Attorneys abroad: what it’s like to practice law overseas / pp. 31-45

Vaccines: an overview of current law and a look at the future / p. 48

Lisa Daugaard
First WSBA member to win a MacArthur ‘genius grant’ discusses her work in criminal justice reform / p. 26
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**ON THE DOCKET**

**FEATURES**

**26**

When the Paradigm Starts to Crumble
A MacArthur ‘Genius Grant’ is a boon to Lisa Daugaard’s lauded criminal justice reform program, but no panacea to the challenges ahead

> BY NOEL S. BRADY

**46**

Washington’s ‘Vulnerable Youth Guardianship’ Statute at Issue in Federal Class-Action Lawsuit

> BY ANN WENNERSTROM

**31-45**

Around the World
Washington-licensed legal professionals discuss how and why they came to practice law overseas

**CZECH REPUBLIC** > Bill Finney
**UNITED KINGDOM** > Fiona De Kerckhove
**BELGIUM** > Lani Cossette
**FINLAND** > Mark W. Scott
**SWITZERLAND** > Kirstin S. Dodge
**NIGERIA** > Babatunde Irukera
**JAPAN** > Yuriko Kotani
**AUSTRALIA** > Lisa Lombardi
**ISRAEL** > Naneen Baden

---

Quelling the Quagmire of Counterfeits
Occasional fish-out-of-waterisms for an IP lawyer in China

> BY FREDERIC ROCAFORT

---

Nuance, Subtlety, and Cultural Competency
The challenges and benefits of working internationally

> BY NAOKO INOUE SHATZ

---

**ESSENTIALS**

**5**

Inbox

**9**

NW Sidebar: There’s More on the Blog

**2019 Summer Bar Exam & LLLT Exam Pass List**

**14**

Treasurer’s Report
BY DANIEL D. CLARK AND JORGE A. PEREZ

**18**

Ethics and the Law
BY MARK J. FUCILE

**22**

Innovation in Law
BY JORDAN L. COUCH

**25**

Literary Lawyer
BY ALLEN BENTLEY

**TOP TO BOTTOM:** Photo©Getty / Robert Ingelhart; Staff illustrations; photo©Getty / Mr. Ilkin

---

**COLUMNS**

**3**

Editor’s Note
BY KIRSTEN ABEL

**10**

President’s Corner
BY RAJEEV D. MAJUMDAR

**11**

By Invitation: Guest Column
BY MICHAEL HEATHERLY

**2019 Summer Bar Exam & LLLT Exam Pass List**

---

2019 Summer Bar Exam & LLLT Exam Pass List

---

**52**

**52**

Vaccine Law: An Overview of Current Law and a Look at the Future

> BY BENJAMIN GOULD

---

**58**

Announcements

---

**60**

Professionals

---

**64**

Classifieds

---

**68**

Beyond the Bar Number: Theresa J. Champ
It was about 10:30 a.m. on Friday, Sept. 27. I was sitting beside my colleague, WSBA Communications Specialist Colin Rigley, in a conference room at a Cleveland hotel. On a huge projector screen at the front of the room, slides rolled past revealing the winners of the 2019 Luminary Awards, presented by the National Association of Bar Executives’ Communications Section.

We watched as the awards for graphic design, authored article, special project (awarded this year to the WSBA blog, NWSidebar), and PR/marketing campaign were given out to worthy bar association recipients.

Then, finally: the Luminary Award for Excellence in Regular Publications. Basically, the Academy Award for Best Picture. NWLawyer was in the running, competing against publications from other large bars across the U.S.

The presenter read the title of the award and then paused. The crystal trophy was removed from its velvet resting place, with a name we could not yet see etched onto its face.


"Yes, that’s right. You are holding in your hands a nationally-recognized (twice), award-winning magazine. The judges’ comments included the following: “Informative articles; well-written articles; timely topics; great theme issues; design A+,” and, “What a pleasure to review these three issues. … Superb layout, typestyle, use of cover, and a solid variety of timely and relevant info for readers.”

There are numerous people who help make NWLawyer the award-winning publication it is today.

The WSBA editorial team includes myself, Rigley, Senior Legal Editor Margaret Morgan, Design Services Manager Kelly Cronin, Graphic Designer Jessica Randklev (the mind behind that A-plus design), Communications Coordinator Connor Smith, and Online Communications Specialist Noel Brady.

General Counsel Julie Shankland, Interim Executive Director Terra Nevitt, Senior Inclusion & Equity Specialist Robin Nussbaum, and Chief Communications and Outreach Officer Sara Niegowski carefully examine the editorial calendar and review each issue before it goes to press.

The WSBA Editorial Advisory Committee consists of 12 practicing legal professionals (see masthead on page 4) from all around the state.
First, can and should reflect the for consider Advance payment required. See classified pages with their submission. Send articles to but no additional proofs of articles will be provided. The editor reserves the right to the article. High-resolution graphics and photographs (preferably 1 MB in size) are publications and become the property of the WSBA. Articles typically run 1,000–2,500 words. Citations should be incorporated into the body of the article and be right to edit articles as deemed appropriate. The editor may work with the writer, for rates, submission guidelines, and payment information. NWLawyer is published nine times a year with a current circulation of approximately 34,000.

who volunteer to write articles, review content, develop story ideas and themed issues, and recruit authors. We look to the Committee, as representatives of the membership, to advise on content that will “inform, educate, engage, and inspire” the over 34,000 active legal professionals who receive NWLawyer.

Last but not least, we sincerely thank our talented volunteer authors. Without you, the magazine would not exist.

OK, acceptance speech over. Despite my overly dramatic retelling of our recent award-winning morning, we know that NWLawyer is not perfect. We hear the critiques. That’s why we are working to recruit authors to write on more topics that interest members, to find more perspectives from across the state, and to reduce the direct costs required to produce the magazine.

NWLawyer can and should reflect the things you find relevant and helpful to your practices. But we can’t make that happen without your help. Almost all of the articles we publish come from unsolicited submissions, meaning they are sent in by the volunteer authors I mentioned above.

You can be one of those authors.

There are a couple ways you can connect with, and contribute to, NWLawyer. First, feel free to send written submissions or story ideas to nwlawyer@wsba.org for consideration at any time. Second, if you are interested in writing for the magazine but don’t have a particular article or idea in mind, please fill out the following Google form so we can get in touch with you: https://forms.gle/2IX4pRsUfgDvVwTA.

Finally, a quick plug for this issue. On page 26, learn about Lisa Daugaard—a public defender, one of the founders of the statewide and nationally growing Law Enforcement Assisted Diversion (LEAD) program, and the first WSBA member to win a MacArthur Fellowship. On page 68, find a Beyond the Bar Number feature fit for Vet Enforce Assisted Diversion (LEAD) program, and the first WSBA member to win a MacArthur Fellowship. On page 68, find a Beyond the Bar Number feature fit for Veterans Day—Theresa J. Champ, a command judge advocate in the U.S. Navy. Starting on page 31, hear from nine of the WSBA’s approximately 250 active members who live and work outside of the U.S. We wanted to know how they got to where they are, what advice they’d give to others, and if living and practicing law abroad is as romantic as we imagine it to be (the answer is often yes).
Bending Toward Justice Together

I was reading an article recently in which the author argued that now is one of the first times in history that white people generally have had to think about what it means to be white in the United States. That is uncomfortable for many people, and thus not desirable.

Many people—including many lawyers—would rather stuff that discussion. But we know, from a historical perspective on race in the U.S., that we must continue to work through the uncomfortable parts of that conversation, and work though the associated cultural and policy changes, in order to become the society we promise ourselves we are (“liberty and justice for all,” and all that).

The same thing can be said for conversations on gender, class, ability, citizenship status, etc.

Since beginning to learn about the WSBA while in law school, I’ve been thankful that the Bar is up front and in front about the importance of inclusion, equity, and diversity. When I feel like I’m in a profession dominated by older white men (which I will become someday), NWLawyer often provides a window into the ideals of our profession through articles on social justice.

Sure, those articles may provoke a backlash from lawyers who are dragging their feet upon entering a pluralistic multicultural democracy, but that kind of friction and robust debate is part of positive social change. The arc of history bends toward justice, but someone has to do the bending. I’m thankful our Bar Association stands up for a vision and purpose that we will be able to look back on and be proud of in the future.

The Bar should not back down from this work. If we are committed to a bar association that serves both the public and its members, we can’t give up on this dream. We owe that to the people who trust us to fight for “liberty and justice for all.”

Lindsey Schromen-Wawrin
Port Angeles

Pro Bono Services for All Indigenous Communities

Thank you so much for publishing the Pro Bono in Focus article by Christine Anderson entitled “Help Wanted” [October 2019 NWLawyer]. I’m pleased to see the focus on Native American communities in our state that need legal assistance.

To be honest, when I saw the graphics depicting the location of our recognized tribes, I assumed that the topic would end there. Happily, I noticed references to services being offered to urban Native Americans, Alaskan Natives, and First Nations peoples who also live in Washington. However, I did not see any specific reference to those tribal communities that have not been officially recognized by the U.S. government.

I live in Pacific County just a short distance from the offices of the Chinook Tribe in Bay Center. This community is strong and cohesive despite a lack of any legal recognition. They clearly see themselves as a Native community and are fully invested and visible in every aspect of life in Southwest Washington. My goal here is not to criticize the content of the article you published, but, rather, to bring attention to the fact that there are indigenous community members all around us who might not fit within a traditionally recognized community [but] also need the services [described in] this well-written article. Thank you again.

Eric B. Watness
Seattle

Author Response re: ‘The Cost of LLLTs’

LLLTs Ms. Bove and Ms. Ortega wrote [“Inbox,” October 2019 NWLawyer] my use of the phrase “pink collar” in my [September 2019] Treasurer report caused them to “bristle” because it “signifies a profession led by women is inherently less valuable.” Two points. First, that phrase was originally used to describe the program by my then-fellow Governor Chris Meserve, when she expressed her concern to the Supreme Court the program should not become a means of sidetracking women who could have success in law school. I share that concern. Second, the term was not derisive of women leading in the WSBA, as Ms. Bove and Ms. Ortega assert; quite the opposite: it called out the inappropriateness of women being relegated to lesser roles; something I reject. Hence, my report said I do not want the program to become that. WSBA staff and the Board of Governors have repeatedly taken the LLLT program to task for its lack of gender diversity. That program continues to not respond.

In response to the LLLT Board’s letter
Inbox
CONTINUED >

[“Inbox,” October 2019 NWLawyer], it engages in false equivalency and circular logic. The LLLT Board minimizes the program’s cost, saying it is only “a cup of coffee or two per member” a year. Perhaps. And over time, a trickle of a water created the Grand Canyon. The program does not deny the WSBA will have spent $1.5 million of your money through next year, that the hole grows deeper by more than $200,000 each year thereafter, and that says nothing of the even larger opportunity cost it exacts. In two years, the program will have spent over $2 million. After my Treasurer report went to print, results of the recent LLLT exam came in. The LLLT Board had the WSBA spend a substantial amount on an exam only four people took and only one passed. The LLLT program should not be allowed to deflect its enormous cost and poor management of your mandatory bar fees by false coffee equivalencies.

Finally, still the LLLT Board has only circular logic to justify its lack of results. The LLLT Board wrote the “LLLT license is not sufficient because the current number of LLLTs is very small.” True. But, and with no factual support and contrary to the actual facts, it leapfrogs to the conclusion that if we spend even more money and open more practice areas, they can obtain more licensees. Yet, the program in its letter does not deny it started in the most fertile area, family law, that it is not working to provide a viable program, and provides no explanation how adding practice areas originally deemed less desirable will. It is not responsible to have spent $1.5 million through next year, and over $200,000 more each year, to have the less than 50 LLLTs we have now, at a rate of growth of only five this year and most working in firms which was not what the Supreme Court stated in 2012 was its intent in creating the program. Thus, the point is not whether a few additional people will apply over time, or whether the small handful we have are doing good (I rely they are). The point is the enormous financial and opportunity cost for such a materially small number of people the program attracts.

It should not be ignored the LLLT Board took the time to reply to my report and still cannot identify a plan to obtain the fiscal solvency the Supreme Court ordered in 2012 it have, much less to materially increase the number of LLLT licenses obtained. Jumping from practice area to practice area as it has for the last seven years, just hoping more people sign up, is not a plan. When I asked the LLLT Board in September what facts it relied on to assert its expansion into other practice areas will fix the problem, the response was: we asked current LLLTs if they would like an additional area and they said yes. It is novel the LLLT Board would expect a different answer; of course non-lawyer LLLTs would like to be able to practice law in other areas. However, the task at hand is not to find ways for current LLLTs to make more money. The task is to get more, qualified people to have a LLLT license and get them employed at nonprofits or similar agencies as the Court originally contemplated. The Court did not create the program as a job-creation program nor to facilitate paralegals practicing law without supervision by a lawyer. The program was created for one reason: to increase the availability of legal services to those who cannot afford them. To do that, the Court contemplated the majority of LLLTs would need to be employed by nonprofits with a family law emphasis to provide adjunct legal assistance; the Court was trying to create a form of courthouse facilitator program in the public sphere to help alleviate the burden of pro se litigants appearing on family law dockets. The LLLT Board has lost sight of that.

I support a properly sized and administered LLLT program—we have neither. Until we can have a conversation without value displaying or resort to defensive assertion without support of fact, we never will. Or, we need to recognize the LLLT program will never deliver on its mission. It is entering its eighth year and with no plan and no solution in sight it seems unlikely it ever will. The one thing we can be assured of, however, is the program will continue to spend your money, at the opportunity cost of the profession and the public. The LLLT Board may be content to spend millions of your dollars over time, to add five LLLTs a year (which is all that passed this year). But, I submit that is an insufficient result.

Dan Bridges
Past Treasurer and Governor, WSBA

More on ‘The Cost of LLLTs’

This letter is in response to the article in the recent NWLawyer regarding the LLLT program. I believe that for far too long the WSBA has not been managed and run with proper oversight and regard for its members, including member services, allocating financial resources, and underwriting and funding of new programs. I believe our organization has become one that functions primarily to perpetuate staff, staff-related expenses, and pet programs. I can also see that membership dues are consistently being used to fund staff positions and pet projects like the LLLT program rather than create added value to its members. The lack of project underwriting and financial oversight of the LLLT program is the most recent example.

Recently, the Board [of Governors] made a change of direction with a new executive director in order to restore oversight and direction. I agree with that change as well as the report of [former] Treasurer Bridges as set forth in the prior edition of NWLawyer [September 2019]. Perhaps now the Board is finally going to do its job. Notwithstanding, I also feel there are staff who remain who do not want any changes to our organizational leadership and who appear to be voicing their protest by making personal attacks against the Board, specifically [former] Treasurer Bridges. Those attacks should be seen for what they are and appropriate action be taken. I thank you in advance for your careful consideration of these concerns.

Douglas E. Schwed
Bellevue

EDITOR’S NOTE: The Washington Supreme Court created the LLLT program.

Thank you to [former] WSBA Treasurer Dan Bridges for doing his job and reporting to the membership on the expenditures of our limited resources. One such expenditure is the Limited License Legal Technician (LLLT) experiment to increase access to justice. (“The Cost of LLLTs,” September 2019 NWLawyer). The “experiment” which has over $1.5 million in operating loss and no oversight by the Board of Governors, was to increase the availability of low-cost

NOTES:

NWLawyer | NOV 2019 6
legal services to low-income families initially in the area of family law. [Former] Treasurer Bridges reported the dismal results of the experiment. In addition to the huge operating loss, there are only 27 stand-alone LLLTs statewide after seven years. In my opinion, the experiment has failed.

The WSBA will spend approximately $250,000 on the LLLT experiment this year. I would much rather distribute a portion of this $250,000 to well-deserving, established organizations as Law Advocates here in Bellingham to sustain and increase street law programs and pro bono services to low-income families.

In the future, our Supreme Court, the WSBA, the legal clinics at our law schools, and law firms throughout the state that are committed to access to justice should embark on a collaborative program to encourage new lawyers to volunteer the first year or more of their practice to low- and moderate-income families in the areas of family law, landlord-tenant, and creditor-debtor. This would require some mentorship or supervision, a livable salary with benefits, and payment of student loans. It would require a commitment and oversight by all the stakeholders to guarantee its success.

**Barry M. Meyers**  
*Bellingham*

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**Leave Climate Science to the Climatologists**

Having just suffered through Roger B. Ley’s missive, “Clean Energy Transition Act Will Destroy Our State,” [“Inbox,” October 2019 NWLawyer] I’m left with only one serious question: Why is NWLawyer providing a platform for climate change denialism? This sort of hostility toward scientific consensus has contributed to our current, staggering level of environmental depredation. If we are to make any headway in this uphill battle against climate change, we must first stop indulging the whims of lay people pretending to know more about climatology than climatologists themselves.

**Michael G. Malaier**  
*Tacoma*

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**Gail Mautner**  
*Shareholder, Lane Powell*

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UPDATE: Proposed Ethics CLE Requirements Headed to Supreme Court

A majority of the Supreme Court’s Mandatory Continuing Legal Education Board voted to send a recommendation for a suggested amendment to Admission [...] nwsidebar.wsba.org

State Law Change Allows First Responders to Win L&I PTSD Claims

For decades Washington L&I has denied first responders’ claims of PTSD. Now, a recent change in state law is giving them hope. [...] nwsidebar.wsba.org

Court of Appeals: New Standard in Disqualification for Former Client Conflicts

Washington’s Court of Appeals recently issued a significant decision applying a new standard for former client conflicts in the disqualification context. [...] nwsidebar.wsba.org

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President’s Corner

Lawyers as Volunteers

“I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay unjustly the cause of any person.”

Our Oath (see APR 5) or roles as Officers of the Court apply even after we turn off the office lights and go home for the night. Even when we are no longer at work or being paid, we are still sworn and bound by these obligations. It is part of the price of being a member of our profession; we are held to a higher standard. I would posit that being held to a higher standard is for good reason: we are entrusted with special training and knowledge that could allow us to take advantage of others. Society, including our friends and neighbors, looks to each of us for guidance on the mechanics of how society works. When I am asked to define our profession as simply as possible, I respond by saying that it is the societal role of being responsible for the peaceful prevention and resolution of conflict.

My joy was boundless. I had learnt the true practice of law. I had learnt to find out the better side of human nature and to enter men’s hearts. I realized the true function of a lawyer was to unite parties riven asunder. The lesson was so indelibly burnt into me that a large part of my time during the twenty years of my practice as a lawyer was occupied in bringing about private compromises of hundreds of cases. I lost nothing thereby—not even money, certainly not my soul.1

— M.K. Gandhi

Our skills as lawyers are applicable not just in drafting contracts and legislation, sending lengthy interrogatories to each other, or approaching the bar and making argument. Just as our obligations and professional oaths extend into our private lives, so does the applicability of our skills. This is why you see so many lawyers serving as public officials, nonprofit board members, and mentors to youth. As an Eagle Scout, this type of do-gooder volunteerism appeals to me. I’ll be the first to admit, however, and especially as an introvert, that engagement with the public after a long day of work and one’s private obligations is not for all of us. Still, I believe we as professionals have so much to contribute that when we do volunteer we not only improve society but serve as ambassadors for our entire profession.

There will always be a few bad apples that tarnish the reputation of all lawyers, but I think we should be highlighting all the amazing work lawyers do to improve their communities, even when not being paid to do so. A good place to start would be to check out the amazing APEX honorees the WSBA has recognized for their contributions. I would encourage you to watch the short videos on the WSBA website showcasing their amazing accomplishments: https://www.wsba.org/about-wsba/apex-awards. One of the highlights of working on behalf of the Board of Governors is identifying and getting exposure to truly exceptional attorneys like these across the state.

Ideally, a functional legal community is one that mentors, teaches, and otherwise welcomes new practitioners not only to the collective of attorneys, but also to civil society. In this way, both our greater communities and the practice of law are elevated because experience, norms of civility, and collegiality can be propagated. I imagine that in most of our localities it is the wonderful local county bar associations that are at the hearts of thriving communities and serve as a conduit for dialogue off the courthouse steps.

Technology-driven “efficiency” can hinder this community-building in the sense that new lawyers can just look up an answer to a legal or procedural question on their phones rather than having to cold call a more experienced practitioner in the community, introduce themselves, and ask for help. Being a quasi-Luddite without a smartphone when I started my practice, I was forced to ask others for help, which was a great experience. I’ve made lifelong friends—some of whom are now retired—and been corrected and counseled in innumerable ways.

When I started my career by fleeing the big city, I landed in Whatcom County, where I knew not a single well-established attorney. Nor was it somewhere I had ever been, aside from interviewing for jobs. It turns out I was extremely lucky in starting out there because, like many smaller communities, the Whatcom County Bar Association is blessed with an active membership that meets monthly and is notably open and welcoming. In addition, it maintains and supports its own Volunteer Lawyer Program (VLP), LAW Advocates. Through that program, I not only learned the ropes of mediation, landlord-tenant law, and family law through taking on cases with mentors to guide me, but I also was able to meaningfully assist the most vulnerable members of our community.

VLPs across the state are doing the heavy lifting of providing our society with access to justice, even for those who cannot afford it. If you are a single parent overwhelmed by just trying to find your children enough food to eat and a warm place to sleep for the night, it’s almost impossible to take on the
Those of Us Who Are Able to Help

Pro bono: What’s in it for me?

BY MICHAEL HEATHERLY

When I was starting out as a lawyer in 1991, my attitude toward pro bono service was exemplified in a one-liner I had proudly developed in response to anyone who mentioned volunteer lawyering. “I looked into that pro bono stuff a little,” I would remark straight-faced. “But there wasn’t any money in it.”

That line got some good laughs, especially since I was a plaintiff’s personal injury lawyer. Who knew my penance was that 24 years later I would become the executive director of the local volunteer lawyer program?

After I had been practicing for a couple of years, my University of Washington School of Law classmate and then-Bellingham colleague, Breean Beggs, took all of us to task when he mused: “What if, on Saturday afternoons next summer, we put card tables on the sidewalk downtown and give free legal advice to anyone who comes by?” It was the worst idea I’d ever heard. Who around here is going to give up their rare sunny days off to work for free? And what good is it going to do to give people just 20 minutes of legal advice?

It was nonsense.

Of course, the following summer I was down on Railroad Avenue in Ray-Ban sunglasses and a folding chair (photographic evidence exists), accompanied by an impressive number of other Whatcom County lawyers. A quarter-century later, that program, Street Law, is the flagship of LAW Advocates, our local volunteer lawyer program. Now that it’s run indoors and year-round, Street Law helps 600 people per year, on average, and about 10,000 total to date. It’s become a beloved institution here, and a lot of Whatcom County folks know about LAW Advocates, and pro bono legal service in general, because of Street Law. Thankfully, we followed Breean’s vision rather than giving in to my skepticism. You often need to take a leap of faith to accomplish something special.

One thing about pro bono service that continues to inspire me is that clients tend to be far more appreciative when they know you’re working without pay. When I was still in private practice, I handled a pro bono case for LAW Advocates in which a young family’s only car had been stolen. The thieves took

VLPs across the state are doing the heavy lifting of providing our society with access to justice.

of a VLP. Of course, to be honest, none of that happened randomly. It all happened through deliberate decisions to volunteer my time. And those decisions were influenced and guided through the mentorship of many attorneys, judges, and paralegals who welcomed me to their legal community and created a culture of volunteering.

I am not sure our oaths are completely fulfilled by just volunteering, though. Being responsible for the peaceful prevention and resolution of conflict sometimes means thinking long term, and to that end it is my belief that we have a duty to mentor and cultivate a spirit of building the next generation of peacemakers. A good way to start is to get involved with your local VLP! Let me get you started: https://legalfoundation.org/volunteer/

NOTES:
Those of Us Who Are Able to Help

CONTINUED >

a joyride, then crashed the car into a power pole and guardrail. The power company and Department of Transportation sent the family a letter saying if they didn’t pay $15,000 for the damaged equipment, the state would impound the car, which would have made it impossible for the father—the sole breadwinner—to get to work. While the registered owner of a vehicle is generally liable for damage done even when someone else is driving, there is an exception when the driver lacks the owner’s permission to use the car. That was clearly the case here, as the owner had reported the vehicle stolen right away. I sent a letter and the police report to the power company and Washington State Department of Transportation, which immediately acknowledged that my position was correct and withdrew their threat. It was the easiest case I ever had. I asked my paralegal to advise the clients they were off the hook.

A few days later, our receptionist buzzed me and said the clients were in the lobby wanting to talk to me. Although my lawyerly instincts told me unscheduled visits by clients usually don’t bring good news, I brought them to my office. The whole family filed in, the father, mother, and their two children, the kids being no more than early grade-school age. All were dressed as if they were going to church. In turn, each told me “thank you,” which was particularly poignant given that English was their second language. I thought they had probably rehearsed the scene, but that only made it more heartwarming. They were more grateful for my help than many other clients I have had in private practice—even those for whom I did months of work that provided them with substantial monetary recovery.

Four years ago, when I heard LAW Advocates was in need of a new executive director, I threw my proverbial hat in the ring. After being an associate, a partner in a small firm, and then a solo practitioner, I was burnt out. I had been through some personal challenges and no longer had the enthusiasm for the dog-eat-dog world of tort litigation. I got the LAW Advocates job and it has been a blessing. For one thing, where I had previously seen my fellow lawyers as business competitors or potential courtroom enemies, I now see them as allies who can help the large segment of the population that has legal problems but can’t come anywhere near affording a lawyer.

Of course, this type of legal practice has challenges as well. Most of the roughly 1,400 clients we assist each year have problems that extend beyond their immediate legal issues. By definition, they’re poor. Many also have significant physical or mental health issues. Some are from broken families or have limited communication skills. Few have the specialized knowledge and social connections to help them navigate the increasingly complicated worlds of government, commerce, and technology that people in our profession take for granted. Some of our clients are frustrating to deal with, and the one-liner I began this piece with is literally true: there isn’t much money in it. To cope, I’ve found myself reaching back to, of all things, my Catholic school upbringing. Up through high school I was taught by people who sacrificed all worldly rewards for the sake of serving society by educating children. I’m not to the point of taking a vow of poverty at LAW Advocates, but now that I have no financial dependents, I’ve found that I can live without a lot of things I once thought were important. Being able to serve those who most need it, and being surrounded by exemplary staff who show up out of dedication to the mission, and certainly not for money or glamour, is well worth the sacrifice.

Those of us who do this work are well aware that we’ll likely never do more than scratch the surface in providing legal help to all of those who need it. When I start to get discouraged, I simply remind myself that the police are never going to catch all the criminals, doctors are never going to save every life, and for every blaze a firefighter puts out another will spark soon enough. But none of them give up. What society values are their tireless efforts and the hope they bring.

I have always been proud of the legal profession’s sense of responsibility, and I know you are fulfilling your obligation under Rule of Professional Conduct 6.1 to “assist in the provision of legal services to those unable to pay.” And you undoubtedly aspire to render at least 30 hours of pro bono work per year as suggested in that rule. But if you need some direction in how to provide this service, I encourage you to contact your local volunteer lawyer program, if one exists in your community, or one of the specialized pro bono programs across the state. They are among the few entities that love to be unexpectedly contacted by lawyers. They have plenty of ways for you to help. For example, at LAW Advocates, a pretty typical county VLP, you could volunteer at Street Law or one of our other scheduled clinics; take a case for one of our as-needed services, such as the Wills Clinic or Debt Clinic; serve at one of our occasional events, such as an immigration or family law clinic; or take a full-representation case in an area of law that appeals to you. If you’re new to the profession or to a particular area of law, we’re glad to connect you with a mentor attorney to provide advice or serve as co-counsel.

Or, if your paying job and the rest of your life leave you no time to contribute, most of our organizations also gladly accept, you know, money. Even a few bucks can enable us to help someone like my stolen-car clients, whose situation appears hopeless to them but requires a fairly simple solution from those of us who are able to help.

Where I had previously seen my fellow lawyers as business competitors or potential courtroom enemies, I now see them as allies.

Michael Heatherly has been executive director of LAW Advocates in Bellingham since 2015. Previously, he was a private-practice civil litigator. He also serves as an arbitrator and mediator. From 2007-2015 he was editor of Bar News/ NWLawyer. He can be reached at michaelh@lawadvocates.org.

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Happy Fiscal New Year! While we may be a few months early according to the traditional calendar, Oct. 1 marks the beginning of the WSBA’s fiscal year and, as the Bar’s budget overseers, we want to give you a look at the year ahead.

First, allow us to introduce ourselves. We are new to our respective positions but not to this area of work. Here are our quick bios:

• **Daniel D. Clark, Treasurer.** I am a civil senior deputy prosecuting attorney with the Yakima County Prosecuting Attorney’s Office, Corporate Counsel Division. I have been representing District 4 on WSBA’s Board of Governors since 2017. I have 17 years of experience in the Yakima County budgeting process. In Yakima, we are routinely forced to do more with less and to stretch revenue streams for efficiencies and superior service to residents. My intent is to bring this expertise and perspective to my term as WSBA Treasurer for fiscal year 2019-20.

• **Jorge A. Perez, Chief Financial Officer.** I come to this position at the WSBA with more than 20 years of global finance and operational leadership experience in public, private, and private equity-sponsored companies (including Marriott International and Merck). My areas of expertise are internal controls, financial forecasting and planning, and program life-cycle analysis. My approach is as a servant leader with the overall goal of providing maximum value to the organization and its members.

Jointly, we are dedicated to keeping you well informed about the WSBA’s finances—starting with this column. Our partnership is a close one, and we will work together with the WSBA’s executive director, Budget and Audit Committee, and Board of Governors to unite around a clear mission: undertaking a comprehensive review of our financial processes so we can confidently build future budgets that efficiently execute mission-critical programs and safeguard member services. The Board of Governors has already taken a significant step by approving an additional outside audit this year that will rigorously review procedures and executions. To be clear, the WSBA has proven through more than 30 years of clean independent audits that we have great controls. This additional audit, to be conducted by Clark Nuber likely in the spring, will validate our strong controls while opening new possibilities to better maximize efficient use of financial resources. We will, of course, report the results to members.

As an overall philosophy, we are putting members front and center, which means demonstrating value and responsibility in all that we do. We are extraordinarily sensitive to the need to be transparent and understandable in our financial reporting and to maximize efficiency and reduce expenditures while maintaining robust programs to serve the public and members and to champion justice.

Throughout the coming year, we commit to these goals: (1) to increase transparency and communications to WSBA members regarding financial reporting, which may require making changes and improvements to the WSBA’s financial reports; (2) to specifically examine various cost centers, including the WSBA cost center responsible for the LLLT license, which currently has annual budget non-revenue-neutral spending of approximately $200,000 (for a $1.3 million loss since inception); (3) to explore the possibility of making some...
**FISCAL YEAR 2020 BUDGET**

General Fund Expenses by WSBA Programs and Services

A **19% Licensing and Admissions Services.** Costs to administer admissions and annual licensing processes for nearly 40,000 WSBA members including lawyers, LPOs, and LLLTs; to maintain and respond to questions about members and their public information; and to support the Supreme Court-mandated MCLE Board, which adjudicates issues involving continuing legal education requirements. **$4,032,865.18**

B **4% Publications.** This category includes costs to develop, design, produce, and distribute WSBA print media and publications, including *NWLawyer*, the WSBA’s official publication. **$858,235.00**

C **6% Public Service, Diversity, and Washington State Bar Foundation Support.** Costs to support (1) WSBA public service programs (including Moderate Means Program, Call to Duty, and other pro bono initiatives); (2) work to advance diversity and inclusion in the legal profession; and (3) administrative costs of the Washington State Bar Foundation, which provides grant funding for these activities. **$1,319,227.60**

D **31% Investigation, Prosecution, and Adjudication of RPC Violations.** Costs to handle consumer inquiries; to investigate, prosecute, and adjudicate written grievances about lawyers, LPOs, and LLLTs (e.g., costs associated with disciplinary counsel, hearing officers, and the Supreme Court-mandated Disciplinary Board); to administer the WSBA audit program; and to educate members and law students about legal ethics, trust account compliance, and the discipline system. **$6,584,926.02**

E **10% Management and Operations.** Includes costs associated with the WSBA Board of Governors, leadership, management, and internal support (finance, administration, and human resources). **$2,173,405.04**

F **5% General Counsel.** Legal representation and support to the WSBA, the Board of Governors, and other boards, task forces, and committees; records requests and litigation management; and oversight, interpretation, and analysis of WSBA Bylaws and other legal issues. **$1,124,340.73**

G **3% Sections Administration.** Includes staffing and administrative costs to support 29 sections, and to help sections develop “mini-CLEs” that are not offset by per-member charge revenues. **$569,833.33**

H **7% Outreach and Engagement.** Supports WSBA outreach to the public, legal professionals, bar associations, policy-makers, and other stakeholders in order to enhance volunteer recruitment, raise awareness and understanding of WSBA programs and priorities, and create a sustainable stakeholder network. **$1,452,593.62**

I **3% Member Services and Engagement.** Includes costs of outreach, education, training, and support to newly admitted WSBA members. Also includes funding for WSBA’s mentor programming. **$651,507.04**

J **1% Legislative and Law Improvement Efforts.** Supports work with WSBA leadership and sections to formulate positions on legislation, track relevant legislation during session, and provide technical advice on bills and existing statutes to the Legislature. **$201,555.04**

K **4% Conference and Broadcast Services.** Includes costs to support the WSBA Service Center; meeting and conference facilities; mail and print services; WSBA webcasting, webinars, and recorded products; and all other services on WSBA’s public floor. Last year, WSBA supported over 1,500 on-site meetings and events, and the Service Center handled over 50,000 communications with members and the public. **$825,263.00**

L **3% Member Benefits.** Includes costs of programs benefiting WSBA’s membership as a part of their annual license fee: (1) legal research tools (CaseMaker and Fastcase); (2) monthly CLE programs (Legal Lunchbox Series); (3) the Professional Responsibility Program; (4) the Member Wellness Program; and (5) a confidential 24/7 member assistance program (WSBAConnects). **$740,808.83**

M **4% Supreme Court-Mandated Boards and Programs.** Costs to support four of six boards and programs mandated by the Supreme Court: (1) Access to Justice Board; (2) Limited License Legal Technician Board; (3) Limited Practice Officer Board; and (4) Practice of Law Board. Costs associated with the Disciplinary Board and MCLE Board, which adjudicate regulatory issues, are included in the Discipline and Licensing and Admissions categories, respectively. **$844,675.56**

* Per FY2020 budget approved by Board of Governors. Figures in A-M are based on preliminary drafts of the budget and may vary slightly from final calculations.
non-mandatory functions revenue-neutral or opt-in; and (4) to conduct a financial re-forecast for the fiscal year 2020 budget and a comprehensive review of current WSBA cost centers and expenditures.

Look for continuing financial updates in NWLawyer as well as online at www.wsba.org/about-wsba/finances. In addition to the two of us, the complete list of Board of Governor members on the 2019-20 Budget and Audit Committee is: Alec Stephens, Paul Swegle, Brian Tollefson, Peter J. “P.J.” Grabicki, Carla J. Higginson, Bryn Peterson, and Thomas A. McBride.

The Budget and Audit Committee will be working hard with the entire Board of Governors during the 2020–21 fiscal year to accomplish these important goals with the hope of benefiting WSBA membership and improving the financial processes of WSBA as an organization.

The bottom line is that we are working hard for you, our members! 😊

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As legal matters for individuals and businesses alike have grown more complex, law firm fee agreements have also become more detailed. In addition to such essentials as the scope of the work and the financial arrangements involved, many law firm fee agreements now include provisions addressing various facets of dispute resolution. In this column, we’ll look at three common clauses: arbitration, forum selection, and choice of law.¹

**Arbitration**

Arbitration of both fee disputes and legal malpractice claims is generally permitted by, respectively, Comment 9 to RPC 1.5 and Comment 14 to RPC 1.8.² The key to enforceability in either context is whether the provision involved has been adequately explained to the client. RPC 1.5(a)(9) counsels that a client should receive "a reasonable
Including a specific arbitration service and the office involved will generally provide greater assurance that the service designated in the fee agreement can be used.

and fair disclosure of material elements of the fee agreement[.]” Comment 14 to RPC 1.8, in turn, notes that lawyers may use arbitration provisions “provided such agreements are enforceable and the client is fully informed of the scope and effect of the agreement.” Advisory opinions from both the WSBA and the ABA echo that arbitration provisions will only be enforced when adequately disclosed.³

Courts ruling on motions to compel arbitration under provisions in law firm fee agreements have blended these RPC concepts into contractual standards for enforcing arbitration provisions. In Smith v. Jem Group, Inc., 737 F.3d 636 (9th Cir. 2013), for example, the Ninth Circuit gauged whether an arbitration provision in a law firm fee agreement was “procedurally unconscionable” under Washington contract law using the RPC disclosure standards noted above. The Ninth Circuit agreed with the federal district court in Tacoma that an unexplained arbitration clause buried in a four-page, “fine print” engagement agreement did not meet the requisite disclosure standards, and refused to enforce it as a matter of contract law. By contrast, the federal court in Seattle in Mann Law Group v. Digi-Net Technologies, Inc., 2014 WL 535181 (W.D. Wash. Feb. 11, 2014) (unpublished), distinguished Smith and enforced an arbitration provision in a law firm fee agreement that included an explanation of the litigation rights—including a jury trial—being waived in clear language and in a standard font.

Before including an arbitration provision in a fee agreement, firms should also consider what kinds of claims they may wish to include and should consult with their malpractice insurance carriers. Some carriers, for example, prefer to litigate malpractice claims in court—with its typically more extensive discovery and the availability of appeal.⁴ Arbitration of fee disputes, by contrast, potentially offers law firms a confidential forum not available at the courthouse.

Finally, if an arbitration provision is included, it is often prudent to list at least a particular arbitration service rather than simply stating something along the lines of “we agree to arbitrate.” Arbitration services vary in their locations, procedures, and expertise with particular kinds of cases. Including a specific arbitration service and the office involved will generally provide greater assurance that the service designated can be used. In the same vein, it can also be prudent to include an agreed alternative if the service chosen is, for example, no longer in business when a dispute arises later.⁵

FORUM SELECTION

In practical effect, an arbitration provision—particularly one that includes a specific service and location—is a forum-selection clause. In other instances, firms include forum-selection clauses that specify a particular court and location to resolve disputes arising from an attorney-client relationship. Forum-selection clauses have “offensive” and “defensive” uses. Offensively, a forum-selection clause can designate a court convenient to the law firm’s principal location if it becomes necessary to file, for example, a collection case against a client. Defensively, a forum-selection clause can serve the same purpose if the firm has a statewide or interstate practice and wants to gain greater procedural certainty that any claim against it will be litigated in its hometown.

Case law addressing forum-selection clauses in the narrow context of lawyer fee agreements is comparatively sparse.⁶ The questions typically litigated, however, include both the scope of such provisions and the reasonableness of the location chosen in relation to the legal services provided. The court in Ginter v. Becher, Prendergast & Laporte, 536 F.3d 439 (5th Cir. 2008), for example, examined whether a forum-selection clause in a lawyer’s fee agreement was broad enough to extend to malpractice claims. Tucker v. Cochran Firm-Criminal Defense Birmingham L.L.C., 341 P.3d 673 (Okla. 2014), in turn, involved a law firm fee agreement that had designated Los Angeles in a forum-selection clause, notwithstanding the fact that the legal services were being rendered in an Oklahoma court proceeding. Whether a forum-selection clause will be enforced is controlled primarily by contract law. Although Washington substantive law generally permits forum-selection clauses, the decision in any given case may be tempered by the circumstances surrounding its inclusion in the contract concerned and the reasonableness of the forum chosen.⁷ This suggests crafting forum-selection clauses with the same clear language discussed earlier for arbitration provisions.

CHOICE OF LAW

Particularly if a firm does interstate work, a choice-of-law provision can be a useful clarifying device. In Taylor v. Bell, 185 Wn. App. 270, 280, 340 P.3d 951 (2014), for example, in the absence of a choice-of-
was amended to recognize choice-of-law provisions as bearing on a lawyer’s reasonable belief: “With respect to conflicts of interest, in determining a lawyer’s reasonable belief under paragraph (b)(2), a written agreement between the lawyer and client that reasonably specifies a particular jurisdiction as within the scope of that paragraph may be considered if the agreement was obtained with the client’s informed consent confirmed in the agreement.” The Washington amendment is patterned on an earlier change to the corresponding ABA Model Rule that was intended to provide more predictability to both lawyers and clients on the law controlling conflicts.8

**Particularly if a firm does interstate work, a choice-of-law provision can be a useful clarifying device.**

Although limited on its face to conflict issues and technically only applicable to lawyer discipline, the Washington amendment can offer a useful clarification to Washington firms that do cross-border practice in Oregon in particular, because there is a significant difference between Washington and Oregon on conflict waivers. Oregon RPC 1.0(g) requires that for any conflict waiver to be effective, “the writing shall reflect a recommendation that the client seek independent legal advice to determine if consent should be given.” Outside of lawyer-client business transactions under RPC 1.8(a), Washington has no similar requirement.

Moreover, courts in contexts beyond regulatory discipline have also increasingly looked to RPC 8.5(b) for choice-of-law analysis. These include legal malpractice, disqualification, and fee disputes.9 This validation of the analytical framework used in the rule suggests that courts would be equally ready to enforce choice-of-law provisions beyond those expressly delineated in the rule. Whether based on state common law or RPC 8.5, a choice-of-law provision is more likely to be enforced when it is explained clearly and set out explicitly in the firm’s engagement agreement with the client.
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New Legal Products With Up-Front Costs Benefit Clients and Firms

A look at alternative legal service models lawyers are creating to improve service and increase profits

BY JORDAN L. COUCH

Freemium services (a portmanteau of free and premium) tackle simple and well-defined elements of a legal issue and, as you may have guessed, they do it for free. There are opportunities for valuable freemium services in literally every practice area, but lawyers are not always great at spotting them. We lawyers tend to do our best work in the gray areas of the law; freemium services can only function well in the black and white.

Perhaps my favorite example of a freemium service is Forrest Carlson’s wa-wills.com, which allows a user to create a simple will without the help of an attorney. Another great example is Greg McLawsen’s chatbot, Kestrel,¹ which tells users whether they qualify for marriage-based U.S. immigration. In my own office, we have the simple settlement calculator,² which tells you the settlement value of your disability based on your doctor’s reports, and the more complex Patbot,³ which analyzes worker’s compensation claims and identifies issues the user is facing and potential action steps.

Though most freemium services address specific, simple legal questions, the possibilities can be much broader. DoNotPay⁴ is a freemium service that has been garnering a lot of attention in the legal world in the last few years. What started as an app to help you contest parking tickets has expanded to allow users to file a lawsuit (among other things) in any county in the United States. Whatever your feelings may be about DoNotPay, the company clearly has redefined how freemium legal services can look.

So how do you build freemium services into your own practice? It begins with identifying your clients’ common questions (e.g., “How much is my case worth?” or “Do I qualify for a visa?”). The next step is determining whether the question (or elements of that question) can be reduced to simple rules. One way to do this is to see if you can deliver a useful answer to the client’s question by asking only yes or no questions. If that’s not possible, don’t give up! Check if the more complex portions can be explained well enough in a few paragraphs to help clients guide themselves (wa-wills.com does a lot of that). Don’t let the perfect be the enemy of the good here. Yes, legal issues can get really complicated, but if users have questions that are too complex for your freemium services, odds are the users who can afford to will reach out to hire you.

Subscription services are popular in consumer markets for everything from broad deals like Amazon Prime to highly specific products like quip⁵ toothbrushes. Subscription services won’t necessarily work for every practice area, but innovative lawyers are finding more and more applications for them every year, and clients love it. Subscriptions simplify the consumption of good products and services.

BY JORDAN L. COUCH

New Legal Products With Up-Front Costs Benefit Clients and Firms

A look at alternative legal service models lawyers are creating to improve service and increase profits

I

n my column in the September issue, I said, “The service lawyers sell is not the product clients want to buy.” But it doesn’t have to be that way. In this column, I want to talk about how you can fix that problem. Innovative lawyers around the country have found remarkable ways to offer legal consumers exactly what they want at prices they can afford and understand. I’m not talking about replacing the billable hour with flat-rate services (though that is also a wonderful innovation)—I’m talking about creating entirely new products to improve service and increase profits. The possibilities in this realm are endless and the best firms offer a variety of hybrid options, but for simplicity I’ve grouped the legal products discussed in this article into three categories: freemium services, subscription services, and commoditized services. My hope is that in at least one of these categories you will see opportunities for your own practice to expand or adapt its offerings.
of legal services for lawyers and clients alike. Clients get fixed costs and access to any legal assistance they need. Lawyers get steady income, loyal clients, and often the opportunity to engage with clients earlier so that legal molehills never become mountains.

The most common use of subscription services is in business law. Smaller companies that can’t justify the time and cost of their own in-house counsel can benefit from essentially sharing an in-house counsel with other companies for a monthly fee. Nimbus Legal has built a phenomenal firm by offering to be “general counsel” to small companies. K Bennett Law has specified her practice even further by offering brand protection and growth support for companies on the rise. But subscription models can extend beyond just representing businesses. Melissa Hall’s Smol Law was built around offering subscription services to individuals and families. Much like a general-practice physician, Hall is your general-practice attorney. For a low monthly fee she is available to help her clients with any of the various legal issues they face on a daily basis.

Building a subscription practice is pretty easy. It’s not about changing what you do, just the way you bill for it. How much do you typically charge one of your regular clients on an annual basis? Divide that by 12 and you’re well on your way to setting up a subscription-based service. Clients, whether businesses or individuals, prefer fixed and predetermined costs, so selling them on your new product won’t be as hard as you may think. (Just be prepared to find out that your clients had a lot of smaller issues they hadn’t been mentioning to you when you billed by the hour.)

★★★★★

COMMODITIZED PRODUCTS

Commoditized products are definitely my favorite category of alternative legal services because they come closest to making the legal industry look like every other consumer industry. Commoditization is about offering clients a wholly defined and clearly priced legal product. This can be difficult in a profession that loves answering every question with “it depends,” but I firmly believe that every law firm has the potential to offer some kind of commoditized product and that in the future, clients will demand it.

Commoditized products can be as simple as flat-rate services like Navigate Law Group’s uncontested divorce with children for $1,800. Or it can be as complex as inventing products to help clients guide themselves through the legal process, like Megan Zavieh’s multifaceted State Bar Playbook or Erin Levine’s tiered services at Hello Divorce. Many other attorneys offer coaching sessions for those who can’t afford full legal representation but would benefit from some guidance. Jennifer Gerstenzang’s practice has an entire menu of coaching sessions available. Others have found a way to turn initial consultations into a well-defined value-add for clients. Have an emergency in

your nonprofit? Jess Birken doesn’t waste time with exploratory consultations, she tells me. Her website states that when you sit down with her, she will “work with you to try to stabilize, create a plan of action, or (if possible) resolve the situation in under two hours.”

Start by asking if you can charge a flat fee for your work. If the answer is yes, how clearly can you define the scope and result of that flat-fee work? There are tons of great examples to draw from on one of my favorite commoditized legal service websites, Basic Counsel. If well-defined, flat-fee services are an option, then ask yourself, does an attorney even need to be here for all of this? Can I break down the steps of my representation so I only have to handle part of it? Most attorneys are more than happy to delegate pieces of their representation to paralegals or assistants, so why not offer clients the opportunity to do some of the work on their own (for a reduced fee of course)? Or build automated systems to handle some of those tasks?

★★★★★

PARTING THOUGHTS

One important thing that all of these alternative legal services have in common is the ability to provide some sort of same-day service to clients. Maybe the divorce

Clients prefer fixed and predetermined costs, so selling them on your new product won’t be as hard as you may think.
isn’t final, but they know they have already paid for it. Or they know they have signed up for the class that will teach them how to fight a malpractice claim. In every industry, modern consumers are demanding faster service at lower prices (just look what has happened with Amazon in the last several years). The legal industry has long been exempt from these trends, but that won’t last. LegalZoom made a name for itself by providing tangible, immediate, and affordable service to legal consumers. So why shouldn’t all of you be doing the same?

As bullish as I am on alternative legal services, it’s important not to dive in too quickly and set yourself up for failure. Start slow, talk to your current clients, figure out what your minimum viable product is, then test that with trusted clients. You’ll likely be surprised at how excited your clients are to help you test new products and services. And hey, if your first attempt fails, remember what I said in my last column: embrace failure and try again.

Innovation in Law
CONTINUED >

NOTES:
5. https://nimbuslegal.co/.
11. https://www.gerstenzanglaw.com/legal-coaching. A note: Jennifer Gerstenzang has since closed her private practice. She informed me this has nothing to do with a failure of the practice model but is the result of finding her “dream job” and spending more quality time with her newborn child.
14. A minimum viable product or MVP has just enough core features to effectively deploy the product, and no more.
Protest on Trial

(WSU Press 2018)
By Kit Bakke

REVIEWED BY ALLEN BENTLEY

In the aftermath of anti-Vietnam War demonstrations that occurred outside the 1968 Democratic National Convention, the U.S. Justice Department charged eight prominent activists with conspiring to use interstate facilities to organize a riot. Seven of them, “the Chicago Seven,” went through a much-publicized trial before an obviously biased federal judge in late 1969. As the trial neared its close, anti-war activists around the country braced for guilty verdicts. They planned demonstrations to protest the verdicts, hoping to mobilize public opinion in opposition to the war. One of the demonstrations was organized by a Seattle group. The Seattle demonstration produced an enthusiastic crowd, and the federal courthouse was vandalized. Using its Chicago case as a template, the Justice Department indicted the Seattle activists on “conspiracy-to-organize-a-riot” charges. In this way, a Seattle demonstration protesting a Chicago trial of demonstrators produced a second round of indicted demonstrators, a second trial, and a second “seven”—the Seattle Seven.

Kit Bakke’s book, Protest on Trial, tells the story of the Seattle Seven trial. Initially, Judge George Boldt seems to have been set on avoiding the high-handed rulings and injudicious statements of the Chicago Seven judge. He gave the defendants considerable leeway and tried to treat them with respect. The defendants did not reciprocate. For the defendants (with one exception), the trial was to be an opportunity for political theatre and the venting of youthful rebellion.

The first nine days of trial were often chaotic. Defendants spoke out of turn. Sympathetic spectators egged them on. Defendants placed political stickers around the courtroom. Boldt mistakenly ejected a spectator for a disrespectful comment; one defendant then brought in binoculars and offered them to the judge with purported graciousness, “to avoid further misidentifications.” On another occasion, before court was in session, defendants mocked the Federal Marshal, Charles Robinson, by singing Simon and Garfunkel’s, “Here’s to You Marshal Robinson.”

Boldt grew increasingly frustrated. By the 10th trial day, he had seen one untoward incident too many, and he brought the trial to an end. The incident? The jury was waiting in the box, but the judge had not yet entered. A defendant, who was pro se, spoke up, telling the jury why court hadn’t started on time. He explained that the jurors had heard commotion in the hall because the defendants had been protesting the fact that their supporters had been forced to wait outside in the rain. The soggy spectators, he said, should have been allowed to enter the lobby. This chat was a flagrant violation of courtroom protocol. Boldt took the bench in the middle of the chat and viewed it as a sympathy ploy. He declared a mistrial, discharged the jury, held the defendants in contempt, and set sentencing for the following Monday.

After a weekend of reflection, Boldt had decided on six-month sentences. When the defendants further disrupted the sentencing proceedings (unfurling a Nazi flag, to show their opinion of the court’s unfairness), he imposed six months more.

Protest is not a manual on how to defend a multi-defendant criminal case. Bakke is not an attorney. Her book was written for the general reader, not for the legal profession. Yet Protest presents a thorough description of the trial and makes a useful contribution to our understanding of one incident during the Vietnam era. In addition, Protest puts the trial in context by reviewing the defendants’ pretrial organizing activities and sketching the different lives they lived after the trial. Bakke acknowledges where her sympathies lie (with the defendants), but she is clear-eyed in pointing out how the defendants were hobbled by their inability to agree on a consistent strategy for their defense.

Ultimately, neither the prosecution nor the defendants emerged as winners. The prosecution did not obtain convictions on the conspiracy-to-riot charges. The defendants were convicted and incarcerated for contempt, but the convictions were reversed on appeal. The conspiracy-to-riot charges were never tried to verdict. One can only speculate, therefore, about whether the defendants’ courtroom stunts, though clever and amusing, would have won over the jury, and whether those actions would have yielded new adherents to the defendants’ anti-war cause.

Allen Bentley is a Seattle attorney whose practice emphasizes federal criminal defense. He came to the Northwest in 1981 (more than a decade after the trial of the Seattle Seven), but he made a small contribution to their legal defense fund while living in New York and has wondered about the outcome of the case ever since. Bentley can be reached at abentley@concentric.net.
Sometimes solutions to society’s most vexing problems are staring you right in the face. Lisa Daugaard, director of the Public Defender Association in Seattle, found a solution for problems in the criminal justice system literally staring at her—the prosecutors and cops she faced off with each day in defense of her clients. Collaborating with them became the key to keeping people out of criminal courts and jail.

It seemed like a tall order to convince folks on the opposite side of the criminal justice system to join forces with her to
spar would-be defendants from criminal convictions and jail time for low-level, nonviolent drug offenses or prostitution. Throw in mental health and addiction services, permanent housing, job training, and employment for people accused of these crimes, and paradigms start to crumble. But eight years later, the program, Law Enforcement Assisted Diversion, or LEAD, is growing across the state and the country with the support of both police and prosecutors, who point to the raw numbers—recidivism rates reduced by nearly 60 percent at significantly lower costs compared to prosecuting and jailing low-level offenders.

A $625,000 ‘VOTE OF CONFIDENCE’

Daugaard recently was named a 2019 MacArthur Foundation Fellowship grant recipient. According to the foundation’s website, “LEAD’s successful launch in Seattle is a testimony to Daugaard’s skills as a coalition builder, but its expansion nationwide is a result of its achievement of measurable outcomes at relatively low cost per participant, including reduced recidivism and higher likelihood of employment and permanent housing.” She is one of 26 MacArthur fellows selected this year. Grant recipients are chosen through a confidential process that includes “a constantly changing pool of invited external nominators,” an independent selection committee, and the foundation’s president and board of directors.

Nominees are not aware that they are being considered, so a MacArthur grant was about the last thing on Daugaard’s mind amid mounting challenges in local funding and growing national interest in LEAD. A representative from the MacArthur Foundation had been calling and texting her for days. “This poor woman,” Daugaard recalled. “She [texted] ‘I’m from the MacArthur Foundation and we need to talk to you about our work.’ I thought they were calling to ask a program question about their criminal justice work.”

Eventually Daugaard returned the call and learned she was the recipient of a $625,000 grant—no strings attached. The grant is often referred to as a “genius grant,” although the MacArthur Foundation does not use that terminology. Daugaard is the 20th Washington resident to be named a MacArthur fellow since 1981, and the first WSBA member ever.

Her reaction? “It was just that feeling of a—a very timely vote of confidence and a very timely injection of some breathing space,” she said. Receiving the grant was humbling, she explained, emphasizing her deep gratitude to the foundation. “This is a small cohort of people being recognized for work that is being done by an enormous number of people. ... There are so many genuine geniuses walking around out there who don’t get the resources that could catapult their work to a level of recognition and influence that they deserve.”

While she said she’s still working out exactly how the $625,000 will be used, she did say she sees the money as a means to increase national awareness of alternative criminal justice strategies, such as LEAD, in an effort to help shape policies across the country. That includes support for writing projects that communicate what has been accomplished within the LEAD framework thus far.

“Lisa was a formidable adversary as a public defender, but she is a better partner.”

Dan Satterberg
King County Prosecuting Attorney

COLLABORATION IS KEY

The simple elegance of LEAD’s approach to replacing policing and incarceration with public health and harm-reduction services began in 2011 as a four-year pilot in Seattle’s Belltown neighborhood with $3.2 million in funding from private foundations. The program sets out to meet a client’s immediate needs first—food, health, and housing. Then caseworkers assist them over months or even years, guiding them through treatment, stable housing, job training, and employment. Low-level drug users and those caught in the prostitution trade get help without the hindrances of jail time and felony records. As one of LEAD’s architects, Daugaard stepped across the line separating prosecutors and public defenders and found early support from King County Prosecuting Attorney Dan Satterberg. A long-time opponent of the war on drugs, Satterberg saw potential in the idea of foregoing criminal charges against low-level drug offenders and, instead, pairing police with caseworkers to provide nonviolent users a path to social services, housing, and more.

“Lisa was a formidable adversary as a public defender, but she is a better partner,” Satterberg said. “Once we agreed to help develop an alternative to jail [as an option] for police officers who encounter people struggling with drug addiction, she came back quickly with private foundation grants to pay for the first four years of the LEAD program.”

Success for such a program hinges on the support of local prosecutors, according to Steve Strachan, executive director of the Washington Association of Sheriffs and Police Chiefs (WASPC), who has worked with Daugaard on criminal justice reform initiatives including LEAD. A former chief of the Kent and Bellingham police departments, Strachan said LEAD’s Seattle model demonstrates that when prosecutors let go of the traditional goal of criminal conviction, it triggers a cascade of acceptance from law enforcement officials, to cops, to whole communities.

“Lisa is a very positive example of getting people out of their corners and working toward a common goal,” Strachan said. “To involve defense attorneys and prosecutors [in delivering social services] is really a new idea. I think everyone, including law enforcement, agrees that having additional options is a good idea.”

Strachan added, “The best evangelists for the program are the officers because they can see the upside, the positive results on the street.”

Daugaard acknowledges that her education and career path make her an unlikely champion of forming meaningful partnerships with prosecutors and law
enforcement. After all, she spent part of her early career suing police as legal director of the Coalition for the Homeless in New York City. She grew up in Kirkland, the daughter of a teacher and an aeronautical engineer. At an early age, she attended the University of Washington, where she studied political science. In graduate school at Cornell University in the mid-1980s, she became an outspoken activist against apartheid in South Africa, police misconduct, and other national and international injustices. She discovered her interest in law at Cornell by defending other student activists in school disciplinary matters.

“That was the first time I really registered that the legal tools were very important in keeping political movements from dying,” Daugaard said.

She obtained her J.D. from Yale Law School in the early 1990s and began her career directing the Urban Justice Center’s Organizing Project in New York City. In 1996, she joined the Public Defender Association in Seattle. As a staff attorney for the PDA in 1999, she coordinated the successful defense of hundreds of activists unlawfully arrested during the WTO demonstrations. She has served as the PDA’s director since 2015. She also served as interim deputy director of the King County Department of Public Defense and as a member and former co-chair of Seattle’s Community Police Commission.

Somewhere along her journey, Daugaard developed a talent for convincing important people to look past their traditional roles in order to embrace better solutions to difficult problems. Convincing police not to reach for their handcuffs wasn’t the hardest part, she said.

“When we started, officers were skeptical; they’d say, ‘I just don’t believe you’re going to be out here at 6 a.m. I think you’re just going to leave me holding the bag as always,” Daugaard said. But it didn’t take officers long to see the commitment of LEAD’s caseworkers and the value of their work. “Our police partners have been some of the quickest to both grasp the need for this … and to participate in a wholehearted way, I think because they’re among the closest to the problem.”

Ironically, she said, the greater challenge is in opening minds to new ways to deliver social services. The notion that law enforcement could be a means of delivering life-saving addiction and mental health services, minus incarceration, was anathema to some agencies with long-held models of operation. It requires a cultural transformation, Daugaard said. And then there’s the legal profession.

“In a criminal legal system framework, lawyers are [central to] the response to what are fundamentally public health questions, and that is just an artifact of coming at the problem with the wrong set of tools,” Daugaard said. “But an enormous amount of money flows to employment of lawyers who would have to give way to … strategies that are not centered on lawyers.”

“We need to be having a national conversation not about the failures of the past but the promise of a new approach.”

Lisa Daugaard

GROWING PAINS
By the end of LEAD’s four-year pilot, the program had gained steam and demand was growing. A 2015 evaluation by the University of Washington found LEAD had reduced recidivism rates by nearly 60 percent and cost less than sending people through the legal system and incarcerating them. LEAD had demonstrated its ability to address the underlying causes that get people caught up in drug use, and cities beyond Seattle were taking notice. (Last year, LEAD launched in Burien, and soon will be launching in unincorporated King County and several other major jurisdictions across Washington.) Through LEAD’s National Support Bureau, new LEAD programs have spread to 60 cities, metropolitan areas, and Native American tribes across the country, and more are in development.

In 2018, LEAD’s Seattle case managers, working with police and local prosecutors, obtained substance abuse treatment for 205 people who otherwise might have gone to jail. The program also obtained new mental health services for 62 clients and permanent housing for 89 clients with 108 clients projected for 2019. By early November, LEAD will be working with WASPC and the Washington State Health Care Authority to solicit proposals from communities across Washington to participate in state grant programs totaling $3.5 million.

“One once we put resources on the table, folks are really rallying to propose their own LEAD program,” Daugaard said. “We’re seeing interest from Mason County, Whatcom County, Spokane, Snohomish County, Kitsap. It really has become a regional approach that is just grossly underfunded. It’s not a willingness problem; it’s a failure of resources to bring that vision to reality.”

LEAD’s success comes with growing pains and a surge in demand, where funding challenges are pinching the program’s potential. Daugaard said she doesn’t believe a MacArthur grant alone will address the funding challenges facing the program, but it could help convince more policymakers to pay attention.

“Oftentimes things happen that make the prospect of success in your work seem dimmer,” Daugaard said. “Every so often something happens that is unexpected that makes it seem easier, and this was one of those rare moments.”

Just as LEAD appears to be taking off nationally, it faces funding barriers in its hometown. City funding for the program isn’t keeping pace with increasing referrals from police, Daugaard said. By next year, the Public Defender Association projects its Seattle caseload will nearly double its current size to 1,400 clients handled by 19 case managers. To adequately manage growing demand,
the Seattle program would need 73 case managers and, conservatively speaking, about $4.7 million more to get through 2020. Without additional funding, LEAD in Seattle is on track to run out of money in about four months.

“We have not scratched the surface of how well we can serve people if we had housing, if we had better-conceived treatment programs, if Medicaid funded field-based outreach and not just people coming into an office to keep their appointments,” Daugaard said. “So much could be so much better.”

In October, Daugaard appeared before the Seattle City Council to request additional funding for LEAD’s flagship program, which is set to expand in Seattle next year with new staff and field offices. The biennial budget adopted in 2018 included a $288,000 increase for 2020, but Daugaard said that essentially flatlines LEAD’s funding for 2020 amid increases in rent and casework wages aimed at reducing turnover. In response to Daugaard’s recent request for additional funding, the city requested more data on LEAD’s success in finding long-term housing for its clients.

‘GO BIG OR GO HOME’

While the MacArthur grant recognizes Daugaard’s work in criminal justice reform and LEAD specifically, she sees it as an opportunity to jump-start a national paradigm shift as interest in better solutions for criminal justice is gaining.

“We are at a moment in the arc of criminal justice reform where there is a limited window of opportunity for reformers to show up with plausible full-scale alternative structures that are capable of solving the problems that the jails and courts have previously been asked to solve,” she said. “And if we fail to meaningfully engage those problems, I think that there will not be infinite patience with the struggle to come up with something.”

The solution may be larger than LEAD, but Daugaard says the program’s success in Seattle and King County portends a willingness—as well as a lack thereof—to embrace former adversaries and try new solutions nationwide.

“Seattle is emblematic of the challenge,” she said. “We are further down the road than almost any other city in letting go of the old practices, but right now we’re stuck in the middle—we’ve let go of the old practices, but we have not built the new practices to scale. We are at a ‘go big or go home’ moment in Seattle. And I think the rest of the country would see a failure of this paradigm in Seattle foretelling difficulty for other cities trying to make the same paradigm shift.”

Daugaard’s challenge lies in convincing policymakers to take seriously the need to design and implement replacements for existing criminal legal systems.

“We need to be having a national conversation not about the failures of the past but the promise of a new approach,” she said. “We are right in the middle of a viability crisis and I don’t know that the MacArthur award is a magic wand that’s going to resolve that for us.”

Noel S. Brady is the online communications specialist at the WSBA. He spent nine years as the criminal justice reporter for the King County Journal. He can be reached at noelb@wsba.org.
IMPORTANT DATES

11/01/19: Individual Health Insurance Open Enrollment begins.  
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12/15/19: Open Enrollment ends.

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Washington-licensed legal professionals discuss how and why they came to practice law overseas

PLUS

Quelling the Quagmire of Counterfeits
Occasional fish-out-of-waterisms for an IP lawyer in China • BY FREDERIC ROCAFORT

Nuance, Subtlety, and Cultural Competency
The challenges and benefits of working internationally • BY NAOKO INOUE SHATZ

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Q. Describe your path to becoming a lawyer working overseas.
I certainly didn’t plan on working in Europe. I came to Prague on vacation during the summer of 2000 and met my partner, Tomas Vrablik, on the second day. I thought I’d stay an extra day, which turned into a week, then a month, then a year. It’s 19 years later and we’re still together. Initially I thought it would be easier to return with Tomas to the U.S. for work, but this was years before gay marriage became a reality. I quickly discovered that there really was no legal path for us to return together to the U.S., so I stayed and gave it a shot.

Q. Did you have to become licensed to practice law in the country you live in? How did that process work?
Yes, I did have to take an exam for foreign lawyers in English. Prior to the exam, I was able to work in a law firm correcting legal English, but it was a part-time position of 20 hours per week and paid a whopping $1.25 per hour. You can do the math and understand my motivation for becoming licensed.

Q. What is your connection to Washington state? Did you practice law in Washington prior to moving overseas? Why do you keep your Washington license active?
After finishing law school at Virginia, I looked around the entire U.S. and decided that Seattle would be home. I started working at a downtown firm the week after I took the bar exam. I still love the Pacific Northwest! I occasionally work on matters that involve Washington companies and individuals. At times I miss the mountains and the warm, forthright people, so I’m always looking for opportunities to cooperate with Washingtonians and chances to visit.

Q. What do you like most about living and working overseas? What are some of the challenges?
From childhood in a small town in Virginia, I’ve been curious about anything that appeared “foreign.” Prague is a world crossroads and I love meeting people from vastly different backgrounds. I can ask about how world events are perceived, ignored, or reported from people who have firsthand experience. Nearly everyone, it seems, comes to Prague at some point. The real treasure is that the city and international work helped me understand that underneath the outward appearance of differences, we are all
essentially one. The challenges have usually involved the fact that the country was not service-oriented during the Communist period following the Second World War until 1989. There are occasional hangover structures or attitudes that pose a challenge.

Q. What skills have been most crucial to your success as an international lawyer? What soft skills have been necessary to navigate any cultural differences?

Being a native English speaker has helped. At least in my practice, it remains the language of choice in legal documents concluded between parties from multiple countries. A natural interest in comparative law has made it all more fun. Empathy is the key soft skill for me in navigating cultural differences.

Q. What is one way in which the legal system in the country you live in is different from the legal system in the United States?

Where do I begin? I’d say the most significant difference, aside from the fact that it’s a civil law system, is the influence of the European Union and what is essentially its supranational legislative power.

Q. What’s your favorite local cuisine? What do you miss the most from the U.S. that you can’t get where you are now?

The Czechs are kings of cream-based desserts. The sweet shops have the freshest, most eye-rolling delicious desserts you have ever tasted. I can find almost any food I like here, so I’d have to say I miss being able to easily travel to see my family.

Q. What advice would you give to other lawyers thinking about working internationally?

My path was born out of a unique time and place, so I’m not sure I have any specific advice except this: follow your heart.
is good to have a certain level of confidence in one’s own abilities. However, introspection is also very important.

Q. What is one way in which the legal system in the country you live in is different from the legal system in the United States?

The education system is very different. In England, lawyers spend less time in school getting a law degree but are required to spend a certain amount of time in training before they can qualify as lawyers.

Q. What’s your favorite local cuisine?

My favorite local cuisine would undoubtedly be the variety of traditional desserts available. So many sponges and puddings and cakes.

Q. What advice would you give to other lawyers thinking about working internationally?

I would recommend that they speak to a lawyer in the country they are thinking about relocating to. Also, having friends and family in the country is very helpful so that your world doesn’t only consist of work. Having an independent social/support network shouldn’t be underestimated. Expanding your social network by joining groups who participate in activities you are interested in really helps.

I love being able to fly to almost anywhere in Europe in about two hours.

Q. What advice would you give to other lawyers thinking about working internationally?

I would recommend that they speak to a lawyer in the country they are thinking about relocating to. Also, having friends and family in the country is very helpful so that your world doesn’t only consist of work. Having an independent social/support network shouldn’t be underestimated. Expanding your social network by joining groups who participate in activities you are interested in really helps.
Q. Describe your path to becoming a lawyer working overseas.
Prior to taking on a government affairs field role for Microsoft, I had been leading privacy and competition initiatives in multiple geographies from Redmond, both in the European Union (EU) and in other regions. This work helped me understand the importance of engaging stakeholder communities for global campaigns involving international regulatory and enforcement matters. Next, tapping into my experience as a litigator, I became involved in the company’s strategic litigation challenging U.S. law enforcement access to data stored in the cloud. Because the litigation had global repercussions in some of our most significant markets and direct impact on legislative reforms being initiated in Europe, I moved to Brussels to join the EU Government Affairs team, where I drive Microsoft’s engagement on these issues more broadly.

Q. Did you have to become licensed to practice law in the country you live in?
I did not have to become licensed to practice law in my role on Microsoft’s EU Government Affairs team.

Q. What is your connection to Washington state? Did you practice law in Washington prior to moving overseas?
Why do you keep your Washington license active?
As an in-house attorney for Microsoft in the Corporate External and Legal Affairs organization, I was required to have a Washington State Bar license. I anticipate moving back to Redmond in the not-too-distant future, which is why I have kept my license active.

Q. What is a day in your life like? What kind of issues do you deal with at work?
My day is usually a mix of meeting external and internal stakeholders from the EU institutions and broader Brussels stakeholder community. Every day I work toward advancing and building our company positions and identifying ways to integrate these developments operationally into our external and internal advocacy whether via written or oral advocacy, or via the broader stakeholder community.

Q. What skills have been most crucial to your success as an international lawyer? What soft skills have been necessary to navigate any cultural differences?
The most important legal skill for me has been understanding EU competences and taking this into account before launching strategic initiatives, grasping the role of national law versus EU law, and keeping abreast of cross-border jurisdiction issues. Also important has been understanding and considering the role of politics within the EU institutions [as it relates] to legal outcomes. The most important soft skill has been learning to communicate complex ideas in a non-U.S.-centric way that goes beyond platitudes.

Q. What is one way in which the legal system in the country you live in is different from the legal system in the United States?
Civil (most EU member states) versus common law (U.S. and U.K.).

Q. What’s your favorite local cuisine?
What do you miss the most from the U.S. that you can’t get where you are now?
Fromage! I miss plastic wrap, grocery stores open after business hours, and corn on the cob.

Q. What advice would you give to other lawyers thinking about working internationally?
Don’t hesitate or overthink it. Say yes.
Q. Describe your path to becoming a lawyer working overseas.
I have been a U.S. patent attorney for 17 years. In my last position in the U.S. (as an in-house intellectual property professional for Siemens Corp.), I traveled to Munich for a global IP meeting. Following the meeting, I traveled to Italy, Sweden, Denmark, and Finland. In Finland, when I least expected it, I met an amazing woman and soon we began traveling the world together. Thereafter, while simply exploring employment opportunities in Helsinki, I met with a law firm (Seppo Laine Oy dba LAINE Intellectual Property) with its own internal U.S. and chemistry teams. Our needs met perfectly, and I started in February 2019. I am very thankful for the opportunity and am enjoying it thus far.

Q. Did you have to become licensed to practice law in the country you live in? How did that process work?
No, my uniqueness here is based upon my license to practice in the U.S. By having our own internal team of U.S. patent practitioners, including myself, our firm can offer direct interface to clients in the region for U.S. IP needs, thereby improving client relations, work quality, and results while reducing costs. While I am in the initial stages of becoming a licensed patent practitioner in Europe, doing so will be an added benefit to the firm’s clients, but not a necessity.

Q. What is your connection to Washington state? Did you practice law in Washington prior to moving overseas? Why do you keep your Washington license active?
I am licensed in Illinois, Colorado, and Washington. While working for a firm in Orlando, Florida, I strongly desired to move back west for the beautiful outdoors. I worked remotely from the Seattle area for three years and loved the area. I greatly appreciate all the benefits and learning opportunities the Washington State Bar Association offers, which is one main reason why I’ve selected Washington state as the license I keep active.

Q. What do you like most about living and working overseas? What are some of the challenges?
Helsinki is a beautiful, cultural city on the water and very much reminds me of Seattle in the late 2000s. I love it. I’ve also found the city easy to get around and people to be very friendly so far. It’s certainly been interesting to learn about a different culture—I attended my first crayfish party this past week. And while Finnish is a challenging language to learn, most people I meet can easily switch to English, if needed, to converse. It’s also a perfect launching place to travel from and explore new countries. I haven’t had many challenges thus far except initially working out transfer of currency between the countries, moving my two large dogs overseas, and determining how I’ll watch the Seahawks weekly!

Q. What advice would you give to other lawyers thinking about working internationally?
It’s really not too different from looking for a new job in a new city in the U.S.: research who the major players are, ask or determine their needs, evaluate how your skills meet those needs, and network, network, network to make the connections needed to show how your skills can match those needs.
Kirstin S. Dodge
Bar No. 22039  Counsel at Homburger AG, Zurich

Q. Describe your path to becoming a lawyer working overseas.
I took German and French in school, was an exchange student in Germany, and was interested in working in Europe after college. Instead, I went to law school and settled down in Seattle with a Swiss domestic partner I had met during my travels. After many years in Seattle, my partner was homesick and wanted to return to Switzerland and raise our two daughters there, preferably in Berne or at least a German-speaking city. I resisted for several years, having become a partner at Perkins Coie in the meantime, but finally asked myself, “Why not?” We agreed that if I found a good job in Switzerland, we would move and stay for at least five years before deciding whether to return to Seattle. I researched opportunities for U.S. lawyers in Switzerland and decided to look for a position in international arbitration in a private firm. At that time, most of the opportunities were in Geneva. However, the Zurich law firm Homburger was involved in a large arbitration against U.S. and English counsel. When my job inquiry came in “out of the blue,” they decided they could use my help and keep me busy on the case for the next two years or so. I have remained at Homburger and have been busy ever since—going on 13 years now.

Q. Did you have to become licensed to practice law in the country you live in? How did that process work?
It is essentially impossible for a U.S. lawyer to become a licensed attorney in Switzerland without going back to law school here. On the other hand, a license is only required to appear before Swiss courts; there is no restriction on the practice of law with respect to advising clients or representing clients in other capacities. In my practice, I represent clients in international arbitrations and mediations and serve as a mediator. I also assist Swiss clients who are involved in U.S. litigation (along with local U.S. counsel).

Q. What is your connection to Washington state? Did you practice law in Washington prior to moving overseas? Why do you keep your Washington license active?
I grew up in Yakima. After going to college and law school on the East Coast and spending time living in Germany and Switzerland, I wanted to move back to Washington and settle down. I was a U.S. district court law clerk and litigator in Seattle for 14 years before moving to Switzerland. As I cannot become licensed to practice law in Switzerland, it is important for me to keep my Washington license active. Also, my mother and three brothers and their families live in Washington: in Seattle, Yakima, and Wenatchee. My daughters have spent nearly every summer with family in Washington and we all continue to feel at home in Washington as well as in Switzerland.

Q. What do you like most about living and working overseas? What are some of the challenges?
I love living in Switzerland and having cases that bring me to Paris, Warsaw, Vienna, Stockholm, and elsewhere—even if I spend most of my time in conference rooms. I enjoy working with colleagues and clients who are involved in cross-border business and who are multilingual and multicultural. On the other hand, it is hard to be away from family in the U.S. and to have lost touch with so many good friends and colleagues in Seattle.

Q. What skills have been most crucial to your success as an international lawyer? What soft skills have been necessary to navigate any cultural differences?
My years of experience as a U.S. litigator have been critical to the value I bring to my Swiss law firm, including dealing with document production, oral argument, witness interviewing, and cross examination. These skills are all needed in international arbitrations but are not taught in Swiss law school, as they play little to no role in Swiss court litigation. My German language training (by now fluency) has been very helpful in integrating into the firm.
NIGERIA

Babatunde Irukera

Executive vice chairman/chief executive officer, Federal Competition & Consumer Protection Commission, Abuja

Q. Describe your path to becoming a lawyer working overseas.
I was first admitted to practice law before the Supreme Court of Nigeria, 1990; and then the Washington Supreme Court, 1996. I practiced law in the U.S. from then until 2006, when I relocated to Nigeria as founding partner of a full-service law firm and head of international engagements and litigation. I represented regulatory authorities and private entities in regulatory investigations and government relations. From the firm, I was appointed as director general of the Consumer Protection Council, and to oversee its transition to the Federal Competition & Consumer Protection Commission when new and broad antitrust legislation was passed in Nigeria in January 2019.

Q. What was the process to become licensed to practice law in the country you live in?
After four-year undergraduate law studies, and a bachelor’s degree in law (LLB), I had to attend the Nigerian Law School for a one-year professional degree and bar examination, Barrister at Law (BL); and after that, admission before the Supreme Court.

Q. What is your connection to Washington state? Did you practice law in Washington prior to moving overseas? Why do you keep your Washington license active?
I actually worked and resided in Illinois, where I practiced in the immigration courts, before the Equal Employment Opportunity Commission (EEOC), and did both civil and criminal defense work before the U.S. district courts, as well as appellate work before the 7th Circuit Court of Appeals. My connection with Washington was that the common law principles, bar examination, and eligibility qualifications were the most similar to my background in English common law and Nigerian law. I keep my license active because I periodically have to advise on U.S. Federal Rules of Civil Procedure; Foreign Corrupt Practices Act; and potential multi-jurisdictional investigation/litigation, particularly discovery in the United States. More recently, in overseeing the antitrust enforcement agency, I am constantly interpreting the Sherman Act.

Q. What is a day in your life like? What kind of issues do you deal with at work?
A. I am confronted with day-to-day agency management issues and substantive legal issues such as regulatory investigations, interventions, hearings, analysis of the law, and pleadings in different courts.

Q. What is one way in which the legal system in the country you live in is different from the legal system in the United States?
Both originate from the British common law, and both have changed dramatically, but in many cases there is a common thread in many theories of liability. In consumer protection and antitrust, the principles are really, for the most part, the same or similar, but strategy and approach most times dramatically differ.

Q. What’s your favorite local cuisine? What do you miss the most from the U.S. that you can’t get where you are now?
I love jollof rice, a “must eat” for anyone who visits Nigeria. What I miss most in the U.S. is actually the U.S. federal courtroom, but from a food standpoint, it’s taffy apples.

Q. What advice would you give to other lawyers thinking about working internationally?
Research extensively. A situation that requires courage or is different, challenging, and potentially difficult is not necessarily bad and may, depending on perspective and attitude, be rungs on a ladder up to success and satisfaction.
by train to the office after breakfast at home. I often advise Japanese corporate clients on how to deal with the U.S. litigation system, especially discovery. I also assist foreign clients making investments in Japan.

Q. What do you like most about living and working overseas? What are some of the challenges?
I enjoy the variety of excellent foods and the safety that I can go home alone after many drinks. While gender bias is still a challenge here, it is getting easier for me as I age due to the “respect old people” culture here.

Q. What skills have been most crucial to your success as an international lawyer? What soft skills have been necessary to navigate any cultural differences?
Don’t assume anything as “common sense.” There is no such thing in the international field. Don’t criticize one system, but learn how to navigate through it.

Q. What is one way in which the legal system in the country you live in is different from the legal system in the United States?
Civil law/no discovery/no hearsay rule (in civil litigation) versus common law/discovery/hearsay rule (in civil litigation).

Q. What advice would you give to other lawyers thinking about working internationally?
Be open to different opinions. What you believe about justice and fairness may not be the same to people in other cultures.
ATTORNEYS ABROAD

NW Lawyer | NOV 2019

Q. Describe your path to becoming a lawyer working overseas.
I came to Australia, got a great job offer that did not require me to hold a license, then got my license and got another great job offer based on having the license.

Q. Did you have to become licensed to practice law in the country you live in? How did that process work?
Yes; I had to take some courses and then a ridiculous “practical course”—the alternative was to spend two years as a low-paid article clerk. It was expensive.

Q. What is your connection to Washington state? Did you practice law in Washington prior to moving overseas? Why do you keep your Washington license active?
I lived there for years, yes, and I keep it active because I might want to move back some time—unlikely, but ...

Q. What is a day in your life like? What kind of issues do you deal with at work?
I am in-house counsel to several small companies, so I generally set my own schedule so long as the work is done. I deal with every legal issue that arises, from registering trademarks to writing and reviewing policy documents, handling contracts, NDAs, managing insurances, and serving as company secretary, so dealing with governance and liaising with the board and shareholders as well.

Q. What do you like most about living and working overseas? What are some of the challenges?
I love Brisbane, my house, my partner, Australia’s beaches, deserts, rainforests. I miss my music-playing community and my family.

Q. What skills have been most crucial to your success as an international lawyer? What soft skills have been necessary to navigate any cultural differences?
It’s all soft skills; anyone can write a contract, but embedding in a company is another thing entirely. I work for technical companies, so having a science background has been crucial, as has getting them to see me as an ally, rather than an obstacle.

Q. What’s your favorite local cuisine? What do you miss the most from the U.S. that you can’t get where you are now?
I love the variety of Asian food, from Indonesian to regional Indian, and local seafood. I miss good Mexican food!

I love the variety of Asian food, from Indonesian to regional Indian, and local seafood.

Q. What advice would you give to other lawyers thinking about working internationally?
I don’t know how someone would deliberately go about it; I didn’t do that. But for in-house, find a company with international offices, and then try to take advantage of opportunities to work across borders. I have been regional counsel for the Asia-Pacific region (which included Africa), and that was great fun. Now the companies I work for operate in AU, Malaysia, China, Bangladesh, and Pacific Island nations, and each plans to expand to more of the region as time goes on.
Q. Describe your path to becoming a lawyer working overseas.
My husband and I had decided to take a trip to Israel and when I found out that, despite not being fluent in Hebrew (I knew about 20 words at the time), since I was a native English speaker, finding a job as an attorney would be relatively easy. I decided to interview with the large law firms in Israel while I was there and ended up being hired by Herzog Fox Neeman, the largest law firm in Israel.

Q. Did you have to become licensed to practice law in the country you live in? How did that process work?
I did have to become licensed in Israel. Luckily, I had practiced in Washington for over five years so I did not have to take the Israeli bar exam, but I had to take nine other exams (including a Hebrew fluency exam) and pass all nine to obtain my license. I also had to do a one-year internship prior to being able to obtain my Israeli law license. The nine exams were in Hebrew, but all except the fluency exam could be answered in English. So after seven months in the country, I sat for the exams and passed. I had to then finish the rest of my one-year internship until I was eligible to receive my license.

Q. What is your connection to Washington state? Did you practice law in Washington prior to moving overseas? Why do you keep your Washington license active?
I moved to Washington state right after I graduated from law school to start my first job with Perkins Coie. I fell in love with Seattle at first sight, including the rain. I practiced law in Seattle with Perkins Coie and with Heller Ehrman White & McAuliffe prior to moving overseas. I keep my Washington license active, since I did a lot of work with companies who did many international transactions, prior to becoming the general counsel of MediCane Health Incorporated. I also worked hard to become licensed in Washington and I want to keep open the opportunity to return to the U.S. one day.

Q. What is a day in your life like? What kind of issues do you deal with at work?
There is no typical work day for me. Since the company I work for is an international company, my day usually starts in the morning, Israel time, and continues until late at night so that I can deal with matters in other countries, including Canada and Australia. The company I am working for is in the medical cannabis area, so besides the typical corporate and commercial issues, I am immersing myself in the new frontier of cannabis regulations, licenses, and the unique commercial challenges that this brings.

Q. What do you like most about living and working overseas? What are some of the challenges?
I like the different styles of business that I have been exposed to and the continuous challenge of keeping up with local laws and policies in my very rudimentary Hebrew. In addition, there is a great attitude of “of course we can get this deal done.” I am always being challenged with finding creative solutions to commercial roadblocks in transactions. “No” is just a starting point. My biggest challenge is trying to understand negotiation sessions when the parties all start speaking in rapid-fire Hebrew.

Q. What’s your favorite local cuisine? What do you miss the most from the U.S. that you can’t get where you are now?
Falafel and hummus. I really miss good barbecue.

Do not let fear of the unknown stop you.

Q. What advice would you give to other lawyers thinking about working internationally?
If you want to work internationally, don’t be afraid. Check out the local requirements for practice/bar admission, but do not let fear of the unknown stop you. It will be one of the most exciting experiences you will have!
Practicing law overseas can be a greatly rewarding experience, in no small part because of the insight it can provide into the inner workings of different legal systems. At the same time, the quirks of those systems can prove to be sources of great frustration when they work against the interests of your clients.

In 2014, I took up an in-house position in Hong Kong that required me to oversee intellectual property rights enforcement and litigation across Asia, mostly in mainland China. Having previously worked in China as a lawyer and U.S. diplomat, my greatest concerns were venality and local favoritism on the part of law enforcement and judges. However, I soon found that Chinese courts were generally fair when deciding such cases; judges were not part of a grand conspiracy to cheat foreign brands out of their IP, as some believe. If evidentiary issues were handled properly, trials were pretty much open and shut in courts across China.

Then late one afternoon I got a call from our China litigation counsel, informing me that the judge had ruled against us. Given our good run of favorable decisions up until that moment, I was surprised. It is true that the venue was new to us, but the facts at hand were almost identical to those in many other cases in which we had prevailed. What could have gone wrong?

“It turns out that the defendant is poor and in the late stages of pregnancy,” counsel explained.

“And what does that have to do with anything?” I asked in bafflement.

“Well, the court does not want to impose any additional economic burdens on her at this delicate time,” he added in a tone that suggested he was not shocked in the least.

Certainly, I could understand how a court might be sympathetic to a defendant in such a situation and might even try to find a way to mitigate damages. As a Chinese proverb goes, “In his decision the judge with seven reasons gives only one in court.” However, to bring up this reason explicitly was a completely unexpected curveball.

As our counsel explained, however, it was not that bizarre, given the locality. The lawsuit had been filed in an underdeveloped inland city, far removed from booming coastal metropolises such as Shanghai. It was likely that the judge in our case was a holdover from a time when judgeships were typically given to retired military officers. These former officers usually lack previous legal experience but can be counted upon to administer justice in a way that furthers the objectives of the ruling Communist Party—which includes maintaining “social harmony.” Making a pregnant woman of limited economic means pay damages to a well-known multinational corporation could anger the local populace. Moreover, this court's docket probably included very few intellectual property cases. Perhaps a judge in Shanghai would have a different perspective on the need to punish those who sell counterfeit goods. A busy IP docket would include many cases where the victim of the infringement is Chinese, and hence a judge in that environment would understand that it is not an issue of local Davids going up against foreign Goliaths.

A similar situation arose when the police raided a store that was selling counterfeit products. This time, the officers participating in the raid felt sorry for the seller, who was missing a hand. They refused to seize the goods and initiate a case against him. While they did require the vendor to destroy the counterfeits in their presence, the lack of a formal seizure precluded any financial recovery. Once again, at a human level the officers' pity was understandable, even quietly commendable, but the unequal application of the law was a source of irritation. Perhaps the officers (and the judge in the pregnant woman’s case) should study the words of the famous legal scholar Han Fei-tzu, who said, “If the ruler is too compassionate, the law will never prevail.”

At this point, you might think that the problem with IP enforcement in
China is that those tasked with the responsibility are just a bunch of softies. Lest you leave with that impression, consider something that happened during a different raid—in fact, the same thing happened often. As was usually the case when the police conducted a raid at our behest, we had brought a truck and the necessary manpower to transport the seized goods to a police facility. Once the officers had concluded their examination of the premises and issued the necessary citations, they gave us the green light to begin loading the truck. The cops stood around smoking and checking their phones while the workers we had hired carried bales of fake clothing found in the warehouse back to the truck. Then, suddenly, the officer in charge announced that we had to leave, as it would soon be time for lunch. As for all the counterfeits that were still not loaded, well, that was just too bad.

Later that day, as I drank tea with our investigators at their office, I griped about what I had witnessed. Surely, I said, the cops must be in cahoots with the counterfeiter; they are helping him get back on his feet quickly by letting him keep some of his stash. Our chief investigator pondered this for a second, then responded matter-of-factly, “No, they just wanted to get lunch.”

The U.S. Department of State warns, “The Chinese legal system can be opaque and the interpretation and enforcement of local laws arbitrary. The judiciary does not enjoy independence from political influence.” These warnings should certainly not be discounted. However, a lawyer’s greatest headaches when practicing overseas might be the result of more mundane forces, such as hungry cops and mamas-to-be.

**TIPS OF THE TRADE**

**Nuance, Subtlety, and Cultural Competency**

The challenges and benefits of working internationally as a legal professional

**BY NAOKO INOUE SHATZ**

Globalization of the economy has made international law a growing part of many U.S. lawyers’ practice. Before venturing into the international legal marketplace, however, a broader knowledge of international legal norms and frequently occurring challenges is helpful and indeed necessary. Here are a few things to keep in mind with respect to (1) practice area and jurisdictional issues, (2) substantive legal issues and communication, and (3) cultural issues.

**PRACTICE AREA AND JURISDICTIONAL ISSUES**

One major problem U.S. legal professionals face in practicing law overseas stems from limitations and multiplicity of both jurisdictions and substantive areas of law. Many large companies that have headquarters overseas also have branches throughout the U.S. The distances between U.S. branches and the differences in the law as among those jurisdictions may result in greater exposure to liability. U.S. lawyers tasked to guide these clients must often do so without a single, clearly applicable regulatory system or set of ethics rules. Rather, they must analyze at the outset issues of jurisdiction (subject matter and personal) as well as choice of law. In addition, international lawyers frequently confront the potential applicability of multiple areas of law—such as contract law, environmental law, employment law, corporate law, consumer protection law, and bankruptcy law—to a single transaction. Further, they are expected to understand the jurisdiction’s procedural rules, even when advising on transactional matters, in order to prevent costly litigation.

Because it is extremely difficult to provide comprehensive and unified services to international clients without a presence in all jurisdictions in which these clients operate, lawyers (except those focused on immigration law, trademark law, or patent law) licensed to practice in one state should consider any ethical or risk management implications of representing international clients with out-
of-state branches. In some cases, it may be prudent or even required to refer clients to other lawyers licensed in the state where international clients’ branches are located, even when handling the same legal issues in both places. To minimize the risk of conflicting legal advice and practice, these international clients may hire only large law firms that have branches throughout the U.S. Regardless of their qualifications, therefore, U.S. attorneys working for smaller firms may offer a less attractive alternative to international clients.

In my own practice, I seek to overcome these hurdles through the following process. First, rather than focusing on a specific practice area and the jurisdiction(s) in which I am admitted to practice, I first consider how the particular issues I am facing should be handled for the best interest of my clients and whether I am qualified to serve my clients for a particular transaction. Am I in the right jurisdiction to deal with the issues raised, or should counsel in a different jurisdiction deal with them? Would any involvement of other firms or attorneys cause my clients to incur a substantial amount of legal fees unnecessarily or create confusion as to who will be the lead counsel for them to count on? Then, depending upon the issues and the answers to these questions, I may refer my clients to another lawyer in a different county, state, or country, while I am acting as their main counsel or point of contact. In the process of this preliminary analysis, I must also ascertain which jurisdiction’s law will likely be applied by which court before I can focus on substantive legal issues.

SUBSTANTIVE LEGAL ISSUES AND COMMUNICATION
The second challenge presented to U.S. lawyers working internationally comes when trying to explain substantive legal issues to clients or other lawyers practicing in different legal systems. Even when there is no language barrier (discussed below), this can be difficult. In particular, the mindset of clients and lawyers who live in civil law systems can be markedly different from those living in common law jurisdictions. For example, under common law, when there is no statutory language or unambiguous contract language, the parties’ intention controls in interpreting an agreement. Clients and lawyers in civil law systems may insist that the law should spell out restrictions about, for example, the period of time for which employers can bind employees by noncompete agreements, or the percentage of community property assets one spouse should receive in a dissolution. When I explain that U.S. lawyers analyze these issues based on case law, circumstances, and industry practice in order to determine the restrictions and rights of the parties, lawyers or clients who live in civil law systems can be puzzled about why terms of an agreement should be decided based on anything besides the strict statutory language or unambiguous contract language.

To aid in communicating with international clients, some U.S. lawyers may hire interpreters. However, relying on interpreters is not without risk when dealing with complex legal issues. Many phrases, clauses, and words have meanings or connotations beyond what can be found in a dictionary. Without understanding the context of the conversation and the substantive issues under discussion, even experienced interpreters may misunderstand. This could cause one or more of the parties involved to become confused or respond differently than intended.

Even if a client speaks English fluently, it is ideal to communicate in that client’s native language, particularly when decisions on complex legal matters need to be made. While many overseas clients speak English as a courtesy, a U.S. lawyer who owes clients competent representation and is obligated to keep clients informed of the progress of a matter should be aware of possible limitations of clients’ understanding of English.

Another way to avoid misunderstandings is to meet in person with international clients and other lawyers. Despite the recent trend in communicating through video conferencing, in-person meetings are more effective in reducing confusion and increasing trust.

U.S. lawyers may risk losing trust with clients overseas by aggressively pursuing answers or explanations, even though our zealous representation and attention to detail may be applauded in the U.S.

CULTURAL ISSUES
The third challenge of international practice is that of understanding the culture of legal professionals and clients overseas. Lawyers trained in different legal systems may approach legal problems, client relations, ethical questions, and legal processes and drafting in different ways.

For example, once I begin speaking Japanese to my Japanese clients during my representation, they start communicating with me only in Japanese. This is helpful not only because certain words cannot be translated into English, but also because of cultural differences. For instance, U.S. lawyers often begin by talking about what they and their firm can offer, before listening to why the Japanese business people are looking for legal services. Also, setting a budget is im-
Naoko Inoue Shatz, the managing attorney at Shatz Law Group PLLC, focuses her practice primarily on the areas of corporate/business law, employment law, and related litigation. She has represented numerous clients who have businesses overseas. She is also acting as outside general counsel for multiple Japanese corporations and the Consulate General of Japan in Seattle. She can be reached at ninoue@shatzlaw.com.

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Washington’s ‘Vulnerable Youth Guardianship’ Statute at Issue in Federal Class-Action Lawsuit

BY ANN WENNERSTROM

Ramiro, an 18-year-old from Mexico, never knew his father. Ramiro’s mother did not show much interest in him either and passed him around to various relatives to provide care. When Ramiro was 11, his mother brought him to Washington, left him with an uncle, and disappeared. Ramiro’s uncle raised him as his own child. Within the stability of his uncle’s home, Ramiro finally began to feel secure. He did well in school and graduated from high school speaking English like a native speaker. Ramiro was well prepared to succeed in college, but with no legal immigration status, his future remained uncertain. He could hardly justify investing time and money to attend college when he had no work authorization and faced possible deportation.

In Washington, there are other immigrant children and youth under the age of 21 who, like Ramiro, have been abused, neglected, or abandoned by their parents. Those in this difficult situation may be eligible for an immigration status called Special Immigrant Juvenile (SIJ) status, available to unmarried children under the age of 21 who have experienced parental mistreatment. The statute may lead to a green card and, eventually, to U.S. citizenship (see sidebar). An application for SIJ requires a state court order of custody, dependency, or other action involving child welfare in which findings of abuse, neglect, or abandonment by one or both parents are made. The court must also find that reunification with parents is not viable and that it is not in the child’s best interest to return to the country of origin. The federal statute requires the agency to adjudicate SIJ applications within 180 days.

Under federal law, an abandoned child like Ramiro could have applied for SIJ status if his uncle had petitioned for nonparent custody. However, by the time Ramiro and his uncle learned about SIJ, Ramiro was already 18 and Washington family courts had no jurisdiction concerning his custody. Although immigration law defines “child” as being under 21 and explicitly authorizes petitions for SIJ up to age 21, Ramiro was too old under Washington state law to obtain the necessary order of custody. Although state courts routinely make findings of parental misconduct concerning minors—in parenting plans, dependencies, and other situations—there was little legal recourse for 18- to 21-year-olds to obtain such findings.

In 2017, Washington enacted Chapter 13.90 RCW, authorizing juvenile courts to appoint “vulnerable youth guardians” for 18- to 21-year-old immigrant youth who otherwise meet the criteria for SIJ. The guardianship order contains findings needed for an SIJ petition. RCW 13.90.900 states:

State court order + USCIS decision

Opening court doors for the provision of a vulnerable youth guardianship serves the state’s interest in eliminating human trafficking, preventing further victimization of youth, decreasing reliance on public resources, reducing youth homelessness, and offering protection for youth who may otherwise be targets for traffickers.

The youth must petition the court jointly with the proposed guardian and must also demonstrate eligibility for SIJ status. The guardianship does not take rights away from the youth and can be modified or terminated under the statute. The offending parents are not parties to the case. Since the passage of the law, a number of vulnerable youth in Washington have been granted guardianships and applied for SIJ on that basis. Ramiro was among them: He successfully petitioned the Snohomish County Juvenile Court in early 2018 for a vulnerable youth guardianship with his uncle as guardian and then applied for SIJ status. Despite the six-month adjudication requirement, no action was taken on his case for over a year.

Washington is the most recent state—along with New York, Maryland, and California—to enact a guardianship law allowing an 18- to 21-year-old to obtain a state custody

SIDEBAR

SIJ, ASYLUM, DACA—How do they differ?

SIJ: Special Immigrant Juvenile

PERMANENT STATUS:

• Visa
• Green card
• U.S. citizenship

As this article went to press, USCIS reopened the public comment period for the proposed rule titled Special Immigrant Juvenile Petitions. 76 FR 54978. See: www.federalregister.gov/documents/2019/10/16/2019-22570/special-immigrant-juvenile-petitions.

PERMANENT STATUS:

• State court order + USCIS decision
• Under 21 at time of filing
• Present in U.S. at time of filing
• Abuse, abandonment, neglect by parent(s)

Asylum

WORK PERMIT:

• USCIS or immigration court decision
• No age limit
• Present in U.S. for less than one year at time of filing
• Persecution (or well-founded fear of) by government, or someone the government can't control, because of race, religion, nationality, politics, particular social group

DACA: Deferred Action for Childhood Arrivals

NO STATUS:

• Arrived before the age of 16
• Residence since June 15, 2007
• Presence in U.S. on June 15, 2012
• High school enrollment/completion
• A few other requirements

NOTE: As this article went to press, USCIS reopened the public comment period for the proposed rule titled Special Immigrant Juvenile Petitions. 76 FR 54978. See: www.federalregister.gov/documents/2019/10/16/2019-22570/special-immigrant-juvenile-petitions.
order for SIJ purposes. However, all these states have seen guardianship-based SIJ petitions systematically delayed and denied by U.S. Customs and Immigration Services (USCIS) on the basis that in order to make SIJ findings about parental misconduct, state courts must have jurisdiction to actually reunify 18- to 21-year-olds with their parents. Another basis for denial was that if a state defines a “child” as being under 18, then courts lack jurisdiction to adjudicate the custody of an 18- to 21-year-old as a “juvenile.”

Currently, plaintiffs from Washington are challenging the denial policy in a federal class-action lawsuit, *Moreno Galvez v. Cuccinelli.* The case was launched by Northwest Immigrant Rights Project on March 5, 2019, on behalf of three 18- to 21-year-old at-risk youths, two of whom applied for SIJ after being awarded vulnerable youth guardianships under Chapter 13.90 RCW. The lawsuit asserts, *inter alia,* that USCIS cannot systematically refuse to honor state court orders issued under the guardianship statute when the controlling federal immigration law specifically designates state courts as the bodies to make these decisions. Also to be decided in this case is whether a requirement for jurisdiction to reunify children with parents violates the federal Administrative Procedure Act because it is inconsistent with the plain language of the SIJ statute and effectively excludes 18- to 21-year-olds from obtaining SIJ.

On July 17, 2019, the Federal District Court in Western Washington certified the class of SIJ petitioners between the ages of 18 and 21 who were issued state court orders placing them with a vulnerable youth guardian or state agency. The court issued a preliminary injunction that prohibits USCIS from denying SIJ petitions filed under 8 U.S.C. §1101(a)(27)(J) on the basis that Washington state courts lack jurisdiction to reunify a youth with parents. USCIS must reopen and adjudicate denials made on that basis and the agency is also enjoined from deporting youth whose petitions were denied on that ground. USCIS must now adjudicate SIJ petitions within the six-month statutory period. The agency was given one month to adjudicate all petitions that had been pending for more than 150 days. At this writing, the *Moreno Galvez* case is ongoing.

Meanwhile, Ramiro qualified as a member of the class and due to the injunction, his SIJ petition was granted within 30 days, in August 2019. He currently plans to attend community college and hopes to apply for a green card as soon as possible.

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**Ann Wennerstrom** is a solo practitioner of immigration law and family law in Seattle. She also holds a Ph.D. from the University of Washington. Wennerstrom does extensive pro bono work for Northwest Immigrant Rights Project, Kids in Need of Defense, and Northwest Justice Project. She filed the first vulnerable youth guardianship case in Washington state.

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**NOTES:**

1. Distinguishing features of this case have been changed to protect the identity of the youth. “Ramiro” is a pseudonym.


3. 8 U.S.C. § 1101(b)(1)).

4. There are a few circumstances, such as extended foster care cases under RCW 13.34.267, and juvenile offender proceedings under RCW 13.40.300(3), in which a juvenile court has jurisdiction over an 18- to 21-year-old youth.


6. The third youth was under the jurisdiction of the juvenile court for a drug possession offense and had been in federal detention for 18 months when the lawsuit was filed.

VACCINE LAW:
An Overview of Current Law and a Look at the Future

BY BENJAMIN GOULD
The case law

The leading constitutional decisions about vaccines address substantive due process arguments. The best-known is *Jacobson v. Massachusetts*, decided in 1905. There, the Supreme Court upheld the authority of the city of Cambridge to require adults within its boundaries to be vaccinated.

More directly relevant to current vaccine laws is *Zucht v. King*, decided in 1922, in which the Supreme Court upheld a San Antonio ordinance requiring children to be vaccinated before they could attend public or private schools.

It’s sometimes said that these decisions approved mandatory vaccination only in epidemic conditions. But the Court’s reasoning in *Jacobson* suggests that states have the power to prevent as well as confine disease. And in *Zucht*, the plaintiff specifically alleged that San
King County Superior Court Judge Laura Inveen (ret.) Joins Hilyer Dispute Resolution

Judge Laura Inveen (ret.), recently retired as the state’s most senior female superior court judge, has joined Hilyer Dispute Resolution. Her unique stature and 30 plus years of judicial experience in handling all types of civil litigation promises to bring a thoughtful and inclusive approach to alternative dispute resolution.

“I am thrilled that Judge Inveen (ret.) will offer her services in mediation, arbitration and dispute resolution” said firm founder Judge Bruce Hilyer (ret.).

Done Deal

Constochastic law has superseded the legal framework applied in Jacobson and Zucht. This point is largely academic. Lower courts are bound by Supreme Court decisions until the Court itself formally overrules them, and the Court doesn’t seem terribly interested in limiting, let alone reexamining, Jacobson and Zucht.

Vaccination mandates have been challenged on grounds other than substantive due process. Challengers have also invoked the Free Exercise Clause, the Equal Protection Clause, and various state constitutional provisions, including a right to public education. These challenges have been consistently rejected.

The result would likely be the same under the Washington Constitution. The Washington Supreme Court dispatched a constitutional challenge to mandatory vaccination in 1909. And in 1952, the court held that it was constitutional to require college students, before attending, to receive a chest X-ray to detect tuberculosis—a procedure that is at least as invasive as a vaccination. Since then, the court’s decisions take as a given that the state has the power to require students to be vaccinated.

WHERE ARE VACCINE LAWS HEADED?

Recent years have seen a tightening of vaccination mandates. In 2015, California eliminated non-medical exemptions and Vermont repealed its exemption for philosophical objections. This year, Maine eliminated its exemptions for religious or philosophical beliefs; New York eliminated its religious exemption; and, as discussed above, Washington eliminated the personal or philosophical exemption for the MMR vaccine.

Because these legislative changes followed outbreaks of vaccine-preventable disease, further tightening of vaccine mandates probably depends, at least in part, on the likelihood of future outbreaks.

The likelihood of future outbreaks, in turn, depends on immunization rates—for as immunization rates increase, the chance of an outbreak decreases or even disappears. This is the effect known as herd immunity. The more infectious the disease, however, the larger the portion of the population that must be immunized to create herd immunity.

The most current data indicates that nationwide immunization rates have been high and stable overall. (Not coincidentally, survey data suggests that a supermajority of Americans believes vaccine risks are low and vaccine mandates are good policy.)

Of course, local immunization rates vary—sometimes substantially—and a state that contains pockets of low immunization is more susceptible to outbreaks, particularly when a disease is, like measles, highly infectious. Such a state, at least if it has tried other tactics to increase immunization rates,
SIDEBAR
Are Vaccines ‘Unavoidably Unsafe’?

It’s not hard to find postings on the internet saying that the U.S. Supreme Court has ruled that vaccines are “unavoidably unsafe.” They point to the discussion of the National Childhood Vaccine Injury Act (NCVIA) in *Bruesewitz v. Wyeth, LLC,* 562 U.S. 223 (2011).

The Supreme Court did not say vaccines are unsafe, whether unavoidably or otherwise.

The phrase “unavoidably unsafe” comes from a comment in the Restatement (Second) of Torts on products liability. This comment does discuss vaccines. But the *Bruesewitz* Court held that Congress did not have this comment in mind when it referred to vaccines in the NCVIA.

More fundamentally, in the Restatement, “unavoidably unsafe” does not refer to a badly designed product or one that carries undue risks. Quite the opposite; it is a term of art that refers to products, like vaccines, where the benefits vastly outweigh the risks.

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**NOTES:**

1. For more on that Act and the history of vaccines in general, readers may want to consult Arthur Allen’s, *Vaccine: The Controversial Story of Medicine’s Greatest Lifesaver* (2008).


3. Id. While the National Conference of State Legislatures classifies Washington as a religious-exemption-only state, this article classifies it as a state that recognizes both religious and personal or philosophical exemptions.


11. See, e.g., Phillips v. City of New York, 775 F.3d 538, 543-44 (2d Cir. 2015); Workman, 419 F. App’x at 352-55; Brown v. Smith, 235 Cal. Rptr. 218, 224-226 (Clt. App. 2018); Maricopa Cty, Health Dep’t v. Hamon, 750 P.2d 1364, 1369-70 (Ariz. Clt. App. 1987). The only exceptions I have found are decisions striking down religious exemptions that discriminate among religions.


20. See Fine et al., supra note 17, at 913-14.

21. In 2011, the Legislature amended our vaccine mandate to provide that any parent or guardian who wished to exempt a child from the mandate was required to first discuss “the benefits and risks of immunization” with a health-care provider, who then had to sign a form stating that the discussion had occurred. Laws of 2011, ch. 299, § 1(2)(a) (codified at RCW 28A.140.990(2)(a)).


Benjamin Gould of Keller Rohrback L.L.P. represents plaintiffs in individual and class actions involving pensions, securities, insurance, consumer-protection law, and privacy. He has a longstanding interest in public-health law. A member of the NWLawyer Editorial Advisory Committee, he can be reached at bgould@kellerrohrback.com.
### 2019 SUMMER

#### Bar Exam & LLLT

Exam Pass List

Of the 629 candidates who took the Summer 2019 exams, 431 candidates passed. Congratulations! The full pass list is printed here:

| A | Abney, Devin • Ann Arbor, MI
|   | Abrams, Lauren C. • Bainbridge Island
|   | Adams, Brittany Camille • Spokane
|   | Adams, Margot Marie • Stanford, CA
|   | Ahmadi, Poya Daniel • Portland, OR
|   | Akason, Shayden Brody • Richland
|   | Alberts, Collin Robert • Ferndale
|   | Allison, Elizabeth Nicole • Puyallup
|   | Alstrom, Sara Jane • Aberdeen
|   | Anderson, Jessica Rae • Kennewick
|   | Anderson, Madeline Mary • Tacoma
|   | Anderson, Sara Jane • Kenmore
|   | Arefi-Pour, Leila Maria • Portland, OR
|   | Athens, Allison Katherine • Berkeley, CA
|   | Avakiantz, Alex Vladimir • Seattle
|   | Avila, Lesly • Seattle

| B | Balabon, Oleg D. • Portland, OR
|   | Bandiero, Anthony • Spokane
|   | Banks, Victoria Faith • Seattle
|   | Barajas, Norma • Yakima
|   | Barber, William Bradford • Richland
|   | Barouh, Annie Isaac • Seattle
|   | Barrett, Abigail Margaret • Seattle
|   | Barry, John Wellington Tsuji • Seattle
|   | Beale, Steven Sun • Durham, NC
|   | Beam, Shannon Eleni • Wauna
|   | Beaty, Robert A. • Seattle
|   | Beckett, Richard Charles • Coeur d’Alene, ID
|   | Beidas, Norann Christine • Spokane
|   | Bernard, Danielle Anna • Bellevue
|   | Bernstein, Alexander Kumar • New York, NY
|   | Betts, Nicole Katrina • Edmonds
|   | Biddle, Stephen Henry • Seattle
|   | Biez, Joseph Alden • Lake Oswego, OR
|   | Bigoni, Hayley Geraldine • Seattle
|   | Bishop, Jack Thomas • Seattle
|   | Blake, Brady • Mountlake Terrace
|   | Blanksma, Matthew James • Spokane
|   | Bloomfield, Danielle Louise • Spokane
|   | Boeshans, Evan Kane • Seattle
|   | Boome, Peter • University Place
|   | Bortes, Corneliu Nicolae • Lynnwood
|   | Bramwell, Lauren Marie • Seattle
|   | Breiner, Jessica Ann • Auburn
|   | Breslaw, Amanda Elizabeth • Seattle
|   | Bricky-Smit, Seth • Seattle

| C | Brow, Derek James • Honolulu, HI
|   | Brown, Madison Lindelle • Shoreline
|   | Brown, Amylia Anne • Tacoma
|   | Buchanan, Shelly Dee • Carrolton, TX
|   | Bueno, Lucas • Union City, CA
|   | Bulanda, Robert David • Hazel Crest, IL
|   | Burford, Thomas Jacob • Spokane
|   | Butzler, Aspyn Sydney • Spokane

| D | Calas, Hannah Beth • Seattle
|   | Calvin, Chase Warren • Woodinville
|   | Campbell, Caylee Elizabeth • Yakima
|   | Campbell, Natasha Kayla • Lynden
|   | Carmody, Jane • Seattle
|   | Cartwright, Morgan Philip • Shoreline
|   | Cason, William Gallatin • Seattle
|   | Castanien, Samantha Marie • San Diego, CA
|   | Chang, Albert Che-Shuo • Seattle
|   | Chang, Steven Michael • San Diego, CA
|   | Chen, Wei-Hsuan Alice • Seattle
|   | Cheng, Connie • Seattle
|   | Chokhani, Ronak Rajesh • Seattle
|   | Cieslik, Keally Laurleen • Madison, WI
|   | Clark, Matthew Phillip • Seattle
|   | Cody, Nicholas Francis • Seattle
|   | Colsegrove, Claire Hardy • Bainbridge Island
|   | Comeau, Tamara Lynn • Renton
|   | Conway, Adam • Seattle
|   | Cooper, Alison Nadine • Kent
|   | Crawford, Kindra • Selah
|   | Crinzi, Ricci • Spokane

| E | Dabreo, Alister Elvis • Auburn
|   | Daisley-Harrison, Sonya • Maple Valley
|   | Daley English, Chelsea Kathleen • Seattle
|   | Dallas, Rachel Susan • Sacramento, CA
|   | Dammeyer, Craig P • Seattle
|   | Daniels, Katherine Cecilia • Gig Harbor
|   | Daniels, Melissa Anne • Seattle
|   | Dante, Smitha Caroline • Seattle
|   | Dawson, Seth Michael • Seattle
|   | Dean, Ashley Fiona • Fairfield Township, OH
|   | DeLaRocha-MincKler, Naomy • Seattle
|   |Didcock, Albert James • Sammamish
|   | Dimond, Brittany Anne • Seattle
|   | Dinh, Tran Duong Ngoc • Seattle
|   | Doherty, Nicholas Kyle • Seattle
|   | Domitrovich, Katharine Yao • Charlotte, NC
|   | Dowdle, John Patrick • Seattle
|   | Dukes, Macaulay Elizabeth • Seattle
|   | Duletzek, Nathan Paul • Seattle
|   | Dumais, Jonathan Charles Graves • s. Bend

| F | Englebeck, Ian Russell • Sammamish
|   | Englund, Emma Christine • Chicago, IL
|   | Enriquez, Edna • Seattle
|   | Evans, Maxwell Harrison • Portland, OR
|   | Ewart, Michael Graham • New York, NY

| G | Falco, Beverly Marie • Brea, CA
|   | Farris, Lance Kimball • Bellevue
|   | Fetzer, Jessica Allyn • Williamsburg, VA
|   | Fischer, Austin Russell • Seattle
|   | Fisher, Halley Carlson • Boston, MA
|   | Fortlage, Andrew Peter • Perrysburg, OH
|   | Fosterde, Charles • Lakeview, OR
|   | Fowler, Evan J. • Seattle
|   | Fraga, Hugo Brendon • Seattle
|   | Francis-Anderson, McKinley Marie • Spokane
|   | Frank, Alexander Shaw • Seattle
|   | Frickleton, Brooke Marie • Tumwater
|   | Fullmer, Darius Glen • Seattle
|   | Furman, Christopher • Bellingham

| H | Galen, Ruby Anne • Seattle
|   | Gao, Wenting • Puyallup
|   | Garcia, Alyssa Marie Ayag • Seattle
|   | Garcia, Estor • Shoreline
|   | Geguchadze, Sophiko • Seattle
|   | Geiger, Eric Hayes • Spokane
|   | George, James Patrick • Olympia
|   | Gerstle, Michael Louis • Seattle
|   | Geyer, Kathleen Marie • Spokane
|   | Geyer, Kathleen Rose • Bainbridge Island
|   | Geyer, Martha Harriet • Seattle
|   | Gill, Gurpreet Singh • Kent
|   | Gillis, William Terence • Seattle
|   | Girard, Louis Michel • Charlotte, NC
|   | Goo, Stephen • Redmond
|   | Gorton, Alexandra Tess • Seattle
|   | Govindaraju, Varsha • Federal Way
|   | Goyal, Meha • Los Altos, CA
|   | Grandgeorge, Tyler Christian • Ephrata
|   | Gregory, Thaddeus James • Seattle
|   | GREWAL, Chandini • Livermore, CA
|   | Gupta, Monika • Kirkland
|   | Gurian, Gabrielle Lauren • Spokane

| I | Hagel, Alexander Frank • Redmond
|   | Hall, Whitney Celeste • Spokane
|   | Halladay, Joshua L. • Lynnwood
|   | Hamann, Serena • Seattle
|   | Hamblin, Melissa Jean • Mercer Island
|   | Hammond, Rachel Kathryn • Seattle
|   | Hanstad, Rajan • Seattle
|   | Hapner, Helen M. • Seattle
|   | Hare, Audrey • Seattle
|   | Harms, Joshua D. • Issaquah
|   | Harris, Brett Carlton • Seattle
|   | Harris, Jordan Caine • Boston, MA
|   | Hayakawa, Yui • Saitama-shi, Saitama-ken, Japan
|   | Healy, Peyton Nicole • Seattle
|   | Heim, Maya • Vancouver

52 NWLawyer | NOV 2019
2019 Summer Bar Exam & LLLT Exam Pass List
CONTINUED

S
Sabin, Jerald Conner • Veradale
Saleem, Asif • Hilmar, CA
Sanchez, Ava Elizabeth • Seattle
Sandoval, Fabian • Seattle
Saperstein, Michelle M. • Seattle
Sauvageau, Emily Grace • Spokane
Sayasana, Monique Hong • Bellevue
Schade, Rebecca Lynn • Seattle
Schneck, Theodore Robert • Seattle
Scott, Marye Rebecca • Spokane
Scott, Nicholas • Seattle
Seely, Tirra Dawn • Spokane
Sepulveda, Myla Edith • Lake Oswego, OR
Severns, Taylor Anne • Seattle
Sewell, Lauren Irene • Renton
Shamrell-Harrington, Kelsey Lee • Seattle
Shannon, Elizabeth B. • Seattle
Sharma, Yaamily • Seattle
Sheldon, Cameron Ashleigh • Tacoma
Shelton, Anna Rebecca • Seattle
Sheridan, Ruth Adele • Bellevue
Shin, Christina M. • Issaquah
Shultz, Jason Robert • Seattle
Simcock, Emily Charlotte • Seattle
Simmons, Jessica M. • Spokane
Simon, Philip Charles • Woodland Park, CO
Sisco, Gabrielle Juliette • Mercer Island
Sisson, Alexandra Catherine • Seattle
Smith, Christopher David • Spokane
Smith, Sarah Elizabeth • Seattle
Smith, Shane Bradley • Yakima
Smith, Teresa Chalmers • Lake Oswego, OR
Soden, Caitlin Marie • Kenmore
Soood, Krishna • Mercer Island
Spiess, Dillon Louis • Edmonds
Springstroh, Nicole Renee • Seattle
Stabenow, Sarah Beth • Lynnwood
Stanphill, Jillian Moriah • Auburn
Starkey, Byron Craig • Newcastle
Stearns, Samantha Lou • Knoxville, IA
Steed, Shannon Olivia • Northport
Stewart, Chase Allen • Chicago, IL
Storms, Emily Kieran • Seattle
Sullivan, Joseph Bailey • Spokane
Sullivan, Sydney Megan • Seattle
Sun, Sicong • Seattle
Sung, Allyson Marie • Tualatin, OR
Sung, Nak Hwan • Bothell
Surface, Jeremiah Steven • Seattle
Swank, Eleni Ariel • Irvine, CA
Swanson, Gregory M. • Tacoma
Swider, Thorsten Alexander • Unionville, VA

U
Ulmen, Ronald Leeroy • Gig Harbor
Usher, Ryan Gregory • Spokane
Utecht, Macee Brooke • Seattle

V
Van, Reborn • San Francisco, CA
Vanderveen, McKenna Aya • Northridge, CA
Vandsburger, Lerone • Seattle
Vargas-Sosa, Stewart • Belle Isle, FL
Varney, Timothy Garrett • Kent
Velasco Ponce De Leon, Xaxira • Seattle
Vodde, Ethan Barrett • Spokane

W
Wachowicz, Jessica K. • Seattle
Wagnon, Sean • Bothell
Walker, Ashley Michelle • Spokane
Warrick, Inga Patricia • Seattle
Wasson, Ray • Aberdeen
Weaver, Logan Strathern • Seattle
Webber, Andrew Irvin • Chicago, IL
Weber LaMay, Dusty F. • Seattle
Wedeking, Benjamin W. • Des Moines, IA
Wegley, Nicholas Spencer • Woodinville
Wenzel, Katelyn Beverly • Seattle
Wetzel, Andrew Scott • Spokane
Whisman, Karley Anne • Spokane
Whiteley, Dallas William • Bellevue
Wickes, Geoffrey Coleman • Seattle
Williams, Patrick J. • Spokane
Williams, Savannah Rose • SeaTac
Williamson, Bryan Russell • Eugene, OR
Wisley-Paul, Cassidy J. • Tacoma
Witherspoon, Lakayla • Renton
Woolery, Dominic Richard • Seattle
Wright, Joseph William • Seattle
Wrolson, Kayla • Dacula, GA

Y
Yoshimura, Kiri Marie • Edmonds
Young, Rebekah Anne • Federal Way

Z
Zaragoza, Robin Lee • Covington
Zeng, Lu • Seattle
Zerby, Jacob Daniel • Seattle
Zozulia, Olga • Tacoma

LLLTI Exam
Stanley, Debra
We Remain Better Together and United

The Washington Supreme Court acted on the Bar Structure Work Group’s final report, with a majority vote to: retain an integrated bar structure; make no fundamental changes to the six court-appointed boards administered and funded by the WSBA; request that the WSBA conduct a thorough Keller calculation for the court’s review; review and reexamine the recommendations from the WSBA’s 2014 Governance Task Force; and review and reexamine the composition of the WSBA Board of Governors, including the possibility of adding public members.

We Share the Same Mission

The WSBA Board of Governors approved the budget for the 2020 fiscal year (Oct. 1, 2019 to Sept. 30, 2020), which essentially maintains status-quo support for programs and services. The Board also approved a more intensive outside audit for FY20 to provide better transparency and understanding among members, staff, and the Board.

Proposed Change in MCLE Ethics Requirements

The MCLE Board brought before the Board of Governors for discussion a proposed amendment to Admission and Practice Rule (APR) 11; the amendment would require specific topics for three of the six mandated ethics credits per reporting cycle for legal professionals (legal professionals can earn more than the six mandated credits, which can apply to their MCLE requirements). Those topics are inclusion and anti-bias, mental health and addiction, and technology security. The WSBA Board of Governors had a robust conversation, and ultimately decided that—in lieu of endorsing the MCLE Board’s proposal of additional required topics—the WSBA will commit to provide members three credit hours of free CLE offerings covering each of the ethics topics in question annually (in both live and on-demand formats).

UPDATE > At its Oct. 4 meeting, the MCLE Board considered the Board of Governors’ feedback, but voted unanimously to forward its recommendations as written—with typographical and other minor edits—to the Supreme Court for consideration. If implemented, the CLE requirements would go into effect for WSBA members reporting credits in the 2022-2024 reporting period.

Improved Governor Communications

To better enable the Board of Governors to communicate directly with the members and give their perspectives on matters before the Board, they approved using listservs (which members can opt in and out of) to communicate directly with members in their district or their associated stakeholders. The Communications Department will now work with governors to sort out the specific details in the months ahead.

Washington State Bar Foundation Update

Foundation President Kristina Larry reported that trustees have been hard at work to increase fundraising efforts, and the result is a $260,000 gift to WSBA for FY20 (with the likelihood to increase that gift during the fiscal year). This will support WSBA’s public service and diversity/inclusion programs. In addition to the continuing roster, the Board of Governors appointed several new members to the Foundation Board of Trustees: Gloria Ochoa-Bruck, Brent Williams-Ruth, and Maya Manus.

Attorney Access to Detained Clients

The Pro Bono and Public Service Committee asked the Board of Governors to support their efforts to advocate for changes to some administrative procedures at the Northwest Detention Center in Tacoma to allow lawyers better access to detained clients. As approved by the Board, the WSBA president will now sign and send a letter outlining legal concerns to elected officials and enforcement officers involved with the detention center. (Read the full letter in the Sept. 26-27 meeting materials, beginning on page 210.)

Public Defender Resource Packet

The Council on Public Defense’s Pretrial Reform Committee asked the Board to approve its “Defender Resource Packet: Defender Advocacy for Pretrial Release” for broad distribution to public defenders. This is a tool with best practices for public defenders to use when representing a client during an initial appearance and detention hearings. The packet will be on the agenda for action in the Board’s November meeting.

SAVE THE DATE
The next regular BOG meeting will be held Nov. 22-23 in Seattle.

A Summary of the Board of Governors Meeting
Sept. 26 and 27, 2019

WSBA FY20 Budget and Deep-Dive Audit

The Board approved next fiscal year’s (Oct. 1, 2019 to Sept. 30, 2020) budget, which essentially maintains status-quo support for programs and services. (See page 14 for more information about the budget.) Further, the Board approved a more intensive outside audit for FY20 to provide better transparency and understanding among the members, staff, and Board.

ON BOARD
News from the Board of Governors and WSBA.
The WSBA Board of Governors determines the Bar’s general policies and approves its annual budget.

ONLINE > More information can be found at www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/bar-structure-work-group.

LEARN MORE
The agenda, materials, and video recording from this Board of Governors meeting, as well as past meetings, are online at www.wsba.org/about-wsba/who-we-are/board-of-governors.

END NOTICES

ON BOARD
News from the Board of Governors and WSBA.
The WSBA Board of Governors determines the Bar’s general policies and approves its annual budget.
NEED TO KNOW

News and information of interest to WSBA members. Email nwlawyer@wsba.org if you have an item you would like to share.

VOLUNTEER
Custodians Needed

The WSBA is seeking interested lawyers as potential volunteer custodians of files and records to protect clients’ interests. Visit www.wsba.org/connect-serve/volunteer-opportunities/act-as-custodian, or contact Sandra Schilling: sandras@wsba.org, 206-239-2118, 800-945-9722, ext. 2118; or Darlene Neumann: darlenen@wsba.org, 206-733-5923, 800-945-9722, ext. 5923.

WSBA MEMBER WELLNESS
Enrollment for Members’ Health-Insurance Exchange is Open

Whether you’re looking to sign up for health insurance for the first time, or to explore other options, open enrollment for all WSBA members on the WSBA Insurance Marketplace began Nov. 1. Visit the exchange online to compare and purchase products—including health, dental, vision, and long-term disability insurance—for yourself and your employees. wsba.memberbenefits.com/.

WSBA Connects

WSBA Connects provides all WSBA members with free counseling in your community on topics including work stress, career challenges, addiction, and anxiety. Visit www.wsba.org/for-legal-professionals/member-support/wellness/wsba-connects or call 1-800-765-0770.

The "Unbar” Alcoholics Anonymous Group

The Unbar is an “open” AA group for attorneys that has been meeting weekly for over 25 years. Find more details at www.wsba.org/for-legal-professionals/member-support/wellness/addiction-resources or by calling 206-727-8268.

Career Consultation

Get help with your résumé, networking tips, and more—www.wsba.org/for-legal-professionals/member-support/wellness/consultation or email wellness@wsba.org.

2020 LICENSE RENEWAL AND MCLE

Renew Your License, Join Sections, and Certify MCLE Compliance All on mywsba.org—It’s Easy.

LICENSE RENEWAL must be completed by Feb. 3, 2020, and includes paying the annual license fee and any mandatory assessments, certifying MCLE compliance, completing the trust account declaration, and disclosing professional liability insurance or financial responsibility. A 30 percent late payment fee will apply if the annual license fee remains unpaid after that date.

CERTIFY MCLE COMPLIANCE. If you are in the 2017–2019 reporting period, then you are due to report CLE credits and certify MCLE compliance. The deadline for completing credits is Dec. 31, 2019. The certification must be completed online, postmarked, or delivered to the WSBA by Feb. 3, 2020. A late fee will apply if either deadline is missed. Visit www.wsba.org/MCLE to learn more.

JUDICIAL STATUS. Please note that you are required to inform the Bar within 10 days of your retirement or your ineligibility for judicial status (and you must apply to change to another status or to resign). Visit www.wsba.org/licensing to learn more.

RESOURCES
Lending Library

The WSBA Lending Library is a free service to WSBA members offering hundreds of available titles free for short-term loan. Visit www.wsba.org/library to learn more and see what’s available.

WSBA Practice Management Assistance

The WSBA offers free resources and education on practice management issues. For more information, visit www.wsba.org/pma.

Member Discounts

Visit the Practice Management Discount Network for discounts on tools to help you improve your legal service delivery: www.wsba.org/discounts.

Free Legal Research Tools

WSBA offers resources and member benefits to help you with your research. Visit www.wsba.org/legalresearch to learn more and to access Casemaker and Fastcase for free.

WSBA COMMUNITY NETWORKING

New Lawyers List Serve

This list serve is a discussion platform for new lawyers of the WSBA. To join, email newmembers@wsba.org.

ALPS Attorney Match

Attorney Match is a free online networking tool made available through the WSBA-endorsed professional liability partner, ALPS. Learn more at www.wsba.org/connect-serve/mentorship/find-your-mentor, or email mentorlink@wsba.org.

ETHICS
Ethics Line

Members facing ethical dilemmas can talk with WSBA professional responsibility counsel for informal guidance. Learn more at www.wsba.org/for-legal-professionals/ethics/ethics-line, or call the Ethics Line at 206-727-8284 or 800-945-9722, ext. 8284.

WSBA Advisory Opinions

WSBA advisory opinions are available online at www.wsba.org/for-legal-professionals/ethics/about-advisory-opinions. For assistance, call the Ethics Line at 206-727-8284 or 800-945-9722, ext. 8284.

QUICK REFERENCE
Usury Rate for Nov. 2019 is 12%.
DISCIPLINE & OTHER REGULATORY NOTICES

THESE NOTICES OF THE 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 www.wsba.org/news-events/nwlawyer or by looking up the respondent in the legal 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

Credo Enriquez (WSBA No. 28921, admitted 1999) of Seattle, WA, was disbarred, effective 9/13/2019, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.1 (Competence), 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.6 (Confidentiality of Information), 1.16 (Declining or Terminating Representation), 8.1 (Bar Admission and Disciplinary Matters), 8.4 (Misconduct). Emily Krueger acted as disciplinary counsel. Credo Enriquez represented himself. William Fitzharris Jr. was the hearing officer. The online version of NWLawyer contains links to the following documents: Hearing Officer’s Decision; Disciplinary Board Recommendation; and Washington Supreme Court Order.

Noel James Pitner (WSBA No. 36158, admitted 2005) of Spokane, WA, was disbarred, effective 8/15/2019, 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), 1.16 (Declining or Terminating Representation), 3.2 (Expediting Litigation), 8.4 (Misconduct). Codiee McDaniel acted as disciplinary counsel. Noel James Pitner represented himself. Carl Oreskovich was the hearing officer. The online version of NWLawyer contains links to the following documents: Disciplinary Board Order Approving Stipulation to Disbarment; Stipulation to Disbarment; and Washington Supreme Court Order.

Suspended

Mark Gene Obert (WSBA No. 27299, admitted 1997) of McMinnville, OR, was suspended for 30 days, all stayed based on his successful completion of a one-year term of probation in Oregon, effective 8/28/2019, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of Oregon. Joanne Abelson acted as disciplinary counsel. Mark Gene Obert represented himself. The online version of NWLawyer contains a link to the following document: Washington Supreme Court Order.

Transfer to Disability Inactive Status

Thomas A. Mackin (WSBA No. 21062, admitted 1991) of Sammamish, WA, was by stipulation transferred to disability inactive status, effective 8/19/2019. This is not a disciplinary action.

Karen Kenyatta Russell (WSBA No. 33308, admitted 2003) of Seattle, WA, was by stipulation transferred to disability inactive status, effective 8/19/2019. This is not a disciplinary action.

Mark R. Stephens (WSBA No. 26110, admitted 1996) of San Diego, CA, was by stipulation transferred to disability inactive status, effective 8/19/2019. This is not a disciplinary action.

ONLINE

See full details of the notices by accessing the links in the online version: www.wsba.org/news-events/nwlawyer.
ANNOUNCEMENTS

BENJAMIN AND HEALY’S CRIMINAL TEAM
is proud to announce its company rebrand to

VINDICATE CRIMINAL LAW GROUP

For the last 20 years, Benjamin and Healy has been a leading provider of criminal defense services throughout Western Washington with award-winning advocacy. This success allowed our company to grow, doubling in size over the last several years with multiple office locations. Most recently, our firm has opened an office in downtown Seattle located in the One Union Square building. We are continuously expanding, extending quality legal representation in criminal defense all over the Pacific Northwest.

This new branding represents our advancement and growth with a name that defines our primary motivation. Regardless of the change, our core principles will forever remain true to our brand. Vindicate Criminal Law Group promises to continue its ongoing commitment to our clients and to exceed service standards with the latest technology, training, research and dedication.

Vindicate Criminal Law Group
Tel: 888-211-7814
VindicateLaw.com

SCHLEMLEIN FICK & SCRUGGS, PLLC
is pleased to announce

Hannah B. Calas
has joined the firm as an associate attorney.

Miss Calas joined the firm as a law clerk in 2017 and graduated from Seattle University School of Law in May 2019.

Voted one of the best companies to work for in Washington, Schlemlein Fick & Scruggs emphasizes practical, common sense solutions to complex business, real estate, construction and litigation disputes as well as counseling our clients on corporate and transactional matters.

66 S. Hanford Street, Ste. 300
Seattle, Washington 98134
Tel (206) 448-8100
www.soslaw.com

FORSBERG & UMLAUF, P.S.
We are excited to announce that

Michael D. Handler & David A. Lipkin
have recently joined our firm

Michael D. Handler is Of Counsel with expertise in insurance coverage, and defense of bad faith claims, in Washington and Oregon. Michael is a 1993 graduate of Boston University School of Law.

David A. Lipkin is Of Counsel, working in our Tacoma office, with a primary focus on personal injury litigation. David is a graduate of Nova Southeastern University Law School, cum laude.

Forsberg & Umlauf, P.S.
901 5th Ave., Ste. 1400
Seattle, Washington 98164
Tel (206) 689-8500 – Fax (206) 689-8501
www.FoUm.law
RYAN, SWANSON & CLEVELAND, PLLC

is pleased to announce that

Joe Sakay

has joined the firm as a Member and Chair of the Banking Services, Creditors’ Rights & Bankruptcy practice group.

Joe has a lender and banking industry focused insolvency and bankruptcy litigation practice, representing creditors in both Oregon and Washington. He will lead Ryan Swanson’s seven-lawyer Banking Services practice group, providing legal services for local, regional, national and foreign banks/financial institutions, leasing companies and related businesses.

(206) 654-2242
sakay@yanlaw.com

Ryan, Swanson & Cleveland, PLLC
1201 Third Avenue, Suite 3400
Seattle, WA 98101
www.ryanswansonlaw.com

DAVIES PEARSON, P.C.

Attorneys at Law

is pleased to announce that

Rebecca L. Schade

has become an Associate of the firm. She graduated from the Seattle University School of Law, magna cum laude, and received her B.A. in Social Work from San Diego State University, summa cum laude. Ms. Schade plans to practice in the areas of personal injury, workers’ compensation, and appellate advocacy.

(253) 238-5134
rschade@dpearson.com

920 Fawcett Ave | PO Box 1657
Tacoma, WA 98401
Tel (253) 620-1500 – Fax (253) 572-3052
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State v. Letourneau,
100 Wn. App. 424 (2000)
Fordyce v. Seattle,
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the last three years. The practice/case breakdown is 50% business law, 35% estate planning, 10% general legal services, and 5% intellectual property. The practice is located in East King County in a 2,000 SF leased office space. Contact info@privatepracticetransitions.com or call 253-509-9224.

Thriving Stevens County personal injury & family law practice that was established in 2009, has a strong client base, and brought in over $855,000 in gross revenue in 2018. The practice/case breakdown by revenue is approximately 48% personal injury, 43% family law, and 9% other (estate planning, probate, general litigation, etc.). The practice employs five people: one (1) owner/attorney, three (3) legal assistants, and one (1) office administrator. Contact info@privatepracticetransitions.com or call 253-509-9224.

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Theresa J. Champ

BAR NUMBER: 41001
LAW SCHOOL: University of Washington

I am the youngest of five children. My parents are Christian missionaries. Throughout my childhood, we lived all over the world: the United States, Mexico, Eastern Europe, Peru, and Ecuador. When I was 15, I told my parents that I wanted to return to the U.S. to go to school and become a lawyer.

In 2004, I graduated from the University of Oregon with a degree in political science. I then attended the University of Washington School of Law and passed the Washington bar exam in 2008. During my 2L year, I began to think about what I wanted to do as a lawyer. I became intrigued by the Navy JAG Corps. When I was accepted, I was thrilled but admittedly also nervous. Looking back now, it was one of the best decisions of my life. I have had more learning experiences, adventures, and professional opportunities than in any job I could imagine.

During my first four tours in the Navy, I spent three years as the defense counsel and legal assistance attorney in Newport, Rhode Island; three years at the Military Commissions, where I was the lead defense counsel for two Guantanamo Bay detainees; two years as the deputy staff judge advocate for Commander Naval District Washington; and two years as the Legal Assistance Department head in Bangor, Washington.

Since April 2018, I have been stationed onboard the USS John C. Stennis (CVN 74) as the command judge advocate. During our deployment from October 2018 to May 2019, we conducted combat operations in Syria, Iraq, and Afghanistan and performed operations in support of national interests in the South China Sea. In my capacity as the command judge advocate, I advise the commanding officer in all areas of law.

In my free time, I am an avid hiker, runner, and adventurer. I love to travel, and I am obsessed with our amazing national parks. It is my goal in life to visit all 60 parks. I love to read historical books (I read 27 books on deployment), dabble in amateur photography, and drink wine. I am married to a wonderful, supportive husband who puts up with my adventuring, and I’m a mother to a son who gives me focus.

The best advice I have for new lawyers is find what makes you smile when you wake up to do it at 4 a.m.

The most rewarding part of my job is playing an integral part in improving the operations of the ship and, by extension, our nation, daily.

The most memorable trip I ever took was... This is a tough question! Although not an international trip, I really loved the cross-country trip with my husband and son when we moved from Washington, D.C., to Poulsbo. We took 16 days and drove up to Niagara Falls, Mackinac Island, the Badlands, Mount Rushmore, Yellowstone, Grand Tetons, Salt Lake City, Bonneville Salt Flats, Lake Tahoe, the Redwoods, and up the Oregon coast.

I enjoy reading historical books. I love Jon Krakauer, Erik Larson, Nathaniel Philbrick, Hampton Sides, and many others.

My favorite place in the Pacific Northwest is the mountains! I love the Cascades and the Olympics. The last hike I did before deployment was Maple Pass Loop in North Cascades in October, and the fall colors were just breathtaking!

Friends would describe me as a loyal friend. Even when I don’t see my friends for years, I work really hard to maintain connections. I am super good at bringing people together and making adventures happen.

This is on my bucket list: Visit Antarctica! Hike in the Dolomites. Hike in Patagonia.

My motto is never make life decisions when you’re tired, hungry, drunk, or generally pissed off.

If I have learned one thing in life, it is to live in the moment, but have a framework that you’re working in for your future.

YOLO (You Only Live Once) is an important principle to live by, so long as you don’t let it lead you down paths that limit your options in life. Look for ways to stay happy, curious, and adventurous, but always responsible.

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