“Let us not seek the Republican answer or the Democratic answer, but the right answer. Let us not seek to fix the blame for the past. Let us accept our own responsibility for the future.”

- John F. Kennedy

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12 Suicide in Washington’s Legal Community
   Resources for Help
   by Dan Crystal

14 The Dastardly Deed
   Family Lore and Justice in the Old West
   by Fred Butterworth

19 To See or Not to See
   Law Enforcement Use of Body Worn Cameras
   by Sheri Pewitt

27 Restoring Victims of Elder Financial Abuse
   Causes of Action and Practical Limitations
   by Shawn Jensen

30 Helping Seniors With Financial Issues
   Nonprofit Law Firm Provides Simple, Helpful Advice
   by Eric Olsen

39 Pro Bono Lawyers Race to the Airports
   Using Innovative Legal Technology to Help Connect Immigrants and Refugees to Free Legal Assistance
   by Takao Yamada and Greg McLawsen
January 2017

COMMENTS ON THE PRESIDENT’S CORNER

I am a clinical psychologist who incorporates animals into my practice and publishes on animal-assisted therapy (AAT) and ethical issues related to service animals. I am also a paralegal. I enjoyed the article “Police Dogs: Best Practices for Law Enforcement” [NOV 2016 NWLawyer]. In particular, I appreciated the article’s focus on the importance of the emotional connection between K-9s and their handlers. I believe readers would be interested in learning more about specific aspects of this emotional connection, such as how police dogs might bring psychological comfort to handlers who are exposed to stressful situations; how these dogs, like their handlers, might develop post-traumatic stress disorder (PTSD); and some of the ethics/legalities of training, employing, and retiring these dogs. I commend the authors for drawing attention to police dogs and helping the reader see, via photographs, examples of how K-9 teams work.

Jennifer A. Boisvert, Beverly Hills, CA

REDOUR AND COURAGE IN REPORTING SEVERAL APPALLING SEXIST COMMENTS MADE TO HER BY OTHER LAWYERS

I read Robin Haynes’ “I Am Not a Lady” in the November President’s Corner column. I appreciated her candor and courage in reporting several appalling sexist comments made to her by other lawyers. It is particularly disturbing that these comments were made by a law school professor and by lawyers who are described as leaders in the legal profession. Ms. Haynes was gracious, but perhaps too kind, in leaving these men anonymous in her article. It might be beneficial to
publicly call them out by name so that they might experience the shame they deserve for voicing these wildly inappropriate views and we could evaluate whether they deserve to be considered leaders in the legal profession.

Jim Brewer, Seattle

The goals of feminism as defined by Chimamanda Ngozi Adichie should be supported by all; however, wanting to be called a “feminist” is much more complex. [“The ‘F’ Word,” by Robin Haynes, DEC/JAN NWLawyer]. Salon ran an article in May of 2016, in which the author LaSha said, “I am not a feminist. It is not that I take offense at the term. I grant it neither disgust nor worship. In reality, feminism has no firm nor universal mission. It seems the title is bestowed or stripped based on some complex and contradictory matrix with an ever-changing formula for determining who qualifies and how that qualification must be upheld. Practical feminism is more popularity contest than movement for equality and liberation, more infighting than unity. It is a trendy term, and an elitist one. I want no part.”

Even President Haynes’ reference to Beyoncé as a feminist of any kind is divisive among feminists themselves. After all, as mentioned in the same Salon article, in 2014, feminist bell hooks called Beyoncé anti-feminist, assaulting, and terrorist, a theme Dr. hooks took further in her 2016 essay, “Moving Beyond Pain.” Rather than a rallying cry to be called feminist, perhaps we could focus on the interest of equality in rights and opportunities.

Christopher P. Taylor, Mount Vernon

As I enter my 40th year of practicing law, I am disheartened to find an article by our new president telling us that the term “lady” is offensive, and that we ought to take umbrage with its use [“I Am Not a Lady,” by Robin Haynes, NOV 2016 NWLawyer]. Having entered the practice when women in the profession were a novelty, I experienced early on many truly offensive comments about my being female in a traditionally male profession. I was told, for example, by one hiring partner in a large firm that if I was hired, the firm could not let its clients know that a woman was working for them, so my efforts would need to be kept under wraps. On more than one front, I was treated differently as a woman, but along with my female and male colleagues, I have experienced significant changes and improvements over the years. Especially for those of us who are litigators, our work requires us to develop thick skins. Putting our heads down and working through problems is something we should expect to do, and which I have done since I was admitted to the Bar in 1977.

I have noted, however, in recent years, a trend in our association toward finding problems where none exist, or fanning the flames of a small problem, in order to make it grow, when much more significant issues are facing our profession. It is for this reason that, for the first time ever, I am writing regarding an article in our publication.

Asking a woman to act like a lady is no more offensive than asking a man to act like a gentleman; this is simply what we call professionalism. Having our president declare otherwise does not make it so. I see the article she wrote as doing nothing more than attempting to incite discord within our ranks. I, for one, am tired of being told that one person’s negative view should be adopted in order to effect change in our profession or in society in general. The trend in our association over the past several years, which seems to be to find areas for complaint by one group or another, is of serious concern to me, and to others who have lived similar experiences practicing law in Washington for many decades. Life is not perfect, and neither is any one of us. I used to be proud to say I was an attorney; now, I find myself embarrassed to be associated with those who wish to create arguments.

Let’s put these petty and divisive issues aside, talk about lawyering, and focus on our profession. Please stop creating problems where none exist.

Barbara Jo Sylvester, Tacoma

Bravo and thanks to President Robin Haynes for stepping up and putting difficult issues out in the forefront for discussion. I, for one, took no offense to her column re the “F” word. [DEC/JAN NWLawyer]. I am sure it generated comments, both negative and positive, but it is the discussion that will take us all further down the road. Some people love to hate the Bar Association – and I get it. But lawyers like Robin, and all those who step up to serve the association as members of the Board of Governors, section members, CLE speakers, and the like do so because they care about our profession and its future. President Haynes gets to speak her mind while she is president. I urge everyone to take notice and listen to what she says.

Nancy L. Isserlis, Spokane

SPEEDING TICKET? TRAFFIC INFRACTION? CRIMINAL MISDEMEANOR?

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The Rule of Law

In this issue of *NWLawyer*, we hear perspectives from WSBA member attorneys on issues related to immigration and the current administration. Our state’s legal community — its attorneys, its courts, its judiciary, and many of its elected leaders — have recently been in the national spotlight on current events in immigration, human rights, and the role of our courts in our democracy. We have an article from attorney Matt Adams, legal director of the Northwest Immigrant Rights Project and the recipient of the 2016 WSBA APEX Award of Merit, the highest honor given at the awards. Mr. Adams gives a broad overview and pointed legal analysis of three recent executive orders related to sanctuary jurisdictions, the travel ban, and the wall. We also hear from Iranian-American attorney Farnoosh Faryabi about her experience as an immigrant and as a young lawyer. Turn to her article to consider her reasons why, as she explains, “I Am One of You.” Like many in our legal community, Ms. Faryabi is also a talented artist. Our cover image is one of her paintings, entitled “Forgotten Children.”

Many of our readers followed the national effort by attorneys to swiftly provide pro bono legal assistance to detained immigrants and refugees at airports around the country. In this issue, we hear from two attorneys who brought together zealous advocacy and innovative technology to provide a platform to connect volunteer attorneys with immigrants and refugees in need of representation. Attorneys Greg McLawsen and Takao Yamada write about the “race to the airports,” and their swift implementation of the app and website airportlawyer.org.

This issue is full of other great articles as well, including two important discussions about elder financial abuse and the options available for practitioners to assist lower-income seniors. The articles offer some important insight on how the legal profession can address the needs of our aging population. We also have a timely discussion of law enforcement and the use of body-worn cameras in the analysis of officer-involved shootings. We take a trip back in time to a true story of crime and justice in the Wild West in the article about the “Dastardly Deed.” The WSBA’s Lawyer Assistance Program (LAP) psychologist Dan Crystal has another important article for members, this time about suicide in the legal profession.

With this March issue, we extend a welcome to the newest members of the WSBA — limited license legal technicians (LLLTs) and limited practice officers (LPOs). Read more about one of your fellow members in *NWLawyer’s* first-ever Beyond the Bar Number featuring a LLLT.

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

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**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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**Immigration-related resources, training, and pro bono opportunities:**

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[www.nwirp.org](http://www.nwirp.org)

**The American Bar Association’s Immigration Justice Project**

[www.americanbar.org](http://www.americanbar.org)

**Legal Counsel for Youth and Children’s “Immigrant Safety Plan for Youth and Children.”**

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Before you stop reading, this is not about the recent election — although by the time you read this there will have been an inauguration, a women’s march, and a number of other national issues of relevance to attorneys.

This isn’t really about me either, although it is related to my series of president’s columns on issues of gender inequality in the legal profession. There have been questions about the topic, the substance, and the forum in NWLawyer. There have been questions about the import of this issue — gender equality for women attorneys — as compared to other important legal issues, such as the devastating update to the Civil Legal Needs Study or issues related to LGBTQ and immigrant rights with a changing national leadership. In sum, why are we talking about this here and why are we talking about it now?

The latter question — why now? — is easier to answer. The other issues mentioned above are of great import both to me, and to the leadership of the WSBA, and should be to the membership as a whole. That said, I trust that the WSBA, the state’s minority and specialty bar associations, our Attorney General’s office, and others are hard at work on them. In fact, I know they are. The WSBA is a complex, large organization that not only handles regulatory functions but also professional association functions. By not discussing those other topics in my columns, I am not downplaying their importance. That argument is akin to saying that by attending a breast cancer walk, you do not care about the eradication of other cancers. Empathy and compassion are not limited resources. Instead, by continuing this discussion, I am doing more than providing lip service to gender inequities that are, by some accounts, worsening in the profession. We’ve spent far too long not talking about it, and hoping it will change.

As to the former question — why in NWLawyer? — I have thought often about the forum question. I could certainly answer that the forum is appropriate because for one year, I am the WSBA president, and therefore I write NWLawyer’s president’s column. But that is insufficient. It is a question of what leadership looks like. The WSBA Board of Governors is a policy board. We set the direction of the profession when we make decisions, although we do not engage in day-to-day operations of the WSBA. I do not, for example, handle the reporting of CLE credits, despite at least a dozen emails to me regarding the same. I do not believe it is the role of a policy board, or its non-voting president, to be an echo chamber of messages that are agreeable to reinforcing the status quo. As one of literally a handful of women to have held this position, I think it is in fact my duty to speak up about areas of our profession that need to be changed.

Martin Luther King Jr. wrote more than just a single “Dream” speech about unity. He also wrote his arguably more powerful, but often less palatable, “Letter from a Birmingham Jail.” In it, he said, “You deplore the demonstrations taking place in Birmingham. But your statement, I’m sorry to say, fails to express a similar
concern for the conditions that brought about the demonstrations. I am sure that none of you would want to rest content with the superficial kind of social analysis that deals merely with effects and does not grapple with underlying causes.” I am certainly not comparing the 77 cents on the dollar women attorneys earn compared to their male counterparts to the atrocities that launched the civil rights movement, but King’s reasoning applies. As women or persons of color or LGBTQ attorneys who see very real and very significant barriers to our success in the profession, we do not have the luxury of complaining about the sensitivities of those who do not want to hear about those barriers.

It is the height of privilege to say race and gender issues are distractions. It must be convenient not to have to worry whether or not your appearance, as a woman or as a person of color, will hinder your ability to get a job, keep a job, or be promoted in a job for which you are highly educated and highly qualified. It must be convenient to walk into a courtroom or meeting room or lawyer event and have everyone immediately assume that you are an attorney.

The point of protest is not to make everyone comfortable. King addressed the question of this discomfort in his letter, questioning whether mere negotiation would solve the problem. King chose nonviolent direct action, which “seeks to… foster such a tension that a community which has constantly refused to negotiate is forced to confront the issue…Lamentably, it is an historical fact that privileged groups seldom give up their privileges voluntarily.” This is why I am raising the issue of gender inequality in the legal profession openly, publicly, and from my position of privilege as the WSBA president.

For example, talking about this with Washington Women Lawyers only gets the message so far. That is a group of like-minded leaders (including men) who already see the value of gender equality in the legal profession. It is a safe place to share stories and coping techniques, but the battle cannot be won and the numbers cannot be changed without men helping to make those changes. Talking about it where everyone can see it — almost has to see it — is the point. Think about the Colin Kaepernick protest. Whether you agreed or disagreed with his viewpoint, and whether you hated him for being a Seahawks’ rival, you were forced to confront his message. That, to me, is appropriate, nonviolent, direct action.

So, I will be direct. Every president has a platform, and mine is gender inequality in the legal profession. I will continue to raise
and foster the discussion. I will welcome constructive criticism and respectful dialogue, which does not include telling me I must not have been raised right by my parents or else I would’ve “been a lady.” I will continue to highlight, or lowlight, the stark realities facing women in the legal field. Not talking about it on a statewide or national level has done little, if anything, to change it.

Saadia Zahidi of the World Economic Forum’s Global Gender Gap Report believes, “what you can measure, you can address.” Here are some measurables to take away: the National Association for Law Placement (NALP), in its 2016 Report on Diversity, found that “the overall percentage of women law firm associates has decreased more often than not since 2009, and every year since 2009 the number of Black/African-American associates has declined[].” While we still see women and persons of color included in summer associate (i.e. law school intern) groups, post-graduation, those numbers get smaller and smaller as these groups move up in the profession. On a positive note, Washington’s own Perkins Coie promoted as many women as men to their partnership class in 2016, according to the ABA Journal.

By the time you read this, I will have turned 39. King, at 38, talked about confronting the opportunity to stand up for some great issue or case while it was there, “and you refuse to do it because you are afraid...you’re afraid that you will lose your job, or you are afraid that that you will be criticized or that you will lose your popularity...so you refuse to take the stand...you may go on and live until you are 90, but you’re just as dead at 38...the cessation of breathing in your life is but the belated announcement of an earlier death of the spirit.” I am not afraid, and maybe I am not your president.

4. www.abajournal.com/news/article/these_biglaw FIRMS_had_the_best_record_for_promoting_women_to_partner/?utm_source=maestro&utm_medium=email&utm_campaign=weekly_email
At least three Washington attorneys committed suicide in 2016. I have received several calls from people shocked that this happened and wondering what more can be done to prevent attorney suicide. Unless you are in the immediate circle of a suicidal individual, the news about a person’s suicide is usually unexpected. Colleagues and friends often struggle with survivor’s guilt. They may wonder if there was something they did to make the suicide happen, or something they could have done to prevent it. In the short term, this can lead to anxiety and self-doubt. In the long term, this can actually play a positive role in leading a person to be more vigilant to take care of those they see struggling.

Practicing law places a great deal of responsibility on the practitioner’s shoulders. In addition, legal culture can deter a lawyer or legal professional from asking for help for fear that such a request would be a sign of weakness. Combined with attorneys suffering from depression and alcoholism at rates roughly twice that of the general population, you have a perfect storm for suicidal thinking. Suicidal ideation occurs at a high rate in the general population, and it needs to be taken seriously every time. What increases an individual’s risk of suicide includes the development of a means of completing the suicide, such as a method or a weapon; a suicide plan, including setting the time and place, or writing a suicide letter; and forming the intent to follow through with the suicide.

Connecting with someone over the topic of suicide can seem quite fraught. There is often a fear that this had best be handled by a mental health professional, and that the lay person could “screw it up.” A person will avoid stepping into this issue because it may seem awkward or alarmist, or sometimes a person will think that by bringing...
it up it would make suicide more likely to occur. The opposite is true and clinicians are taught from the outset to speak to this elephant in the room without prejudice. There are a few do's and don'ts for a longer article but the trick is to step into the issue with a caring, supportive tone, and not to give advice. Following up can remind them that they have someone to turn to.

There are several resources that attorneys and other legal professionals can utilize if they have struggled with suicidal thoughts, or if they are concerned about others:

• The WSBA Lawyers Assistance Program (LAP) can assist WSBA members and has additional referral resources to share. Call 206-727-8268 for more information.
• The WSBA Connects service is a 24-hour crisis line available to all WSBA members at 800-765-0770. Members can utilize this benefit for three free counseling sessions.
• In April 2016, LAP produced a CLE called “Uncommon Counsel: A Conversation About Health and Wellness in the Legal Profession.” The CLE was presented by Katherine Bender, Ph.D., from the Dave Nee Foundation. Dave Nee was an attorney who committed suicide and the foundation was set up to increase public awareness. The CLE was recorded and is available to purchase at www.wsbacle.org.
• The Crisis Text Line is a free, 24-hour text line for people in crisis. Crisis texting is a newer method of seeking help that is favored by younger individuals with suicidal thoughts. Text 741741 to reach the Crisis Text Line.
• The American Bar Association released a program called “I’ve Got Your Back; You’ve Got My Ear: Suicide Prevention in the Legal Profession” that is available for free download at www.americanbar.org/cle/free_cle.html. It addresses methods of recognizing warning signs and ways to step into the conversation.

• On April 25, 2017, LAP’s Work & Wellness Day will be confronting the topic of stigma in the legal profession, with programs designed to encourage members to ask for help. Whether the stressor is suicidal thinking, a difficult work environment, or a confusing personal life, resources exist to help you turn the corner. LAP is here to help.

Dan Crystal, Psy.D., is the program manager for the WSBA Lawyer Assistance Program (LAP). For more information about the many services, resources, and information available through LAP, see www.wsba.org/lap or contact lap@wsba.org.
THE DASTARDLY DEED

FAMILY LORE AND

JUSTICE IN THE UNTAMED WEST!

BY FRED BUTTERWORTH
W ild West lore tells of cantankerous gunslingers in dusty saloons and justice served at the end of a gun barrel. Still, a fledgling legal system managed through fits and starts to interpret and enforce the rule of law in an otherwise lawless frontier. Take the sordid experience of my grandmother, Eola McCarthy, who at a tender age found herself at the heart of a case that challenged the court to carry out due process during the fractious period between frontier justice and jurisprudence.

My grandmother was born Oct. 27, 1882, in Dillon, Montana. She lived a long life mostly in Seattle and had three children, one being my mother. There were several marriages, and although life was not all that easy, she was blessed with a good mind, great sense of humor, lots of wisdom, and an infectious laugh. She died Nov. 22, 1961. From the age of three, Eola Nichols (her maiden name) was known as a curious and precocious little girl who could never sneak up on you on a wooden floor. She was missing her leg from right above the knee. She was pretty tough for such a young child. Artificial limbs were not then what they are today.

The story of how Eola came to be missing her leg starts in 1885, when law and order in Montana was dealt from far-flung courthouses by itinerant lawyers chasing cases from town to town. According to the July 11, 1885, edition of the Dillon (Montana) Tribune, the incident occurred on the Fourth of July, as the Nichols family was returning home after a late night of local festivities. As they neared home in the early morning, they saw something up ahead that looked like a cow. As they neared the peculiar bovine, they suddenly discovered it was no cow, but a man covered in a blanket. Eola’s uncle Fred Haining was carrying her in his arms, when suddenly the man stood up, threw off his blanket, aimed and fired a high-caliber, repeating rifle at Uncle Fred. A bullet passed through one of Fred’s hands, striking Eola in the leg, just below her knee. Fred was mortally wounded, but managed to draw his revolver and fire at his assailant. The newspaper reported that just before falling to the ground dead, Fred declared, “I think I hit the son-of-a-bitch.” More gunfire ensued, but the gunman managed to escape. Eola unfortunately lost her leg despite the valiant efforts of local doctors.

The gunman’s identity was a mystery until Fred’s wife at the time, Samantha, came forward with the news that the shooter was none other than her ex-husband, Winslow D. Morgan. The coroner of Birch Creek, Montana, soon convened an inquest jury of local men who concluded, based on provided evidence, that Fred had died at the hands of Mr. Morgan. A judge promptly issued an arrest warrant. Unfortunately Morgan was not immediately available, having apparently fled the jurisdiction.

In August 1885, the Tribune noted that the governor of Montana had offered a $1,000 reward for Morgan’s apprehension. Accompanying the reward was a detailed description of the suspect: “About 38 years old, dark complexion, dark brown hair inclined to curl, slightly gray at the sides; wore dark brown moustache when last seen; blue eyes; scar over right eye, caused by a burn; one upper tooth out in front; forefinger (missing) left hand; toes all (missing) right foot; knee-cap displaced on left leg; height about 5 feet, 10 inches.”

9 inches; weight about 165 pounds. He generally works about saw mills, in timber or in mines.” It seems a small wonder that his wife left him.

Nearly three months after a bullet took young Eola’s leg, Morgan was captured in Victoria, B.C., and held on the warrant to await the arrival of authorities from Montana. After the appropriate extradition papers were officially signed in Ottawa by the governor of the Dominion of Canada, Sheriff Tom E. Jones returned Morgan to Montana to face a charge of murder – what would now be considered murder in the first degree.

The international case had attracted lots of local attention by the time Morgan’s trial began on May 1, 1886. In the case of Territory of Montana v. Winslow D. Morgan, newspapers reported that lawyers on either side were considered very capable and the judge fair with a
decent reputation. With his lawyers set to mount an insanity defense, prosecutors selected the all-male jury. Defense counsel exercised not a single challenge even though they were available. The trial proceeded.

The defense urged insanity and called witnesses to establish that Morgan was a monomaniac, a psychosis characterized back then by a single triggering thought or idea. The subject of his madness, argued the defense, was Morgan’s personal and family life. According to news reports, 18 male witnesses testified that indeed Morgan did suffer from his wrongs and family troubles and was insane at the time of the killing. The defense argued that Fred Haining’s disruption of Morgan’s family, namely stealing the affections of Morgan’s ex-wife Samantha, caused Morgan’s psychotic break. Fred and Samantha had been married seven months at the time of Fred’s death.

Judge Thomas J. Gailbraith was quite cautious in his instructions to the jury on the matter of Morgan’s insanity defense. The jury deliberated for about three hours, until all but two of the men voted in favor of acquittal. A verdict of not guilty was entered into the court record. To put it bluntly, the men of the jury found that Morgan’s actions were justifiable. Stealing someone’s wife was grounds for killing him. This was, after all, the justice of the untamed West.

After the verdict was read, news reports stated Judge Galbraith was so disgusted with the jury’s finding that he took it upon himself, with no apparent authority, to order Morgan banned for life from the territory of Montana. All indications are that Morgan chose to accept the judge’s decision and left Montana, never to return.

The situation apparently was too much for Eola’s father, who found himself unable to parent a young child with such a disability. So he disappeared, never to be heard of again. It was a problem for the whole family and certainly not a topic of conversation around little Eola. She listened as the explanation for her father’s vanishing disappeared itself and morphed into a new one: her father ultimately replaced her Uncle Fred as the man holding her in his arms when she suffered the debilitating gunshot wound. Her father’s absence explained by his death, this version of events became the accepted family story. So far as anyone knows, Eola was an adult before she finally learned her family’s true story.

Fred Butterworth is a mediator, arbitrator, and special master at JAMS. He practiced insurance defense for nearly 40 years at Keller Rohrbach. He can be reached at JAMS at 206-622-5267.
Bostin Otto’s dad, Ken, died working on a defective airbag on a Boeing plane.

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vents such as the fatal shooting of unarmed black teenager Michael Brown in Ferguson, Missouri, growing officer safety concerns, and divergent accounts of officer-involved shootings, have fueled an interest in the use of police body-worn cameras (BWC). These officer-activated cameras clip to an officer’s uniform and can record audio and video of their interactions with the public.

A 2012 study of the Rialto, California, Police Department found that BWC decreased the number of police misconduct claims by 87% and reduced the number of times officers used force by 59% compared to the previous year. These findings suggest that the use of BWC may significantly improve police-citizen interactions and avoid costly judgments in misconduct cases. While potential improvements to government accountability and officer safety are significant, so are potential privacy concerns. As technology available to governments evolves, so does its potential to invade privacy in ways never imagined by the drafters of the Fourth Amendment of the U.S. Constitution, or Article I, Section 7 of the Washington State Constitution.

Drafting BWC legislation that protects privacy rights, preserves evidence, and fosters government accountability is no small feat. In March 2016, the Washington State Legislature passed Engrossed House Bill (EHB) 2362: concerning law enforcement and correction officers video and sound recordings. EHB 2362 sets rules on what BWC footage is private under the Public Records Act, establishes a task force to research best practices, and encourages police departments to develop BWC policies.

TO SEE OR NOT TO SEE
Law Enforcement Use of Body-Worn Cameras

by Sheri Pewitt
EHB 2362 contains several sections that expire in 2019, in anticipation of incorporating task force recommendations. While many police departments in Washington have existing BWC programs, the Seattle Police Department launched its Body-Worn Video Pilot Program on Dec. 29, 2016. Pilot program details can be found in Section 16.091 of the Seattle Police Department Manual available at www.seattle.gov. As law enforcement policies governing the use of BWC emerge, honoring privacy protections, constitutional requirements, and Washington law\(^2\) will be paramount. To that end, the governor’s Body Camera Task Force is charged with addressing privacy concerns, record retention time-frames, and public access while honoring constitutional protections and evidentiary requirements.

**Body-Worn Cameras: Retention and Access to Records**

Use of BWC can be a positive step toward making law enforcement agencies more transparent and accountable to the public, as well as facilitating justice, improving officer safety, and building trust between police and the community. However, this will be true only if the records are retained and the public has access to the records that are created through the use of this technology. Policies must be established to prevent the premature destruction of any video related to a detention, arrest or charge, including exculpatory evidence and CrRLJ 4.7(d) material related to criminal cases that may contain exculpatory value which cannot yet be determined or understood. Retention policies and timelines must prevent the destruction of *Brady*\(^3\) material and...
destruction of crucial video footage before public, press, or legal professionals have had time to discover and request the material. The BWC video retention timeline must recognize that exculpatory or other defense use of BWC video could arise long after the incident date because of filing delays or post-conviction appeals.

**Destruction of Exculpatory Evidence is Prohibited**

A retention policy must comport with current law. For example, one early proposal suggested “only retaining videotapes in police accountability situations.” However, such a policy would violate constitutional due process, and may result in wrongful convictions and dismissal of criminal cases. When facing a criminal charge, the constitutional right to present a defense is one of the main ways in which individual officer misconduct has surfaced. A videotape depicting the crime scene, at the time of the incident, is required to be retained under CrRLJ 4.7 and is potentially exculpatory. If the defense can show the state failed to preserve evidence, the case must be dismissed.

**The Law Requires Disclosure of Exculpatory Video from Body-Worn Cameras**

Constitutional law and case law require that the exculpatory video from BWC be disclosed, and penalties for non-disclosure can be severe. In the landmark case of *Brady v. Maryland*, the U.S. Supreme Court clearly established that prosecutors have an affirmative duty, as a matter of constitutional law, to disclose all known exculpatory evidence to the accused in a criminal proceeding. If the prosecution suppresses evidence favorable to an accused, it violates due process as guaranteed by the 14th Amendment to the U.S. Constitution. Exculpatory evidence is any evidence in the possession of the government that could be favorable to the accused. It includes not only evidence relevant to the issue of guilt, but also evidence relevant to the issue of the appropriate punishment. Subsequent cases have also made it crystal clear that exculpatory evidence includes evidence reflecting on whether witnesses against the accused are credible, which might be used by the defendant’s attorney at trial for purposes of impeachment. Police officers are often witnesses in criminal proceedings, and these constitutional principles mandate that facts bearing on an officer’s veracity and credibility must also be disclosed.

Additionally, courts have held that this obligation on the part of the prosecution is an ongoing one that extends beyond a finding of guilt in a criminal trial. A prosecutor who comes into possession or knowledge of exculpatory evidence after a trial, therefore, is required to disclose it to the defendant or his counsel, who can use the information in the context of post-trial motions, direct appeals of a conviction or sentence, or in seeking habeas relief in state or federal court. Under these decisions, the expectation is that law enforcement agencies that have investigated a crime and developed the evidence that a prosecutor is going to use to carry out a prosecution will also make the prosecutor aware of potentially exculpatory evidence, as defined by the case law, so that the prosecution may disclose it to the defense. The consequences of failing to do so in the context of a criminal prosecution can be severe, including dismissal of criminal charges and convictions.

**The Duty to Disclose Exculpatory Evidence Extends to Law Enforcement**

Courts have ruled that “exculpatory evidence cannot be kept out of the hands of the defense just because the prosecutor does not have it, where an investigating agency does. That would undermine *Brady* by allowing the investigating agency to prevent production by keeping a report out of the prosecutor’s hands until the agency decided the prosecutor ought to have it, and by allowing the prosecutor to tell the investigators not to give him certain materials unless he asked for them.”

A finding of bad faith is not needed to impose federal civil rights liability on police for failure to disclose exculpatory evidence. A 2009 decision of the U.S. Court of Appeals for the Ninth Circuit emphasizes the applicability of this duty to law enforcement by exploring it in the context of potential police civil rights liability under 42 U.S.C. §1983 for failure to comply. In *Tennison v. City and County of San Francisco*, 548 F.3d 1293 (9th Cir. 2008), two men in
prosecutor included a taped confession to the murder itself by another individual and notes of interviews with individuals, which would have aided the defense. It was 13 years later that a federal court, based on this information, granted the two men habeas relief and they were set free. The freed men sued the police investigators for violating their rights to disclosure of *Brady* material. On the plaintiffs’ lawsuit against the investigators, the Ninth Circuit rejected the investigators’ defense that the duty to disclose exculpatory evidence was not theirs, but the prosecutor’s alone. The court pointed to language in *Youngblood v. West Virginia*, in which the U.S. Supreme Court stated that *Brady* is violated when the government fails to turn over even evidence that is “known only to police investigators and not to the prosecutor.” It also cited *Newsome v. McCabe* for the proposition that it was clearly established, as long ago as 1979 and 1980, that police could not withhold exculpatory information about fingerprints and the conduct of a lineup from prosecutors. The Ninth Circuit rejected the argument that the plaintiffs had to show that the inspectors acted in bad faith in order to impose liability. No such showing is needed, the court found, to impose federal civil rights liability on police for failure to disclose to prosecutors exculpatory evidence.

A recent case illustrates the importance of video retention and disclosure. A Washington Association of Criminal Defense Lawyers (WACDL) member litigated a case in which a police officer failed to turn on a dash camera after responding to a local nightclub regarding an altercation. The officer claimed that the defendant refused to respond to instructions and assaulted the officer. The defendant disputed those facts. That officer, and another officer who responded to the scene, drove patrol cars that were equipped with audio and video recording. Through subpoenaing the dash cam information for the cars, the defense showed that it appeared that at some point prior to this occurrence, the officers turned off the cameras, despite the fact that an incident immediately

California served close to 13 years in prison on a conviction for murder before being set free based on a finding of factual innocence. The court emphasized that the obligation to reveal exculpatory evidence to the accused’s defense attorney applies to police, not just to prosecutors. The plaintiffs claimed that the two San Francisco homicide investigators “withheld exculpatory evidence and manufactured and presented perjured testimony during the investigation and prosecution” of them for murder. Material allegedly not turned over to the
prior to the nightclub incident had been recorded. Notably, the cameras were designed to come on when patrol lights were activated and remain on unless someone manually deactivated them. Seattle Police Department policy makes clear that the recording devices are to remain activated.

The video in this case would have resolved the question of what occurred between the police officer and the defendant. Eliminating a defense attorney’s ability to argue against the admissibility of such testimony or, alternatively, for dismissal of the prosecution, raises significant due process concerns. The government has a duty to preserve exculpatory evidence. Under this test, whether the government acted in good or bad faith is irrelevant. This is an example of a case where some form of interference with the recording devices took place and evidence that could have decided the guilt or innocence of the defendant was lost. In this case, the state ultimately dismissed the charges. Sometimes mistakes are made in the preservation of evidence, but that does not relieve the state of its obligations to preserve evidence. Considering these cases, police departments must both retain and disclose BWC videos to systematically comply with Brady and CrRLJ 4.7 obligations.

Access to BWC video by the public, media, defendants, and legal professionals is vital if BWC programs are to serve the goals of improving transparency, accountability, and trust between law enforcement and the public. Access to BWC video is a necessary component of the public’s ability to monitor the efficacy of any BWC program itself. In short, it is only when the public has access to BWC video that the stated objectives of the BWC can be achieved. While public access to BWC video is crucial, safeguards must also be put in place to protect individual privacy. Disclosure policies must be adopted that prevent public acquisition of video in specified situations.

Constitutional due process requires that BWC video be retained and accessible in a variety of circumstances. Destruction and/or nondisclosure of video that may contain exculpatory evidence can result in wrongful convictions, dismissal of criminal cases, and severe financial penalties. Further, public access to BWC video will provide the public with a more objective record and a greater understanding of law enforcement-civilian interactions, leading both to increased public awareness of police conduct and improvements in police-community relations. As police departments around the country adopt BWC policies and programs, Washington can and should serve as a model of transparency and accountability by creating a comprehensive retention and disclosure policy that provides citizens, defendants, and legal professionals the time needed to request and receive the video while complying with Washington public records laws. NWL
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NOTES
2. Washington’s Privacy Act prohibits the recording of any private conversation. BCW § 9.73.030(1)(b). Washington is an all-party consent state. However, Washington courts have held that conversations between citizens and police officers acting in their official capacity are not “private” under either the surveillance law or the constitution. See State v. Kipp, 179 Wn.2d 718, 317 P.3d 1029, 1035(2014); State v. Young, 123 Wn.2d 173, 867 P.2d 593, 598 (1994). A conversation may not be recorded if the participants have a subjective and reasonable belief that a conversation is private. State v. Roden, 179 Wn.2d 893, 321 P.3d 1183, 1186 (2014). The Washington Public Records Act exempts disclosure of intelligence information and investigative records, information that may reveal the identity of witnesses to or victims of a crime, investigative reports related to sex offenses, and information revealing the identity of child victims of sexual assault. RCW 42.56.240.
4. See, e.g., United States v. Zaragoza-Moreira, 780 F.3d 971, 978-79 (9th Cir. 2015) (video of scene of alleged border/drugs violation); People v. Alvarez, 229 Cal. App. 4th 761, 774-75, 176 Cal. Rptr. 3d 890, 901, review denied, (2014) (video of parking lot at time of robbery was potentially exculpatory).
8. Kyles v. Whitley, 514 U.S. 419 (1995) (failure to disclose exculpatory Brady material means that a conviction cannot be upheld if a reasonable probability is found that the evidence would have produced a different trial result).
11. 256 F. 3d 747 (7th Cir. 2001).
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Elder abuse is occurring with greater frequency. Much of the increase in abuse is attributable to the aging of the large population of baby boomers. As this group ages, they need more assistance and care — this can include personal care or assistance with performing daily activities. Although many elders may be in generally good health, some may experience decreased mobility and reduced cognitive functions. These physical and mental limitations make them more vulnerable to abuse.

Most forms of elder abuse seen in the news are physical abuse, neglect, failure to provide necessary care, and seclusion. These forms of abuse, when discovered and reported, can be remedied through criminal prosecution and punishment of the perpetrator, or stopped by restraining orders or intervention by a number of adult protective agencies and service organizations.¹

While such remedies serve the primary objective of stopping certain forms of elder abuse, they do not fully compensate the victim for his or her economic loss or the economic hardships incurred. Restoring a victim of financial abuse to wholeness requires a civil lawsuit with a remedy based on a cause of action for damages.

Causes of Action
A cause of action for damages can take many forms. It can be based on injury, pain and suffering, mental abuse, abandonment, neglect, loss of property, financial exploitation, fraud, coercion, breach of contract, and conversion. These causes of action can be based in law, equity, or both. A breach of contract claim can be jointly pled with a claim for unjust enrichment and promissory estoppel. A claim of conversion can also be based on a claim for constructive trust. An undue influence claim can be joined with a claim for misrepresentation and fraud. A claim of forced gifting can similarly be based on an action for breach of fiduciary duty. More broadly, a civil action can be based in tort for negligence and invasion of privacy where there has been public disclosure of an elder’s private facts.

However, relying on civil remedies based on a complaint with a cause of action for damages has limitations. These limitations are practical as well as legal. Practical limitations include reluctance by a victim to endure the requirements of proving a civil case, not wanting his or her financial abuse and personal monetary situation made public, having limited resources to pay for legal services while waiting for a remedy, and being fearful of retribution by the perpetrator — particularly if the perpetrator is a family member who has other family members who will continue...
to interact with or even provide care for the victim.

These practical limitations are real. After experiencing financial abuse, even if the abuse has stopped, an elderly victim may be reluctant to pursue the matter further in court even though his or her financial condition can be improved by doing so. Being made whole financially may not be a priority compared to stopping the abuse. For various reasons, a financially abused elder may even wish to continue an exploitative relationship, especially if the perpetrator is a family member who is his or her caregiver. Moreover, even if the practical limitations can be overcome, legal limitations remain.

**State Statutes**

Legal limitations take the form of state statutes which may apply to a particular set of facts to establish elder abuse and a cause of action for damages, but are not broad enough to provide the robust remedies need to overcome the practical concerns of filing a civil lawsuit. In Washington, the Abuse of Vulnerable Adults Act, Chapter 74.34 RCW, has been interpreted narrowly. When financial abuse is perpetrated by a caregiver, Washington courts have restricted the Act to care provided by a “facility” that provides care directly to an elder or a vulnerable individual in their place of temporary or permanent residence. While a facility may be found liable under the doctrine of respondeat superior, that liability requires a principal-agent relationship with the principal being “licensed or required to be licensed” as a caregiving services agency or facility, or that an employee be a mandated reporter who failed to report abuse, in order for there to be an implied cause of action against the employee.³

**Remedies**

When the Act’s requirements are met, enhanced remedies for a prevailing plaintiff in a civil action may be obtainable. While remedies in general do not include treble damages, under the Act, the enhanced remedies do include actual damages, together with the costs of the suit, including reasonable attorneys’ fees and the reasonable fees for a “guardian, guardian ad litem, and experts, if any, that may be necessary to the litigation of a claim” brought under the Act.⁴

A remedy for treble damages does exist under the Seniors and Vulnerable Individuals’ Act, which was adopted by Washington voters on Nov. 8, 2016, and applies broadly to elder identity theft or “consumer fraud that targets a senior or a vulnerable individual.”⁵ Moreover, where a confidential relationship causing undue influence between a caregiver and an elder is established, the burden is on the caregiver to disprove undue influence by clear, cogent and convincing evidence.⁶

Civil suits have other advantages. Criminal actions have discovery limitations and a higher burden of proof. Civil suits can subpoena bank records and other institutional records to provide evidence to help prove the claim. The evidence available in a civil suit may also include a report by an adult protective agency on the outcome of an investigation, depending on the confidentiality requirements. Where there was improper influencing of a will, failure to protect assets needed for care, falsifying applications for benefits or assistance, or any other basis for a claim, a judgment in a civil suit can include restricting the inheritance rights of an abuser.⁷ Furthermore, pending an investigation, and presumably where financial exploitation of a vulnerable individual has actually been found to have occurred, a financial institution may refuse to disburse funds in the accounts of a vulnerable individual.⁸

**Maximizing the Damage Award for Financial Exploitation**

Elder financial abuse can occur in many ways. It most commonly occurs when a caregiver, friend, or family member who occupies a position of trust converts or uses an elder’s property or funds for their own use without the elder’s consent. It is also common for there to be a promise from a caregiver to an elder that care will be provided in return for compensation, and then the care or the necessary level of care is not provided.

**FINANCIAL EXPLOITATION** does not have to occur in person. It can be done through fraudulent solicitations by mail, email, Internet, telephone, or a leaflet left at the door. Fraudulent solicitations which result in financial exploitation create the appearance of authenticity by being portrayed as legitimate charitable causes, campaigns, or expenses. These may include solicitations for political campaigns, disaster relief, police and fire departments, wounded veterans, student activities, increased retirement, Social Security, other government benefits, investment opportunities, home improvements, and unnecessary home and auto repairs.
assets, benefits, or income to someone else without the consent of the elder is another frequent occurrence.

All these forms of financial exploitation are ways to subject a vulnerable elder to financial abuse. To address them requires creative lawyering and reliance on all available avenues of relief. Practitioners should first get the financial exploitation stopped and then try to remedy the situation by making the victim whole financially. The most robust remedies in a civil suit are obtainable through statutes and multiple causes of action to recover the property, assets, or income taken improperly from the elder.

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NOTES
1. In Washington these include: Adult Protective Services of the Department of Social and Health Services under Chapter 74.34 RCW; Long Term Care Ombudsman Programs under Chapter 43.190 RCW; county Aging and Adult Care agencies, www.aaccw.org; and other “watchdog” nonjudicial organizations.
2. RCW 74.34.020(6), RCW 74.34.020(21), and RCW 74.34.200(1), as interpreted in Williams v. Teeple, 100 Wn. App. 1056, unpublished opinion, 2000 Wn. App. LEXIS 3334 (2000). However, the Act applies to a cause of action for damages against a defendant who is or was an “individual provider” under RCW 74.34.200(1), and in Goldsmith v. Department of Health and Human Services, 169 Wn. App. 573, 280 P.3d 1173 (2012), the court stated that the Abuse of Vulnerable Adults Act, Chapter 73.34 RCW created a new cause of action for elder abuse.
3. RCW 74.34.200(1) referring to RCW 70.127.

See also Calhoun v. Washington, 146 Wn. App. 877, 193 P.3d 188 (2008) (what is a facility under RCW 74.34.020(6)); Bae v. Lakeside Adult Family Home, 185 Wn.2d 532 (2016) (the Act creates an implied cause of action against mandated reporters who fail to report suspected abuse or neglect).
5. The Act became effective December 8, 2016.
7. RCW 74.34.068 and RCW 74.34.095; Hu Yan v. Pleasant Day Adult Family Home, Inc., 178 Wn. App. 1018 (2013), aff’d by unpublished opinion.
8. RCW 11.84.
9. RCW 74.34.215.
Nearly one out of seven seniors over the age of 65 in Washington has an income under the poverty line. Some 45% of Washington seniors (close to a half million) are classified as economically vulnerable, with incomes within 200% of supplemental poverty measures, according to a recent report from the Kaiser Foundation. Several studies show that seniors are now retiring with more debt than ever before. The federal Consumer Financial Protection Bureau (CFPB) recently released a report declaring abusive debt collection as the top complaint for older Americans. Most legal help is naturally oriented towards seniors with money. Lower-income seniors, with little or no money to pay for advice or help, often have difficulty finding answers to their financial questions. The vast majority of seniors do not understand that Social Security, pensions, retirement, VA benefits, and disability income are protected from collection under federal law. These sources of income cannot be garnished for old debt. Because of this, seniors are often correctly advised that they do not need to file bankruptcy to address old debt. However, if seniors do not pay their old debts, they are often targeted by collectors who make their lives miserable.

HELPING VULNERABLE SENIORS

Most seniors generally have a very difficult time dealing with collectors on their own. For instance, the Fair Debt Collection Practices Act (FDCPA) provides that when a debtor sends a cease-and-desist letter, a collector must stop all communication by
mail or phone. There are cease-and-desist templates available online, including at www.helpsishere.org. However, even when the law is explained to seniors, they may be unable to prepare or send the letter. The FDCPA also provides that if a person is represented by an attorney, a collector may no longer communicate with that person directly. That is where my organization, HELPS, comes in. We are a nonprofit law firm that represents lower-income seniors and disabled persons. We receive collector communication on an ongoing basis on their behalf. We never turn away any senior who needs our help, but we could never be large enough to assist every senior in need. Attorneys can provide lower-income seniors with a cease-and-desist letter, and even send the letter on their behalf and offer to represent the senior to receive communication from collectors on an ongoing basis. This is a simple service that will bring peace back to the lives of Washington’s poor and lower-income seniors.

COUNSELING THE LOWER-INCOME SENIOR
There is other helpful information to know when counseling lower-income seniors. Even when they learn their income is safe, seniors worry about the money in their bank accounts. Federal banking regulations automatically protect all monies in an account into which Social Security is deposited, equal to twice the amount of monthly Social Security, no matter the source of the money at the time of a garnishment. The bank must disregard the garnishment. If there is excess money, a claim of exemption can be filed to have that money returned.

The Internet has spawned an entire generation of for-profit companies that advertise helping people to either settle or pay old debt. I have yet to talk with a senior enrolled with a debt consolidation company who was ever told that they don’t need to pay anything because all of their income is protected by law. I regularly talk with seniors who have Social Security income of around $1,200 per month, and who are paying $300 or
more of that to a debt consolidation company. Seniors do not need to go into utter poverty to make a payment to a debt consolidation company for old debt.

Some seniors have 15% of their Social Security garnished for past-due IRS taxes. Lower-income seniors can almost always be placed on uncollectible status, something we at HELPS assist seniors with every day. Attorneys can help or advise seniors to contact the IRS to inquire about the process for obtaining uncollectible status. Although it is still relatively rare, some seniors are being garnished 15% of their Social Security for student loans. Lower-income seniors can almost always qualify under the income contingent repayment plan and pay $5 or even $0 per month for a public student loan. Attorneys can inquire to HELPS and we will email them instruction sheets on uncollectible and income contingent repayment procedures.

Attorneys in private practice willing to answer questions for a few minutes on the phone can be godsend to the elderly. For example, some seniors drain protected retirement to continue paying off old debt that will never be paid. In many instances, seniors can stop payments for purchases they simply cannot afford, such as stopping a house payment, selling the home, or living in the home while it is going through foreclosure. Many seniors don’t know about the availability of Section 8 subsidized housing. If there is enough equity, a reverse mortgage can pay off an existing mortgage, allowing the senior to stay in a home they otherwise could no longer afford. Some seniors are worried about difficulty renting because of poor credit. An attorney can help by writing a letter simply explaining to any prospective landlord that the senior’s income is protected, cannot be garnished, and is available to pay rent and provide for their needs. We at HELPS have found this often solves concerns from most landlords worried about a senior’s poor credit.

**PROVIDING FOR BASIC NEEDS**

Most seniors want to pay their debts. Some simply are not able to. There is a reason laws protect their income. We want seniors to be able to provide for their needs. More than one out of 10 Washington seniors face the threat of hunger, according to a recently published report by the National Foundation to End Senior Hunger. This is not a small problem. Washington attorneys can help seniors understand their rights, and that their income is protected. If attorneys are unable to help, HELPS nonprofit law firm is available to assist seniors and disabled persons in stopping collector harassment. Together with the help of Washington attorneys, fewer seniors will face hunger, more seniors will be able to pay for the basic necessities such as medication, and peace will return to their lives.

**Eric Olsen** is the executive director/attorney at HELPS nonprofit law firm. He can be reached at eolsen@helpsishere.org. Visit the firm’s website at www.helpsishere.org.
The above poem is the inscription on the Statue of Liberty that represents friendship between the nations and freedom from oppression. It symbolizes America as the land of freedom and opportunity. This was how I pictured America while I was growing up in Iran. As a child who grew up during the Iran–Iraq war, I remember how schools and homes were being bombed and how innocent people died. When I grew older, I witnessed how people were classified based on religion or race in the Middle East. When I was 18 years old, I immigrated to the United States. I believed that in America, being a minority or a majority had no meaning. I hoped that the unity in America would bring nations closer, which could end discrimination in other parts of the world. However, what I did not expect was to see the same pattern of discrimination in America.

“Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tossed to me,
I lift my lamp beside the golden door.”

Emma Lazarus

These experiences led me to decide to study law and fight for justice. I received my bachelor’s degree in chemistry and Near Eastern languages and civilization, then I went to law school. After law school, I went on to receive an LL.M. in health law where I focused my thesis on lethal injection in death penalty cases as a cruel and unusual punishment under the Eighth Amendment to the U.S. Constitution.
It was hard for me to see how politics was creating hate by demonizing and isolating countries like Iran. The Iranian culture and civilization is one of the most ancient and deep-rooted cultures in the world. For example, Persian poetry has transcended geographical borders, and Iranian poets are famous all around the globe. Mowlana Jalaeddin Mohammad Balkhi, who is known by the name of Rumi, is one of the most widely read poets in the world. Many other poets such as Ferdowsi, Sa’adi, Khayyam, Hafez, and Attar have established the lofty status of the Iranian Persian poetry among the global literary heritage of the world. One of Sa’adi’s poems from the eighteenth century is even inscribed on the entrance of the United Nations Building in New York:

“The sons of Adam are limbs of each other, Having been created of one essence. When the calamity of time affects one limb, The other limbs cannot remain at rest. If thou hast no sympathy for the troubles of others Thou art unworthy to be called by the name of a human.”

-Sa’adi
It was in 2015 when I became a second-class citizen in America. When the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015 (H.R.158) was enacted. H.R. 158 terminated travel privileges for all citizens of Visa Waiver Program (VWP) countries who are dual nationals of Iraq, Syria, Iran, or Sudan. The VWP allows citizens of specific countries to travel to the United States for tourism, business, or while in transit for up to 90 days without having to obtain a visa. Due to reciprocity of the VWP, Iranian-Americans are impacted directly by H.R. 158.

On Jan. 27, 2017, President Trump signed an executive order that sought to ban all travel from Iran, Iraq, Yemen, Syria, Libya, Sudan, and Somalia for 90 days. The order further suspends all refugee admissions for 120 days from six of those countries, while putting an indefinite halt to acceptance of Syrian refugees. As a result of this order, within a few days, 60,000-100,000 visas were revoked. Thousands of families were separated. The basis for the selection of these seven countries is not clear. Moreover, President Trump has emphasized that Christians should have priority in admission to the United States as refugees.
It has been difficult for me to understand how hate has replaced love, and how religion and politics have separated people. I was already a minority woman in the legal profession, facing an uphill battle to survive as a new attorney in a male-dominated profession. Now, as an Iranian-American, a dual citizen, and an immigrant, I am facing more battles. When I became an attorney in California and Washington, I raised my right hand and swore to preserve and protect the Constitution and laws of the United States, because the Constitution of the United States is the central instrument of American government and the supreme law of the land. More specifically, the Equal Protection Clause of the 14th Amendment bars discrimination on the basis of religion and national origin. However, President Trump’s executive order singled out people from seven countries and planned a new system to tighten vetting for those from predominantly Muslim countries. Furthermore, Christian refugees were given priority in entering the country. This is discrimination based on one’s race and national origin. Moreover, this is not only discriminatory against Muslims, but it affected other religious minorities such as Jews, Zoroastrians, Baha’is, and atheists, because they also do not have priority in entering the country and they are subject to the same ban when entering America.

The Establishment Clause of the First Amendment prohibits the government from establishing an official religion, or unduly favoring one religion over another. Neither a state nor the federal government can set up a church, for instance. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. (Wallace v. Jaffree, 472 U.S. 38, 53 n.37, 105 S. Ct. 2479, 2488 (1985)). However, President Trump’s executive order not only preferred Christianity over other religions, but
bans the free exercise of religion. Under the due process clause of the 14th Amendment, no state shall deprive any person of life, liberty, or property, without due process of law. Freedom from imprisonment — from government custody, detention, or other forms of physical restraint — lies at the heart of the liberty the due process clause protects. Government detention violates due process unless the detention is ordered in a criminal proceeding with adequate procedural protections, or, in certain special and narrow non-punitive circumstances, where a special justification, such as harm-threatening mental illness, outweighs the individual’s constitutionally protected interest in avoiding physical restraint. (Zadvydas v. Davis, 533 U.S. 678, 682, 121 S. Ct. 2491, 2494 (2001)). Although certain constitutional protections available to persons inside the United States are unavailable to aliens outside of its geographic borders, once an alien enters the country, the legal circumstance changes, and the Fifth Amendment’s Due Process Clause applies to all “persons” within the United States, including aliens, whether their presence in the United States is lawful, unlawful, temporary, or permanent.

President Trump’s executive order was signed on Jan. 27, 2017, and it went into effect right away. Tens of thousands of visas were revoked and visa holders were banned from boarding planes bound for the United States. Green card holders from the seven banned countries were allowed entry on a case-by-case basis, and many people were detained in the airports all over the country.

Overnight, the Constitution of the United States of America was altered. Dreams, hopes, and freedom had all been wiped out in the blink of an eye. Political activists, journalists, students, and those who fought for human rights were banned from seeking refugee status in the United States. Victims of domestic violence in their home countries were banned from seeking asylum in America. Figurative borders and walls became darker and thicker in dividing and separating people in different groups.

To me, it seems as if everyone has forgotten that we are all humans and we are all one. At the end, I ask my fellow attorneys to stand up for justice and humanity — because I am one of you. NWL

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As soon as President Trump issued his controversial ban on refugees and citizens of seven predominantly Muslim countries on Jan. 27, volunteer lawyers raced to airports around the country to offer free legal services. The volunteers scrambled to protect the rights of travelers impacted by the travel ban. Chaos ensued as the visa holders and even U.S. lawful permanent residents landed at U.S. airports, only to be denied entry and in some cases, sent back to their country of origin.

With no access to information about arriving travelers, lawyers had to rely on the friends and families of those arriving to learn who needed help. Hand-lettered posters in English, Arabic, and Farsi offering free legal help sprung up at arrival desks and baggage claims, but this only assisted people already in the U.S. Translators, paralegals, and other support staff were hard to come by, and volunteer lawyers were left scrambling as planeloads of stranded foreigners arrived.

The ban caused upheaval at airports, with people desperately seeking information and help. Takao Yamada, a lawyer and founder of tech startup ReUp, spent the weekend at Seattle-Tacoma International Airport coordinating volunteer lawyers with people arriving from dozens of different countries. After watching many family members crying and pleading for assistance, he knew there had to be a better way to get them the help they needed.

Airport Lawyer’s rapid development was led by a team of lawyers and tech entrepreneurs. The app is fully tested and already live at nearly two dozen U.S. international airports, including Hartsfield-Jackson Atlanta International Airport (ATL), Baltimore-Washington International Thurgood Marshall Airport (BWI), Denver International Airport (DIA), Seattle-Tacoma International Airport (SEA), and Washington Dulles International Airport (IAD). The group behind the project plans to roll out coverage at all U.S. international airports.

The idea for Airport Lawyer came from an emergency brainstorm between Greg McLawsen, founder of Sound Immigration, and Joshua Lenon, lawyer-in-residence at Clio, a cloud-based law practice management software. Clio had already begun donating access to its legal software to volunteer lawyers responding to the travel ban crisis. On Friday, Feb. 3, just days after the travel ban was implemented, Lenon reached McLawsen by Twitter with an open-ended offer – “how can we help?” By the following Monday, Airport Lawyer was a reality.

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The under-the-hood engine for Airport Lawyer was developed by New York-based company Neota Logic, a platform that makes it possible to build powerful expert systems and web-based applications very quickly.

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Ryan McClead, vice president of client engagement and strategy at Neota Logic, worked over Super Bowl weekend with the support of a quickly growing team of volunteer attorneys.

“Clio received several requests for a secure intake form to organize points of contact with each group of volunteers at airports,” says Lenon. “I knew Neota Logic was the right legal technology to help. Ryan and his team jumped at the chance to build this missing communication tool between travelers and lawyers waiting to aid them.”

The Airport Lawyer team decided early on that they would prioritize moving quickly to market with a Minimal Viable Product (MVP). “The idea of the MVP is to get your product out into the real world as fast as possible,” says McClead. “Lawyers are trained to strive for perfection, which is commendable, but for us it was important to get feedback from real users to see if our app was solving the problem that we perceived — that is, a need for secure communication between arriving travelers and volunteer attorneys.”

After launching on Monday, Feb. 6, the Airport Lawyer team continued to iterate on the initial product launch. In response to feedback from community partners, the team allowed travelers to submit requests even if they were not coming from one of the travel ban countries. With a functional app launched, designers made improvements to the aesthetics of the user interface.

Airport Lawyer’s two-day launch offers a striking contrast to traditional legal organizations, which may be slow to respond to fast-moving crises, says project lead McLawsen. “It can take lawyers a week to set up their first conference call to start talking about a new project,” says McLawsen. “The vast groundswell of volunteer lawyers responding to the travel ban crisis didn’t have the luxury of time, and we knew that we had to move quickly if we were going to support their work.”

Over the course of several versions following its kickoff, the Airport Lawyer team grew as additional members were recruited for their skill sets. Forrest Carlson, partner at Assemble Law, designed and launched the website to showcase Airport Lawyer. Seattle immigration lawyer Tahmina Watson took the lead with communications — within days, the project was covered by news media including The Seattle Times, Washington Post, Univision and ABA Journal. Portland-based lawyer and design expert Alexandra Devendra advised the team on user experience and developed an infographic to explain the app. David Walsen created the app’s logo. As the operation started to scale up with additional airports joining, more Washington lawyers pitched in to help, including Linda Fang, Jessica Slatery, and Shannon Gould.

Early interest from volunteer groups around the country validated the Airport Lawyer team’s belief that they were working on a problem worth solving. “We are hearing from new airports several times per day, and the feedback has been overwhelmingly that those teams need a secure way of gathering traveler information,” says Watson. Local community partners include chapters of the American Immigration Lawyers Association, the Alaska ACLU, the Canadian Cross Border Lawyer Coalition, Davis Wright Tremaine, Lane Powell, Open Boston, and Perkins Coie.

The Airport Lawyer team has never met in person, and relies on web-based team collaboration tools including Slack (www.slack.com) and Trello (www.trello.com) to organize work and communicate. “We think this is a great example of how technology can help lawyers collaborate quickly and effectively, and to do important work in a fast-changing environment,” says Lenon. “Clio is proud to play a role in the Airport Lawyer project.”

Although at the time of this writing the travel ban remains stayed following a ruling by the Ninth Circuit, the Airport Lawyer team sees a continuing need for their app. “It’s conceivable that the stay could later be lifted, but in any event we want to be prepared to respond to any future immigration policy announced by the administration,” says McLawsen. The Airport Lawyer team developed its app with the idea that it could pivot to address a different user scenario. “We could potentially retool this app, for example, to create a platform that would help volunteer lawyers respond to workplace immigration raids,” says McClead.
Airport Lawyer creates a safety net for travelers, helping to ensure they have access to volunteer lawyers who can help them get the information and resources they need to navigate this challenging and emotional process. “Two of the scariest things for people waiting at the airport are not knowing what’s going on with their loved ones, and if something is going on, not knowing what to do about it,” says Yamada. “We can help connect travelers and family members to the volunteer attorneys who can share information and, if they need it, provide them with additional help.”

Takao Yamada is a Seattle-based attorney and co-founder of AirportLawyer.org. He is deeply committed to connecting technology entrepreneurship with activism to amplify the social justice impact of both. In addition to co-founding tech start ups, Yamada has worked for the Washington legislature. As a clerk for Justice Mary Yu, he helped facilitate the first same sex marriage in Washington State. Yamada is a graduate of Georgetown Law and Hobart. He can be reached at yamadak2003@yahoo.com.

Greg McLawsen is the managing attorney of Sound Immigration [www.soundimmigration.com], America’s web-based immigration law firm. He has championed the reinvention of law practice as Chair of the Solo and Small Practice Section of the WSBA and as co-facilitator of Seattle’s Legal Technology and Innovation Meetup group. A proponent of alternative legal careers, McLawsen runs his law firm from the road two months out of the year. He can be reached at greg@soundimmigration.com.

“This is a great example of how technology can help lawyers collaborate quickly and effectively, and to do important work in a fast-changing environment.”
After his inauguration, President Trump wasted no time in pushing forward his anti-immigrant agenda. That was not a surprise given the prominence of his immigration platform in his presidential campaign, as well as the role it subsequently played with his selections for cabinet and staff positions. What was surprising was the manner in which he moved forward — within the first week of taking office, he issued three executive orders that not only purported to dramatically alter the landscape of immigration law in the United States, but did so in blatant disregard of the Immigration and Nationality Act and corresponding case law interpreting the Act. Indeed, these orders are difficult to reconcile with core constitutional principles that underpin our democracy.

The executive orders have already generated substantial legal challenges across the country. In the wake of the Jan. 27 travel and entry ban targeting refugees and nationals of seven predominantly Muslim countries, more than a dozen habeas cases were immediately filed, with 10 different courts implementing stays against different parts of the executive order. Many other suits followed. Most notable in these early legal challenges was Washington’s resounding victory before the Ninth Circuit Court of Appeals, successfully defending the nationwide temporary restraining order issued by Judge James L. Robart, U.S. District Court for the Western District of Washington.

State of Washington v. Trump, No. 17-35105, 2017 WL 526497 (9th Cir. Feb. 9, 2017). Undoubtedly many more suits are yet to come that will challenge different aspects of these executive orders. A closer look at the initial three executive orders targeting immigration highlights the crucial challenges they present, not just to the current immigration system, but also to the rule of law and the structure of our democracy.

SANCTUARY JURISDICTIONS

On Jan. 25, President Trump signed two executive orders focusing on revamping immigration enforcement. The first, entitled “Enhancing Public Safety in the Interior of the United States,” includes an introduction with the bombastic assertion that “[s]anctuary jurisdictions across the United States willfully violate Federal law in an attempt to shield aliens from removal from the United States. These jurisdictions have caused immeasurable harm to the American people and to the very fabric of our Republic.”

While the President asserts that sanctuary cities such as Seattle, Chicago, and San Francisco “willfully violate Federal law,” he provides absolutely no evidence to support this divisive allegation. The executive order later refers to 8 U.S.C. § 1373, which provides that state or local jurisdictions “may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.”

However, President Trump has not pointed to a single state or local government that has a statute, code, or ordinance violating this provision. Instead, the cities and counties referred to as sanctuary locations generally have ordinances like the Seattle ordinance, which makes clear that local government employees will not use their resources to assist in collecting information regarding immigration status.

Other jurisdictions have ordinances like the King County ordinance, making clear that absent enumerated exceptions, the local authorities will not keep people locked up based on immigration “detainers,” which are requests by federal immigration authorities that local jails hold people for up to 48 hours after the resolution of criminal offense. Section 1373, however, says nothing with respect to local laws prohibiting jails.
from honoring immigration detainers—keeping people locked up on an unenforceable request issued by the Department of Homeland Security. Not only do such ordinances not violate federal law, the irony is that federal courts have ruled that local jurisdictions instead violate the law when they honor immigration detainers. This is because local law enforcement does not have the authority to enforce federal immigration law, and the detainers themselves do not provide an independent source of authority to detain. Instead, they are simply requests without any judicial sanction that expose local jurisdictions to lawsuit, as county and city jails have been held liable for unlawful imprisonment if they do accept the federal government’s invitation to hold on to such people until federal immigration officers show up to take custody. See, e.g., Miranda-Olivares v. Clackamas Cty., 12-CV-02317-ST, 2014 WL 1414305 (D. Or. Apr. 11, 2014); Moreno v. Napolitano, No. 11 C 5452, 2016 WL 5720465 (N.D. Ill. Sept. 30, 2016).

This first executive order has another fundamental problem. President Trump’s order threatens that “jurisdictions that willfully refuse to comply with 8 U.S.C. § 1373 [sanctuary jurisdictions] are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary.” Notably, this threat to defund sanctuary jurisdictions runs up against Supreme Court jurisprudence limiting the federal government’s ability to coerce states into complying with federal programs. Most recently, in addressing the Affordable Care Act, the Supreme Court made clear that the federal government may not defund unrelated programs, and even with respect to funding for a related program, may not use the threat of large funding cuts to “coerce” states into adopting federally mandated policies. National Federation of Independent Business v. Sebelius, 132 S.Ct. 2566 (2016). In addition, Supreme
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Court precedent has repeatedly reinforced a general principal of federalism — that the federal government may not impose upon states the obligation to enforce federal law or the costs associated therewith. Printz v. United States, 521 U.S. 898 (1997).

It is also significant that the executive order does not even limit its threat of sanctions to those state or local jurisdictions that violate the statute. Rather, the order includes the ominous assertion that the Attorney General shall take “appropriate enforcement action” against “any entity that violates 8 U.S.C. § 1373, or which has in effect a statute, policy, or practice that prevents or hinders the enforcement of Federal law.” What exactly is meant by an ordinance that “prevents” or “hinders” the enforcement of federal law? There is no definition. To the contrary, the executive order leaves wide open the definition of sanctuary jurisdictions, asserting that the Secretary of Homeland Security “has the authority to designate, in his discretion and to the extent consistent with law, a jurisdiction as a sanctuary jurisdiction.”

Ultimately, in his blustering attempt to intimidate state and local jurisdictions into “cooperating” with federal immigration authorities, President Trump’s executive order not only misstates the facts, it violates fundamental principles of federalism, by attempting to impose upon states and local jurisdictions the obligation to use their limited resources — and expose themselves to liability — in order to enforce federal law.

THE WALL

The second executive order issued that same day is entitled, “Border Security and Immigration Enforcement Improvements.” Among its more gratuitous components was a directive to “take all appropriate steps to immediately plan, design, and construct a physical wall along the southern border, using appropriate materials and technology to most effectively achieve complete operational control of the southern border.” And where will the funding come from to immediately begin this endeavor? The order simply instructs the Secretary to

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immediately look to “identify sources of Federal funds.”

More concerning is the instruction to build more detention centers along the southern border, and to detain persons apprehended at the border “pending the outcome of their removal proceedings.” Even as President Trump issued this order, the Supreme Court is set to weigh in on a case before it determining the constitutionality of prolonged detention of persons in removal proceedings. Jennings v. Rodriguez, 136 S. Ct. 2489 (2016). As the Supreme Court has previously reaffirmed, immigration detention violates due process when it is not reasonably related to its purpose and accompanied by strong procedural protections to guard against unjustified deprivations. Zadvydas v. Davis, 533 U.S. 678, 690-91 (2001). Moreover, the Supreme Court made clear that civil immigration detention “cannot be justified as punishment nor can the confinement or its conditions be designed in order to punish.” Id. at 721. Nonetheless, instead of instructing immigration officials to conduct the traditional analysis to determine whether the detained individual presents a flight risk or danger to the community, the executive order calls for the categorical detention of persons apprehended at the southern border, including refugees fleeing persecution, family members of U.S. citizens and lawful permanent residents, and others who may be able to demonstrate prima facie eligibility for immigration status. Given that civil immigration detention cannot be used as a sanction, it remains unclear what constitutionally-permitted purpose is served by locking up immigrants for months and even years, especially if they ultimately qualify for lawful immigration status in this country.

TRAVEL BAN
Two days after issuing the first two executive orders on immigration, President Trump signed another executive order entitled, “PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES.” (For some reason, this executive order has an all-caps title, as opposed to the first two immigration orders.) This order announced that effective immediately, the United States would temporarily bar nationals from seven predominantly Muslim countries — Iraq, Iran, Libya, Somalia, Sudan, Syria and Yemen — from entering the United States on immigrant (i.e., permanent residence) and nonimmigrant (temporary residence) visas. Moreover, it was announced that all visa applications for nationals from those seven countries would also be indefinitely suspended. The President asserted that Congress granted him the authority to take this action pursuant to 8 U.S.C. § 1182(f), which authorizes the President to suspend entry of non-citizens or classes of noncitizens based upon a finding that their entry would be detrimental to the interests of the United States.

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Arnold v. City of Seattle, 185 Wn.2d 510, 374 P.3d 510 (2016) (attorney fees recoverable in administrative proceeding where back pay is awarded)

Coomes v. Edmonds School Dist. No. 15, 316 F.3d 1255 (9th Cir. 2003) (reversed dismissal of employee's claim of wrongfull discharge in violation of public policy)


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The executive order sought to do precisely what was forbidden—bar individuals based on their nationality or place of birth.

While § 1182(f) undoubtedly affords the President significant authority to limit the entry of certain individuals, the President ignored § 1152(a)(1), which explicitly precludes persons from being “discriminated against in the issuance of an immigrant visa because of the person’s race, sex, nationality, place of birth, or place of residence.” This provision, which was enacted well after § 1182(f), was a direct response to such laws as the Chinese Exclusion Act and the National Origins Quota system, as Congress sought to distance our country from its explicit racist immigration system. Despite the express language of the anti-discrimination clause, the executive order seeks to do precisely what is forbidden—bar individuals based on their nationality or place of birth. News stories around the country blasted the results: children were being barred from reuniting with their U.S. citizen and lawful permanent resident parents, based purely on the children’s nationality or country of birth.

Moreover, the executive order temporarily suspended the entry of refugees, even with respect to children and all those who have passed through years of security and medical screenings. In addition, the order placed an indefinite halt on the entry of all Syrian refugees, again, even with respect to children and all adults who have previously been approved for entry. It is notable that one-third of the total Muslim refugees who entered the United States over the last year come from Syria.

Finally, it sought to prioritize refugee claims made by individuals on the basis of religious-based persecution, provided that the religion of the individual is a minority religion in the individual’s country. This contrasts with the Refugee Act of 1980, which governs the admission of refugees to the United States: the Act provides no basis to prioritize refugees fleeing persecution on the basis of religion, as opposed to the other statutory bases provided by Congress — race, political opinion, national origin or membership in a particular social group. 8 U.S.C. § 1101(a) (42). Moreover, the vast majority of Muslim refugees would be ineligible for a minority-faith based preference because they come from predominantly Muslim countries, even if they are able to demonstrate compelling claims of religious persecution. Many Americans saw this executive order as President Trump’s initial step in making good on his promise to ban Muslims from coming to the United States.

This executive order was challenged in federal court as violating, among other claims, the nondiscrimination clause of the Immigration and Nationality Act, the procedural due process clause, the due process clause’s guarantee of equal protection under the law, and the establishment clause. However, the Department of Justice (DOJ) did not simply attempt to defend the legality of the President’s actions. Instead, the DOJ attorneys made the breathtaking assertion that the federal courts lacked authority to even consider the matter, “because the President has ‘unreviewable authority to suspend the admission of any class of [noncitizens].’” State of Washington v. Trump, No. 17-35105, 2017 WL 526497, at *5 (9th Cir. Feb. 9, 2017).

As previously noted, this claim was
not well received in either district court or the court of appeals. To the contrary, the President’s assertion was succinctly rejected. As the court of appeals concluded, “There is no precedent to support this claimed unreviewability, which runs contrary to the fundamental structure of our constitutional democracy.” Id.

**CRITICAL CHALLENGES**

Of course, this is not the last word on the matter, both with respect to the underlying merits in the ongoing litigation and with respect to future efforts by the administration to severely alter our immigration system. Moreover, it is possible that Congress will propose legislation to reintroduce components of failed executive orders. However, regardless of future legislation or other administrative actions, these initial challenges to the executive orders are critical, if for no other reason than to reinforce fundamental principles underpinning our democracy — most importantly, that the President’s authority is confined within the limits imposed by the Constitution and the statutes enacted by Congress; that there are three equal branches of the federal government that provide checks and balances on one another; that the federal government may not impose its duties and costs upon the states; and that no person is either above or beneath the law. NWL.

**Matt Adams**

was the recipient of the 2016 WSBA APEX Award of Merit, the highest honor of the Awards. Adams is the legal director for Northwest Immigrant Rights Project (NWIRP). Adams is a member of the King County Public Defenders Advisory Board and the National Immigration Project’s Board of Directors. He can be reached at matt@nwirp.org.
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WSBA
Washington State Bar Association
WSBA BOARD OF GOVERNORS MEETING

JAN. 26-27, 2017, SPOKANE

The WSBA Board of Governors (Board) met on Jan. 26 – 27 at the Hemmingson Center at Gonzaga University in Spokane. On Jan. 26, the Board met in executive session where it approved the minutes from its Nov. 18, 2016 meeting in Seattle; heard reports from the executive director, president, disciplinary counsel, and general counsel; and discussed the Lawyers’ Fund for Client Protection. The Board hosted a luncheon with attorneys and judges from the Spokane area and presented a WSBA Local Hero Award to retired Spokane County Superior Court Judge Gregory D. Sypolt.

In public session on Jan. 26, Gonzaga University School of Law Dean Jane Korn welcomed the Board, guests, and liaisons to the meeting. The Board approved Section XI of the WSBA Bylaws relating to minimum governance standards for sections. It discussed a proposed new practice area for limited license legal technicians (LLLTs) for estate and healthcare law. It heard an update from the Practice of Law Board (POLB), which suggested its amendments to the POLB’s regulations. The Board discussed the recent license fee petition filed with the WSBA in December 2016, and voted not to hold a vote of the membership.

On Jan. 27, the Board had a generative discussion regarding the shifting demographic of the membership and the significant number of older members transitioning out of the practice of law. It passed a resolution regarding the 75th Anniversary of Executive Order 9066, which authorized the U.S. government to impose curfews, removal, and incarceration of more than 120,000 Japanese Americans during World War II, citing military necessity. The Board acknowledged the role that lawyers and courts played in the imposition and enforcement of these actions, and reaffirmed the WSBA’s current mission and guiding principles.

Thursday, Jan. 26

Honoring Local Hero Hon. Gregory D. Sypolt (Ret.)
The WSBA presents its Local Hero Award to WSBA members and local community members who have made noteworthy contributions to their communities. The Spokane County Bar Association selected the Honorable Gregory D. Sypolt (Ret.) for the award, in recognition of his longstanding demonstrated commitment to diversity and the community. WSBA President Robin Haynes presented the award at a luncheon in Spokane on Jan. 26. Judge Sypolt was unable to attend. Accepting
the award on his behalf were his wife, Molly Ertel, and his longtime judicial assistant, Karen Bachmeier.

Amendments to WSBA Bylaws
Article XI. Sections
Following many months of public discussion, and considering all of the input received, the Board approved Section XI of the WSBA Bylaws relating to the Sections, as amended on Nov. 18, 2016. The amended Bylaws apply minimum governance standards to existing section bylaws, while maintaining flexibility in the manner in which sections operate. Section XI addresses: (1) the numbers and types of officers; (2) executive committee member terms; (3) the timing and manner of annual elections and other matters previously reported on and considered by the Board in public session since first reading on Aug. 23, 2016.

IN THE WSBA BOARD OF GOVERNORS ELECTION

If you are an active WSBA member in District 3, 6, 7N, or 8, vote for one of the candidates running from your district between March 15 and April 3. Ballots will be delivered by email. Visit www.wsba.org/elections for more information and videos from the March 1 Candidate Forum.

District 3
Derek Angus Lee
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District 6
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Justin D. Farmer
Henry G. Jones
Stephen (Steve) Trinen
Brian M. Tollefson
Edward S. (Ed) Winskill

District 7N
Joseph E. (Joe) Bringman
Harry H. Goldman
Karama Halili Hawkins
Paul Swegle

District 8
Roberto H. Castro
Kim E. Hunter
Reuben J. Ortega

VOTING CLOSES APRIL 3
Districts are the same as U.S. Congressional Districts, and are based on a member’s home address. Look up your district at mywsba.org.
Proposed New Practice Area for Limited License Legal Technicians

LLLT Board Chair Steve Crossland provided an update of Board activities and introduced the proposed second practice area for LLLTs — estate and healthcare law. Governors and audience members provided input. The LLLT Board anticipates submitting the proposed second practice area to the Supreme Court in March and welcomes further input. Additional information may be found at www.wsba.org/LLLT and comments may be emailed to LLLT@wsba.org.

Update from the Practice of Law Board

POLB Chair Judge Paul Bastine (Ret.) and POLB board liaison Governor Sean Davis sought comments and input regarding the POLB’s 2016 activities, including suggested amendments to GR 25 Practice of Law Board Regulations. These amendments include a renewed focus on the POLB’s functions, including (1) educating the public about how to receive competent legal assistance; (2) considering and recommending to the Supreme Court new avenues for persons not currently authorized to practice law to provide legal services; (3) receiving, reviewing, and referring complaints alleging the unauthorized practice of law; and (4) drafting advisory opinions.

Board Decision Regarding License Fee Petition

The Board voted not to hold a referendum vote on the license fee petition filed with the WSBA in December 2016. The Board found that the petition did not qualify under GR 12 because the Court issued an order finding the fees set by the Board to be reasonable and the fee that would be set if the petition were to pass to be unreasonable. The Board further concluded that any vote would be fiscally unsound and futile given the Court’s order and that the outcome potentially could be in violation of a Supreme Court order.

Resolution for a Day of Remembrance

The Board passed a resolution recognizing Feb. 19, 2017, as A Day of Remembrance for the 75th Anniversary of Executive Order 9066. During World War II, the United States government imposed curfews, removal, and incarceration of more than 120,000 Japanese Americans, including U.S. citizens, residing in Washington and other western states, citing military necessity. These actions followed President Franklin D. Roosevelt’s Executive Order 9066 issued on Feb. 19, 1942. Those who did not comply with the executive order were prosecuted. Lawyers and courts in Washington played a role in the imposition and enforcement of these actions, as well as in the efforts 40 years later to vacate unlawful convictions and obtain judgments of governmental misconduct. Read the WSBA’s resolution in the February 2017 issue of NWLawyer.

Friday, Jan. 27

The Shifting Demographics of the WSBA Membership

Governor and Treasurer Jill Karmy, Director of Human Resources Frances Dujon-Reynolds, and Director of Advancement/Chief Development Officer Terra Nevitt led a discussion regarding older members transitioning out of the Bar. Executive Director Paula Littlewood presented information about the shifting demographics for the profession as baby boomers begin to reach retirement age in large numbers. The WSBA’s research shows that nearly 50% of its membership will transition out of practice in the next 10 to 15 years. Senior Lawyers Section members and others in the audience shared their thoughts on the impact that this transition will have, and how best to capture the knowledge and experience of these retiring members for a “second season of service.” Discussion centered around how best to support retiring members and what avenues for giving back these members might explore, such as mentoring and pro bono services.

For more information on any of these topics, email questions@wsba.org. For more on the WSBA Board of Governors and future meeting dates, see wsba.org/about-wsba/governance.
The Law Offices of Molly B. Kenny

is proud to announce that

Douglas Wilson “Wil” Miller

is now Of Counsel with our firm practicing in the areas of Family Law and Criminal Law.

Wil is a former Supervising Assistant District Attorney from New York City who later served as a Deputy Prosecutor in the King County Prosecutor’s Office. Wil became a criminal defense attorney in 1998 and began practicing family law in 2013.

His practice has a special focus on criminal law issues that affect families and family law cases, including: sex offenses within the family, CPS investigations, domestic violence, and child abuse.

Wil also recently authored the soon to be published book:

When Your Son is Accused of a Sex Offense in Washington State: A Parent’s Guide

Wil is a nationally recognized public speaker on issues related to addiction, recovery and mental health in the legal community.

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is pleased to announce the return of

Courtney (Garcea) Conklin

to the firm.

Ms. Conklin graduated cum laude from Gonzaga University School of Law in 2009, and received her undergraduate degree from the University of Washington in 2005.

Courtney has been named a Rising Star by Washington Super Lawyers Magazine since 2014 and focuses her practice on employment law, white collar and felony criminal defense, medical malpractice defense and disciplinary matters, and other complex litigation.

Bloggers Wanted!

Write for WSBA's award-winning blog, NWSidebar [nwsidebar.wsba.org]. Ask about our contributing writer program. For more information, contact blog@wsba.org.

WSBA
Washington State Bar Association
**WSBA Presidential Search**

**Application Deadline: April 10, 2017, 5 p.m.**

The WSBA Board of Governors is seeking applicants for the position of WSBA president for 2018–19, who will serve as president-elect in 2017–18. The WSBA member selected will have an opportunity to provide a significant contribution to the legal profession.

Applications for 2018–19 WSBA president will be accepted until 5 p.m. on April 10, 2017, and should be limited to a current résumé, a concise application letter stating interest and qualifications, and no fewer than five or more than 10 references. The Board of Governors will consider endorsement letters received by May 3, 2017. Applications and endorsement letters should be sent to the WSBA Executive Director, 1325 Fourth Ave., Suite 600, Seattle, WA 98101.

Direct contact with the Board of Governors is encouraged. All candidates will have an interview with the full Board of Governors in an open session scheduled for the May 18-19, 2017 Board of Governors meeting in Seattle. Following the interviews, the Board will select the president. Although prior experience on the WSBA Board of Governors may be helpful, there is no requirement that one must have been a member of the Board of Governors or had previous experience in Bar activities. The candidate must be willing to devote a substantial number of hours to WSBA affairs and be capable of being a positive representative for the legal profession. The position is unpaid. Some expenses, such as WSBA-related travel, are reimbursed. The commitment begins in May 2017, following selection. A one-year term as president-elect will begin at the APEX Awards Dinner on Sept. 28, 2017. The president-elect is expected to attend two-day board meetings held approximately every six to eight weeks, as well as numerous subcommittee, section, regional, national, and local meetings. In September 2018, at the WSBA APEX Awards Dinner, the president-elect will assume the office of president. During his or her service, the president-elect and president will also be required to meet with members of the Bar, the courts, the media, and public and legal interest groups, as well as be involved in the Bar’s legislative activities. Appropriate time will need to be devoted to communication by letter, e-mail, and telephone in connection with these responsibilities.

The duties and responsibilities of the president are set forth in the WSBA Bylaws. The Bylaws can be found at [www.bit.ly/bylawswsba](http://www.bit.ly/bylawswsba). For further information, contact Margaret Shane at margarets@wsba.org or 206-727-8244.

**Call for Applications for WSBA Board of Governors At-Large Position**

**Application deadline: April 20, 2017, 5 p.m.**

One of the three at-large positions on the WSBA Board of Governors is up for election. Under WSBA’s Bylaws, the purpose of this position is to increase diversity and representation on the Board, and the position is to be filled by a WSBA member who has “the experience and knowledge of the needs of those lawyers whose membership is or may be historically under-represented in governance, or who represents some of the diverse elements of the public of the State of Washington.”

The Board of Governors will interview candidates and elect the at-large governor at their meeting scheduled for May 18-19, in Seattle, and the governor’s three-year term will begin at the end of the September 28-29 Board meeting. For more information about the position and how to apply, see our website at [www.wsba.org/elections](http://www.wsba.org/elections). The WSBA Bylaws are posted at [www.bit.ly/bylawswsba](http://www.bit.ly/bylawswsba). Applications will be accepted until 5 p.m. on April 20, 2017. Letters of endorsement will be accepted through May 3, 2017. If you have questions, please contact WSBA Diversity and Inclusion Specialist Dana Barnett at danab@wsba.org or 206-733-5945.
WSBA Launches CLE Faculty Database

If you are currently serving as CLE faculty, or are interested in working with the WSBA as a future CLE faculty member, we encourage you to register in our CLE faculty database. Serving as a faculty member provides you with 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. We hope to capture the information of all of those that plan to teach in the future, both current CLE faculty, and those interested in future opportunities. Please log on and register in the CLE faculty database today at www.mywsba.org/CleFacultyApplication.aspx.

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.

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 are 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.

Community Networking in Bellingham

April 13, 2017, 5 – 7 p.m.
The Washington State Bar Association invites you to a Community Networking Event in Bellingham. This is a great opportunity to meet and mingle with fellow attorneys in and around Bellingham. Light appetizers will be served with a no-host bar. RSVP at diversity@wsba.org.

2017 License Renewal and MCLE Information

Presuspension notices have been mailed. If you have not completed all mandatory portions of your license renewal, including MCLE requirements, if applicable, you are delinquent and are at risk of suspension. You may complete licensing requirements, including MCLE certification, either online at mywsba.org or by using the License Renewal and Mandatory Continuing Legal Education Certification forms. Visit www.wsba.org/licensing to learn more.

Access to Justice Conference

The Access to Justice Board invites you to attend the 19th Access to Justice Conference June 2-4 at the Yakima Convention Center. The conference brings together attorneys, judges, and other advocates and community members working within the civil, criminal, and juvenile justice systems to build collective knowledge, participate in discussion and work-toward identifying and removing barriers to justice. Programming is pending CLE credit. Learn more and register at www.wa-atj.org.

WSBA Board of Governors Meeting

March 9, Olympia

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.

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 client’s interests. The custodian takes possession of the necessary files and records and takes action to protect a client’s interests. The custodian may act with a team of custodians and much of the work may be performed by supervised staff. If the WSBA is notified of the need for a custodian, the WSBA would affirm the willingness and ability of a potential volunteer and seek their appointment as custodian. Costs incurred may be reimbursed. Current WSBA members of all practice areas are welcome to apply. Contact Sandra Schilling at sandras@wsba.org, 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.

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.
Washington Chapter Association of Family and Conciliation Courts Sixth Annual Conference

The AFCC Conference will take place at the Washington Athletic Club on March 25, 2017. This year’s conference includes notable authors and speakers, such as Bill Eddy, presenting “High Conflict Parents: Making and Following Parenting Plans,” and Marsha Kline Pruett, presenting “Embracing the Young Child: Parenting Plans that Stimulate Growth.” Several workshops will offer practical skills for crafting parenting plans. Consider purchasing a lunch buffet ticket for networking. You can earn 6.0 hours of Continuing Legal Education. Register at http://www.wa-afcc.net/seminars_and_conferences.htm. For questions, contact conference coordinator Daniel Rybicki at info@wa-afcc.net.
**WSBA Lawyers Assistance Program (LAP)**

**WSBA Connects**
WSBA Connects provides free counseling in your community. All Bar members are eligible for three free sessions on topics such 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.

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

**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 greg@rekhiwolk.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 noon to 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 LAP can arrange this and can be reached at 206-727-8268.

**Boundaries**
Do you have trouble saying no when you should? Are you struggling with cases your gut told you to avoid? If so, you may have trouble setting and maintaining good boundaries. Figure out what your limits are, then practice saying no. If you’d like help, call WSBA Connects at 1-800-765-0770 to schedule a confidential consultation.

**WSBA Law Office Management Assistance 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 or 206-733-5914.

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

**Usury Rate**
The maximum allowable usury rate can be found on the Washington State Treasurer’s website at www.tre.wa.gov/investments/historicalUsuryRates.html.

**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.

**Legal Lunchbox Series**
**Dishing up free CLEs!**
The WSBA invites you to lunch and learn while earning 1.5 CLE credits. And the tab is on us! The WSBA will host a 90-minute, 1.5 credit, live webcast CLE at noon on the last Tuesday of each month.

**Mark your calendars now!**

*To register and for more information, visit www.wsbacle.org.*

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

**Disbarred**

**Hugh W. Berry** (WSBA No. 23509, admitted 1994) of Mill Creek, WA, was disbarred, effective 12/13/2016, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of California. For more information, see http://members.calbar.ca.gov/fal/Member/Detail/149416. Joanne S. Abelson acted as disciplinary counsel. Hugh W. Berry represented himself. The online version of NWLawyer contains a link to the following document: The Washington Supreme Court Order.

**Eric Carl Einhorn** (WSBA No. 18890, admitted 1989) of Mosier, was disbarred, effective 12/30/2016, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation), 8.4 (Misconduct). Erica Temple acted as disciplinary counsel. Eric Carl Einhorn represented himself. James E. Horne 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.

**Donald Peter Osborne** (WSBA No. 7386, admitted 1977) of Bellevue, was disbarred, effective 12/29/2016, 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), 3.3 (Candor Toward the Tribunal), 3.4 (Fairness to Opposing Party and Counsel), 4.1 (Truthfulness in Statements to Others), 8.4 (Misconduct). Craig Bray acted as disciplinary counsel. Kurt M. Bulmer represented Respondent. Nadine Darlene Scott was the hearing officer. James Craven was the settlement 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 the Washington Supreme Court Order and Dissent.
Suspended

Jason M. Feldman (WSBA No. 41238, admitted 2009) of Lynnwood, was suspended for two years and six months, effective 12/30/2016, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.8 (Conflict of Interest: Current Clients: Specific Rules), 8.4 (Misconduct). Craig Bray, Erica Temple and Sachia Stonefeld Powell acted as disciplinary counsel. Kenneth Scott Kagan represented Respondent. Edward F. Shea was the hearing officer. Craig C. Beles was the settlement hearing officer. The online version of NWLawyer contains links to the following documents: Hearing Officer’s Decision; Disciplinary Board Order Adopting Hearing Officer’s Decision; and Washington Supreme Court Order.

Rodney R. Moody (WSBA No. 17416, admitted 1987) of Everett, was suspended for 60 days, effective 1/01/2017, 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), 1.16 (Declining or Terminating Representation). Francesca D’Angelo acted as disciplinary counsel. Elizabeth Ann Turner represented Respondent. The online version of NWLawyer contains links to the following documents: Order Approving Stipulation to Suspension; Stipulation to 60-Day Suspension; and Washington Supreme Court Order.

Interim Suspension

Dana Kristin Fossedal (WSBA No. 28392, admitted 1998) of Seattle, is suspended from the practice of law in the State of Washington pending the outcome of disciplinary proceedings, effective 12/14/2016, by order of the Washington Supreme Court. This is not a disciplinary sanction.

Transfer to Disability Inactive Status

Martin Emeka Nwizubo (WSBA No. 27883, admitted 1998) of Tukwila, was by stipulation transferred to disability inactive status, effective 11/23/2016. This is not a disciplinary action.

ETHICS and LAWYER DISCIPLINARY INVESTIGATION and PROCEEDINGS

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

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George Ahrend
(Former Co-Coordinator of WSAJ Foundation Amicus Program)

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FREEDOM OF SPEECH

(See, e.g.):

*Yates v. Fithian*, 2010 WL 3788272 (W.D. Wash. 2010)
*City of Seattle v. Menotti*, 409 F.3d 1113 (9th Cir. 2005)
*Fordyce v. Seattle*, 55 F.3d 436 (9th Cir. 1995)

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FREEDOM OF SPEECH

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*Yates v. Fithian*, 2010 WL 3788272 (W.D. Wash. 2010)
*City of Seattle v. Menotti*, 409 F.3d 1113 (9th Cir. 2005)
*Fordyce v. Seattle*, 55 F.3d 436 (9th Cir. 1995)

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BUSINESS LAW

Mediation for Businesses
March 9, Seattle. 1 CLE Law & Legal Procedure credit. Presented by the WSBA in partnership with the WSBA Corporate Counsel Section; 800-945-WSBA or 206-443-WSBA. www.wsbacle.org.

ELDER LAW

Advising and Advocating for Your Elder Law Practice Clients: Emerging Issues to Address
March 24, Seattle and webcast. 6.75 CLE credits (5.75 Law & Legal Procedure + 1 Ethics). Presented by the WSBA in partnership with the WSBA Elder Law Section; 800-945-WSBA or 206-443-WSBA. www.wsbacle.org.

ESTATE PLANNING

Annual Trust and Estate Litigation
March 21, Seattle and webcast. CLE credits pending. Presented by the WSBA in partnership with the WSBA Real Property, Probate and Trust Section; 800-945-WSBA or 206-443-WSBA. www.wsbacle.org.

GENERAL PRACTICE

Washington Law and Practice Refresher
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LEGAL LUNCHBOX SERIES

March Legal Lunchbox
March 28, webcast. 1.5 CLE credits. Presented by the WSBA; 800-945-WSBA or 206-443-WSBA. www.wsbacle.org.

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Spring Real Property Seminar
April 7, Seattle and webcast. CLE credits pending. Presented by the WSBA in partnership with the WSBA Real Property, Probate and Trust Section; 800-945-WSBA or 206-443-WSBA. www.wsbacle.org.

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March 2, Seattle. 3 CLE Law & Legal Procedure credits. Presented by the WSBA in association with Emerald City Comicon; 800-945-WSBA or 206-443-WSBA. www.wsbacle.org.

From Printed Page to the Silver Screen: An Overview of Licensing Comic Book Properties to the Film and Television Industries
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One-of-a-kind Walla Walla County practice that is experiencing consistent growth year over year! Case breakdown is almost exclusively estate planning and probate matters. This is a fantastic opportunity to build upon a booming practice located in a growing county! Contact justin@privatepracticetransitions.com or call 253-509-9224 to learn more.

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I became a legal technician because I wanted to help those going through family law cases.

Before completing the required education to become a legal technician, I was a commercial and residential licensed painting contractor for over a decade. Then, I became a private investigator and freelance paralegal.

My greatest talent as a legal technician is empowering my clients.

In my practice, I work on improving my ability to turn down cases.

The best advice I have for new legal technicians is to ask for help when you need it and find more than one resource. Differing experiences and perspectives add new light to a problem.

My long-term professional goal is to further the role of legal technicians in Washington by working to expand the scope of practice and possibly teach future LLLTs.

The most rewarding part of my job is the gratitude from those I help.

The worst part of my job is turning away clients because the case is beyond the scope of my license.

During my free time I renovate old houses.

The most memorable trip I ever took was backpacking the Enchantments and camping next to Stuart and Colchuck Lakes.

I absolutely can't live without coffee.

If I took one day off in the middle of the week, I would spend the day with my husband.

I enjoy reading sci-fi and mysteries.

My best recipe I make at home is M&M cookies and hearty Italian soups.

My fitness routine is keeping up with life.

This changed my life: my kids.

I grew up in the Olympia area.

My fondest childhood memory is riding my bike.

My best parenting advice is there are far more right ways to do something than wrong.
Nobody would ever suspect that I love to fish, from deep sea to fly-fishing.

Friends would describe me as fierce, loyal, smart, and funny.

I regret not finishing my bachelor’s degree right after high school. I returned and graduated when I was 42.

Aside from my career, I am most proud of this: renovating three 100+ year old houses while simultaneously living in them and learning how to care for my daughter who was born very premature.

I give back to my community by raising kind and socially conscious kids and volunteering every week in a local legal clinic at Family Education and Support Services.

This makes me roll my eyes: anything referenced by #s.

This makes me smile: British comedies, ice cream, and my dog smiling back at me.

My greatest fear is outliving any of my children.

My worst habit is trying to do it all.

My best habit is finishing what I start.

I am thankful that my youngest daughter survived being born three-and-a-half months early.

My idea of misery is a life without loved ones.

You’ll find me outside in the Northwest doing this: snowshoeing and gardening.

My dream trip would be exploring castles throughout the U.K.

If I could pick a superpower, it would be invisibility.

My favorite band/musical artist is twenty-one pilots, for the moment.

My first car was a 1967 Ford Mustang. I still have it!

If $100,000 fell into my lap, I would pay off my student loans and take my family to England.

If I could get free tickets to any event, I would donate them.

My all-time favorite movie or TV show is Shawshank Redemption and IT Crowd.

If I have learned one thing in life, it is that you’re never too old for school.

I would like to learn to weld and speak Spanish fluently.

My name is KELLIE DIGHTMAN. I was a licensed painting contractor for over 10 years before following my passion for the law and helping others. Beginning as a Court Appointed Special Advocate (CASA) in Arizona, I became a paralegal and licensed private investigator in Washington. After successfully completing the requirements to become a LLLT in family law, I opened my solo practice in Olympia. I still paint for friends and family, and my husband and I are on our third 100+ year old home renovation. We pinky swore this is the last! I can be reached at kelliedightman@gmail.com.

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