2015–16 WSBA President
William D. Hyslop

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Washington State Bar Association

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ON THE COVER: 2015–16 WSBA President William D. Hyslop is photographed at Riverfront Park in Spokane. The 100-acre park is located along the Spokane River and encompasses the upper Spokane Falls. The park features the 1902 Clocktower, the 1909 Looff Carrousel, the Sculpture Walk, and is the site for many of the city’s festivals. It was created for Expo ’74, a World’s Fair event. Photo by Rick Singer Photography; http://www.ricksingerphotography.com.
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BOB DICKERSON TRIBUTE

Thank you for the wonderful article on my brother, Bob Dickerson. (“Leaving the World a Better Place” by Robin Lindley, SEP 2015 NWLawyer). It captured much of what was amazing about him and the work he did. He never gave up. His kindness still echoes in my heart. One of the last initiatives he worked on was legislation to bring an end to the preventable deaths of children and mothers in our world. Near the end of his life, he worked with Congressman Reichert to introduce legislation called the Reach Every Mother and Child Act. This bill has already been introduced in the Senate (S. 1911) and soon to be introduced in the House. This bill puts reforms into law for the United States Agency for International Development (USAID) that make it more efficient and transparent. This bipartisan legislation includes no new money, relying instead on money more efficiently used. So if you, like me, are inspired by my brother, give a call or email to your senators and representatives and ask them to support this life-saving legislation.

Willie Dickerson, Snohomish

GREENER PASTURES

I just received the 80 page “green” issue in my “regular” mailbox — oh the irony! Although California trails much of the Northwest on many environmental issues, it would be great if WSBA took a signal from the State Bar of California and sent NWLawyer only electronically. I’ll look forward to that day.

Larry Ward, Seattle
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July 29, 2015, was a pleasantly ordinary day in Bellingham, where I live. Yet something unusual happened. It wasn’t unexpected; I was well aware it was about to occur. In fact, I had known for about 30 years that it most likely would happen eventually. Yet I was utterly unprepared mentally and emotionally. In midday on that date, William Michael Heatherly was born, making me a grandfather.

About a month after you read this, I will turn 58. For the past eight of those years I have served as editor of Bar News and NWLawyer. This column will be my final official act in that capacity, as my contract has expired and I have chosen to close the back cover on this part of my career. That I am becoming a grandfather and leaving NWLawyer in close succession is a coincidence. But let me explain why I’m talking about both milestones together.

The world has changed to a nearly incomprehensible degree during my lifetime. A lot of miraculously good things have happened during that time, along with many catastrophic ones. Just recently, I have fallen into a dangerous habit. When future misery is forecast — escalation of war, a worldwide pandemic, the West Coast toppling into the ocean — my internal voice is beginning to say, well, at least I’ll probably be gone by then. I suppose that’s a natural defense mechanism that serves us well as we get older, one of the perks in the generally unpleasant process of aging.

I was holding William Michael Heatherly the other day and it struck me like a bolt of lightning that this little human with the name so similar to mine most likely will be around until the turn of the next century. While I may have joined the big bar association in the sky about whatever cataclysm befalls the planet next, my kid’s kid might still be here and have to deal with it.

I will write a fuller farewell article for the next issue of NWLawyer, but I want to say this now: My experience as part of the WSBA family has increased my confidence that our species will keep its act together at least enough to give William Michael Heatherly a chance at a decent life. I’m still skeptical about whether the good in our nature will overcome the bad in the really long run. But in the microcosm of society that the WSBA represents, I’ve learned there are more people than I imagined who are willing to give of their time to help others and do their best to make things better for the future. The presidents, governors, section and committee members, and others sacrifice innumerable hours from their day jobs and personal lives for free in order to serve the membership. The WSBA staff and its many affiliated organizations demonstrate the highest level of talent and commitment, and I only wish more WSBA members could be aware of that.

I say all of this sincerely. I’ve kind of run out of space to tout the rest of what’s in this month’s issue of NWLawyer as I normally do. But it’s really good, trust me. And since this is October, much of the issue is dedicated to introducing the new president and Board members, who will carry on the good work. NWL

Michael Heatherly
NWLawyer Editor
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Looking Back and Looking Forward

As we approach the end of our 125th anniversary year, it is appropriate to both look back a bit, and to look forward to see what is on the horizon for the practice of law and the WSBA. I’m proud to be the 2015–16 president, and I appreciate this opportunity to converse with our members in this first of several columns in *NWLawyer*.

Looking back, one has to appreciate the founders of our great State Bar, and their vision for our profession in this state. The Washington Bar Association began in 1888; it was changed to the Washington State Bar Association in 1890. With 35 original members, we can all form mental pictures of what the practice of law was like in those early days of statehood that followed. By 1913, there were approximately 600 lawyers serving the public. It has been particularly interesting to read the many articles in *NWLawyer* this past year about the development of the practice of law and our history.

Since those early days and as our state population and the need for legal services have grown, our ranks of attorneys serving the public have obviously grown as well. Today, there are more than 37,000 attorneys licensed to practice law in Washington, of which over 25,000 are active in Washington, with others who are judges or are inactive, who are based out of state and licensed here as part of a multi-state practice, or who are in other categories. The Bar numbers assigned today, a benchmark that many of us refer to in terms of length of service, are approaching 50,000.

I’ve been practicing law for 35 years. With the exception of my service as the United States Attorney for the Eastern District of Washington, I’ve been privileged to practice law with my partners at the Lukins & Annis firm in Spokane. My roots are in Eastern Washington and in agriculture. My father was a farmer in Spokane County, my mother grew up in Douglas County, and my wife’s grandparents were farmers in Whitman County. My law practice is statewide and in Idaho. It focuses primarily on commercial litigation, construction law, and ADR. Over the years, I’ve served in numerous roles in the Bar at the local, state and federal levels.

Throughout our Bar’s history, and certainly for as long as I’ve been practicing, I can’t think of a time when we have not been proud to be attorneys. Jan Eric Peterson, president of the WSBA during my first year on the Board of Governors in 2000, had a theme of “Proud to Be a Lawyer,” and he began the tradition of recognizing local attorneys for the good things they are doing for the public in their communities. Our Bar is strong, in part, because of all the different perspectives represented throughout our membership. We stand up and speak for our clients who have legal problems. We are leaders in our communities.

Today, we are respected as a profession, not because of who we are, but because of what we do for others. The WSBA mission statement declares that our association “is to serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice.” We are guided by core values and principles of advancing and promoting access to the justice system; diversity, equality, and cultural understanding throughout the legal community; the public’s understanding of the rule of law and its confidence in the legal system; a fair and impartial judiciary; and the ethics, civility, professionalism, and competence of the Bar. Those are big areas, and your WSBA focuses on both ensuring competent and qualified legal professionals, and promoting the role of lawyers in our society.

We are supervised by the Washington Supreme Court, which is committed to the integrity of this profession that serves the public and supports the rule
of law. Literally hundreds and hundreds of member volunteers bring their time and expertise to the numerous committees, boards, Bar sections, the Washington State Bar Foundation, and other groups under the WSBA umbrella. We are all supported by an incredibly hard-working executive director and staff of professionals. And that doesn’t even begin to count the work of the many independent organizations vital to our profession such as the Legal Foundation of Washington, the Access to Justice Board, the many volunteer bar associations, county bar associations, minority bar associations, and other organizations. Think of the scope and massive impact we have together. You and I, and the many who share our mission, are all working together to champion justice for everyone.

Looking ahead and to have maximum impact, we need you, all the members of the WSBA, to be involved. Appropriately so, we are responsible for our own destiny, our own professionalism and image, and our own successes. Thus, we need to look at ourselves and always be looking for ways to be more effective and more responsive to the public we serve and to the needs of our members.

This coming 2015–16 term will be very busy for the WSBA. The Board is just concluding an introspective look at governance and will be adopting some of the task force’s recommendations and changes at the September meeting. The next steps will be to present the Board’s response to the governance report to the Supreme Court, hear the Supreme Court’s input, and work together on implementation of an agreed plan. From addressing how agendas are structured to selection of Board members, this has been a thorough and excellent process. Your Board of Governors is committed to “board excellence” at all levels.

This coming year, we’ll be reviewing our strategic goals and plan. This is done every three years to ensure that the work of your Bar is current and relevant.

We are committed to addressing the ever-changing legal services delivery market and impending changes to our profession. The articles and discussions this past year about change in our profession raise important issues for all of us. We need to continue to focus on how you, our members, can direct change and adapt to change. As ABA Past President William C. Hubbard wrote in the book, The Relevant Lawyer: Reimagining the Future of the Legal Profession, “Only an unfiltered vision that confronts, rather than avoids, the profound change ahead can enable our profession to continue to define its own destiny in the face of structural upheaval while standing firmly for principles of justice.” In the same publication, Professor Stephen Gillers said, “Too often, the bar has changed its ways only in reluctant response to external pressure. Today, it must lead, not follow.”

The changes on the horizon and those knocking on our front door include continuing to address the “justice gap” between those in need of legal services and those being served. The 2015 update to the state’s 2003 Civil Legal Needs Study tells us that the justice gap is not being filled and that we must be ever vigilant to support the access to justice movement. We must be innovative in how we do so at the same time. As an example, the Limited License Legal Technician rule adopted by the Supreme Court is an important effort to provide legal service to the public who may not need or be able to afford a licensed attorney.

Another changing dynamic is how a growing percentage of clients seek legal help through technology-driven services that are changing the legal marketplace. Likewise, with “virtual” law practices developing, the traditional business model for some of our members is being reshaped. Globalization of practices and change in regulation is also on the horizon. These are just some of the change issues that we as a bar must continue to address. In doing so, we must maintain the ethics, professionalism, and values of our profession that are hallmarks of the legal system.

Likewise, we are seeing change occurring in the demographics of our State Bar membership which has implications for all of us — when people are entering the profession, who is leaving the practice of law, the choices of how our members practice law, amongst other indices — are all issues that your State Bar is watching and addressing. WSBA programming is directed to your needs. As an example, the WSBA offers special New Lawyer Education skill-building seminars for lawyers to help them develop, and achieve independence and success.

Addressing the cost of civil litigation is another issue before the Board of Governors. The Escalating Cost of Civil Litigation Task Force has been studying this important issue for several years and has just submitted its report and recommendations. The recommendations will be addressed by the WSBA Board of Governors in sections in the coming months. Review the Task Force’s report online on the WSBA website. Everyone’s input is welcome as we look at what our profession can do to positively impact the cost our clients face in seeking to resolve their legal problems.

These are just some of the issues your WSBA is addressing. A lot has changed in the past 125 years. The future of this great profession is bright. We need to celebrate and stand “proud to be a lawyer.” At the same time, all members are encouraged to be actively involved in our profession at every level. We must lead, not follow. By working together, we will remain the stewards of the justice system for this state and the public that we serve.

Bill Hyslop is the WSBA president and can be reached at whyslop@lukins.com.
William D. Hyslop was sworn in by Chief Justice Barbara Madsen as the 2015–16 WSBA president on Sept. 17. He practices in civil litigation and dispute resolution for Lukins & Annis, P.S., in Spokane, where he is a principal. He has practiced for the firm since 1980, except for 1991–93, when he served as U.S. attorney for the Eastern District of Washington.

An active member of Washington's legal community, Hyslop has been involved in many WSBA activities and served on the Board of Governors in 2000–03. In 2006, he was awarded the WSBA President’s Award in recognition of his work in the Spokane community and service to the legal profession. He is a past president of the Spokane County Bar Association and of the Washington State University Alumni Association.

Hyslop earned his law degree from Gonzaga University School of Law, a master's in public administration from the University of Washington, and his undergraduate degree from Washington State University.

You have been involved in many WSBA activities over the years and served on the Board of Governors in 2000–03. What motivated you to run for president at this particular time in your career?

The law profession has been very good to me. I’ve been practicing law for 35 years. During that time, I’ve been privileged to practice with an incredibly wonderful group of attorneys and staff at the Lukins & Annis firm in Spokane and Coeur d’Alene, with the exception of a few years in the middle when I was the United States attorney for the Eastern District of Washington. I like the law because of the in-
As you begin your presidency, the state Supreme Court is poised to begin consideration of proposals to change how the WSBA is governed, including some that could substantially alter such things as selection and composition of the WSBA Board of Governors, election and role of the president, and policies affecting the Board’s relationship to the Court. No one knows how the issue will play out, but do you have a sense of what progress (if any) might be made in that regard during your term and how the process might affect the Board and WSBA in general over that time?

The WSBA Board of Governors formed the Governance Task Force in September 2012 to review how we do business and to make any recommendations for improvement and efficiency. It presented its recommendations in June 2014 to both the Board and to the Supreme Court, which supervises our profession. Since then, the Board has very deliberately reviewed the Task Force’s recommendations by taking them up in sections throughout the past year. It has been an excellent and very thorough process.

Some of the recommendations for change are larger than others, such as whether public members should serve on the Board, as is the case in many other professional organizations. Some require bylaw changes to be implemented and some have already been implemented. Likewise, some require involvement of the Washington Supreme Court, which over this past year has also been reviewing and considering the Task Force recommendations. The Board has also implemented some changes that are not addressed in the Task Force report.

I anticipate that many of the Task Force’s recommendations will be adopted at the September Board meeting, some with a few modifications, and some won’t be fully accepted for good logical reasons. The Board’s report and response to the Task Force recommendations is available online at the WSBA website so that everyone can read it. It will be presented to the Supreme Court for review. During the coming months, we will then be revising some of the WSBA’s Bylaws to properly implement the governance changes that are approved.

Will these changes affect how you and I practice law? No. But like any organization, we have a responsibility to govern ourselves in a manner that is most effective and efficient. The WSBA’s mission is “to serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice.” The proposed governance changes help us achieve that, and I look forward to discussing those in future President’s Corner columns in NWLawyer.

Who has had the biggest overall positive influence on you in your legal career or otherwise?

My parents, Tom and Catherine Hyslop, have had a huge and lasting impact upon my life. Both were always involved. They valued service and creating opportunity for others. My father was a third-generation wheat, barley, and dry-land grass seed farmer. He worked hard, was willing to try new things, was a principled person, and he loved people. He was a leader in his industry, and he served his community in innumerable ways.

My mother is 99 now; she was also very involved in the betterment of her community and in providing opportunity for others. As an example, she was a very active member and leader on the Board of the Hutton Settlement Children’s Home in Spokane for nearly 50 years. And anyone who worked with my mother knew the meaning of “active involvement.”

My father would have loved to have had one of his children become a fourth-generation farmer of the ranch that my great-grandparents homesteaded. However, he never said that. Instead, he was steadfast in supporting whatever interest we chose to pursue. He just said that you have to work hard to do your best, and that you need to be the best citizen you can be; if you do that, you’ll do well. I think they were proud of each of us, and they loved each of us in the process. I’ve learned so much by the way they lived their lives.

Washington has launched the Limited License Legal Technician program, the first of its kind in the nation, and the first group of LLLTs has completed the required training and taken the licensing exam this year. How do you envision the presence of LLLTs affecting the practice of law in the coming years, from the point of view of both lawyers and clients?

As I’ve discussed here, our role as lawyers is to serve the public and to help them with their legal problems and...
needs. It is clear that, even as busy as many of us are, we don’t begin to serve a significant segment of the public. The 2003 Civil Legal Needs Study told us that 80 percent or more of low- or moderate-income citizens experience legal problems and have no help. We don’t have a monopoly on legal services and we need to look for ways for everyone to have access to legal help.

Shortly after I started practicing law, Limited Practice Officers (LPOs) were authorized to help with the closing of real estate transactions. Some feared the prospect of a non-lawyer being able to provide what had been considered the province of attorneys. Today, it is commonplace to use LPOs; we have learned that some of our services don’t require three years of law school and the passage of a bar exam.

A few months ago, the inaugural class of seven Limited License Legal Technicians graduated. More will graduate this coming year. When licensed, they, and those who follow them, will be authorized to help clients in a limited capacity with family law cases. The process is all regulated by Court rules.

Several things are clear. LLLTs will be serving many of the public who would not otherwise seek or may not be able to afford the services of an attorney. The scope of their services is very limited, and will be closely watched. As examples, they cannot represent clients in court and they are not authorized to negotiate with an opposing party or an opposing attorney. Even though they are not attorneys, the LLLT’s standard of care is that of an attorney to the extent of the limited scope of service they may provide.

In my opinion, this is a good program. More of the public may have access to limited legal help. The ultimate success of the program will be measured in time. The economy may dictate much of whether LLLTs are hired solely by lawyers and law firms to provide limited legal services to the firm’s clients, whether LLLTs are successful in creating their own “practice” and their own firm that the public seeks out for very limited purposes, or whether both models thrive.

Although Bar members from elsewhere in Eastern Washington have served as WSBA president in recent years, you and your successor (President-elect Robin Haynes) will be the first Spokane-based presidents since Richard Eymann in 1999–2000. Historically, Eastern Washington Bar members have sometimes felt left out of what they see as the Seattle-centric mindset of the State Bar. Are there Spokane/Eastern Washington issues of which you’d like to see the WSBA become more aware, and do you have ideas about how to get east-of-the-mountains Bar members more involved with the WSBA?

I’ll say it again: all members need to be involved in working to better our profession. There are innumerable ways for that to occur. The Cascade Mountain chain is no barrier to that.

In terms of the WSBA presidency, yes, I’m proud to be the first WSBA president from Spokane in 15 years. Each one of us brings our own unique perspective to the Bar, and one of our strengths as an organization is in encouraging leadership from around the entire state. I grew up in Spokane, graduated from WSU, worked in Olympia, and then lived and worked in Seattle while I was earning my master’s degree in public administration at the UW. Then I returned to Spokane to attend law school at Gonzaga and to practice law in Spokane.

Active WSBA members elect members to the Board of Governors and they elect our officers. I believe it is a fair process and a good process. There is definite strength for the WSBA to have officers come from different areas of the state. Over the course of time, all perspectives contribute to the overall goal of “working together to champion justice.”

The WSBA has a long-standing commitment to diversity of all kinds in its own leadership and staff as well as throughout the Bar membership and justice system. At the same time, there is an ongoing debate about how to translate ideas for maintaining and improving diversity into concrete, measurable solutions. Do you envision WSBA’s approach to diversity changing during your term?

Diversity and inclusivity are core values of the WSBA and of our profession. That should not change from president to president. The WSBA adopted its “Inside Out” plan of growing diversity over a year ago. Under Anthony Gipe’s able leadership this past year, we have advanced that discussion to the broader subject of inclusivity.

The Board of Governors has a very diverse makeup based upon almost any standard. As an organization, we are encouraging every WSBA committee, board, or section to emphasize diversity and inclusion in their work. This is a shared responsibility that each of us has. As the governing Board for the Bar, we set the standards and expectations, and this is a valued one for the profession as a whole. It is much larger than the impact of any one officer in any one year.

Ensuring people’s access to the justice system regardless of socioeconomic status and other factors is another long-term priority for the WSBA. Do you anticipate the WSBA and the Board dealing with particular access to justice issues during your term?
Absolutely. This is another core value and guiding principle of the WSBA and of our profession. “Equal Justice for All” hangs above the entrance to the U.S. Supreme Court for good reason. Lady Justice is blind to the financial ability of any person for good reason. Our courthouse doors must be open to everyone in order that they may serve anyone.

Personally, I’ve had the privilege to work in the access to justice movement for well over 25 years. Even before I was a trustee of the Legal Foundation of Washington, I was a vice chair of the Equal Justice Coalition. I served on the State Supreme Court’s panel overseeing the 2003 Civil Legal Needs Study. I’ve raised money for LAW Fund and the Campaign for Equal Justice. I’ve lobbied in Washington, D.C., and Olympia for federal and state funding. And perhaps most satisfying, I’ve represented clients in need on a pro bono basis.

We know from the update of Civil Legal Needs Study, which has just occurred this year, that there continues to be a huge unserved public with critical civil legal problems. The justice gap between need for legal help for many and the ability to serve those folks is real. We will be discussing the implications of the new study in the coming months and I will be asking the WSBA and our access to justice community to work even harder at finding ways to ensure our justice system is available and accessible to everyone.

What is the most important lesson you have learned as a lawyer that nobody taught you in law school?

That the justice system is not perfect and sometimes does not get it right. Nonetheless, we have a wonderful and remarkable system of justice in this country. Every member of this great association needs to speak up for the justice system and for an independent judiciary. If we don’t do it, we can’t expect anyone else to do it.

Past President Patrick Palace initiated a Future of the Profession forum and ongoing discussion group, which has also included a column in NWLawyer. This has led to a wide-ranging conversation about the long-range future of legal practice, including controversial ideas such as allowing non-lawyers to be involved in ownership of law firms and greater “unbundling” of legal services that might reduce costs for clients but also shift more traditional lawyer duties to non-lawyer professionals or clients themselves. Other than the LLLT program we’ve already discussed, do you expect to see the WSBA or the Board asked to take action on any of these issues during the next year?

This is a continuing discussion of great importance. The delivery of legal services is experiencing unprecedented dynamic change here in the United States and throughout the world. For our part, we attorneys can either participate in shaping our future or we can allow ourselves to be the victims of change.

We need to continue to address how that change affects WSBA members in their communities and in their practice areas. We need to address how we as an association should support our members through education and exposure to these changes in the marketplace. As discussed above, some say the “justice gap” between those served and those without real access to the legal system is widening. Whether and how the consuming public seeks representation for their legal problems is obviously changing. How we practice law as individuals and in firms is dynamic. Technology is bringing huge changes to the marketplace. Regulation of attorneys is shifting in some countries to an entity basis. The path a new or young lawyer takes today to practice law is much different than I faced when I began practicing law.

As an association, we need to identify how to involve our members in these and other changes. We need to include the courts as we collectively determine what we as a profession need to do to position ourselves to best serve the public and our members. Yes, the discussion about change has begun and is ongoing. Now we need to determine what the WSBA and our members need to do about it.

Other than those we’ve already mentioned, what do you see as the one or two biggest issues likely to face the WSBA and Board during your term?

We’ve talked about the changing practice of law from several perspectives. One very important project that we haven’t discussed is the exciting work of the Washington Young Lawyers Committee (WYLC). The WSBA Board of Governors held two in-depth discussions with the WYLC leadership this year dealing with specific issues they are facing: the job market, the effect of undergraduate and law school debt, the ability of new and young lawyers to network and find community, including mentoring, and how they can find and mold their own pathways to leadership in their Bar, their practices, and their community. The WYLC is now working on synthesizing all this down to review what the WSBA is already doing in any of these areas, and what recommendations they may have. We applaud their commitment and their work!

A second critical project and one we’ll be addressing this year is the review of the report of the Escalating Cost of Civil Litigation Task Force. Working since late 2011, this group presented its recommendations to the Board of Governors in July. Their work is impressive. Amongst other issues, it addresses how cases are scheduled, how discovery is conducted, and whether and what changes should be implemented that both preserve the fundamental fairness of our justice system and that will impact the continually rising cost of litigation. Now the Board will address those recommendations in segments throughout this year, and we’ll ultimately determine what we recommend be submitted to the Supreme Court for its review and action.

There is a lot on the Board of Governors’ plates. I invite all WSBA members to join us for any of these discussions. NWL
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Robin Lynn Haynes
President-elect

Robin L. Haynes was elected to the WSBA Board of Governors in June 2012, representing new and young lawyers. During her time on the Board, she has been active with the MCLE Task Force and Board, the Washington Young Lawyers Committee, the Committee for Professional Ethics, and the Washington State Bar Foundation, as well as chairing the BOG Legislative Committee. She is a principal in the litigation, employment, and intellectual property groups at Witherspoon Kelley in Spokane. She previously worked with the firm of Reed & Giesa, P.S., where she became its first female partner in 2011.

Haynes’ involvement in the legal community began during law school with the ABA and has continued with mentorship and leadership every year since she was admitted. Haynes served as president of the Spokane County Bar Association’s Young Lawyer Division, with the former Washington Young Lawyers Division (now WYLC) of the WSBA as the Greater Spokane trustee, and as a board member for the Spokane County Volunteer Lawyers Program. Haynes was selected the Outstanding Young Lawyer of the Year by the WSBA in 2012. She is a founding board member for the Washington Veterans Will Clinic, providing free estate planning for veterans across our state; a Moderate Means Program attorney; and active with Planned Parenthood’s Women’s Leadership Circle. Haynes is a triple Zag, earning her undergraduate, master’s, and law degrees from Gonzaga University, where she remains active with mentorship and student competitions. She will be the WSBA’s youngest president and the fifth woman to hold the position.

G. Kim Risenmay
Governor, District 1

Kim Risenmay is licensed as both an attorney and a certified public accountant in Washington, with both Bachelor and Master of Accountancy degrees, as well as a J.D. and LL.M. in taxation. For nearly 30 years, he has engaged in multistate tax services, working in major law firms as well as the nation’s largest accounting firm.

For nine years, Risenmay was the Seattle state tax consulting partner for PricewaterhouseCoopers LLP, where he supervised a team of tax professionals. Prior to that, he was a partner in the Seattle law firm of Bogle & Gates, at the time the second-largest law firm in the Pacific Northwest. From 2008 to 2014, he served as senior of-counsel attorney in charge of state and local tax services for the Seattle office of the Stoel Rives law firm, currently the second-largest law firm in the Northwestern states. Kim moved on to open his own boutique law firm and continues to serve Stoel Rives’ clients under retainer.

“The WSBA should support us as we journey with our clients,” says Pickett. “In particular, there are two ongoing areas that I believe are vital to the overall health of our membership: the Bar should continue to provide ongoing support, training, and guidance that encourages lawyers to maintain healthy practices that allow us to help our clients; and the Bar should continually reach out to young people to inspire the next great generation of servant lawyers.”

Pickett received his B.A. degree in
“There are many challenges facing our profession and this 125-year-old organization,” says Hayes. “On a state-wide level, the predicted mass exodus of attorneys from the profession in the next five years will create challenges in mentoring, access to justice, and managing the needs of the remaining members of our organization. At the local level, keeping all the attorneys from our vast district — 10 counties in all — engaged, interested, and informed about our State Bar and its offerings remains a challenge and a commitment.”

James K. Doane
Governor, District 7-South

James Doane serves as corporate counsel with Costco Wholesale, and previously was a partner at Preston Gates Ellis (now K&L Gates) for 15 years. He is chair of the WSBA Corporate Counsel Section; chair of the Diversity/Pro Bono Committee for the Association of Corporate Counsel, Washington Chapter; and serves as vice-president and trustee of The Rainier Club.

Doane, who is fluent in Japanese, studied at Waseda University in Tokyo and received his undergraduate degree in East Asian studies from Harvard University. He received his law degree from the University of Pennsylvania Law School.

“District 7-South is professionally and demographically diverse,” says Doane. “I bring professional and personal diversity, ability and credibility, and current experience on important issues facing the membership in my home town and state.”

Sean V. Davis
Governor At-large

Born and raised in Tacoma, Sean Davis received his undergraduate degree from the University of Washington and his law degree from the University of San Diego School of Law. He currently practices as a tort litigator for Pierce County. Prior to joining the Pierce County Prosecutor’s Office, he was an assistant attorney general, practicing in the Torts and Labor and Industries divisions. Davis also serves as a captain in the United States Air Force Reserve, working in the legal office of McChord Field.

Davis was part of the 2014 Washington Leadership Institute, a program that recruits, trains, and develops minority and traditionally underrepresented attorneys for future leadership positions in the legal community. “My experiences as a WLI Fellow sparked an interest in serving on the Board of Governors,” says Davis. “I was able to see firsthand the challenges the WSBA faces in preparing members to deliver legal services in a meaningful manner, to a greater percentage of the population.”

Angela M. Hayes
Governor, District 5

Angela Hayes has served as in-house legal counsel for Associated Industries in Spokane since 2009, where, among other work, she provides training and advising on a variety of employment- and labor-related issues. She was previously a managing partner of Randall & Danskin, P.S., where her practice areas included civil litigation, trust and estate dispute litigation, guardianships, and medical negligence defense.

A Spokane native, Hayes earned her undergraduate degrees in English and communication (University of Washington), and a bachelor of science in nursing (Washington State University). She graduated summa cum laude from Gonzaga School of Law in 1998. Hayes has served on the WSBA Board of Bar Examiners since 2003 and was a Spokane County Bar trustee from 2003–05 and 2009–11.

“There are many challenges facing our profession and this 125-year-old organization,” says Hayes. “On a state-wide level, the predicted mass exodus of attorneys from the profession in the next five years will create challenges in mentoring, access to justice, and managing the needs of the remaining members of our organization. At the local level, keeping all the attorneys from our vast district — 10 counties in all — engaged, interested, and informed about our State Bar and its offerings remains a challenge and a commitment.”
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Collision Between the Right to Counsel and the Right of Self-Representation in Cases Involving the Mentally Ill

by Thomas C. Sand

The Washington Constitution guarantees a criminal defendant the right to counsel and to self-representation. But what happens when a mentally ill defendant who is not competent to represent himself seeks to do so and those rights collide? The answer in Washington and other states is unclear. In those states, a higher standard of competency need not be established to proceed pro se. The time has come for states to recognize that a competency standard beyond mere competence to stand trial must be met to allow a criminal defendant to represent himself. Anything less denies a fair trial and violates due process of law. Consider the case of David Marshall.

David's Story
David Marshall was born on an Indian reservation to an addicted mother and a violent father he barely knew. Suffering from Fetal Alcohol Spectrum Disorders (FASD), David spent the first six years of his life enduring such physical, emotional, and sexual abuse that he was hospitalized 12 times. Finally, with the assistance of a supportive foster family, a special education plan, and the correct psychotropic medications, he was able to complete high school.

At 18, he “aged out” of the State’s support network, struck out on his own, and stopped taking his medications. He had few friends, but two of them, brothers attending college nearby, allowed David to spend time at their apartment. One evening, David was invited to stay for dinner if he would pitch in for a bag of rice. Offended, David left. Several hours later, after drinking alcohol and smoking marijuana, David purchased a shotgun and drove to the brothers’ apartment with his friend Joe. When Timothy opened the door, David fired the shotgun. No one was seriously hurt, although Timothy went to the hospital to have birdshot removed from his scalp and was released that same evening. Two others in the apartment were untouched. David was charged with three counts of attempted murder.

At arraignment, David’s publicly appointed defense counsel requested a competency evaluation of David. A sanity commission evaluated David, and the evaluating psychiatrist testified that he was “mentally ill [with] delusional thinking,” “psychosis not otherwise specified.” The court found David not competent to stand trial and ordered him committed to the state hospital for competency restoration.

At a second competency review hearing, the court reviewed the findings of the state hospital doctors, who found David’s competence to be a “close call.” During this hearing, defense counsel notified the court that David had been diagnosed with FASD, and both defense and State counsel requested an assessment by a professional specializing in...
evaluating developmental disabilities. Despite the court’s concerns, David was found competent to proceed. Then David petitioned the court to proceed pro se. At a third competency review hearing, the court denied David’s request to proceed pro se and questioned whether he was competent to stand trial.

At a fourth competency review hearing later that month, David exhibited the effects of FASD when he raised his voice and interrupted the court, saying to the trial judge:

[T]his whole sh** and your scheme and the foul play, the reason why I want to go to jury trial is so I can point out your motherf***in’ lies to the jury. Man I can’t wait to f***in’ sue your a** and sh** . . . . My tribe wants to get involved so much and tear the f***in’ sh** out of you guys . . . . Convict me. Convict me. I ain’t scared of no f***in’ 45 years. This is a white man’s law right here. This is a white man’s court, man . . . [If] Chief Joseph didn’t save Lewis and Clark I wouldn’t have to be here.

David then left the courtroom, yelling at the judge: “Shut the f*** up, bitch.”

David’s demeanor in the psychologists’ interviews had been similar to that in the courtroom: using profanities and pressured speech, and continuing to talk despite security, jail officials, and the court’s requests for him to be quiet. The independent evaluator’s preliminary diagnosis for David was “manic episode occurring as part of a bipolar illness, with psychotic features.” In the independent evaluator’s expert opinion, David’s mental illness precluded his cooperation with the rules of the court and assistance with his own defense.

The independent evaluator further opined that David suffered from a mental disease or defect. He explained that while David understood the rudimentary components of the judicial process and that he could be found guilty, he could not grasp legal procedural issues and the need for representation by counsel. He also concluded that David was so disorganized that there was serious question about his ability to assist in his own defense and that he presented a substantial danger to himself or others. But the independent evaluator offered no testimony and submitted no report about FASD, the effect of this developmental disability on David’s ability to understand the charges against him, or his ability to assist counsel in his defense.

Had the independent evaluator included information about David’s FASD, the court would have learned that FASD is a birth defect resulting from prenatal alcohol exposure that causes lifelong consequences and secondary disabilities. Persons with FASD often have better expressive language skills than receptive language skills, so they appear to understand more than they actually do. Cognitive shortfalls attributable to FASD are often invisible to the untrained observer so they are often missed by judges, counsel, and psychiatrists not specifically trained in its detection. In short, people who suffer from FASD often appear more competent than they are and tend to exaggerate their own achievements, often by taking credit for bad conduct.

The trial judge reiterated his reservations that although David had been deemed competent to stand trial, he presented a substantial danger to himself or others and could not properly represent himself. The judge again expressed personal reservations about David’s competence, but reluctantly pronounced him competent to proceed. David then renewed his earlier motion to proceed pro se. The trial judge reiterated his reservations that although David had been deemed competent to stand trial, the court did not see “a clean bill of mental health.”

The next day, David waived counsel. Six days later, David changed his mind and the court reappointed defense counsel. A month later and just one week before trial, David requested different counsel, saying, “[I]t’s kind of scary. And I [n]eed proper counsel to help me get through this.” After a heated exchange with the court, David changed his mind again and asked to proceed pro se. The judge denied the motion, explaining to David the reason: “Because you are not competent to represent yourself. You do not have the judgment or the ability to properly represent yourself.”

David responded by filing an affidavit of prejudice that led to the appointment
of a new judge. When David asked the new judge for permission to proceed pro se, the judge — without evaluating David’s competency — presented David with the choice of waiving his right to a speedy trial or waiving his right to counsel. David chose to represent himself and the judge granted his request.

David was the only defense witness at trial. He testified to the following alibi: he could not be guilty of shooting into the brothers’ apartment because he had been on the other side of this small college town committing a different crime. He claimed that he had driven with his accomplice to an apartment complex in the opposite direction of the brothers’ apartment and used his friend’s shotgun to subdue six men and escape with a bag of black diamonds, the current location of which he refused to disclose. Not surprisingly, the jury did not accept this version of events, and David was found guilty on all three counts of attempted murder.

The judge sentenced David to 75 years in prison for a first-time non-homicide offense. The trial judge said that the sentence constitutes “what I hope will be a life sentence for you.”

The Need for a Higher Standard of Competency Evaluation Before Self-Representation

Washington law permits the trial court to consider a criminal defendant’s mental health status as but one factor in determining whether the defendant has knowingly and intelligently waived his right to counsel. There is currently no constitutional mandate for the court to conduct an independent determination of competency for self-representation by a criminal defendant. Instead, a court need only determine whether a defendant is competent to stand trial and whether the defendant makes “a knowing and intelligent waiver with ‘eyes open,’ which includes an awareness of the dangers and disadvantages of the decision.”

Great concern is expressed in both federal and state cases about the extent to which a trial court can and should go to ensure a fair hearing for a pro se defendant whose mental competency is questioned. Recognizing the gap in the jurisprudence surrounding competency to stand trial and competency to conduct a defense pro se, the Washington Supreme Court has acknowledged that

“[t]here may be room within the universe of Edwards, Kolocotronis, and Hahn to craft a due-process-based rule requiring a more stringent waiver of counsel for a defendant whose competency is questioned.” The court further recognized that a finding of competency to stand trial “does not establish competency as a baseline for all purposes.”

Despite this recognition of the distinction between competency to stand trial and competency to conduct one’s own defense, whether a court should evaluate a defendant’s mental competency at the time he seeks to waive his right to counsel remains a choice left to the trial court’s discretion. A competency inquiry that is merely discretionary fails to ensure that all defendants will be treated equally before the law. Under the current protocol, one defendant’s due process rights will be protected because a judge opts to inquire into his mental competency to conduct a defense pro

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Another, however, is left unprotected because the court chooses not to inquire into that defendant’s mental competence to represent himself.

The Marshall case offers a stark example. There, two seasoned trial judges came to completely different determinations whether David could proceed pro se. One judge presided over all pretrial hearings and, on three occasions, found David incompetent to stand trial. He eventually concluded that, while marginally competent to stand trial, David was not sufficiently competent to represent himself. The second judge, who presided over the trial, made no inquiry into David’s questionable competency and allowed him to conduct his own defense.

Failing to require trial courts to perform a separate competency analysis when a defendant’s mental health is in question deprives the defendant of his due process right to a fair trial. As the Washington Supreme Court has recognized, if a defendant does not have the requisite mental competency to intelligently waive the services of counsel nor adequate mental competency to act as his own counsel, then his right to a fair trial and his constitutional right to due process of law is disregarded if the court permits him to so act in a criminal case.15

Further, although not addressed in Rhome, the Washington Supreme Court has already recognized a need for a separate competency evaluation for a pro se litigant in the attorney discipline context.16 In In re Meade, the court analogized an attorney facing discipline to a criminal defendant facing trial and expressly stated that competency to stand trial does not equate with competency to conduct a pro se defense.17 The court then held that in determining the mental competency of an attorney who wished to proceed pro se, a separate hearing was required in order to protect his due process right to a fair trial.

Should a lawyer facing discipline have greater due process rights than a mentally ill criminal defendant facing a life sentence? To require a separate hearing to determine whether a mentally ill attorney may represent himself at a disciplinary proceeding because he might not receive a fair trial, yet allow an inexperienced, mentally ill criminal defendant to represent himself at trial, with no required inquiry into his competence for self-representation, is a double standard. A criminal defendant facing life in prison should be entitled to the same due process protection as a lawyer facing professional discipline.

To ensure a fair trial, when two constitutional rights collide, the balance should tip in favor of applying them under the Due Process Clause. Washington and other states must now establish a separate — and higher — competency standard for self-representation. The effects of mental illness, as well as intellectual and developmental disabilities, such as FASD, should require courts to conduct separate competency determinations before allowing a criminal defendant to act as his own lawyer. A more stringent rule must be crafted to meet the Constitution’s most basic objective — to provide a fair trial. NWL
right to self-representation may be denied when although competent to stand trial, he is found to be incompetent to represent himself); Kolocotronis, 73 Wash. 2d 92 (a trial court may deny a defendant’s waiver of counsel when, although competent to stand trial, the defendant is not competent to conduct his own defense); Hahn, 106 Wash. 2d 885 (affirming the trial court’s decision to allow a paranoid schizophrenic defendant to proceed pro se without inquiry into his mental competence).

13. Rhone, 172 Wash. 2d at 663 n.2 (emphasis added).
14. Id. at 665 at n.3 (“[A] defendant’s mental health status is but one factor a trial court may consider in determining whether a defendant has knowingly and intelligently waived his right to counsel, but they do not require us to find that an independent determination of competency for self-representation is a constitutional mandate”).
15. Kolocotronis, 73 Wash. 2d at 99.
17. Id. at 380–81.

NOTES
3. The standard of competence to stand trial was established in Dusky v. United States, 362 U.S. 164 (2008). Under Dusky, a defendant is competent to stand trial only if he understands the nature of the charges against him and is capable of rationally assisting in his own defense.
4. In the interests of privacy and brevity, names have been changed and minor details have been modified.
5. He could have been charged with one count of reckless endangerment or assault.
8. Id.
9. The accomplice, Joe, who drove the getaway car after the shooting, was sentenced to one year and one day, later reduced to seven months.
10. Rhone, 172 Wash. 2d 654.
11. Hahn, 106 Wash. 2d at 895 (citing State v. Jones, 99 Wash. 2d 735, 741, 664 P.2d 1216 (1983)).
12. Rhone, 172 Wash. 2d at 665. In Rhone, the court refers to the following cases: Indiana v. Edwards, 554 U.S. 164 (2008) (a defendant’s

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Loving, Intuitive, Relentless.

Not necessarily the public’s idea of a criminal defense lawyer. Yet to me these qualities are essential. We’re all human. People make mistakes. My job is to tell the whole story, the human story. The law must be compassionate to be just.

I recently defended a young man. Terminally ill, with extensive criminal history, he’s the sole parent of a toddler. Facing a five year sentence on a four count felony, he likely would have died in prison. I fought for him, asserting that his life is larger than his mistakes. The Judge agreed. He and his family have a second chance.

- CHLOE ANDERSON
Attorney at Law

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THOMAS C. SAND is a partner of Miller Nash Graham & Dunn LLP and is licensed to practice in Washington and Oregon. He focuses his practice on civil litigation, with emphasis on securities, employment, and other commercial matters. He was recently inducted as a fellow into the American College of Trial Lawyers. Sand can be reached at 503-205-2475 or at tom.sand@millernash.com. The author gratefully acknowledges the research and writing assistance of Sharae Wheeler.
Annually, the Washington State Bar Association publishes a report on Washington’s lawyer discipline system. The report summarizes the activities of the system’s constituents, including the Office of Disciplinary Counsel (ODC), the Disciplinary Board, hearing officers, and the Lawyers’ Fund for Client Protection. The report also provides statistical information about lawyer discipline in Washington for the calendar year. These pages provide an informal overview of the 2014 Discipline System Annual Report, which is now available on the WSBA website.

NUMBER AND NATURE OF 2014 GRIEVANCES
ODC’s intake staff receives all phone inquiries and written grievances and conducts the initial review of every grievance. After initial review, some grievances are dismissed, and others are referred for further investigation by ODC investigation/prosecution staff. Matters that cannot be informally resolved are investigated and, when warranted and authorized by a review committee, these matters are prosecuted by teams of professional investigators and disciplinary counsel with a support staff of paralegals and administrative assistants. In 2014, ODC received more than 2,000 grievances.

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<th>DISCIPLINARY GRIEVANCES, MEDIATED MATTERS, AND CONSUMER AFFAIRS CONTACTS IN 2014</th>
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The Washington Supreme Court has exclusive responsibility and inherent authority over regulation of the practice of law in Washington. This authority includes administering the lawyer discipline and disability system. Many of the Court’s disciplinary functions are delegated by court rule to the WSBA, which acts under the supervision and authority of the Court. Consistent with the Supreme Court’s mandate in General Rule 12, the WSBA administers an effective system of discipline in order to fulfill its obligations to protect the public and ensure the integrity of the profession.

The WSBA’s discipline functions are discharged primarily through ODC, the Disciplinary Board, and hearing officers. Disciplinary counsel in ODC review and investigate grievances to determine whether grievances should be dismissed or whether they should be reported to a review committee of the Disciplinary Board, which can issue advisory letters, impose admonitions, or order matters to public hearing. Disciplinary hearings are presided over by volunteer hearing officers, who receive evidence and issue findings and a recommendation as to the discipline to be imposed, if any. The Disciplinary Board, composed of lawyer and non-lawyer volunteers, reviews hearing officer decisions. The Washington Supreme Court, which has inherent power to dispose of individual cases of lawyer discipline, reviews the Disciplinary Board’s suspension and disbarment recommendations, which are appealable as a matter of right. The Court also considers petitions for discretionary review of other dispositions.

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

- **DISCIPLINARY BOARD**
  - Reviews recommendations for disciplinary action, disability proceedings, and dismissal through review committees
  - Reviews hearing records and considers stipulations to discipline

- **HEARING OFFICER PANEL**
  - Conducts public evidentiary hearings and other proceedings
  - Considers stipulations to admonitions and reprimands

- **OFFICE OF DISCIPLINARY COUNSEL**
  - Receives, reviews, and may investigate grievances
  - Recommends disciplinary action or dismissal
  - Recommends disability proceedings
  - Presents cases to discipline-system adjudicators
In 2014, the most common grievance allegations against Washington lawyers related to unsatisfactory performance, personal behavior concerns, and interference with the administration of justice. Most grievances arise from criminal law, family law, and tort matters.
In 2014, the majority of grievances filed against Washington lawyers originated from current and former clients and opposing clients. Grievances can also be opened in the name of the Office of Disciplinary Counsel when potential ethical misconduct comes to the attention of disciplinary counsel by other means.

**DISCIPLINARY ACTIONS**

Disciplinary “actions” include both public disciplinary “sanctions” and admonitions. Disciplinary sanctions are, in order of increasing severity, reprimands, suspensions, and disbarments. In Washington, admonitions are also a form of public discipline. Review committees of the Disciplinary Board also have authority to issue advisory letters if a lawyer should be cautioned. An advisory letter is neither a sanction nor a disciplinary action and is not public information. For less serious misconduct, ODC may divert a grievance from discipline if a lawyer agrees to a diversion contract, which if successfully completed results in dismissal of the grievance. In 2014, 31 matters were referred to diversion.

In 2014, 71 lawyers were disciplined. The chart below tracks the number of disciplinary actions imposed over the last five reporting years.

**LAWYER DISABILITY MATTERS**

Special procedures apply when there is cause to believe that a lawyer is incapable of properly defending a disciplinary proceeding, or incapable of practicing law, because of mental or physical incapacity. Such matters are handled within the discipline system, but under a distinct set of procedural rules. In some cases, counsel must be appointed for the respondent lawyer at WSBA expense. In disability cases, upon a determination that the respondent lawyer does not have the capacity to practice law, there is a transfer to disability inactive status.

In recent years, the number of lawyers transferring to disability inactive has increased. In 2014, eight lawyers were transferred to disability inactive status based on an incapacity to practice law.

**Resources**

A LOBBYIST’S LIFE

And Important Juvenile Record Sealing Changes You Should Know

by Hillary Madsen

Stephen Colbert once said, “If I had a dime for every time that I was wrong, I’d be broke.” Some other folks said that Washington, one of the only states to sell juvenile records for profit, would never make juvenile record-sealing automatic. This 2015 legislative session proved them wrong. Now those dimes are waiting to be spread around.

I am a staff attorney with Columbia Legal Services working on the Children & Youth Project. I play many roles in that position — from litigation to community outreach — but in my role as lobbyist I have learned a few things, such as: when is a meeting not a meeting?

Meetings, Meetings, Meetings

When you are a lobbyist in Olympia, you invite and are invited to a ton of meetings. You accept all meeting requests, regardless of whether the requests conflict. This does not always work well in other professional or personal sectors. Here is an example from the archives of #WhyMarryALawyer:

Husband: So how are we going to get to Bellingham this weekend?
Me: Huh? We’re going to Bellingham?
Husband: You accepted the Outlook meeting request, don’t you remember?
Me: I accept ALL meeting requests. I don’t bother reading ANY of them!
Husband: #@*#!

In lobbying, meeting conflicts do not matter because the times are going to change anyway, usually about 20 minutes before the meeting is supposed to start. Someone is running late, or someone more important has bumped you off the calendar, or the topic of the meeting has drastically changed, so no meeting — or an entirely new meeting with different people — is necessary.

By the Minute

About a quarter of the way through my first legislative session, I started living by the hour. Letting go is the lesson. Five-year plan? Ha! Try a five-minute plan. Like Forrest Gump’s box of chocolates, each day begins without knowing how or when it will end. One day rather famously ended with me racing from my infant son’s daycare back to the Capitol and thrusting him into the hands of a co-worker so I could testify in support of a bill that I had been told was dead only 90 minutes earlier.

This sort of hyper-living-in-the-present, rarely seen outside meditative yoga, is perhaps ironic because the legislative session is defined by time. Equal parts Chutes & Ladders and Hunger Games, advocates have a certain number of days to get a bill through a policy committee, then a budget committee, then a rules
committee, and finally a full chamber vote before starting the whole process again in the other chamber with even fewer days to accomplish the same tasks.

Invariably, someone will burst into Schoolhouse Rock’s catchy song, “I’m Just a Bill.” Boy, did that song miss a few steps! For one, there are multiple committees. Unless the bill has absolutely zero fiscal impact, it can get stuck in the policy committee where it was originally referred, or another policy committee where it gets sent because the subject matter warrants review by multiple policy committees, or the budget committee, or the rules committee where members “pull” the bill onto the chamber floor for debate.

A bill can get stuck because the chair of the committee decides not to call any hearings, or not to hold a hearing on the specific bill, or not to put the bill on the agenda for a vote by committee members. The bill may die when the majority of the committee votes “do not pass.” Amendments to the bill, which can be proposed at anytime and require a full vote of the committee, further slow progress.

Some question the value of lobbyists. I honestly do not know how a bill could pass without at least one lobbyist or organization behind it. In this most recent record-long session, Governor Inslee signed 365 bills into law. That’s a passage rate of less than 16 percent. Normally, the word “stagnation” is a noun. But in the Legislature, “stagnation” is a verb. The entire legislative process is designed to avoid the creation of law. A bill is doomed in the upstream battle to the governor’s desk without someone pushing for time, attention, and dialogue among the various government silos.

For a rookie such as myself, lobbying on behalf of the Children & Youth Project, I had an astonishing streak of luck this year. Five of our six legislative priorities were signed into law or funded through a budget proviso. This success is likely because our legislative priorities involved helping vulnerable kids. “It’s for the children” is popular rhetoric for a reason. Decades of advocacy by Columbia Legal Services and our allies obviously helped, too.

**Youth Equality and Reintegration Act**

One of the compelling bills that I had the chance to help push — together with law students from the University of Washington Children & Youth Legislative Advocacy Clinic — was the Youth Equality and Reintegration Act (the YEAR Act). The YEAR Act became effective July 24, 2015, and abolishes nearly all legal financial obligations (LFOs) for youth in Washington’s juvenile justice system and prevents local governments from creating new LFOs for juveniles. The YEAR Act also allows a youth to seal his or her record before restitution is paid to an insurance company, so long as any victims are repaid. The YEAR Act gives judges discretion to order independent, rather than joint and several, liability in cases with multiple offenders. Youth can now perform community service in lieu of restitution.

One of the most significant changes in the law is that anyone can petition the courts for relief from existing juvenile LFOs as well as restitution for good cause shown, including inability to pay. Anyone who works with kids in the juvenile justice system can tell stories of perseverance, resilience, and courage. Kids like Solinuu, who testified to the Legislature that after a childhood spent on the streets and years locked up in juvenile detention, “I want to earn a life of living instead of a life expecting to die.” Kids like Daniel, who have transformed into young adult and is now a talented freelance graphic and web designer, who was not allowed to serve as his mother’s legal guardian after she suffered a stroke because of offenses committed between his 12th and 14th birthdays. Or mothers like Sonya, living in a shelter with her children, unable to secure housing due to a single mistake she made at age 17 now preserved forever in a juvenile record.

Testifying before the Legislature two years ago, then Superior Court Judge, now Justice Mary Yu stated, “We need a system that is automatic for most offenses; otherwise it will discriminate against those who can’t afford to pay their fees/fines, those who can’t hire an attorney, those who don’t have parents to guide them through process.” Even after removing the financial barriers to juvenile record sealing, we will continue to have a process that perpetuates sharp racial disparities if news of the significant change in law does not spread fast or evenly.

In this regard, Solinuu, Daniel, Sonya, and the many others like them each have something in common besides a juvenile record — each was represented by an attorney in juvenile court, each interacted with a prosecutor tasked with special responsibilities to the justice system, and each came into contact with a judge. In short, they engaged with the legal profession. The significant changes in the law raise this question: What, if any, is the legal profession’s obligation to notify people with juvenile records about the changes?

In terms of our ethical responsibility as set forth in the Rules of Professional Conduct, the duty of loyalty must continue after the representation is complete in the same way the duty of confidentiality continues.1 RPC 1.9 sets out the duties owed to former clients; however, the rule focuses on not harming your former client’s interests rather than helping your former clients.2 RPC 1.4 contemplates the lawyer must communicate to the client in language the client understands, what the various available courses of action are and why the particular course of action was chosen,3 but this rule does not address communication after representation has concluded. RPC 4.1-4.4 focuses on transactions with non-clients and RPC 1.6 calls for each attorney to render at least 30 hours of pro bono public service per year. But, again, none of these rules seem to get to the heart of the fiduciary duty we owe to clients and others we encounter within the justice system. The
obstacle now is — having become law — finding attorneys who are willing to contact former juvenile offenders to let them know the law has changed.

The lawyer, with good reason, has been called the “quintessential fiduciary” and the attorney-client relationship the “archetype for the fiduciary obligation.” The fundamental definition of a fiduciary is a “person having a duty …to act primarily for another’s benefit in matters connected with [an] undertaking…,” one who is “willing to subsume his or her own interests to those of another.” This is where I believe the colloquial rubber meets the road.

As members of the Bar, we have all been participants in what the Supreme Court calls a “broken LFO system,” so we have some responsibility to fix it. Or as Colin Powell said, “If you break it, you own it.” We may not have broken our state’s LFO system, but only by taking ownership can we really ever fix it. How far will the legal profession go to let people know they may be eligible to get out from under legal debt, seal juvenile records, and unlock barriers to employment, housing, and post-secondary education?

HILLARY MADSEN is a staff attorney with the Children & Youth Project at Columbia Legal Services. She represents low-income, at-risk homeless and foster children and youth. Outside of the courtroom, Madsen serves her clients in administrative and legislative forums. She can be reached at hillary.madsen@columbialegal.org.

NOTES
1. Damron v. Herzog, 67 F.3d 211, 214 (9th Cir. 1995).
In the days of yore, U.S. travelers to Canada did not worry about the physical act of crossing the border. Canada was friendly and welcomed most folks. No one talked about “admissibility.” In fact, Canada was fondly perceived as the 51st state. U.S. travelers felt free to enter Canada with no more concern than crossing a state boundary.

The aftermath of 9/11 changed our northern border on both sides — dramatically on the U.S. side (say hello to the Department of Homeland Security and its family of INS-derived agencies: USCBP, USCIS, ICE) and more incrementally on the Canadian side, as implemented by the Canadian Border and Security Agency (CBSA).

U.S. travelers who have been blithely traveling to Canada for decades have suddenly found the door slammed shut by the CBSA. This article will examine how we have come to this, and what the “suddenly inadmissible” can do to re-open the door to Canada.

CBSA History
The CBSA was created partially in response to 9/11 by an Order in Council on Dec. 12, 2003. The CBSA became responsible for providing integrated border services to facilitate the free flow of persons and goods as well as supporting national security, public safety, and trade. Immigration enforcement and intelligence responsibilities under the Immigration and Refugee Protection Act (IRPA) were transferred from Canada Immigration and Citizenship (CIC) to the CBSA.

CBSA, Admissibility, and Databases
Through the Admissibility Determination Program, the CBSA enables border services officers to intercept people who are
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Canadian Border Inspection
When a U.S. traveler arrives at a Canadian Port of Entry, a CBSA officer will inspect this person to determine whether or not he/she is admissible to Canada. While scanning your passport and/or entering your name, birth date, address into the IPIL system, the officer will typically ask questions like:

- Where do you live?
- What is the purpose of your trip?
- How long will you stay?
- Do you have anything to declare?
- Do you have any firearms or pepper sprays?

If there is a “hit,” the U.S. traveler may be asked further questions about being arrested, fingerprinted, or convicted of a crime and then likely sent to secondary inspection. It is critical to respond truthfully — every question has only one right answer: the truth.

Enduring a CBSA secondary inspection is like treading water that suddenly turns into quicksand. The traveler must be forthright and accurate in answering CBSA questions. Misrepresentation, either by commission or omission,
is the deathblow in terms of Canadian admissibility. One wrong answer and that sinking feeling heralds a harsh reality: the CBSA determines that the traveler is inadmissible.

So why is this an issue for folks who have been traveling for decades without incident? Because now, through NCIC searches, the CBSA has access to U.S. criminal record databases stretching back for decades. Now the CBSA is looking at these old records revealing arrests, convictions, even fingerprinting that may make a U.S. traveler inadmissible.

Many times, older U.S. travelers will not even remember the events that led to fingerprinting, arrest, or conviction. They have put these events out of mind because they have moved on with their lives and past the unfortunate circumstances. Thus, when the CBSA officer asks “Have you ever been arrested?” sometimes the traveler says “no” because the memory is buried deeply. But the officer knows that this individual has a record, a very visible NCIC record. The traveler is found to be inadmissible and refused entry.

**Canadian Inadmissibility**
There are multiple grounds for inadmissibility to Canada. The more common reasons for U.S. travelers are:

- DUI, shoplifting, reckless driving, theft, and any minor or serious crime resulting in a criminal history (can be criminal conviction or criminal act)
- Serious health problem
- Serious financial problem
- Misrepresentation of a material fact (either by omission or commission) in any IRPA application or interview
- Having an inadmissible family member

Other grounds include being deemed a security risk, having committed human or international rights violations, or being connected with organized crime.

Many of the “suddenly inadmissible” are folks with a DUI (or other minor criminal offense) from 20–30 years ago. This is what surprises them: decades of unimpeded travel to Canada and then no entry. Fortunately, relief from this harsh outcome may be available in some cases.

**Overcoming Criminal Inadmissibility**
Admissibility strategies will depend upon the crime or crimes committed, when the crime was committed, when sentencing was completed, and evidence of the traveler’s good behavior since the crime was committed.

The first step is to determine whether there is a Canadian crime equivalent to the traveler’s U.S. crime. If there is, then we must determine whether or not the Canadian crime is an indictable offense (including “hybrid” offenses) or not. If the U.S. crime is equivalent to a Canadian indictable offense, then we know that the traveler is inadmissible for certain and we must consider his/her eligibility for the following options.

**Deemed Rehabilitation**
This is the best and most desired option. An information-only IMM 1444 plus required supporting documentation is prepared and the traveler submits the same for instant adjudication by CBSA at the border.

This option is available for the traveler who has committed only one crime, and the maximum prison term for the Canadian equivalent crime was less than 10 years. Sentencing must have been completed at least 10 years prior to application for Deemed Rehabilitation. If approved, the traveler is no longer criminally inadmissible and will be able to travel to Canada once more as in the days of yore.

**Criminal Rehabilitation**
For U.S. travelers who have committed one or more crimes and have had at least five years elapsed since completion of sentencing (including probation), this option may be the best strategy for overcoming criminal inadmissibility. Unfortunately, it can take a year or more for processing, which must be done through a Canadian Consulate.

**Temporary Resident Permit/Visa**
If it has been less than five years since the end of the U.S. traveler’s sentence and there are valid reasons for entry (dying relatives, compelling business reasons demonstrating economic benefit for Canada), the traveler has the option of applying at a Canadian Consulate (temporary resident visa) or directly at the border (temporary resident permit), which will allow the traveler to enter and stay in Canada for a limited time.

**Record Suspension or Pardon**
If the U.S. traveler’s crime has been committed in Canada, a successful Canadian record suspension application will remove this as a ground of inadmissibility. If the crime has been committed in the U.S., a U.S. pardon or expungement may have a similar result — but not necessarily. Sometimes in their haste to clear their record, U.S. travelers will find themselves unable to document exactly what the crime was and when sentencing was complete because they have made their criminal history inaccessible through this process.

If you have clients who have even a minor criminal history and are contemplating travel to Canada, please advise them to talk with a Canadian immigration lawyer before they go to the border — even if they have a history of uneventful Canadian trips. A refusal of entry can be expensive, embarrassing, and unnecessary in many cases. Porous borders are no more.
TERRY PRESHAW has straddled the northern border as a U.S./Canadian dual citizen practicing law in British Columbia since 1985 and Washington since 1988. She is one of few Canadian immigration lawyers in the U.S with a practice focusing on U.S. travelers with DUI Canada entry issues. Her passion for practice also extends to the French horn, which she has played since age 12. She is currently the first-chair horn with the Mukilteo Community Orchestra, which she founded in 1997. If you have border entry questions, she can be reached at her Everett office at 425-259-1807 or 425-343-8472, or at terrypreshaw@myborderlawyer.com.

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State v. Sykes,
182 Wn.2d 168, 339 P.3d 972 (2014)
(Drug Court therapeutic proceedings not subject to open courts requirement of Washington Constitution)

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181 Wn.2d 299, 332 P.3d 461 (2014) (addressing methodology for assessing damages in class action)

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178 Wn.2d 732, 310 P.3d 1275 (2013) [city liability in service of anti-harassment order]

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178 Wn. App. 133, 313 P.3d 1228 (2013), review denied, 325 P.3d 913 (2014) (successfully addressing property division issues in one of the largest dissolution cases in Washington State history)

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This February, my wife and I decided to sell our house, give away many of our possessions, move in with my mother, and spend more time traveling the world. That’s all well-trodden territory these days, except for the house-selling part. In lieu of a traditional agent, we sold through the Seattle-based real estate startup Redfin. Not only did Redfin offer a superior client experience, we netted a substantially higher value through their lower fee model. Fellow lawyers, I submit there are some lessons to be learned from these folks.

When my wife and I decided to sell, our first stop was the traditional agent we had worked with when we bought our house in Tacoma’s Proctor District. A traditional real estate agent would have cost us 6% of the selling price. Some agents will offer marginally lower commission, but the paradigm is essentially unchanged.

Enter Redfin

Balking at the prospect of a 6% commission, I followed the lead of a tech industry friend and contacted Redfin. The reason: at a 3% total commission, Redfin charges exactly half the typical industry rate for its services. Redfin launched in 2006 with a rosy mission to “reinvent real estate in the consumer’s favor.” Originally designed as an online discount brokerage, Redfin now offers full-service professional services. When all was said and done, my wife and I netted more with Redfin than we would have with a traditional agent. Not only this, but the customer service was better than our experience with a traditional agent. How did they do it?

Salaried Agents

Traditional agents work as independent contractors under a broker. They pay a desk fee to the broker and also split their commission with her. The individual agent is responsible for paying out of pocket for all the costs of marketing a property (signs, mailings, etc.), which can easily run over $1,000 per listing.

Redfin turns this traditional approach on its head by paying agents a salary augmented by a bonus based on client satisfaction ratings. (In interviews for this article, Redfin declined to reveal its exact compensation structure.) A chart disclosed in 2014, however, shows that agents earned a substantial majority of their compensation from customer-satisfaction bonuses.

Traditional commission is presented to sellers as an incentive for agents to push for higher prices, but the incentive argument is demonstrably false. In fact, Redfin’s bonuses are partially tied to the price point of a deal, though the bonus is set by the listing, rather than selling price, of a property. Ultimately, Redfin’s incentive structure means that agents are rewarded by making clients happy.

Cybernetic Organisms: Living Tissue Over a Metal Endoskeleton

Redfin’s technology is visible to consumers mostly on the buyer’s side of its business. Potential buyers use www.redfin.com to explore listings. But much of the magic happens behind the scenes. Like an army of real estate Terminators, Redfin agents are augmented by technology that vastly improves their power. Redfin’s tech is developed by an in-house engineering team that allows close collaboration with agents and quick response time to their input.

Agents each have access to an integrated dashboard for managing their caseload. Agents can launch “activity series” in their dashboard. So when my agent, Michelle Koch, opened my client file, the dashboard automatically calendared all the events necessary to list the property. Clients are surveyed at several points during an engagement and that customer satisfaction data is pumped into the dashboard system. If things aren’t going well, the agent will know. Redfin recently launched “Book It Now,” an on-demand service for seeing homes for sale in person.

The system puts all sorts of help-
ful data at agents’ fingertips, such as the pricing strategies of competing brokers. Michelle suggested we price our property about 15% higher than our traditional agent had suggested. I can’t know if that was a result of data available through her dashboard, but together with the discounted commission, it led to an astounding net difference in sale proceeds.

What’s Their Bottom Line?
How does Redfin itself, or its agents, make money by charging half the industry norm for its services? The answer is no surprise: volume. My agent, Michelle, estimated her client volume was four times what it had been when she worked as a traditional agent. A couple of key features keep this from creating insanity. First, Redfin agents don’t have to spend time acquiring clients. Michelle guessed that she spent up to 40% of her time on business development when she worked in a traditional firm. Second, Redfin’s technology streamlines work for agents. At the onboarding stage for new clients, for example, all the required touchpoints for agents and their support staff are mapped out at the click of a button.

Who Will Be the Legal Redfin?
In 2006, Redfin CEO Glenn Kelman looked at the traditional 6% commission model and called the real estate industry “by far […] the most screwed up industry in America.” But if we’re honest with ourselves, the legal industry is far more “screwed up.” A vast swath of the American middle class — including lawyers themselves — cannot afford traditional legal services. Unlike homeowners, who might grumble and then bite the bullet for a 6% commission, in legal services the losers often are left to fend for themselves. Here are some ideas we might borrow from Redfin.

Play with the compensation model.
How could we rework lawyer compensation to improve client service? To co-opt the obvious idea, I love the notion of tying associate compensation to client ratings. What if associates prioritized client perception over recognition from a supervisor? A radical riff on this would be to allow clients to mark an invoice up or down depending on the perceived value they received. There are lots of possibilities here, but the question of incentives is one worth tackling.

Delegate work to clients. Redfin recognizes that home buyers care more about the market than their agents. So Redfin lets clients search listings on their own. Lawyers are fiduciaries and genuinely care about their clients, but we simply can’t care about client concerns as much as our clients themselves. What part of a representation could we delegate to our own clients, not just to reduce their costs but because they have stronger incentives than we do to get it right? Sure, some clients just want to hand off as much responsibility as possible. But others — like buyers who browse real estate listings late into the night — want to steer their own ship.

Volume is not a dirty word. At the recent WSBA Solo and Small Firm conference, attorney-blogger Ernie Svenson suggested that attorneys “stop being afraid of volume.” “Volume” law firms are perceived to have lower quality and higher error rates. But Redfin shows that automation can lead to lower error rates and better consumer experience, even at higher volume. We need to applaud, not scorn, firms that accomplish more for less without sacrificing quality.

Automate workflow. It should be a no-brainer that lawyers need to implement stepwise workflows for all repetitive tasks. Practice management systems allow users to replicate the “activity series” of the Redfin dashboard. While fully automated entry of event series is ideal, merely articulating the steps of such series would be a big improvement for many of us.

Become a cyborg. We need to get serious about augmenting ourselves with tech. Sam Glover, of www.lawyerist.com,
suggests we ask the following question: Look 10 years into the future and imagine that an innovative firm has stolen your clients and put you out of business. Now ask, “How did they accomplish that?” Chances are the answer will involve augmenting traditional lawyering with some bespoke technology. Obviously we don’t all have the resources needed for a technology initiative like Davis Wright Tremaine’s De Novo SWAT team. But if you foresee technology disrupting your practice area, then you need to ask whether you have reasons or just excuses to not be the one building the tech. You may be surprised how easy it is to outsource tech projects online.

The Future

It’s too early to tell if Redfin will succeed with massive industry disruption. Despite raising $166 million in eight rounds of funding, the firm still boasts only a 3% market share in its own home turf of King County. Yet the “screwed up” legal industry would do well to borrow some lessons from Redfin. In the legal industry — to paraphrase an innovator of an earlier era — “The old way isn’t working, so it’s on us to do what we gotta do to survive.”

Oh, and in terms of the lifestyle revision ... without a mortgage to worry about, Jules and I have been hitting the mountains many Wednesdays. We stopped spending $500–1,000 and 10–20 hours per week on house projects. In September, we head to India’s eastern states for a month with baby Kai. But that’s a topic for another day.

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NOTES
1. Telephone Interview with Kathryn Rion, market manager, Seattle East, Redfin, April 3, 2015.
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IN UNION THERE IS STRENGTH.”
–Aesop
Goodbye, On 15th Video — Hello, LegalZoom

Three Suggestions for Lawyers in the Digital Age

In September of last year, the last video store on Seattle’s Capitol Hill, On 15th Video, closed. After years of trying to compete with nimble, well-financed entrants by offering two-for-ones, lengthening the rental time period, and even posting signs in the store reading: “Avoid the box! Rent from us!” they ultimately fell prey to consumers’ radically shifting TV- and movie-watching habits. By the way, “the box” was a reference to both Redbox and the mailbox, meaning Netflix.

The fall of retail video stores is particularly compelling because I remember a time before they existed — and I’m not even 40. That means that, during my lifetime, I’ve witnessed the rise and fall of a billion-dollar retail industry. Looking around one can’t help but wonder which of today’s businesses is akin to the large video chains in the late 1990s: holding large reserves in the bank, raking in huge profits, and convinced that they are impervious to competition from innovative, scrappy upstarts. Fun fact: in 2000, Blockbuster turned down an opportunity to purchase the fledgling Netflix for $50 million. Netflix is now valued at almost $50 billion.

Advocacy is one of the world’s oldest professions. And as a result, some argue that law practice and lawyers are and always will be immune to technological innovation. Yet law practice has many elements that innovators seek when looking for opportunities for technology to displace unwitting incumbents.

• First, the market for legal services is big. Even conservative estimates place the value of all legal services performed for consumers and small businesses at more than $100 billion.
• Second, the legal services sector has the second-highest profit margin of any industry, at 17.8 percent.
• Third, market incumbents have been slow to adopt technology. Lawyers were late adopters of the telephone because it didn’t “produce a written record.” In 1891, there were 7,000 businesses with telephones: 876 doctors, 292 saloons, 292 stables, 146 lawyers.

It could be only a matter of time until innovators see the economic opportunity in using technology to revolutionize the legal profession. Here are three suggestions to help lawyers navigate this brave new world.

Be Proactive, Not Reactive
Lawyers usually cite LegalZoom as the pariah of legal technology innovation. Many lawyers would say LegalZoom shouldn’t be called an “innovation.” But LegalZoom and the like are not going away. Lawyers need to proactively seek opportunities to adapt to this new landscape. What services can you add to what LegalZoom or other services offer? How can you serve clients better than online legal services? Perhaps you should stop trying to compete with online document sites and move “up the value chain” to work that more completely utilizes the skills you developed in law school?

Shake Things Up
Legal services have been delivered in the same way for a long time. Lawyers need to take a big step back from their practices and examine not only what they could do differently, but how they could do what they do differently. What systems or processes have you implemented because “that’s the way it’s always been done?” What opportunities do you have to provide clients something that they’ve been asking for but that you haven’t had the time or inclination to figure out? What new opportunities exist in your practice area?

Get Out of Your Comfort Zone
Lawyers, both individually and as a group, can be quite insular. As Richard Susskind, author of Tomorrow’s
Lawyers, said: “It is our collective arrogance as lawyers that we feel we can take on a neighboring discipline over a weekend.” And yet it’s this insularity and arrogance that will be lawyers’ undoing in the new legal technology paradigm. Today’s innovators are collaborative, almost pathologically so. They don’t think they can or even try to do it all but instead understand enough to know when and how to deploy specialists such as designers, developers, IT experts, marketers, and financiers. Today’s innovators embrace failure when trying new things. Lawyers should adopt a similar mindset.

I was sad when I learned that On 15th Video closed, but I wasn’t surprised. Although the weakness of the retail video store model vis-à-vis more convenient alternatives was exposed in what felt like a relatively short time frame, that weakness was pretty obvious to an outsider.

Law is not at the same point that On 15th Video was last September, nor where Blockbuster was a few years ago. But there’s much to suggest that could change. And if the fall of retail video rental is any indication, it can change quickly. Lawyers who proactively try to rethink the way they do what they do, with an openness to learning, adapting and even sometimes failing, will be best equipped to thrive in the post-Blockbuster world.
The first thing that anybody involved in sports law will tell you is that there is no such thing as sports law. The term “sports law” can encompass numerous practice areas that concern athletes and the business of sports. For instance, one single client athlete can have issues in business, criminal, contract, family, intellectual property, nonprofit, and tort law, to name a few. Other athlete issues involving league rules or National Collegiate Athletic Association (NCAA) rules must also be interpreted so that the athlete’s best interests are protected. On a bigger scale, the business of sports is big business and billions of dollars are at stake when negotiating TV contracts, dealing with public relations nightmares, and bargaining collective agreements among sports leagues.
This has not always been true. Believe it or not, the business of sports was not always big business and athletes were not always highly compensated, subjected to drug testing, or allowed to use their name and likeness from their college days for profit. This article will discuss some key decisions that have shaped the way athletes participate in sports and how we view them today.

Free Agency
Free agency, with regards to the major sports leagues such as Major League Baseball (MLB), Major League Soccer (MLS), National Basketball Association (NBA), National Football League (NFL), and the National Hockey League (NHL), was not always so free, and star players in the early days of professional sports were much more likely to play their entire career with one team. This was due to something called the reserve clause, which stated that at the expiration of a player’s contract, the rights to that player were to be retained by that team. In 1972, the Supreme Court in *Flood v. Kuhn*, 407 U.S. 258 (1972), held that MLB could uphold the reserve clause through an anti-trust exemption; however, the Court admitted that the exemption was an anomaly and baseball was considered part of interstate commerce. That admission led to an arbitrator later nullifying the reserve clause and opening the door to free agency in all sports. This was a big win for professional athletes everywhere, as they could now negotiate with all interested parties for the highest compensation any one suitor would pay.

With this newfound freedom, athletes now had to change teams. Through free agency came the need for athlete agent representation, and thus the sports agent was born. In the early days of sports, anybody could call themselves a sports agent, as the barrier to entry was nonexistent. There was essentially no regulation of agents, and athletes would often suffer the consequences by receiving poor advice. Today, the business and regulation of sports has evolved such that most states have laws that regulate athlete agents, most sports leagues have their own certification programs to regulate agents of their respective leagues, and the NCAA has rules in place that affect how athletes may interact with sports agents. In Washington, RCW 19.225 is on the books, otherwise known as the Uniform Athlete Agent Act. Those who violate the Washington Uniform Athlete Agent Act could face a stiff penalty of up to $10,000 and be charged with a class C felony. These regulations were put in place to look out for the best interests of the athlete and make sure agents do not take advantage young athletes who, upon an initial meeting with an agent, are usually still in college and may come from underprivileged backgrounds. Currently there are more than 460,000 college athletes, and less than 2% will go pro in their sport. This creates a scarcity of potential clients for athlete agents to represent and the competition is fierce to represent the best prospects.

Due to the social and financial allure the sports industry provides, agents have been known to bend, if not break, the rules and regulations in order to land a top client. Agents have previously admitted or been found guilty of paying...
athletes or providing improper gifts to athletes in college in exchange for the opportunity to represent them when they go pro.\textsuperscript{2} This conduct, of course, violates NCAA rules and many state rules which may lead a player to be kicked off his/her college team, cause the athlete financial loss due to a drop in draft position, and leave the athletes’ university to face potential sanctions.

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Turning Pro

Once an athlete has finished his or her amateur career, there is a limited number of years to maximize the athlete’s earning potential in the pros. For example, the average career of a professional athlete in one of the major sports leagues is only three to five years.\textsuperscript{3} With success come great rewards in the form of long-term contracts that can be in the form of standard player contracts or lucrative endorsement deals. This will, in turn, drive the athlete to do whatever it takes to reach the peak of success. Professional sports leagues know the stakes are high and therefore have recently taken measures to ensure their leagues are putting pure, non-enhanced athletes in play by regulating the substances athletes can consume. The goal is to make sure that performance-enhancing drugs are not being consumed as well as regulating any illegal substances which could negatively reflect on the leagues.

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Drug Testing and Following the Rules

One of the first challenges to drug testing happened in 1990 when student athletes at Stanford University challenged their school and the NCAA’s drug testing policy saying it invaded their constitutional right to privacy, which was upheld.\textsuperscript{4} However, in 1999, a California appellate court ruled that schools had a compelling interest to keep drugs out of their schools and therefore drug testing was not an invasion of student athletes’ privacy.\textsuperscript{5} On the professional level, athletes are subject to their leagues and associations’ policies and procedures. These policies and procedures can regulate doping, drug abuse, and other issues such as personal conduct. The penalties for violating such rules can include fines, suspensions, or even banishment for extreme violations.

One such example of a league policy rule came to the forefront in the Seahawks’ most recent Super Bowl run involving Marshawn Lynch. The NFL has stated in their policies and procedures that players must make themselves available to the media or else they could be fined. Lynch did the minimum to comply with the rule by barely speaking to the media, but nonetheless making himself available, and thus avoiding a fine. If a player disputes a suspension or a fine issued by a league, there are usually league policies in place in which players can appeal an adverse decision.

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Student Athletes

In a recent case last summer, O’Bannon et al. v. NCAA et al. (No. 09-3329, 2014 WL 3899815 (N.D. Cal. Aug. 8, 2014)), a decision was made as to whether student athletes should be able to profit from their own name and likeness used in col-
le. The NCAA argued that paying its student athletes would be a violation of its concept of amateurism in sports, while O’Bannon, a former basketball star who played on UCLA’s 1995 National Championship team, argued on behalf of all Division I men’s football and basketball players that upon graduation, players should be compensated if colleges use their images for commercial purposes. The court ruled in favor of O’Bannon and stated that the NCAA rules and bylaws operate as an unreasonable restraint on trade in violation of antitrust law. This is the first step in what may eventually lead to student athletes being paid a modest stipend while playing collegiate sports and, incidentally, making their schools billions of dollars.6

The evolution of sports law is no different from any other type of law. It continues to evolve with the changing times and technology. New rules and court decisions will be put in place to react to the need for change when issues arise. If we have come this far over the last 50 years in sports, it’s hard to imagine what the business of sports and the laws that regulate them will look like in another 50 years. NWL

NOTES
1. www.ncaa.org/about/resources/research/probability-competing-beyond-high-school.
5. Miller v. Cave City School (United States Court of Appeals (8th circuit), 31 March 1999).
Halloween is right around the corner, with spooky celebrations from trick-or-treating to costume parties and scary home displays. Americans spend around seven billion dollars on this holiday, second only to Christmas. This month’s Top 10 features some laws that relate to Halloween and some laws that, when applied to Halloween, have interesting results. Happy Halloween!

1. If you like to cocoon your friends and family in Silly String or just enjoy decorating with it around Halloween, you could run into trouble in Los Angeles. Possession, use, or sale of the fun stuff between 12 a.m. Oct. 31 and noon on Nov. 1 in L.A.’s Hollywood Division carries a $1,000 fine.¹

2. Halloween revelers in Canada might reconsider that witch, sorcerer, or psychic costume. Up north, it is illegal to do any of the following fraudulently: pretend to use “any kind of witchcraft, sorcery, enchantment or conjuration”; tell fortunes “for a consideration”; or to pretend, based on “skill in or knowledge of an occult or crafty science” that you can discover where something stolen or lost can be found.²

3. If you dust off your Big-foot costume every year at Halloween, know that you have extra protection in Skamania County. The entire county is a Sasquatch Refuge, and pursuant to Ordinance No. 1984-2, “the premeditated willful or wanton slaying of Sasquatch shall be unlawful.” The ordinance further details the applicable punishment for a Sasquatch killer, depending on whether the coroner determines the victim was “humanoid” or “anthropoid.”³

4. Last Halloween, the mayor of the small French town of Vendargues decreed that no person over the age of 12 could wear a clown costume or clown makeup. The decree was in response to several incidents of teenagers dressed as clowns terrorizing people.⁴

5. Everett prohibits a hypnotist from displaying his or her mesmerized subject in a window or public place outside the hall or theater where the hypnotism occurred. Conviction of this crime carries a maximum fine of $500 and/or imprisonment up to six months.⁵

6. The City of Rehoboth Beach, Delaware, allows trick-or-treating on Oct. 31 between 6 and 8 p.m. as long as the trick-or-treater is under 14 years of age. If Halloween falls on a Sunday, trick-or-treating must occur in the same time frame on Oct. 30. Luckily, this year the 31st falls on a Saturday.⁶

7. The Inuit community of Arviat, in the Canadian territory of Nunavut, cancelled outdoor trick-or-treating last year. Diminishing shore ice along the western edge of Hudson Bay brought the polar bear migration too close to town. October is the peak bear migration month. The kids trick-or-treated at the community center instead.⁷

8. If your idea of Halloween fun is dressing up as a pregnant nun or a priest, you could risk breaking the law in Alabama. It is illegal there to fraudulently pretend to be a nun, priest, rabbi, or any other member of the clergy.⁸

9. Hunting for zombies or other undead this Halloween? Hunting in cemeteries in Oregon is prohibited.⁹

10. In Walnut, California, wearing a mask or disguise on a public street requires a permit from the sheriff.¹⁰

NOTES
ABA Techshow: Through the Eyes of a Technologist

An interview with Nischal Pathania by Dan Lear

The American Bar Association TECHSHOW, hosted every year in Chicago and organized by the Law Practice Management Division of the ABA, is a premier legal technology event. Both a center of gravity for legal technology vendors and a source for compelling legal technology and CLE content, ABA TECHSHOW is not to be missed by lawyers into technology or those aspiring to greater technological competence.

But what does TECHSHOW look like from outside legal? Lawyers are frequently derided as being behind other professionals in technological adoption. And legal technology as an industry or sector doesn't have sufficient clout or resources to bring TECHSHOW to the level of Google I/O, Tech Crunch Disrupt, or even CES (the annual Consumer Electronics Show). But what does TECHSHOW look like to someone who has been to some of the fancier legal technology shows or, at least, is sufficiently steeped in technological development to know what is actually “cutting-edge”? What would those who are at the forefront of technology say about lawyers’ perhaps feeble attempts at coming into the 21st century?

Nischal Pathania is a product manager who works with me at Avvo. Nischal is the product manager for Avvo’s directory—that’s the website piece that most lawyers interact with and most consumers use to find a lawyer. Prior to coming to Avvo, Nischal was the co-founder of a travel startup (dealscoop) that focused on personalized travel recommendations using social and behavioral data; before that, he spent eight years at Expedia, where he last managed the hotel sort platform for all Expedia-owned brands worldwide. In short, he’s exactly the kind of guy who would go to Google I/O or CES… and he went to TECHSHOW this year. After he got back, I asked him what he thought.

DAN: This was your first time at TECHSHOW, right?

NISCHAL: Yeah. I had a fun time. Chicago is awesome and it was really great to meet folks in legal tech face-to-face and get a sense for what people are doing and where legal tech is headed.

Cool. So, let’s get down to brass tacks. What did you think?

It was really interesting. Sure, there are a lot of places in legal tech where lawyers are just starting to adopt technologies, and, really, ideas that are and have been mainstream in other industries for quite some time. But in other areas, legal is running even with other technology and innovation in enterprise and consumer technologies.

Can you give some examples of both?

Cloud adoption is racing along in legal, but it seems it’s been a bit of a long time coming. Cloud storage and computing solutions were quickly and broadly adopted in many industries quite a while ago. I understand that there are some issues related to legal ethics that have slowed lawyers’ enthusiasm for the cloud, but I get the sense that those concerns are easing—and not a moment too soon. Further, vendors like Clio, Rocket Matter, DirectLaw, and others whose services depend upon the cloud have done a great job educating both lawyers and bar associations about the safety and benefits of the cloud. I’m excited for the possibilities and innovation cloud services can offer lawyers and clients once lawyers better understand and really adopt the cloud.

What about where legal tech is keeping stride with other industries?

The law practice management space is interesting. There are a lot of vendors competing for lawyers’ attention. Obviously market leaders like Clio, Rocket Matter, and MyCase are doing a great job with their UI and design and all three utilize the cloud effectively. I was also impressed with Zola, which launched at TECHSHOW. From what I could see, they have an intuitive user experience that could help them differentiate themselves in this crowded market.

What else did you see or like?

Back to the cloud, there are some interesting developments there. For basic file-sharing, Box, Dropbox, or Google Drive already do that pretty effectively. TitanFile makes file-sharing easier by allowing you to organize your communications with contacts into different conversations, which you can then use to share files. Their interface appeared straightforward and easy to use. I also thought Mattermojo was interesting. It helps firms and attorneys better collaborate on matters and has Office 365 integration.

Slack is an interesting tool as well. While they weren’t at TECHSHOW, it’s a cloud-based workplace collaboration tool and it’s all the rage these days. We’re testing it at Avvo and I like it. It integrates chat and document sharing and makes all of that stuff searchable. Plus, it’s a great deal for solo and small firms because accounts with up to six users are free.

There’s a lot of talk in technology and the economy more broadly about “data” and “big data.” What kinds of opportunities do you see there in legal tech? Or, at least, what did TECHSHOW have to offer in that department?

From a data analytics perspective, you have to look at legal search, analytics, and visualization platform Ravel. The nature and relationships between cases so obviously lends itself to the way Ravel represents that data that everyone who sees it says, “Why didn’t I think of that?” It’s a great technology.

FiscalNote is another interesting tool. It isn’t a unique offering to law firms, but it may interest firms that represent clients who are impacted by the passage of new government regulations and laws. FiscalNote can help you track when new regulations are
being introduced at a city/state level and the likelihood that they will pass. It also predicts how specific lawmakers are likely to vote using historical data. Some of their non-legal clients include Lyft, Planned Parenthood, and Aetna.

**Final thoughts?**

ReviewMyContract helps consumers by setting them up with an attorney to review their contracts (employment contracts, leases, etc.) for a fixed fee. Determining costs in contract review was an issue I had myself sometime back, and I wish I could have used a product like this.

Legaler is a startup out of Sydney that allows attorneys to collaborate with clients using video. They built a cross-device platform that provides FaceTime-like video conference capabilities along with time-tracking functionality. They are still in an invite-only phase, but it’s something to watch for in the future.

Thanks, it’s really interesting to get your take. Besides your deep technology knowledge, you also come at this from the perspective of a legal consumer and it’s interesting to hear your thoughts on products like ReviewMyContract.

I don’t that I know that I’m much smarter than your average bear, but I’m happy to share my thoughts. I think TECHSHOW is a great event. It’s a great resource for anyone in law who is interested in technology and wants to understand either what’s next or how to integrate technology more effectively into their practice. NWL

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It is time to act on criminal justice reform in our state. Crime rates continue to decline toward historical lows, yet our state prisons exceed capacity. We don’t use prison as much as other states — Washington ranks 42nd in the rate of incarceration — but that means the simpler reforms, like putting fewer people in prison for drug crimes, have already been done here. There is an urgent need to take a broad view of criminal justice reform, if for no other reason than to begin to rebuild trust between the communities most impacted by crime and the system that is intended to serve and protect them. We need strategies that improve public safety, limit growth in prison population, and bolster public confidence in the fairness of our system of justice.

Here are 10 ways to begin criminal justice reform in Washington state.

1 Graduate More Students from High School

Keeping kids in school is our best crime prevention strategy. Three out of four Washington prison inmates dropped out of high school; we know that people who drop out are five times more likely to go to prison in their lifetime. We should not accept graduation rates that leave a quarter of our young people without the protective power of a diploma.

School discipline policies that expel or suspend students from classrooms to the streets without educational services must be re-evaluated, and on-campus strategies must be funded as an alternative to expulsion. The school-to-prison pipeline is real. The adults in the room can stop it.

2 Increase the Capacity of Our Mental Health System

Since 1955, America has lost 95% of its capacity to house and treat people with mental health concerns. Today, Washington ranks near the bottom in publicly funded psychiatric beds. The default system for those with behavioral health issues is too often the criminal justice system. We need to increase the capacity of our emergency mental health services in Involuntary Treatment Courts, and forensic wards of our state hospitals.

King County has invested in a “Crisis Solutions Center,” an arrest diversion option for police encountering someone who has committed a minor offense due to mental illness. We need more of these throughout the state.

The Legislature recently funded a “Competency Diversion” program that will allow prosecutors to divert matters to an assisted community outpatient program, away from the courts and long waitlists at Western State Hospital. Competency is a legal standard, not a medical condition. People with serious mental health issues have more pressing needs than learning about the courtroom process, which is the overall goal of competency restoration.
Prosecutors Should Divert More Cases
Prosecutorial discretion is a powerful tool for criminal justice reform. While society’s most complex issues come to our doorstep, not all of them can be solved in a courtroom or a jail cell. Prosecutors and human service providers can work together to find alternatives that are more effective and achieve more efficient outcomes than results that accompany a conviction.

Four years ago, we started the 180° Program to complement traditional juvenile court diversion. More than 1,500 youth have taken advantage of this program, held monthly at Seattle University School of Law. The diversion workshop features powerful messages from the community, empowers youth to make better decisions, and helps them avoid a criminal record.

The LEAD (Law Enforcement Assisted Diversion) program, which offers life-saving services to a population that is mostly homeless, mentally ill, and struggling with addiction, is a national model of diversion that saves lives and taxpayers’ dollars.

We have also effectively decriminalized Driving While License Suspended, removing more than 3,000 cases annually from District Court, and eliminating the possibility of jail and arrest warrants for people who fail to pay speeding tickets.

More diversion programs are in place or in planning in King County. We are exploring community solutions to truancy, juvenile domestic violence, youth marijuana possession, and other, more complex, problems. Prosecutors, working in partnership with the community, can use the power of the law to help find solutions without the need for criminal convictions.

Statewide Reentry Investment
Washington not only has an over-incarceration problem, but also a recidivism problem. Half of the people sent to prison last year had been there before, and 30% of those released this year will be back within three years. Many more will be re-arrested and serve time in local jails, or return to prison four or five years after release.

Reentry for most inmates leaving prison today consists of just $40, a bus ticket back to the county of conviction, and a brand new official ID that says “Department of Corrections.” We should not be surprised that people released from prison who are unable to find housing, a job, or any hope will return to the places and people that got them into trouble at the outset.

A system of reentry support must be built, funded, and operated in partnership with human services groups already doing this work. Reentry is a great untapped field that, if done right, will help people in transition succeed, reduce recidivism, and increase public safety.

Collateral Consequences
A felony conviction can prohibit a person from applying for more than 90 professional licenses in our state. Legislation was introduced last year to create a Certificate for Restoration of Opportunity (CROP) that would allow people who have paid their debt to society to apply for licenses that lead to living wage jobs. This needs to pass next session.

Eliminate the Impact of Prior Drug Convictions
We now recognize that our past urban drug enforcement decisions were too focused on open-air drug markets, low-level dealers and users, and arrests and convictions that unfairly impacted communities of color.

We have made tremendous progress developing multiple approaches to drug crimes, recognizing that drug treatment is the optimum result for drug-addicted offenders.

To close the chapter on the “War on Drugs” in Washington, we should consider changing criminal history scoring rules so that past drug convictions of low-level offenders wash-out more quickly, or not count at all. This way, we stop perpetuating the legacy of what history will reflect as the unfair application of our drug laws.

Three Strikes Law Reform
In 1993, Washington passed one of the first three strikes laws mandating life sentences after release.
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imprisonment without the possibility of parole (LWOP) for those convicted of three separate violent felonies. Our law was relatively conservative, compared to states like California, yet today there are over 300 people serving LWOP sentences in our prisons.

Charging practices have evolved since the 1990s, and today most prosecutors in Washington use their discretion to file non-strike offenses to avoid a life sentence when appropriate.

Washington should develop a process to review three-strikes cases after an offender has served at least 15 years of his or her life sentence. We should also take a look at the list of qualifying crimes, particularly Robbery in the Second Degree, and ask whether that type of conduct is deserving of a “forever” sentence.

8 Multiple Enhancements
Sometimes a prosecutor must file multiple counts and sentence enhancements to fully present to a jury the range of conduct committed by a defendant. This practice, however, can lead to extraordinarily long sentences that may not be justified by the circumstances. We should return some discretion to judges to impose shorter sentences when rules requiring consecutive terms for serious violent crimes and weapon enhancements clearly result in excessive sentences.

9 Prison Reform
I will be the first to say that most people sentenced to prison deserve to be there. Some offenders should never be released because of the danger they pose to society or as punishment for especially heinous crimes. But that percentage of inmates is small. The average prison sentence is 40 months, meaning that with “good behavior,” most people sent to prison are released within two years.

As such, successful transition back to the community needs to begin on the first day in prison. Simple things need to be implemented immediately to create a “corrections” system that helps people actually correct their ways.

First, legislators need to remove the counterproductive ban on funding for higher education in prison. Online college opportunities abound and should be used as a privilege to promote peaceful conduct by inmates.

Second, more chemical dependency and behavioral therapy programs should be offered to all inmates, regardless of the length of their sentence.

Lastly, we should build incentives for program participation by putting the “earned” into “earned early release,” and allow inmates who complete positive programs to earn more than the current 50% sentence reduction for non-violent offenses.

10 Second Look Review Process
Washington should consider a new and improved parole process in which certain inmates serving long sentences can petition for early release after they have served more than half of their time. The clemency and pardons process is inherently political, requiring the governor to take a risk without reward.

A “second look” process could be implemented to look at elderly inmates who have become less dangerous and more expensive to house, as well as those who have taken advantage of enhanced prison programming and shown demonstrable rehabilitation.

These 10 strategies will make communities safer, change our approach to criminal justice and might even help us avoid building the next prison. It is a great time for criminal justice reform. Prosecutors, defense attorneys, and other members of the Bar should lead the way. NWL

Dan Satterberg is the elected prosecuting attorney for King County. He has been in the office for 30 years, serving as chief of staff to Norm Maleng for 17 years. He was elected in 2007, and again in 2010 and 2014. The views he expresses here are his own. Contact him at dan.satterberg@kingcounty.gov.
Elizabeth Bracelin: Breaking Ground and Glass Ceilings

In Its 98th Year, the Bar Elects Its First Woman President

by Katie Ludwick

By the time Elizabeth “Betty” Bracelin turned 51, she had already settled a million-dollar lawsuit on an issue of first impression, made partner, served on the WSBA Board of Governors, been the first woman elected WSBA president, and completed an untold number of hours of pro bono work that easily rivaled the number of hours she actually billed. Bracelin, in short, was the kind of attorney who inspired future generations to believe a J.D. could change the world. After all, she did with hers.

Born on April 2, 1945, Bracelin was a fighter from birth. She beat her twin sister into the world by four minutes to become the third youngest of four children. Yet even at a young age, Bracelin used that fighting spirit to protect others. Her brother, Raymond “Sandy” Bracelin, recounts an incident when Betty was eight or nine years old, involving an older, bigger neighborhood boy who had made picking on the tiny Bracelin twins a pastime of his. Sandy’s job was to “straighten him out.” But on this particular day when he heard Bracelin’s twin sister, Pat, scream, Sandy was too far away to save her. He made it out of the house and around the corner just in time to see a barely four-foot-tall Betty level the boy with a right hook that laid him out flat.

Bracelin was not afraid of a fight, and so law school was perhaps inevitable. “It was a natural progression for Betty,” Sandy Bracelin explains. “She was smart as a whip and she saw the law as the best way to protect others.”

Bracelin attended Holy Names Academy then the University of Washington, where she graduated summa cum laude in 1967 before attending the University of Washington Law School. There, Bracelin excelled. She also met two students with whom she would later form the law firm where she spent most of her career: Jan Peterson and William Creech. Though Peterson did not know Bracelin well in law school, she still left an impression. “Betty wasn’t shy,” he says, “she was a participant in law school. She was active, she was smart, she did well.”

In law school, Bracelin found her voice, and she was unafraid to use it. At a time when female students often struggled to be taken seriously by their professors and peers, Bracelin became editor of Law Review and graduated at the top of her class. Employment quickly followed, with Bracelin’s first job as an associate at the Seattle firm of Horswill, Keller, Rohrbach, Waldo and Moren. The job was not a good match for her protective nature. Of her four-year tenure at the firm, Bracelin would later only say, “I was not particularly happy where I was.”

Peterson is more explicit, and explains how while at the firm, Bracelin was approached by a group of women who were seeking an attorney to represent them in an employment sex discrimination case against Safeco Insurance Co. As Peterson puts it, “her firm said she could take the case only if she did it in her own time at night.”

Bracelin not only took the case, but she then took the case with her when she walked out the door to start her own firm with Peterson and Creech and Chris Young in 1973. The four relatively new attorneys set up shop on the 16th floor of the Smith Tower in downtown Seattle and were equal partners in the firm, drawing straws to determine name placement on the letterhead in an egalitarian fashion: If your name went first on the letterhead, you got your last pick of the offices.

As the firm set up shop, its two young female attorneys immediately got to work on the sex discrimination case against Safeco. Bracelin and Young worked well together and were often the only two...
women in the courtroom, aside from their clients. As Young recalls, it was unusual for two women to be representing a class of women who had been fired by their employer; the attorneys for Safeco didn’t quite know what to do with the two of them: “We were both blond, young women, and we were very vocal…Betty was close to number one in her class, and I had graduated from Stanford, so we were very highly educated, and [opposing counsel] wasn’t used to dealing with that! He didn’t quite know what to do with two young female attorneys.”

Gender aside, the lawsuit was also unusual in that it explored a relatively new area of the law: Title VII of the Civil Rights Act, which had been passed only nine years earlier. While the suit was originally filed in August of 1972 by private plaintiffs alleging sex discrimination in employment, according to Peterson, it was Bracelin who, a few months later, had the brilliant idea of inviting the United States Equal Opportunity Employment Commission to join as a party plaintiff. The move not only allowed the lawsuit to be certified as a class action, but it also meant the EEOC would foot the bill — a windfall to the young firm.

Young remembers Bracelin as being the more confident attorney throughout the process, but the clerk to the District Court judge who presided over pre-trial proceedings recalls both women did a stand-up job. Kelby Fletcher took note of the two young women at their many court appearances. “Both were articulate, well-informed, didn’t rely on hyperbole, and had mastered the facts well,” says Fletcher. “They knew the law, which at the time was fairly young. Both were very skilled advocates.”

The two attorneys faced challenges unique to women practicing law in the early 1970s. Peterson remembers stories of Bracelin and Young showing up to take depositions at Safeco’s Seattle headquarters in outfits that flaunted Safeco’s strict dress code for women. Mr. Bracelin recalls how the Safeco executives scoffed at the two young attorneys while they were being deposed: “They were almost defiant in their depositions — a fact that would come back to haunt them down the road,” he says.

Haunt them it did, as Van Bronkhorst v. Safeco Corp. ended up settling out of court for the then-unheard of sum of $1,000,000. The case solidified Bracelin’s reputation as a competent, successful employment attorney, even though she had only been in practice for five years. For those who worked with her, however, Bracelin’s success was not surprising. Fletcher, the young clerk for the District Court judge who presided over the Safeco case, later became the first associate at Peterson, Bracelin, Creech and Young and would work closely with Bracelin on a number of cases. “Betty was a very quick learner, a very quick study, both of people and of facts,” he says, “she seemed to get to the crux of things with great efficiency. She didn’t mess around.”

It was that efficiency that likely led Bracelin to become involved with the WSBA. Bracelin served on the Board of Governors from 1983 to 1986, and then catapulted past the next milestone in her career, becoming the first woman to be elected president of the WSBA in 1988. Bracelin embraced the authority that came with the position, never minding the fact she was trailblazing where no woman had gone before. Attorney Paul Stritmatter was a member of the Board of Governors when Bracelin was president and remembers how Bracelin dealt with an issue that came before the Board. The issue required Bracelin to convene an investigative panel and Bracelin appointed Stritmatter as its head. His appointment drew an objection from another member of the Board on the grounds she was “stacking the deck.” Bracelin’s response effectively ended the debate: “I have the power and I’m going to use it.”

Using her power extended beyond the WSBA and her paying clients. Throughout her career, Bracelin devoted countless hours to pro bono work. “She was always helping people who couldn’t help themselves,” remembers Peterson. Her brother agrees: “Money was never a driver for Betty,” explains Bracelin, “rather, dedication to what she was doing was her driver. She didn’t want any compensation or recognition or money. Doing a job and doing it well was the only motivation she required.”

That Bracelin was able to do her job well was no less remarkable given she spent most of her adult years battling the disease that would eventually claim her life. The fight with polycystic kidney disease was ugly. It claimed her father, her older sister, Mary, and eventually her twin, Pat. But Bracelin fought the disease with the same dignity and courage she displayed throughout her legal career. She worked right up to the end, never complaining about the hand she had been dealt.

Betty Bracelin died Dec. 27, 1996. She left her mark on the law and the lives of those she touched and set the bar far higher than anyone thought she could reach. She was 51. NWL.

KATIE
LUDWICK
is a deputy prosecuting attorney with the Island County Prosecutor’s Office. She can be reached at katie.ludwick@gmail.com.

NOTES
2. Id.
The Snohomish County Courthouse, located at 3021 Wetmore in Everett, was built between 1909 and 1911 to replace an earlier building destroyed by fire on Aug. 2, 1909. August Franklin Heide (1862–1943), architect of the first courthouse, designed the new building in Spanish Mission style. Nearly a century of use took its toll. Two grants from the state Department of Archaeology and Historic Preservation, received in 2007 and 2009, allowed for roof, clock tower, window, and façade restoration. The courthouse is on the National Register of Historic Places.


By the 1960s, Snohomish County was growing in population. Courtrooms were crowded and additional office space was necessary. One desperate scheme proposed erecting portables on the west lawn. In 1965, a new five-story wing was underway. Construction ensued for the next two years and the new building was dedicated on Aug. 21, 1967. Two towers were torn off the mission-style building to connect it to the new courts building.

Sources: Excerpted from essay #9975 on www.historylink.org. Additional research resources can be found at www.historylink.org/index.cfm?displaypage=output.cfm&file_id=9975.
t was hard for me not to find this photo provocative, especially when the notes indicated that it had made it to the cover of Bar News (the former NWLawyer), but without a date, it was another mystery of the archives to solve. Finally, bringing in some seasoned WSBA sleuths, we all took a closer look at the photograph and guessed it had to be from the late 1970s or early 1980s, based on the touch-tone phone in the corner. Bingo. It was there in the Bar News library, and happened to be the cover article for the May 1977 issue.

Jack E. Hepfer, who wrote the article, had been in a meeting with a medical doctor who asked, “Why do they drink so much?”

“He stared at me intently as though I might have a divining rod which would point directly to the answer,” Hepfer wrote, stunned at first by the question, “but I could only stare back and shake my head, because there is no solid answer to this puzzle...” Taking the question to heart, though, he wrote the article in an effort to address it.

Lawyers are by no means alone in falling victim to the accusations of alcohol abuse, both true and false, that seem to have attached themselves to certain professions. Alongside them are sailors, writers, musicians, executives, sales people, bartenders — the list goes on. Prior to reading the article, I didn’t have notions about lawyers having any particularly heavy affinities above other professions, but, it would seem, in the 1970s, this was at least partially true.

What’s great is that many bar associations have addressed the issue from the inside, creating committees specific to the health and wellness of their members. As Hepfer points out, a year before his article was written, the WSBA’s then-President Robert S. Day declared a call to aid the alcoholic lawyer. King County Bar Association’s then-President Murray Guterson responded to Day’s call by establishing the Fitness Committee, with its main objective to aid members whose alcohol habit was affecting their professional performance.

The current iteration of the Fitness Committee is the Unbar. Exclusively for attorneys, the group has been meeting for almost 30 years. If you would like a peer advisor to walk you to a meeting, contact the Lawyers Assistance Program at 206-727-8268 and an introduction can be arranged. For more information about the Unbar, see the article from the September 2012 Bar News found at http://bit.ly/bmunbar.
**Opportunity for Service**

**Legal Foundation of Washington Board of Trustees**

*Application deadline: Oct. 9, 2015*

The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving a two-year term on the Legal Foundation of Washington Board of Trustees. Appointees will serve a term that commences on Jan. 1, 2016, and ends on Dec. 31, 2018. There are three positions available; two positions are held by incumbents who are eligible for reappointment. The Legal Foundation of Washington is a private, not-for-profit organization that promotes equal justice for low-income people through the administration of IOLTA and other funds. Trustees should have a demonstrated commitment to and knowledge of the need for legal services and how these services are provided in Washington. For more information about trustee responsibilities, email caitlindc@legalfoundation.org. Please submit letters of interest and résumés to: WSBA Bar Leaders, WSBA Communications Department, 1325 Fourth Ave., Ste. 600, Seattle, WA 98109-2539, or by email to barleaders@wsba.org.

**WSBA News**

**2016 License Renewal, MCLE and Sections Information**

Complete your license renewal and MCLE certification online – it’s easy. License renewal will begin in mid-October and must be completed by Feb. 1, 2016. Please note: Our service provider will charge you a separate transaction fee of 2.5% on all bank card transactions. There is no transaction fee if you renew online and mail in your check.

**Payment plan option available.** If you are experiencing financial challenges, you may contact us about our payment plan option available to all active and inactive members. Payment plans are for three months beginning Dec. 1 and all fees must still be paid in full by Feb. 1, 2016. A one-time hardship exemption is available for active attorney members who qualify. Visit wsba.org/licensing to learn more.

**Join or renew your Section membership.**

As the section membership year is Oct. 1, 2015, through Sept. 30, 2016, we encourage you to join or renew sections in October to receive the full benefit of the membership.

**Certify MCLE compliance.** If you are in the 2013–15 reporting period (Group 3), then you are due to report CLE credits and certify MCLE compliance. All credits must be completed by Dec. 31, 2015, and certification must be completed online or be postmarked or delivered to the WSBA by Feb. 1, 2016. Visit wsba.org/MCLE to learn more.

**Judicial members** are required to complete the annual license renewal and pay a $50 license fee to maintain eligibility to transfer to another membership class when their judicial service ends. Please note that you are required to inform the Bar within 10 days of your retirement or your ineligibility for judicial membership (and you must apply to change to another membership class or to resign). Visit wsba.org/licensing to learn more.

**Dates to Remember**

| DEC. 1, 2015: Enrollment deadline for optional payment plan | DEC. 31, 2015: Group 3 (2013–15) members must complete required MCLE credits |
| FEB. 1, 2016: Request deadline for optional hardship exemption |
| FEB. 1, 2016: License renewal, payment, and Group 3 MCLE certification must be completed online, postmarked or delivered to the WSBA |

**Join the WSBA New Lawyers List Serve**

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

**Washington Young Lawyers Committee Meeting**

The Washington Young Lawyers Committee will be meeting on Sat., Dec. 5, at the WSBA offices in Seattle. For more information or to attend, email newlawyers@wsba.org.

**Apply for a WYLC Public Service Incentive Award**

Would you like the opportunity to attend a WSBA CLE for free? Apply now to receive a WYLC Public Service Incentive Award. Applications are due Mon., Dec. 21. This award was created to encourage and support new and young lawyers who engage or would like to engage in public service and public service volunteer opportunities, as described in RPC 6.1.

**WYLC Local Leader Award**

Do you know a new and/or young lawyer who deserves to be recognized for their long-term service or extraordinary contribution to the legal community? Nominate an exemplary young lawyer to receive the WYLC Local Leader Award. Nominations are due Dec. 30.

**Register Now for the WSBA Trial Advocacy Program**

Registration is open for the annual WSBA Trial Advocacy Program. New lawyer pricing is available! The program will be held Oct. 23–24 at the WSBA Conference Center and via webcast. An optional mock trial is scheduled for Nov. 7 in Seattle and Nov. 14 in Spokane.

**Open Sections Night in Spokane**

Open Sections Night is back in Spokane! This popular event is a great opportunity to learn about the WSBA’s 28 practice sections and meet new and experienced practitioners in a fun, casual atmosphere. Open Sections Night is scheduled for Oct. 22 at the Spokane Club. RSVP to sections@wsba.org.

**New MCLE Rule Takes Effect in 2016**

The new MCLE rule taking effect on Jan. 1, 2016, gives lawyers the opportunity to customize their continuing education to best meet their needs. Lawyers will be able to take advantage of new MCLE approved course subjects and activities to address important topics like lawyer-client issues, office management, personal and professional development, and stress management. The increased flexibility is designed to create more meaningful learning opportunities to support excellent lawyer-client relationships and office practices and ultimately improve work-life balance, job satisfaction, and career stability.

At least 6 credits must be in ethics and professional responsibility. At least 15 credits must be from attending approved courses in the subject of law and legal procedure. The remaining 24 credits can be earned in the above categories, as well as in new subject areas and activities that include professional development, personal development...
and mental health, office management, improving the legal system, or participating in a structured mentoring program approved by the MCLE Board. There is no live credit requirement. The new rule can be found at www.wsba.org/licensing-and-lawyer-conduct/mcle/apr-11-rules-and-regulations.

WSBA Board of Governors Meetings
Nov. 13, Seattle; Jan. 28–29, 2016, Seattle
With the exception of the executive session, Board of Governors meetings are open, and all WSBA members are welcome to attend. RSVPs are appreciated but not required. Contact Margaret Shane at 206-727-8244, 800-945-9722, ext. 8244, or margarets@wsba.org. The complete Board of Governors meeting schedule is available on the WSBA website at www.wsba.org/bog.

 Volunteer Custodians Needed
The WSBA is seeking interested lawyers as potential ELC 7.7 volunteer custodians. An appointed custodian is authorized to act as counsel for the limited purpose of protecting a client’s interests whenever a lawyer has been transferred to disability inactive status, suspended, disbarred, dies, or disappears and no person appears to be protecting the clients’ interests. The custodian takes possession of the necessary files and records and takes action to protect clients’ interests. The custodian may act with a team of custodians and much of the work may be performed by supervised staff. If the WSBA is notified of the need for a custodian, the WSBA would affirm the willingness and ability of a potential volunteer and seek their appointment as custodian. Costs incurred may be reimbursed. Current WSBA members of all practice areas are welcome to apply. Contact Sandra Schilling at sandras@wsba.org, 206-239-2118 or 800-945-9722, ext. 2118 or Darlene Neumann at darlenen@wsba.org, 206-733-5923 or 800-945-9722, ext. 5923.

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

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

Legal Community
Washington lawyers and their families joined other marchers in the annual Seattle Pride Parade on June 28. Several hundred thousand spectators lined the streets to cheer on participants. The parade culminated in Pridefest at Seattle Center.
Celebrate Those Who Paved the Way!

Join the WSBA in celebrating the careers and accomplishments of attorneys who have been WSBA members for 50 years.

The 50-Year Member Tribute Luncheon
Friday, Oct. 16, 2015 • Sheraton Seattle Hotel
Reception/Registration: 11 a.m. • Program: Noon
All members of the legal community and guests are invited.

For more information, contact Ashka Nakhayee, WSBA events specialist, at ashkan@wsba.org or 206-239-2125.
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CLE Calendar

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

**ANTITRUST**

Annual Antitrust Law Seminar
Nov. 4, Seattle and webcast. 6.25 CLE credits. Presented by the WSBA in partnership with the WSBA Antitrust, Consumer Protection and Unfair Business Practice Section; 800-945-WSBA or 206-443-WSBA. www.wsba.org.

**CORPORATE COUNSEL**

Corporate Counsel Institute
Nov. 6, Seattle and webcast. 3.5 CLE credits, including 1 ethics. Presented by the WSBA; 800-945-WSBA or 206-443-WSBA. www.wsba.org.

**CRIMINAL LAW**

22nd Annual Criminal Justice Institute
Oct. 22–23, Burien. 14 CLE credits, including 1 ethics. Presented by the WSBA in partnership with the WSBA Criminal Law Section; 800-945-WSBA or 206-443-WSBA. www.wsba.org.

**GENERAL PRACTICE**

Taking Care of Business

21st-Century Legal Research
Oct. 9, Seattle and webcast. 3.5 CLE credits. Presented by the WSBA; 800-945-WSBA or 206-443-WSBA. www.wsba.org.

Wineries, Breweries, and Distilleries: Legal, Regulatory, and Best Practices

How to Succeed on the Hot Seat
Oct. 21, Seattle. 2.75 CLE credits. Presented by The Seminar Group. 206-463-4400 or 800-574-4852. www.theseminargroup.net.

Comprehensive Insurance Law

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The Big Mouth: Dealing with Statements By and About Your Client

**ETHICS**

Ethical Dilemmas for the Practicing Lawyer
Nov. 19, Seattle and webcast. 4 CLE ethics credits. Presented by the WSBA; 800-945-WSBA or 206-443-WSBA. www.wsba.org.

**LABOR AND EMPLOYMENT LAW**

15th Annual Labor and Employment Law Conference
Nov. 20, Seattle and webcast. 6.5 CLE credits. Presented by the WSBA in partnership with the WSBA Labor and Employment Law Section; 800-945-WSBA or 206-443-WSBA. www.wsba.org.

**LEGAL LUNCHBOX SERIES**

The Ethics of Multijurisdictional Practice
Oct. 27, webcast. 1.5 CLE ethics credits. Presented by the WSBA; 800-945-WSBA or 206-443-WSBA. www.wsba.org.

Understanding and Navigating Generational Differences
Nov. 24, webcast. 1.5 CLE credits. Presented by the WSBA; 800-945-WSBA or 206-443-WSBA. www.wsba.org.

**MARITIME LAW**

Current Issues in Maritime Law
Nov. 5, Seattle. 7 CLE credits. Presented by the WSBA in partnership with the Federal Bar Admiralty Commission; 800-945-WSBA or 206-443-WSBA. www.wsba.org.

**NEW LAWYER EDUCATION**

Trial Advocacy Program
Oct. 23–24, Seattle and webcast. 12 CLE credits, including 1.25 ethics. Presented by WSBA New Lawyer Education; 800-945-WSBA or 206-443-WSBA. www.wsba.org/nle.

Mock Trials in Seattle are on Nov. 7 and in Spokane on Nov. 14.

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Disbarred
Ali Fayez Nakkour (WSBA No. 33547, admitted 2003), of Loomis, was disbarred, effective 8/12/2015, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation), 3.2 (Expediting Litigation), 8.4(d) (Prejudicial to the Admin of Justice). Linda B. Eide acted as disciplinary counsel. Ali Fayez Nakkour represented himself. Ronald W. Atwood was the hearing officer. The online version of NWLawyer contains links to the following documents: Hearing Officer’s Decision; Disciplinary Board Order Declining Sua Sponte Review; and Washington Supreme Court Order.

Resigned in Lieu of Discipline
Nate D. Mannakee (WSBA No. 5268, admitted 1973), of Tacoma, resigned in lieu of discipline, effective 8/10/2015. The lawyer agrees that he is aware of the alleged misconduct in disciplinary counsel’s Statement of Alleged Misconduct and rather than defend against the allegations, he wishes to permanently resign from membership in the Association. The Statement of Alleged Misconduct reflects the following violations of the Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation), 3.2 (Expediting Litigation), 8.4(d) (Prejudicial to the Admin of Justice). Linda B. Eide acted as disciplinary counsel. Ali Fayez Nakkour represented himself. Ronald W. Atwood was the hearing officer. The online version of NWLawyer contains links to the following documents: Hearing Officer’s Decision; Disciplinary Board Order Declining Sua Sponte Review; and Washington Supreme Court Order.

Resigned in Lieu of Discipline
Steven Witchley (WSBA No. 20106, admitted 1990), of Seattle, resigned in lieu of discipline, effective 7/02/2015. The lawyer agrees that he is aware of the alleged misconduct in disciplinary counsel’s Statement of Alleged Misconduct and rather than defend against the allegations, he wishes to permanently resign from membership in the Association. The Statement of Alleged Misconduct reflects the following violations of the Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation), 3.2 (Expediting Litigation), 8.4(d) (Prejudicial to the Admin of Justice). Linda B. Eide acted as disciplinary counsel. Artis C. Grant Jr. represented himself. Ronald W. Atwood was the hearing officer. The online version of NWLawyer contains links to the following documents: Hearing Officer’s Decision; Disciplinary Board Order Declining Sua Sponte Review; and Washington Supreme Court Order.

Suspended
Kelly Marie Beissel (WSBA No. 29239, admitted 1999), of Seattle, was suspended for nine months, effective 7/23/2015, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.5 (Fees), 8.4(l) (ELC violation). Linda B. Eide acted as disciplinary counsel. Kelly Marie Beissel represented Respondent. Karen A. Clark acted as disciplinary counsel. Frank Benjamin Inglis acted as disciplinary counsel. Artis C. Grant Jr. represented himself. Ronald W. Atwood was the hearing officer. The online version of NWLawyer contains links to the following documents: Order Approving Stipulation; Stipulation to Nine Month Suspension; and Washington Supreme Court Order.

Suspended
Joseph P. Calandriello (WSBA No. 31172, admitted 2001), of Nashville, TN, was suspended for three years, effective 7/23/2015, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of Tennessee. For more information, see http://www.tba.org/journal/licensure-discipline-35. Joanne S. Abelson acted as disciplinary counsel. Joseph P. Calandriello represented himself. The online version of NWLawyer contains a link to the following document: The Washington Supreme Court Order.

Suspended
Jeffrey A. Dickerson (WSBA No. 15105, admitted 1985), of Reno, NV, was suspended for 18 months, effective 7/23/2015, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of Nevada. For more information, see http://www.nvbar.org/lawyer-detail/4435. Scott G. Busby acted as disciplinary counsel. Jeffrey A. Dickerson represented himself. The online version of NWLawyer contains a link to the following document: The Washington Supreme Court Order.

Suspended
Artis C. Grant Jr. (WSBA No. 26204, admitted 1996), of Tacoma, was suspended for 12 months, effective 7/23/2015, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.5 (Fees), 1.15A (Safeguarding Property), 115B (Required Trust Account Records). Erica Temple and Marsha Matsumoto acted as disciplinary counsel. Artis C. Grant Jr. represented himself and was also represented by Anne I. Seidel. David A. Thorner was the settlement hearing officer. Malcolm Edwards was the hearing officer. The online version of NWLawyer contains links to the following documents: Order Approving Stipulation; Stipulation to Suspension; and Washington Supreme Court Order.

Suspended
Frank Benjamin Inglis (WSBA No. 7080, admitted 1976), of Sequim, WA, was suspended for two years, effective 7/15/2015, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of California. For more information, see http://members.calbar.ca.gov/fal/Member/Detail/66282. Joanne S. Abelson acted as disciplinary counsel. Frank Benjamin Inglis represented himself. The online version of NWLawyer contains a link to the following document: The Washington Supreme Court Order.

Suspended
Roger Jay Sharp (WSBA No. 12211, admitted 1981), of Vancouver, was suspended for three years, effective 7/23/2015, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer), 1.3 (Diligence), 1.4 (Communication), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation), 3.2 (Expediting Litigation), 5.3 (Responsibilities Regarding Nonlawyer Assistants), 8.4(l) (ELC violation). Natalie Skvir acted as disciplinary counsel. Roger Jay Sharp represented himself. Evan L. Schwab was
the settlement hearing officer. Christopher C. Pence was the hearing officer. The online version of NWLawyer contains links to the following documents: Order Approving Stipulation to Three-Year Suspension; Stipulation to Suspension; and Washington Supreme Court Order.

Reprimanded

James Jude Konat (WSBA No. 16082, admitted 1986), of Seattle, was ordered to receive two reprimands and two admonitions, effective 2/20/2015, by order of the hearing officer. The lawyer’s conduct violated the following Rules of Professional Conduct: 3.4 (Fairness to Opposing Party and Counsel), 8.4(d) (Prejudicial to the Admin of Justice), 8.4(h) (Prejudice or Bias). Marc Silverman acted as Special Disciplinary Counsel. Marsha Matsumoto acted as disciplinary counsel. Stephen Gerard Teply represented Respondent. James E. Horne was the settlement hearing officer. Craig C. Beles was the hearing officer. The online version of NWLawyer contains links to the following documents: Findings of Fact, Conclusions of Law and Hearing Officer’s Recommendation, Disciplinary Board Order Declining Sua Sponte Review; Notice of Reprimand; Admonition (1); and Admonition (2).

Reprimanded

John A. Long (WSBA No. 15119, admitted 1985), of Issaquah, was ordered to receive two reprimands, effective 6/08/2015, by order of the hearing officer. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.5 (Fees), 1.8 (Conflict of Interest: Current Clients: Specific Rules), 1.15A (Safeguarding Property), 5.4 (Professional Independence of a Lawyer), 7.2 (Advertising). Debra Slater acted as disciplinary counsel. John A. Long represented himself. Seth A. Fine was the settlement hearing officer. William Fitzharris Jr. was the hearing officer. The online version of NWLawyer contains links to the following documents: Order on Stipulation to Two Reprimands; Stipulation to Two Reprimands; and Notice of Reprimand.

Reprimanded

Patrick Michael Pasion (WSBA No. 28243, admitted 1998), of Bellevue, was reprimanded, effective 4/07/2015, by order of the hearing officer. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.4 (Communication). Erica Temple acted as disciplinary counsel. Patrick Michael Pasion represented himself. Donald W. Carter was the hearing officer. The online version of NWLawyer contains links to the following documents: Findings of Fact, Conclusions of Law and Hearing Officer’s Recommendation and Notice of Reprimand.

Admonished

James Patrick Hagarty (WSBA No. 14034, admitted 1984) of Eustis, was ordered to receive an admonition, effective 6/22/2015, by a Review Committee of the Disciplinary Board. The lawyer’s conduct violated the following Rules of Professional Conduct: 3.5 (Impartiality and Decorum of the Tribunal). Joanne S. Abelson acted as disciplinary counsel. James Patrick Hagarty represented himself. The online version of NWLawyer contains links to the following documents: Review Committee Order and Admonition.

Transferred to Disability Inactive Status

Darrell D. Uptegraft Jr. (WSBA No. 13785, admitted 1983), of Silverdale, was by stipulation transferred to disability inactive status, effective 6/24/2015. This is not a disciplinary action.

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Peter S. Hicks
to the firm’s employment and litigation practice groups.

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with his practice focused primarily on areas where law and technology converge. Those areas include e-discovery, digital evidence, privacy in data collection and social media, security breaches on the Internet, and liability in cloud computing. Before he became a lawyer, Yuhong worked as a computer software engineer for more than 14 years at Microsoft’s headquarters in Redmond, Washington. Born and raised in Shanghai, China, he is fluent in Chinese.

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Announcements

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Beresford Booth PLLC

is pleased to announce that

Jonathan P. McQuade

has joined our firm.

Mr. McQuade brings his 10 years of legal experience to the team at Beresford Booth. Jonathan’s practice focuses primarily on bankruptcy and creditor/debtor litigation, real estate, business law, and intellectual property.

Beresford Booth PLLC is a full service law firm and includes services relating to Real Estate, Estate Planning, Probate, Corporations, Partnerships, LLPs, Litigation, Employment Law, Family Law, and Complex Transactions.

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jonathanm@beresfordlaw.com
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Curran Law Firm

is pleased to announce that

Kasha Roseta

has joined the firm as an Associate. Established in 1948, Curran Law Firm provides legal services to individuals and businesses throughout the Pacific Northwest. Our areas of practice include business law, estate planning, probate, family law, medical malpractice, real estate law, and school law.

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Kent, WA 98032
253-852-2345

www.curranfirm.com

Integrative Family Law, PLLC

is pleased to announce that

Megan O’Brien Stanley

has joined the firm as an associate attorney. Megan has practiced Family Law for 20 years and has significant experience developing Parenting Plans, serving as a Title 26 Guardian ad Litem in numerous cases, and helping to mediate and resolve conflict in family law matters. She has also served as assigned counsel for parents and youth in juvenile dependency matters. Our firm is very pleased to bring her experience to our team.

Integrative Family Law, PLLC
901 Fifth Avenue Suite 2800
Seattle, WA 98164
Tel: 206-859-6800 • Fax: 206-859-6801

www.integrativefamilylaw.com
The new MCLE rule (APR 11) taking effect on Jan. 1, 2016, gives lawyers the opportunity to customize their continuing education to best meet their needs. Lawyers will be able to take advantage of new MCLE-approved course subjects and activities to address important topics like lawyer-client issues, office management, personal and professional development, and stress management, in addition to the standard ethics and law and legal procedure subjects. The increased flexibility is designed to create more meaningful learning opportunities to support excellent lawyer-client relationships and office practices and improve work-life balance, job satisfaction, and career stability, which should ultimately benefit clients as well as lawyers. Here is a quick reference guide:

**6 ETHICS CREDITS**

Ethics credits can be earned by writing, participating in a structured mentoring program, or attending or presenting courses in ethics.

**15 LAW & LEGAL PROCEDURE CREDITS**

At least 15 credits must be earned from attending approved courses (live or recorded) in the subject of law and legal procedure.

**24 OTHER CREDITS**

The remaining 24 credits can be earned in the above categories, as well as in the new subject areas:
- Professional development
- Personal development and mental health
- Office management
- Improving the legal system

Or by engaging in approved activities, such as:
- Legal writing
- Legal teaching
- Providing pro bono legal services
- Judging law school competitions
- Participating in a structured mentoring program

**NO LIVE CREDITS REQUIREMENT**

The 2013–15 reporting group (the group that needs to finish credits by Dec. 31, 2015, and certify by Feb. 1, 2016) will need to meet the current MCLE requirements. The 2014–16 reporting group will be the first group affected by the new MCLE rules. All credits will be migrated to the benefit of the lawyer, i.e., “general credits” will be migrated to the new reporting system as “law and legal procedure credits.”

For more information go to [www.wsba.org/mcle](http://www.wsba.org/mcle).

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**Smart education.**

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I became a lawyer because I saw the need for more lawyers who actually helped those who truly needed it.

My greatest talent as a lawyer is listening. This may sound simple, but I get so many clients who are so happy because I listened when no one else would.

The best advice I have for new lawyers is don’t be afraid to try something new. You don’t have to do things the way every other lawyer has done them. Think outside of the box.

The most rewarding part of my job is helping people. Before I started my own firm, I worked for the Domestic Abuse Women’s Network (DAWN). I still help a lot of survivors of domestic violence now that I am on my own and it is truly rewarding to help men, women, and children get out of abusive relationships.

The worst part of my job is realizing you can’t help everyone who asks. As a solo, you don’t have the time or resources to take on every client who calls looking for help. It can be heartbreaking turning away those who truly need help.

I enjoy reading actual books. I love being able to turn the pages. I don’t like how technology is making books obsolete. There is something special about picking up a book and flipping the pages.

I create work/life balance by having as much fun as possible. One of the joys of being a solo is being able to create your schedule. So if I feel like trying indoor skydiving on a Tuesday at 11 a.m., I can.

Nobody would ever suspect that I write stand-up comedy. Hopefully one day I will actually perform some of my jokes on a stage.

I give back to my community by volunteering. I volunteer with three organizations in the Puget Sound area. I volunteer with an organization called Birthday Dreams that hosts birthday parties for homeless children. I also volunteer with a local nonprofit called Limbs For U which donates recyclable prosthetic limbs to people in developing countries. Finally, I have been volunteering with the Housing Justice Project in Kent for nearly three years.

This is on my bucket list: riding a bull. I would say for eight seconds, but if I get two seconds, I’d be happy. I went to college in Wyoming and met a lot of real cowboys who influenced this goal.

This makes me smile: great views, puppies, cupcakes, and kindness.

If $100,000 fell into my lap, I would skip into Sallie Mae Headquarers and count out the remainder of my law school debt in one-dollar bills. Then I’d take a vacation with the rest.

My dream trip would be to the Galapagos Islands.

If I have learned one thing in life, to borrow from Maya Angelou, “I’ve learned that you shouldn’t go through life with a catcher’s mitt on both hands; you need to be able to throw something back.”

My name is KRISTINA LARRY and I am the founder and managing attorney of Sassy Litigations, LLC, The Seattle Wedding Lawyer, and The PreNup Princess. I serve as the young lawyer liaison to the WSBA Solo and Small Practice Section. Contact me at kristina@sassylitigations.com or at 206-497-1725.

Kristina T. Larry
WSBA No. 41852
Law School: Thurgood Marshall School of Law

During my free time, I work out, hike, explore, read, cook, binge-watch TV shows on Netflix, and look for new things to try.

I look up to my father. He is a man of great integrity and full of kindness. He served 38 years in the military and fought in three wars.

If I took one day off in the middle of the week, I would take a day trip somewhere in the state. Washington has so much to see and you can get to many places within a couple of hours. I’ve been trying to explore as much as I possibly can.
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