Addiction Medicine.2 Here are some of its other findings:

• Problem drinking by lawyers is nota-
bly higher than the 15% of surgeons categorized as abusing alcohol in a 2012 study. This is compared to 6.8% of Americans over the age of 18.

- Lawyers working in law firms had the highest rates of alcohol abuse.
- Lawyers with 10 or fewer years of experience had much higher rates of alcohol abuse than their more senior colleagues. Almost 29% in their first decade of practice were found to be problem drinkers. Between 11 and 20 years, the percentage dropped to 21%.

The stress of helping others with their problems, the pressure to succeed, and law school debt for new lawyers are all thought to be causes or contributing factors. There are undoubtedly other factors as well. We live and work in a high-stress environment and a high-stress profession. The news article ends with a quote from ABA President Paulette Brown, “This new research demonstrates how the pressures felt by many lawyers manifest in health risks,” and provides a guide for lawyer assistance programs to help practitioners address mental health risks.

What are you doing to take time for your family and yourself? What are you doing to protect yourself from the stress and pressures of our profession, and the prevalence of alcohol, substance abuse, depression, and anxiety? What are you doing to lead the “good life?” And when the end of your days arrives, what have you done to ensure that your loved ones are saved from the heartache and unnecessary pain of not preparing for your own demise? That is as much a part of our personal responsibilities as is the professional responsibility we show toward our clients.

Just as importantly, what are you doing to look out for your fellow attorneys, whether law partners or law friends? Are you there for them? Are you there to support one another through thick and thin? Are you there to intervene and support them when the pressures of the job lead to problems such as alcoholism, substance abuse, anxiety, and depression? Have you asked your law partner or law friend if they have their legal affairs in order? Shouldn’t we be accountable to each other? As a coworker, you may very well be in a better position to see problems surfacing much sooner than friends or family. After all, you may be a part of someone’s “legal family.”

One of the WSBA’s mission focus areas is “ensuring competent and qualified legal professionals.” The WSBA assumes that role on a “cradle to grave” basis both through regulation and assistance. By “cradle to grave,” we mean from before the inception of one’s legal career through to the end of that career. The WSBA is instrumental in assisting attorneys in need and assisting those wanting to help their fellow attorneys in need. The WSBA Lawyers Assistance Program (LAP) promotes the health and well-being of WSBA members. Take a moment to review the LAP services on the WSBA website at www.wsba.org/lap. A sampling of these include:

- The WSBA Connects Member Assistance Program offers free, confidential statewide access to counseling in a lawyer’s community on a 24/7 basis whenever you or a fellow attorney are experiencing emotional or behavioral concerns affecting one’s legal practice or quality of life. All services are confidential and protected by APR 19(b)(2).
- The Work+Wellness Webcast series is available to educate and inform over a broad spectrum of topics related to career management and wellness. There are multiple topics including addiction and recovery, stress reduction, work/life integration, suicide prevention indicators and intervention tools, self-assessment, and others.
- Entire webpages are devoted to mental health resources, including topics such as identifying the symptoms of and dealing with stress, depression, compulsive behaviors, and suicide; and to addiction resources, including on alcohol abuse and dependence, and drug abuse and dependence.
- Concerned about your fellow attorney and need suggestions on what to do? Call LAP at 206-727-8268 for a confidential phone consultation with an experienced clinician.

It all begins with you and me. We have to be responsible for ourselves, and sometimes more importantly, we have to be responsible to help one another. The resources and help are there for us. It’s confidential. It has nothing to do with attorney discipline, and seeking it out may very well prevent the need for eventual attorney discipline. Let’s all be aware of these problems that seem to be so much more prevalent in our profession. Let’s all work to help one another. NWL

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**SPEEDING TICKET? TRAFFIC INFRACTION? CRIMINAL MISDEMEANOR?**

[Image]

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In this report, I provide an update on several important projects that occupied our time during the first half of the year, and a preview of the Board’s work for the remainder of FY16.

LOOKING BACK

Headquarters Renovation
We completed a yearlong renovation—in-place at the WSBA offices that have been our home since 2006. Near the end of our first lease, we reassessed space needs, looked at the market, and found that the best option was to stay at our current location. As WSBA’s treasurer last year, Ken Masters, reported, we extended the lease through 2026 on very favorable terms—which enabled us to reduce our footprint by 7,700 square feet, bring CLE conference facilities into our headquarters space, improve accessibility, and make better use of technology. All in all, we saved more than $3.1 million over the life of the lease compared to our next best option.

License Renewal Changes
You may have noticed several changes as you renewed your license this season. As previously reported, WSBA had historically used license fee revenue to cover service provider credit card transaction fees. Last year, these fees totaled over $275,000. After researching how other public entities manage the cost of credit card transaction fees, the Board determined that we should no longer use license fees to absorb this cost. This year, members were offered the option of paying by check with no transaction fee or paying by credit card with a 2.5% transaction fee charged directly by our service provider. Thank you for your cooperation during this process. To date, through the licensing process alone, we have saved over $110,000 in transaction fees.

Updated MCLE Reporting System
If you had to report your CLE credits this year, you may have noticed an updated MCLE reporting system with a more user-friendly interface. System changes were driven by the Supreme Court’s adoption of significant revisions to the MCLE rules that took effect Jan. 1, 2016. The existing MCLE system was antiquated, would not support the new rules, and required a complete overhaul. In order to meet the Court-mandated deadline, we scoped the project in phases, concentrated our efforts, and met the January 1 deadline. Phase 2 of the project will be complete by October. The project has required more time, labor, and resources than initially budgeted. At the April Board meeting, the Board approved a budget amendment for $30,000 to cover FY16 depreciation expense and Phase 2 expenses (expected to be under $350,000). We are looking closely at additional internal controls to ensure that future enterprise-wide projects are scoped and budgeted more accurately.

LOOKING FORWARD

Both the FY17 budget development and the 2018–2020 license fee setting process began in April, with the Board of Governors’ discussion of WSBA services and member benefits, and the corresponding costs and impacts of regulatory and professional association programming for our 38,000 members. The Board will review the preliminary FY17 budget in July and approve the final budget in September. I will provide more detailed information in upcoming treasurer reports.

Since the 2012 referendum that reduced license fees from $450 by 28% to $325, the Bar has worked diligently to make do with less. By reducing its financial footprint, limiting the license fee adjustment to $385 for 2016 and 2017, and through planned expenditures of reserves, the Bar has continued following its mission to serve the public and its members, ensure the integrity of the profession, and champion justice. At the same time, financial modelling indicates that at the current license fee of $385, reserves will be depleted by FY19. The task before the Board this summer will be to decide how to optimize programming and license fees while maintaining a prudent level of reserves that sustain the Bar’s important mission.

As your treasurer, I am committed to fiscal stewardship and direct, transparent communication. I encourage you to contact me if you have any thoughts or questions. NWL
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ACHIEVING YOUR PERSONAL BEST

Gonzaga Law School Student and U.S. Olympic Hopeful Monika Gruszecki

by Linda Jenkins

Law school is a time when many people find it a struggle to balance their fitness routines with school, work, relationship, and family. Not so for recent Gonzaga Law School graduate Monika Gruszecki, a javelin thrower who has been training intensively for the U.S. Olympic Track and Field Team trials in July while simultaneously earning her law degree.

Gruszecki, who was also the comments editor of the Gonzaga Law Review, credits her javelin training routine with helping her get through law school. In her 1L year, her training routine was a stress reliever that helped her tackle the competition and uncertainty of law school. “Throwing balanced me out,” she says. As the semesters progressed, the javelin was something she did on the side to maintain balance. She trained three hours a day — for two 1.5 hour sessions — and followed a restrictive diet with no alcohol. All the while, she was focused on staying organized and enjoying her sport.

For legal professionals who struggle to maintain a fitness routine with their busy schedules, Gruszecki says, “People want to be fit, but they forget that it’s about fun.” She advises that busy people interested in achieving their fitness goals should seek out camaraderie with a sport or activity they enjoy. “Find something you enjoy doing, with people you enjoy being around,” she suggests.

Gruszecki recently spent her spring break with other top competitors at the Olympic Training Facility in Chula Vista, California, where she said the athletes work to maintain a positive attitude. “We know that this is hard work, but we’re smiling the whole time,” she says. The Olympic contenders keep their focus on achieving their personal best. “The only way to measure your success is you vs. the tape measure,” she says. “You dial in so you’re more accurate, more precise.”

Gruszecki hopes to work in sports compliance law after she is admitted to practice. For now, she has delayed taking the bar exam until she finds out whether she will be competing at the Summer Olympics in Brazil. “Being healthy and happy is huge right now,” she says.

Gruszecki will be competing at the U.S. Olympic Team Trials for Track and Field held July 1-10 in Eugene, Oregon, with the goal of competing at the Summer Olympics in Rio de Janeiro, Brazil, August 5-21. Send your encouragement to her at gruszecka.m@gmail.com and follow her progress at http://clubnorthwest.org.

LINDA JENKINS is the NWLawyer editor and can be reached at nwlawyer@wsba.org.
The Law Offices of James S. Rogers congratulates Cheryl L. Snow on her induction into the American College of Trial Lawyers.

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IN MEMORIAM

The Seattle legal community and our law firm lost a giant on March 5, 2016. Ronald E. McKinstry, partner at the firm of Ellis Li and McKinstry PLLC from 1992 until his retirement in 2004, died peacefully at the age of 89. He was surrounded by family at the time.

Before he joined ELM, Ron was a long-time partner at Bogle and Gates, one of the leading firms in Seattle. At Bogle, Ron developed into one of the most sought-after and respected litigators in the region. He was responsible for creating the litigation department at Bogle and served as its leader for many years. Generations of fine litigators in Seattle and elsewhere trained under Ron’s tutelage. By the time he joined ELM, his name was revered around town, and our litigators stood in awe of the man who imparted his deep wisdom to them not only about the law practice, but about life.

We offer our condolences and best wishes to Ron’s family, including Shirley, his wife and companion of 67 years, and Michael, his son and our partner.
The Mother of Father’s Day: Spokane’s Sonora Smart Dodd

A Spokane woman is credited with being the founder of Father’s Day. Sonora Smart Dodd, often referred to as the “Mother of Father’s Day,” was 16 years old when her mother died in 1898, leaving her father, William Jackson Smart, to raise Sonora and her five younger brothers on a remote farm in Eastern Washington.

In 1909, when Dodd heard a Mother’s Day sermon at Central United Methodist Church in Spokane, she was inspired to propose that fathers receive equal recognition. The following year, with the assistance of Reverend Dr. Conrad Bluhm, her pastor at Old Centenary Presbyterian Church (now Knox Presbyterian Church), Dodd took the idea to the Spokane YMCA. The Spokane YMCA, along with the Ministerial Alliance, endorsed Dodd’s idea and helped it spread by celebrating the first Father’s Day in 1910. Dodd suggested her father’s birthday, June 5, be established as the day to honor all fathers. However, the pastors wanted more time to prepare, so June 19, 1910, was designated as the first Father’s Day and sermons honoring fathers were presented throughout the city.

It was years, however, before Father’s Day gained national prominence. In 1924, President Calvin Coolidge recognized Father’s Day and urged the states to do likewise. In 1966, President Lyndon B. Johnson signed a proclamation calling for the third Sunday in June to be recognized as Father’s Day and requested flags to be flown that day on all government buildings. President Richard M. Nixon signed a proclamation in 1972, permanently observing Father’s Day on the third Sunday in June.

Dodd’s pivotal role in the creation of a national Father’s Day celebration was recognized in 1943 at a luncheon in her honor in New York City at the Billion Dollar Bond Drive, at a celebration by the National Council for the Promotion of Father’s Day at the 1940 New York World’s Fair, and at the 1974 World’s Fair Expo in Spokane. A plaque dedicated in 1948 honoring Dodd’s efforts rests on a granite boulder outside the Central Spokane YMCA commemorating the YMCA’s role in the first celebration of Father’s Day.

Source: www.fathersdaybirthplace.com, courtesy of Visit Spokane.

Please enjoy the essays on fathers and fatherhood contributed by WSBA members found on the following pages. Happy Father’s Day!

Top: Spokane’s Sonora Smart Dodd. Bottom: Dodd’s father, William Jackson Smart. Images courtesy of Visit Spokane.
Sometimes in life a path is laid out before us with no expectation or demand that it be followed. Career choices can happen as a result of witnessing the success of others, their passion for the work, their honesty and integrity, their unselfish service and commitment to others, and their professionalism toward colleagues.

I became a lawyer because of my father, Ray Siderius. My brother Michael Siderius and my nephew Michael Sherman are attorneys in our firm, and my nephew John McDonagh practices in Spokane. We all chose our careers in law partly because of my father’s example.

It was never pushed or even suggested that we should become lawyers, but fathers, mothers, grandparents, and mentors often create a path in subtle and indirect ways. We grow up seeing their happiness, self-fulfillment, quality of life, and the respect they have earned from others. We hear real-life stories of client struggles, jury verdicts, and problems solved. These become like breadcrumbs on a path we may or may not choose to follow.

Siderius Lonergan & Martin, LLP is a “family” firm inspiring an extended family to pursue legal careers. Ray Siderius, Charles Lonergan, and T. Patrick Corbett formed the law firm in 1959. They were three law school classmates and friends who chose to leave public law practice for the less secure world of private practice. The late Patrick Crowley joined the practice several years later. His son, William Crowley, practices in Seattle.

Several key lessons learned from Ray, Charles, Pat Crowley, Bill Wall, and others stand out for me. No
case or client matter is too big or too small to handle. Our firm has handled complex class action litigation as well as minor collection and personal injury matters. Our clients, whether successful businesses or financially struggling individuals, deserve diligent and respectful representation. Always be the best-prepared lawyer in the courtroom or at the negotiating table. Honesty, integrity, and professionalism guide our practice. Pro bono work is a given. Our firm helped institute the Legal Action Center at Catholic Community Services over 30 years ago, and we continue to volunteer for clinic sessions.

For their entire careers in private practice, Ray and Charles have molded the firm’s culture and identity. They continue to teach us “younger” and less experienced lawyers the lessons they have learned over the past 56 years of law practice. Thank you, Dad and Charles. May all of us who practice law carry on this tradition of example and mentorship for future generations.

Charles have molded the firm’s culture and identity. They continue to teach us “younger” and less experienced lawyers the lessons they have learned over the past 56 years of law practice.

Thank you, Dad and Charles. May all of us who practice law carry on this tradition of example and mentorship for future generations of lawyers. Hopefully, our grandchildren and great-grandchildren will follow the path we are so fortunate to have chosen.

Frank R. Siderius
has been practicing for 38 years at Siderius Loneragan & Martin, LLP. His primary practice areas include commercial litigation, business, banking, and real estate. He can be reached at franks@sidlon.com.

How My Father Influenced My Life

by Patrick Hanis

I always knew I’d be a lawyer like my dad, Mike Hanis. It just seemed like the natural choice. I liked going to my dad’s office and speaking with his coworkers, making funny faces on the copy machine, or looking at the RCWs to see what kind of crazy laws I could find. (A statute on “glue sniffing” was one that I thought was pretty funny as a kid.) I was able to see my dad in court a couple of times in my early teens. It was fascinating going to the King County Courthouse in Seattle, with its marble walls, old elevators and jury boxes, and experience the formalities of a courtroom. It was exciting seeing him standing before the judge, and even better because he won, which is probably why he took me. Afterwards, we lunched with his clients at 13 Coins in Seattle, and I felt like a big shot celebrating the successful result.

Years later in law school, I enjoyed asking him questions about practicing law and discussing cases we studied. It was a new connection for us and exciting to me as I was finally learning to be a lawyer. I clerked for the Washington State Attorney General’s office in law school and some asked if I would apply for a job. But it was never really an option — I knew I was going to practice law with my dad.

As a new attorney, my dad and I represented a group of clients in an administrative matter involving water rights. During the hearing, my dad cross-examined one of the key adverse witnesses. I loved his skill: the setup of the questions, moving methodically through the relevant facts and documents helpful to our case, eliciting answers favorable to our position, boxing in the testimony and minimizing the impact. It was a wonderful moment, working side by side, seeing his skill as an experienced attorney, working a case that I prepared — practicing as lawyers, together.

Having practiced nearly 15 years with my dad and 12 years with one of my brothers, Brian, has been a great experience. We’ve done things many lawyers don’t get to do with their dads or siblings — forming a new firm nearly 13 years ago, attending CLEs, consulting with clients, mediating cases, marketing, co-writing briefs, and experiencing the ups and downs of a lawyer’s life.

I imagine we can be a little more blunt with each other than we might be with our coworkers, and our spouses may not like it if we talk shop at family get-togethers. But we see each other nearly every day, attend lunch and various community events together, and are part of each other’s lives in ways most people never get a chance to experience with their dads. We complain about the decisions we felt went wrong and celebrate our successes together. I get to have my dad critique and brag about my work. I get advice that only a lawyer can give another lawyer — concerns about clients, deadlines, case load, legal arguments, running a business, etc., but the advice I get has the added benefit of being from my dad.

Patrick Hanis (l.) with his father, Michael, and brother, Brian.

Patrick Hanis concentrates his practice on matters involving estate planning/probate, municipal sewer and water districts, real estate and business. His dad, Mike, concentrates on representing municipal water and sewer districts and construction issues. His brother, Brian, concentrates on family law, bankruptcy, and landlord/tenant matters. They practice in Kent. He can be reached atphanis@hiplawfirm.com.
Working with My Dad

BY CHRISTIAN LINVILLE

T

hey say the apple doesn’t fall far from the tree. My dad (the tree) is a lawyer. His office is just down the hall about 15 feet away from mine (the apple’s). Our offices are separated only by my older brother’s (David). I’m 39. The three of us have been practicing law together now for a dozen years.

Growing up, Dad would constantly tell David and me how much he loved practicing law. He was always emphatic about it. David and I would just listen and roll our eyes when Dad did this. He never said it in a way that was remotely intended to strong-arm us into becoming lawyers. It was just that he was so excited about doing what he was doing that he had to brag about it a little.

On a few occasions, he would conclude his rave about practicing law with something like, “Oh, you guys are going to like the hype.” On the bottom of the poster it said, “Trust yourself.”

Dad gave presentations at schools and become a lawyer. He was always emphatic about it. Washington doesn’t recognize a cause of action for “optimistic misrepresentation.” Perhaps the statute of limitations may have already run by now on my classmates’ claims. Whatever the case, I remember one handout that had a giant photo on the cover of an old man with a very stern look pointing a finger at the viewer. In giant words, the caption read, “Get a real job!” On the back side of the handout was a photo of a surfer dropping into a wave. Above the surfer, in an equally large font, the caption read, “Screw that!”

Dad was (and still is) about as much of a family man as they come. He was very involved in our lives growing up. I also have a little sister, Julia. Everyone’s attendance at dinner each evening was mandatory. There were no exceptions. I recall my friends chastising me for abruptly having to drop whatever we were doing in order to hastily get back home in time for dinner. I didn’t really understand at the time why it was so important that we all sit down together each night for dinner. It was just a rule that went unquestioned. Now I get it: those dinners over time resulted in a rhythm that connected us all through all the daily comings and goings. No one strayed too far because there wasn’t a chance for anyone to miss the beat.

Whenever the wind was blowing, he would take David and me out of school early to go windsurfing. Before windsurfing, we played a lot of golf. I wasn’t really in love with golf early on, but Dad forced us to get out there. We logged thousands of hours on the golf course, trudging up fairways, searching for lost balls, commenting on each other’s shots, poking fun at each other, etc. We didn’t have a TV in our house. Instead, we would rent movies and Dad would take us down to his office in the old Washington Mutual Tower. He would work late at night while we watched movies on the firm’s TV and played hide-and-go-seek. At one point, I remember Dad made a huge poster for his office that had a big photo of a dummy with all the strings attached. The top of the poster said, “Don’t believe the hype.” On the bottom of the poster it said, “Trust yourself.”

David and I both ended up going to law school. After that, almost by happenstance, we both began working at my dad’s firm. My dad was practicing with two other partners at that time. There was so much luck and chance involved in all of us coming together. Some lawyers have come and gone from the firm since David and I began. Now it is just down to us three and support staff. Dad is always there. He gets to work at around 5 in the morning. He loves it as much today as he ever did — almost certainly more. I overheard him telling a client the other day that he has never had a
bad day in the office. Never. Bold as that statement is, I think it’s probably true. Sometimes, when I’m talking to my dad about some interesting detail in a case, he’ll stand back and say something like, “Wow, isn’t the practice of law awesome?”

Dad has always gone far out of his way to avoid the perception that he is the older and wiser one and David and I should listen and learn from him because he has more gray hairs. It’s the opposite. He is always interested in hearing our ideas and thoughts. Whenever I walk into his office and he looks up from his desk, the look he gives is like he is so happy to see me. Like I’m a celebrity superstar. He’ll drop anything he’s doing. I love getting his input on cases and strategy. He really is a genius — and I’m not just saying that because he’s my dad. He never second-guesses any moves David or I make. If he ever disagrees with anything, it’s always in the form of a question. Like, “Now, that’s a great idea, but what do you think of this alternative?”

We don’t have family dinners every night anymore. But we do have weekly “attorney meetings” over lunch. Our firm only has three lawyers. In reality there is not enough administrative stuff for us to really need to get together and talk every week. At these meetings, we usually touch on a few firm issues, but the conversation is quick to spin off on other non-law related topics (and slow to get back on track). Dad loves these weekly meetings. He would die if David or I ever suggested that maybe we might not need to sit down for them so often.

David and I each have two young children now. My boys are 1 and 3. Just interacting with them and being in their presence somehow closes the loop on everything. As I look at my boys and feel this beaming magical infatuation, I get this déjà vu sense sometimes, as if I am looking through Dad’s eyes and feeling the love he feels for David, Julia, and me. Now I can really appreciate where all of his devotion and unbridled respect for us came from and it all makes perfect sense.

Making Time: Thoughts on Being a Father and a Lawyer

BY ISHAM REAVIS

There’s an unseasonably warm night breeze coming through the window, and though I’m usually a deliberate writer, right now I’m typing quickly, going for pace over precision — I’ll have time to fix the commas and clauses later. I’m counting on momentum to keep me awake as night drags on, but I’m also on a deadline: my daughter, entering her night-owl years early, is just working her way through her bath/pajama/tooth-brushing routine. And when she’s done, I’m on deck for a story. We’re working our way through Andrew Lang’s Blue Fairy Book — not as grim as the Grimms, but still off-kilter in that satisfying way that tells you these are tales whose edges haven’t been filed off. And when that’s done, and she’s finally tucked in and asleep — honestly asleep, not wandering-out-in-five-minutes-asking-why—I’m-still-up-asleep — I’ve got some discovery to get through and a demand letter to draft. But for now, for this article, the clock is ticking.

Lawyering and parenting alike inure you to that awareness of the clock. There are so many things to be done; so few hours in the day; a slalom of court dates and deadlines that our clients count on us to thread. But also: look how tall she’s getting; can you believe it’s already been three years since that trip?; I wonder how her life is going to turn out and how much I’ll get to see. Tick, tick, tick.

The time I spend with my daughter, being a dad, is never wasted. I’ve been a father a little longer than I’ve been a lawyer. My daughter was a toddler when I was in law school; her preschool would never have been made whole for her loss. When we lawyers agree to represent clients, we accept the duty to put their needs ahead of ours. It’s in the oath we took, and it’s in the rules we’re bound by — RPC 1.1 and 1.3, competence and diligence, specifically.

So how do you put family first and also put clients first? I try by doing one at a time. I’m lucky to work at a firm that respects its employees’ personal time. I also think that the discipline engendered by keeping work and family time separate has instead of me studying for a crim pro final, after which I thought: There was no better use of my time. There wasn’t.

But replace professors with real clients, and the calculus grows trickier. These are people who have entrusted me with a part of their lives, and are relying on me to take care of it. “I didn’t prepare your case better because I was catching a matinee with my kid,” is no excuse at all to a man behind bars or a woman who will never be made whole for her loss. When we lawyers agree to represent clients, we accept the duty to put their needs ahead of ours. It’s in the oath we took, and it’s in the rules we’re bound by — RPC 1.1 and 1.3, competence and diligence, specifically.

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made me a better lawyer.

Soon after my daughter was born, I realized that great swathes of my time were irrevocably spoken for. I had to be fully a parent on the weekends, in the evenings, whenever I could. Everything else — school, then work — had to fit into the compressed remains of what I had hitherto thought of as “free time.”

Work is work, obviously. When I’m in the office during the work week, or litigation needs depending, spending a Sunday at my desk, my cases have my complete attention. And there she is now, an image on the wall. The painting depicted a riotous scene at a town hall meeting, with one man yelling in the forefront of the picture. My father must have felt as though he were stuck inside that painting. He reminded the council and citizens at the meeting that our society, since the time depicted in that picture, was and has always been premised upon a basic right to freedom of speech. He said we must still permit one another to exercise those rights by providing public testimony, regardless of one’s disagreement with the speaker’s viewpoint.

Thanks, Dad, for always supporting me, and being a great example of an ethical, straightforward businessman, attorney, and most importantly, a father.

Let me take a moment to acknowledge the difference between me stating I love my daughter and make sure to carve out time for my family, and similar claims coming from a mother. Research shows men are professionally rewarded for having children — it makes them seem dependable and better rounded — while women are penalized and relegated to mommy-track jobs.1 Doesn’t seem quite fair to my wife, who also works long hours, takes care of the whole family, and takes a statistical hit in the paycheck for her troubles.

Lawyering may be a heritable trait. We’ve all seen a few firms with the same name on both sides of the ampersand. My father’s a lawyer and a climb up my family tree will take you past a lot of “esq.”s among the branches. Maybe in time my daughter will get pulled that way, too; we’ll see. But if she does, I hope she remembers to make time for the important things.

And there she is now, rinsing out her toothbrush. Time for a story.

### Respect for the Law

**BY ANTHONY SOLDATO**

Although my father Carmen Soldato lives many miles from Seattle, his influence is felt almost daily in my legal practice. My father was a suburban mayor, general counsel, and raised four boys. He taught me respect for the law and certain ways to deal with legal issues, whether on behalf of a client, friend, or family member.

However, it is not my father’s concrete advice on dealing with land use issues, municipal liability, or any other general legal topic that we have discussed (or debated) over the years that remains with me. Instead, it is the general respect and application of the rule of law and the basic principles of constitutional law, along with their connection to everyday issues, that I still carry with me today.

I recall a period when my father faced an onslaught of public feedback on a disputed city council issue. During an extended public meeting on the issue, my father mediated some heated communications between the city council and the public. At one point, he stopped the proceedings and pointed towards the back of the council chambers at a Norman Rockwell-type painting on the wall. The painting depicted a riotous scene at a town hall meeting, with one man yelling in the forefront of the picture. My father must have felt as though he were stuck inside that painting. He reminded the council and citizens at the meeting that our society, since the time depicted in that picture, was and has always been premised upon a basic right to freedom of speech. He said we must still permit one another to exercise those rights by providing public testimony, regardless of one’s disagreement with the speaker’s viewpoint.

Thanks, Dad, for always supporting me, and being a great example of an ethical, straightforward businessman, attorney, and most importantly, a father.

McKinley Irvin Family Law welcomes Elizabeth Michelson, Of Counsel, to our new Everett office. With more than 30 years of experience representing clients exclusively in Snohomish County, she navigates complex family law cases with the highest level of professional advice and advocacy.

Elizabeth and our legal team have the experience that matters. Together, we protect what our clients value most.

EVERY CLIENT IS IMPORTANT TO ME. IF IT’S MY CASE, IT’S PERSONAL. I MAKE IT MY MISSION TO GET THEM THE RESULTS THEY NEED.

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

We are the largest plaintiff asbestos firm in the Northwest with over $500 million in recoveries for Washington and Oregon clients.
Annually, the Washington State Bar Association publishes a report on Washington’s discipline system. The report summarizes the activities of the system’s constituents, including the Office of Disciplinary Counsel (ODC), the Disciplinary Board, hearing officers, and the Lawyers’ Fund for Client Protection. The report also provides statistical information about lawyer discipline and discipline for limited licenses in Washington for the calendar year. These pages provide an informal overview of the 2015 Discipline System Annual Report, which is now available on the WSBA website.

Number and Nature of 2015 Grievances
ODC’s intake staff receives all phone inquiries and written grievances and conducts the initial review of every grievance. After initial review, some grievances are dismissed and others are referred for further investigation by ODC investigation/prosecution staff. Grievances that are not dismissed or diverted after investigation may be referred for disciplinary action. When warranted and authorized by a review committee of the Disciplinary Board, these matters are prosecuted by disciplinary counsel with the assistance of professional investigators and a support staff of paralegals and administrative assistants. In 2015, ODC received more than 2,000 grievances.

STRUCTURE OF THE WSBA LAWYER DISCIPLINE AND DISABILITY SYSTEM
The Washington Supreme Court has exclusive responsibility and inherent authority over regulation of the practice of law in Washington. This authority includes administering the discipline and disability system. Many of the Court’s disciplinary functions are delegated by court rule to the WSBA, which acts under the supervision and authority of the Court. Consistent with the Supreme Court’s mandate in General Rule 12.1, the WSBA administers an effective system of discipline in order to fulfill its obligations to protect the public and ensure the integrity of the profession. The WSBA’s lawyer discipline functions are discharged primarily through the Office of Disciplinary Counsel (ODC), the Disciplinary Board, and hearing officers as described below.

SUPREME COURT
• Has exclusive responsibility to administer the discipline and disability system
• Conducts final appellate review of disciplinary and disability proceedings
• Orders all suspensions and disbarments, interim suspensions, and reciprocal discipline

DISCIPLINARY BOARD
• Reviews recommendations for disciplinary action, disability proceedings, and reviews dismissal through its review committees
• Serves as intermediate appellate body
• Reviews hearing records and stipulations

HEARING OFFICERS
• Conduct evidentiary hearings and other proceedings
• Conduct settlement conferences
• Approve stipulations to admonition and reprimand

OFFICE OF DISCIPLINARY COUNSEL
• Receives, reviews, and may investigate grievances
• Recommends disciplinary action or dismissal
• Diverts grievances involving less serious misconduct
• Recommends disability proceedings
• Presents cases to discipline-system adjudicators

2015

| 31,126* | WASHINGTON ACTIVE LICENSED LAWYERS |
| 2,081  | GRIEVANCE FILES OPENED |
| 980    | FILES CLOSED IN INTAKE |
| 1,699  | FILES INVESTIGATED |
| 43     | FORMAL CHARGES FILED |
| 18     | DISCIPLINARY HEARINGS |
| 74     | DISCIPLINARY ACTIONS IMPOSED |
| 2      | SUPREME COURT PUBLISHED OPINIONS |

*Number of licensed lawyers as of June 30, 2015

BY THE NUMBERS

DISCIPLINARY GRIEVANCES, MEDIATED MATTERS, AND CONSUMER AFFAIRS CONTACTS IN 2015

Disciplinary Grievances Received
2,081

Disciplinary Grievances Resolved
2,180

Non-Communication Matters
Mediated
102

File Disputes Mediated
59

Consumer Affairs Phone Calls, Emails, and Interviews
6,485
In 2015, the most common grievance allegations against Washington lawyers related to unsatisfactory performance, personal behavior concerns, and interference with the administration of justice.

In 2015, the majority of grievances against Washington lawyers originated from current and former clients and opposing clients. Discipline files are opened in the name of the Office of Disciplinary Counsel when potential ethical misconduct comes to the attention of disciplinary counsel by means other than the submission of a grievance. Most grievances arise from criminal law, family law, and tort matters.
Disciplinary Actions

Disciplinary “actions” include both public disciplinary “sanctions” and admonitions. Disciplinary sanctions are, in order of increasing severity, reprimands, suspensions, and disbarments. In Washington, admonitions are also a form of public discipline. Review committees of the Disciplinary Board also have authority to issue advisory letters if a lawyer should be cautioned. An advisory letter is neither a sanction nor a disciplinary action and is not public information. For less serious misconduct, ODC may divert a grievance from discipline if a lawyer agrees to a diversion contract, which if successfully completed results in dismissal of the grievance. In 2015, 28 matters were referred to diversion.

In 2015, 74 lawyers were disciplined. The chart below tracks the number of disciplinary actions imposed over the last five reporting years.
Lawyer Disability Matters
Special procedures apply when there is cause to believe that a lawyer is incapable of properly defending a disciplinary proceeding, or incapable of practicing law, because of mental or physical incapacity. Such matters are handled under a distinct set of procedural rules. In some cases, the respondent lawyer must have counsel appointed at the WSBA’s expense. In disability cases, a determination that the respondent lawyer does not have the capacity to practice law results in a transfer to disability inactive status. In recent years, the number of transfers to disability inactive status has increased. In 2015, nine lawyers were transferred to disability inactive status based on an incapacity to practice law.

Limited Licenses and the Discipline System
The Washington Supreme Court regulates two licenses authorizing the limited practice of law: limited practice officers (LPOs) and limited license legal technicians (legal technicians). A Washington Supreme Court-mandated regulatory board oversees each limited license. Each licensee is subject to license-specific admission and practice rules, rules of professional conduct, and disciplinary procedural rules. The WSBA administers a discipline system for each of these licenses. At the end of 2015, there were 768 LPOs and nine legal technicians actively licensed to practice. In 2015, the WSBA received three disciplinary grievances against LPOs and one disciplinary action was imposed. In 2015, the Supreme Court licensed the first legal technicians, and the WSBA did not receive any grievances.

Resources
State bar associations and insurance carriers have long compiled detailed statistics on, respectively, lawyer discipline and legal malpractice claims. Increasingly, these statistics are available on the internet or other easily accessible public sources. The numbers are illuminating because they offer a snapshot of both practice areas that are most at risk and the kinds of activities that most often draw bar grievances or civil claims. The ready availability of these statistics and their equally understandable implications suggest that lawyers should use them in guiding risk management for their firms.

In this column, we’ll first briefly survey the regional and national public sources available on lawyer discipline and malpractice claims. We’ll then examine those statistics to highlight the most common risks by practice area and source of asserted error. Finally, based on these statistics, we’ll outline some simple practical steps lawyers can take to reduce risk.

The Statistics

On the regulatory side, the WSBA Office of Disciplinary Counsel (ODC) publishes a comprehensive annual report reflecting its activities over the previous year. The report is available on the WSBA website (www.wsba.org) and a snapshot of the report can be found in this issue on page 22. ODC’s annual report includes key statistical data on both grievances by practice area and the most common areas of complaints against lawyers. Prior year reports are also available to chart trends. Regionally, the Oregon State Bar Disciplinary Counsel’s Office publishes a similarly detailed report that is also available on its website (www.osbar.org). Although Alaska and Idaho do not have directly analogous summaries prepared by their disciplinary offices, their respective state bar associations publish more general annual reports that include overall regulatory statistics that are helpful in looking at broad trends. The Alaska and Idaho bar annual reports are available on their websites (www.alaskabar.org; www.isb.idaho.gov). Nationally, the ABA publishes an annual survey of lawyer discipline systems that is available on its website (www.americanbar.org). Although the ABA data looks primarily at state statistics in aggregate, it is useful to multistate practices in assessing comparative risk of regulatory complaints across practice jurisdictions.

On the malpractice side, there is no public Washington resource that corresponds to the WSBA’s grievance statistics. Individual private carriers, however, normally can provide comparable claim experience information to their insureds. A useful proxy is also available in the form of the Oregon State Bar Professional Liability Fund (PLF) annual report. Oregon is unique in requiring all lawyers in private practice to carry malpractice insurance and to buy the initial required layer through the PLF. The PLF annual report, therefore, provides a relatively complete portrait of claim experience across private practice throughout the state. Although the Oregon bar is smaller than in Washington, there are more practice similarities than differences and the PLF annual report affords valuable insights to Washington firms as well. It is available electronically on the PLF website (www.osbplf.org). Nationally, the ABA has for many years periodically published a “profile” of legal malpractice claims that compiles statistics from cooperating insurance carriers. It is available for purchase through the ABA online bookstore. The most recent ABA profile very usefully breaks the statistics out by source of error and tracks those categories over time.

Practice Areas and Activities at Risk

Both the grievance and civil claim statistics reveal that no practice area is immune from risk. But they also highlight that some areas are more vulnerable than others. They also underscore that particular activities draw a disproportionate share of grievances and claims.

With grievances, for example, WSBA statistics illustrate that consumer-oriented practice areas such as family law, personal injury, and criminal defense account for over 60 percent of all grievances. Washington is by no means unique in this regard — Oregon’s compa-
rable summary reports a similar share of regulatory complaints targeting lawyers in consumer practice areas. As for the nature of grievances, the WSBA reports that over half of the grievances received complained of either “unsatisfactory performance” or “personal behavior” of the lawyers involved. Oregon tracks the type of conduct alleged somewhat differently but broadly reinforces the Washington data — with asserted “inadequate communication” and “neglect” included in over half the complaints filed annually.

With civil claims, the Oregon PLF data reveals that lawyers practicing in consumer areas are again most at risk in terms of the frequency of claims filed, while their counterparts in business practice areas are most at risk in terms of severity of the claims asserted. The ABA profile data reflects similar patterns nationally. As for the type of conduct leading to claims, the latest ABA profile reports that over 25 percent of all claims involve “administrative errors,” such as failing to calendar key deadlines and other purely clerical problems. Even more surprisingly, this category has remained stubbornly persistent in the ABA surveys dating back to 1985.

**Practical Steps to Reduce Risk**

Competence in handling client matters is, of course, central to reducing risk. For lawyers in firms large and small, that often translates into focusing on a manageable portfolio of practice areas and understanding the nuances of those areas well. As both the disciplinary and civil claim statistics illustrate, however, simply being substantively competent is not enough to avoid either grievances or claims.

The significant percentage of grievances that involve communication issues suggests that lawyers should systematically invest the time necessary to explain what clients should — and should not — expect. For example, a client in a consumer area may not necessarily understand that when a court takes a matter “under advisement,” the lawyer may not have anything to report until the court rules. In that instance, it can be important to explain that so the client will understand the dynamic rather than think that the lawyer is simply ignoring the client. Similarly, if the lawyer is in trial or depositions, a quick return call by an assistant letting the client know can often defuse natural human impatience that has only accelerated in an era of “instant” communications. The consistent use of written engagement agreements can also foster communica-
tion by clearly defining the scope and objectives of the representation, setting realistic expectations and spelling out the financial aspects of the relationship. Often equally important if a grievance is filed later despite the lawyer’s best efforts, it can be crucial to be able to document the fact of communication in defending yourself through a contact log, an email file, or the equivalent.

With civil claims, the administrative error category is the most obvious target for improved law firm risk management. Most lawyers and firms now have electronic calendaring systems available. The best calendaring system on the market, however, will do no good if key dates are not routinely entered. Approaching deadlines also need to be consistently monitored so that appropriate actions are taken in a timely fashion. Although some deadlines are “soft” and can be waived by a cooperative opposing counsel, many are harshly unforgiving and, once missed, cannot be resurrected. Given the importance of deadlines in a wide variety of practices, a central tenet of law firm risk management is also to have more than one set of eyes to both verify the dates calendared and track their approach. This can be an assistant, a paralegal, or another firm lawyer working on the matter concerned. Having more than one person involved in calendaring, however, will reduce the risk of a mistake in calculating a key date at the outset cascading into a catastrophic error later, such as a missed statute of limitation.

**Summing Up**

Even if the lawyer or firm involved is ultimately vindicated, both grievances and claims are expensive. Moreover, the costs are usually not just in dollars. There is an inherent “distraction factor” when defending against a regulatory grievance or a civil malpractice claim that is difficult to quantify, but very real in personal and economic terms by diverting attention from other work. Taking simple practical steps such as systematic client communication and conscientious calendaring will not eliminate the risk of a grievance or a civil claim altogether, but they can dramatically reduce the chance of becoming a statistic.
Co-working Spaces Can Benefit Solos and Small Firms

by Linda Fang

If you have lived or spent considerable time in New York, San Francisco, or Seattle in the past several years, chances are you’ve heard the term “co-working.” Although there are varying definitions, at base, co-working is the use of a common work environment by people who are self-employed, entrepreneurs, or working for different employers, typically to share equipment, ideas, and knowledge. The first co-working space was opened in 2005 by a programmer in San Francisco as a reaction to “unsocial” business centers and unproductive work/life at home.1 By 2013, there were 781 co-working spaces in the U.S. and more than 3,000 worldwide.2 It is predicted that, by 2017, there will be 12,700 co-working spaces worldwide, with more than one million members,3 and Inc. magazine foresees that 2016 will be the year of co-working.4 Seattle has approximately 41 co-working spaces, with more currently under construction.5

What Are Co-working Spaces and How Do They Work?

The typical co-working community occupies one or more floors of a building and includes a staffed reception desk; large, open co-working spaces with a variety of work areas furnished with desks, couches, lounge chairs, and café- or bar-style seating that encourage group work and collaboration; a kitchen with free, unlimited coffee and tea (and sometimes beer); reliable, high-speed internet; a business center with printer, copier, scanner, fax machine, and basic office supplies; small enclosed rooms often called “phone booths” in which one or two people can take phone calls or meet informally; and larger high-tech conference rooms that may be reserved by the hour (usually for an additional fee). Some co-working communities also offer exercise equipment, meditation areas, a library or game room, large event venues, and private offices that may be rented on a month-to-month basis or under a lease agreement, much like traditional office space. Many co-working spaces in Seattle are dog-friendly.

One of the biggest differences between a co-working space and traditional office space is the friendly on-site staff members who provide services for everyone, including introducing members who may be able to trade services or expertise, providing personalized support as needed, and focusing on community building. Member benefits in a co-working space can

Above: Coworking spaces offer places to network and interact with other members, as in this room at Coterie Worklounge in Seattle. Photo by Michael Wu.
include access to a member directory and list serve, the opportunity to connect with members from the local, national, or global co-working community; the ability to use affiliated co-working spaces in other cities and countries, free or low-cost classes, workshops, and networking events, such as member lunches and happy hours; “office hours” hosted by resident members and other professionals offering their expertise; and discounts on products and services from a variety of community partners.

Co-working spaces generally operate under a membership model, with costs varying based on the amount of time members want to spend in the space. (price ranges are for the Seattle area).

- **Day passes** allow individuals to visit the space for a single day and usually do not include member benefits ($20-50/day).
- **Starter memberships** allow individuals to connect with the community and enjoy member benefits, and typically include one or two days of co-working per month ($30-60/month).
- **Higher-level memberships** afford members different options to spend more time in the co-working space, from five to 15 days a month to start-up packs (nights and weekends only) to weekday business-hours plans ($100-349/month).
- **Full-time memberships** typically give members 24/7 access to the co-working space and usually include a dedicated desk where members can store their personal belongings ($325-575/month).
- **Private offices** offer furnished or unfurnished space for a single member or groups of two to five or more ($550-1,800/month).
- **Add-ons** include a business address with mail and packaging services ($10-75/month).

**What Can Co-working Spaces Offer to Attorneys?**

**An alternative to the traditional law office.** With rising office rents — downtown Seattle saw an increase of 17.3% in the past year — downward pressure on legal fees by clients looking for lower-cost legal solutions, and advances in law office technology, more solo and small firm practitioners are delivering legal services electronically without the need for traditional office space.

When I started my firm less than a year ago with my business partner who lives in the San Francisco Bay Area, renting expensive office space and hiring staff were not high on our list of priorities. We work with large and small businesses, entrepreneurs, and individual employees, and we wanted to be able to provide affordable legal services to our clients and reduced-cost legal services to low-income clients and organizations whose purpose or mission resonated with us, including women and minority business owners, businesses with a social purpose, and non-profits. Our business model requires that we keep our costs low, and we have chosen to invest our resources in high-quality legal research tools, cloud-based technology, and solutions to keep our electronic syst-
tems and data safe, instead of maintaining two traditional full-time law offices.

I found Impact Hub Seattle more or less by chance. First opened in the Pioneer Square neighborhood in late 2011, the Hub has the largest open co-working space (6,000 square feet) in Seattle, plus five event spaces, four conference rooms, 14 phone booths, a media/recording studio, a massage/yoga “nest,” a bike workshop and bike storage space, showers, and an additional 10,000 square feet of private offices. Every co-working community has its distinctive vibe or culture, and the Hub caters to socially conscious, progressive-leaning freelancers and entrepreneurs, which is right up my alley.

When I first joined the Hub, I subscribed to the two-days-a-month membership plan because I wasn’t sure what our clients would think about our decision to eschew the traditional law office environment. To our surprise, our clients love the space and the collaborative environment, even those who are used to working with corporate lawyers at white shoe law firms, and I have since upgraded to the full-time, 24/7 membership with a dedicated desk, which allows me to use the space anytime I want. Recently, I put myself on the waitlist for a private office at the Hub.

A vibrant community for solo and small firm lawyers. With increasing numbers of attorneys striking out on their own, including recent law school graduates unable to find employment, experienced lawyers who prefer the flexibility and freedom of being their own boss, and senior attorneys who are tired of the law firm grind, co-working may provide a much-needed community for solo and small firm practitioners.

Hing Hay Coworks (HHC), where I have a part-time membership, is a rare nonprofit co-working community located in Seattle’s Chinatown-International District. HHC is a program of the Seattle Chinatown International District Preservation and Development Authority and was created to support freelancers, startups, and emerging small businesses within the Asian community in Seattle and as a complement to existing businesses in the International District. Jeff Liang, a small business and tax attorney, is a member of HHC, despite having his own office just down the street.

“For me, Hing Hay Coworks represents an investment in the Seattle Chinatown-International District. By being a member of HHC and offering free consultations to its members, I get to directly contribute to the development of the C-ID and work with potential clients who share the same commitment to the neighborhood,” Liang says.

Direct access to a potential client base. Attorneys who are members of co-working spaces are often in the advantageous position of being one of a few experts in a community of freelancers, entrepreneurs, and small business owners who are likely to need their legal expertise at some point. WeWork, the co-working behemoth that started in New York in 2010, has more than 2 million square feet of co-working space around the world, including three communities...
in Seattle. Daniel Prince, a startup attorney who utilized the “hot desk” (shared space) option at WeWork–South Lake Union before moving to a private office at WeWork–Westlake Tower, agrees. “I found WeWork to be a supportive community in which to build my practice, and I have three current clients just by being in this space. I want my startup clients to be able to meet me in a place where they feel comfortable, and it goes without saying that entrepreneurs, as a species, are more fun to hang out with than me and my fellow lawyers,” Prince says.

**A place to host events or out-of-town visitors.** For attorneys who have traditional offices, co-working spaces offer a place to host larger events or out-of-town visitors and clients. Coterie Worklounge, which opened in downtown Seattle late last year, has stylish conference rooms and workspace on demand for members and non-members alike, plus a full bar and catering services.

**What Are the Potential Drawbacks of Co-working for Attorneys?**

**Attorneys need to be vigilant about client confidentiality and cybersecurity issues.** Working in any public space, such as an airport, airplane, hotel, conference room, restaurant, cafe, or co-working space, especially when using shared Wi-Fi, can give rise to issues relating to confidentiality of client information and cybersecurity for attorneys. Although Washington has not yet adopted it, ABA Model Rule of Professional Responsibility 1.6(c) states that lawyers “shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.”

When working in a co-working space or any other public space, attorneys should make sure to take client phone calls behind closed doors and meet with clients in conference rooms or phone booths. Attorneys also should be careful about printing or scanning to or from the network printer, where confidential information may become publicly accessible. In addition, attorneys who use shared Wi-Fi should encrypt the information on their laptops, secure all passwords, and consider using a virtual private network (VPN). In short, co-working requires attorneys to be comfortable with technology. The good thing is that there are plenty of tech “geeks” in most co-working spaces who may be willing to lend a hand.

**Working in shared spaces requires planning (and sometimes earbuds).** Even with a weekly community calendar, it is not always possible to predict whether a co-working space will be crowded on a particular day. For example, at the Hub, Thursdays tend to be the busiest day because of the free weekly member lunch. Sometimes, part of the common space will be closed for a private event, which means that the remaining areas will be more crowded. Attorneys who work in co-working spaces should expect that there may be times when all of the conference rooms will be booked or all of the phone booths will be occupied, making it difficult to have a spur-of-the-moment meeting or phone conversation with a client. These logistical concerns simply mean that some additional diligence and planning is required. In addition, not having a locked private office may require attorneys either to go completely paperless or have some other place (like a home office) to store confidential client files and office supplies. Finally, working in any shared space means that people may be having conversations nearby when you need to concentrate, and that’s when earbuds can be helpful. Despite the potential drawbacks, co-working remains a viable, and uniquely desirable, solution for solo and small firm attorneys. For many attorneys, leveraging the co-working model in their practices means tapping into a rich source of mentoring, referrals, and opportunities to collaborate with like-minded individuals, attorneys, and professionals.
LINDA FANG is a co-founder of Banyan Legal Counsel LLP. She and her business partner are business and employment attorneys who help their clients plan for the future, manage their business relationships, and avoid litigation, and they believe that the most successful and sustainable businesses care about their people and purpose as much as their bottom line. Fang is a member of the WSBA Editorial Advisory Committee and the Executive Board of the Women’s Business Exchange. She serves as a pro bono attorney and volunteer business coach with Wayfind and Ventures nonprofits. She can be reached at lfang@banyancounsel.com.

NOTES
7. Here is a list of PC Magazine’s best VPN services for 2016: www.pcmag.com/article2/0,2817,2403388,00.asp.
Hydraulic fracturing, or “fracking,” was once a unique and uncommon gas-extraction procedure known only to oil and gas industry insiders. Over the past five years, however, the practice has become more and more common, grabbing headlines and the attention of filmmakers, journalists, and policy-makers in the process.¹

The primary impetus for the increased national focus on the obscure drilling practice has to do with the oil and gas industry’s relatively recent effort to exploit unconventional “shale gas” resources in the United States. “Shale gas” refers to natural gas that is trapped within impermeable underground rock formations. Fracking permits these trapped gas deposits to be more freely extracted by blasting rock formations with high-pressure liquids — usually water mixed with sand, chemicals, and organic molecules — creating cracks through which the gas deposits can more freely flow.

Proponents of the practice, such as the National Petroleum Council, argue that fracking permits the extraction of unconventional oil and gas resources that would otherwise be finan-
cially impractical to exploit, while critics assert that it poses extreme environmental and public health risks, including the contamination of surrounding soil and groundwater as well as the release of methane gas which can contribute to global climate change. Headlines were made in 2010, for example, when a number of North Dakota residents found that their tap water had become flammable due to high levels of methane in residential water sources located downstream from a treatment facility used to process hydraulic fracturing waste.

To date, the debate over fracking has been waged primarily in “gas boom” states, like New Mexico, Wyoming, New York, and Pennsylvania, where the practice of fracking is most prevalent. But natural gas is also trapped under Oregon, Washington, and Idaho. As the demand for new sources of natural gas grows, fracking — and the controversy that surrounds it — may soon come to the Pacific Northwest. Indeed, since 2005, seven wells that used hydraulic fracturing practices have come online near Oregon’s southern coast, and the western Idaho County of Payette has drilled seven wells that are “ready to produce [natural gas] once a pipeline and processing facility come online.”

Due to these recent developments, a number of states and environmental organizations have begun to prepare a regulatory framework intended to manage the risks that might be posed by any future fracking operations. As one Idaho resident explained, “They’re going to make their way in here ... I want to make sure the rules that are going to be in place are rules that are going to protect people.”

To date, the law that has developed to regulate fracking is diverse, peculiar, and idiosyncratic. But one thing that most fracking regulation has in common is that it was developed in response to high-profile cases litigated in state and federal courts; as energy companies begin to eye their way in here … I want to make sure the dent explained, “They’re going to make fracking operations. As one Idaho resident explained, “They’re going to make their way in here ... I want to make sure the rules that are going to be in place are rules that are going to protect people.”

Federal Law Regulating Hydraulic Fracturing

Although the development of domestic natural gas resources and the public health risks posed by fracking are certainly matters of national concern, there is surprisingly little federal law on the subject. In fact, in 2005, the United States Congress expressly removed hydraulic fracking from the scope of most applicable federal regulations upon the passage of the Energy Policy Act of 2005, which amended the Safe Drinking Water Act (SDWA) to exclude non-diesel fracking from the Act’s Underground Injection Control Program.

The Safe Drinking Water Act was enacted by Congress in 1974. Part C of the Act established the Underground Injection Control (UIC) Program, which provided the Environmental Protection Agency (EPA) with wide authority to restrict any “underground injection,” defined as the “subsurface emplacement of fluids by well injection,” that endangered underground drinking water sources.

Until 1995, however, the EPA considered fracking to be outside the scope of the regulatory authority granted to it by the UIC. Specifically, it concluded that the UIC applies only to operations whose “principal function” is the placement of fluids underground while the “principal function” of fracking is the extraction of fluids, namely natural gas resources, from underground formations.

The EPA’s seemingly strained interpretation of the UIC was later challenged by a group of Alabama landowners who claimed that a hydraulic fracturing operation had contaminated a local drinking water well, and appealed the EPA’s interpretation to the Eleventh Circuit Court of Appeals. The Court, in Legal Envtl. Assistance Found., Inc. v. U.S. E.P.A., 118 F.3d 1467, 1471 (11th Cir. 1997) rejected the EPA’s reading of the UIC and instructed the agency to begin requiring states to regulate fracking under the SDWA.

In response to the decision, the EPA undertook a study of hydraulic fracturing and determined, in a 2004 report, that the practice “posed little risk to public water supplies and therefore recommended no further study” or regulatory action. At the same time, in 2001, President George W. Bush appointed an Energy Policy Task Force, headed by Vice President Richard B. Cheney, which reached a similar conclusion and recommended to Congress that that hydraulic fracturing be exempted wholesale from the SDWA.

Adopting the Task Force’s recommendation, Congress added the following language in the SDWA’s UIC program: “The term ‘underground injection’ ... excludes the underground injection of fluids or propelling agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities.”

As a result of this provision, which has come to be known amongst its critics as the “Halliburton Loophole,” the regulation of fracking at the federal level was rendered nearly impossible and those seeking to rein in fracking operations have had to seek regulation at the state level instead.

Washington State Law Regulating Hydraulic Fracturing

States, as opposed to the federal government, are authorized by their inherent authority to regulate oil and gas production within their borders. And at least one state, New York, has exercised that authority to institute a statewide moratorium on any fracking operations. Most states, however, have not chosen to exercise their sovereignty in such an extreme manner, and have instead implemented a permitting system that authorizes oil and gas companies to operate upon a showing of compliance with all applicable regulations before commencing any drilling operation.

With respect to fracking, some states have begun to require oil and gas producers to submit information “regarding withdrawal water volumes and sources, return flow volumes and disposition, and well pressures,” but the most obvious and successful trend in the regulation of fracking at the state level has been the requirement that oil and gas producers make a public disclosure of the chemicals used in their hydraulic fracturing fluids.

Fracking is not accomplished with water alone, and, until recently, the oil...
and gas industry has not been required to disclose what chemicals they were using in their fracking fluids. In September 2010, however, Wyoming became the first state to require full disclosure of fracking chemicals pursuant to a rule approved by the state’s Oil and Gas Conservation Commission.10

According to information compiled by Chemical Engineering News, a majority of states have followed Wyoming’s lead, such as Montana, California, and Nevada, to identify just a handful. And Washington appears to be “ahead of the game” in that it has crafted disclosure regulations before any fracking has occurred in the state which, some have suggested, allowed the law to develop with less industry pressure during the drafting process.11

While state disclosure laws and permitting procedures provide useful information to regulators and the public, they provide very little in the form of legal relief for those who might be exposed to the public health or environmental risks posed by the practice of hydraulic fracturing. Moreover, because many of the chemicals used in fracturing are proprietary and subject to the protection of trade secret laws, the usefulness of many of these regulations have been called into question.12 As such, as is often the case when legislatures and regulation lags behind industry development, Washington residents and the Washington legal community might do well to seek recourse, instead, in the courts.

Potential Judicial Responses to Hydraulic Fracturing
A number of interesting and successful lawsuits have been brought, pursuant to federal law, to limit the impact of fracking. Most recently, a 2016 suit brought by the Center for Biological Diversity resulted in a moratorium on fracking in the Santa Barbara Channel, off of California’s coast. The suit challenged the U.S. Department of Interior’s policy of approving fracking sites without first thoroughly assessing the environmental impact that the practice might have on coastal communities and marine life as required by the National Environmental Policy Act (NEPA).13

In a similarly creative application of existing law, an environmental organization argued in WildEarth Guardians v. U.S. E.P.A., 759 F.3d 1064 (9th Cir. 2014) that the EPA had a mandatory duty to more thoroughly review state-emissions regulation pursuant to the Clean Air Act with a particular emphasis on hydraulic fracturing at gas wells. Although they were unsuccessful as a legal matter, the case did result in the proposal of a number of new regulations to address air pollution stemming from oil and gas drilling.14

Although environmental advocates seeking to restrict or regulate fracking have found success in federal courts by pursuing an application of federal law, another interesting avenue to address the risks posed by hydraulic fracturing can be identified in the state law-tort principle of strict liability.

Strict liability is the policy of imposing liability for damages caused by a party regardless of their fault or level of mental culpability. Strict liability is perhaps best known for its application to “abnormally dangerous activities,” or activities, such as dynamite blasting, that pose a risk to others even if every reasonable precaution is taken. As such, strict liability provides a legal and financial incentive for those engaging in abnormally dangerous activities to be “more than careful” because they will be responsible for any damage that is caused as a result, not merely the damage that might be considered the result of their negligent or careless behavior.

“Whether fracking is an abnormally dangerous activity for purposes of strict liability appears to be an issue of first impression.”15 But should Washington courts clearly adopt such a policy — even absent legislative support — fracking might, out of the self-interest of oil and gas producers, be conducted in an extraordinarily responsible manner within the boundaries of the state. NWL

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NOTES
5. Id.
6. 42 U.S.C. § 300f et seq.
8. 42 U.S.C. § 300i(q)(1).
My firm has been asking its members what characteristics they look for in a leader, as part of a long-term leadership succession planning exercise. Although how each of us answers that question is different, I think it is fair to say that many of us are thinking about those characteristics that current managing partners possess, or that former managing partners possessed, that made them good leaders. Or, conversely, those characteristics they may have lacked that, had they possessed them, would have made them good leaders.

In a March 2006 article in *Law Practice Magazine*, Dr. Larry Richard and Susan Raridon Lambreth assert that more than 45 (now 55) years of leadership research has failed to identify a universal set of traits that make an effective leader. Nonetheless, they suggested there are a handful of core competencies — clusters of learned skills — that make for good law firm leaders: technical competence, a drive for results, and integrity.

For me, looking back at the characteristics shared by the managing partners of each of the firms where I have practiced — and even the small Tacoma firm where I found a home as a law clerk during my first summer and my second year of law school — there are quite a few common characteristics. First, they were all men. Second, they were all Caucasian. Third, they were . . . distinguished? Graying? I am reluctant to say “old.” Older? Yes, they were older (than me). Finally, nearly all of them were extroverts — charismatic, outgoing, and social.

That is not to say that those were the characteristics that made each of them a good leader. But it does beg the question whether those are the characteristics one must possess in order to be a law firm leader in the first place.

Certainly, the National Association of Women Lawyers’ (NAWL) 2015 publication, *Ninth Annual NAWL National Survey on Retention and Promotion of Women in Law Firms*, would seem to bear out the leadership characteristic of being a man: among the firms that reported having a single managing partner, 82% were men and only 18% were women.

According to NAWL, among firms that are governed by committee, 35% of responding firms had zero or one woman member, 41% had two or three women members, and only 24% had four or more women on their highest governance committee. In addition, equity partners in multi-tier law firms, from whom leaders typically are selected, remain disproportionately white men, according to the National Association for Law Placement (NALP).

Thus, statistically, it does appear that a law firm leader is more likely to be a Caucasian man. Being an older Caucasian man would seem to improve those odds even further, although I do not have statistics to back me up. Intrinsically, it makes sense that one would look to someone who had some gray in his hair.

By Connie Sue Martin
When you have a tough issue of professional ethics and need an opinion or representation before the WSBA or the Commission on Judicial Conduct, or representation in the Supreme Court – CALL us. We know the issues.

Thomas Fitzpatrick
Former member ABA Ethics and Discipline Committees, ABA Center for Professional Responsibility, Member of the Commission that wrote the CJC, Adjunct Professor Seattle University

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As a leader.

In the United States, extroverts are abundant in leadership positions. Extroversion is a personality type characterized as energetic, talkative and assertive. A study by Deniz S. Ones and Stephan Dilchert, reported in Industrial and Organizational Psychology (Volume 2, Issue 2, pages 163–170 (June 2009)), found that 96% of managers and executives are extroverts. The percentage of extroverted law firm leaders is probably lower than 96%, because approximately 60% of lawyers are introverts, according to Eva Wisnik, a legal training and placement consultant who has given the Myers-Briggs personality test to more than 6,000 attorneys.

If you had asked me last year at this time to picture what a law firm leader looked like, I would probably have imagined an older, Caucasian, extroverted man — because that is what I have experienced in my 20 years of practicing law.

If you ask me now to picture what a law firm leader looks like, I can tell you she’s a slightly graying, introverted woman. She’s me. I am the partner in charge of my law firm’s second-largest office in Seattle, which houses 42 attorneys. It is not a role I expected or planned for, but it is interesting and rewarding and I am happy to have it.

Indeed, I am also hopeful that there will be more of me in leadership roles in law firms in the very near future. And perhaps, when that happens, a young woman lawyer who is asked to imagine what characteristics she looks for in a leader, will have a different answer than mine for the first 20 years of my practice. NWL

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Soon after the state Legislature finished the 2016 regular session, Governor Inslee made headlines by vetoing 27 bills in a single evening. The move has prompted renewed interest in the scope of the gubernatorial veto power under the Washington Constitution, including the different roles played by each branch of state government. This article covers the basics.

Veto Powers Established

The governor’s veto power is established in article III, § 12, of the Washington Constitution. The fundamental mechanism is easy to understand. Every bill that passes the Legislature must be presented to the governor, whereupon the governor faces two main choices. If he or she approves the bill, he or she will sign it and the bill becomes a law. If the governor does not approve the bill, he or she will prevent it from becoming a law and veto it by returning the bill to the legislative chamber of origin along with a statement of objections. For example, the governor would return an objectionable Senate bill to the Senate, even though the bill passed both the Senate and the House of Representatives on its way to the governor’s desk.

The timing of the governor’s action is key. The governor must act on a bill within five days of presentation; however, the governor is afforded 20 days after adjournment for any bill presented less than five days before the Legislature adjourns. If the governor does not sign or veto a bill within the appropriate timeframe, the bill becomes a law without the governor’s signature. Unlike the president of the United States, the governor of
Washington may not exercise a pocket veto, which is the practice of permitting a bill to expire without signature after the Legislature’s adjournment.

Yet the governor does have something the president lacks: the power of partial veto. The state constitution authorizes Washington’s governor to veto individual sections or appropriation items contained in a bill. This power allows the governor to strike pieces of bills and budgets while approving other pieces.\(^2\)

**Important Veto Cases**

The veto power (and the Legislature’s effort to keep it bottled up) has been the subject of judicial review. Modern cases have especially focused on the contours of the partial veto.

In the 1997 case, *Washington State Legislature v. Lowry*, 131 Wash. 2d 309, the Supreme Court of Washington sought to resolve several questions relating to the veto power. The case arose out of a dispute over multiple vetoes executed by then-Governor Lowry, including vetoes of individual subsections of bills and individual budget provisos.

Remarking that “the constitution condones neither artful legislative drafting nor crafty gubernatorial vetoes,” the court upheld the governor’s veto of individual subsections of bills where those subsections had the effect of repealing entire sections of code. Nevertheless, the court emphasized that the general rule is the Legislature’s designation of a “section” is conclusive, unless it is obviously designed to circumvent the governor’s veto power and is a palpable attempt at dissimulation. No bright line rule defining “palpable attempt at dissimulation” was established.

As for the budget provisos, the court broadly held that any proviso with a fiscal purpose contained in a budget bill is an “appropriation item” under article III, § 12, of the Washington Constitution and may therefore be vetoed.

The court entered the fray again two years later in *Washington State Legislature v. State*, 139 Wash. 2d 129 (1999). The case centered on then-Governor Locke’s partial veto of provisions relating to child care assistance copayments that were added to a budget bill after the governor vetoed a similar provision in a separate welfare reform bill. The Legislature argued against the validity of the veto because it covered less than an entire subsection in the budget, thereby seemingly violating the rule for vetoing appropriation items established in Lowry. But the court held that the proviso in question, which was drafted as a single subsection, actually contained two distinct provisos that did not structurally line up with the Legislature’s organization of the subsection. The court thus adopted a functional test by which to determine what exactly constitutes a “whole proviso.” Under the court’s framework, the answer might not be driven by the Legislature’s chosen division of sections and subsections. In the end, however, the court ruled that Governor Locke improperly used the partial veto because he failed to veto a whole proviso, as delineated by the court, based on the court’s interpretation of the operative language included in the budget.

The court addressed the veto power once more in 2005 in *Washington State
Grange v. Locke, 153 Wash. 2d 475, a case involving Governor Locke’s veto of much of a bill that created a new primary election system. Like the Lowry court, the Locke Court reiterated that it would intervene in a dispute between the political branches only to prevent obvious circumvention of the veto power by the Legislature or equally obvious manipulation of that power by the governor. Also like the Lowry court, the Locke Court spared the details around the concepts of “circumvention” and “manipulation.” The court ultimately sustained the veto in Locke, finding that the governor had vetoed only sections of a bill, even though the veto struck sections that were contained in lengthier separate “Parts” of the bill.

A few principles come to the fore in the court’s contemporary opinions about the veto power: 1) the court has not been content to sit on the sidelines in disputes between the political branches; 2) the court does not consider itself to be bound by the Legislature’s drafting choices or the governor’s proffered defenses for his or her veto actions; 3) the court has been inclined to embrace function over form when determining whether a provision in a bill is a section or appropriation item; and 4) the court seems to have one discernable rule in all cases — the Legislature and governor should avoid gamesmanship.

**Veto Override**

Finally, it is important to note that a veto is not always the last word on a bill. The Legislature may vote to pass a bill notwithstanding the governor’s veto and thereby override the veto.

Overriding a veto requires a two-thirds vote of the members present in each legislative chamber. Voting takes place first in the chamber of the bill’s origin, and then the other chamber may vote if the required majority is achieved in the originating chamber. As would be expected, a vetoed bill becomes a law if the Legislature passes it, notwithstanding the governor’s veto.

Veto overrides are rare. Research uncovered only two examples of a successful veto override among thousands of bills passed by the state Legislature in the last 20 years — until 2016. Even so, the veto override remains a recognized legislative tool provided in the constitution. The court has also signaled that it views the veto override as an option with obvious advantages to litigation.

And what happened this year? During a special session in March, the Senate voted to override vetoes for the batch of 27 bills the governor vetoed shortly after the conclusion of the regular session only weeks earlier. The House of Representatives followed suit a day later, capping off the Legislature’s exceptional en masse reversal of the governor’s vetoes.

**All in All**

The legislative process in Washington involves separate branches of government equipped with their own constitutional responsibilities. The governor’s power to veto bills may be the executive’s most potent prerogative. Yet the Court has demonstrated that it will referee the veto and the Legislature recently demonstrated its power to supersede the veto.

**FOR MORE INFORMATION**

The Legislature’s website for information on bills is [http://app.leg.wa.gov/billinfo](http://app.leg.wa.gov/billinfo).


**NOTES**

1. The Constitution establishes a 20-day window for the governor to veto a bill by filing objections with the secretary of state if the Legislature’s general adjournment prevents the bill’s return to the Legislature. What this means in practice is that bills presented within five days of adjournment may sit on the governor’s desk for 20 days after adjournment before executive action is taken.

2. Budgets are bills; however, budgets may be viewed as their own subspecies because they are mainly composed of various appropriation items, whereas most other bills do not contain appropriation items.
Here is perhaps no greater intertwining of land and people than the relationship between farm and farmer. Neither exists without the other and that’s why Forterra focuses on land and people in its farmland conservation efforts. Forterra is a regional sustainability organization based in Seattle, with satellite offices in Tacoma and Ellensburg. We have led many major conservation successes across the region over the past 20-plus years, from the Maury Island mine site to the 50,000-acre, multi-use Teanaway Community Forest. In 2015, we gained farmland conservation momentum via two major successes: one in Pierce County and one in Snohomish County. We utilized creative solutions to make the properties affordable while ensuring they remain farmland for future generations.

Homestead Paved
Our region has been losing farmland since the 1950s. According to American Farmland Trust in its 2012 report "Losing Ground: Farmland Protection in the Puget Sound Region,” we have lost nearly 60% of farmland — approximately 800,000 acres — across the region. And what is
left is at significant risk of conversion to homes, warehouses, and highways.

In addition to the usual litany of issues posing problems for family farmers — increased competition for water, transportation costs, lack of low-cost labor, increasing competition particularly from foreign markets, etc. — rocketing land values make it tough for farmers to either 1) afford land to farm in the first place; or 2) say no to developers offering to buy at prices much higher than agricultural values. So Forterra steps in and employs creative solutions that not only conserve farmland but also help farmers start or expand their businesses.

To bring everyone to the table, secure funding, and ultimately close these conservation transactions, Forterra relies on a tried and true conservation tool, the conservation easement (CE), sometimes married with a more recent innovation, transferable development rights (TDR).

Conservation Easements
In its general form, a CE is an agreement between a landowner and an entity interested in conserving the landowner's property (typically a land trust or government agency) to permanently restrict certain uses of the property, especially development, in order to protect that property's conservation values. Conservation values protected may include wildlife habitat, working farm/forest/ranch, outdoor recreation, scenic/open space, and/or historic elements. A CE is conveyed by a Deed of Conservation Easement, with the fee owner retaining all property rights other than those conveyed in the CE deed. A CE runs with the land, and the CE holder has full power to enforce its terms regardless of the holder's proximity to the burdened property. As common law historically frowned upon the imposition of negative burdens, perpetual easements, and easements in gross — of which a CE is all three — over the years, all but one state has passed CE-enabling statutes recognizing the CE as a valid and important land use tool. Washington's CE-enabling statutes are found at RCW 64.04.130 and RCW 84.34.200-250.

Transferable Development Right
Typically, a TDR program is a means by which developers can purchase development rights from a farm or forest property and transfer those rights to an area slated for growth, often an urban or town center. The farm or forest owner — who participates in the program voluntarily — continues to use their property (the “sending site”) for agriculture or timber harvest, and as otherwise desired except for further development, and the developer gains additional development rights for their property (the “receiving site”) beyond those otherwise allowed in a given city or county code. TDR programs vary by jurisdiction, but all programs in Washington require that a conservation easement be placed on the sending site as the legal mechanism restricting development in perpetuity.

Forterra was the driving force behind establishment of a regional TDR program in Washington. Between 2007 and 2011, we developed three pieces of state legislation that led to the establishment of both the Regional TDR Marketplace and the Landscape Conservation and Local Infrastructure Program (RCW...
43.362 and RCW 39.108, respectively). Forterra has since helped 17 jurisdictions develop TDR programs in conformance with state law, including Pierce, Snohomish, and Kittitas counties. In short order, TDR programs in Washington have protected more acreage than TDR in any other state, led by King County.

Two recent transactions show how Forterra puts these tools to use.

Matlock Farm
In 2013, Forterra approached Ivan and Dave Matlock about conserving their 153-acre farm along the Puyallup River near Sumner in Pierce County. The Matlock brothers had owned this land since the 1950s, growing berries and nursery stock until they retired in the mid-1990s. They then leased the land to a local farmer who grew strawberries, cucumbers, and bush beans while they sought a buyer for the farm. The brothers hoped another farmer would buy the land, but they also wanted to secure the future for their own families, and development pressures had greatly increased the value of their land. In fact, several times over the prior 15 years they had agreements to sell the farm to developers, only to have the deals fall through.

The brothers told Forterra that while they would love for the property to remain a farm forever, they could not afford to leave all that development money on the table. While this eliminated most, if not all, farmers from contention as buyers, Forterra was confident we could structure a deal that would leave everyone satisfied. The brothers allowed that they would hold off listing the farm for sale to give Forterra a window of opportunity to find funding to pay the appraised value. The anticipated appraised value? $3 million.

Given the total price tag and the nature of the property, we knew it would take a multi-prong approach and a combination of partners and funding to make a deal work. Forterra Conservation Director Jordan Rash pulled everything together over two-plus years. To lower the value of the fee property, Jordan lined up Pierce County to buy a conservation easement and acquire development rights for its nascent TDR program (see Pierce County Code 18G.10). Forterra applied for Pierce County Conservation Futures funding for the conservation easement (see Pierce County Code 2.97). Then Pierce County Surface Water Management (SWM) agreed to buy the 37-acre floodplain portion of the property, further lowering the overall cost of the farm while reducing flood risk and providing an opportunity to improve salmon habitat.

The last step was finding one or more farmers to buy the remaining fee, and Forterra had the advantage of being able to offer prime farmland at genuine agricultural values, an increasing rarity in the Puyallup Valley. Jordan found two local farming families each interested in buying respective portions of the farm. Then Forterra got down to business working hand in glove with both farmer-buyers and multiple Pierce County departments to tie everything together. I drafted the transactional documents with the County Attorney’s office, ensuring we accounted for all necessary steps, contingencies, reviews and approvals, and detailed escrow instructions setting up a simultaneous closing of the various property interests while requiring that each conveyance be contingent on the other.

We ensured the farmer-buyers understood and were comfortable with the respective CE deeds, each of which included a one-acre residential development zone and defined “farm-related uses” broadly to include things like agritourism. In the last 20 years, enterprises like roadside stands, pumpkin patches, corn mazes, and other family-friendly experiences have become vital parts of many farms’ economies (Washington State University, Agritourism in Washington State: An Industry Profile (2011)), and Forterra and Pierce County wanted to ensure these farmers have every chance to succeed. After all, the purpose of the CE is to maximize the possibility that the property remains viable for agricultural use, physically and economically.

In February 2015, the deal closed. While there was a single closing, technically first in the space-time continuum Pierce County bought the two conservation easements from the Matlocks, then SWM bought the riparian land from the Matlocks, and finally each farming family bought their respective CE-burdened fee farmland from the Matlocks. We had completed the largest farmland conservation project in Pierce County history. The farm was conserved and every person and entity got something they wanted. Heck, even the fish made out in this deal.

Meanwhile, in Snohomish County we closed a farmland conservation deal much longer in the making.

Riverbend Farm
Over 10 years ago, Forterra (then Cascade Land Conservancy) asked the owners of a 150-acre farm near Arlington in Snohomish County if they would consider selling a conservation easement. The owners were contemplating developing the property and we hoped to prevent that before
A conservation easement orchestrated by Forterra led to the largest farmland conservation deal in Pierce County history and enabled the purchase, and continued farming, of the land by two multi-generation farming families, including the Sidhus, pictured here. Photo by Hannah Letinich.

it got too far. We were unable to work out a deal, and in 2006 the owners took out a bank loan and platted and subdivided the property into 15 10-acre residential lots. The timing was unfortunate, as the real estate bubble burst soon thereafter. Forterra made another attempt to buy the property, this time the full fee interest, but the owner had too much invested, financially and emotionally, and we could not agree on a price. Ultimately, only one of the 15 lots sold, and in 2011 the bank commenced an action against the owners in Snohomish County Superior Court. The court appointed a receiver to manage the property and enter a money judgment in favor of the bank well in excess of the remaining value of the property.

A Flicker of Hope
As selling the property would not nearly recoup the bank’s judgment or even the original loan principal, the receiver ended up leasing the remaining 14 lots to a local third-generation farmer, Andrew Albert. Albert had found success in the high-demand market for quality hay and ultimately wanted to own his own farm. Forterra had kept tabs on the property over the years, and in early 2014, with the real estate recovery beginning to spread beyond the Seattle area, we decided this was our last window of opportunity to conserve the remaining 140 acres. Michelle Connor, Forterra’s vice president for strategic enterprises, specializes in these types of long-game, multi-faceted conservation deals, and she led the effort.

Forterra first executed various contingent contracts with the bankrupt and essentially judgment-proof owner, the owner of the one developed lot, Snohomish County, and Albert. The contingent contracts established the process by which Forterra, in the event we acquired the loan and judgment from the bank, would 1) acquire the property in fee from the owner, 2) unwind the plat and subdivision and restructure the CCRs with cooperation from the developed lot owner, 3) sell a CE to the county over 130 of the 140 acres (leaving one lot for a farmer’s residence) (see Snohomish County Code 4.14), and finally, 4) sell the CE-burdened property to Andrew Albert at its agricultural value along with the farmer’s residential lot. In December 2014 we made an offer to the bank for the loan and judgment. In the midst of all this, we were also working with the Department of Ecology to clear a soil contamination cloud over the property owing to a prior cleanup that was not properly documented. Good times!

After several months the bank approved our purchase offer, but a couple more months later it was rejected as insufficient by a federal oversight body. In October 2015, we submitted a higher offer that was ultimately approved, although this of course brought us greater financial risk. In December 2015, we formally acquired the loan and judgment from the bank. That same day, in accordance with the contingent agreements which had long been in place, the owner conveyed a deed in lieu of foreclosure to Forterra. Shortly thereafter, Forterra recorded a satisfaction of judgment, releasing the owner from any further liability.

By the time this article goes to print, hopefully Andrew Albert will own the farm. But as of this writing, our work is not done as we are in the final stages of clearing the environmental issue from title, unwinding the plat and subdivision, and selling the CE to Snohomish County — all in order to ensure Albert buys the property in a condition that sets him up for long-term success as a farmer on his own farm.

Conclusion
Despite the different situations of these two farms, our core conservation strategy was the same: find a path resulting in favorable outcomes for everyone involved, including using the conservation tools at our disposal to buy down the value of the land as much as possible in order to make it affordable for current and future generations of farmers. Our core belief is that land and people thrive together. And we take great pride in finding a path forward where none seemingly exists. NWL

Adam Draper has been Forterra’s attorney since 2011. He brings expertise in land conservation strategy, real estate transactions, and contracts, and counsels leadership and program staff on complex legal and reputational risk matters. Prior to joining Forterra, Draper served as director of land protection for the Northern Virginia Conservation Trust and clerked for Judge Susan Agid on the Washington State Court of Appeals. Outside the office, Draper and his wife, Liz, stay busy wrangling their two young, spirited sons. You can reach him at 206-905-6956 and adraper@forterra.org.
Succession Planning Considerations for Virtual Practices

Do You Have a Plan?

by Michael Cherry
The number of lawyers relying on technology to be responsive to clients, to focus on practicing law rather than performing administrative tasks, and to lower overhead is increasing, owing to changes in the market for legal services. Although the increasing use of technology is generally a positive force on the delivery of legal services, it can complicate plans for the maintenance and protection of clients’ interests in the event of an emergency that affects a lawyer’s ability to continue to represent his or her clients.

**Hosted Services and Virtual Practices**

According to the 2013 American Bar Association (ABA) Legal Technology Survey, 31 percent of lawyers use hosted (or cloud) services, such as Clio (a practice management solution) or Dropbox (a file-sharing or collaboration service). The spectrum of technology can run from simply using a hosted service for email to operating an entirely virtual law practice.

Hosted services are applications or computing infrastructure, running in a datacenter managed by a third party, accessed via a network such as the internet. Some of these services, such as Evernote (a digital workspace), use a “freemium” model, with basic features that are free and additional premium features available for a fee. Other hosted services, such as Office 365, which includes the Office desktop applications and other services such as Microsoft Exchange email, are offered as a monthly subscription. Finally, some hosted services, such as Amazon Web Services, charge based on the consumption of computing resources.

New lawyers and solo practitioners find such hosted services attractive because the subscription or pay-as-you-go models require little or no capital investment and the amount of computing resources being used and the cost of the service are elastic — growing or shrinking to meet the lawyer’s demand for the services. But when the subscription ends, the right to use the service ends, and there may be a limited period of time in which to retrieve any stored data.

According to Stephanie Kimbro, author of *Virtual Law Practice: How to Deliver Legal Services Online*, a virtual law practice is “a professional law practice that exists online through a secure portal and is accessible to both the client and lawyer anywhere that parties may access the Internet.” In the case of a virtual practice, the law firm may not have a physical office or any paper records.

Technology-related succession issues affect firms of all sizes. In addition to solo practitioners and small firms, many mid-size and large firms are also using these technologies, and other members of the firm may not have adequate access to all the technology used by lawyers in the firm.

**Succession Planning Really Isn’t Optional**

Although the Washington State Bar Association (WSBA) webpage on succession planning indicates that lawyers are not required to have a succession plan, such plans are strongly recommended. As a general accounting principle and proper business practice, every business should be run as a going concern; that is, “as a commercial enterprise engaging in business with the expectation of indefinite continuance.”

To encourage its members to have a succession plan, the WSBA points to a 1992 ABA Committee on Ethics and Professional Responsibility formal opinion on the “Disposition of Deceased Sole Practitioners’ Client Files and Property.” This opinion addresses questions raised when a lawyer with a sole practice dies with active clients. Although no Rule of Professional Conduct (RPC) addresses this matter directly, the ABA opinion infers from two key rules that a lawyer should have a plan that “at a minimum includes the designation of another lawyer who would have the authority to look over the sole practitioner’s files and make determinations as to which files needed immediate attention, and provide for notification to the sole practitioner’s clients of the lawyer’s death.”

The ABA committee supports its inference by citing RPC Rule 1.1 on competence, which requires “preparation necessary for the representation” in order to provide competent representation. As the committee indicates, when read in conjunction with RPC Rule 1.3 on diligence, which states that “a lawyer should act with reasonable diligence and promptness in representing a client,” lawyers cannot allow their personal situations to negatively affect their clients’ interests.

It is not the purpose of this article to defend whether or not lawyers have this obligation, but rather to consider how best to address succession planning when technology forms the backbone for the provision of legal services.

**Additional Succession Planning Considerations**

Even for lawyers with a traditional office with on-premises computer systems and paper files, succession planning is not as simple as giving another lawyer the keys to your office and your filing cabinets and a yellow sticky note with your password. To assist lawyers with understanding the complexities of a succession plan, the WSBA provides the handbook and associated forms “Planning Ahead: A Guide to Protecting Your Clients’ Interests in the Event of Your Disability or Death.”

Other guidance on succession planning is available from a variety of sources, such as an article published in 2013, in which two Washington attorneys discussed their succession plan experiences. Some jurisdictions even provide sample contracts for attorneys to use for succession planning.

These existing materials provide a foundation for succession planning for firms relying on hosted services and virtual practices, but two additional issues need to be addressed: understanding how the firm is using technology and finding a technologically competent attorney to take over in the event of an emergency.

**A Technology Inventory**

Key to having a succession plan for a law firm relying on hosted services or a virtual practice is having a complete inventory of the hosted services and devices (computers, tablets, and smartphones) being used. Such an inventory, which could be an appendix or exhibit to an agreement between attorneys, should be more than a simple list of hosted services and devices.

At a minimum, an inventory should include all the hosted services and devices in use, how the hosted service or device is used (what legal tasks it supports), how the hosted service or device is accessed, and the terms of service for the hosted service (how it is paid for).
... Any succession plan needs to be tested, because it is a backup system, and many backup systems seem to be workable until they are needed to restore the service.

Hosted service and device usage. The successor attorney needs to understand exactly how the hosted service or device is used to support the legal practice. Do not assume he or she will understand how it is used from its name. Most people know Microsoft Exchange provides email services, but it can also be used as a calendar, as a resource to manage contacts and clients, and as a tool for task management. The successor attorney needs to know which features are used and which are not. The successor attorney also needs to know if the data is backed up on a regular basis or if the online data is the only version.

When multiple services are used, it is easy to forget a service. A complete inventory should include all the devices (hardware) and all of the software and services (on-premises and hosted). This includes all accounting, calendar, client relationship management, collaboration, document creation and management, email, legal services (Lexis, West), legal practice management software (docket, e-discovery), social media, and websites. Don’t forget hidden applications: users of Windows-based devices may be using Skype and users of Apple-based devices may be using FaceTime to communicate with clients; therefore, these applications may have important client contact data.

Because hosted services are inexpensive and have few barriers to entry, the inventory must be regularly updated when an application or hosted service is dropped and replaced with a newer version.

Hosted service and device access. The successor attorney needs to have access to all the devices and hosted services used to support the legal practice. Access can require more than simply having the URL, user ID, and password. Some devices and services have user and administrator levels of access. Generally, the administrator level of access should only be used to make changes to the configuration of the service. Day-to-day use should be performed with a user account (a principle known as least privilege — a security best practice). When two levels of access are available, the successor attorney needs both user and administrative access.

Some devices or hosted services may require multifactor authentication, where access requires something the user knows (a password or PIN), something the user has (a smartcard or one-time code), or even something they are (a unique biometric identifier such as a fingerprint). Other services require passwords to be changed periodically; if this is the case, the succession plan will need to be updated each time the password is changed. The successor attorney will also need to know the correct answer to the question that must be answered in order to reset a password (for example, where were you born?).

In some cases, acquiring a subscription for a user account for the successor attorney and leaving it inactive might be the best option. In the event of an emergency, the successor attorney could then activate the subscription while putting the unavailable attorney’s accounts on hold, thus leaving the accounts intact and in the same state as the last time they were used.

The portion of the inventory that details access extends beyond the services to the devices the lawyer uses. The successor attorney needs to have access to the devices in a manner that provides the necessary encryption keys that are needed to decrypt the data on the devices.

Hosted service terms of service or license. Again, a key advantage of many hosted services is that users pay only for what they use. The disadvantage is that when they stop paying, access is suspended and data may be deleted. Although many services are prepaid on an annual basis, the successor attorney needs to know when each service terminates, how much the service costs to continue it for as long as it will be needed, and how to renew the subscription.

The successor attorney also needs to know what use rights extend beyond the end of the subscription. For example, how long does he or she have to remove all data from the service, and in what format will the data be provided? Can the data be downloaded across the internet or will disks have to be sent to the service provider? At some point, the successor attorney likely needs to archive all of this data and ensure it is safely stored for the appropriate time frame to comply with record retention regulations.

Finding a Competent Attorney

In most cases, finding a competent successor attorney is a two-dimensional problem. An attorney needs to find a successor attorney and that attorney has to be competent in the same areas of the law. Although this seems simple, the particulars of what legal matters an attorney focuses on or limits his or her practice to may reduce the pool of available attorneys who are competent to step in at a moment’s notice to take over. Keep in mind, the successor attorney is likely busy with his or her own practice and has to be willing to take on an additional load.

With the extensive use of technology, finding a successor attorney becomes a three-dimensional problem. The successor attorney needs an additional level of competency — competency with the technology used by the firm to conduct the practice.

This second point, competency with the technology, may be addressed by documentation on how the service is used, although less and less is typically provided with hosted services, and with some premium services little or no technical support or documentation is available from the vendor.

Here it may be necessary to consider providing for the ability to contract with a third-party support firm to assist the successor attorney with technical issues that come up when he or she takes over. Although this addresses the technical issues, it may raise confidentiality issues.

What to Do Next

As an attorney, the first step you should take is to determine whether your practice needs a succession plan. If you don’t have a plan, think about who might be a candidate as a successor and what information your plan would need to provide. If you make significant use of technology in your practice, think about what your successor attorney would need to know to step into your practice at a moment’s notice.

Creating a plan can be overwhelming, so triage your legal activities and identify which tasks are most important. Begin by focusing on questions such as, “How would my successor know who my clients are, so
they can be informed of the situation? How would my successor attorney know which clients have to be contacted immediately and which clients are less time-sensitive?"

Keep refining and improving your plan over time. Even if you cannot find a successor attorney, think about what kind of information a custodian appointed by the bar or the courts would need to have to represent your clients’ interests.

One last point: Any succession plan needs to be tested, because it is a backup system, and many backup systems seem to be workable until they are needed to restore the service. Periodically, attorneys and their successors should run a test to see if the succession plan can be implemented. The plan can then be revised based on what was learned from the rehearsal. For instructions on how to do this, look on the side of most shampoo bottles: Lather, rinse, repeat. With succession plans, it translates to plan, test, repeat.

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NOTES
3. Stephanie L. Kimbro, Virtual Law Practice: Helping you understand medical records, giving you more time to practice law.
In Verse

3 LAWYER LIMERICKS

by Shelley K. Simcox
shelleyron@wavecable.com

There once was a lawyer named Trevor
Who failed at every endeavor,
His cases weren’t winners,
He fared worse than beginners,
To law school he should have said “never.”

There once was a lawyer named Mary
Who everyone found too contrary,
When agreed with, she spluttered;
When they argued, she muttered;
When she needed new clients, she found nary.

There once was a lawyer named Kenny—
When it came to clients, he had many,
They came and they went,
As their money he spent,
Until eventually he lost every penny.

The 2016 WSBA APEX Awards are Sept. 29.

Formerly known as the Annual Awards, the APEX Awards (Acknowledging Professional Excellence) celebrate people — attorneys and community members — who represent the legal profession’s core values: integrity, professionalism, diversity, service, justice, and courage.

Join us to celebrate this year’s recipients at the WSBA APEX Awards in Seattle on Sept. 29. Learn more at www.wsba.org/awards.
UPCOMING WSBA CONFERENCES AROUND THE STATE

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

JUNE 24-26, 2016
Family Law Section Midyear Meeting and Conference
Vancouver Hilton • Vancouver, WA

JULY 22-23, 2016
Plan, Promote, Propel Your Practice: The 2016 WSBA Solo and Small Firm Conference
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WSBA BOARD OF GOVERNORS MEETING

March 10, Olympia, and April 15–16, 2016, Bremerton

by Susan Strachan

MARCH 10, 2016, OLYMPIA

At its March 10 meeting in Olympia, the WSBA Board of Governors recognized two local heroes, provided updates on the Section Policy and WSBA Bylaws Workgroups, heard testimony on the Escalating Cost of Civil Litigation (ECCL) Task Force recommendations, and considered a proposal regarding the WSBA Legislative Committee’s membership.

Each year the Board holds a meeting in Olympia. Pre-meeting activities included a luncheon with the Thurston County bench, a discussion with the Washington State Office of Administrative Hearings, and a meeting with the leadership of the Government Lawyers Bar and the Thurston County Bar associations. The day after the Board meeting, the Board met with the Washington Supreme Court.

Local Heroes

Bar members from in and around Thurston County attended a luncheon on Thursday where two Local Hero Awards were presented. Judith Luther-Shiflett was nominated by the Thurston County Bar Association for her longtime service to the Thurston County Volunteer Legal Services office. She has volunteered weekly for many years at the Olympia Family Support Center, and also monthly at the legal clinic in Shelton. The Government Lawyers Bar Association recognized Michael Young for his work with the pro bono committee at the Attorney General’s Office (AGO) and his coordination of the AGO mentorship program which ensures all incoming assistant attorneys general are provided a mentor.

Sections Policy Workgroup

The Board heard an update from the Sections Policy Workgroup, which reported that five section leaders will join the Workgroup following a nomination and election process. The Workgroup will reconvene in April and meet through September, when the Board is scheduled to take action on its various recommendations.

WSBA Bylaws Workgroup

In response to the 2014 Governance Task Force report, the Board formed a Bylaws Workgroup. This workgroup is drafting proposals to amend the current Bylaws consistent with the Task Force recommendations adopted by the BOG, and expects to have its final proposals to the Board in September.

ABA Model Regulatory Objectives (ABA Resolution 105)

WSBA Executive Director Paula Littlewood updated the Board on this ABA Resolution, which the Board voted to support in November 2015. The resolution urges state supreme courts to provide guidance and a framework for regulation in a quickly-changing legal services delivery market. The Board discussed asking our Supreme Court to adopt such a set of regulatory objectives.

WSBA Legislative Committee

Governors Philip Brady and Jill Karmy with WSBA Legislative Affairs Manager Alison Grazzini discussed a proposal to reduce the number of members on the WSBA Legislative Committee and restructure its format. Currently the committee has 33 members with no term limits. The proposed changes reset committee membership to 16, and term limits (coinciding with the state’s two-year legislative cycle) would be followed consistent with other WSBA entities and in line with Board-adopted strategic goals. Grazzini stated that the legislative process has changed and is faster-paced, but the committee make-up and structure has not changed. The new committee structure will enable the Bar to be more responsive to inquiries from the Legislature, and streamline the process for evaluating Bar-request bills and providing WSBA support for proposed legislation. There was discussion about sunsetting this committee, as much of its work overlaps with the Board’s Legislative Committee. The WSBA Committee on Mission Performance and Review will review this issue during its annual review of all committees and boards, and will report back to the Board in July for first reading. The Board approved a motion to reduce the number of members on the WSBA Legislative Committee to 16 and to institute term limits.

ECCL Recommendations

The Board heard the ECCL Task Force Report and Recommendations, as they have done for the past few meetings. The task force was formed in 2011 to assess the costs of civil litigation in Washington state courts, and to propose recommendations for reducing costs. The report was presented by Russ Aoki, ECCL Task Force chair, and Isham Reavis, both of Aoki Law. At this meeting, the Board heard information on three recommendations: presumptive discovery limits, e-discovery, and motions practice.

Testimony was heard from members and stakeholders. Board members also had questions for those providing feedback. The next three recommendations of the ECCL report will be taken up at the Board’s April meeting in Bremerton.

APRIL 15–16, 2016, BREMERTON

At its April 15–16 meeting in Bremerton, the WSBA Board of Governors received testimony on the Escalating Cost of Civil Litigation (ECCL) Task Force recommendations, amended the WSBA Budget, approved supporting an ABA Model Rule, and honored a local hero from the Kitsap County legal community.

It had been about seven years since the Board met on the peninsula. Pre-meeting activities on Thursday included lunch with the local judiciary — members of superior, district, and tribal courts were represented. Board members also met with the leadership of the Kitsap County Bar Association and discussed issues of interest including mandatory arbitration rules (MAR), discipline, new lawyers, and section policies.

Local Hero

On Friday, a luncheon was held with the Kitsap County WSBA members, and Darrell Uptegraft was presented with the Local Hero Award. Uptegraft was honored for service to the local community, including mentoring newer attorneys, working with Law Day events, serving as president of the Kitsap County Bar Association.
Association, and a long legal career. Recently retired, Uptegraft is working on his “bucket list,” and commented that his friends and colleagues are the true local heroes as they support him and his family while he battles amyotrophic lateral sclerosis (ALS, or Lou Gehrig’s disease).

ECCL Recommendations
The Board continued to hear the ECCL Task Force Report and Recommendations. The report was presented by Russ Aoki, ECCL Task Force Chair, Hon. Marcine Anderson, and Isham Reavis. At this meeting the Board addressed three recommendations: pretrial conference, district court, and alternative dispute resolution (ADR).

Members of the audience provided testimony and clarified points of discussion for the Board. WSBA President Bill Hyslop thanked Aoki and all those who worked with the task force. He also thanked members of the audience for providing comments and additional information. The Board will discuss the report at its June meeting in Seattle.

WSBA Budget
The Mandatory Continuing Legal Education (MCLE) rules and regulations were recently updated by the Washington Supreme Court. These updates expanded the types of courses that qualify for CLE credit in Washington. As a result, the antiquated computer system used to record and track credits required a complete overhaul, with a hard deadline of Jan. 1, 2016. After review and completion of some of the work, it was determined that custom software was the best option and that the project should be scoped in phases, with completion of Phase 1 by Jan. 1, 2016, and Phase 2 by Oct. 1, 2016. Because of its complexity, the project has required more time, labor, and resources than initially budgeted. The Board approved a budget amendment of $30,000 to cover FY16 depreciation expense and Phase 2 expenses (expected to be under $350,000).

Mentorship
The Board reviewed the current status of the WSBA mentorship program (the MentorLink webpage and links for mentorship programs, ALPS Attorney Match, and other work in progress), and will work with staff to continue to improve and implement this important member benefit.

Office of the Insurance Commissioner Proposal to Adopt ABA Model Rule on Payee Notification
Doug Ende, chief disciplinary counsel and director of the Office of Disciplinary Counsel (ODC), spoke to the Board about an ABA Model Rule designed to notify clients when a case is settled and funds are disbursed to the attorney. Washington state has adopted other portions of this model rule, and now the Washington Office of the Insurance Commissioner is seeking the support of the WSBA to adopt this “payee notification” language. Since this rule would regulate the behavior of insurance companies, the Supreme Court cannot enact the rule. It was noted that the RPCs require lawyers to do this already, but conversion, theft, and fraud still occurs. It was moved that the WSBA support this proposal.

Board Mini-Retreat
The Board discussed existing WSBA member benefits and corresponding costs and impacts of mandatory and professional association programming. The Board will review the preliminary FY17 budget in July and approve the final budget in September. Since the 2012 referendum that reduced license fees from $450 to $325, the Bar has worked diligently to make do with less. By reducing its financial footprint, limiting the license fee adjustment to $385 for 2016 and 2017, and through planned expenditures of reserves, the Bar has continued following its mission to serve the public and its members, ensure the integrity of the profession, and champion justice. At the same time, financial modeling indicates that at the current license fee of $385, the reserves will drop below a fiscally prudent level by FY19. The task before the Board this summer will be to decide how to optimize programming and license fees to maintain a prudent level of reserves to sustain the Bar’s important mission.
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Of the 367 candidates who took the February 2016 bar exam, 215 candidates passed. Congratulations to the WSBA’s newest members!

A
Abernathy, Coreena, Seattle
Ahern, Kyle Timothy, Seattle
Ahn, Margo Rose, Lynnwood
Allen, Nancy Caterina, Spokane
Anderson, Zachary, Ann Arbor, MI
Andrews, Robin DeHart, Seattle
Arias, Honore Anthony, Portland, OR

B
Badgley, Kevin Daniel, Seattle
Baldwin, Ian David, Lakewood
Banda, Adolfo, Yakima
Barnett, Peter Roy, Kirkland
Barouh, Lena Elaina, Seattle
Barrett-Smith, Jacqueline, Spokane, Irvine, CA
Barron, Leslie, Costa Mesa, CA
Bawab, Nadeen, North Island
Barrett-Smith, Jacqueline, Spokane, Irvine, CA

C
Calza, Jenna Wong, Mercer Island
Campbell, Hannah Grace, Olympia
Campbell, Cory M., Spokane
Campos Gonzalez, Emmanuel, Seattle
Carden, Claire Joan Priscilla, Seattle
Carlson, Melissa Elaine, Poulsbo
Castillo, Lisa Chong, Washington, DC
Cheptoo, Maureen, Lynnwood
Chiang, Chia-Yu, Anchorage, AK
Chow, Stephanie S., Jericho, NY
Chrysthal, Christopher Alexander, San Diego, CA
Chukwuekwueze-Ezekwe, Christina Chidimma, Sheffield, South Yorkshire
Clark, Jennifer Lee, Mercer Island
Clark, Kim Christensen, Dallas, TX

D
Clifton, Sarah Rose, East Wenatchee
Cloutier, Jody Kris, Carnation
Cook, Elizabeth Anne, Seattle
Cook, Katherine Sharon, Bellevue
Corbett, Irisa, Seattle
Costa, Kayeott Vota, Long Beach, CA
Crawford-Heim, William Frederick, Spokane
Cushman, Adam Thomas, Lakewood

E
Eastwood, Helen L., Seattle
Edgell, Kenneth James, Seattle
Edwards, Christopher Michael, Sammamish
Elder, Kelly, Issaquah
Ellis, Lauren Ashley, Yakima
Epperson, Brandon, Lake Tapps
Evilsizer, Keri Anne, Danville, CA

F
Ford, Ryan Patrick, Pismo Beach, CA

G
Gai, Stephanie, Seattle
Georgieva, Kristina P., Bellevue
Gerrard, Sonja Rochelle, Seattle
Gilchrist, Ryan Matthew, Seattle
Gingol, Birgitte Marie, Seattle
Gong, Ann Yi, Kirkland
Good, Desiree Leigh, Seattle
Goodrich, Mark Slaughter, Bellevue
Gouveia, Samantha Jo, Yakima
Green, Marcie, speaker, Redmond

H
Harrison, Stephanie Ann, Seattle
Hanley, Christine Elizabeth, Seattle
Hansen, Abigail Marie Ferguson, Spokane
Hardie, John Charles, Seattle

I
Irizarry, Rachel L., Woodinville

J
Jafarey, Maha, Bellevue
Jarman, Taylor Dean, Jacksonville, FL
Jaswal, Vikram, Tucson, AZ
Johnson, Ryan Matthew, Kent Jones, Sarah Jana Marjorie, Bridge, Seattle
Juric, Luka, Seattle

K
Kang, Yong Kyu, Seoul, South Korea
Kelley, Lisa Daely, Tacoma
Kelley, Nicholas Owen, Seattle
Kendrick, Linda Pauline, Salem, OR
Knutsen, Karen, Onalaska
Kothari, Shree Sudhir, Edmonds
Kris, Jody Ann, Mercer Island
Kutner, Michael Richard, Seattle

L
Lance, Warren Dean, Honolulu, HI
Larson, Amy McNair, Seattle
Laudencia, Kathleen Aragon, Foothill Ranch, CA
Le Duc, Jeanne M., Seattle
Lecocq, Erin Elizabeth, Seattle
Lee, Steven H., Tacoma
Lee, Morgan Elsey, San Francisco, CA
Leh, Timothy Cristofer, L.A.
Liao, Shan, Seattle
Lin, Samantha, Seattle
Liu, Tiffany, Issaquah
Lopez, Diana, Malton
Lopez, Gabriela Amanda, Seattle
Lubomirova, Kristiana, Spokane

M
Mallory, Kyle, Seattle
Mammadova, Aysu, Newcastle
Manka, Carolyn Janell, Yakima
Mann, David Leeland, Federal Way
Manno, Alexandra Danielle, Wilmington, NC
Marques, Angelina Zaida, Seattle
Matzelle, Lauren Claire, Redmond
McIntire, Erin Floris, Seattle
McKeel, Carline Elizabeth, Seattle
Melton, Brandon Keith, Sanger, CA
Merrill, Tyler L., Seattle
Meayers, John Anthony, Seattle
Miller, Katherine, Seattle
Morganthaler, David Michael, Puyallup
Muff, Stephen, Auburn, CA

N
Nelson, Jesse Willier, Seattle
Nguyen, Timmy Ngoc, Spokane
Nguyen, Loc Van, Westminster, CA
Nogueira, Pamela Novaes, Raymond
Nyikos, Steven Patrick, Issaquah

P
Pang, Damon Tadashi, Seattle
Paoresina, Mariana, Seattle
Papé, Cheryl, Eugene, OR
Patel, Shreya, Seattle
Paxton, Anne, Seattle
Perry, Michael Shaw, Gig Harbor
Petersen, Dana, Seattle
Petrosyan, Angelina, Bothell
Petit, Allison Gail, Mercer Island
Pisarcik, Ian John, Spokane
Purcell, Hannah, Des Moines

Q
Quattlebaum, Vincent, Tucson, AZ
Ragsdale, Robert, Seattle
Reber, Natalie Diane, Seattle
Reed, Caroline Panter, Bainbridge Island
Resto-Spotro, Armanda, Olympia
Roberts, Tyler Allan, Pasco
Roberts, Natalie Elaine, Olympia
Rylander, Bart, Ridgefield

S
Sanillantes, Chase, Seattle
Sekhon, Sharan Dhillon, Bellingham
Sharp, Garrett Raymond, Hood River, OR
Shenderovich, Milana, Redmond
Shenfeld, Kristina Marie, Seattle
Sheppard, Christopher Hie, Marysville
Shin, Isaac, Seattle
Shirk, Abbigail Lynn, Olympia

U
Usellis, Janet Elaine, Bainbridge Island

V
Vestal, Carla Denise, Hickory, NC
Villarreal, Damien Nicholas, Seattle

W
Wang, Michael Ge, San Diego, CA
Wang, Yu, Burnaby, BC
Washburn, Taylor, Seattle
Weisser, Jeffrey Paul, Seattle
Welsh, Libby McKenna, Seattle
Werner, Perry Rose, Seattle
Wiles, Ryan Paul, Seattle
Winklew, Erin Helen, Tigard, OR
Wirton, A. James, Ridgefield

X
Xie, Qian, Seattle
Xu, Qiuwen, Redmond

Y
Yergeau, Brandi E., Tacoma
Yim, Justin Blake, Seattle
Ying, Qian, Sammamish

Z
Zabihi, Sasha, Woodinville
Zets, Cynthia Jean, Covington
Zhang, Honghao, Redmond
Zinter, Christine M., Hillsboro, OR
Zucconi, Kristina D., Enumclaw
Disbarred

Brian Huy Xuan Nguyen (WSBA No. 35947, admitted 2004), of Seattle, was disbarred, effective 2/5/2016, by order of the Washington Supreme Court. The lawyer's conduct violated the following Rules of Professional Conduct: 1.7 (Conflict of Interest: Current Clients), 1.8 (Conflict of Interest: Current Clients: Specific Rules), 1.15A (Safeguarding Property), 3.3 (Candor Toward the Tribunal), 3.4 (Fairness to Opposing Party and Counsel), 8.4(b) (Criminal Act), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation), 8.4(j) (Violate a Court Order). Linda B. Eide and Joanne S. Abelson acted as disciplinary counsel. William S. Bailey was the hearing officer. The online version of NWLawyer contains links to the following documents: Hearing Officer's Decision; Disciplinary Board Recommendation; and Washington Supreme Court Order.

Disbarred

Scott A. Waage (WSBA No. 36565, admitted 2005), of Key West, FL, was disbarred, effective 2/25/2016, by order of the Washington Supreme Court. The lawyer's conduct violated the following Rules of Professional Conduct: 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation), 8.4(d) (Prejudicial to the Admin of Justice). Debra Slater acted as disciplinary counsel. Scott A. Waage represented himself. Stephen J. Henderson was the hearing officer. The online version of NWLawyer contains links to the following documents: Hearing Officer's Decision; Disciplinary Board Order Declining Sua Sponte Review; and Washington Supreme Court Order.

Disbarred

James D. Pirtle (WSBA No. 37422, admitted 2006), of Seattle, was disbarred, effective 2/24/2016, 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(b) (Criminal Act), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation). Randy Beitel acted as disciplinary counsel. Manjul Varn Chandola and Joseph A. Evans represented Respondent. Andrekita Silva was the settlement hearing officer. The online version of NWLawyer contains links to the following documents: Hearing Officer's Decision; Disciplinary Board Recommendation; and Washington Supreme Court Order.

Disbarred

Ryan D. Whitaker (WSBA No. 21688, admitted 1992), of Vancouver, was disbarred, effective 2/25/2016, by order of the Washington Supreme Court. The lawyer's conduct violated the following Rules of Professional Conduct: 8.4(b) (Criminal Act), 8.4(i) (Moral Turpitude, Corruption or Disregard of Rule of Law). Marsha Matsumoto acted as disciplinary counsel. Ryan D. Whitaker represented himself. Joseph M. Mano Jr. was the hearing officer. The online version of NWLawyer contains links to the following documents: Hearing Officer's Decision; Disciplinary Board Order Declining Sua Sponte Review; and Washington Supreme Court Order.

Suspension

Ryan Scott Taroski (WSBA No. 38412, admitted 2006), of Vancouver, was suspended for one year, effective 3/9/2016, by order of the Washington Supreme Court. The lawyer's conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication), 3.2 (Expediting Litigation), 8.4(d) Prejudicial to the Admin of Justice, 8.4(f) ELC violation. Jonathan Burke acted as disciplinary counsel. Ryan Scott Taroski represented himself. The online version of NWLawyer contains links to the following documents: Disciplinary Board Order Approving Stipulation; Stipulation to 60-Day Suspension; and Washington Supreme Court Order.

Interim Suspension

Donald Peter Osborne (WSBA No. 7386, admitted 1977), of Bellevue, is suspended from the practice of law in the State of Washington pending the outcome of disciplinary proceedings, effective 3/11/2016, by order of the Washington Supreme Court. This is not a disciplinary sanction.
New Recorded Seminar “Bundles” from WSBA-CLE
WSBA-CLE seminars are now available in bundles — collections of recorded CLEs in specific practice areas offered at discounted prices. Each bundle provides both Law & Legal Procedure and Ethics CLE credit. Go to wsbacle.org and click on “Bundles” to view the collections in business, creditor-debtor, elder, estate planning, family, Indian, and litigation law, plus professionalism.

Nominate a New or Young Lawyer for the WYLC’s Public Service and Leadership Award
This year, the Washington Young Lawyers Committee will honor five new or young lawyers with the Public Service and Leadership Award. This is a great opportunity to recognize the achievements of a new or young lawyer. Nominate someone who you think deserves to be recognized for their long-term public service and extraordinary contribution to the community. Applications are due July 15. Award recipients will be selected in August. Learn more at http://bit.ly/ylcaward.

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

WSBA Launches CLE Faculty Database
The WSBA is pleased to announce the launch of a faculty database to better support the delivery of quality CLE programming. It will provide a single repository to access information about current faculty and those interested in becoming faculty, so WSBA can best match expertise/qualifications to program needs.

If you are currently serving as CLE faculty, or are interested in working with WSBA as a future CLE faculty member, we ask that you register in the database. Serving as a faculty member provides you the opportunity to engage with other attorneys across the state, give back to your profession and expand your professional growth.

Whether it’s upcoming changes in the law, emerging hot topics, or substantive content, our goal is to ensure we are engaging with the right faculty at the right time, matching practice expertise and knowledge to our educational programming needs.

If you are current CLE faculty or are interested in future opportunities, we must capture the information of all of those that plan to teach in the future. Please log on and register in the CLE faculty database today at https://www.mywsba.org/CleFacultyApplication.aspx.

Take the Call to Duty Pledge
The WSBA Call to Duty initiative is designed to inform, inspire, and involve you in meeting the legal needs of veterans and their families. Take the Pledge and commit to serving Washington veterans in 2016. As part of the pledge, we will support you by providing resources both legal and non-legal to serve veterans, education and CLEs; and the chance to answer the various calls to duty in serving veterans. You can sign up to take the pledge at www.mywsba.org/CallToDutyPledge.aspx.

ALPS Attorney Match
Attorney Match is a free online networking tool made available through the WSBA-endorsed professional liability partner, ALPS. This resource allows attorneys to set up a profile and indicate whether they are looking for or available to act as a mentor. Mentorship programs that meet requirements are now eligible for MCLE credits. The WSBA provides information and links to the ALPS Attorney Match online system as a service to the legal community. For more information, email mentorlink@wsba.org.

Volunteer Custodians Needed
The WSBA is seeking interested lawyers as potential ELC 7.7 volunteer custodians. An appointed custodian is authorized to act as counsel for the limited purpose of protecting a client’s interests whenever a lawyer has been transferred to disability inactive status, suspended, disbarred, dies, or disappears and no person appears to be protecting the clients’ interests. The custodian takes possession of the necessary files and records and takes action to protect clients’ interests. The custodian may act with
Need to Know

a team of custodians and much of the work may be performed by supervised staff. If the WSBA is notified of the need for a custodian, the WSBA would affirm the willingness and ability of a potential volunteer and seek their appointment as custodian. Costs incurred may be reimbursed. Current WSBA members of all practice areas are welcome to apply. Contact Sandra Schilling at sandras@wsba.org, 206-239-2118 or 800-945-9722, ext. 2118 or Darlene Neumann at darlenen@wsba.org, 206-733-5923 or 800-945-9722, ext. 5923.

WSBA Board of Governors Meetings
June 3, Seattle; July 22–23, Walla Walla
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 Margaret Shane at 206-727-8244, 800-945-9722, ext. 8244, or margarets@wsba.org. The complete Board of Governors meeting schedule is available on the WSBA website at www.wsba.org/bog.

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)
Judges Assistance Program
The purpose of the Judges Assistance Program (JASP) is to prevent or alleviate problems before they jeopardize a judicial officer’s career.

JASP provides confidential support and treatment for judges struggling with mental health issues, addiction, physical disability, or the loss of a loved one, among other topics. If you are a judge or are concerned about a judge, you are encouraged to contact the Judges Assistance Program at 206-727-8268 or at jasp@courts.wa.gov.

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

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

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

The “Unbar” Alcoholics Anonymous Group
The Unbar is an “open” AA group for attorneys that has been meeting for over 25 years. Meetings are held Wednesdays from 12–1:30 p.m. at the Skinner Building at 1326 Fifth Ave., 7th Floor. If you are seeking a peer advisor to connect with and perhaps walk you to this meeting, the Lawyers Assistance Program can arrange this and can be reached at 206-727-8268.

WSBA Law Office Management Program (LOMAP)

LOMAP Lending Library
The WSBA LOMAP and LAP Lending Library is a service to WSBA members. We offer the short-term loan of books on health and well-being as well as the business management aspects of your law office. How does it work? You can view available titles at www.wsba.org/resources-and-services/lomap/lending-library. Books may be borrowed by any WSBA member for up to two weeks. If you live outside of the Seattle area, books can be mailed to you; you will be responsible for return postage. For walk-in members, we recommend calling first to check availability of requested titles. To arrange for a book loan or to check availability, contact lomap@wsba.org.

Casemaker Online Research
Casemaker is a powerful online research library provided free to WSBA members. Read about this legal research tool on the WSBA website at www.wsba.org/casemaker. As a WSBA member, you already receive free access to Casemaker. Now, we have enhanced this member benefit by upgrading to add Casemaker+ with
Need to Know

CaseCheck+ for you. Just like Shepard’s and KeyCite, CaseCheck+ tells you instantly whether your case is good law. If you want more information, you can find it on the Casemaker website, or call 877-659-0801 and a Casemaker representative can talk with you about these features. For help using Casemaker, call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA.

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

Usury Rate
The average coupon equivalent yield from the first auction of 26-week treasury bills in May 2016 was 0.401%. Therefore, the maximum allowable usury rate for June is 12%.

Meet the WSBA Staff

REX NOLTE, WEBCAST SPECIALIST

NWLawyer is introducing you to some of the WSBA’s staff who serve our members and the legal community every day. We begin with Rex Nolte, a nine-year staff member. Many readers may know Rex from our WSBA CLEs or live broadcasts of meetings. He brings his positive approach and helpful insight to work with him every day. Contact Rex at rexn@wsba.org — NWL

How do you help our members?
My job is to collaborate with WSBA staff, volunteers, and members to deliver high-quality online programming, including webcasts, webinars, BOG meetings, trainings, committee meetings, Office of Disciplinary Counsel’s remote witness testimonies, and human resources remote interviews. I ensure that we continue to follow current trends, technologies, and best practices.

What is a typical day for you?
I have two typical days. Some days I’m “live” in the booth, serving as technical director for events, running camera shots and audio, coordinating presentation media, troubleshooting issues, moderating events for online participants, and managing recording.

Other days are preparation and research days, when I prepare online programming events, meet with WSBA staff and volunteers about upcoming events, assist members with questions and technical troubleshooting, and research new trends and technologies.

Tell us more about yourself.
I was born in Fulda, Hesse, Germany while my father was serving in the U.S. Army. We moved back to the States when I was 10 months old. He retired in 1998 after 22 years of service. I grew up in Shoreline and graduated from Shorecrest High School in 1999. I attended Whatcom Community College for one year. I moved to Maryland, attended Anne Arundel Community College and graduated with an associate of general studies degree. In college I was working for Educational Services, Inc., a government contracting firm in Washington, DC, just a few blocks from the White House. They offered me a full-time position as a program assistant when I graduated.

Five years later, I had reached my fill of the East Coast and wanted to return to the Great Northwest. I came home in October 2005 and spent 2006 coaching football at Ingram High School. I also worked for Burgermaster, Buca Di Beppo, and new home construction in Sultan. It was a fun year, but I wanted to get my career back on the original path, so I applied to the WSBA and was hired in 2007 as a program coordinator in the CLE Department. In 2012, I was promoted to the webcast specialist position. It has been a fulfilling, challenging, and rewarding nine years. I look forward to many more.

In my spare time, I enjoy cooking, golfing (almost a bogey golfer), snowboarding, camping, hiking, spending time with my two German Shepherds, Dakota and Kimba, working on my home, and vacationing at a ski resort or in Hawaii.
WSBA Reintroduces the **Professionalism In Practice: PIP Award**

*Every day we meet individuals who exemplify professionalism. Their acts of civil and professional conduct serve as models for the rest of us to follow.*

WSBA encourages you to recognize members of the legal community who adhere to high standards of behavior that advance professionalism. Bring recognition to a deserving individual by nominating him or her today for a WSBA **PIP Award**.

Nominations, which are always being accepted, may be made by members of the legal community or the public.

Find the short nomination form as well as a link to the WSBA Creed of Professionalism at www.wsba.org/professionalism. You can also learn more about other professionalism efforts.

Make your nomination today and award those who deserve recognition for their professionalism. All winners will be featured in **NWLawyer**.
**Washington Arbitration & Mediation Service**

proudly welcomes

**Tom Merrick**

to our mediation panel.

Tom brings to his full-time mediation practice over 35 years of advocacy experience representing parties in cases involving catastrophic injuries, wrongful death, insurance coverage, bad faith, class actions and consumer claims.

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253-922-4140

WAMS@usamwa.com  
www.usamwa.com

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**Doug Green, Ken Yalowitz and Amber Hardwick**

welcome

**Kim Whitsitt**

to the firm as an Associate.

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**Green & Yalowitz PLLC**  
1420 Fifth Avenue, Suite 2010  
Seattle, WA 98101  
206-622-1400

www.gyseattle.com

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We are proud to announce that as of April 1, 2016,

**Howard R. Nielsen**

is a partner

and

Radler, Bohy, Replogle & Conratt LLP

is now

**Bohy Conratt, LLP**

Our address remains:  
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Beaverton, OR 97008  
503-924-4310

www.bohyconratt.com

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Advertise in NWLawyer’s Announcements or Professionals section!

Placing an ad is easy.  
Contact Paul Wood at advertisers@wsba.org  
or call 206-498-9860.
Announcements

**Etter, McMahon, Lamberson, Van Wert & Oreskovich, P.C.**

is pleased to welcome

**Andrew M. Wagley**

as a new Associate with the firm.

Mr. Wagley graduated *summa cum laude* from Gonzaga University School of Law in 2015, received his undergraduate degree from the Michael G. Foster School of Business at the University of Washington, and previously served as a judicial law clerk for Division III of the Washington State Court of Appeals. His practice will focus on civil litigation, criminal defense, appellate law, and other complex litigation in Washington.

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Spokane, WA 99201
Tel: 509-747-9100 • Fax 509-623-1439

[www.ettermcmahon.com](http://www.ettermcmahon.com)

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**Invitation to a Special Event Honoring Former Attorney General and Governor Chris Gregoire!**

On Wednesday, June 15, 2016, Attorney General Bob Ferguson will hold a reception to celebrate the renaming of the Spokane Division of the Attorney General’s Office in honor of former Attorney General and Governor Chris Gregoire. In recognition of Governor Gregoire’s deep roots with the Attorney General’s Office and a lifetime of service to the people of Washington, it is a fitting choice to rename the Spokane Division in her honor.

**Wednesday, June 15**
5:00 to 7:00 p.m.
The Spokane Club
1002 W. Riverside Ave., Spokane, WA
$25 per person

If you are interested in attending, please contact Rose Priest of the Attorney General’s Office at 509-458-3501 or [rosep@atg.wa.gov](mailto:rosep@atg.wa.gov).

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**Patricia Novotny**

*Attorney at Law*

is pleased to announce her association with

**Nancy Zaragoza**

*Former law clerk to Judges Cox, Agid, Grosse, & Verellen*

and the formation of their new firm

**Zaragoza Novotny PLLC**

*emphasizing family law appeals*

3418 65th Avenue NE, Suite A
Seattle, WA 98115
206-525-0711

[patricia@novotnyappeals.com](mailto:patricia@novotnyappeals.com)

[nancy@novotnyappeals.com](mailto:nancy@novotnyappeals.com)

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**Karen M. Thompson and Suzanne C. Howle**

welcome

**Carol S. Vaughn**

to partnership in the firm effective January 1, 2016.

Carol Vaughn has a litigation practice (trial and appellate) focusing on trust, probate, guardianship and vulnerable adult protection cases. She may be reached at the firm’s Two Union Square office.

**Thompson Howle Vaughn**

*Two Union Square*
601 Union Street, Suite 3232
Seattle, WA 98101
Voice: 206-682-8400 • Fax: 206-682-9491
4115 Roosevelt Way NE, Suite B
Seattle, WA 98105
Voice: 206-545-7777 • Fax: 206-545-0777

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

**CLE Calendar**

**LEGAL LUNCHBOX SERIES**

Legal Lunchbox
June 28, webcast. 1.5 CLE credits. Presented by the WSBA; 800-945-WSBA or 206-443-WSBA. [www.wsba.org](http://www.wsba.org).

**GENERAL PRACTICE**

**LBGT Rights Law: Issue and Legal Practice Areas**
June 29, Seattle and webcast. CLE credits pending. Presented by the WSBA; 800-945-WSBA or 206-443-WSBA. [www.wsba.org](http://www.wsba.org).

**LAW PRACTICE MANAGEMENT**

**The Ten Commandments of Fee Agreements**
June 2, webinar. 1.25 CLE Ethics credits. Presented by the WSBA in partnership with the WSBA Solo & Small Practice Section; 800-945-WSBA or 206-443-WSBA. [www.wsba.org](http://www.wsba.org).

**The WSBA on Location: Passport to the Moderate Means Market**
June 2, Wenatchee. 1.5 Other CLE credits. Presented by the WSBA; 800-945-WSBA or 206-443-WSBA. [www.wsba.org](http://www.wsba.org).

**REAL PROPERTY**

**2016 Real Property, Probate and Trust Section Midyear Meeting and Conference**
June 17–19, Cle Elum. 10 CLE credits (10 Law & Legal Procedure plus 1 Ethics). Presented by the WSBA in partnership with the WSBA Real Property, Probate & Trust Section; 800-945-WSBA or 206-443-WSBA. [www.wsba.org](http://www.wsba.org).

**Visit the WSBA Career Center!**

**JOB SEEKERS:** access job postings, manage your job search, post an anonymous résumé

**EMPLOYERS:** post openings, manage recruiting, search résumés, reach targeted candidates

[http://jobs.wsba.org](http://jobs.wsba.org)
Classifieds

Positions Available Ads are Online

Job Seekers and Job Posters, positions available ads can be found online at the WSBA Career Center. To view these ads or to place a position available ad, go to http://jobs.wsba.org.

To Place a Print Classified Ad Rates, Deadline, and Payment: WSBA members: $50/first 50 words; $1 each additional word. Non-members: $60/first 50 words; $1 each additional word. Email text to classifieds@wsba.org by the first day of each month for the following issue (e.g., Jan. 1 for the Feb. issue.) Advance payment required. For payment information, see http://bit.ly/NWLawyerAds. These rates are for advertising in NWLawyer only. For questions, email classifieds@wsba.org.

Services

The Coach for Lawyers, LLC provides business coaching, career coaching and life coaching for lawyers. Services are provided by John Allison, an experienced lawyer, trained professional coach and author of a new book, Transforming the Practice of Law. For more information, call John at 707-357-3732 or visit www.coachlawyers.com.


Nationwide corporate filings and registered agent service. Headquartered in Washington state. Online account to easily manage 1-1,000 of your clients’ needs. www.northwestregisteredagent.com; 509-768-2249; sales@northwestregisteredagent.com.

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

Contract attorney, experienced in research and writing, drafts trial and appellate briefs, motions and research memos. Trial preparation, summary judgment work, editing and cite-checking. Prompt turnaround times, excellent references. Elizabeth Dash Bottman, WSBA #11791, 206-526-5777, ebottman@gmail.com.

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

Gun rights restored! Your client lost gun rights when convicted of a felony or DV misdemeanor, but in most cases can restore rights after a three- or five-year waiting period. AV-rated lawyer obtains Superior Court restoration orders throughout Washington. David M. Newman, The Rainier Law Group. Contact: 425-748-5200 or newman@rainierlaw.com.

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(See, e.g.):

Yates v. Fithian,
2010 WL 3788272 (W.D. Wash. 2010)

City of Seattle v. Menotti,
409 F.3d 1113 (9th Cir. 2005)

State v. Letourneau,
100 Wn. App. 424 (2005)

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

LIMIT v. Maleng,
874 F. Supp. 1138 (W.D. Wash. 1994)

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