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*Kristina Larry, Washington State Bar Foundation Trustee*
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I am troubled by the WSBA’s persistent promotion of “diversity.” (“Guidance, Support, Networking: Keys to a Firm’s Diversity Efforts,” by Kellie Tabor, JUL-AUG NWLawyer). The pursuit of diversity is the commission of unlawful discrimination. As attorneys, our oath compels us to abide by Washington’s laws. In turn, RCW 48.60.180 characterizes as an unfair practice the acts of refusing to hire or discharging any person based on “race, creed, color, national origin...”

When we diminish or overlook more qualified applicants in favor of less qualified applicants because of their comparative race, creed, color, national origin or sex; then, we engage in unlawful discrimination. As attorneys, our oath compels us to abide by Washington’s laws. In turn, RCW 48.60.180 characterizes as an unfair practice the acts of refusing to hire or discharging any person based on “race, creed, color, national origin...”

Improper discrimination ends when we solely evaluate an employee based on his or her ability and performance. As attorneys, we should not tolerate attempts to create faux diversity (much less promote such attempts) but instead should encourage employers to hire and retain the most qualified employees.

History is replete with examples of inappropriate discrimination. In each case, the perpetrators likely genuinely believed the discrimination was justified or beneficial or prudent under the circumstances. For example, Aristotle noted that “Greeks are free by nature; barbarians (non-Greeks) are slaves by nature.” Some may believe that “diversity” is good; however, in Washington state, forced diversification is unlawful discrimination.

Wayne Philips, Mission Viejo, CA
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THE RULE OF LAW.
THE ROLE OF WSBA.

Over the door to the United States Supreme Court hangs the engraved phrase, “EQUAL JUSTICE UNDER LAW.” For many Americans (and others), that phrase is a manifestation of an abiding faith we share in the “Rule of Law.” When folks began to ask me why I took on leadership duties with the Washington State Bar Association (WSBA), I initially found it hard to articulate the underlying reason(s). I now know that it is my own faith in the Rule of Law that compelled me to step up and that motivates me to work on behalf of the WSBA, its members, and the public...and that motivation is growing.
Over the last few years, if not for many years before, the Rule of Law has been, by some estimations, under siege. The deaths of unarmed African-American men in the hands of law enforcement in Ferguson, Baltimore, New York, and other places, the random shootings of police officers in Houston, the Orlando Massacre, Sandy Hook—and lately, the Charlottesville incident, the Arpaio pardon, and immigration edicts and lawsuits—lead some to wonder if we truly are a nation that believes in the Rule of Law. These incidents, each in its own way, test the proposition that we can rely upon the Rule of Law to keep us safe, to protect our liberties, and to provide an orderly, civilized society in which to raise our children.

Many times I wonder what we can do to assure the vitality of the Rule of Law. Certainly, the WSBA can do little on its own to directly affect circumstances, such as those mentioned above, that challenge the Rule of Law. But if one stops to consider the daily efforts of our members, our role is clear. Whether we litigate civil rights, provide a criminal defense, draft wills or contracts, assist a family through the throes of a dissolution, or help form a business, we are implementing the Rule of Law. How well we carry out our daily tasks as legal professionals, the amount of integrity we bring to our actions, and the quality service we provide to our clients, along with the quality of our judicial system and the public’s equitable access to justice, ultimately determine the health of the Rule of Law. No legal task is mundane; collectively, our everyday practices are the fibers that, woven together, strengthen the enduring fabric that is the Rule of Law.

In this context, the role of the WSBA is clear. We can—and we must—equip our members to be the best legal professionals they can be. The WSBA and its members must insist on the highest ethical standards for our profession and equitable treatment of all our members. We can—and we will—continue to facilitate and work with our partners to bring access to justice to all members of the state’s communities, rich or poor, dark-skinned or white, man or woman, straight or gay, able-bodied or not. On top of that, we must support our court system as we champion justice. In short, what the WSBA can do to promote the Rule of Law is provide the tools to its members to make our system of justice work as well as humanly possible for as many members of our community as we can.

So why I volunteered for this job has become clear. We who are involved with the WSBA—the Board of Governors, our staff, and our fabulous volunteers—have the chance, indeed the obligation, to help our profession strengthen the Rule of Law by supporting our members.

Those of us in leadership roles must also look ahead and anticipate how an ever-changing world will impact lawyers. With that vision we must ready the profession to embrace the future and thrive. If the WSBA effectively equips its members so they, by their professional endeavors, better and more fully serve the public, and assists our members to adapt to an evolving legal services market, then together we will bolster the Rule of Law and make an important difference.
With Incoming WSBA President BRAD FURLONG

In this issue, we introduce you to 2017-2018 Washington State Bar Association (WSBA) President Brad Furlong.

You previously served a three-year term on the Board of Governors, from 2013-2016. What motivated you to run for president, which effectively commits you to three more years of service (including a year as president-elect and a year as immediate past-president)?

The WSBA has endured a few rocky passages over the last year-and-a-half as changes have taken place. Bylaws amendments in response to the governance task force report, changes to sections’ bylaws, upcoming proposals to modify the Civil Rules based on portions of the report on the escalating cost of civil litigation, and other issues all raised concerns and brought about change. For some, the change is the necessary adaption required to survive. For others, it can cause trepidation and dis-
trust. We are a precedent-based profession, laden with tradition and traditional values—yet we ignore the future at our peril. To endure and thrive, change quite likely will be necessary in the times to come. A principal reason I ran for president is my desire to help our members—and the organization—through the passages that lay ahead. I hope to lead in a fashion that recognizes the need for change yet is sympathetic to its impact on our members. I wish to help us adapt wisely by carefully studying the need for and method of change. I hope change occurs after member engagement and in a manner that builds trust. I am reminded regularly of words from the poet Jane Hirshfield, reminding us that eastern traditions teach us that “Everything changes, everything is connected—pay attention.”

At the May 2017 Board of Governors meeting, there was generative discussion about mandatory malpractice insurance as a condition for being licensed, and at the July meeting, a subsequent vote to create a Mandatory Malpractice Insurance Task Force occurred. A referendum to defeat this very topic took place in the 1980s. Why revisit this topic?

It appears that approximately 15 percent of our members have no malpractice insurance to protect them or to protect their clients. If the Board pursues an investigation of a system of mandatory malpractice insurance, it will be to protect the public—and attorneys—with an eye towards the economic implications for our members. Member engagement in this process will be critical.

The Board’s Budget and Audit Committee has recommended license fees for the period of 2018-2020 to be raised incrementally from the current 2016-17 fee of $385 to $449, $453, and $458, respectively. This proposal was approved at the September 2016 Board meeting. How do you foresee the Board handling fee-level proposals in the following years?

It is impossible for me to foresee how future boards will act. One would hope that budget and licensing fee decisions will be made based on the cost of efficiently providing our members and the public with excellent, valuable services, while equipping our members to be the excellent professionals who can, by their training, experience, and high ethical standards, continue our tradition of championing justice across the state for everyone. Again, it is critical for members to engage in the budget process. The Board’s Budget and Audit Committee develops budget and licensing fee proposals in well-publicized meetings open to all members. I invite our members who care about these matters to show up, learn, and participate.

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

I wish it were only one or two—I see at least three:

First. We must continue to be champions of diversity, inclusion, and equity. The legacy of marginalization lives on in our profession. I invite those of us who enjoy any amount of privilege to look into our hearts, examine our actions, and explore how our power affects members of traditionally marginalized communities. From that I hope we can learn to act as allies. If that happens in a broad-based manner, the legacy of marginalization we all deplore will begin to fade. When we succeed, our profession, the clients, and the justice system we serve, as well as each of us, will reap the benefits.

Second. I want to again emphasize that member engagement is critical. The WSBA needs an engaged professional community if it is to effectively work on its members’ behalf. I know how busy each member is—buried in client matters, family, and life in general. We must find effective means to reach our busy members and engage them in WSBA affairs.

Third. We likely need to look at entity regulation as a possible way to enhance access to the justice system for all members of our communities. We should investigate whether such regulation will help meet the reasonable economic expectations of our hard-working members, many of whom are struggling under undergraduate and law school debt. Contemplating and potentially implementing entity regulation will require a many-faceted evaluation and strong collaboration with the Washington Supreme Court and WSBA stakeholders and members.

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

Humility.

What has been your greatest accomplishment as a lawyer?

The greatest accomplishment I can ever hope for as a lawyer is a client well served.

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

My wife, law partner, and best friend, Eileen Butler, and my three children, Wes, Maddy, and Amelia Furlong; their wisdom, encouragement, and support are my foundation.

What are your hobbies or interests?

I ski, mountain bike, road bike, and backpack. I love books, plays, and music. Few things beat sitting in my living room looking out the window at the profile of the Olympic Mountains and appreciating the beauty of this great state.
TO LAUNCH AND YET TO LUNCH

Thoughts on a Judge’s So-Called Retirement

by Hon. William L. Downing (Ret.)

JANUARY 2017

This past January, with my earthly bonds loosed, I encountered some minor turbulence at 30,000 feet. Somewhere over the South China Sea, I seemed to be the only one on board plunging into this particular air pocket.

Weeks earlier, as my seventh and final judicial term was coming to an end, my wife Laura and I had made a plan to immediately depart on a trip to southeast Asia to visit our diplomat son and tour the region. It seemed an appropriate punctuation mark as I closed the door on my 40-year career of public service.

But, as we began our descent, the one-page customs and immigration form handed out by the smiling flight attendant had me flummoxed. Its bureaucratic demand was that I state my profession. Maybe it was all the time zones we’d just crossed or maybe it was something else, but I felt myself in a tailspin.

My identity for the past 28 years had been tightly wrapped in the job title “judge.” I was definitely not ready for all the implications of defining myself as “retiree.” Yes, I was eager to ease off the work throttle but, despite my present circumstances, I didn’t feature myself as in a descent. I strained to find the honest answer that would not put me crossways with either psychic or homeland security.

NOVEMBER 2016

In the preceding months, I’d been quietly arranging to move into part-time private mediation and arbitration work with JAMS. Their skilled administrative staff had told me, “We’d like to schedule your launch for the spring.”

“My lunch?” I asked, picturing pickle spears and Tim’s potato chips. In fact, lunch was on my mind as my family—each with our own private thoughts—had recently smiled at the old retirement joke: “For better and for worse but not for daily lunch.”

“Your launch,” she repeated, and my mental image switched to both Cape Canaveral and the latest offering from Microsoft. Okay, but was I really ready to be blasted from my familiar gravitational field and out into the sphere of the free market?

Shortly afterwards, when I thought about it, I came to appreciate that terminology. If I’m to be commodified, I’d much prefer being launched to simply getting “rolled out” or “released.” Instead of descending into a rocking chair, ascending like a rocket ship was more consistent with my self-image. And it was comforting to have JAMS as my booster.

DECEMBER 2016

“Life goes on within you and without you.”

I quoted that hoary old line of George Harrison’s at my retirement party, fully appreciating that the county courthouse would continue to stand and to function quite well after I had vacated the premises. I may have been less
sure—and trying to convince myself—of the vibrancy of this old dog.

I’d spent an odd final month—sorting, dumping, bringing home a few boxes. It was a laborious process, slowed by unearthing notes on scraps of paper with bits of courtroom poetry (witness: “I seen him rack back a black nine”) and cryptic messages to myself (“Max Weber: authority must retain some mystery.”)

It was a fine distraction from contemplating going out to pasture. When I had first begun to ponder how to keep active after leaving the bench, I’d had vague notions of creating a law school course that mixed law and literature with real-life scenarios in which I’d found or imagined myself. An academic cold shoulder was an unsubtle nudge in the direction of finding something more practical, whether in their world or mine. That is when I became more receptive to the allure of private dispute resolution.

For some time, JAMS had been courting me but, non-violent by nature, I’d initially been turned off by someone’s use of the bloody awful term “Eat what you kill.” More appetizing, and ultimately persuasive, was JAMS’ promise of familiar work coupled with the freedom to do precisely as much or as little of it as I alone decided I wanted.

FEBRUARY 2017
A few months back, I went into my doctor’s office for what I expected would be a routine checkup. (That sounds like the start to a sad story but this isn’t.) The nurse came in and, in a slow clear voice, said, “Since this is your first Medicare checkup, I have to administer a few tests. I’m going to say five words and in about 10 minutes, I’ll ask you to say them back.”

I smiled, inwardly crowing, “That’s right in my wheelchair, my one clear job skill.” Whether it is a predisposition or a knack picked up along the way, a trial judge has excellent short-term memory. We listen to testimony and argument for a few days and then speak authoritatively on a subject we knew nothing about a few days before. We specialize in projecting confidence in our wise pronouncements about some arcane topic we have seemingly mastered. We strive for wisdom, of course, but when that connection is spotty, the correct usage of key words can paper over a few holes beneath.

Ten minutes later, I tossed right back her “hat, train, blue, egg, chair.” If she’d served up “estoppel, meretricious, debentures, asportation, endarterectomy,” I would have done just as well. Not on her clipboard but in my mind, the box was ticked for “job skills intact.”

WAY BACK
Long-term memory is a different matter. Details blur and fade, leaving behind a sense of patterns and trends along with bulked-up judicial muscles for learning, analyzing, and deciding.

For 40 years, I’d been in the gravitational pull of the King County Courthouse. I’d started in the Prosecutor’s Office in 1977 and spent most of the next 12 years trying cases to juries. In 1989, with a boost from then-Governor Booth Gardner, I moved upstairs, to sit as a Superior Court judge, where I’d remain until my retirement. Having seen enough of the criminal law world, my bench time was spent chiefly in the civil arena.

And I loved it. My courtroom was the forum where we solved problems arising in hospital operating rooms, corporate boardrooms, private bedrooms, and political backrooms. Every conceivable kind of person passed through and none stayed any longer than I wanted. I treasured my time in the courtroom for both the daily, real-world challenges and the rewards it offered. But after years at an often hectic pace, I discovered that I had stayed precisely as long as I wanted.

I certainly don’t remember all of my cases, though the first and last stay with me. My first trial was a double pro se dissolution and in reviewing the court file, my young eagle eye noted that the couple’s state-of-the-art hot air popcorn popper showed up on each party’s proposed property division list. This led to my subsequent coining of the wise maxim: “It’s not always about the popcorn popper.”

Jumping to my last Friday morning on the bench in 2017, I heard some summary judgment motions in a typical multi-defendant asbestos case. On the eve of trial, there remained defendants in the case against whom there was neither evidence nor settlement.

Other than bearing the imprint of “primacy and recency” (memory experts and trial advocacy teachers agree on this), what these two otherwise forgettable cases have in common is that both could have benefitted from alternative dispute resolution. In the first, both parties simply needed to have an empathetic ear to listen to each of their legitimate stories before they could have finality. The last case was in need of someone to take charge and efficiently separate the wheat from the chaff with less costly procedural formality and less brinksmanship.

MID-2017
That world of ADR is where my jurisprudential journey was soon to take me.

But first, on our trip to southeast Asia, we would become
acquainted with the ubiquitous local expression, “Same same but different.” I’m still not sure exactly what they mean by this but it seemed to perfectly encapsulate how I hoped to find the move from courtroom trials to conference room adjudications and negotiations.

Before my first arbitration hearing, I confided to my son that I was nervous at the novel prospect of presiding in a suit in a conference room. I think he was being reassuring in replying that I would quickly get past the facts that it would be my first time performing disrobed but also my first time with a cover charge.

Once in the hearing room, it really was same same but different. Despite the self-esteem issues arising from no “all rise” as well as the robelessness, I found that I could actually see the witnesses better than in a courtroom designed for jury trials. Beyond all that, the listening and processing were as familiar as an old Beatles’ album.

It happened that my first arbitration case involved the enforcement of the non-compete term of an employment contract. My biggest distraction turned out to be contemplating the parallels between my situation and that of the respondent. Here I was taking the skills I had developed on the job over those many years with the Superior Court and using them in the service of a different entity. Before that hearing ended, I had resolved that I would see my new entity not as a competitor but as a partner in the quest for amicable dispute resolution.

A more striking difference is found when comparing my new private mediations with the settlement conferences a judge typically convenes at 4:30 p.m., already tired and hungry. Starting fresh in the morning with a paid-in-advance day stretching ahead of you enhances the mediator’s patience, the parties’ commitment, and the prospects of success. There are several other differences I’ve picked up on as well.

Here’s one: My musical repertoire has been enhanced with a new tune to be hummed as I amble between conference rooms. In my former life, walking from chambers to my courtroom, I’d found confidence in Dr. John’s, “If I
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—Michelle Lynn Graunke, Attorney.
NOT SO FAST!

Washington’s Supreme Court takes a critical look at civil forfeiture under the Uniform Controlled Substances Act

by Ronald Farley

WHAT’S IT ALL ABOUT?

In City of Sunnyside v. Gonzalez, 188 Wn.2d 600, 398 P.3d 1078 (2017), the Washington Supreme Court reversed an order for forfeiture under Chapter 69.50 RCW, the Uniform Controlled Substances Act. The Act allows civil forfeiture of property that is connected to an intended, or completed, controlled substances violation. Justice Yu, writing for a unanimous court, found that although forfeiture may be upheld on review under the minimum standard of proof required in civil cases (preponderance of evidence), the reviewing court must still undertake a sufficiently "robust" analysis to protect citizens from improper loss of property. Id. at 617.
THE ARREST
Andreas Gonzalez was driving in Sunnyside, Washington, on a Sunday when he was pulled over for speeding. The car he was driving had California license plates. When asked for his license and registration, Mr. Gonzalez provided a California registration that was not in his name. When asked who owned the car, Mr. Gonzalez replied with a name that was not on the registration. Upon checking, it was discovered Mr. Gonzalez’s license had been suspended. Mr. Gonzalez was placed under arrest and backup was called to assist with the impound of Mr. Gonzalez’s car.

The assisting officer had a canine partner. Mr. Gonzalez consented to the canine’s search of his vehicle, and the canine alerted to the center console, which contained a “user” amount of cocaine, and $5,940 in cash, which was located in the driver’s side door pocket. There were no other canine alerts and no other drug paraphernalia was found in the car. Id. at 603-604.

THE FORFEITURE HEARING
While in custody, Mr. Gonzalez was served with a notice of seizure and intent to forfeit the car and the cash. He requested a forfeiture hearing.

At the hearing, the arresting officer testified that “from past experience or knowing and dealing with the situation . . . it’s not uncommon that a person be selected or offered a job to drive a vehicle that has a contents or contraband from one place to the other place and they get x amount of money plus the vehicle they used to transport.” Id. at 604. The arresting officer did not testify regarding the canine alerts.

The canine officer testified his dog was trained to alert to a number of drugs, but was not specifically trained to alert to cash. He believed the alert to the cash indicated there was controlled substance on the money. On cross-examination he admitted money could be contaminated through counting and automatic teller machines, and “guessed” that the federal government no longer relied on evidence of trace amounts of drugs being found on cash for that reason. Id.

Mr. Gonzalez explained that prior to his arrest he had accompanied a friend to California to visit relatives. While there, Mr. Gonzalez was offered an opportunity to buy the car in question. Mr. Gonzalez knew he had enough money at home to purchase the car, but did not have that amount with him. His friend offered to loan Mr. Gonzalez money with the proviso that Mr. Gonzalez pay him back upon their return to Washington. Mr. Gonzalez purchased the car and received the title, but did not get a bill of sale. Id. at 604-605.

Because Mr. Gonzalez returned to Washington on the weekend he was arrested, he had not been able to change the registration or obtain Washington state license plates before his arrest. At the time of the forfeiture hearing, Mr. Gonzalez had a valid driver’s license, proof of insurance, and proper vehicle registration. Id. at 605.

When asked why the name he gave for the registration did not match the name actually on the registration, Mr. Gonzalez testified he was “probably nervous, scared I’m gonna end up being arrested.” Id. at 603. He testified the money in the car was to repay his friend for the loan to purchase the vehicle. Mr. Gonzalez also testified that although he was currently unemployed, he lived with his parents and, through a variety of sources, his total income for the prior year exceeded the amount of money that was found in the car. Id. at 605.

Mr. Gonzalez had no prior arrests or convictions for any drug-related activity. He ultimately pleaded guilty to a possession charge for the cocaine found in the car. Id. at 604.
THE DECISION TO FORFEIT
The hearing examiner entered an order of forfeiture setting forth six findings in support:
1. Mr. Gonzalez had two cell phones in his possession;
2. Cocaine was found in the vehicle;
3. There was a large amount of cash in the vehicle, to wit $5,490.00;
4. Officers testified that the cash was “coated” by enough cocaine so that the drug dog also alerted to the cash;
5. The vehicle, a 2001 BMW, was not in the name of the claimant at the time of the incident; however, he had driven it from California just prior to being stopped;
6. The fact that the Claimant, Mr. Gonzalez, states he received money from an injury and from unemployment does not seem to explain all of the cash that was present.  
   Id. at 606.

On the basis of these findings, the hearing examiner concluded the city had met its burden of proving, by a preponderance of the evidence, that the car and money were “used and/or intended to be used for a controlled substance violation, specifically the furtherance of the sale of an illegal drug.”  Id.

SUPERIOR COURT REVERSAL
The Yakima County Superior Court reversed. It concluded “looking at the findings, even considering them as a whole, I don’t think that a reasonable person could find that the money and the vehicle were involved somehow in narcotics trafficking based on the record we have.”  Id.

COURT OF APPEALS REINSTATES FORFEITURE
The City appealed to Division III of the Court of Appeals. That court reversed the Superior Court and reinstated the forfeiture. Division III believed the Superior Court had improperly re-weighted the evidence in reaching its decision.  Id. at 607.

SUPREME COURT VACATES FORFEITURE WITH NO REMAND
The Supreme Court began by noting that the intent of the forfeiture statute is to penalize drug-related crimes by targeting profits generated by commercial production and distribution of controlled substances; the statute does not contemplate forfeiture where the drug violation is mere possession of a controlled substance. Property subject to seizure and forfeiture must usually involve drug manufacturing or transactions.  Id. at 608. The essential questions on review are: (1) Is there substantial evidence in the forfeiture hearing record to support the findings;
and (2) Do the findings support the conclusion that forfeiture is proper?

The court noted that reviewing courts look to the record of the initial forfeiture hearing and do not reweigh evidence or determine credibility in appeals from forfeiture decisions; however, neither shall reviewing courts “automatically affirm the hearing examiner’s decision...” Id. at 612. Appellate courts must be “satisfied that the seizing law enforcement agency presented ‘a sufficient quantity of evidence to persuade a fair-minded person of the truth or correctness of the [hearing examiner’s] order,’” and “the claimant must carry the burden of showing otherwise.” Id.

Applying this standard of review, the Supreme Court found that the hearing record did not support the examiner’s finding number 4 that, “Officers testified the cash was ‘coated’ by enough cocaine so that the drug dog also alerted to the cash.” Placing the word “coated” in quotes in the finding implied that the amount of controlled substance on the money found was significantly greater than might be present on money that had not been used in a drug transaction. In fact, there was no testimony that the money was “coated” in anything, and there was no evidence the money was ever tested for the presence of a specific drug. Id. at 613-615.

While this may seem like a small distinction, the hearing examiner’s choice of the word “coated” is significant when taken in context of this preliminary finding as a whole. The finding is not simply that the canine alerted to the money or that one could reasonably infer that the canine alerted to the money because there was some controlled substance on it. Rather, the finding indicates that the hearing examiner believed that the amount of controlled substances on Gonzalez’s money was significantly greater than one would find on money that had not been used in a drug transaction. There was no evidence presented to support such a finding. Id. at 614-615.

The court noted that the hearing examiner found Mr. Gonzalez’s testimony was not credible and deferred to that finding. The court also acknowledged that credibility determinations, coupled with the other findings, could lead to a reasonable inference that the car and money were obtained through some unlawful
means. To justify forfeiture, however, the burden was on the City to prove, by a preponderance of the evidence, that the car and money were specifically connected to drug manufacturing, transaction or distribution, and not some other possibly illegal act. *Id.* at 616.

The remaining findings failed to provide substantial evidence to support forfeiture. There was no evidence Mr. Gonzalez had separated the user amount of cocaine discovered in the car from a distribution-level amount, or that he had ever been involved with drug manufacturing, transactions, or distribution. Thus, regardless of credibility determinations, if there is a lack of evidence justifying forfeiture under the statute, the seizing agency fails to meet its burden.

The court concluded that allowing forfeiture under such circumstances, based only on possession of a small amount of a controlled substance, would violate the plain language of the statute, which is not aimed at “the property of end-level users who are guilty of nothing more than mere possession.” *Id.* The court in *City of Sunnyside v. Gonzalez* thus made clear that although the standard of review under the civil forfeiture statute is a mere preponderance of the evidence:

[A]ppellate review must be sufficiently robust to ensure that an order of forfeiture is in fact supported by substantial evidence so as not to deprive people of significant property rights except as authorized by law. This is particularly important in the forfeiture context because an individual may lose valuable property even where no drug crime has actually been committed, and because the government has a strong financial incentive to seek forfeiture because the seizing law enforcement agency is entitled to keep or sell most forfeited property. *Id.* at 617.

The Supreme Court reversed the Court of Appeals, vacated the forfeiture order, and granted Mr. Gonzalez’s request for reasonable attorney fees.

*Ronald E. Farley* earned his J.D. degree from the University of Washington and has been practicing law since 1978. Areas of emphasis in his practice include civil appellate work, education matters, and employment law, representing both employers and employees. He was lead counsel for Mr. Gonzalez before the Court of Appeals and the Supreme Court in *City of Sunnyside v. Gonzalez*. He can be reached at 509-252-5047 or ron@cogdillnicholsfarley.com.
At the end of August last year, my law practice felt busy. I received some nice publicity in the local newspaper—and I was diagnosed with breast cancer. For the first time in a while, I landed on the other side of the professional relationship: a vulnerable patient/client in need of professional help to navigate a difficult patch in life. Sitting in clinic waiting rooms with pastel walls, silk flower arrangements, and countless brochures bearing the pink ribbon logo, I had plenty of time to think… about my cancer experience, and my work as a divorce lawyer.

I learned a lot from the professionals charged with guiding my decisions and safeguarding my long-term wellbeing. And I have a new perspective on what people want and need from professionals providing support during an unexpected life detour. These are the things my medical team provided that served me the most during last year’s health crisis.

WHAT CANCER TAUGHT ME ABOUT BEING A DIVORCE ATTORNEY

by Leigh Noffsinger

EXPERTISE

First and foremost, I want professionals who specialize in the narrow area of services I need. My surgeon performs more than 400 breast cancer surgeries per year. She doesn’t do appendectomies or hernia repairs. Her sole focus is on breast cancer, and she has handled countless cases very similar to mine. All three doctors who treated me specialize in cancer. They have so much experience treating patients like me that they could anticipate my questions before I’d even asked them.

EASY ACCESS TO SUPPORT AND INFORMATION

The day I received my diagnosis, my hospital assigned two “nurse navigators” to my case. They gave me a three-ring binder packed with information about every step of my treatment, scheduled all my appointments, checked on test results, periodically called me to check in, and made themselves available as resources for whatever I might need. Just knowing I could pick up the phone and reach them helped to keep my anxiety in check.

THE SENSE THAT I’M THE PRIORITY PATIENT

Living in the Seattle area, I was fortunate to have many nationally recognized options for cancer treatment. I chose a top-notch hospital with a smaller cancer center that felt more personal. My surgeon said she aims to have each patient feel like her only patient, and I was honored and humbled by that experience. I never once felt rushed—whether crying as I went through my list of questions about cancer recurrence that my oncologist had already answered (and patiently answered yet again), or making small talk with my two radiation therapists to make the time pass more quickly. I truly felt that all of my professionals were fully present and exclusively focused on me during my time with them.

CALM REASSURANCE

None of my medical professionals gave any guarantees, but they did offer many helpful messages: “Your feelings are normal.” “Things will get easier.” “You’re doing a great job staying strong.” “You can get through this.” Anyone going through a life crisis—whether divorce or cancer—can feel isolated and lonely, and even crazy at times. It helps to be reminded of our shared humanity, and that we’re completely “normal,” even during the hardest days.
The things I’ve gotten from my health care providers are the same things I hope to provide to my divorce clients. Shortly after I started my family law practice, a mentor attorney gave me the following advice: “When a client starts telling you the sad details about why his or her marriage failed, put your pen down and stop taking notes; that will send the clear message that those facts have no relevance to the legal case and will move the conversation back to the substantive issues.” I have great respect and gratitude for that mentor, but my experience as a cancer patient helped me see that an exclusive focus on the legal aspects of my cases might not best serve my clients. Being a professional supporting someone facing a major life crisis is an intimate role. I can’t ask clients to trust me for legal advice if they can’t also trust me to show empathy for the personal details of their story, to reassure them that their feelings are normal and that things will get easier, and to guide them to a better place using my passion and expertise. If I can offer to my divorce clients what I experienced as a cancer patient, I believe the law too can be a healing profession.

PASSION

All of the nurses, doctors, techs, and staff I encountered exuded a strong sense of purpose and pride in their work—and that positive energy shaped my experience every time I walked through the hospital doors. Although I’ve faced a dreaded disease, I never dreaded interacting with the exceptional professionals who always greeted me with a smile and understood their important role in my healing.

COMPASSION FOR MY STORY

My medical providers undoubtedly knew countless patients with stories like mine (and many far more heart-breaking), yet they always showed compassion and patience when I needed to talk. Even when my topics veered toward less medically relevant issues (like how my diagnosis was impacting my son’s eighth-grade year, or how I would manage Christmas with daily radiation treatments for seven weeks), they treated me as a whole person, not just a disease to be cured.

Leigh Noffsinger is a family law sole practitioner, with offices connected by ferry—in downtown Seattle and on the Bainbridge Island waterfront. She believes that almost all divorcing couples (especially the high-conflict clients!) would benefit from the support of collaboratively trained lawyers and a collaborative law process. She can be reached at Leigh_Noffsinger@mac.com.
Engagement agreements have long been a cornerstone of law firm risk management. In several recent Washington cases, courts have reinforced that central role. In this column, we’ll survey three key functions that engagement agreements play in (a) defining who is—and who is not—the client, (b) outlining the scope of the particular representation being undertaken, and (c) confirming fee arrangements. As the recent cases illustrate, systematically using engagement agreements can help avoid or provide a solid defense to claims for malpractice and breach of fiduciary duty, disqualification motions, and fee disputes (and their regulatory cousin, bar grievances).

Before we dive in, however, a qualifier is in order. When taking on a new matter, lawyers also need to run appropriate conflict checks and, if necessary, obtain required waivers. Conflict waivers can either be included in engagement agreements or can be stand-alone documents. In either form, they play a central role in protecting a lawyer and the lawyer’s firm.

Defining the Client
Somewhat counterintuitively, the attorney-client relationship is not defined in the Rules of Professional Conduct (RPC). Rather, Paragraph 17 to the “scope” section of the Washington RPCs, like its counterpart under the influential American Bar Association Model Rules of Professional Conduct, leaves the definition of the attorney-client relationship to substantive law.

The Washington Supreme Court in *Bohn v. Cody*, 119 Wn.2d 357, 363, 832 P.2d 71 (1992), articulated a two-pronged test to determine whether an attorney-client relationship exists. The first is subjective: Does the client subjectively believe that the lawyer is representing the client? The second is objective: Is the client’s subjective belief objectively reasonable under the circumstances? Both elements of the test must be met for an attorney-client relationship to exist.

That’s where an engagement agreement can play a key role. Regardless of what someone may later claim he or she subjectively believed, a contemporaneous written engagement agreement carefully defining who is (and, depending on the circumstances, who is not) being represented answers whether that claimed subjective belief is objectively reasonable under the circumstances.

Two recent Washington decisions provide ready examples. The plaintiff in *Global Enterprises, LLC v. Montgomery Purdue Blankinship & Austin PLLC*, 52 F. Supp. 3d 1162 (W.D. Wash. 2014), was a client of the defendant law firm in litigation that the firm handled successfully. At approximately the same time, the law firm also represented a co-defendant of Global Enterprises in a separate lawsuit in which Global Enterprises was represented by another firm. Although the respective firms cooperated and the defendants in the second lawsuit were aligned, Global Enterprises later claimed that it had a subjective belief that the defendant law firm was also representing it in the second lawsuit and sued the firm for malpractice and breach of fiduciary duty arising out of the second case. The court entered summary judgment for the law firm, noting pointedly that the law firm had engagement agreements defining its clients in the respective cases and the engagement agreement in the second case did not include Global Enterprises. The court, citing *Bohn*, concluded that the client’s asserted subjective belief was not objectively rea-
sonable under the circumstances and, therefore, no attorney-client relationship had existed in the second case.

By contrast, in Atlantic Specialty Insurance Company v. Premera Blue Cross, 2016 WL 1615430 (W.D. Wash. April 22, 2016), a law firm had not used an engagement agreement when taking on an affiliate of a carrier in an insurance coverage dispute in Oregon. The carrier, however, sent the firm a set of case handling guidelines that defined the client broadly as including the affiliate’s parent and “its specialty business segments.” Soon after that, the firm was asked to handle a major coverage case for a longtime client in Washington against one of the same carrier’s other affiliates. The carrier moved to disqualify the firm in the Washington case, arguing that the two respective affiliates were essentially parts of the same corporate family. The federal district court in Seattle agreed and disqualified the firm. In doing so, the court stressed that the firm had not used an engagement agreement to define the client narrowly in the Oregon matter and, therefore, was instead bound by the much broader definition in the carrier’s case-handling guidelines.

Defining the Scope of the Representation

In an era when corporate clients and even sophisticated individuals often have more than one lawyer or firm addressing discrete aspects of their legal needs, it is important to confirm in an engagement agreement precisely what you have been hired to do. In that way, if a problem develops in another area that you are not responsible for, it won’t become “yours.” RPC 1.2(c) allows lawyers and firms to limit the scope of their representation and an engagement agreement provides the ideal vehicle to memorialize this with the client.

Again, two recent Washington cases are illustrative.

In Blakely v. Kahrs, 2017 WL 1534133 (Wn. App. Apr. 24, 2017) (unpublished), a client retained a lawyer to assist him in seeking post-conviction relief and medical care. The client was the beneficiary of a special needs trust and the court supervising the trust approved the disbursement of funds to the lawyer for these two specific tasks. The lawyer performed the services approved but declined to take on other matters for the client beyond the scope of the representation, including a variety of tort and civil rights claims the client wanted to pursue against the prison where he was incarcerated. The lawyer and client eventually went their separate ways and the client sued the lawyer for legal malpractice over the lawyer’s refusal to pursue the unrelated claims. The trial court granted the lawyer summary judgment and the Court of Appeals affirmed. In doing so, the Court of Appeals looked to the retention order as the functional equivalent of an engagement agreement and concluded that matters involved in the malpractice claims were outside the scope of the services the lawyer had agreed to provide.

By contrast, Taylor v. Bell, 185 Wn. App. 270, 340 P.3d 951 (2014), involved a stock repurchase plan between the founder of a privately held corporation and the company. The company’s law firm had also represented the founder on personal matters. The founder, therefore, hired a separate firm to represent him in the repurchase deal while the company’s counsel continued to represent the corporation. In its engagement agreement with the founder, the new firm wrote that it would represent the founder “in the matter of the sale of his stock in [the company].” The transaction was later set aside for failure to meet a statutory requirement for the company under the law of the controlling jurisdiction. Legal finger-pointing followed and the founder sued the law firm that had come in to handle the transaction for him. The founder’s law firm argued that the company’s law firm was responsible for that facet of the overall transaction. The Court of Appeals, however, found that the engagement agreement with the founder was general enough that it did not exclude responsibility for the particular statutory problem involved. Therefore, the Court of Appeals reversed summary judgment and remanded the case for trial.

Confirming Fee Arrangements

Contingent fees and flat fees deemed “earned on receipt” must be in writing under, respectively, RPC 1.5(c)(1) and 1.5(f)(2). In other circumstances, RPC 1.5(b) simply states a “preference” for communicating fee arrangements in writing. Although a “preference,” Comment 2 to RPC 1.5 notes the basic reason from the perspective of law firm risk management for confirming fee arrangements in writing: “A written statement concerning the terms of the engagement reduces the possibility of misunderstanding.” In this sensitive context, “misunderstandings” can often translate into fee disputes. While it is important to have a written fee agreement, it is equally important for that agreement to be clear in its terms. Lawyers need to remember the rule of construction from their first-year contracts class: Ambiguity
will be construed against the drafter—which almost always is the lawyer.

A pair of recent Washington decisions again offer examples.

In Layson’s Restorations, Inc. v. Sterblick, 2016 WL 3000263 (W.D. Wash. May 25, 2016), a client successfully challenged a lawyer who attempted to collect fees that were calculated at a rate higher than the fee agreement. Law firms are not prohibited from changing their fees—if that mechanism is built into the fee agreement. But, if a firm does not reserve this ability up front, it will be confronted with a very basic consumer concept: “A deal is a deal.”

By contrast, in Lauer v. Longevity Medical Clinic PLLC, 2016 WL 2595122 (W.D. Wash. May 4, 2016), the court upheld the fees incurred against a client challenge—finding that the fees were consistent with the fee agreement and the fee agreement was clear.

To sum up: Although engagement agreements are not an insurance policy, systematically using a template that clearly outlines the key aspects of an engagement will lower predictable risk.

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I recently had the pleasure of speaking with Chelan attorney-author Stan Morse. Morse grew up in Chelan, near where his grandparents homesteaded in 1894. He graduated from law school and was admitted to practice in Washington in 1979. After practicing in Seattle for 12 years, Morse relocated his practice to Chelan in 1996 with the idea of writing.

Morse has written three novels and an autobiographical account of traveling around the world solo in a wheelchair. *Circling the Earth in a Wheelchair* chronicles his incredible trip, with highlights like scuba diving off the Barrier Reef and visiting the Palatine Hill in Rome.

Morse’s first novel, *Brothers of Summer*, expanded from a short story, is a coming-of-age drama set in Chelan in the late 1960s. In this touching story, two estranged brothers and a friend embark on a fateful backpacking trip as they navigate the rocky shoals of adolescence.

Morse’s second novel, *Goering’s Gold*, is a suspenseful work of historical fiction. A Nazi general smuggles gold embedded in pipes headed for a Pacific Northwest hydroelectric project. Years later, an assassin believed to be dead but in fact hiding out near the project gets entwined in a modern-day search for the gold.

*The Order*, his most recent novel, ventures into science fiction and explores the idea of a subset of humans born with T-cells and an immune system so strong that they can live for hundreds of years. Members of the Order also possess special skills such as extreme mathematical ability or irresistible charm. The story centers on Nina, a 13-year-old foster child in a north central Washington town who is an especially powerful new member of this group but unaware of her significance. Warring factions within the Order collide as they try to influence whether their existence will remain unknown to the world.

Morse is currently working on the seventh draft of *The Funny Bird*, the second book in the Nina Chronicles series, and considering a sequel to *Goering’s Gold*.

“Each Day Brings a Gift in Writing” by Renee McFarland
What kind of law do you practice?
My current practice centers around estate planning, probate, real estate, and business.

How do you balance the practice of law with writing books?
Do you have a writing routine?
I’d like to claim there is some rational way to approach writing fiction. But it’s like falling in love. It runs your life, not the other way around.

Do you belong to a writer’s group?
No.

How do you come up with story ideas?
They find me. Like when I discovered, back in 1976, that there were swastikas cast in a few of the pipes at the Chelan Falls power house (built in 1927). I took a picture, and it remained in a slide album for over 30 years, until it became the cover of Goering’s Gold. That’s how Goering’s Gold began. What if Herman Goering used an engineering subcontract to smuggle gold out of prewar Germany...
Learn more about Stan Morse and his work on www.stanmorse.com.

His books are available there and through www.amazon.com.

Many attorneys would like to write a novel. How does being an attorney help or hinder the writing process?

Attorneys deal in facts. Novelists deal in fantasy worlds where the reader is invited to fill in the gaps. A lawyer explains everything. A novelist cannot, because the reader will hate you for it.

Do you have any advice for aspiring writers?

Tell yourself a story in that first draft. If you don’t entertain yourself, how can you expect to entertain others? Rewrite, and then rewrite, and then rewrite again. I typically do not outline the plot of a book ahead of time. I do outline characters ahead of time, and give a lot of thought to small details about them and create a couple of paragraphs for each character. I do eight to 10 drafts of a novel. Give a later draft to friends to read. Ask for honest comments. Be prepared to listen, to learn, to grow.

How would you describe the process of self-publishing? If you could change something about self-publishing, what would it be?

You must remain confident. Self-publishing is what it is—a commitment to doing everything right, by yourself. I have no idea how to make it easier. Perhaps that is its true charm: You own it 100 percent.

If you self-publish, do you need an agent?

No. An agent is solely useful (in my opinion) for pursuing a publishing house contract.

Have you thought about adapting one of your novels into a screenplay, or about writing an original screenplay?

Selling a screenplay is immensely more difficult than marketing a novel. I wrote screenplays for both Brothers of Summer and Goering’s Gold, but had no luck with Hollywood. Still ...the discipline of condensing novels into screenplays helped me to understand what “story” truly is.
Who are some of your favorite contemporary authors?
Colleen McCullough. Stephen King.

Your novels reflect an interest in history. Are you a history buff?
Yes. For instance, I absolutely loved Daniel Brown's *The Boys in the Boat*.

Which of your books is your personal favorite? Why?
*Brothers of Summer*. Because it makes me cry. And because it was my first. NWL

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If you send your children to fly on their own they are called “unaccompanied minors.” Well, the kids I am thinking about are also “unaccompanied minors” but the description used is where any similarity ends. For them, there are no flight attendants looking after them, no movies, and no welcoming receptions when they arrive. And they don’t travel in jet airplanes. They endure roads that are a chiropractic association’s dream. They are crammed in all manner of vehicles, in sweltering heat, like proverbial sardines in a can. They have to somehow get across Mexico’s southern border and then across the U.S.-Mexico border. They are truly “unaccompanied minors.” They travel without their mom, dad, or any adult relative, all seeking to make it to America. They are alone. They are scared. The one thing that they can cling to, that keeps them going, is hope. In the last three years over 200,000 unaccompanied minors have sought refuge, and more importantly, hope, by somehow finding their way to the United States. In one two-month period over 10,000 crossed the U.S.-Mexico border. In 2014, 14 out of 100 of the unaccompanied minors were between six and 12 years old. That’s right—kids who should be at home playing games are traveling close to 2,000 miles in search of safety. They come from a host of countries including Honduras, Guatemala, and El Salvador—countries with some of the highest murder rates in the world.

They Come Looking for Hope

These kids aren’t risking their lives making this hellish a journey for laughs and giggles. There’s only one threat that makes this risk rational: the odds of being beaten, kidnapped, raped, or killed are even greater if they stay home than if they risk the journey. (An estimated six of 10 immigrant girls and women experience sexual violence in transit through Mexico including violence at the hands of gangs, smugglers, police, immigration officials, and other migrants.)

“Otto,” from Honduras, was 10 years old when he crossed the Rio Grande into the U.S. By the age of 10, he had seen his grandmother shot in the face, an aunt and cousin physically and sexually assaulted, and had been beaten and threatened himself. Despite all this, he didn’t leave. Then the gangs, all too prevalent in Honduras, demanded that his aunt hand Otto over to them so that they could force him to sell drugs. If she refused, the gang would simply kidnap Otto and his aunt would never see him again. That is what finally sent him north.

“Carlos,” from El Salvador, had a similar story. (El Salvador and Guatemala have the world’s highest homicide rates among children and adolescents.) A gang known as the 18th Street gang threatened to kill him because although he lived in territory controlled by the MS-13 gang, he went to school in territory controlled by the 18th Street gang. Putting him in a vice, the MS-13 gang threatened to kill him because he wouldn’t join their gang. To top it off, the police harassed him and eventually beat him, accusing him of being involved in illegal activities. At age 15, when kids here are thinking about school dances and how to spend their summers, Carlos made the trip north hoping to find a place to live where his life wouldn’t continually be threatened.

“Claudia” is an indigenous girl from Guatemala. (Over 5,000 women have been murdered in Guatemala since 2000 and only two percent of these cases have resulted in convictions.) Because she was indigenous she was persecuted and taunted daily for
speaking her own language and wearing traditional clothing. Her teachers allowed the harassment to take place. Local officials would not intervene, allowing the harassment to escalate to the point where local “security groups” threw rocks at her house and then came looking for her and her family, wielding machetes and clubs. Next, they cut off the water to her house; the government official who came to turn the water back on was kidnapped and held for ransom. When the local non-indigenous boys threatened to beat and rape her she fled to the U.S. seeking refuge.

We Give Them Hope

We, as a matter of public policy, have enacted laws that allow these children to safely remain in the United States if they can show they meet certain requirements.

The most common forms of immigration relief are special immigrant juvenile (SIJ) status and asylum status. (These children are not eligible for help through the Deferred Action for Childhood Arrivals (DACA) program—but then again no relief may be available to anyone under DACA in six months as the current administration has stated it is terminating that program.) Children who are eligible under either of these classifications may legally remain in the U.S. and can later apply for lawful permanent residency and even citizenship. For a child to have SIJ status a court must determine that he or she is kept from reuniting with at least one parent because of abuse, abandonment, or neglect and that reunification or return to the home country is not in the child's best interest. In contrast, asylum is granted to children who are fleeing from or who fear persecution because of their race, religion, nationality, political opinion, or association with a particular social group. Other less common options are the U visa, which can be granted only to victims of certain crimes, and the T visa, for victims of human trafficking.

But that hope vanishes pretty quickly if no lawyer is there to help. Five times—that is the increase in the likelihood of a child being able to remain in the U.S. and to not be sent back to their country of origin if they have a lawyer representing them. But you know the drill: The government gives them the right to have an attorney help them through the process but doesn’t give them such an attorney. And you know as well as I that legal rights without having legal representation aren’t worth a whole lot.

Contrary to the views held by at least one immigration judge, these kids need lawyers. You remember in 2016 when Judge Jack Weil made headlines by testifying that three- and four-year-olds can be taught immigration law? “I’ve taught immigration law literally to 3-year-olds and 4-year-olds,” Weil said. All I can say is that Judge Weil’s kids must have been remarkable at ages three and four because most kids at that age are reaching their milestones if they are learning to cooperate with...
other kids, say simple sentences, and build towers of blocks.

These Kids Need Help
One source of help I’d like Washington’s legal professionals to know about is “Kids in Need of Defense” (KIND), an organization that was founded in 2008 by Microsoft Corporation and the United Nations High Commissioner for Refugees Special Envoy Angelina Jolie. It is the leading national organization that works to provide legal representation to these children. The Seattle office is one of KIND’s 10 field offices. One KIND Seattle lawyer who has been representing these children, Charity Ramsey, has been able to do this work because of a joint program between the Department of Justice and AmeriCorps known as the Justice AmeriCorps Program. This has been a lifesaver—literally a lifesaver—of a program. That’s the good news. The bad news is that the federal government has decided to terminate the program by cutting the annual $90,000 that is needed to fund her position. This means that 65 children that Ramsey represents will soon see the hope they thought they found disappear. These are particularly difficult cases because these kids live on the Olympic Peninsula, where getting interpreters, getting to Seattle for immigration court, and having attorney meetings are difficult to say the least.

KIND makes a difference. Otto was granted asylum three weeks before his 12th birthday. Carlos was granted asylum and is graduating from high school. Ramsey is still representing Claudia, taking her through the process seeking asylum.

Please take the time to learn more about the work KIND does—including pro bono opportunities—at supportkind.org.

NOTES
Courage
('Kər-ij) noun
Strength in the face of pain or grief.
See also Spike Kane.

Spike Kane was a marine carpenter and an avid sailor, surfer, and outdoorsman when he suffered a thoracic level spinal cord injury in a motorcycle vs. SUV collision. Spike has never let the injury stop him from enjoying a full and physical life.

The best part of our practice is that we are in the company of courage every day. We would appreciate the opportunity to help you help your client.

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NOW MORE THAN EVER, Washington residents are in need of skilled legal practitioners who can provide their services pro bono or at a reduced rate. The 2015 update to the state’s “Civil Legal Needs Study” found that seven in 10 low-income households in Washington face at least one significant civil legal problem each year. Of those individuals with civil legal issues, 76 percent are not able to access the legal services they need and end up representing themselves. Moreover, the nature of these clients’ civil legal needs has shifted over the past 10 years. In 2003, family law and housing issues comprised the bulk of civil legal aid work. Now, health care, consumer/financial, employment, and municipal services issues are most prevalent among low-income client populations in Washington state. Importantly, however, the 2015 update to the “Civil Legal Needs Study” showed that who you are determines the frequency of the legal issues you face. Native Americans, African-Americans, people who identify as Hispanic or Latino, victims of domestic violence and sexual assault, and veterans and their families experience “substantially greater numbers of problems and different types of problems than the low-income population.”

In recognition of our profession’s ethical obligations in the face of such extreme need, Washington’s Rule of Professional Conduct (RPC) 6.1 provides that “[e]very lawyer has a professional responsibility to assist in the provision of legal services to those unable to pay. A lawyer should aspire to render at least thirty (30) hours of pro bono publico service per year.” In addition, lawyers who provide 50 hours or more of pro bono publico service in a calendar year are eligible for placement on the Supreme Court Honor Roll. Many attorneys in the state have no problem meeting, or exceeding, the recommended 30 hours of annual pro bono service. However, not all may be aware of the diverse opportunities available to those interested in providing free or reduced-fee legal services.

WSBA CELEBRATES PRO BONO MONTH IN OCTOBER
This month, the Washington State Bar Association (WSBA) celebrates the ethic of pro bono publico with Pro Bono Month, featuring a host of pro bono and public-service themed events, activities, and opportunities. For example, on October 24, the WSBA will host a public service mentorship and networking event at the WSBA offices where practitioners interested in public service can meet with and learn from those already engaged in the work. On October 31, the WSBA’s free Legal Lunchbox™ series will feature a public service topic. More than anything else, however, this month is an opportunity to celebrate the great work carried out by members of the legal profession and to invite others to join the cause.
QUALIFIED LEGAL SERVICE PROVIDERS
One of the easiest ways to complete pro bono service hours is to volunteer with one of the dozens of qualified legal service providers (QLSP) located around the state. QLSPs are nonprofit legal service organizations that provide legal services to low-income clients in Washington state. They have the infrastructure and resources in place to support pro bono attorneys looking to assist a specific client population or practice in a specific substantive area of the law. The organizations pre-screen clients to make sure they meet financial eligibility requirements. In addition, volunteer attorneys can earn up to 24 MCLE credits and gain access to free CLE seminars. Volunteers can also earn credits by providing a variety of legal services such as ghostwriting, conducting legal research, negotiating settlements, preparing exhibits, drafting contracts, or even simply advising QLSP clients on court procedures and legal strategy. Volunteering with a QLSP is a great opportunity to help address the legal needs of low-income Washington residents, complete pro bono publico hours, and earn free MCLE credits.

ANSWERING THE CALL TO SERVE WASHINGTON VETERANS
In addition to working with QLSPs, volunteers can also serve client populations with specific legal needs, such as veterans. The WSBA invites members of the legal profession to take the “Call to Duty Pledge” and commit to serving Washington’s veteran population in concrete ways. Volunteers can fulfill their pledge by advising a nonprofit organization that serves veterans, teaching at a CLE on veteran legal issues, or participating in a Call to Duty Day of Service. At a Day of Service, legal professionals attend a free CLE and participate in a legal clinic that serves veterans. Days of Service will be coming to new areas of the state in 2018! Join the Public Service list serve (see Helpful Tips sidebar for directions) or check the WSBA website (wsba.org) for more information.

MODERATE MEANS PROGRAM
The WSBA recognizes that low-income clients are not the only ones in need of legal services. Therefore, the WSBA has partnered with the three law schools in Washington (University of Washington School of Law, Seattle University School of Law, and Gonzaga University School of Law) to support clients whose income is at 200 to 400 percent of the federal poverty level. Attorneys participating in the program agree to provide legal help at reduced fees to clients with family, consumer, and housing law issues. Law students are also able to participate in the program by reviewing cases and conducting intake interviews under the supervision of a staff attorney. The Moderate Means Program will host CLEs for prospective attorney volunteers around the state in 2018.

TIPS FOR THE PROSPECTIVE PRO BONO ATTORNEY
For a list of QLSPs, go to wsba.org/providers.
For a more extensive list of volunteer opportunities, go to probonowa.org.
To be informed when volunteer opportunities arise and other relevant information regarding public service, join the Public Service list serve by emailing publicservice@wsba.org.
To gain access to free CLEs, email publicservice@wsba.org with your name, bar number and the QLSP you volunteer with or note that you participate in the Call to Duty or Moderate Means Programs.
For a list of these free CLEs, go to wsbacle.org, click on recorded products, and choose “Public Service Education” in the left navigation bar.
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  Poulsbo, Washington

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SERVE ON A WSBA COMMITTEE, LEGAL SERVICE PROGRAM BOARD, OR VOLUNTEER AT A CLE

For volunteers who are unable to provide legal advice at a clinic, or direct or limited representation due to conflicts issues or a full work schedule, serving on a WSBA committee, legal services program’s board of directors, or at a CLE as a volunteer instructor are all valuable ways to engage in pro bono publico work. Not only does the time spent on those activities count towards an attorney’s total pro bono publico hours, the experiences also offer valuable insights into the provision of civil legal aid in Washington state and the various organizations working to meet low-income clients’ civil legal needs.

For example, the WSBA Pro Bono and Public Service Committee works to promote pro bono and public service programs throughout the state, as well as conduct research into the barriers keeping members of the legal profession from getting involved in pro bono work. Some of the committee’s recent projects include working with the American Bar Association to conduct and evaluate a survey of pro bono activity in Washington, submitting a question regarding RPC 6.1 to the Washington Law Component of the state bar exam, recruiting and increasing the number of Moderate Means attorneys in rural counties, and promoting the WSBA’s various public service projects.

All members of the legal profession can also seek out the volunteer lawyer programs (VLP) run by their respective county bar associations. Serving on a VLP board is a great way to make connections in the local community, gain experience with non-profit governance, and help meet the tangible civil legal needs of low-income Washington residents.

This month, the WSBA celebrates the wonderful and varied forms of pro bono publico contributions made by its members every day. Make sure to...
check the NWSidebar blog, nwsidebar.wsba.org, and the WSBA’s website, wsba.org, to learn about events taking place in your community as we celebrate Pro Bono Month. NWL

EMILY NELSON is an Assistant Attorney General representing the Washington State Department of Ecology. In her spare time, she co-chairs the WSBA Pro Bono and Public Service Committee and serves on the Board of Directors for Thurston County Volunteer Legal Services. The opinions and ideas reflected in this article are her own, and do not represent those of the Office of the Attorney General of Washington. For questions on pro bono and public service opportunities, please email publicservice@wsba.org.

NOTES
2. Id.
3. Id. at 7.
4. Id.
5. Id.

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Did You Know?

You can make a donation to support legal help for veterans.

The Washington State Bar Foundation supports the WSBA Call to Duty program, which gives veterans and their families direct access to legal help and provides WSBA members with opportunities to serve those who’ve served their country.

To support the WSBA Call to Duty program, donate to the Foundation at www.wsba.org/Foundation.
Work-life balance—it’s not just a women’s issue. Both male and female associates at firms that use the traditional billable hour system find themselves struggling to find that balance, especially when parental leaves throw off their ability to “make their hours.”

As of 2016, 61.1 percent of married households across the United States had two working parents.1 If approximately the same ratio of married attorneys have a working spouse, it’s unlikely that the average law firm associate has a stay-at-home spouse whose time is dedicated to lunch-packing, dinner preparation, child pick-up, and daily household chores, while the associate clocks in billable hours. With both parents working, families are forced to make difficult choices about dividing up parenting and household duties. This can mean late nights at the office or weekends spent billing time, which can be burdensome, if not downright impossible. Is it time to admit that the system of billable hour minimums directly conflicts with the 21st-century family structure?

Let’s illustrate the conflict: Associate attorney Joan is pregnant and due in September. In August, Joan confirms her parental leave with her firm’s management and human resources department. Joan is offered two months of paid leave and, under the Family Medical Leave Act (FMLA), she is entitled to a third month of leave, unpaid. This scenario is common. But what about Joan’s billable hour requirement? Is Joan still required to meet her yearly minimum of 1,800 hours despite her three months on parental leave?2 Neither FMLA nor the Washington Family and Medical Leave Act covers this territory.3 Fortunately for Joan, her firm works with her and provides her with a reduced billable hour requirement to account for her time off. Now it is up to Joan to bill a minimum of 1,350 hours this year.

Even after Joan returns to work, it is likely her billable hours will suffer. Joan will be getting up two to three times per night with her new baby, possibly struggling with colic, breastfeeding issues, her own health, and postpartum mood disorder, all while balancing her new parental responsibilities with her career. Joan will also have to account for sick days when her child is (inevitably) ill. Further, Joan’s husband works full time as an attorney too. Both are attempting to meet their firm’s minimum billable hour requirements while caring for their new baby. In this scenario, the billable hour system may be incompatible with either parent’s new priorities.

Consider another example: Associate attorney Steve is married and his wife is due in September. Steve confirms with his firm’s management and human resources department that he will take parental leave. Steve plans to take just two weeks off to be with his new child and wife following the birth. Steve’s firm confirms it will pay him for his two weeks of parental leave. Because of the short time Steve is taking for parental leave, he agrees that his minimum billable hour requirement of 2,000 hours will not be reduced. And, because this is Steve’s first child, he does not anticipate or
plan for the ongoing lack of sleep he will experience and the significant amount of productive billable time that he will lose as a result. Steve returns to work after just two weeks of leave, exhausted and with a wife recovering from childbirth and a newborn baby at home.

After just two months, Steve’s wife returns to her job as a bank manager. At that point, Steve’s work suffers even more, since he and his wife take turns with nighttime feedings and both share responsibilities for getting the baby to and from daycare, making dinner, and other household maintenance. Steve has to work at night and on weekends to ensure his billable hour requirement is met. All of this is in addition to Steve’s volunteer role on the board of his local bar association.

In both examples, whether new parent Joan or Steve will meet his or her minimum billable hour requirement may also determine whether he or she will receive a year-end bonus. It also plays a part in whether each of them will or won’t make partner, either this year or in the years following. In some cases, not meeting the minimum billable hour requirement may subject an associate to discipline or termination. What if the firm has a third associate, Barry, who is childless? While Joan and Steve fail to make their hours because of their new children, Barry will make his hours and likely get a bonus. Barry may also become a partner much sooner than Steve or Joan because of his exemplary performance in billing hours that same year.

Some firms do attempt to account for parental leave when calculating billable hours. Both of the authors of this article were accommodated with reduced billable minimums based on the length of their parental leave (two months for one author, three months for the other). So if, for example, the billable minimum was 150 hours per month (for a total of 1,800 hours per year) and the parental leave was two months, the adjusted required minimum billable hours would be 1,500 hours for the year in which the parental leave was taken. For working mothers, an extended parental leave is generally both expected (and likely required, medically, for most mothers) and more frequently accommodated. For working fathers requesting parental leave, however, there can be a stigma attached to a request for a reduction of billable hours. Many fathers may fear they will be seen as less productive if they reduce their billable hour minimum and take an extended parental leave. While it is anticipated that a mother will take an extended parental leave, it is less anticipated that a new father will be out of work for six to 12 weeks. Thus, many fathers will take a short period of time off and, in order to remain “productive,” not request a reduced number of required billable hours.

For mothers returning to work after parental leave, as well as for fathers at whatever point they return to work following the birth of a baby (and perhaps for another period following their spouse’s return to work), productivity is unlikely to be the same as it normally would be. Although 150 hours a month
As of 2016, 61.1 percent of married households across the United States had two working parents.

may sound attainable to the average associate, to a new parent functioning on less sleep, and possibly dealing with other physical and mental challenges associated with new parenting, 150 hours can be daunting—if not outright unattainable.8

In other words, where a firm might accommodate a new parent by lowering his or her minimum billable hours based on the time taken for parental leave, fewer firms will further discount billable hours to accommodate other life events. Should firms do this? Associates who do not have children might argue that discounting billable hours for a new parent discriminates against those associates who meet billable hour requirements despite other life events or outside activities. Should a parent be given special accommodation just because he or she chose to have a child? Not necessarily, but it is worth considering. In 2017, where most married associates have spouses who work outside the home, is it still reasonable to base bonuses or other merit-based compensation on meeting a minimum billable hour requirement?

This same question can be posed with respect to other life events such as care for an elderly parent, parenting a special-needs child of any age or, frankly, parenting in general. In the 1950s and 1960s, most practicing attorneys were (1) male9 and (2) had a spouse who did not work outside the home.10 In that scenario, if a child became sick and was home from school, the stay-at-home spouse could take care of that child. If a new baby was still waking in the night, the associate clocking billable hours very likely would not be the parent tending to that child—the parent not working outside the home would. If an elderly parent was ill or another family emergency came up, the associate would have a support system in place to allow him to maintain his billable hours.

The 1970s saw a significant increase in the number of women lawyers in the field, jumping from 13,000 (four percent) in 1970 to 62,000 (12.4 percent) in 1980.11 The number of women in the law (and therefore the number of working mothers) continues to increase;12 many law firms are therefore facing the difficult question of how to handle parental leave with respect to minimum billable hour requirements. Some firms reduce their billable hour requirements and some firms provide a flexible working schedule in order to accommodate attorneys’ needs outside of the office. With new technology allowing more individuals to work from home, many attorneys are able to bill hours when their child is ill, and work on nights and weekends while still being home with their families.

Washington state has taken a step forward with the July 2017 announcement of its new parental leave policy, which takes effect in 2020.13 The law guarantees pay for 12 weeks for both

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mothers and fathers, plus another two weeks for mothers with complicated pregnancies.\textsuperscript{14} The law covers both birth and adoption.\textsuperscript{15} Funding will come through weekly paycheck contributions from both employees and employers.\textsuperscript{16} If an employer has a more favorable parental leave policy, an employee may opt for that coverage instead.\textsuperscript{17}

This law, while promising for working parents, does not specifically address the legal profession\textsuperscript{18} and thus it will be up to individual law firms and individual attorneys to determine the course of action that suits both interests. With the recent trends of paid parental leave (both via the government\textsuperscript{19} and through internal policies\textsuperscript{20}), two-income families, and more flexible work schedules, the traditional billable hour system may become a thing of the past. NWL

\textbf{NOTES}

1. \url{bls.gov/news.release/famee.nr0.htm}
   In 2016, 34.2 million families included children under age 18, about two-fifths of all families. Among married-couple families with children, 96.8 percent had at least one employed parent and 61.1 percent had both parents employed.

2. In 2015, the average billable hour requirement was 1,892 hours per year. \url{nalp.org/0516research}.

3. \textit{See} 28 U.S.C. Ch. 28; \textit{see also} RCW 49.78.010 through 49.78.904.

4. “Productivity Bonuses: The Background on Productivity Bonuses,” Leslie Tebbe, \url{salary.com/productivity-bonuses/} (“Productivity bonuses are common in law firms and often are based on the number of hours an attorney bills.”)

5. “Paternity-Leave Stigma at Law Firms Lifting, Ever So Slowly,” Angela Morris, May 30, 2017, \textit{The Am Law Daily}, \url{blogs.findlaw.com/greedy_associates/2015/09/yes-dad-lawyers-can-take-paternity-leave-but-its-not-easy.html} (“I asked for two weeks paid paternity leave and was told that I had to use my five remaining vacation days for the year and would not get any paid paternity leave . . . . I then was subsequently criticized and reprimanded for having low billable hours in the month in which my son was born.”).

6. “6 Sleep Habits of Productive People,” Lisa Evans, Oct. 12, 2015, \textit{Fast Company}, \url{fastcompany.com/3051950/6-sleep-habits-of-productive-people} (“Insufficient sleep can not only inhibit concentration, but can also cause anxiety, irritability, and affect your ability to retain information, which all results in poorer productivity.”).


workers can do their jobs (billing 1800 to 2000 hours of work each year) with no distractions, because there is someone (traditionally a wife) at home to sort out the rest of their lives.”).

11. Bowman, supra (After a class action lawsuit brought by a female African-American attorney was settled, law firms throughout the county agreed to guidelines whereby more female associates would be hired).

12. In 2010, 31 percent of attorneys were women, contrasted with 35 percent in 2015. americanbar.org/content/dam/aba/administrative/market_research/lawyer-demographics-tables-2015.authcheckdam.pdf.


14. Id.

15. Id.

16. Id.

17. Id.

18. See id.

19. Id.


Bridget Schuster lives in Seattle with her husband and three children. She served as a judicial clerk with the Washington Court of Appeals, then spent over five years with two different downtown Seattle law firms, practicing primarily business litigation and insurance coverage. Bridget started her own solo practice in 2015 and enjoys any legal drafting projects she can get her hands on. She can be reached at bridget@btschusterlaw.com.

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Meg C. Clark is an attorney with Etter, McMahon, Lamberson, Van Wert & Oreskovich, P.C. in Spokane. She focuses her practice on municipal law, employment defense, and medical malpractice defense. A graduate of New York University and Gonzaga University School of Law, she can be reached at mclark@ettermcmahon.com.
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NEW: The Section membership year is now Jan. 1 – Dec. 31.

Important Dates


Feb. 1, 2018: Deadline for requesting the one-time Hardship Exemption.

Feb. 1, 2018: License renewal, payment(s) and MCLE certification, if applicable, must be completed online, postmarked or delivered to WSBA.

50-Year Member Tribute Luncheon

Nov. 3, Seattle

WSBA will hold its annual Member Tribute Luncheon in early November for lawyers and judges who celebrate 50 years of WSBA membership this year. At the event, WSBA President Bradford Furlong and members of the Board of Governors will present these members with 50-year certificates and lapel pins to acknowledge their dedication to the law since 1967. Please email wsbaevents@wsba.org for more information.

WSBA Board of Governors Meeting

Nov. 16 at the WSBA offices, Seattle, and via webinar.

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 wsba.org/bog.

MentorLink Mixer: Pro Bono and Public Service in King County


Celebrate Pro Bono Week through this mentoring opportunity! WSBA Mentorship brings together a diverse mix of attorneys to support each other in the interest of advancing and thriving in the legal profession. This MentorLink Mixer is an opportunity for attorneys who are interested in pro bono and public service work, in King County, to gain insight from attorneys who have experience serving the public through WSBA programming or legal aid organizations. WSBA Offices (1325 Fourth Ave., Suite 600, Seattle). Noon-1:30 p.m. To learn more or if you have any questions, email us at MentorLink@wsba.org.

Washington Young Lawyer Committee (WYLC) Meeting

Oct. 28, Seattle

Join the WYLC for its first meeting of the new fiscal year at the WSBA offices in Seattle from 10 a.m. to 2:30 p.m.! At this meeting the WYLC will welcome new members and receive an orientation on WSBA, its mission, and the role committee members will play for the next year. For more information or to RSVP contact newlawyers@wsba.org.

Open Sections Night in Tacoma

Nov. 1, Tacoma

Open Sections Night connects new and young WSBA members and law students to WSBA Sections, which offer a wealth of experience and resources to help new WSBA members find their footing in the legal profession. For the first time this popular event will take place in Tacoma! Join us Nov. 1, 5-7 p.m., Historic 1625 Tacoma Place (1625 South Tacoma Way, Tacoma). RSVP at: https://goo.gl/forms/dXTFroDdIotwklIo2

WSBA Launches CLE Faculty Database

If you are currently serving as CLE faculty, or are interested in working with the WSBA as a future CLE faculty member, we encourage you to register in our CLE faculty database. Serving as a faculty member provides you with the opportunity to engage with other attorneys across the state, give back to your profession, and advance your professional growth. Whether it’s up-
coming changes in the law, emerging hot topics, or substantive content, our goal is to ensure we are engaging with the right faculty at the right time, matching practice expertise and knowledge to our educational programming needs. We hope to capture the information of all those who plan to teach—both current CLE faculty and those interested in future opportunities. Please log on and register in the CLE faculty database today at mywsba.org/CleFacultyApplication.aspx.

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

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

Volunteer Custodians Needed
The WSBA is seeking interested lawyers as potential volunteer custodians under Rule for Enforcement of Lawyer Conduct (ELC) 7.7. 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, or disbarred, or dies or disappears, and no person appears to be protecting the client's interests. The custodian takes possession of the necessary files and records and takes action to protect the client's interests. The custodian may act with a team of custodians and much of the work may be performed by supervised staff. If the WSBA is notified of the need for a custodian, the WSBA would affirm the willingness and ability of a potential volunteer and seek his or her 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.

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WSBA Lawyers Assistance Program (LAP)
WSBA Connects
WSBA Connects provides free counseling in your community. All bar members are eligible for three free sessions on topics including work stress, career challenges, addiction and anxiety, as well as other issues. Upon calling 1-800-765-0770, a telephone representative will arrange a referral using KEPRO's network of clinicians throughout the state of Washington. There is no need to let problems build up unnecessarily. We hope you make the most of this valuable resource.

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Virtual Job Group
The Virtual Job Group helps unemployed or dissatisfied attorneys throughout the state to find jobs. Utilizing our Zoom video-conferencing software, attorneys can participate online. The next group will begin in November, although a date has not yet been decided. The group meets on Monday mornings from 9:30 to 11 a.m., runs for seven weeks, and costs $35. Participation is limited to eight attorneys. If you would like to participate, contact Dan Crystal at danc@wsba.org.

Judicial Assistance Services Program
The purpose of the Judicial Assistance Services Program (JASP) is to prevent or alleviate problems before they jeopardize a judicial officer’s career. JASP provides confidential support and treatment for judges struggling with medical or mental health challenges, addiction, grieving, stress, or isolation. If you are a judge or are concerned about a judge, you are encouraged to contact the Judicial Assistance Services Program at 415-572-3803 or contact clinical consultant Susanna Kanther, Psy.D., at susanna@drkanther.com.

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

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*State v. Letourneau,*

100 Wn. App. 424 (2000)

*Fordyce v. Seattle,*

55 F.3d 436 (9th Cir. 1995)

*LIMIT v. Maleng,*

874 F. Supp. 1138 (W.D. Wash. 1994)

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100 Wn. App. 424 (2000)

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has joined the membership of the firm.

Lora practices exclusively in the areas of trust and estate planning, trust and estate administration, negotiating premarital and postmarital agreements, advising fiduciaries and beneficiaries, and assisting in the negotiation of disputes that arise in the context of an estate or trust. Lora is a graduate of the University of Washington and Seattle University School of Law. She had a distinguished solo law practice for the past decade, after her earlier tenure with the Seattle firm Stokes Lawrence. Lora is a Fellow of the American College of Trust and Estate Counsel (“ACTEC”), and is the Western Regional Chair and recent Past Washington State Chair of ACTEC.

We are also pleased to announce that

A. Paul Firuz

has joined the firm as an associate.

Paul’s practice focuses on trust and estate litigation and estate planning, including planning for high-net worth clients. Paul is a graduate of New York University and earned his law degree and LL.M. in taxation at the University of Washington. Paul has worked as an associate at Miller Nash Graham & Dunn LLP for the past five years and is currently the New Lawyer Fellow of the WSBA Real Property Probate & Trust Section.

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**Disbarred**

**Zenovia Nicole Love** (WSBA No. 45989, admitted 2013) of Tacoma, was disbarred, effective 7/21/2017, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.4 (Communication), 3.3 (Candor Toward the Tribunal), 8.1 (Bar Admission and Disciplinary Matters), 8.4 (Misconduct). Erica Temple acted as disciplinary counsel. Zenovia Nicole Love represented herself. James E. Horne was the hearing officer. The online version of NWLawyer contains links to the following documents: Hearing Officer’s Decision; Disciplinary Board Order Declining Sua Sponte Review; and Washington Supreme Court Order.

**Resignation in Lieu of Discipline**

**Brent Lightner Nourse** (WSBA No. 32790, admitted 2002) of Seattle, resigned in lieu of discipline, effective 8/15/2017. 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), 1.5 (Fees), 8.4 (Misconduct). Scott G. Busby acted as disciplinary counsel. Brent Lightner Nourse represented himself. The online version of NWLawyer contains a link to the following document: Resignation Form of Brent Lightner Nourse (ELC 9.3(b)).

**Suspended**

**Nathan P. Albright** (WSBA No. 30511, admitted 2000) of Moses Lake, was suspended for 90 days, effective 8/18/2017, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 1.15A (Safekeeping Property), 1.15B (Required Trust Account Records). Natalie Skvir acted as disciplinary counsel. Leland G. Ripley represented Respondent. Sidney S. Royer was the settlement hearing officer. The online version of NWLawyer contains links to the following documents: Disciplinary Board Order Approving Stipulation; Stipulation to Suspension; and Washington Supreme Court Order.

**William M. Stoddard Jr** (WSBA No. 9575, admitted 1979) of Provo, was suspended for three years, effective 7/14/2017, by order of the Washington Supreme Court. The lawyer’s conduct violated the following Rules of Professional Conduct: 8.4 (Misconduct). Joanne S. Abelson acted as disciplinary counsel. Brett Andrews Purtzer represented Respondent. The online version of NWLawyer contains links to the following documents: Disciplinary Board Order Approving Stipulation; Stipulation to Three-Year Suspension; and Washington Supreme Court Order.

**Interim Suspension**

**Joshua B. Locker** (WSBA No. 38719, admitted 2007) of Seattle, is suspended from the practice of law in the State of Washington pending the outcome of disciplinary proceedings, effective 8/1/2017, by order of the Washington Supreme Court. This is not a disciplinary sanction.

**Samuel Campbell Marsh** (WSBA No. 43756, admitted 2011) of Las Vegas, NV, is suspended from the practice of law in the State of Washington pending the outcome of supplemental proceedings, effective 8/21/2017, by order of the Washington Supreme Court. This is not a disciplinary sanction.
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