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BEYOND THE BAR NUMBER
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If you’d like to see yourself on the last page of an issue of Bar News, let us know! We would love to send you a questionnaire. wabarnews@wsba.org.
WSBA Awards Season is Here

It’s awards season at the WSBA. Instead of movie scores and TV performances, the WSBA honors legal accomplishments, professionalism, and public service in its 2022 APEX (Acknowledge Professional Excellence) Awards. For example, the Award of Merit—recently renamed after the late Washington Supreme Court Chief Justice Mary E. Fairhurst—was given to King County Superior Court Judge James E. Rogers, who is credited with deftly leading the court through the pandemic. Under his direction, the court conducted more virtual trials than any other court system in the country.

Other APEX Award honorees include Seattle Municipal Court Judge Anita Crawford-Willis; both the Sexual Violence Law Center and its director, Riddhi Mukhopadhyay; lawyer and U.S. Naval Officer Ann Lundwall; and Sofia M. Pasarow, managing attorney with the Washington State Office of Insurance Commissioner. Read about all of this year’s awards recipients on page 33.

Also in this issue: A Q&A with new WSBA President Dan Clark (page 22), the 2021 Pro Bono Publico Honor Roll (page 48), an ethics column about the rules around ghostwriting in Washington courts (page 14), an article about the WSBA Moderate Means Program and the need for more lawyers in rural parts of the state (page 44), and more.

Kirsten Abel is the editor of Washington State Bar News and can be reached at kirstena@wsba.org.

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Letters to the editor published in Bar News must respond to content presented in the magazine and also comply with Washington General Rule 12.2 and Keller v. State Bar of California, 496 U.S. 1 (1990).* Bar News may limit the number of letters published based on available space in a particular issue and, if many letters are received in response to a specific piece in the magazine, may select letters that provide differing viewpoints to publish. Bar News does not publish anonymous letters or more than one letter from the same contributor per issue. All letters are subject to editing for length, clarity, civility, and grammatical accuracy.

*GR 12.2(c) states that the WSBA is not authorized to “(1) Take positions on issues concerning the politics or social positions of foreign nations; (2) Take positions on political or social issues which do not relate to or affect the practice of law or the administration of justice; or (3) Support or oppose, in an election, candidates for public office.” In Keller v. State Bar of California, the Court ruled that a bar association may not use mandatory member fees to support political or ideological activities that are not reasonably related to the regulation of the legal profession or improving the quality of legal services.

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Family Law Feedback

The recent glossy edition on family law (Bar News, July/August 2022), and its intersection with collaborative divorce, fails to address that the family law members of this Bar do not want to give up their autonomy and income stream to mediators. If we took a poll of the rest of us, we probably would vote against clogging up court dockets with all the family law and require mediation as the primary resolution to dissolution.

Money talks, especially to family lawyers. A family lawyer here in Central Washington wrote in an email to me that family lawyers are “bottom feeders, vultures, who prey on people in the most vulnerable moments.” Our adversarial system of lawyering might work in some areas of law, to uncover the “truth,” but can any of us honestly say that the adversarial model has been a boon to families? I don’t think the system works, and until family lawyers are willing to stop blowing up mediations so their gravy train will keep rolling, little will change.

Liz Hallock
Yakima
Long Gone Or Ingrained?

With every new issue of Washington State Bar News, I am again disheartened by the folks, mostly from east of the mountains and presumably all white, who proclaim that, e.g., “Systemic Racism is Long Gone” (Inbox, Bar News, September 2022). The irony of this, of course, is that attorneys (the licensed legal advocates) denying the obvious only provides further evidence of the widespread, deeply ingrained, nature of the problem.

Mark de Regt
Redmond

It is obvious from Mr. Stahl’s letter in the September 2022 Bar News that he did not read or comprehend the book I cited in my letter (Inbox, Bar News, June 2022) on systemic racism, The Color of Law. In chapter 10, Richard Rothstein documents the suppression of Black incomes by racist policies. In chapter 9, he documents the continued state-sanctioned violence that prevented integration of white neighborhoods at least through the 1980s (130 cases in 1989). In chapter 11, he documents that residential neighborhoods and schools are more segregated by race today than they were 40 years ago. He also documents how white suburbs created after 1945 excluded Blacks and thereby prevented them from building the wealth that middle class whites pass down to their kids today. Those suburbs also appreciated in value and became unaffordable for most Blacks before they had the opportunity to buy in those suburbs. This accounts for most of the wealth gap between whites and Blacks that I cited in my June letter.

Paul Majkut
Portland, Oregon

My first thought on reading Tom Stahl’s letter to the editor published in the September issue of Bar News was, this is a blueprint for how to say “I’m racist” without saying “I’m racist.” Then I thought, OK, Rea, that just isn’t very nice and I really don’t know Mr. Stahl, I don’t know his life experience or work; maybe Mr. Stahl isn’t educated on racism in Washington state or maybe he doesn’t come into contact with any situation where racism is present. So, my next thought was, I got to let Mr. Stahl know how wrong he is. Then I thought, OK Rea, that isn’t very nice either. You don’t accept what Mr. Stahl proclaims—that systemic racism doesn’t exist. Why would he accept it when you say it does exist?

If I start listing the different types of racism present in our society, those not included in Mr. Stahl’s limited definition, such as structural racism, institutional racism, social racism, political racism, scientific racism, aversive racism, cultural racism, or economic racism, Mr. Stahl may still stand by his opinion that we don’t have “organized structure of laws, rules, regulations, and institutional practices that enforce racism throughout the entire society.” I then thought about maybe pointing out specific examples and evidence of racism to perhaps educate Mr. Stahl on racism in our society. But I realized, he already gave readers his explanation why a Black person is different than a white person in our society. You see, when he says “there are other more likely reasons that explain disparity of income such as personal preferences for various jobs, aptitudes, work ethic, and cultural values,” I hear: Income disparity is due to Black people wanting to work in lower paying jobs. Income disparity is due to Black people not being naturally able to perform higher paying jobs. Income disparity is due to Black people not having the work ethic to perform higher paying jobs. Income disparity is due to Black people’s culture of not working higher paying jobs.

Mr. Stahl then seems to support his position by pointing out that other non-white, non-Black people make the same as or more money than white people, so our society can’t be racist.

I don’t agree with Mr. Stahl’s position or his reasoning for his position.

So, how could I get Mr. Stahl to understand what I see nearly every day in America, including Washington state? I am white, so I can’t possibly convey information about racism in a genuine way that would ring true to Mr. Stahl. But what I can do is apply his reasoning to me. He can’t take away what has and will happen to me.

I am a female. The most recent ABA report of income disparity between male attorneys and female attorneys is: Female attorneys earn $1,619 per week on average and male attorneys earn $2,086 per week on average. This means female attorneys make $467 less per week, or $24,284 less per year, than their male counterparts.

Applying Mr. Stahl’s analysis, I make less than my male counterpart because I am not naturally able to perform like my male counterparts. I make less because I don’t have the same work ethic as my male counterparts. I make less because my culture dictates that men make more than I do.

If you can’t see that this is a bunch of hooey, then you are part of the problem. I encourage Mr. Stahl to talk to minorities and listen to the barriers that they face day in and day out that white people don’t face. Racism is real and it is present and it is systemic. But Mr. Stahl doesn’t have to take my word for it. Read State v. Zamora, 199 Wn.2d 698, 512 P.3d 512 (2022). Mr. Stahl’s statements are not harmless; there are others who believe as he does and by speaking out, he validates and perpetuates those ideas. This is not OK. I encourage all to learn about racism—all the different types and take part in trying to make our society better, for all of us. Give hope.

Rea Culwell
College Place
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Federal Court Orders Attorney Testimony in Insurance Bad Faith Case

The federal district court in Seattle recently ordered an attorney to testify at a deposition in an insurance “bad faith” case [...]

How Legal Name Changes Affect the Patent Application Process

There are many reasons why an inventor might undergo a legal name change, whether as part of a marriage or divorce, as part of a gender transition, or out of a desire for a name that better reflects the inventor's sense of self. Even though name changes are handled through state-level legal procedures, the United States Patent and Trademark Office (USPTO) has specific rules about using legal names that can result in costly delays or even an abandoned or invalidated [...]
Meet Your 2022-23 WSBA President, Daniel D. Clark

Welcome to the 2022-23 WSBA year. My name is Dan Clark, and I am extremely honored to be the WSBA president during this year. I am truly excited, and at the same time somewhat terrified, at being in this position. I’ll be only the second full-time employed government attorney to serve as WSBA president. (The late Washington Supreme Court Chief Justice Mary E. Fairhurst is the other.) I believe I’ll be the first ever with a major speech disability to hold this position. I’m a severe stutterer, and I’ve had this disability my entire life. It is something I have to deal with on a daily basis.

I am from Yakima, born and raised. I also have a strong love for and roots in Spokane—I’m a proud Gonzaga University School of Law alumnus and a lifelong Zag! I graduated from A.C. Davis High School in Yakima, Yakima Valley College, and then Central Washington University, where I received a B.A. in political science, magna cum laude, and was honored as a 1999 dean’s scholar. At Gonzaga, I was in the last incoming 1L class to start at the old law school and in only the second class to graduate from the current law school, in 2002, with cum laude honors.

I’m the first person in my immediate family to graduate from college. I was raised by my grandparents, and it was my grandma’s lifelong dream to see at least one of her children attend and graduate from college. She was so incredibly proud of me when I graduated from law school. I came back to Yakima and served as her unpaid care provider while working in non-attorney jobs for Yakima County from 2002 to 2004. I passed the bar exam after studying while working full time in 2004, and I’ve worked for Yakima County since September 2002.

I have been an attorney for 18 years, and roughly the last 16 years as a senior deputy prosecuting attorney with the Yakima County Corporate Counsel Division of the Yakima County Prosecuting Attorney’s Office. I provide civil legal representation and advice to various elected officials, department heads, and county departments. When I started on the WSBA Board of Governors, I was the only full-time government-employed attorney on the Board. I’m excited that over the last couple of years, we have had a handful of full-time government attorneys who have served as governors. I’d like to see that trend continue for more diverse representation of government attorneys on the Board.

I have served on the Board of Governors since July 2017. It’s hard to believe that I am currently the longest serving governor in the history of the WSBA. I have had the amazing opportunity to serve as the only two-time treasurer of the organization, and was elected to two full terms as District 4 governor in 2018 and 2021. I look back on the person and attorney I was prior to Board service, and I can honestly say that serving on the Board of Governors has greatly positively impacted my self-confidence, developed my leadership skills, and improved my ability to work collaboratively, respectfully, and successfully with others.

During my five-plus years on the WSBA Board of Governors, I have had the amazing opportunity to talk with members from all over the state who have shared diverse and divergent ideas of what the future of the WSBA should be. Several have had great ideas for how the WSBA can better serve its members and the public. I’m planning on holding Board meetings in Bellingham, Vancouver, Spokane, Olympia, Seattle, Richland, and Yakima in the year ahead. I hope to see and hear from many of you.

For approximately 100 years, Washington has had the APR 6 Law Clerk program under which students can “read for the law” under a practicing attorney rather than attending law school. I’ve had the honor of serving as the Board liaison for this program for the last five years, The WSBA only can continue to do what we do to carry on its mission because of members who dedicate their talents and donate their time as volunteers!
and I’ve also had the opportunity to serve as a Rule 6 Law Clerk mentor. I’d like to see the WSBA expand this program. I think it offers a smart path to train new legal professionals without the ever-increasing cost of traditional law school. An APR Rule 6 law clerk can complete the program for a total (including application fee and four-year tuition) of $8,100. Unlike the traditional law school student, the law clerk also has the ability to work full time while learning the law. The end result of expanding the program will be, I believe, more new attorneys who have the ability to offer more pro bono and/or lower cost legal services.

The Board is currently reviewing many initiatives and new programs intended to improve the practice of law and better achieve the WSBA mission statement while also benefiting members so they are better able to serve their clients and the public.

The WSBA president is here to serve each of you and your representatives on the Board of Governors. This is a volunteer position that exists to help facilitate and direct the execution of the policy decisions of the Board of Governors. I have the utmost respect for all current and prior governors who have together dedicated thousands of hours a year in volunteer service to our organization. Additionally, the WSBA only can continue to do what we do to carry on its mission because of members who dedicate their talents and donate their time as volunteers! We are currently seeing a reduction in WSBA volunteers, and I hope to help reverse that trend.

I plan to serve as the 2022-23 WSBA president in the same manner that I served as the 2019-20 and 2020-21 WSBA treasurer, and the 2017-22 District 4 governor. I plan to provide timely communication and transparency in what the Board and the WSBA are doing. I sincerely want to hear from you about what you think our Bar needs and how we can work together better to improve the WSBA. Please share any ideas you have for the organization as well as your recommendations of attorneys in your communities who should be recognized by the WSBA for their achievements and public service.
DARIN ROWDEN, ET AL.  
V.  
HOGAN WOODS, LLC, ET AL.

Testifying expert for plaintiff counsel in connection with $1.7 million in economic damages sought by former property manager related to claims of Safe Employment Act violations, breach of contract, ORLTA violations, negligence, and violations of Uniform Fraudulent Transfer Act. Identified categories of damages, calculated amounts, testified before jury, and performed analysis of factors related to Uniform Fraudulent Transfer Act. Result: Jury verdict for plaintiff of $1.7 million.

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Introducing Your 2022-2023 WSBA Financial Team

Francis A. Adewale, WSBA Treasurer

I am the Washington State Bar Association incoming treasurer, having served as the representative of District 5 on the Board of Governors since 2021. I have served as public defender for the city of Spokane for more than 20 years. During that time, I have also served on many nonprofits and community-based organizations as chair, co-chair, and treasurer. I also own (along with my wife) a small business in Eastern Washington.

I obtained a master’s degree in public administration from Eastern Washington University with specific research on interlocal agreement, municipal, and nonprofit budgetary management. I have spent approximately 21 years practicing community lawyering and just completed a six-year term on the Access to Justice (ATJ) Board. For the last two years, I have served as chair of the ATJ Board, during which time we ran a successful ATJ Conference without incurring any debt. In fact, our fundraising was so successful we had small savings set aside for the next conference.

Very early in his term, the previous WSBA treasurer, Bryn A. Peterson, tasked me and the WSBA chief financial officer with the herculean task of comprehensive review of the WSBA’s fiscal policies. I am proud to report that we successfully completed the review and presented the report to the WSBA Budget and Audit Committee. At its September meeting, the full Board of Governors adopted the revised fiscal policies, which will be implemented in the coming months.

My approach and goal as treasurer will be to encourage the Board, the executive leadership team, volunteers, and all WSBA members to abide by the WSBA’s fiscal policies and facilitate the WSBA Budget and Audit Committee in a manner that assists and provides the information needed for the committee to make the correct decisions for the WSBA and its members.

My experience serving on boards of nonprofits in Eastern Washington taught me to value every cent. While the WSBA is not strictly a nonprofit, it is an organization that is for the members and run by the members. To quote my immediate predecessor, Governor Peterson, “I never want to forget that the members are the people that provide the money required for the WSBA to function and operate each and every year.” I solemnly promise to be a good steward of your finances. Thank you.

Tiffany Lynch, Director of Finance

I am a certified public accountant with over 18 years of finance and accounting experience focusing on government and nonprofit organizations. I started my career as an auditor and transitioned to positions focusing on budgeting, financial forecasting and planning, and operational leadership. Prior to my role at the WSBA, I was the chief finance and operations officer of a nonprofit, overseeing all aspects of the finance, accounting, human resources, information technology, and facilities teams.

I have a deep understanding and appreciation for the WSBA and its mission to serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice. It is the lens that I look through and what guides my approach as a leader in this organization.

As we enter a new fiscal year, I am excited to work with Treasurer Adewale, the Budget and Audit Committee, and the Board of Governors to accomplish a robust body of work. We plan to focus on the following key areas: (1) keeping our membership informed about the WSBA’s finances by providing clear and transparent financial reporting, (2) analyzing the WSBA’s allocation of reserve funds to meet organizational objectives while ensuring long-term financial health and stability, (3) examining areas of improvement in the annual budget process, and (4) providing sound fiscal analysis and projections to guide the organization in its decision-making. It is our belief that the work in these areas will result in lasting benefits for the WSBA’s membership.

I look forward to all that we will accomplish in the coming year!
In 2020, the WSBA released an advisory opinion addressing “ghostwriting” for pro se parties in state court civil litigation. Advisory Opinion 202002, which is available on the WSBA website, is an important resource for lawyers who wish to offer limited services on either a pro bono or a task-based fee model. The 2020 advisory opinion, in turn, built on amendments to both the Washington RPCs and the Civil Rules that were enacted 20 years ago to encourage limited-scope representation as an additional tool to help litigants of modest economic means. In this column, we’ll first discuss the parameters of ghostwriting under Advisory Opinion 202002. We’ll then survey the accompanying state court civil rules that facilitate ghostwriting in state civil trial level proceedings.

Before we do, two qualifiers are in order. First, Advisory Opinion 202002 focuses on Washington state courts only. Federal courts in Washington, like many of their counterparts nationally, have historically disfavored undisclosed attorney ghostwriting for pro se litigants as contrary to Federal Rule of Civil Procedure 11. Therefore, pending further clarification by the federal courts in this regard, Advisory Opinion 202002 limits its analysis to state courts. Second, Advisory Opinion 202002 is limited to civil proceedings. For a variety of reasons, ghostwriting in the criminal realm has generally been suggested only for post-conviction settings where public indigent defense is not available. Advisory Opinion 202002 implicitly takes this tack by excluding criminal proceedings from its scope.

ADVISORY OPINION 202002
Advisory Opinion 200202 defines “ghostwriting” as “the undisclosed drafting of pleadings, motions, or other documents for pro se litigants.” The opinion notes that 20 years ago the Washington Supreme Court specifically authorized limited-scope representation under RPC 1.2(c) as part of a package of amendments to both the RPCs

Congratulations to our frequent guest columnist Mark Fucile! He has been honored with the WSBA’s 2022 Professionalism APEX Award for his volunteer work—which includes this Ethics & the Law column in Bar News—providing excellent, timely, and robust ethics advice to colleagues. Read more about all the APEX winners on page 33.
and the Civil Rules aimed at increasing access to the civil justice system. Washington’s version of RPC 1.2(c) was then amended in 2006 as a part of the WSBA’s Ethics 2003 review of the RPCs to update and align our rules more closely with a package of amendments to the corresponding Model Rules of Professional Conduct adopted by the ABA in 2002 and 2003.

RPC 1.2(c) in its current form reads:

A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

Advisory Opinion 202002 concludes that ghostwriting pleadings and other papers for pro se litigants is generally a permissible task under RPC 1.2(c). In keeping with an earlier ABA opinion, Formal Opinion 07-446 (2007), the Washington advisory opinion also concludes that ghostwriting may be done anonymously without violating RPC 3.3, which addresses candor toward tribunals.

Two important subsidiary points follow. First, on those tasks for which a lawyer has agreed to assist the client—whether pro bono or for pay—the lawyer must exercise requisite competence under RPC 1.1 and the associated civil standard of care reflected in Washington Pattern Jury Instruction 107.04. In other words, while the client may be pro se before the particular courts involved, an attorney-client relationship exists, and the lawyers remain responsible for the legal services they provide. Prudent risk management practice suggests, therefore, careful documentation in writing of the specific tasks which the lawyer has agreed to assist with and ensuring that the lawyer has the appropriate knowledge and skill to accomplish them.

Second, if ghostwriting is done anonymously, the pro se litigants for whom the services are performed are treated as unrepresented for purposes of the “no contact” rule—RPC 4.2. Comment 11 to RPC 4.2 underscores this point:

A person not otherwise represented by a lawyer to whom limited representation is being provided or has been provided in accordance with Rule 1.2(c) is considered to be unrepresented for purposes of this Rule unless the opposing lawyer knows of, or has been provided with, a written notice of appearance under which, or a written notice of time period during which, he or she is to communicate only with the limited representation lawyer as to the subject matter within the limited scope of the representation.

**WASHINGTON CIVIL RULES**

Advisory Opinion 202002 notes that the 2002 amendments also included specific changes in the form of CR 11(b) and CRLJ 11(b) to accommodate anonymous ghostwriting at the trial court level.

CR 11(b) reads (and CRLJ 11(b) mirrors):

> In helping to draft a pleading, motion or document filed by the otherwise self-represented person, the attorney certifies that the attorney has read the pleading, motion, or legal memorandum, and that to the best of the attorney’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

1. it is well grounded in fact,
2. it is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law,
3. it is not interposed for any improper purpose, such as to harass...
or to cause unnecessary delay or needless increase in the cost of litigation, and
(4) the denials of factual contentions are warranted on the evidence or, if specifically so
identified, are reasonably based on a lack of information or belief. The attorney in providing such
drafting assistance may rely on the otherwise self-represented person’s representation of facts, unless the
attorney has reason to believe that such representations are false or materially insufficient, in which
instance the attorney shall make an independent reasonable inquiry into the facts.¹⁰

Threading a conceptual needle, the drafters of the Washington rule made the ghostwriting lawyer responsible for the papers prepared but did not require the lawyer to sign the papers involved.¹¹ As one of the principal drafters of the rule put it later:

Washington’s rule amendment does hold a ghostwriting lawyer responsible for the pleadings, but it does not require any written certification to that effect. Instead, the lawyer certifies merely by drafting the pleading. The rule recognizes that an objective of limited scope representation is reduced costs and thus allows the lawyer to rely on the client’s factual representations, rather than

Washington’s rule amendment does hold a ghostwriting lawyer is responsible for the pleadings, but it does not require any written certification to that effect.

SUMMING UP

Washington's approach to ghostwriting for pro se civil litigants in state trial courts provides a practical tool for lawyers to assist clients who either do not want or cannot afford traditional “full service” representation by a lawyer.

NOTES

1. As noted, this column addresses ghostwriting by lawyers. Under Washington APR 28G(4), “[a] document prepared by an LLLT shall include the LLLT’s name, signature, and license number beneath the name of the client.” Therefore, LLLTs are not permitted to ghostwrite pleadings and similar court papers that require a client signature. See Dec. 22, 2016 “Letter from LLLT Board Chair to Washington Supreme Court” (relating LLLT Board position that LLLTs are not permitted to ghostwrite pleadings) (on file with author).


7. WSBA Advisory Opinion 200202 precedes the cite to RPC 3.3 with “including but not limited to.” ABA Formal Opinion 07-446 (2007), which the Washington opinion cites, concludes that, in addition to RPC 3.3, ABA Model Rules 4.1(a) and 8.4(c), both of which address misrepresentation, are not violated by anonymous ghostwriting for pro se civil litigants either.

8. On a related point addressing LLLTs, Comment 5 to RPC 4.4 notes that although a lawyer may communicate with a person being assisted by an LLLT without violating RPC 4.2, the lawyer may not use the contact to intrude into confidential communications between the LLLT and the person being assisted.


10. Other facets of the 2002 amendments included CR 4.2 and CRU 4.2 authorizing limited scope appearances and CR 701 addressing notices of appearance. See Althoff, supra n. 5, 2004 Prof. Law. at 85-86.


12. Althoff, supra n. 5, 2004 Prof. Law. at 86.

Mark J. Fucile of Fucile & Reising LLP handles professional responsibility, regulatory, and attorney-client privilege matters, and law-firm-related litigation for lawyers, law firms, and legal departments throughout the Northwest. He is a former chair of the WSBA Committee on Professional Ethics and the winner of the WSBA’s 2022 APEX Professionalism Award. He is the editor-in-chief of the WSBA Legal Ethics Deskbook and a co-editor of the WSBA Law of Lawyering in Washington and the OSB Ethical Oregon Lawyer. He can be reached at 503-224-4895 and mark@frilp.com.
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Local Solutions. Global Reach.
DuBois Law Group congratulates Amanda DuBois on receiving the Sally P. Savage Leadership in Philanthropy Award.

Amanda is the founder of Civil Survival, a nonprofit dedicated to providing formerly incarcerated people with access to educational and employment opportunities. She also established the Full Circle Scholarship, which serves law school students directly impacted by the criminal justice system. Her dedication to those previously incarcerated and her endless energy and enthusiasm inspire us every day.
During its July 21 meeting, the WSBA Board of Governors voted to approve the restructuring of the WSBA Diversity Committee into a more inclusive Diversity, Equity and Inclusion (DEI) Council.

Prior to 2012, the WSBA had two different diversity-focused committees: the Board of Governors’ Diversity Committee and the WSBA Committee for Diversity. The Board of Governors’ Diversity Committee was focused on diversity policy established by the Board. The WSBA Committee for Diversity was focused on increasing diversity within the membership and leadership of the WSBA, promoting opportunities for appointment or election of diverse members to the bench, supporting and encouraging opportunities for minority attorneys, and raising awareness of the benefits of diversity in the legal profession. This committee’s membership was open to any WSBA member.

In 2012, the Board of Governors voted to merge these two committees into one, which became known as the WSBA Diversity Committee. This committee was unique in that Board members were not liaisons to but rather voting members of the committee. Unfortunately, at the time, the WSBA Bylaws1 and Committees and Boards Policy2 were not updated to reflect that structure.

Since 2012, this Diversity Committee’s work has focused on assisting systemically marginalized and underrepresented groups to enter, thrive in, and advance to leadership roles in the legal profession. Its purpose is to promote diversity, equity, and inclusion in the legal profession and the legal system, and it has worked on initiatives for the Board under GR 12.2(a)(6), promoting “diversity and equality in the courts and legal profession.”3

The WSBA Committee and Board Policy listed the Diversity Committee among the nine other committees outside of the Board of Governors’ standing committees. However, WSBA Bylaw IV(C)(i) stated that the Diversity Committee was one of the Board of Governors’ standing committees. The Bylaws further provided that the Diversity Committee may include both general members of the WSBA and members of the Board of Governors, but, as a Board of Governors standing committee, that only Board members had the authority to vote to approve the Diversity Committee’s actions, policies, and direction.

Since its inception, however, the Diversity Committee had allowed Board members and non-Board members to have an equal say. In fact, in the course of its work in promoting diversity, equity, and inclusion in the legal profession and the legal system throughout the years, the Diversity Committee had grown to include WSBA Board members, non-Board members, and law student representatives. Many of the members were also Bar and community leaders.

CHANGE IN STRUCTURE

In 2021, the Board of Governors informed the Diversity Committee that it was acting out of compliance with the WSBA Bylaws by allowing non-Board members to vote. To correct the noncompliance, the Diversity Committee proposed a change in structure to become the Diversity, Equity and Inclusion (DEI) Council. WSBA Bylaw XI(C) provides that “councils are created and authorized by the Board to serve as advisory committees to the Board on matters and issues of particular import of the Bar.” As part of the process, outreach was done to many stakeholders including minority bar associations, Washington law schools,
DEI RESOURCE OF THE MONTH

Upstream Flows Downstream, and Downstream Flows Back Up

By WSBA Equity and Justice Lead Imani Shannon

People are drowning in a river. Individuals are foundering and shouting for help. Rescue efforts understandably focus on pulling people from the river to safety. Eventually, someone walks the length of the river to try and figure out what is going on upstream that causes folks to keep falling in.

This metaphor is used to explain upstream and downstream approaches to equity work, an approach borrowed from the field of public health. Upstream efforts are looking at the cause and what systems contribute to that cause—what is making people fall into the river? Downstream efforts focus on individual assistance—pulling people out of the river one by one.

Focusing on upstream work allows us not only address but to disrupt structural inequities, including mass incarceration and the school-to-prison pipeline, discriminatory lending, redlining, structural racism, and more. If we don’t address upstream issues, or what is happening at a systemic level, the ramifications of those issues will continue to flow downstream and affect people on an individual level. As legal professionals across private, nonprofit, and other sectors, we have clients entering our offices every day who could be impacted by upstream issues.

For example, the U.S. Department of Justice states that there is still racial discrimination in housing, more than 30 years after passage of the 1968 federal Fair Housing Act.¹ This may affect clients on an individual (downstream) level if housing providers give false information about availability to applicants of color. Clients will continue to be affected by upstream issues when there are policies in place that allow systemic inequities to continue. For example, law firms can revisit their accommodation and accessibility policies and practices to see if their services can be more inclusive to clients who are blind or low-vision, who use mobility aides, or who need accommodations in client meetings because of a physical or psychiatric impairment.

Looking at both upstream and downstream solutions can assist with ensuring equitable outcomes for clients.⁴¹

NOTE

To advance diversity, equity, and inclusion and address the problems of bias, systemic inequities and underrepresentation in the legal profession, the Council’s work includes but is not limited to:

- Increasing and supporting members from underrepresented communities by developing and supporting diversity pipeline and mentorship programs and partnering with schools, students, and members from underrepresented communities.
- Developing diversity, equity, and inclusion educational content and programs for members, volunteers, and members of the public.

the Superior Court Judges Association, the District and Municipal Court Judges Association, members of the Alliance for Equal Justice, and others in the equity and justice community.

At its July 2022 meeting, the Board voted to approve the change to a council, making the Diversity Committee the Diversity, Equity, and Inclusion (DEI) Council. This DEI Council has its own charter and will be able to continue its overarching mission: to advance diversity, equity, and inclusion in the legal profession and the legal system.

The DEI Council’s membership will include members of the Board of Governors and active WSBA members, WSBA pro bono status members, WSBA judicial status members and judicial officers, law students, law school faculty and staff, and members of the general public. In accordance with WSBA Bylaw Article IX.C, the WSBA president will appoint DEI Council members, with confirmation by the Board of Governors.

Thus, the DEI Council will have a much more diverse voting membership, including non-attorneys. In response to the stakeholder outreach regarding the change, members of the Pro Bono Council (the consortium of all 16 county-based volunteer lawyer programs throughout the state) sent a joint letter noting that obtaining input “especially from those who have lived experiences of marginalization, systemic oppression and underrepresentation in the legal profession and the larger community gives a valuable perspective to improve the quality and accessibility of legal services to clients.”¹ The letter went on to state that “the addition of law students, judicial officers, and members of the public to the DEI Council could similarly better support historically underrepresented and under-represented communities in accordance with the Washington’s Supreme Court’s June 4, 2020, directive to the members of the legal community.”⁴¹

In its charter, the DEI Council clearly states its purpose:

CONTINUED >

WSBA Diversity Committee
Transitions to Diversity, Equity and Inclusion Council

NOTE
inclusion educational content and programs designed to offer members opportunities to learn, gain skills, and fulfill the MCLE ethics requirement on the mitigation of bias.

- Implementing and updating the WSBA Diversity and Inclusion Plan.\(^5\)
- Supporting and collaborating with the Minority Bar Associations\(^6\) to promote mutual goals to advance diversity, equity, and inclusion in the legal profession.
- Promoting leadership opportunities in the WSBA, legal profession, and legal system by engaging in outreach to underrepresented members and the public, promoting diversity in the judiciary, and recommending candidates for at-large governors on the WSBA Board of Governors.
- Advising the Board on examining issues through a diversity, equity, and inclusion lens and fulfilling its responsibilities outlined in General Rule 12.2(a)(6), WSBA Strategic Goals, and Race and Equity Justice Initiatives commitments, and approved resolutions concerning diversity, equity, and inclusion.

The Council shall work with a variety of stakeholders to ensure it centers underrepresented members and communities, and will work collaboratively with WSBA staff who manage diversity, equity, and inclusion programs.\(^4\)

NOTES
In this issue, we introduce you to 2022-23 WSBA President Dan Clark. He was elected to the Board of Governors in July 2017, and ran for two subsequent full terms in 2018 and 2021. During that time, he served as the organization’s only two-term treasurer, oversaw consistent increases to the WSBA unrestricted general fund, and was elected president-elect in May 2021. He was sworn in as WSBA president on Sept. 22.

Q. Tell us a bit about who you are, your background and law practice, as well as where you practice.
A. I’m a 47-year-old full-time government attorney who has worked for Yakima County for 20 years, since September 2002. I am currently employed as a senior deputy prosecuting attorney with the Yakima County Prosecuting Attorney’s Office. I was born and raised in Yakima, by my grandparents. I earned my B.A. from Central Washington University and my J.D., cum laude, from Gonzaga University School of Law. I also currently serve as an APR 6 law clerk mentor.

In addition, I believe I am the first WSBA president with a major stuttering disability. I have suffered from this speech disability since I was around 4 years old. I learned over time that it’s a challenge I have to deal with on a daily basis and that I can’t let it define me or who I am or what
Q&A with Daniel D. Clark

We protect what our clients value most.

McKinley Irvin attorneys are known for their relentless pursuit of successful results, whether representing individuals in financially complex divorce or high conflict parenting disputes. But perhaps our most noted distinction is our steadfast commitment to protecting what our clients value most.

Q. What issue or issues do you believe are most important to WSBA members right now? How do you plan to address their concerns?

A. Historically, WSBA members’ license fees have been a consistent source of sensitivity and controversy. I believe that WSBA members are wary of any increases to their license fees. I was very proud that the Board of Governors in the fall of 2020 pledged not to increase WSBA member license fees through 2026. I’ve worked hard to try to honor that pledge while a governor.

I addressed the concern about license fee increases by working hard for two years as WSBA treasurer to help end each fiscal year with significant increases to the WSBA general fund, a result that is key to avoiding the need for increasing license fees. Going forward, this will also allow the organization to have some flexibility in its decision on what to do with the expiring office building lease at the end of 2026. I personally believe that the WSBA would be best served by greatly downsizing its current office space and looking to establish small regional offices throughout the state, rather than maintaining one large office in downtown Seattle.

Q. What issue or issues do you believe are most important to the public right now?

A. The shortage of attorneys, the lack of meaningful access to justice, and the erosion of public trust and confidence in our legal system are some of the most important issues of concern to the public.

I believe that, at least in Central and Eastern Washington, lack of access to justice (unmet civil legal needs, exacerbated by “legal deserts” in parts of the state) is the biggest problem experienced by the public. In several rural areas of the state there is a
As more WSBA members retire, it is of critical importance for us to look at ways to attract new and young attorneys to rural parts of our state to replace them. As more WSBA members retire, it is of critical importance for us to look at ways to attract new and young attorneys to rural parts of our state to replace them. I'm very proud that the Board has formed the Small Town and Rural Practice (STAR) committee, which is looking at various ways to improve this situation.

As addressed more fully in my President’s Corner column, one potential way to improve this situation would be to expand the APR 6 program, which would allow more people to enter the legal profession as attorneys at a much lower cost to them.

Q. What do you believe the WSBA is doing well?
A. The WSBA has a very strong commitment to diversity, equity, and inclusion efforts within our legal profession and a strong commitment to increasing access to justice. The Legal Lunchbox™ series of free monthly CLEs is also a prime example of something the WSBA does well and the kind of thing it should be doing for its members. Finally, the WSBA has a strong commitment to fair treatment of its employees, which includes a robust compensation and benefit package and providing a collaborative work environment.

Q. In which areas do you think the WSBA needs to improve?
A. There are three areas in which I think the WSBA can and should improve.

First, the WSBA could greatly improve by conducting a cost-benefit analysis of its programs and services, with a focus on the return on investment from its non-mandatory functions. The organization is good at adding new programs, services, and functions; it is not as good at evaluating them to see if its financial resources are being spent as efficiently and productively as possible. If the WSBA does not conduct such a cost-benefit analysis of its current programs and services, license fees may have to be raised significantly to continue funding new and innovative ideas and programs to serve members and the public.

Second, the WSBA could improve its ability to pivot and make changes at a much faster pace. The size of the organization makes this somewhat difficult, but I think that we can do better.

Finally, I’d like to see the WSBA enhance and enrich the experience for members who volunteer on various committees, councils, work groups, task forces, and sections; they truly are the lifeblood of the organization.

Q. If you weren’t a lawyer, what career path would you choose?
A. I would have tried to become a dentist, specifically an orthodontist.

Q. What do you do in your leisure time?
A. In the limited free time that I do have, I really enjoy music. I have friends who play in various local cover bands and original bands—mostly rock and roll music—and I enjoy watching them when they play live. I’m also an avid Gonzaga Bulldogs basketball fan and have been since the fall of 1997. Each year I hope that this will be the year they finally win the NCAA Championship in men's college basketball! I’m a sports fan in general though (including the Seahawks), and someday I hope we’ll have our Seattle Supersonics back!

Finally, I’ve really tried to have more of a work/WSBA volunteer/life balance in the last year and a half and to focus on diet and exercise. My COVID-19 hospital experience taught me the importance of focusing on my health and wellness, so I’ve tried to make that more of an emphasis in my life moving forward as well as living more for today than for tomorrow.

Q. Who is your role model, in your legal career or otherwise?
A. Gonzaga School of Law Professor Milt Rowland and the late Chief Justice Mary E. Fairhurst have both been invaluable friends and mentors for me in my life.

Q. Do you have any closing remarks?
A. I’d like to thank all of the WSBA governors and officers with whom I’ve had the honor of serving since July 27, 2017. I have the utmost respect for each of you and the service you have given our bar association!

I’d like to see Board service become more enjoyable, and I hope to build and improve trust and relationships on the Board. Equally as important, I’d like to see Board members build closer and more collaborative relationships with WSBA staff and sections, county bar associations, and affinity and minority bar associations. Ultimately, the WSBA is the association for every Washington legal professional, and I would like to see more of us become involved in it!
Meet Your Board of Governors

Daniel D. Clark was elected by the Board of Governors as president-elect in 2021 and served on the Board of Governors as the District 4 Governor from July 2017 to September 2022. He was elected as WSBA treasurer in July 2019, and reelected as WSBA treasurer in July 2020, becoming the first member to serve as treasurer for two terms and two consecutive terms. Clark is a senior deputy prosecuting attorney with the Yakima County Prosecuting Attorney’s Office, Corporate Counsel Division. His legal practice includes providing legal representation to Yakima County department heads and elected officials in civil, financial, forfeiture, and taxation litigation matters. He is the legal counsel for the Southeast Washington Aging and Long Term Care Council of Governments, an entity that provides important services for vulnerable clients. Born and raised in Yakima, Clark received his B.A. in political science, magna cum laude, from Central Washington University and his J.D., cum laude, from Gonzaga University School of Law.

LEARN MORE > Read President Clark’s first President’s Corner column on page 10 and a Q&A with President Clark on page 22.

Hunter M. Abell was elected to fill an at-large diversity position on the Board of Governors in 2019 and elected by the Board of Governors as president-elect in 2022. Abell is a member at the Seattle office of Williams Kastner. He is originally from Eastern Washington, where he was raised on a ranch in rural Ferry County. A graduate of the College of William & Mary, Abell attended Gonzaga University School of Law and received an LL.M. at Georgetown University Law Center. Before joining Williams Kastner, he served as a JAG officer with the U.S. Navy, and is currently a commander in the U.S. Navy Reserve. Abell previously served as chair of the WSBA Professionalism Committee and Indian Law Section. When not in the office, he enjoys hiking, fishing, and playing with his two young daughters, Libby (9) and Wynsome (7).

Judge Brian Tollefson (Ret.) was elected to the Board of Governors in 2017, elected by the Board as president-elect in 2020, and served as WSBA president from 2021-22. Judge Tollefson is a principal at Black Robe Dispute Resolution Services, PLLC. He served on the Pierce County Superior Court for over 27 years. While on the bench he was active in the Superior Court Judges Association (SCJA) as a member of the Board of Trustees, together with several SCJA committees. He served on the Pierce County Superior Court Executive Committee and served as presiding judge, continuing active participation in numerous Superior Court committees. Before his judicial career, he was a partner in a Tacoma law firm. He is an emeritus member of the Robert J. Bryan American Inns of Court and has worked with the National Courts & Sciences Institute (NCSI, formerly known as ASTAR). He graduated from Willamette University College of Law with honors, serving on the Willamette Law Review staff. He earned a master’s degree in judicial studies from the University of Nevada, Reno. His B.A. in Business Administration is from the University of Washington School of Business.
Sunitha Anjilvel was reelected to the Board of Governors in 2021. She has practiced family law and estate planning in the Pacific Northwest since 2008. Since her first admission to practice law in 1990, Anjilvel has practiced in a variety of courts in Canada, California, and Washington in family law, criminal law, and civil litigation. In 2005, she served as director of a bipartisan campaign to support a redistricting reform initiative on California’s statewide ballot. She is committed to social justice and currently is a member of the WSBA Diversity, Equity & Inclusion Council and a director on the Board of Domestic Relations Attorneys of Washington (DRAW). Anjilvel has also volunteered for the Kinship Care Project and the Northwest Immigrant Rights Project. She has a B.A. from McGill University and a J.D. from Dalhousie Law School. She is licensed to practice law in Washington and California.

Kari Petrasek was elected to the Board of Governors in 2022. She is a graduate of Seattle University School of Law. She is a solo attorney, having started her own firm, Petrasek Law, in Mukilteo in January 2015. In the 13 years prior to starting her own firm, she worked in several small firms in Everett. She is a civil litigator with significant experience in the areas of juvenile law, guardianships, estate planning, elder law, and family law. Petrasek is also a dedicated advocate for children, having served as a volunteer and attorney guardian ad litem for dependent children. She has been one of the Snohomish County CASA Program attorneys for over 15 years. In addition, Petrasek has served as a judge and commissioner pro tempore for Snohomish County Superior Court since 2010. She is the immediate past-chair of the WSBA Solo & Small Practice Section, the treasurer of Washington Women Lawyers, a past-president of the Snohomish County Bar Association, a member of Washington State CASA, a leader in the ABA GPSolo Division, and a coach for the Archbishop Murphy High School Mock Trial teams. In her free time, Petrasek enjoys skiing, golfing, football, and baseball.

Lauren Boyd was elected to the Board of Governors in 2020. She graduated from the University of Oregon School of Law in 2015. Before that, she earned a history of art bachelor’s degree from Johns Hopkins University. After law school, she became a deputy prosecutor at the Clark County Prosecuting Attorney’s Office and is currently working in the Appellate Unit. Boyd grew up in Southern Oregon. She moved to Washington after law school to be closer to part of her family. She enjoys gardening, cooking, and any activity that gets her outdoors.

Mary M. Rathbone was elected to the Board of Governors in 2022. She is a partner at Moberg Rathbone Kearns, P.S. She has a B.A. in business administration from Washington State University, with an emphasis in international business. She obtained her license to practice law through the WSBA Rule 6 program. For the last 11 years, she has worked primarily in civil defense litigation. Rathbone’s passion to become an attorney was ignited at a very young age. Her father, a former superior court judge, would often care for her in chambers because she refused to take naps at daycare. When she is not at the office, she can be found balancing ballet, piano, karate, and baseball with her two children, ages 6 and 8. She also serves her local community as a member of Soroptimist International, a nonprofit that serves to better the lives of women and children through economic empowerment.
Francis Adewale was elected to the Board of Governors in 2021 and elected by the Board as treasurer in 2022. Adewale is one of the attorneys that helped establish Spokane Community Court, and his commitment to community and movement lawyering is epitomized by his work on several community-based boards and activities in Eastern Washington. He has served as chair of Refugee Connections Spokane, co-chair of Spokane Homeless Coalition, and member/trustee of the Spokane County Bar Association and its Volunteer Lawyers Program. Adewale is former chair of the Access to Justice Board and a member of the Washington Supreme Court’s Interpreters Commission. He is currently a board member of Northwest Immigrant Rights Project (NWIRP), board president of Multi-Ethnic Business Association-AHANA, and an adjunct faculty member of both Whitworth University and Gonzaga Law School. He is a founding member of the Washington Statewide Reentry Council, having been reappointed three times by Governor Jay Inslee. He is a current fellow of the National Council of Bar Presidents Diversity Scholars. In addition to serving on the Board of Directors of Spokane City Credit Union, Adewale and his wife also own and run a small business in Spokane.

Matthew Dresden was elected to the Board of Governors in 2020. He is a solo practitioner at Dresden Law PLLC in Seattle, where he handles a wide range of corporate and transactional matters, with an emphasis on media and entertainment, international intellectual property, and cross-border work. Before attending law school, Dresden worked in Hollywood for several years as an independent filmmaker. Dresden served on the executive committee of the WSBA’s International Practice Section for eight years, including a term as chair. He is also an adjunct faculty member at Indiana University Maurer School of Law, where he teaches a clinic on legal issues for independent filmmakers. He served as a law clerk in the Southern District of Texas for U.S. District Court Judge Vanessa D. Gilmore and U.S. Bankruptcy Judge Jeff Bohm. He has a B.A. from Stanford University, a J.D. from the University of California, Los Angeles, and LL.M.s from New York University and the National University of Singapore.
Erik Kaeding was elected to the Board of Governors in 2022. Since 1995, Kaeding has practiced criminal defense at the Law Office of Erik P. Kaeding in Kent. He is a proud citizen of the Samish Indian Nation based in Anacortes. Kaeding has served as the Chairman of the Appeals Board for the Samish Nation since 1997. At Green River College, he has been a Board member of the Criminal Justice Department Advisory Committee for more than a decade as well as serving as a guest lecturer. Raised in Olympia, Kaeding graduated with honors from the University of Puget Sound (now Seattle University) School of Law and received a B.A. in Economics from the University of Washington. When not working or volunteering, you will find Kaeding hitting the links or cheering on his favorite Seattle sports team. He and his wife, Kristina, live in Renton and enjoy spending time with their adult daughters, Kelsey of Boston, Massachusetts, and Lili of Auburn, and their families.

Serena Sayani was elected to the Board of Governors in 2021. She is a shareholder at Stokes Lawrence, P.S., in the real estate and business transaction practice group. Sayani’s commercial real estate practice focuses on acquisitions, dispositions, development, construction, and leasing. Her clients include real estate investment trusts, public and private pension plans, tax-exempt investors, developers, and other businesses. Outside of her practice, Sayani is a member of the WSBA Diversity, Equity & Inclusion Committee (formerly the WSBA Diversity Committee); a board member for Commercial Real Estate Women (CREW); the co-chair of the Diversity, Equity & Inclusion Committee for NAIOP Washington; the co-chair of the Diversity and Inclusion Committee of Stokes Lawrence, P.S.; a member of the King County Bar Association’s MLK, Jr. Luncheon Committee; and an attorney mentor-coach for the Mercer Island High School Mock Trial Team (2018-2019). Recently, Sayani was honored with the 2019 Up and-Coming CRE Attorney Award by the Puget Sound Business Journal and the Rising Rock Star Award by CREW/Elevate.

Kevin Fay was elected to the Board of Governors in 2022. Prior to serving on the Board, he served on the Executive Committee of the Corporate Counsel Section, the Washington chapter of the Association of Corporate Counsel, and the Washington Chapter of the Society of Corporate Secretaries and Governance Professionals. He recently retired from three decades of service as in-house counsel for VMware, Inc., PACCAR Inc., and Microsoft Corporation, with an eclectic practice that included corporate and securities work, software licensing and services, equipment financing, mergers and acquisitions, real estate and construction, and immigration. Prior to going in-house, he was in private practice at Mudge, Rose and Shearman & Sterling in New York City, and Bogle & Gates in Seattle. Originally from Seattle, he earned two undergraduate degrees in political science and history from the University of Washington, a J.D., magna cum laude, from the State University of New York at Buffalo, and an LL.M. from Harvard Law School.

Nam Nguyen was elected to the Board of Governors in 2022. He is an assistant attorney general in the Revenue and Finance Division in Tumwater. Prior to the Attorney General’s Office, Nguyen worked in private practice in Bellevue and Houston, Texas. Immediately after law school, he volunteered in Bayou La Batre, Alabama, for AmeriCorps’s BP oil spill relief program. Aside from the WSBA, Nguyen serves on the board for the Family Support Center, a nonprofit social service organization serving homeless families in the Olympia area, and he is the chair of the Commission on Asian Pacific American Affairs. Nguyen was born in Saigon, Vietnam, and grew up in the South Seattle area. He graduated from the University of Washington and Boston University School of Law, and he has a master’s degree in foreign policy from the University of Michigan. Nguyen resides in Tumwater and enjoys running, reading, cooking, and spending time with his dog, Dog Vader.
Alec Stephens was first elected to the Board of Governors in 2017 and reelected in January 2021. Prior to serving on the Board, Stephens served two terms as chair of the WSBA Civil Rights Law Section. He has been a civil rights lawyer since his admission to the Bar in 1981, and was national co-director of the Law Students Civil Rights Research Council, and national co-chair of the National Lawyers Guild Affirmative Action/Anti-Discrimination Committee. Active in civic affairs, he has served as a member of the City of Seattle Parks Levy Oversight Committee, and he was the first Disproportionality Task Force chair of Seattle Public Schools. In 2012, he was one of 12 electors to cast Washington's electoral votes in the Electoral College. Originally from Miami, Florida, Stephens has a law degree from the University of Puget Sound (now Seattle University) School of Law and a bachelor's of business administration from the University of Miami. During his tenure on the Board, he has served as Board co-chair of the WSBA Diversity Committee (now the Diversity, Equity & Inclusion Council), as chair and co-chair of the Personnel Committee, and as chair of the Equity & Disparity Workgroup.

Jordan Couch was elected to the Board of Governors in 2021 to represent new and young lawyers in an at-large position. Couch is a partner at Palace Law, practicing workers’ compensation and personal injury. In his spare time, he is an avid outdoorsman—probably stemming from his childhood spent between an island in Alaska and the Bighorn River valley in Montana. Prior to joining the Board of Governors, Couch served as a trustee for the Tacoma-Pierce County Bar Association, chair of the Access to Justice Board's Technology Committee, and chair of the Washington Young Lawyers Committee, and has held various leadership roles on the WSBA Solo & Small Practice Section’s Executive Committee. Couch is passionate about solving access to justice by helping lawyers build better, more client-centric practices, and never gets tired of talking about how to improve our profession (or fishing).

Brent Williams-Ruth was first elected as a district governor to the Board of Governors in 2020 and was elected to an at-large position in 2022. Williams-Ruth has had a varied career ranging from working as a 1L intern with the King County Prosecuting Attorney’s Office to working in a nonlegal role with (formerly) Fisher Radio Seattle. Since 2015, he has been the sole proprietor of a concierge estate planning, probate/trust, and elder law firm. Since starting his own firm, Williams-Ruth has volunteered with Seattle University School of Law as a mentor and judge for legal writing oral arguments. He began his volunteer service with the WSBA in 2018 when he joined the Character and Fitness Board, serving as its vice chair in the 2019-2020 year. He resigned his position with Character and Fitness in September 2020 to take his seat as a governor. He also serves as a trustee on the Washington State Bar Foundation. When not working or volunteering, you will find him spending time scuba diving, traveling, hiking, and creating adventures with his husband, Justin.
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THE 2022 APEX AWARDS

Acknowledging Professional Excellence (APEX) Awards honor exemplary members of the legal community, including legal professionals, judges, and members of the public.

PLEASE NOTE: APEX Award winners are nominated by WSBA members and members of the public. Nominations are reviewed by the WSBA APEX Awards Committee (made up of members of the WSBA Board of Governors), which makes recommendations to the full Board of Governors. Nominations for the 2023 awards open in January. Questions can be emailed to barleaders@wsba.org.
OUTSTANDING YOUNG LAWYER AWARD

The Outstanding Young Lawyer Award recognizes one attorney who has made significant contributions to the professional community, especially the community of young lawyers, within their initial years of practice. Recipients must be active WSBA members within five years of admission to any bar association or less than 36 years of age.

Sofia M. Pasarow

At only 29 years old and barely five years out of law school, Sofia M. Pasarow was promoted to the role of managing attorney with the Washington State Office of the Insurance Commissioner (OIC).

“Sofia is a natural born leader,” said one of her nominators. “Within a short amount of time, Sofia garnered the trust and respect of the attorneys she leads by fostering an environment of collegiality, recognizing their strengths and weaknesses in case assignments, providing guidance in problem solving in complex cases, and building a cohesive team.”

Amid staff absences and having taken on the task of training new attorneys, Pasarow led the attorney team during the 2022 legislative session in responding to a large volume of requests for legislative analyses and fiscal notes detailing the impact and need for resources to handle additional consumer protection needs for Washingtonians.

Pasarow led OIC to win a number of enforcement actions in some of the more significant cases in recent years. Those cases included actions against illegal health-care-sharing ministries, unauthorized insurers selling unapproved insurance products in Washington, and insurance producers who do not comply with the state insurance code and cause consumer harm. One case resulted in a $1.5 million fine against an insurance producer for violating multiple insurance code and regulation provisions.

Pasarow graduated with a B.A. from the University of California, Santa Cruz, and went on to earn her J.D. from Lewis & Clark College.

LEGAL INNOVATION AWARD

The Legal Innovation Award recognizes legal professionals, law firms, courts, law schools, individuals, or organizations who demonstrate leadership in promoting innovation in the practice of law. Innovation may be defined as programs, processes, or technology that advance or streamline the future of the profession and accessibility/delivery of legal services.

Davis Wright Tremaine LLP

Considering the sheer size and dedication behind Davis Wright Tremaine’s efforts to guide, enhance, and deliver pro bono services, few others could be more worthy of the Legal Innovation Award.

The firm has spearheaded a variety of programs and initiatives to reimagine how pro bono services are delivered to underrepresented and marginalized communities, while simultaneously using what it has learned to help others do the same. In just one year, for example, the firm’s Pro Bono and Social Impact Department—led by Chief Pro Bono and Social Impact Officer Joanna Plichta Boisen—helped an estimated 100 in-house departments foster pro bono partnerships with companies including Amazon, Bloomberg, J.P. Morgan Chase, Meta, and Microsoft. Such accomplishments have led respected outlets like Law360 to say that Davis Wright Tremaine “is at the forefront of efforts by a few law firms to engage in pro bono partnerships with corporate legal departments in a continued, sustained way.”

Davis Wright Tremaine also developed the innovative educational program, In-House Pro Bono Summit, which for the past four years has brought together in-house legal teams from across the country to learn more about trends in pro bono, social impact, corporate social responsibility, and environmental, social, and governance policies. The Pro Bono and Social Impact Department also created In-House Insights, an educational series designed to help in-house lawyers learn from peers about the best ways to structure and increase their own pro bono efforts.

Such programs have resulted in Davis Wright Tremaine and others assisting over 600 incarcerated individuals to challenge non-unanimous jury verdicts resulting from Jim Crow-era laws, drafting a chapter of a national bench book to create more equitable and trauma-informed courtrooms for survivors of sex trafficking, supporting over 15 small businesses with contract reviews, and much more.
CHIEF JUSTICE MARY E. FAIRHURST AWARD OF MERIT

The Chief Justice Mary E. Fairhurst Award of Merit is the Bar’s highest honor and is given to an individual for a recent, singular achievement. The singular achievement may involve an individual who has displayed exceptional courage in the face of adversity, thus bringing credit to the legal profession. It is awarded to individuals only—both legal professionals and members of the public. In March 2022, the WSBA Board of Governors unanimously voted to rename the APEX Award of Merit the Chief Justice Mary E. Fairhurst Award of Merit, after the former Chief Justice of the Washington Supreme Court, a legal luminary and a model of WSBA service and professionalism, who died in December 2021.

Hon. James E. Rogers

During the height of the COVID-19 pandemic, Judge James Rogers prioritized access to justice and, according to his nominator, “led our court to accomplish extraordinary things during a time of great crisis and fear.” Among those accomplishments, the court never closed and continued to hold crucial criminal, family law, and domestic violence protection order hearings, as well as holding Involuntary Treatment Court without interruption.

Judge Rogers is credited with keeping the court functioning by quickly consulting a team of public health experts on the best ways to maintain safety for both employees and members of the public. He led efforts to utilize technology in new ways, install HVAC filters and court ventilation systems, and create a pop-up courthouse in Bellevue to hold in-person jury trials with adequate social distancing.

By the end of 2020, the court was even able to begin holding civil jury trials remotely. From the early pandemic through December 2021, the court through Judge Rogers’ leadership remotely conducted 1,000 bench trials and over 300 jury trials. According to Law360, the King County Superior Court conducted more virtual trials during the pandemic than any other court system in the country.

Judge Rogers currently serves in the Civil Department and has presided over all types of cases since 2005. He was the court’s presiding judge from 2019-2021. A graduate of the University of Washington, he served in the Peace Corps in Sierra Leone before earning his J.D. at Georgetown University Law Center. He later clerked for U.S. District Court Judge Robert J. Bryan, worked in civil practice at Riddell Williams, and worked in the King County Prosecutor’s Office where he served in the Special Assault Unit and Most Dangerous Offenders Project Unit. Judge Rogers sits on the Washington Supreme Court Committee on Jury Instructions and the Freedom Education Project Puget Sound Board.

“We at King County Superior Court could not be prouder of our work over the last two years, none of which could have been accomplished without his leadership,” wrote Judge Rogers’ nominator. “Significantly, I can’t think of another person who could have done the job at all.”

JUSTICE C.Z. SMITH EXCELLENCE IN DIVERSITY AWARD

The Justice C. Z. Smith Excellence in Diversity Award is named in honor of the late Justice Charles Z. Smith, the first African American to serve on the Washington Supreme Court. This award goes to a lawyer, law firm, or law-related group that has made a significant contribution to diversity in the legal profession.

QLaw Foundation of Washington

The mission of the QLaw Foundation of Washington is to promote “the dignity and respect of LGBTQ+ Washingtonians within the legal system through advocacy, education, and legal assistance.” The organization envisions “a world in which no LGBTQ+ person will face additional barriers to authentic living, access to justice, or equality before the law because of their queer identity.” Even amid a global pandemic, QLaw was able to continue providing pro bono legal services through the LGBTQ+ Legal Clinic (the Clinic). The Clinic offers free consultations with volunteer attorneys and provides potential legal solutions or referrals.

QLaw pivoted to telephone consultations with clients and provided COVID-19 resources on its website, both vitally important given the disproportionate effects the pandemic has had on the LGBTQ+ community: half of LGBTQ+ individuals in Washington experience difficulty paying bills, securing food, and paying their rent or mortgage, and 75 percent of LGBTQ+ individuals in the state reported that their work was slowed or stopped due to the pandemic.

Expanding on its already stellar legal services, the Clinic, many of whose volunteer lawyers are members of the LGBTQ+ community and have been trained on legal issues that most commonly affect the community, served 227 clients in 2021, completed 15 second-parent adoptions, and provided 640 volunteer hours from attorneys throughout Washington.

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LIFETIME SERVICE AWARD

The Lifetime Service Award is a special award given for a lifetime of service to the legal community and the public.

Gail R. Smith

As summed up by his nominators, “For 46 years, Gail R. Smith has been a quietly powerful conscience of the WSBA.”

A quick review of his previous professional acknowledgments more than supports a lifetime achievement award: the 2015 WSBA Local Hero Award, 2008 WSBA Pro Bono Award, 2003 Skagit County Bar Association Professionalism Award, 2003 and 2006 Skagit County Volunteer Lawyer Program Access to Justice Award, and 2019 Northwest Justice Project Power of Community Award.

While in law school at the University of Washington in 1976, Smith’s passion for equal justice was nurtured by his work at a Law Students’ Civil Rights Research Council Project to combat mortgage redlining in Seattle’s central area. After graduation, Smith began his career working with the Puyallup Tribe, then at the Seattle Indian Center Legal Services Program. He has mentored new and experienced attorneys, passing on the lessons he learned as a young lawyer.

Smith and his law partner encouraged other lawyers around Skagit County to devote time to pro bono service, an effort that eventually turned into the Skagit Volunteer Lawyer Program (later Skagit Legal Aid). Smith has pushed to expand services and help create more legal clinics for marginalized communities in relatively isolated parts of the state.

Smith is well-known in the legal community and has worked on many programs dedicated to pro bono services such as the WSBA Legal Aid Committee, WSBA Pro Bono and Legal Aid Committee, Washington Pro Bono Council (since its founding in 2014), and Campaign for Equal Justice.

“From the beginning to the most recent stages of Smith’s career, he continues to serve clients directly, never hesitating to accept as clients those with the greatest challenges,” his nominators said. “Long after most attorneys later in their careers stepped away from those challenges, he sees it as an honor to provide direct service.”

ANGELO PETRUS AWARD FOR LAWYERS IN GOVERNMENT SERVICE

The Angelo Petrus Award for Lawyers in Government Service is named in honor of Angelo R. Petrus, a senior assistant attorney general who passed away during his term of service on the WSBA Board of Governors. It is given to a lawyer in government service who has made a significant contribution to the legal profession, the justice system, and the public.

Ann Lundwall

U.S. Naval officer, lawyer, advocate—even children’s book author. These terms only begin to describe Ann Lundwall. Put more simply, according to those who nominated her, Lundwall is “an unsung hero and a treasure to the United States military and the Washington legal profession.”

A third-generation member of her family to serve in the United States Navy, Lundwall has served multiple stints of active duty. After obtaining her commission with the JAG Corps, in 2000 Lundwall was assigned to Trial Service Office Southeast where she prosecuted criminal offenses, including sexual assault and violence against children. From there she reported to the USS JOHN C. STENNIS as the assist command judge advocate and ship’s discipline officer before going to work as a prosecutor for Island and Clallam Counties through the Naval Reserve Law Program, where she spent a decade prosecuting complex violent crime and became specially designated as the expert on sexual assault and crimes against children.

Lundwall’s work in fighting for survivors of sexual assault has been nothing short of prolific. Her nominators describe her as the “Navy’s premier expert on sexual assault.” In 2013, Lundwall was hand-picked to be a founding member of the Navy JAG Corps Victim Legal Counsel Program and in the years since has fought for more than 200 survivors of sexual assault and domestic violence. Amid rising scrutiny of sexual assault within the military, Lundwall was later picked to work in the Naval District Washington and represent survivors of sexual assault in Washington, D.C., and Bethesda, Maryland. Notably, Lundwall wrote the children’s book, When Children Testify at Courts-Martial, to help make child survivors more comfortable with the court martial process, the roles of judges and prosecutors, and other aspects of being in court.

Lundwall is originally from Washington and graduated cum laude from both Gonzaga University and the University of Florida School of Law.
Riddhi Mukhopadhyay

There is perhaps no better measure of leadership than the voices of those they lead. For Riddhi Mukhopadhyay, director of the Sexual Violence Law Center (SVLC), testaments to her leadership are plentiful.

“I am one of the attorneys who works for SVLC under Riddhi’s leadership, and I would call that my privilege,” said one of her nominators.

“Riddhi has created a space for me to feel inspired to introduce new methods of organization and has empowered me in the work I do,” said another.

And yet another pointed out that Mukhopadhyay “never backs down from injustice, wherever it may be found, even when doing so may be uncomfortable or unpopular. She is also one of the most humble leaders in the fight for justice for survivors/victims as she does not seek notoriety for her advocacy.”

As director of SVLC—the only statewide holistic civil legal aid provider exclusively protecting the privacy, safety, and civil rights of survivors of sexual violence—Mukhopadhyay centers work on survivors, not by trying to be their voice, but by amplifying their voices inside and outside of the courtroom. She has established herself as a leader who fights for meaningful access to the legal system and the rights of sexual assault survivors.

In addition to her position with SVLC, Mukhopadhyay is an adjunct professor at the University of Washington School of Law, adjunct professor at Seattle University School of Law, and co-director of the Shared Leadership Team at Legal Voice. She has presented dozens of trainings and educational seminars on topics including representing survivors and minor victims, consensual language in sexual assault litigation, and advocating for criminalized survivors of violence. In 2021, she was a Golden Tennis Shoe Awardee, recognized by Sen. Patty Murray for her work in support of survivors of sexual violence in Washington during the pandemic.

Mukhopadhyay previously worked with Sexual Violence Legal Services, YMCA; the Department of Assigned Counsel; the Northwest Immigrant Rights Project; SafePlace; Fine by Me; and Amar Ghor. She graduated with a B.A. from Duke University and earned her J.D. from Seattle University School of Law.

OUTSTANDING JUDGE AWARD

Judge Anita Crawford-Willis

On and off the bench, Judge Anita Crawford-Willis is known for her compassion, drive, and most of all for being a role model to those lucky enough to have crossed paths with her.

Since 2017, Judge Crawford-Willis has sat on the Seattle Municipal Court where she has been vital to programs that expand the court’s resource center to provide community services to those who need it most.

“Judge Crawford-Willis is deeply committed to bringing about gender and racial equity and justice for all and has been persistent in her call to all of us that we must educate ourselves and be allies in this critically important work,” said one of her nominators.

Outside of her judicial role, for more than 25 years Judge Crawford-Willis has served in volunteer leadership roles. She is a member of the Washington Supreme Court Gender and Justice Commission and is involved in its education committee, which plans gender-related topics for judicial conferences, and serves as the commission’s liaison to the District & Municipal Court Judges’ Association.

Originally from Seattle, Judge Crawford-Willis grew up in the city’s Central District to parents who were both proud members of the Machinists’ Union IAM 751 and worked the Boeing production line for over three decades. As a double alumna graduate from Seattle University—both for her undergrad and law degree—Judge Crawford-Willis is known within the law school as a dedicated alumni leader and mentor for students—for example, helping to lead the way for initiatives such as scholarships for Black undergraduate and law students. According to one of her nominators, “There is literally a ‘Judge Crawford-Willis pipeline’ operating in our community, from high school, to college, to law school.”
The Pro Bono and Public Service Award for an Individual is presented to an individual, a lawyer, or other legal professional for outstanding cumulative efforts in providing pro bono services or giving back in meaningful ways to the public, the community, or the legal profession.

William E. L. Hayden

With praise coming from over a dozen individuals representing a wide range of organizations, there can be little doubt that William E. L. Hayden has left an indelible mark on those who know him.

According to those many enthusiastic colleagues, Hayden is most deserving of the APEX Pro Bono and Public Service Award for such actions as successfully representing a veteran in applying for Combat-Related Special Compensation, recruiting other lawyers from his company to take on pro bono clients for the National Veterans Legal Services Program (NVLSP), consistently being one of Microsoft’s top pro bono contributors, co-leading Microsoft Legal’s Military Veterans Employee Network, and providing his expertise and mentorship to multiple nonprofits.

As a 21-year active and reserve member of the United States Navy, Hayden is a graduate of the U.S. Naval War College, Norwich University, University of Rhode Island, and Suffolk University Law School. For more than two decades he has worked in legal departments for both General Electric and Microsoft. In addition to his full-time role and hundreds of hours of personal pro bono work and advocacy, Hayden has served on the Board of Fellows for Norwich University Cybersecurity, Data Science, and Computing; the NVLSP Board of Directors; and as Washington state legislative liaison to the Association of the U.S. Navy. He served in Operation Iraqi Freedom and Operation Desert Storm for the Navy and was a surface warfare officer on active duty and reserves for two decades.

“It is an honor to be Bill’s teammate,” said one nominator. “He models the caring and charitable values we all admire through his pro-bono engagements.”

William Hayden and his son, Harrison Hayden.

The Pro Bono and Public Service Award for a Group is presented to a law firm, organization, or project team for outstanding cumulative efforts in providing pro bono services or giving back in meaningful ways to the public, the community, or the legal profession.

Sexual Violence Law Center

As one of the nominators for this award enthusiastically said, “The Sexual Violence Law Center (SVLC) is the epitome of what civil legal aid in Washington should be. Their holistic approach to providing pro bono legal services to survivors of gender-based violence is unique in our state and is a model for what we should be doing. ... From trial level representation in protection orders to appeals and legislative change, SVLC is there to amplify survivors’ voices, protect survivor dignity, seek survivor justice and a world without sexual violence.”

The organization, which is led by APEX Norm Maleng Leadership Award winner Riddhi Mukhopadhyay, is a leader in the civil legal aid field. As a statewide legal aid organization focused on survivors, it recognizes the prevalence of gender-based violence in communities and institutions, as well as the devastating impact it has on survivors and their loved ones.

Founded in 2019, the SVLC has set its goals toward breaking and reshaping the legal system that has upheld rape culture, victim blaming, and gender-based violence. It provides holistic legal services that aim to address all of a survivor’s legal needs that have arisen from sexual violence. This involves not only direct legal services, but also broader initiatives to create broader change in communities and institutions.

The SVLC helps educate the public and professionals in how to support survivors and identify new ways to provide such support. The organization provides frequent trainings at the state and national level—educating attorneys, advocates, law enforcement, survivors, judicial officers, and others—on topics such as understanding sexual violence and surviving. Washington protection orders, privacy rights of crime victims in Washington, representing minor victims of sexual violence, presenting sexual abuse in child custody cases, trauma-informed advocacy, advocating for high-needs clients, secondary trauma in the workplace, domestic violence and financial abuse, immigrant survivors, and holistic legal representation of survivors.
Amanda DuBois

When Amanda DuBois became disillusioned by endemic problems she saw in the carceral system, she did more than simply find a job to try and make a difference; she created one. Now in its seventh year of operation, DuBois’ Civil Survival Project has positively impacted the lives of countless formerly incarcerated individuals and brought about legislative reform.

DuBois’ journey and that of the Civil Survival Project began when DuBois visited prisons during her work as a family law attorney. She became aware of the lack of tools that incarcerated people have to increase their odds of successful reintegration into society and began dedicating herself to bringing those tools to incarcerated people and empowering them to exit the system, while simultaneously working toward reforming and repairing the broken systems which lead to cycles of incarceration.

In addition to writing manuals addressing common legal issues in layperson’s terms, DuBois created workshops to teach formerly incarcerated people how the legislature works and how to tell their stories in order to educate legislators about the negative impacts of the laws they had passed.

In 2021, the Civil Survival Project moved forward the Voting Rights Restoration Bill in Washington, which in 2022 resulted in an additional 25,000 Washingtonians being allowed to register to vote. The project also helped pass House Bill 1411, which provides more opportunity for people with criminal records to work as caregivers without being automatically disqualified based on their conviction type. The Civil Survival Project built and supported several coalitions including the Housing Justice Coalition, which introduced a bill to stop rental housing discrimination and prevent landlords from asking about criminal history on rental applications. And DuBois helped create the Seattle University School of Law Full Circle Scholarship, which helps students whose lives have been directly impacted by the criminal justice system.

DuBois graduated from Pacific Lutheran University with a B.S. in nursing in 1978 and from the University of Puget Sound (now Seattle University) School of Law in 1986. Her career has included work as a nurse, personal injury litigator, and family law attorney in her firm, DuBois Cary.
The Northwest Seaplanes Accident on Mutiny Bay:
A Few Preliminary Thoughts and Legal Considerations

BY ROBERT HEDRICK, CASEY DUBOSE, KERRY KOVARIK, AND CHRIS RUSING

The opinions stated in this article are those of the authors and not of the WSBA.

Behind every aviation disaster there are thousands of stories about life, love, relationships, human nature, and ultimately death and human failure. When a catastrophe strikes, the emotional impact and personal losses are unbearably significant for families and close friends of those who perish.

On Sept. 4, 2022, a Northwest Seaplanes De Havilland DHC-3 Otter, N725TH, crashed into Mutiny Bay, located off the southwest coast of Whidbey Island, killing all 10 persons on board, including a child and Gabrielle Hanna, a member of the Washington State Bar Association. The flight was a scheduled air carrier seaplane flight from Friday Harbor to Renton’s Will Rogers-Wiley Seaplane Base, located on the south end of Lake Washington.

As the passage of time begins to soften the shock and significant impact of the accident, the search for answers begins. Given that the investigation into this accident is ongoing and many relevant facts are not known, this article addresses some of the factual and legal issues that may arise in the aftermath of this accident—including investigation into the cause of the accident, owner/operator determination, and potential probate issues.

THE CAUSATION QUESTION
Eighteen minutes after taking off from Friday Harbor in route to Renton, N725TH started to climb, from 800 feet to 1,175 feet when, according to witnesses, it suddenly and inexplicably dropped and rapidly descended nose-first into the Puget Sound waters below. There were no radio transmissions or other indications of what went wrong. Little is currently known about what caused the accident, and its wreckage is spread 190 feet below the surface of the water.

On Sept. 16, the National Transportation Safety Board (NTSB) issued its preliminary accident report, which provides general flight, route, weather, and pilot information. N725TH did not have any voice or data recording capability; passenger phones, if located, may provide important video, audio, and photo information. The preliminary report states that recent maintenance was performed on the aircraft on Aug. 16 and on Sept. 1, four days before the accident. Pursuant to FAA-issued Airworthiness Directives (ADs), which are mandatory regulatory maintenance requirements, regular inspections were required of the elevator control tabs, which assist in controlling the nose-up-and-down pitch of the aircraft; these inspections were apparently performed. In addition, the horizontal stabilizer hinge bolts (also related to pitch control) were replaced.

Since very little wreckage floated to the surface, it is presumed that there are
hundreds of small wreckage pieces spread throughout the accident area due to the currents of Puget Sound waters. The NTSB has located and retrieved the main wreckage, with the assistance of the U.S. Navy’s underwater wreckage recovery Deep Drone 8000. While it is not known how much of the wreckage has been recovered, there is little doubt that NTSB experts will be challenged putting together the causation puzzle, especially if significant pieces of the wreckage are not recovered.

The NTSB may take up to 24 months to issue factual and probable cause reports in aviation accidents; during this time potential litigants will independently investigate the accident using their own aviation experts and engineers. (Litigants cannot use NTSB reports in civil litigation, as these reports are inadmissible under federal law.)

In aircraft accidents where wreckage evidence is sparse (burned, broken, lost, or destroyed), experts focus their attention on what remains, such as maintenance records and the aircraft operating history. They also research similar accidents involving the same type of aircraft as potentially relevant to causation.

AIRCRAFT OPERATING AND ACCIDENT HISTORY

The DHC-3 Otter, N725TH, involved in the Sept. 4 accident was manufactured in 1967 by De Havilland Aircraft of Canada. From 1951 to 1967 more than 400 Otters were manufactured. Thus, there is a significant operating (and accident) history available for analysis. The NTSB has investigated 37 accidents involving DHC-3 Otter aircraft. The Canadian Transportation Safety Board (TSB) investigated an additional 15 accidents. As a result of certain accidents, both the TSB and NTSB have issued numerous Airworthiness Directives (ADs).

In determining whether N725TH may have experienced a catastrophic loss of controlled flight (a situation in which a pilot is no longer able to control the aircraft while in flight) on Sept. 4, investigators will likely look at reports of other DHC-3 loss of flight control accidents, some of which are summarized in the following list.

- **On June 20, 1989**, DHC-3 Otter N41755 unexpectedly pitched nose-down when the horizontal stabilizer jackscrew failed in flight. The cause was determined to be improper lubrication and excessive wear.

- **On Feb 4, 1992**, DHC-3 Otter N13GA unexpectedly pitched nose-down in cruise flight when the aircraft’s left elevator trim servo aft rivets tore out. Failures of the trim servo have been reported in other accidents.

The authors are all attorneys with Aviation Law Group PS (www.aviationlawgroup.com) in Seattle, where they exclusively practice aviation accident law on behalf of victims and their families. At the time of this publication, Aviation Law Group PS had commenced its own investigation into the Northwest Seaplanes accident.

Robert Hedrick is also a commercial pilot, seaplane pilot, FAA-certified aviation mechanic, and has an LL.M. in International Aviation Law.

Casey DuBose is a commercial pilot and flight instructor.

Kerry Kovarik is a commercial pilot and FAA-certified aviation mechanic with inspection authority.

Chris Rusing is an airline pilot (captain, Airbus 320) and flight instructor.

At some time during the last 20 years, DuBose, Kovarik, and Rusing were all law students in Hedrick’s aviation accident law course, which he still teaches at Seattle University School of Law.
A Few Preliminary Thoughts and Legal Considerations

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The Northwest Seaplanes Accident on Mutiny Bay:  
A Few Preliminary Thoughts and Legal Considerations

- On July 13, 1995, DHC-3 Otter N472PM experienced a significant vibration after take-off. Inspection upon landing indicated that the elevator trim servo had cracked and partially separated.  

- On May 9, 1996, the right wing of Canadian-registered Otter C-GBTU separated from the aircraft while on approach to a water landing. The Otter’s right wing lift strut had failed due to a fatigue crack that had developed through one of the strut’s mounting bolt holes. Both Transport Canada and the FAA issued ADs mandating a heightened inspection schedule of the Otter’s lift struts.  

- On Dec. 28, 2002, DHC-3 Otter N3904 experienced a loss of rudder control after one elevator partially came off its hinges and blocked the movement of the rudder. The elevator torque tube that connects both elevators showed signs of improper replacement.  

- On March 31, 2011, Canadian-registered Otter C-GMCW experienced a catastrophic in-flight break-up. No specific determination was possible as to the ultimate cause, but the TSB did determine that the break-up was the result of an overspeed condition after the aircraft diverged from straight and level flight for an unknown reason.  

- On May 30, 2014, DHC-3 Otter N3125N unexpectedly pitched nose-down in cruise flight when the aircraft’s left elevator trim tab separated. The aircraft trim tab had been modified, ostensibly to prevent flutter, which is a catastrophic condition where flight surfaces vibrate, potentially to the point of failure. A safety issue was created by the installation of the more powerful turbine engines in the Otter. Apparently, the prop wash from the turbine engines resulted in increased airflow over the control surfaces beyond the original design parameters. This increased airflow resulted in trim servo flutter and ultimately servo failure.  

- On Oct. 26, 2019, a DHC-3 seaplane crashed in Manitoba after its right wing came off during approach to land, causing the aircraft to dive nose-first into the lake, killing the three occupants. The TSB found a fatigue crack in the lift strut of the right wing caused the strut to fail, allowing the wing to come off. It also found that the maintenance inspection manual did not cover the area of these cracks.  

In 2004, the FAA issued AD 2004–05–01 to address the modified trim tabs installed on turbine-engine-equipped Otters. In 2011, due to the continuing flutter issue in turbine Otters, the FAA issued AD 2011–12–02, which reduced the maximum allowable airspeed for these aircraft down to 134 mph for float-equipped aircraft. The safety issue arose when the type certificate holder (the FAA-authorized manufacturer) modified the original design of the trim servo but failed to determine if that modification was safe vis-a-vis the original design.  

As noted in the preliminary Mutiny Bay accident report, there is another AD, 2011-18-11, that requires repetitive inspections of the elevator control tab. The AD notes that this would prevent excessive elevator free play, which “could lead to loss of tab control linkage and severe flutter,” causing “possible loss of control.”  

The problems with the Otter trim tab system in turbine-equipped Otters is an area that NTSB and private investigators will likely focus on as they try to determine the cause of the Northwest Seaplanes N175TH accident.  

DETERMINING THE OPERATOR OF THE AIRCRAFT  

After an accident the determination of who the FAA-certified operator is can sometimes be challenging. The Federal Aviation Regulations (FARs) require certain types of air carriers to obtain Part 135 certificates, which are issued after extensive FAA review and approval. Washington company West Isle Air, Inc. is listed as the FAA-certified Part 135 operator for the aircraft involved in the Mutiny Bay accident, N725TH, and thus appears to be the legal operator of N725TH at the time of the accident. (The NTSB preliminary report does not identify the Part 135 operator, instead leaving the lines “Operator” and “Operator Designation Code” blank.) However, “doing business as” (dba) names may also be used, but only if such names are listed on the certificate holder’s operations specifications.  

SEAPLANES, LOW FLIGHTS, AND AVIATION REGULATIONS  

The flight data from the accident flight of N725TH reflects a relatively low cruising altitude of approximately 600 to 800 feet immediately prior to the accident. This raises the question of why a pilot would have chosen to operate a seaplane at this altitude.  

The answer is multi-faceted. First, the airspace surrounding the flight corridor from Seattle to the San Juan Islands, though the Gulf Islands and up the Inside Passage, is surrounded by active airports such as Paine Field in Everett, Naval Air Station Whidbey...
Island, Victoria International Airport, Bell- ingham International Airport, and, further north, Vancouver International Airport. Smaller airports are also spread throughout this area, both on the islands and on the coastal mainland. Thus, in order to avoid the busier air traffic around airports, and to avoid required air traffic control clearances through busy areas, flying low and below certain classes of airspace can be a more efficient and safer alternative.

Second, since the more populous land aircraft need to fly at higher altitudes over water (so that they can glide to shore in the event of engine failure), seaplanes are not so restricted because in an emergency they can land on water. Thus, there should be less air traffic at lower altitudes over water than higher up. Third, weather and lower ceilings may still allow seaplanes to safely fly their routes at a lower altitude while remaining clear of clouds. Fourth, winds may be more favorable at lower altitudes, which reduces flight time and fuel consumption. Fifth, of course, is that the experience for seaplane passengers is enhanced by flying closer to the beautiful scenery below.

The FARs establish standards for minimum altitudes for aircraft, when not taking off or landing. N175TH was operating under Part 135, which is more restrictive because the operator is conducting air taxi/commercial operation for paying passengers. The daytime minimum flight altitude for airplanes when operating visually (not in clouds) is generally 500 feet above the surface.

While flying at lower altitudes may still comply with the regulations, from the early stages of pilot flight training, pilots are taught that altitude translates into time when faced with an emergency, especially one involving loss of engine power. The more altitude below means the more time there is to trouble-shoot potential problems, recover from unusual altitudes, and to implement emergency procedures. In the case of the Sept. 4 Mutiny Bay accident, however, if it is determined that there was a catastrophic flight control failure, more altitude would not have made a difference.

PROBATE QUESTIONS
Determining who recovers under wills or intestate statutes often presents probate counsel with unique challenges in aviation accident cases, depending on the circumstances. Likewise aviation counsel handling wrongful death claims may face numerous challenges related to personal representatives, beneficiaries, and recoverable damages.

A family of three died in the Mutiny Bay accident, plus their unborn child. Another married couple died, leaving behind children. These simultaneous deaths of members of the same family raise the question of application of the Uniform Simultaneous Death Act. Washington’s Act provides, in relevant part, “an individual who is not established by clear and convincing evidence to have survived the other individual by one hundred twenty hours is deemed to have predeceased the other individual.” The Act is not to be applied if its application results in the state taking by way of intestacy; however, the interplay can be tricky if there is no otherwise controlling will provision that would trump the Act.

Other aspects may become challenging as well, including the death of a fetus, which if viable has been recognized in Washington as giving the parents a wrongful death cause of action. But if both parents also die in the accident, the 2019 changes to Washington’s wrongful death and survival statutes may apply, allowing both wrongful death and survival claims as long as there is at least one surviving sibling.

With the exception of parents who lose a child, Washington law requires family claims to be brought through a personal representative. In such cases, the better course may be appointment of a personal representative who is not a beneficiary of the wrongful death/survivor claims, as the appointment can be for the limited purpose of pursuing such claims.

CONCLUSION
Seaplanes are an anchored part of Pacific Northwest history. With their mid-20th-century vintage, these old birds connect us to the past while continuing to fly passengers and cargo throughout northwest Washington and southwest British Columbia today. They are thrilling to see and hear in the skies above and on local waters, and are exhilarating to ride in. Yet, as so recently seen, tragedy may strike when least expected.

NOTES
2. Id.
4. https://registry.faa.gov/AircraftInquiry/Search/NumberResult?NumberT=7N75TH.
5. 14 C.F.R. Ch. 39.
16. 14 C.F.R. et seq.
20. RCW Ch. 11.05A.
21. RCW 11.05A.020.
22. RCW 11.05A.060.
24. RCW §64.20.020, 42.04.064, and 42.04.060 (2019).
Living in Washington state can be expensive. On average, Washingtonians experience a cost of living that is 13 percent higher than the national average. The specific cost of living varies throughout the state, with Seattle’s average cost of living 37 percent higher than the rest of the state and 54 percent higher than the national average, and more rural parts of Washington having a cost of living that is lower (albeit only slightly lower) than the national average. Depending on the part of the state someone calls home, prices for essentials like housing, gas, and groceries can vary greatly. But no matter where you live, legal services can be expensive. And if you live outside of the major population centers, these services can also be more difficult to access.

THE SITUATION ON THE GROUND IN RURAL COMMUNITIES

Finding affordable legal services in Washington is challenging, and the problem only intensifies in the state’s rural communities, many of which are legal-representation deserts. Despite rural counties’ populations being much smaller than those in urban centers, the demand for legal services still far outweighs the local supply. While residents of rural areas experience the same legal challenges as residents of larger cities, rural residents often have access to less help and fewer resources than those living in major epicenters. It is not surprising that attorneys are more abundant in the more populated areas of the state.

Outside of the cities, it can be very hard to find civil legal aid or low bono legal services. In addition to there being fewer private attorneys, there are fewer Qualified Legal Service Providers (QLSPs) to provide services to those in need. For example, there are roughly 42,000 people living in rural Okanogan County, but only about 60 lawyers listed in the county. Some of those lawyers are employed by the government and cannot

HELP WANTED

The Moderate Means Program urgently needs your help to address scarcity of legal service providers in rural Washington

BY ARIAN NOMA AND MICHAEL R. ADDAMS
engage in private practice, leaving even fewer to serve the 42,000 residents. To add to the problem, Okanogan County is one of the poorest counties in the state. So even if there were enough attorneys to handle the amount of litigation in the county, middle-income residents might not be able to afford the cost of representation. This may be especially true if they engage an attorney in a bigger city who will likely need to bill for the time and mileage to travel to the rural area.

With respect to civil litigation, then, Washington residents who live in rural areas and who are less than rich are, to a significant extent, excluded from accessing the justice system solely because of their location and economic status. Low- or middle-income Washingtonians oftentimes cannot afford to bring or defend basic litigation in most forums.

THE MODERATE MEANS PROGRAM AS ONE SOLUTION
There is a statewide program that is working to address the civil legal aid crisis in rural areas of Washington, and it needs your help. The WSBA’s Moderate Means Program (MMP) matches moderate-income clients with a network of legal professionals who are willing to take referred cases at a reduced rate. These attorneys offer assistance on issues of family, housing, consumer, and unemployment law. Unfortunately, the demand for attorneys who will accept reduced rates for their services greatly outnumbers the supply, especially in rural Washington.

The current scarcity of MMP attorneys serving rural counties severely impacts the ability of MMP to provide services in those parts of the state. As another example, in
the area of family law, the MMP has only about 45 participating attorneys in Spokane County. Forty-five attorneys might sound like enough participating members to take on the moderate means demand in one county, but over 500,000 people live in the greater Spokane County area. Many Spokane attorneys also take cases in the five surrounding counties and beyond. As a result, even eligible clients are often not able to have their matter successfully placed with an MMP attorney. The demand greatly outweighs the supply.

There are even fewer rural MMP lawyers in Chelan and Douglas Counties, which share just 8 active MMP lawyers. Pend Oreille, Adams, and Garfield Counties have no available MMP attorneys. Thankfully, some MMP attorneys are willing to provide phone consultations to clients who are unable to find a referral in their area. This is helpful, but this phone advice cannot compare to actual legal representation, which is what the MMP is intended to provide.

Part of the challenge for lawyers practicing in rural counties relates to supply and demand, but another challenge is the fees they are able to charge. Although most rural counties have a lower cost of living than the cities, the county setting can pose unique challenges to a legal practice. Wages tend to be lower in rural communities. For this reason, lawyers often charge lower hourly rates than lawyers located in larger cities. Where an attorney’s hourly rate is already lower, the attorney might not be able to afford further reductions. While lower wages and rural poverty amplify the need for MMP lawyers in those communities, the same issues can prevent lawyers from establishing a local practice or signing up to serve moderate-income clients.

While these challenges are real, there are also many benefits for MMP participating lawyers, such as access to free CLE trainings, a network of legal mentors, and expanded ways to find clients and build a professional network. There are also the benefits of earning hours towards pro bono publico recognition and knowing that you are making a difference for someone who

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**Help Wanted**
CONTINUED >
Arian Noma operates Washington’s first pandemic-proof mobile law office, serving all of Eastern Washington through old-fashioned house calls. Arian is also the Moderate Means Program staff attorney at Gonzaga Law School, proudly serves on the Council on Public Defense, and is the former elected prosecutor of Okanogan County.

Michael R. Addams is a full-time lecturer at Eastern Washington University and the municipal prosecutor for the cities of Cheney and Medical Lake. Michael is also a pro temp commissioner in Spokane County Superior Court and serves as co-chair of the WSBA Pro Bono and Public Service Committee. When he is not in the classroom or the courtroom, Michael enjoys skiing, fishing, painting, and finding random adventures with his wife and four children.

otherwise could not find legal representation for what may be the hardest thing they have ever faced.

WHAT YOU CAN DO TO HELP
As an attorney, you really can make a difference in someone’s life. The Moderate Means Program is one way you can reach those in real need of help, and the program needs more attorneys who are willing to take on cases at a discounted rate—especially in rural areas.

Visit the Moderate Means Program page on the WSBA website (www.wsba.org/connect-serve/pro-bono-public-service/mmp) and sign up to be an MMP attorney. Choose the counties where you are willing to take cases, and the areas of law you can accept. You don’t have to take on a full caseload of MMP cases; you can take just one case and still make a major impact. While more attorneys are needed statewide, you can especially improve access to justice by agreeing to take cases in the more rural counties.

NOTES
2. Id.
These individuals reported providing at least 50 hours of pro bono publico in 2021.
**SIDEBAR**

2021 Voluntary Reporting of Pro Bono Publico Service Hours

(per RPC 6.1)

Total hours reported: **147,554**

Direct service hours (6.1(a)): **89,593**

Indirect service hours (6.1(b)): **57,961**

Number of legal professionals reporting: **2,086**

Number reporting 1-30 hours: **835**

Number reporting 31-49 hours: **229**

Number reporting 50+ hours: **1,022**

CONTINUED >
Karen Nashiwa
Daniel James Neilsen
Emily Crystal Nelson
Todd M. Nelson
Thuy Nguyen
Joel Phillip Nichols
Jeffrey Grant Nielsen
Kelly Twiss Noonan

Julie Anne Oberbiliig
Jaci Marie Ohayon
Adolfo Ojeda-Casimiro
Ajbola Oluymesi Oladapo
Qudas Babatunde Olaniran
John Paul Olajide Saka
Manja Sachet
Robbie G. Russell
Timothy Alan Rybka

Shahzad Qamer Qadri
Arthur Stevens Quigley Jr.
Veronica Alexis Quinonez

Q

R

Gary Lee Raen
G housia Abdur Rahim
Kristina Rose Ralls
Lauren M. Ransford
John Frederick Rapp
Patrick William Rawnsley
Steven J. Reilly
Monica Reimiller
Sandy Restrepo
Patricia Hildegard Reutimann
Kathleen Ashley Rice
Paul Richard
Jerry A. Riedinger
Erin Maura Riley
Cynthia Rios
Brandon Mark Ritchie
Benjamin Jerome Robbins
Scott E. Rodgers
Pamela Kae Rodriguez
Ian David Rogers
Melissa Jane Rogers
Irving Mark Rosenberg
Ronald Gregory Rossi
Paul W. Routh
Justin T. Rusk
Daniel C. Russ
Joseph A. Sicilia
Katherine Sierra-Kelly
Melvyn Jay Simburg
Salim Silver Tilden
Julie R. Sommer
Patrick Gerard Songy
Anna Sortun
Ariel Jasmine Speser
Breica Moore Spooner
Nicole Renee Springstroh
Jonathan Alexander Sproul

S

Manja Sachet
Robert Paul Olajide Saka
Talesha Sophia Sams
Sara Piper Olajide Saka
Sandford Towner Kim Sandber
Vonda Michell Sargent
Simi F. Sarrafan
Dana Morgan Savage
Sonlinn Savage
Deborah A. Sawislak
Angela M. Michael Sawyer
David James Sawyer
Andrew Schach
Jason Henry Schauer
James Schimler
Emily Susan Schlesinger
Kelli L. Schmidt
Gabrielle D. Schneck
Oscar Lee Schreiber

Brennan Joseph
Schreibman
Lindsey Schromen-Wawrin
Emily Marie Schultz
Karen Gwen Schwieger
Kyle D. Sciuctetti
Christina Jean Scott
Jill Scott
Megan Scott
Nicole Rose Searing
Priscilla A. Selden
Kathryn A. Russell Selk
Yahya Zakariya Ibrahim Shafik
Kelsey Lee Shamrell-Harrington
Holly Michelle Shannon
Ryan Kelly Shanovitch
Igor Alexander Shapiro
Angela M. Shapow
Bridget Bourgette Shaw
A. Rebecca Shelton
Martin Arthur Shelton
Ada Shen-Jaffe
Daniel Jeffrey Shih
Daniel Nehemiah Shin
Andrew Gregory Shoals
Judy Kaoru Nakashima
Sohi
Tsering Yudon Yuthok Short
Amir John Showrai
Danielle Shyne
Jacqueline Lee Sible
Joseph A. Sicilia
Katherine Sierra-Kelly
Melvyn Jay Simburg
Salim Silver Tilden
Julie R. Sommer
Patrick Gerard Songy
Anna Sortun
Ariel Jasmine Speser
Breica Moore Spooner
Nicole Renee Springstroh
Jonathan Alexander Sproul
H. Douglas Spruance III
Joseph Stephen Stacey
Eric Stahl
Jay Warren Stansell
Lesa Renee Starkenburg
Travis Stearns
Flint M. Stebbins
Amy J. Stephson
Brandon Stevens
William James Stewart
Denise L. Stiffarm
Rebecca See Stith
Diane Fees Stokes
Shelby Renee Stoner
Evangeline Stratton
Heather Rogers Straub
Barry Alan Stulberg

Yohei Suda
Craig D. Suffian
Earl H. Sullivan
Melissa Walker Sullivan
Shara Svendsen
Tony Leon Swartz
Diane Sweet
Paul A. Sween
Michael Takeshi Swigg
Megan Kelly Sybors
Dawn Sydney
Endre Mark Szalay

T

Robert B. Taub
Jordan Taylor
Elvin K. Tesfamariam
Hewen Ezra Teshome
Devon T. Theriot-Orr
April Lynn Thomas
Scott Glen Thomas
Ronald E. Thompson
Trisha Thompson
Alexander Glenn Tievsky
Paul Silver Tilden
Thomas John Tobin
Anna M. Tolin
George Paul Trejo Jr.
Kira L. Truebenbach
Craig Steven Trueblood
Casey Trupin
Elena E. Tsiprin
Lauren Jeffers Tsuji
Aurelia Tuna
John M. Tymczyszyn

U

Madisyn Mei Ting Uekawa
Dayna Ellen Underhill
Heidi Nicole Urness
Rafael Edward Urquia

V

Theodore Vakrinos
Val Sevadez
Nicholas Arthur Valera
Pamela Susan Van Swearingen
Vivian Vassali
Caitlin Maureen Valetcos
Debra Jean Venhaus
Gabriel Ernest Verdugo
Carla Denise Vestal
Shashi Vijay
Joseph Mondoanca Vincent II
Cary M. Virtue
Tara Marie Vitale
Megan Alicia Skjei Vogel
Michael John Vogler
Kelly Vomacka

W

Stephanie Catherine Wade
Raina Vaile Wagner
Sara Katherine Wahl
Michael John Walker
Lori Kathleen Walls
Tiffany Clorissa Walsh
Mark D. Walters
Eryne Elizabeth Walvekar
Sara Angelena Ward
Amelia Sarah Watson
David Darra Weaver
Dean Browning Web
Gordon Charles Webb
Heather D. Webb
Susan Marie Weber
Mallory Anne Gitter Webster
Nicholas Spencer Weigley
Nancy S. Weil
Eric J. Weiss
Walker Griffin Weltzel
Ann Wennerstrom
Susan Langland West
Paige L. Whidbee
Michelle Anne White
Nancy Keanan Whitehead
Keaton H. Whitten
Sean P. Wickens
Matthew Alexander
Widmyer
Robert Carl Wilke II
Steven Marc Wilker
Brent Jeffry Williams-Ruth
Rogers Wilson Jr.
Lynne C. Wilson
Erin Helen Winkles
Mark Philip Wittman
Mark Wittow
Thomas Harding
Wolfendale
Thomas Hong
Gordon Arthur Woodley
Marcy J. Woodruff
Freya Rachel Wormus
Jennifer K. Wyatt

Z

Kerry P. Zeiler
Poul Andrew Rorholm Zellers
Matthew James Zenner
Wendy Ellen Zicht
John G. Ziegler
Gayle K. Zilber
Robert McKevitt Zoffel
Diane Swearingen
Zouboulakis
Jacob Alejandro Zuniga
Invest in Equal Justice

The Washington State Bar Foundation and Legal Foundation of Washington (Campaign for Equal Justice) are public charities. Your donations are tax-deductible to the full extent of the law.
**WSBA NEWS**

2023 License Renewal and Sections Information

License renewal is now paperless (online only). Online licensing will open in November and must be completed by Feb. 1, 2023. License renewal includes paying the annual license fee and any mandatory assessments, certifying MCLE compliance, completing the trust account declaration, and disclosing professional liability insurance or financial responsibility. Pay online via credit card or electronic funds transfer, or print an invoice to mail in with a check.

Certify MCLE compliance. If you are in the 2020-2022 reporting period, then you are due to report CLE credits and certify MCLE compliance. The deadline for completing credits is Dec. 31, 2022. The certification must be completed online by Feb. 1, 2023. Visit www.wsba.org/MCLE to learn more.

License fee payment plan option available. If you are experiencing financial challenges, you may contact us about our payment plan option available to all licensed legal professionals. Payments may be made in up to five installments with the balance required to be paid in full by Feb. 1, 2023. A license fee hardship exemption is available for active licensed legal professionals who qualify. Visit www.wsba.org/licensing to learn more.

Voluntary demographic information. Please update your information at licensing.wsba.org when online licensing opens in November. This information assists the WSBA in understanding the demographic makeup of our licensed legal professionals. Note: Some response options have changed. Join or renew your Section membership. The Section membership year is Jan. 1–Dec. 31. Visit www.wsba.org/legal-community/sections/sections to learn more.

Pro bono status. If you are considering going inactive, pro bono status (formerly known as emeritus pro bono status) is a great alternative that lets you provide pro bono services through a Qualified Legal Service Provider (QLSP). The license fee will be waived for pro bono status members who completed at least 30 hours of pro bono service with a QLSP in the prior year. Visit www.wsba.org/for-legal-professionals/license-renewal/status-changes/emeritus-pro-bono-membership-and-return-to-active-membership to learn more.

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

**IMPORTANT DATES**
- Dec. 31, 2022: Licensed legal professionals in the 2020-2022 reporting period must complete required MCLE credits.
- Feb. 1, 2023: Deadline for requesting a license fee hardship exemption.
- Feb. 1, 2023: License renewal payment(s) and MCLE certification, if applicable, must be completed online.

**Help Fill the Moderate Means Legal Need**

The statewide Moderate Means Program serves moderate income clients through a network of attorneys and limited license legal technicians who offer assistance in family, housing, consumer, and unemployment law cases at reduced fees scaled to the client’s income. There is an urgent need for legal professionals to serve. Visit www.wsba.org/connect-serve/pro-bono-public-service/mmp for more information and join now through your myWSBA account, www.mywsba.org.

**Follow Board Meetings and Submit Feedback**

Join the Board meeting notice subscription list to receive WSBA Board of Governors meeting notices straight to your inbox! To join, email barleaders@wsba.org or complete the form at www.wsba.org/about-wsba/who-we-are/board-of-governors. Send your feedback to boardfeedback@wsba.org. Please note that all WSBA emails are subject to public records requests.

**VOLUNTEER**

**Volunteer With the WSBA**

The Board of Governors is seeking applications to serve on one of the WSBA’s many committees, boards, and councils. Take a moment to learn about the various volunteer opportunities and find the one that matches your skills and interests. Visit www.wsba.org/volunteer.

**Volunteer With the Lawyer Discipline System**

Learn more about volunteering as an adjunct disciplinary counsel (ADC). ADCs assist as needed in carrying out the functions of the lawyer discipline system pursuant to Rule 2.9 of the Rules for Enforcement of Lawyer Conduct. Visit www.wsba.org/adc-panel or contact rachela@wsba.org to learn more.

**RESOURCES**

**Check out the DEI Resource Library**

The DEI Resource Library is
where WSBA members can learn more about diversity, equity, and inclusion concepts. There are compiled resource lists, books, and articles on the criminal legal system, identity and intersectionality, microaggressions/bias, and race. Visit www.wsba.org/about-wsba/equity-and-inclusion/dei-resource-library.

Practice Guides Available

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

Free Consultations and Practice-Management Assistance
The WSBA offers free resources and education on practice management issues. For more information, visit www.wsba.org/pma. You can also schedule a free phone consultation with a WSBA practice-management advisor. Visit www.wsba.org/consult to get started.

Lending Library
The WSBA Lending Library is open to members for both in-person and online checkouts. We have made a few changes to be aware of. For more information, visit www.wsba.org/library or email lendinglibrary@wsba.org.

HAVE SOMETHING NEWSWORTHY TO SHARE?
Email wabarnews@wsba.org if you have an item you would like to place in Need to Know.

Dickson Frohlich, PS is pleased to announce that

MARK S. JOHNSON

has been named a partner.

Mark serves as the head of Dickson Frohlich’s family law practice. For the decade he has worked at the firm, he has proven to be a tireless advocate for his clients and invaluable colleague to his peers. We are excited that Mark will continue to build the firm with us in the years to come.

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Seattle: 206-621-1110
Tacoma: 253-572-1000

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LAWYER ANNOUNCEMENT

CRAIG EVEZICH
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Craig Evezich offers mediation and arbitration services. His 30-year career, representing plaintiffs and defendants, gives him a unique perspective to resolve your case.

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**Need to Know**

**CONTINUED >**

**ETHICS**

**Ethics Line**

Members facing ethical dilemmas can talk with WSBA professional responsibility counsel for informal guidance. Learn more at [www.wsba.org/for-legal-professionals/ethics/ethics-line](http://www.wsba.org/for-legal-professionals/ethics/ethics-line) or call the Ethics Line at 206-727-8284.

**WSBA Advisory Opinions**


**WSBA MEMBER WELLNESS**

**Telehealth is Here!**

The Member Wellness Program is now offering hi-def, HIPAA-protected video consultations using the telehealth portal Doxy.me. Visit [www.wsba.org/for-legal-professionals/member-support/wellness](http://www.wsba.org/for-legal-professionals/member-support/wellness) and click “Book Your Initial Consultation” to schedule time with our licensed providers.

**The ‘Unbar’ Alcoholics Anonymous Group**

The Washington Unbar Alcoholics Anonymous group for legal professionals has been meeting regularly for almost 30 years. The group meets Wednesdays, 12:15–1:30 p.m., and Sundays, 7–8 p.m. Currently, the group meets online via Zoom, and attorneys from all over Washington participate. For more information and Zoom credentials contact unbarwa@gmail.com.

**QUICK REFERENCE**

**October 2022 Usury**

The usury rate for October 2022 is 12.00%. The interest rate required by RCW 4.56.110(3)(a) and 4.56.115 for Oct. 2022 is 5.42%. The interest rate required by RCW 4.56.110(3)(b) and 4.56.111 for Oct. 2022 is 7.50%.

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**NELLIE BARNARD**

Lewis and Clark Law School

Of Counsel

Schwabe, Williamson & Wyatt welcomes Nellie Barnard to the firm. Nellie is an experienced litigator who excels at providing ethics and risk management advice to lawyers, law firms, law students and in-house legal departments. Nellie represents Oregon and Washington lawyers in attorney discipline matters and character and fitness proceedings. Capable of defending complex business or financial litigation disputes, Nellie guides her clients to successful resolutions from inception through appeal.

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**Erin C. Seeberger Joins JGKM&W Seattle Office**

Johnson Graffe Keay Moniz & Wick, LLP is pleased to announce that Erin C. Seeberger has joined the firm as a partner in the Seattle office. For years, Erin has been a skilled and impressive advocate for her healthcare clients, as well as a cooperative and friendly member of the civil defense community. Erin brings a breadth of experience to the team, having tried a variety of cases in both California and Washington state and federal courts. She is also committed to mentorship and volunteer service, serving on the Board of Trustees for the WDTL, acting as the Chapter Advisor to the University of Washington’s Alpha Phi sorority, accepting pro bono work through The Seattle Clemency Project, and teaching the medical malpractice class at the University of Washington School of Law. JGKM&W is thrilled to welcome Erin to the firm and looks forward to her ongoing commitment and service to our healthcare clients and our community.

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**ALPS Attorney Match**

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

This In Remembrance section lists WSBA members by bar number and date of death. The list is not complete and contains only those notices of which the WSBA has learned through correspondence from members.

Please email notices to wabarnews@wsba.org.

Tom Alberg,
#200, 8/5/2022

Alice Blanchard,
#14942, 7/29/2022

Thomas Crowell,
#23622, 8/23/2022

John Stephen Fattorini Jr.,
#955, 8/22/2022

Gabrielle Hanna,
#57855, 9/4/2022

William Hyslop,
#11256, 9/11/2022

G. Paul Mabrey,
#26809, 10/27/2020

Jan Eric Peterson,
#751, 8/14/2022

James Short,
#985, 8/1/2022

Melanie Stella,
#28736, 4/30/2022

Elizabeth Wallace,
#38783, 10/18/2021

MORE ONLINE

When available, links to obituaries can be found in the online version of this article.

WSBA PRESIDENT 2000-2001

Jan Eric Peterson
#751, 8/14/2022

Jan Eric Peterson was born in Seattle on April 28, 1944, to his parents Dorothy and Theodore Peterson, and raised in Pasco with his sister, Jana.

He earned his undergraduate degree from Stanford University in 1966 and his J.D. from the University of Washington School of Law in 1969. After working with the ACLU and OEO Legal Services, he co-founded the law firm Peterson Wampold Rosato Feldman Luna in 1973. Peterson was a leader in his practice area and a skilled trial lawyer, and in 1999, he received the Trial Lawyer of the Year award. He served as 2000-2001 WSBA president, using the mantra “Proud to be a lawyer” to unite legal professionals across the state. He also served as president of the Washington State Association for Justice and the Damage Attorneys Roundtable of Washington, and served as a board member of the Legal Foundation of Washington and the Board of Judicial Administration.

Peterson was known for his big personality, his generosity, and his support for friends and family. He had numerous hobbies and passions, including playing jazz piano, rooting for the Mariners, Friday poker games, pick-up basketball, rec league softball, and, especially, golf.

Peterson died peacefully at home on Aug. 14, 2022. He is survived by his wife of 38 years, Margy Peterson, his son, Nels, his daughter, Anne, his stepsons, Derren and Corrin Haskell, and his grandchild, Oci.
Office space for sublease

Puget Sound Plaza

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Space Highlights

» Floor 8 - 13,736 RSF

» Floor 11 - 9,386 RSF (option to demise)

» 3,900 to 23,122 RSF available now

» Asking Rate: **$28.00 Full Service**

» Lease Expiration of 12/31/2026

» Shorter lease length available

» Mix of private offices and open space
  » 44 offices on floor 8
  » 16 offices on floor 11

» Parking ratio 1.0/1,800 RSF

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Clay Nielsen
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Jones Lang LaSalle Brokerage, Inc.
© 2022 Jones Lang LaSalle IP, Inc. All rights reserved. All information contained herein is from sources deemed reliable; however, no representation or warranty is made to the accuracy thereof.
These notices of the imposition of disciplinary sanctions and actions are published pursuant to Rule 3.5(c) of the Washington Supreme Court Rules for Enforcement of Lawyer Conduct. Active links to directory listings, RPC definitions, and documents related to the disciplinary matter can be found by viewing the online version of Washington State Bar News at www.wabarnews.org or by looking up the respondent in the legal directory on the WSBA website (www.wsba.org) and then scrolling down to “Discipline History.”

As some WSBA members share the same or similar names, please read all disciplinary notices carefully for names, cities, and bar numbers.

Suspended

Myles Julian Johnson (WSBA No. 47642, admitted 2014) of Tukwila, was suspended for six months, effective 7/29/2022, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of Louisiana.

For more information, see https://www.lsba.org/MD321654/MembershipDirectoryV1.aspx. Henry Cruz acted as disciplinary counsel. Myles Julian Johnson represented themselves. The online version of Washington State Bar News contains a link to the following document: The Washington Supreme Court Order.

Reprimanded

Lara M. Gardner (WSBA No. 42443, admitted 2010) of Corvallis, OR, was reprimanded, effective 7/18/2022, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of Oregon.


Notice of Hearing on Petition for Reinstatement of Karl Wesley Kime

A petition for reinstatement after disbarment has been filed by Karl Wesley Kime (WSBA No. 41668), who was admitted in 2009 and disbarred in 2015. A hearing on Kime’s petition will be conducted before the Character and Fitness Board on Friday, December 16, 2022. Anyone wishing to do so may file with the Character and Fitness Board a written statement for or against reinstatement, setting forth factual matters showing that the petition does or does not meet the requirements of Washington State Supreme Court Admission and Practice Rule (APR) 25.5(a).

Except by the Character and Fitness Board’s leave, no person other than the petitioner or petitioner’s counsel shall be heard orally by the Board.

Communications to the Character and Fitness Board should be sent to Lisa Amatangelo, Counsel to the Character and Fitness Board, Washington State Bar Association, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539, or to lisaa@wsba.org. This notice is published pursuant to APR 25.4(a).

Interim Suspension

Michael Graham (WSBA No. 37391, admitted 2006) of Seattle, is suspended from the practice of law in the State of Washington pending the outcome of supplemental proceedings, effective 8/08/2022, by order of the Washington Supreme Court. This is not a disciplinary sanction.
ACCOUNTING

Truepoint Analytics, PC
William N. Holmes
CPA, ABV, CVA, CFE
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Suite 100 Portland, OR 97223
PH: 503-270-5400    FX: 503-270-5401
EMAIL: info@teamtruepoint.com

- Fraud and Forensic Accounting
- Economic Damages
- Business Valuation
- Commercial Litigation
- Accounting and Tax Malpractice
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(See, e.g.,):
- Ground Zero v. United States Navy,
  860 F.3d 1244 (9th Cir. 2017)
- Seattle v. Long (2021)
- Witt v. the Air Force
  527 F.3d 806 (9th Cir. 2008)
- Daybreak Youth Services (2021)
- Bonivert v. Clarkston
  883 F.3d 865 (9th Cir. 2018)
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Associate

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Schwabe, Williamson & Wyatt welcomes Rachel Mazur to the firm as part of its Real Estate and Construction and Natural Resources industry groups. Rachel brings an impressive background in land use and development projects in the greater Seattle area. She helps real estate and development clients resolve problems and move ahead with projects. Rachel is a natural problem solver whose exceptional attention to detail and wide range of experience make her a trusted advocate for her clients.

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Profitable top-rated immigration law firm (#1199)
This reputable Northwest immigration law firm is multilingual and known for providing diversified and dedicated legal services, coupled with personal attention to each and every client. As of June 2022, the practice has approximately 320 active clients with approximately 6,500 total clients in its database. For the past three years, the practice has averaged gross revenue of approx. $815,000 (2019-2021). The firm employs a multilingual staff and is well-positioned to expand into other law practice areas to a diversified population. If you are a buyer who is an experienced immigration attorney, or an existing law firm that would like to expand its client base, this is the business that you have been waiting for. For more information about the practice, call us at 253-509-9224 or send an email to info@privatepracticetransitions.com, with “1199 Profitable Top-Rated Immigration Law Firm” in the subject line.

Profitable Western Washington insurance defense firm (#1203)
Established back in 1997, this Western Washington insurance defense firm has a service by revenue breakdown of 88% insurance defense, 8% miscellaneous civil litigation, and 4% estate planning. The firm is known for its longevity of practice, quality of work, responsiveness, and overall excellence. For the past three years, the practice has averaged impressive gross revenue of approx. $721,661 (2019-2021). In total, the firm employs three staff members including the owner, who is willing to provide transition assistance and help with goodwill transfer, business development, and other “mentoring” functions for up to one year. To learn more about this exciting business opportunity, call us at 253-509-9224 or send an email to info@privatepracticetransitions.com, with “1203 Profitable Western Washington Insurance Defense Firm” in the subject line.

100% virtual intellectual property law firm (#1201)
Established in 2014, this thriving intellectual property law firm specializes in patents and trademarks. As of June 2022, the practice has about 548 active clients, approximately 2,000 clients in the practice’s database, and a large social media following. The practice’s service by revenue breakdown is 85% patent law and 15% trademark law. In 2021, the practice brought in gross receipts of $2,485,533 which was a YOY increase of 30% from 2020. In total, the practice employs six staff, including the owner, and contracts with nine independent contractors. The owner is willing to provide transition assistance and help with goodwill transfer, business development, and other “mentoring.” The practice is entirely virtual, making it a great opportunity for a new owner. If interested, call us at 253-509-9224 or, send an email to info@privatepracticetransitions.com, with “1201100% Virtual Intellectual Property Law Firm” in the subject line.

Successful Multnomah County personal injury law firm (#1189)
Since its inception in 1979, this Portland, Oregon, personal injury law firm has been completely dedicated to providing top-notch legal services to its clients. Personal injury services make up 100% of the practice’s revenue. The practice has approximately 400+ active clients and approximately 2,000+ in the practice’s database. For the past three years, the practice has averaged impressive gross revenue of approx. $2,300,540 (2019-2021). The practice’s success is due to its strong reputation in the legal and business communities which provides a steady stream of word-of-mouth referrals. Including the owner, the practice has five experienced and dedicated staff members. To learn more about this listing call us at 253-509-9224 or send an email to info@privatepracticetransitions.com, with “1189 Successful Multnomah County Personal Injury Law Firm” in the subject line.

Profitable Central Washington estate planning law firm w/two locations (#1197)
Established back in 1947, this Central Washington estate planning law firm has been completely dedicated to providing top-notch legal services to its clients. The firm’s service by revenue breakdown is 31% estate planning, 31% probate, 17% real estate and commercial transactions, 16% business formation/management, and 5% other. As of May 2022, the firm has approximately 130-150 active client matters. For the past three years, the firm has averaged gross revenue over $1 million (2019-2021). In total,
the firm employs nine full- and part-time staff, including the owner. To learn more about this listing call us at 253-509-9224 or send an email to info@privatepracticetransitions.com, with “1197 Profitable Central Washington Estate Planning Law Firm w/2 Locations” in the subject line.

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Drew Pollom

BAR NUMBER: 49632

Born and raised in King County, I am a mossback through and through. Currently I am an associate at Ogden Murphy Wallace in the municipal and tribal practice groups. When I'm not working, my wife and I are often found working in our community garden, traveling the country, or cooking. An avid sports fan, I can also be found supporting all local teams, including most recently trying to learn hockey by watching the Kraken.

How is being a lawyer different from the way you thought it would be? Attorneys can become trusted advisors; that sometimes adds crisis management to their role. When the COVID-19 pandemic started, I became involved in multiple conversations to ensure that my clients’ programs kept going when everything was shut down. That included many late-night conversations responding to new and urgent emergencies, even if the emergency wasn’t specifically a legal issue.

How did you become interested in your practice area? My interest in Indian law started in law school when I went to the National Native American Law Students Association Moot Court Competition. What drew me to the area was its wide range of topics as well as a personal desire to serve a historically marginalized community. Tribal communities have legal needs ranging from prosecuting their criminal laws to complex loan/business transactions for tribal development programs. That range meant that something new and different can always walk through the door.

My municipal practice comes from a desire to serve. I am lucky to work for a firm that is able to assist multiple cities in the area with their legal needs.

What is your best piece of advice for someone who’s just entered law school? That it’s OK to not take a course if the only reason for taking it is because the subject is tested on the bar exam. If you want to learn about secured transactions, then you should take the course. If you are only taking secured transactions because it might be on the bar exam, be reassured that your bar prep course will go over everything you need to know.

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