

WASHINGTON STATE BAR NEWS

CONTENT AND STYLE OF BRIEFS Rule 10.3

RULE 10.3 CONTENT AND STYLE OF BRIEFS

(a) **Brief of Appellant or Petitioner.** The brief of the appellant or petitioner should contain under appropriate headings and in the order here indicated:

(1) *Title Page.* A title page, which is the cover.

(2) *Table.* A table of contents, with page references, and a table of cases (alphabetically arranged).



... appellant
... respondent is also seeking review, the brief of
respondent must state the issues presented for review by respondent
and include argument of those issues

(c) *Reply Brief.* A reply brief should be limited to a statement



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The Last Chapter on Recipes

Editor:

I hasten to assure your readers that I. M. Angry is no more typical of legal secretaries than the monster she depicted is typical of attorneys. I am one of many hundreds of legal secretaries in this state who believe attorneys, on the whole, to be the best-educated, most ethical, most open-minded, most politically- and socially-aware individuals to be found in any profession. We find our daily association with them to be intellectually stimulating and challenging, and we consider ourselves fortunate to be doing something we like very well in the company of such laudable beings. Admittedly, since they are still mere humans, they do have foibles and little idiosyncrasies, but don't we all?

Whoever Ms. Angry's employers may be, I plead with them to remove her leg irons and handcuffs, unshackle her from the torture rack, unlock the cell doors, and dismiss the battery of armed guards who have at gunpoint held her captive in the profession she so loathes. Once escaped from her odious incarceration, she would be free to seek employment more to her liking, possibly as a lion-tamer.

GEORGIA M. HINTON, PLS
Bar Liaison Officer
Washington Association of
Legal Secretaries
Seattle

Editor:

I saw Mr. Riley's Recipe for a Legal Secretary in your February issue, and thought it was cute, albeit a tad trite. Then, in the April issue, I saw the contribution from "I.M. Angry,"

and was torn between a desire to tear the issue into small shreds, or to go find the nearest Women's Lib office and bomb it; since my dentist is expensive and we really have a lot of work to get out today, I have compromised by writing you this letter.

I have been a legal secretary for more years than I care to recall, and for various attorneys. There have been times during my employment with any of them when I would cheerfully have fitted the typewriter over my honoured employer's head, or strangled him with his flowered necktie. I would then have buried the body under stacks of his ignored correspondence and unanswered telephone messages, misplaced volumes of the RCW, irate clients littering the office, or even his own golf clubs. Conversely, I am sure more than one of them has been known to mutter darkly when I lose the same file for the third time in the same week.

I think that most of us in this line of work have to enjoy it, and feel privileged, or we wouldn't be doing it. I feel sorry for Ms. Angry if she is not aware that there are all kinds of jobs open today for all manner of things, for anybody, male or female. Having tried a few in my speckled career, she can have 'em, paychecks, disrespect, privileges and all! I'll stay with the lawyers, justice that tries hard even if nobody's guilty ever, and a system that while imperfect, keeps trying to dispense something for everyone.

Anyway, I just wanted to go on record that anyone who feels like I.M. Angry about working for a law office and still has the time to concoct a recipe instead of a notice of resignation, has a definite problem.

Actually, I have been planning

to approach my boss with some gripes and a request for another raise for over a week now, but since he just admired my year-old dress this morning, offered me some time off in return for that late typing I did yesterday, and since I was twenty minutes late this morning, I just don't think this is the right time!

P. CHAPIN
Legal Secretary

Orting

An Open Letter to I.M. Angry

Editor:

Your reaction to Mr. Riley's complimentary letter/recipe can fortunately be explained since extensive investigation has revealed that at the time of your creation, the following recipe for "secretary, lousy" had been inadvertently misfiled under "secretary, legal." The resulting concoction is apparent from the tenor of your letter:

- 1 part persecution complex
- 1 part ungratefulness
- 1 part paranoia
- 1 large mouth
- 1 small brain

Be certain that large mouth is not connected to small brain; mixture should not be contaminated with any dedication, ambition, intelligence, loyalty or common sense. Train to bite the hand that feeds her and instill concept of being downtrodden victim of centuries of discrimination. CAUTION: Avoid any exposure to reality until mixture is thoroughly saturated with self-pity and insolence.

Guaranteed to annoy and generally make life miserable to all she meets."

U.R.A. DINGBAT

Editor:

I was rather surprised to see the letter from "I.M. Angry" in print in your *Bar News*—such a letter is not worthy of the ink used. If this "Legal Secretary" feels the way towards her employer as she indicated, she has no right to work there but should seek employment elsewhere. With her attitude she may run into difficulties!

Her "recipe" I assure you is NOT the feeling of the majority of the legal secretaries. If I felt that way, I would consider it dishonest on my part to stay.

MRS. HAZEN M. HYLAND
Member of National
Association of
Legal Secretaries

Seattle

P.S. She must not have heard that this association has a Code of Ethics which every member swears to uphold. The first is "The first duty of a legal secretary is loyalty to her employer."

Future Bar News Topics

Editor:

Good editors are hard to find. I don't know how they found you, but you are doing a fine job with the *State Bar News*. Having done some editing myself, I sympathize with some of the problems that you must have in finding good material.

Here are some thoughts for possible subjects to try out on your Editorial Advisory Board:

(a) *Aspects of trial advocacy in Superior Court*. You might have one article written by a judge, followed in a month or two by the contrary view of a lawyer.

(b) *How to maintain an office brief bank*. Dan Reaugh has perfected something along this line and might be willing to tell about it.

(c) *How to make the best use of Rule 9 interns in a private office*. I would like to see something written by a lawyer in general practice who has had a string of interns. Perhaps a former intern now in practice could tell us something.

(d) *How to make the best use of the office telephone*. Some 20 years ago John Rupp had a little talk, later printed, on this subject. I should think that one of his subordinates could now bring those ideas up-to-date. Some lawyers have terrible telephone manners. Perhaps their secretaries could learn something, too.

Although I know less and less about private practice and goings on in the state courts, I enjoy each issue of the *State Bar News*. Thank you for your good work.

EUGENE A. WRIGHT
Judge, U.S. Court of Appeals
Seattle

Thank you for the suggestions and kind words. Similar suggestions—and articles—are solicited from all judges and lawyers. Copy may be in any legible form. Deadlines are ordinarily the first Friday of each month.

ed.

Judge Thomas E. Grady Sr. dies

Judge Thomas E. Grady Sr., 93, retired chief justice of the Washington Supreme Court, died April 6, 1974 at Yakima.

He was a graduate of University of Minnesota law school.

Judge Grady served as Yakima County Superior Court judge and nine years as a Washington State Supreme Court justice, including two years (1953-54) as chief justice. He was past president of both Yakima County and Washington State Bar Associations, having practiced law until he reached the late 80s.

August 1 is Filing Deadline for Chairperson-Elect Position of Young Lawyers Section.

Persons interested in filing for the position of Chairperson-Elect of the Young Lawyers Section for the 1974-1975 term must do so by August 1, 1974.

In September, 1974 a vacancy will be created when Edward F. Shea, present Chairperson-Elect, assumes Frederick L. Noland's duties as Section Chairperson.

If you are a member of the Section and wish to run for this position, you must file with the Bar Office a Notice of Intent to Stand for Election, a resume of your qualifications, and a statement of position *not later than August 1, 1974, 5:00 p.m.*

The Chairperson-Elect will be elected by the Young Lawyers Board of Trustees at their August meeting prior to the September 11-14 Bar Convention. The term of the office shall be one year, commencing at the close of the annual meeting of the Washington State Bar Association.

Orville H. Mills, 66, died January 31. He had been a practicing attorney in Seattle since graduation from the University of Washington in 1929. He was a partner in Chadwick, Mills & McLaughlin and its predecessor firm, Chadwick, Chadwick & Mills. He was chief counsel of The Rainier Companies, Inc., and a director of Quilomene Cattle Company. Active in the Washington State Bar Association, he served on the Judicial Selection Committee and as Chairman of its Legislative Committee and Unauthorized Practice of Law Committee.



New Arbitration Procedures Expedite Results

Court congestion strikes a continuing blow to the legal profession. Clients seeking to remedy a wrong often must wait several months in order to have their day in court. Though several county court calendars are sufficiently up to date so that a client may expect only a two to four month delay, in some counties the delay can approach a year.

Attempts to alleviate the public pressure against long court delays started with the institution of settlement conferences, in furtherance of the provisions of Rule 16, Federal Rules of Civil Procedure, and the identical counterpart in the Rules for Superior Court. The settlement conferences can be voluntary or compulsory, depending upon local court rules.

The most recent step has been institution of a plan of arbitration, which is apparently achieving substantial success. A procedure for arbitration, recently instituted in King County, is patterned after the procedure used in Los Angeles. It has initially been aimed at the volume of personal injury litigation.

One cannot be forced into arbitration. It is entirely voluntary and must be stipulated to by all parties. The arbitration procedure is instituted after a case is filed with the clerk in the usual manner, so there are no additional fees or expenses. After the parties stipulate to arbitration, the hearing is held within forty-five days, and it is usually scheduled in evenings, after regular court hours, or on Saturdays. The average length of the hearing is 2½ hours with a scheduled maximum of five hours.

The purpose of the procedure is to obtain expeditious results. Though standard rules of evidence apply, the parties may stipulate to anything which expedites the hearing, such as use of medical reports and police reports rather than live testimony of doctors and policemen. An underlying theory of the program is to allow a party to present his entire case, as he and his attorney have developed it, to a third person, in a reasonably swift and efficient manner. Obviously many cases ought to be tried out in full to a jury. Also obviously, many cases which are small, or involve a matter of principle which ought not have to wait for a year before being tried, are ripe for the arbitration plan. The clients and attorneys can present their dispute to the arbitrator who is knowledgeable and aware of the

current practice in that field of law, who can arrive at a decision which finally resolves the matter.

Selection of the arbitrators was done with the thought that initially, at least, the personal injury litigation would be a field in which much of the congestion could and should be alleviated. A dispute submitted to arbitration is assigned by random selection by the administrator to one arbitrator from a panel of fifty persons. The panel consists of twenty-five attorneys each from the plaintiffs bar and defense bar. The King County panel was selected by a committee of both plaintiff and defense counsel in which the defense counsel group selected twenty-five plaintiff's lawyers, and vice versa. The defense lawyer committee included in their selection those plaintiff lawyers who were officers and trustees of Washington State Trial Lawyers Association, and the plaintiff lawyer committee likewise selected from the Washington Association of Defense Counsel.

The King County system has been in operation a short time with few cases having been arbitrated, so a statistical analysis is unavailable. The Los Angeles system, however, offers an encouraging and positive record. Of 681 cases, 66 are currently set for hearing, 205 were settled prior to hearing, and 410 were heard and awards entered. Of the 410 cases, 303 resulted in plaintiff awards, 100 in defense awards. In those cases in which the arbitrator was primarily a plaintiff's attorney, 164 awards were in favor of the plaintiff, 41 were defense awards. The high award was \$16,335.00 and the low was \$278.00. In those cases in which the arbitrator was a defense lawyer, 139 awards were in favor of the plaintiff, 59 were defense awards. The high award was \$11,300.00 and the low was \$400.00.

The arbitrator's award eventually becomes a judgment of record. An appeal procedure is available and consists of a Motion for Reconsideration which is reviewed by the original arbitrator plus a Grievance Committee of two persons.

For the proper case, the arbitration process ought to prove a valuable asset to our judicial system in easing the court congestion and in providing an expedited resolution to litigation.

E.H.



Traditionally, admission to the Bar has conferred upon the admittee a lifetime privilege to practice law—any kind of law—subject only to geographical and disciplinary limitations. Recently this tradition has come under sharp attack by a number of leaders of our profession including Chief Justice Warren Burger and Chesterfield Smith, President of the American Bar Association.

We devote much of our energy and resources to imperfect but persistent efforts to rid ourselves of the few dishonest lawyers among us but we have largely disregarded the problem of the incompetent lawyer. Yet as Chesterfield Smith has recently stated: "From the client's point of view, the incompetent lawyer is as bad as the dishonest lawyer."

Under the traditional view of the entitlements flowing from

admission to the Bar an individual cannot only drift away from and back into any field of law, but he can leave the practice of law for many years and, if he has continued to pay his dues, then return to it without any demonstration that he is competent to practice. No means exist to deal with emotional deterioration or other forms of incapacity until or unless they become conventional disciplinary problems and, despite the provisions of the Code of Professional Responsibility, there are no real restraints on the acceptance by a lawyer of matters which he is not competent to handle.

Historically it has been hoped that such matters will resolve themselves in the marketplace, or at worst, will be resolved through malpractice actions but the hope is by no means a reality.

The Board of Governors is

directing its attention to the complex and difficult problems involved in developing means to insure continuing professional competency. Among the matters to be considered are such things as limiting admissions as to term or field of practice, periodic re-examination, periodic recertification by peer review, compulsory continuing legal education, specialist certification and focusing the disciplinary process on chronic incompetence. The practicality of these approaches varies from nil to substantial.

In considering this problem the Board has its feet on the ground. We are aware that there are vast differences in judging integrity and judging competency. We are aware that the overwhelming majority of lawyers of all ages are aware of, and observe, their limitations. We know that the nature of the lawyer and the nature of the law are such that narrow confinement of lawyers to specialty areas is neither essential nor desirable. Finally, the Board is fully aware that the wrong kind of cure can be worse than the illness.

But we also recognize that the incompetent lawyer is a threat, not just to himself and his client, but to the entire profession. We must attend to the problem by reasonable means and not invite others by our inaction to impose unreasonable means upon us.

Your comments on the problem and on appropriate approaches to it would be of great value. Please let us hear from you.

Comparative Negligence



You only receive 50% because the other arm wasn't hurt. (See page 30.)

THE PROPOSED RULES OF APPELLATE PROCEDURE

by Karl Tegland

In recent years, the Judicial Council has recommended significant revisions to this state's court rules. Acting upon these recommendations, the Supreme Court has adopted new civil rules in 1967, Juvenile Court rules in 1969, criminal rules in 1973, and mental proceedings rules in 1974. The Council is next expected to offer new appellate rules for consideration by the Supreme Court.

The arguments in favor of revising the appellate rules seem particularly compelling. In 1972 an extensive study of existing practice was made. That study revealed that the Supreme Court rules, based chiefly upon 1893 legislation, contain numerous ambiguities and procedural traps. They are illogically arranged and employ a vocabulary that is archaic and, at times, inconsistent with the Superior Court rules. The number of procedural questions received by appellate court clerks indicates that the rules are difficult to understand, particularly for the lawyer inexperienced in appellate practice. The situation in the Court of Appeals is much the same. The Court of Appeals rules were adapted from the Supreme Court rules as an interim measure "until [new] rules can be adopted through the usual procedures." 1973 *Washington Court Rules v-vii* (West). Some amendments were later made to both the ROA and CAROA series, but the rules were never completely revised.

An unfortunate result of the existing rules has been an inordinate waste of judicial time, attor-

ney time, and client money litigating about procedure. Some appreciation of that waste can be obtained by reviewing the *Washington Digest*. *Appeal and Error* consumes more pages in the *Digest* than any other topic except *Criminal Law*. These cases have resulted in a large body of procedural law found only in decisions.

With these problems in mind, a task force was appointed by the Judicial Council to develop a set of rules which would permit appeals to be decided on their merits simply, quickly and inexpensively. This project was funded by generous contributions from the Washington State Judicial Council, the Washington State Bar Association and the United States Department of Justice.

The work of the Task Force has resulted in the Washington Proposed Rules of Appellate Procedure. These rules, together with comments, forms and an index, were recently mailed in pamphlet form to all members of the bench and bar of this state. No attempt will be made here to cover the new rules comprehensively. This article is intended to provide an overview of the new rules and to highlight some of the more significant departures from prior practice. Statements of policy hopefully reflect the consensus of the Task Force, but should not yet be taken as the official

Karl Tegland is a 1972 graduate of the University of Washington School of Law. As a former research attorney for the Washington State Judicial Council, he was responsible for much of the preliminary work on the appellate rules project. He later served as Reporter to the Advisory Task Force on Appellate Rules and did much of the actual drafting of the rules and comments. He is presently a partner with Kessler, Tegland and Urmston, a Seattle law firm active in the preparation of appeals.

position of either the Judicial Council or the Supreme Court. Neither has yet had the opportunity to consider the new rules.

SCOPE AND INTENT

The new rules are intended to provide a simplified framework in which appellate cases can be promptly and justly decided on the merits at the least possible cost in client money and judicial time.

Complete Revision. The proposed rules are completely new, not just revisions of the old rules, and would replace the ROA and CAROA series. The new rules also codify, in one place, rules which were previously found only among diverse statutes and appellate court decisions. The new rules would supersede all statutes governing appellate procedure, whether consistent or inconsistent with the rules, unless a particular rule specifically indicates that a statute controls.

Unification. No longer will there be separate procedures for the Supreme Court and the Court of Appeals, for civil and criminal cases, and for appeals as opposed to extraordinary writs. There is but one set of new rules applicable to both the Supreme Court and the Court of Appeals, and governing both civil and criminal cases. Once review is accepted by the court, the procedure is the same whether review was a matter of right or a matter of appellate court discretion. The new

rules are arranged functionally by Title, so that all rules relating to the same subject are found in one place.

One Drafting Style. Because of numerous amendments over the years, the old rules lack a consistent vocabulary and drafting style. The drafters of the new rules consciously attempted to write in the style suggested by Reed Dickerson's "Fundamentals of Legal Drafting." A uniform style promotes clarity and readability.

WHICH COURT

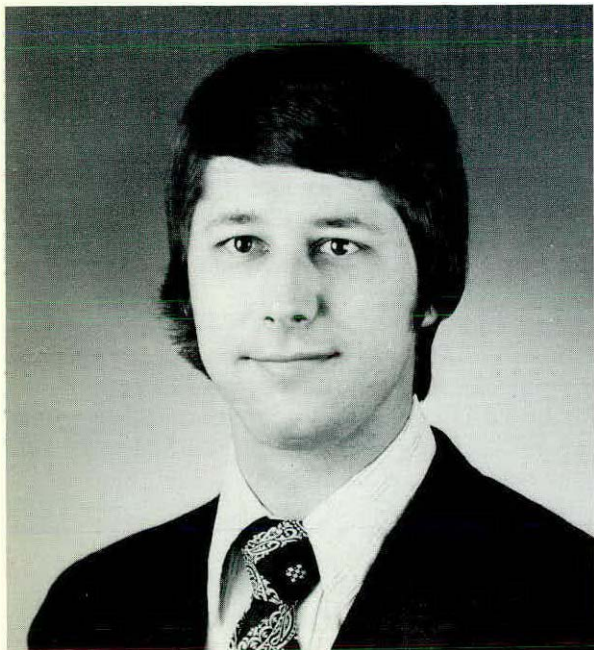
A division of subject matter jurisdiction between the Supreme Court and the Court of Appeals is prescribed by statute. Although any decision may be reviewed by the Court of Appeals, direct review in the Supreme Court is available in certain types of cases. RCW 2.06.030. The new rules do not change the substance of this statute.

APPEALS

Trial court decisions reviewable as a matter of right are defined in Rule 2.2. The list of decisions now includes cases in which writs were routinely granted under the old rules anyway. Compare CAROA 14 and 57(b). Some new decisions are added because of their fundamental impact upon the parties or the case. Orders relating to temporary injunctions, attachment, receiverships, and arbitration are no longer appealable as a matter of right.

DISCRETIONARY REVIEW

The new rules provide a simple, uniform procedure for seeking review of a decision not appealable as a matter of right. The various extraordinary writs are superseded as separate methods of seeking review of a trial court decision. Review by extraordinary writ had become the most confusing of all procedures under the old rules, and precedent for almost any arguable position could be found. *Feigenbaum, B., Interlocutory Appellate Review via Extraordinary Writ*, 36 Wash. L. Rev. 1 (1961). Under the new rules, all review of decisions not appealable as a matter of right is consolidated into a single procedure known as "discretionary review." The court's *stare decisis* approach to discretionary review, criticized by *Feigenbaum, supra*, has been abandoned in recent cases. See *Oliver v. American Motors Corporation*, 70 Wn.2d 875, 425 P.2d 647 (1967) and *State v. Harris*, 2 Wn. App. 272, 469 P.2d 937 (1970). Rule 2.3 follows these more recent cases and sets forth criteria by which discretionary review is granted or denied.



Karl Tegland

No attempt is made to list certain types of cases in which review is uniformly accepted. Compare CAROA 57(b). Discretionary review is what it says—discretionary.

INITIATING REVIEW

As in prior practice, the new rules provide that an appeal as a matter of right is initiated simply by filing a notice of appeal. With respect to discretionary review, the new rules establish a simplified procedure. The cumbersome, and sometimes mysterious, paperwork necessary to seek an extraordinary writ is eliminated. Discretionary review is initiated by filing a notice for discretionary review, followed by a motion directed to the appellate court asking that discretionary review be accepted. When and if discretionary review is accepted, the remaining procedures are the same as for an appeal. Thus, once discretionary review is accepted, the record is prepared, briefs are filed, and oral argument is heard. The new rules recognize the fact that accelerated review of a decision may be desirable. Rule 18.7 provides that the court may, on its own motion or on motion of a party, prescribe a time schedule other than that provided by the rules.

Statutes Govern Time. The new rules provide that a notice of appeal or notice for discretionary review must be filed within 30 days after the entry of the decision sought to be reviewed. Rule 5.2(a), (b). The rules, however, defer to statutes prescribing other time limits. These statutes represent a legislative determination that the parties should be entitled to a final, nonreviewable decision sooner (or sometimes later) than the customary 30 days in some kinds of cases. These statutes are listed in Comment 5.2 to the new rules.

TRANSFER OF AUTHORITY

Title 7 defines the authority of the trial court to act before, and after, review is accepted by the appellate court. More doctrinal than procedural, the rules codified in Title 7 were previously found only in decisional law. See *Baisch v. Gibson*, 138 Wash. 127, 244 Pac. 259 (1926) and *Malo v. Anderson*, 76 Wn.2d 1, 454 P.2d 828 (1969). The new rules clarify established practice. The only change of substance is in Rule 7.2(e), permitting the trial court to hear and determine post-judgment motions after review is accepted. The new procedure conforms to federal practice and is much less cumbersome than the procedure defined in cases under the old rules which required

a party to first file a motion in the appellate court for permission to file a post-judgment motion in the trial court. Compare 9 *Moore, Federal Practice*, pp. 734-740 (1973) with *Doss v. Schuller*, 47 Wn.2d 520, 288 P.2d 475 (1955).

SUPERSEDEAS AND RELATED MATTERS

The trial court is authorized to delay the enforcement of money judgments and decisions affecting property pending review. Rule 8.1. Other decisions may be superseded on motion to the appellate court. The appellate court is granted broad authority to issue orders, before or after acceptance of review, to ensure effective and equitable review, including the authority to grant injunctive relief to a party. The descriptive terminology established by Title 8 simplifies the task of determining whether supersedeas is available. One need not research the question of whether a particular decision is self-executing. Compare *State ex rel Austin v. Superior Court*, 6 Wn.2d 61, 106 P.2d 1077 (1941). Nor is it necessary to research the question of whether an injunction is mandatory or prohibitory. Compare *State ex rel Langlie v. Wright*, 35 Wn.2d 703, 215 P.2d 407 (1958). If the decision falls within Rule 8.1, supersedeas is available as a matter of right. If the decision is not among those listed in Rule 8.1, supersedeas is available only in the discretion of the appellate court. Rule 8.3.

The new rules retain a requirement for a supersedeas bond. See Rules 8.1(b) and 8.3. No cost bond, however, is required. A respondent will have only nominal costs under the new rules. Further, a substantial percentage of cases result in a decision in favor of the appellant, who has the most substantial costs (the record), but who has never been protected by a respondent's cost bond, even under the old rules. The expense of the cost bond and the attorney's time taken to obtain and file the bond are not justified under the new rules.

The release of a defendant in a criminal case is not governed by the new rules. This procedure is determined by reference to the Criminal Rules for Superior Court and applicable statutes. See Cr. R. 3.2(h).

THE RECORD

The rules in Title 9 establish new terminology and procedures for the preparation of the record. Under the new rules, it is no longer necessary to furnish the appellate court with certified copies of trial court documents such as pleadings and jury instructions. Instead, the original trial court

papers are simply forwarded to the appellate court. This approach, adopted from federal practice, has been shown to reduce the cost of an appeal considerably. Under the new rules, these papers no longer carry the misnomer "Transcript," but are called what they are—"Original Papers."

The portion of the record describing what occurred below no longer carries the misnomer "Statement of Facts." The new rules use the more descriptive term, "Report of Proceedings." As in prior practice, the report may be a verbatim report, a narrative report, or an agreed report.

The rules in Title 9 contemplate one record, not two. Under the old rules, the "Statement of Facts" and "Transcript" were separately assembled. See ROA I-37 and I-44. If counsel erred by putting in the Transcript that which

"The hallmark of procedural reform is the conviction that rules of pleading, practice, and procedure are to be drafted, adopted and interpreted to the end that the merits of a controversy are the ultimate determinants—instead of the procedural jousting which unfortunately characterized common law actions." Finley, J., in *Beritich v. Starlet Corp.*, 69 Wn. 2d 454 at 458, 418 P.2d 762 at 764 (1966).

should have been in the Statement of Facts, the material was stricken from the record and assignments of error based on the stricken material would not be considered by the court. *Clark v. Fowler*, 58 Wn.2d 435, 363 P.2d 812 (1961); *Popovich v. Department of Labor and Industries*, 66 Wn.2d 908, 406 P.2d 593 (1965). Rule 9.1 establishes a single, unified record ending the need to research and decide at one's peril which is the appropriate package in which to place a document. If it's there, it's there, and the court will consider it.

Parties are encouraged to prepare and transmit only those parts of the record which are necessary to decide the issues raised. If the record is insufficient to decide the case on its merits, the appellate court will direct the supplementation of the record. Rule 9.10. The appellate court will not dismiss or decide a case on the basis of an insufficient record, but sanctions may be imposed

against a party who fails to make a good faith effort to initially bring to the appellate court the necessary portions of the record on review.

BRIEFS

The rules in Title 10 govern the preparation of briefs and depart in some respects from prior practice. Assignments of error are no longer required. The brief should contain, instead, a concise statement of the issues presented for review. Rule 10.3. This rule conforms to federal practice and makes relevant to the Washington practitioner the many excellent treatises on the preparation of briefs for federal courts. See *Wiener, F., Briefing and Arguing Federal Appeals* (1967) and *Stern and Gressman, Supreme Court Practice* (1969).

Under the old rules, most parties were required to furnish the court with a supply of printed briefs. Typewritten briefs were authorized only for a limited class of parties. ROA I-42(b). Under the new rules, everyone submits one reproducible, typewritten brief to the appellate court clerk. The clerk will arrange for the economical reproduction of the number of briefs needed and bill the party filing the brief for the costs of reproduction. The clerk will provide the court and the parties with copies of the brief. Experience with a similar system in Alaska has shown that it works well and reduces the cost of an appeal considerably.

MOTIONS

The rules in Title 17 relate to motions in the appellate court and are designed to conserve judicial time. The best rules will not afford prompt determination of the case on the merits if the court is burdened with too much work. Our appellate courts' caseload increases every year. Every year it becomes more important to provide for the wise use of judges' time. To reduce the amount of time devoted to procedural questions, Rule 17.2(a) provides, with certain exceptions, that motions are first heard and determined by the appellate court commissioner or, if the court has no commissioner, by the clerk.

This new procedure does not deny a party a hearing by the court. Rule 17.2(b) provides that the commissioner or clerk may refrain from ruling on a motion and refer it to the court for decision. If the commissioner or clerk does decide a motion, a person adversely affected by the ruling may have the ruling reviewed by the court. Rule 17.7. The motion to modify the ruling is heard by the court as an original proposition. The movant does not have to claim an abuse of discretion by

the commissioner or clerk.

ENFORCEMENT OF RULES

A fundamental policy behind the new rules is that they, as procedural rules, should not affect the substantive decision in the case. Cases and issues will ordinarily not be determined on the basis of compliance or noncompliance with the rules. Rule 1.2. The new rules reflect the recent cases in which the court has disregarded technical violations of the rules to reach the merits. See *King County Republican Central Committee v. Republican State Committee*, 79 Wn.2d 202, 484 P.2d 387 (1971) and *Beritich v. Starlet Corp.*, 69 Wn.2d 454, 418 P.2d 762 (1966). Federal law is generally in accord. 9 *Moore, Federal Practice*, pp. 534-535; *Foman v. Davis*, 371 U.S. 178 (1962). The new rules, however, are not without sanctions. Rule 18.8 still authorizes dismissal in certain situations. For the most part, however, the rule provides that a violation of a rule will result in a fine or a compensatory award paid by the offending person to the opposing party. This approach is suggested by *Neal v. Green*, 68 Wn.2d 415, 413 P.2d 339 (1966), where our Court said that it was hesitant to punish litigants for neglect of their counsel, and instead of dismissing the appeal, fined the offending attorney and turned the money over to opposing counsel as attorneys' fees.

CONCLUSION

Space does not permit a thorough analysis of the new rules here, and this article is not a substitute for reading the rules. Some provisions have been discussed only briefly, and others have not been discussed at all. For those seeking more extensive treatment, the official Task Force Comments following each rule are recommended. In addition, a very helpful "Summary of the New Rules" is found at page 165 of West Publishing Company's "Washington Proposed Rules of Appellate Procedure."

The proposed rules are not yet endorsed by the Judicial Council or the Court. Endorsement of the rules by the Judicial Council will be considered at its next quarterly meeting, June 26 and 27, 1974. In the meantime, readers are urged to submit comments on the proposed rules to the Washington State Judicial Council, University of Washington School of Law, Seattle 98195. Comments received will be given careful consideration and will undoubtedly influence the Judicial Council's decision. □

Common Cause Reviews Priorities, Puts No-Fault Low on List

No-fault automobile insurance reform ranked third from last in a list of 16 issues that members of Common Cause want the citizen action group to lobby in 1974, according to results of a recent poll. Only 4,226 or seven percent of more than 57,000 members voting felt no-fault should be a "substantive issue" for lobbying during the year. The results were given in the February 'Report From Washington.'

Like most institutions today, Common Cause is examining its goals and priorities and polled members on areas of most concern. Of 57,415 responding and asked to choose one of two broad areas for lobbying effort, 47,142 said choice A ("making government accountable") should get more attention and only 3,983 felt choice B ("traditional legislative issues") deserved the most action. The remaining 6,290 voted for both choices or gave no response.

Asked to indicate which three of the following substantive issues that Common Cause should lobby in 1974, the 57,000-plus members voted thus:

Tax reform	24,568
Energy policy	19,010
Environmental impact	18,919
Defense budget	17,998
Health insurance	13,600
Arms control	11,664
Land use	8,500
Poverty programs	8,390
Criminal justice	8,030
Consumer agency	7,579
Crime control	6,186
Electoral college	5,819
Discrimination	4,460
No-fault insurance	4,226
Child care	3,877
Voting rights	1,552

Common Cause explained it was active in 1973 on all four of the members' top priorities on this list. It continued: "Our way of operating is to play a leadership role on two or three issues each year (in 1973 these were campaign reform and ending the Vietnam war) and to participate in coalitions on other issues of priority concern to our members." □

The Care and Feeding of Mag Cards

by W. M. McRostie

If you've chosen a Mag Card Typewriter, you've chosen to automate. Almost any use of a Mag Card involves partial automation but to do it well, we need to make a pre-recorded Mag Card Manual of repetitive documents. If you haven't done this—and most offices haven't—a few ideas may help.

A Mag Card manual involves more than saving the cards from your last project. Before you even start you need some basic decisions as to format and intended use. The most crucial of these is the method of indexing. We suggest you index by use of a numerical system and general subject matter. If first you want to prepare Wills and Trusts, assign the 100 series of numbers to this subject, assigning a different number to each document and leaving gaps for new material. Each page should be numbered in each document (don't record the page numbers) and each line of type should be numbered to correspond with the track number on the Mag Card. If you use this system, and a general index in the front of the manual describing each document in a few words, you (and your secretary) can easily combine documents and handle dictation of temporary changes by referring to the document, page and track number.

Packaging your manual and cards is the next problem. We suggest a looseleaf, 3-ring notebook with a label pocket on the spine. For the Secretary, we recommend a "stand-up" version—the women like it because it's easy to follow. The best source we've found for these is the Utah Law Research Institute. Get your notebooks in 8½ x 11 size with 1½" rings. Most "experts" today recommend this size—they fit most book shelves—and you'll be surprised too, how nicely properly spaced pages this size will fill a legal sized paper. Packaging the cards is another problem. Sev-

eral manufacturers make loose-leaf inserts for your notebooks which have pockets for the cards. This system will work—and is handy if you have only one Mag Card Typewriter. If you have more than one, and chances are that someday you will, the cards should be stored and indexed separately from the manual so they are available to each secretary. There are a number of bins and boxes for storing IBM cards that work well and your only problem is making divider tabs for each document. Aico tabs from your stationer work well and can be used for making the manual tabs too.

Now, you can do the preparation of copy for your manual. You already know a lot of documents with mostly boiler plate—Articles, By-laws, Buy/Sells, etc. so start with these. Revise the language so they can be used with a minimum number of blanks for insertion of variable material. Each machine stop for manual typing is another chance for error. Don't say "Dated this ___ day of ___, 19___." Say, "Dated _____." Don't use personal pronouns when they can be avoided. They have sex and Ms. Jones may not like to be referred to as "he" or "executor." When you have to use "he" or "she," prepare the copy by using all three words (he she it), record a stop code and then the three words. When the line is played out, the wrong words can be skipped (Note: This is faster and more accurate than typing in the correct word) Always put the words in the same order as to gender. Whatever the order, it becomes an ingrained habit in the operator's mind and speeds the skipping process.

Adopt a standard paragraphing technique and use it on all documents. Avoid centered numbers and headings. They are slower to record and present extra chances for error in play back. We use a block system of paragraphing with Article Numbers and Headings underlined at the start of the paragraph. This may not look like the work you normally do but remember, you're automating and compromise is often advisable.

Don't draft a document for manual use when you need it for a client's file. That's where you use the manual, not where you get it. A manual document should contain everything that will, under reasonably normal circumstances, go into that document. The document prepared for a client rarely will be that complete. In constructing your manual document, place all of the normally required paragraphs together at the start of the document or article, and then follow with the discretionary material such as, for instance, a warranty regarding patents. With documents indexed by page and track number, it's easy to "pick and choose" which material goes into the client's document. Too, it's easier to skip two or three warranties in a row than to play hopscotch through the document. Remember, draft and record the most complete document that makes sense.

When one or two paragraphs change the whole tenor of a document, don't re-record the entire document. If most Buy/Sells that you do involve an optional purchase, record that paragraph in the basic document. Record an alternate paragraph changing it to a mandatory purchase on a separate card, as a separate document. Remember that the language must be consistent throughout the entire document and the alternate paragraphs however.

Don't leave all decisions on recording techniques to your secretary. She has good ideas but only she knows what they are and your next secretary will have trouble until she figures them out. Start by studying the IBM Mag Card Manual yourself so you understand what is being done, and then insist that it be followed in all recording. Unfortunately, there are discretionary matters the IBM Manual doesn't cover. Most of these are covered in the Secretary's Manual instructions for Volume One of the Mag Form Legal System published by Mag Form Corporation, Anacortes, Washington. Get these instructions and you'll save a lot of time just in adopting recording standards alone, plus you'll get a good set of forms covering corporations and estate planning. But, whatever you do, use the IBM

W. M. McRostie is president of Mag Form Corporation of Anacortes. The Corporation has published Volume One of its New Mag Form Legal System. Mag Form has pre-recorded on Mag Cards for reproduction on an IBM Mag Card Selectric Typewriter, a one hundred and two page manual, keyed to Washington law, covering the most commonly used documents in the fields of Corporations and Estate Planning. Volume Two covering Partnerships and Business Acquisitions was to be available April 15, 1974. For more information, write Mag Form Corporation, 1011 8th Street, Anacortes, Wa. 98221 or call (206) 293-3177.

system where it covers the subject and a consistent technique where it doesn't. Where you adopt the standards, write your own manual so the "new secretary" knows what you've done.

Now you've decided what to do and how to do it. Have your secretary record what you've drafted at rough-draft speeds, correct the draft yourself and have her correct the recording. *Make sure she records for play in "adjust."* You're going to want to change your copy a bit in nearly every file use. When the cards are properly recorded, have them played out for the manual pages, the track numbers put beside each line of type, blanks numbered and alternate words indicated. Then, use the document with names, dates etc. inserted and with an added phrase in each paragraph to make sure it plays out properly in all respects. If it does, it goes into the manual. If not, back to the drawing board. Then identify each page with the document number and page, copy the pages and put them in the manual—one for everybody—and go to work on the next one.

If you've prepared a good manual, it's easy to use for both you and the secretary. But, a few hints may still be of use. 1) Keep a file record of what you've done. Whether you dictate by numbered blank or with a marked-up copy of the manual page, get it into the file. 2) Have your secretary either underline or hi-lite the inserts and changes from the manual copy on the file copy of the client's document. She knows where they are and can do this quickly. You only have to proof-read the inserts and changes which she has indicated. On a five page document, you may save 15 minutes of your time at a cost of five minutes of hers. That's economy! 3) Use the manual where you can. Often the client's affairs will be served just as well by the manual document as by an original application of your drafting art. Lead him that way in your conferences with him, when you can, but remember, you can, and often should change your manual copy to fit his needs. Even your own "form book" doesn't deserve to be followed blindly. The word for that is "malpractice."

Don't let that word scare you from preparation of a Manual though. With one you can do better work, faster and cheaper, and clients like that. If you save ten minutes a page in drafting and proof-reading time with your manual and you charge \$45.00 an hour, you will have saved \$750.00 at the end of 100 pages. How you share that with your client—or if you do—is another article. In any event, it's a pleasant decision. □

WASHINGTON STATE BAR NEWS

Vanity Plates For "Lawyer?" When is "Of Counsel" Proper? Legal Ethics — Some Recent Opinions

The following opinions of the Committee on the Code of Professional Responsibility were adopted as amended by the Board of Governors at its mid-March meeting.

CPR OPINION A. FICTITIOUS FIRM NAMES — LETTERHEADS — LIMITING DESIGNATIONS

Opinions have been requested on the propriety of using a variety of firm, trade, assumed, and fictitious names, including the use of limiting designations "& Associates," "Associates," or "of Counsel." The purposes of these designations appear to be attempts to create or maintain some type of pseudo-legal relationship in order to (a) avoid the complexities and responsibilities of having a true partnership or professional corporation, (b) save expense of having separate letterheads, pleading papers, telephone and directory listings, etc., and (c) to a lesser extent, create a catchy name or a law firm image. These matters may be divided into five separate, distinct, but inter-related areas as follows:

1. *Firm names* in the same style as used by law partnerships are improper when no true partnerships exists involving joint and several responsibility and sharing of profits. DR 2-102 (B) and (C), EC 2-13 and WSBA Opinion 55 and opinions referenced therein, clearly delineate the boundaries of permissible conduct; such misleading firm names are clearly improper. Lawyers merely officing together must have their names no more closely related on their doors, professional signs or other permitted listings than a *vertical* listing under descriptive words such as "Law Offices" or "Lawyers." Trade, assumed and artificial names are not dignified, may be misleading, and are not permitted in this jurisdiction. See DR 2-102 (B); EC 2-11; and ABA Formal Opinion 310.

It is improper for a lawyer to display as a firm name the fictitious composite "Jones & Brown" where Jones is deceased and either (a) there never existed prior to Jones' death a genuine partnership between Jones and Brown, or (b) Brown's assumption of Jones' name is based on his occupancy of the office quarters occupied by Jones

prior to his death, tenancy by Brown having begun subsequent to Jones' death. This is a practice expressly forbidden under DR 2-102 (B), since the name is not only fictitious but is a trade name. Such practice is deemed a gross misrepresentation. Prompt rectification of such improper practice is required and can only be made by deleting and discontinuing all references to "Jones" from Brown's shingles, door signs, business cards, letterheads, envelopes, pleading papers, telephone and other directory listings, announcements and other matters that may come to the attention of the public. WSBA Opinions 19 and 55.

2. *Letterheads* have the same limitations as firm names and are limited to the lawyer's own name, the partnership name, or the professional corporation or association name, as specified by DR 2-102 (B). Lawyers merely officing together must have separate letterheads, cards, pleading paper, announcements, law lists and telephone and directory listings. DR 2-102(A) (4); EC 2-11, EC 2-13; and ABA Opinions 106 and 126.

3. *Limiting designations* of "& Associates" or "Associates" following the name of one or more lawyers or a partnership name such as "Smith, Jones & Associates" or "Smith, Jones, Brown, Associates" are improper. The committee adheres to former WSBA Opinions 42 and 95. Such designations are misleading to the lay public and they have not been the custom in this jurisdiction. (Also, see Drinker, Legal Ethics, p. 207; ABA Formal Opinion 310).

4. An "*of Counsel*" listing on letterheads, pleading papers, or otherwise, merely to save expense, is improper. DR 2-102 (A) (4). To be listed as "of Counsel" the lawyer must not be a partner, associate or an outside consultant, nor a forwarder-receiver of legal business, nor one merely sharing office space, but he must be an *active* member of the Washington State Bar Association and have a *close* (regular and frequent) and continuing relationship with the lawyer or law firm. . . . for example, the relationship of a retired or semi-retired former partner, who remains available to the firm for consulting and advice. He is compensated as a *sui generis* member of the law office. DR 2-102 (a) (4); ABA Formal Opinions 330.

CPR OPINION B

IMPROPRIETY OF ADVISING A CO-DEFENDANT WHO IS NOT REPRESENTED BY AN ATTORNEY

Inquiry has been made as to the ethical propriety of an attorney for a criminal defendant advising a co-defendant, who is not represented by an attorney, to "remain silent."

The problem arises out of cases in which two criminal defendants are jointly accused of committing an offense and are in custody following arrest. An attorney representing one of the accused interviews the co-accused, who is not represented by an attorney, and tells him that he should "remain silent" or informs him that he should "remain silent until he has had an opportunity to talk to a lawyer."

It is conceivable that advising a co-accused to "remain silent" could turn out to be an element of conflict of interest if such a conflict developed. It could well be in the interest of the joint accused, who is unrepresented by an attorney, to "talk," and such "talk" could be against the interest of the co-accused who is represented by the attorney.

DR 7-104 (A) (2) entitled "Communicating with One of Adverse Interest" provides:

(A) During the course of his representation of a client a lawyer shall not:

(2) Give advice to a person who is not represented by a lawyer, other than the advice to secure counsel, if the interests of such person are or have a reasonable possibility of being in conflict with the interest of his client.

When an attorney advises an unrepresented co-defendant to "remain silent," he is, in essence, advising the co-defendant on a course of action. Although the right to remain silent is an inviolate right under the United States Constitution, an attorney in the issue presented is advising the defendant as to a course of action rather than explaining constitutional rights to a co-defendant.

It is the opinion of the Committee on Professional Responsibility that when an attorney representing a criminal defendant advises a co-accused, unrepresented by an attorney, to "remain silent" he is giving advice to a person not represented by a lawyer and the interests of such a person are, or have a reasonable possibility of being, in conflict with the interest of the advising attorney's client. Therefore, any advice except "to secure an attorney" is clearly improper.

CPR OPINION C.

BUSINESS DIRECTORY LISTINGS

Inquiry has been made as to whether it would be ethically proper for an attorney to have his name or law firm listed without charge in a community or regional business directory (i.e., a non-telephone company directory) which purportedly contains the names, office addresses and telephone numbers of all attorneys in a roughly defined geographical area (such as the "University District" in Seattle). The written consent and confirmation as to accuracy from the attorney is usually obtained by the publisher.

The business directory is mailed or delivered indiscriminately to residents and businesses in the roughly defined area; for example, in the "greater University area." An attorney whose office is outside of that area, whether it be one block or one mile or more, is not listed, even if a substantial portion of his practice and clientele comes from that area.

The Washington Code of Professional Responsibility, DR 2-102 (A) provides that:

"A lawyer or law firm shall not use *** telephone directory listings, law lists, legal directory listings, or *similar* professional notices or *devices*, except that the following may be used if they are in a dignified form:

"(5) A listing of the office of a lawyer or law firm in the alphabetical and classified sections of *the telephone* directory or directories for the geographical area or areas in which the lawyer resides or maintains offices or in which a significant part of his clientele resides and in the city directory of the city in which his or the firm's office is located:
* * *

"(6) *A listing in a reputable law list or legal directory giving brief biographical and other informative data.*****"

The business directory cannot qualify as a reputable law list or legal directory and it is not a telephone directory or city directory in the usually understood meaning of these terms.

A similar circumstance was answered in WSBA Opinion 35 concerning an Inland Empire Business Directory. The few differences in form of the directory in question do not materially alter the thrust of Opinion 35 which held that the function of the distribution was that of advertising, that it was unprofessional to solicit employment by circulars, advertisements and the like,

and that incorporation of an attorney's name in a business directory is improper.

The committee reaffirms Opinion 35 and holds that it is applicable to the present inquiry.

CPR OPINION D.

CONFIDENTIAL COMMUNICATION - GUARDIAN'S MISAPPROPRIATIONS

An inquiry has been made as to whether lawyers have an immediate obligation to bring a guardian's misappropriation of funds to the attention of the court that appointed the guardian or to the prosecuting attorney or bonding company.

A guardian's lawyers, detecting that funds in the guardianship have been misappropriated by the guardian, press the guardian for the truth and receive his confession. Restitution is promised from funds being generated by the sale of the guardian's home and/or his receiving an expected bequest. The lawyers are obtaining a demand note to cover the misappropriated funds. On their advice, the guardian has taken his other law business to another lawyer, thus to separate the two areas of work.

It is the opinion of the committee that the lawyers have an immediate obligation to secure the guardianship estate by all reasonable and available security measures, including promissory notes, mortgages and assignments from the guardian. The lawyers should insist that the client report the matter to the court and to the bonding company. If prompt repayment commitments are not made or are rejected or breached by the guardian, and the situation not rectified, the lawyers must reveal the misappropriation to the court and may reveal the same to the affected persons. It would not be proper for the lawyers to go beyond disclosure to the court and/or the ward and make disclosure to the prosecuting attorney or bonding company. CPR Canon 4, DR 4-101 (B) (C); EC 4-1, 4-2, 4-4; DR 7-102 (B)

CPR OPINION E.

MOTOR VEHICLE LICENSE PLATES

An opinion has been requested as to the propriety of a lawyer or judge using personalized motor vehicle license plates which read LAWYER, LAW, JUDGE, ATTY, or words or abbreviations of similar import, whether alone or in combination with numbers on the plate (e.g., Law 2).

The Committee believes that this is a form of public communication which is neither dignified nor in good taste. Although such a license plate is not a "professional sign," as such, it is a device not listed as permissible under DR 2-102. The average layman would probably believe that a lawyer owned and/or was driving such a licensed vehicle just as if the words LAWYER were painted on each side door of the vehicle.

The Committee believes that the thrust of DR 2-102 precludes such a license plate practice by Washington State lawyers. Additionally, EC 9-6 requires every lawyer to uphold the integrity of his profession, to encourage respect for the law, to conduct himself so as to reflect credit on the legal profession and to inspire respect of the public, and to avoid the appearance of professional impropriety. The use of such a personalized license plate does not meet such professional and ethical requirements and is improper. □

UPS Faculty Position Available

The University of Puget Sound School of Law has an opening for a career faculty appointment in the Practice Course (clinical program). Must be a member of the Washington State Bar Association and have had extensive practice experience. Salary open. Please send resume to Dean Joseph A. Sinclitico, University of Puget Sound School of Law, 8811 South Tacoma Way, Tacoma, Washington 98499.

Board of Governors to Publicize All Reprimands

The Board of Governors voted at its meeting in March to formalize its policy of publicizing all reprimands in the general news media and in the *Bar News*.

In the future, news of reprimands which have been administered will be issued to all newspapers of general readership and all radio and television stations throughout the State.



The Board's Work

Extracts from the minutes of the meeting of the State Bar Board of Governors at Vancouver, B.C., March 15 and 16, 1974:

Discipline

The Board voted that the General Counsel of the Bar Association be authorized to cooperate with the Pierce County Prosecutor in connection with certain criminal matters pending in Pierce County against Edward Kirchen, a Tacoma attorney. It was agreed that cooperation with the Law Enforcement Authorities was "in the public interest" as outlined in the Rules of Discipline for Attorneys (11.6 subsection D line "4"). It was pointed out in the discussion that the Bar Association petition for disbarment of Edward Kirchen is now pending in the Supreme Court.

Continuing Legal Education

The report of the Continuing Legal Education Committee was adopted as submitted by its Chairman, except that item "3" subsection "D" under the general subject, "Recommendations" (compulsory CLE) be deferred for further consideration on a future agenda of the Board and that item "3" subsection "G" under the general subject, "Recommendations" (staff and budget) be within the discretion of the Executive Director.

The Board agreed that the entire subject of "Continued Competency" be made a major item on a future agenda of the Board and that the subject is of such priority and complexity that consideration should be given to adding a full extra day to a future meeting of the Board to consider this entire subject including compulsory continued legal education, re-certification and all other facets of the problem.

It was voted specifically that no meetings or seminars of any Bar Association Sections or Committees be scheduled at the annual meeting so as to conflict with the regularly scheduled seminars and other official functions of the Bar Association.

The Board voted that the Continuing Legal Education Committee and any other committees, sections or persons who might be involved or affected including the staff, be instructed to explore the possibility of having a Mid-Year meeting of the Bar Association at some appropriate place with seminars, speakers and programs of general interest to the membership of the Bar Association.

The Judicial Article

The Board went on record as being opposed to the current Bill proposing revision of the Judicial Article, pending further study.

It was decided that the President should appoint a Task Force to take an in-depth look at the Judicial Article and the various proposed revisions, including the most current bill. The Task Force will check out the current status of proposed revisions, make suggestions as to the contents of a meaningful revised bill, and recommend a course of action to the Board of Governors.

Proposed Rules of Appellate Procedure

It was agreed that the New Proposed Rules of Appellate Procedure, prepared by the Appellate Rules Task Force of the Judicial Council, be referred to the Bar Association's Court Rules and Procedure Committee for review and recommendation.

Amendment To The By-laws — Indemnification Of Officers

The Board voted to amend the By-Laws of the Association so that Section 6 of Article V of the By-Laws shall read as follows:

ARTICLE V. *Duties Of Officers*

"Section 6. INDEMNIFICATION. The President and Members of the Board of Governors shall be indemnified for any claims or causes of action arising out of their official duties as officers of the Association. The standard for indemnification of the President and Members of the Board of Governors shall be the same as that applicable to corporate officers pursuant to R.C.W. 23A.08.025, as that section reads as of the date of the adoption of this amendment to the By-Laws."

National Registry Of Interpreters For The Deaf — Convention And Workshop

The Board approved a Bar Association non-monetary joint sponsorship of the National Registry of Interpreters for the Deaf Convention and Workshop to be held in Seattle June 27th-29th, 1974.

Trust Accounts — Definition And Supervision

The Honorable Hugh P. Legg, Queens Counsel and Chairman of the Discipline Committee of the British Columbia Branch of the Canadian Bar Association, appeared before the Board and

discussed discipline procedures, malpractice insurance and auditing procedures as conducted by that Bar Association.

The Board voted that the General Counsel of the Bar Association prepare a Form of Certification with reference to the existence and condition of an attorneys Trust Account, a certification in lieu of a regular trust account certification for those exempt from maintaining trust accounts and a proposed consent agreement relating to spot audits of the trust accounts of members of the Bar Association. These are to be prepared for use in connection with the Board's study of this entire subject matter.

The COG Committee

It was decided that the COG Committee be asked to research and make a recommendation with reference to the categories of members in the Bar Association: active; inactive; and honorary.

Michael James Fox of Seattle was designated to fill the vacancy created by the resignation of Gregory Dallaire as a member of the COG Committee.

Financial Consideration For Vista Attorneys

The Board agreed that the question of financial concessions to Vista Attorneys be explored with the Trustees of the Washington State Bar Foundation, looking toward the possibility that this Foundation might be a source of Funds which could be of assistance to the Vista Attorneys.

Proposed New Juvenile Court Bill

The Board of Governors approved and endorsed the position of the Legislative Committee with reference to support of this Bill.

House Bill No. 1276 — Amending Chapter 216 Of The Laws Of 1961

It was voted that the Bar Association make known to the appropriate authorities that it opposes House Bill 1276 so long as the said Bill contains language which might be construed to cover the regulation of the legal profession. Mr. Champagne abstained from voting on this motion.

Lawyer Referral Committee

The Rules regulating the operation of the Lawyer Referral Program were amended so as to eliminate the provision that lawyers registered with the Lawyer Referral Panel cannot be members of the Lawyer Referral Committee.

Awards Of Merit

It was agreed unanimously that an Award of Merit be made at the 1974 Annual Meeting to Robert P. Beschel of Spokane based on his outstanding service to the Bar Association and to the public in connection with the preparation and passage of the Revised Probate Code.

The Board voted unanimously that an Award of Merit be presented to Alfred McBee of Mount Vernon at the 1974 Annual Meeting of the Bar Association based on his long, devoted, effective and continuing service to the Bar Association.

Compulsory Malpractice Insurance

A presentation was made to the Board in considerable detail by representatives of Fred S. James & Co. concerning a possible program of compulsory malpractice insurance for the members of the Bar Association.

Committee On Code Of Professional Responsibility — Opinions For Publication

It was voted that the proposed opinions as submitted for publication by the Committee on Professional Responsibility be approved as amended. An amendment was adopted which provides that in proposed CPR Opinion A subsection 1 paragraph 2, the language should read, "it is improper for a lawyer to display as a firm name the fictitious composite "Jones & Brown" where Jones is deceased and either (a) there never existed prior to Jones' death a genuine partnership between Jones & Brown or (b) Brown's assumption of Jones' name is based on his occupancy of the office quarters occupied by Jones prior to his death, tenancy by Brown having begun subsequent to Jones' death."

Discipline — Publication Of Reprimands

The Board agreed by a vote of 8 to 1 that all reprimands administered by the Board of Governors be published in the *Bar News* and released to the general news media.

Proposed Change Of Title For Hearing Examiners

It was decided that the question of a proposed change in titles of Hearing Examiners to "Administrative Law Judges" be referred to the Administrative Law Section for review, investigation and recommendation.

Election Of A President For 1974-75

Kenneth P. Short of Seattle was elected unanimously and by acclamation to be the President of the Bar Association for the fiscal year 1974-75.



Around the State

EAST KING REPORT

By **Barbara E. Reardon**

The March meeting of the East King County Bar was duly and regularly held at noon on March 25, 1974, at the Bellevue Thunderbird Restaurant, at which President **James Dailey** presided. In attendance were sufficient members to render a quorum count unnecessary and our guest speaker's time worthwhile.

Eastside attorneys should make note of the following dates:
May 1, 1974:

Law Day Luncheon,
Holiday Inn, Bellevue
Speaker:

Judge Robert Brachtenbach
of the Washington Supreme Court.

September 20, 1974:

EKC Bar Golf Day at
Glendale Country Club

All Washington attorneys are invited to join in the golf day and contact **Bob Van Eaton** as to details.

The Association has asked the faculties of Eastside high schools to nominate five students from each school, who have evidenced an interest in law, to attend the Law Day luncheon as guests of the Association. Each attorney member of the Association is requested to sponsor at least 2 students as his or her guests to the luncheon. Please make your reservations promptly with Judge **Anthony P. Wartnik**, Secretary-Treasurer of the Association.

Richard Chapin, Bellevue attorney, spoke at the March meeting relative to new legislation governing "Land Use Regulations." Dick's expertise was much appreciated, particularly with respect to the environmental protection legislation.

WHATCOM REPORT

By **Craig G. Davis**

Dean Brett has applied for a marriage license. Bachelor attorneys don't last long. **Mary Thiebes**, middle school librarian in Skagit County is the lucky lady.

Dave Nichols has been with the firm of Abbott, Lant & Fleson since July. **Hobe Dawson** is back at it working on a murder appeal with **Sam Peach**.

J. Kevin Downes has become the secretary of the Young Lawyers Section of the WSBA and announces the opening of his office for the practice of law at 1304 North Garden, Bellingham.

George Livesey of Kingsbury, Livesey & Ludwigson has opened his own office in the Bellingham National Bank Building (BNB Bldg.) while **Burton Kingsbury** and **Jack Ludwigson** of the firm have merged with **McCush, O'Connor, Thompson** and **Hayes** to form the firm of **McCush, Kingsbury, O'Connor, Ludwigson, Thompson** and **Hayes** with offices in the new Cascade Professional Plaza at 220 Champion.

Chuck and **Dan Olson** of **Olson & Olson** have opened up a beautiful new office on the 5th floor of the BNB Building. **Voris & Lipscomb** are moving into a new suite of offices in the same building and announce the formation of a new partnership, with the joining up of **John C. Belcher** (Florida State U. '72, wife, Charlotte) to be known as **Voris, Lipscomb & Belcher**. **James G. Bell** has joined **Bob Burks** to form the new firm of **Burks and Bell**. Jim is a local boy who came back after graduating from **Gonzaga** in '73. He brings a wife, **Ann**, and a little boy, **Lynn**,

to join us.

Gary S. Wiese, former Sea-First Trust Officer of Seattle, has joined **Goodman & Slater** in the general practice of law. He is a University of Oregon '72 graduate, and brings with him his wife, **Susie**, and three children. **Leo Goodman** is on the road to recovery and looking forward to getting back to work having been out the past several months.

C.E.H. "Chris" McDonnell, a California practitioner, has been admitted to the Bar and is practicing out of the BNB Bldg., while winding up his California practice. He brings with him a wife, **Christa**, and two children. **Pemberton & Bentley** announce the opening of their new offices in the Cascade Professional Plaza at 218 West Champion.

Turning to the new Bellingham Legal Center we find that **Millhouse, Nelle & Packer** have opened offices there and that **William R. Anderson**, formerly of the California and Seattle Bars, after spending two years with the WSBA, has joined **James F. Flynn** in the partnership under the name of **Flynn & Anderson**. **David E. Rhea, Jr.**, former Deputy Prosecutor, has joined the firm of **Asmundson, Rhea & Atwood** and is our new District Court Commissioner, specifically handling Bellingham traffic cases. **Dave** and his wife, **Marnie**, are expecting their first wee one around June.

Looking in on Northwest Washington Legal Services, we find that **Harold E. Simmers**, U. of Iowa '72, **Richard Stone**, Stanford '73, and **John Reitz**, U. of Florida '73, all Vista Volunteers are currently helping out. **Robert M. Scott**, Harvard '72, former Vista Attorney has joined forces with **Steven G. Sisson**, Wayne State U '73, a former Deputy Prosecutor, and they

have opened an office at 2303 C Street in Bellingham (they also resplenish the ranks of our single brethren).

Meanwhile, Prosecutor **Jane Mason** has added two new Deputy Prosecutors to her staff to fill a couple of vacancies. They are **James M. Doran**, U of Santa Clara, '73, single, and a local Bellinghamite, and **John T. Borst**, Willamette, '73, who brings his lovely wife, Martha.

On the north side of town we have **Gary Rusing** and **Richard Platte** who have joined forces under the name of Rusing and Platte at the new Bellingham Business Park.

Turning to the outback (not really fellows) we find that **David R. Syre** has become involved in real estate law and is working out of his home in Blaine after striking out on his own from the LeCocq firm. In the meantime, **Pete Visser**, former sole practitioner in Lynden, has joined the LeCocq firm which is now known as LeCocq, Simonarson, Visser and Johnson.

In November, Lynden was treated to the sight of a red sports car rapidly approaching from Seattle containing one **Phil Rosellini**. Gonzaga '67, who forthwith unfolded himself and joined forces with **Jake Smith** forming the new firm of Smith & Rosellini.

Our new Bar officers for 1974 are **Dan Olson**, President; **Ed O'Connor**, Vice President; and **Jim Bell**, Secretary-Treasurer.

We would still like to say hello to **John McDougall** of Republic and Colville however, the printers won't let us get his name straight. We had also reported that **Larry Daugert** had married his legal secretary but somehow his name did not come out right.

Yours truly took quite a ribbing from the Bar as a result of his last report and is just now

successfully (?) emerging from his shell to share the news of local doings with the rest of the State Bar. Someone told me that Latin was dead and that I would be too if I put any more in the next report.

Question — has anyone come up with a good program for harnessing all the bodies coming out of law school and putting them to work practicing law?

SEATTLE-KING REPORT

By **GERALD G. TUTTLE**

Thomas M. Blake, formerly with the Legal Department of Security Title Insurance Company, announces the opening of an office for the practice of law at 12727 Renton Avenue South, Seattle.

Stephen P. Ryder, formerly with Monheimer, Schermer, Van Fredenberg & Smith, has become a partner of Thom, Mussehl, Navoni, Hoff & Pierson. That firm has moved its offices from the Seattle-First National Bank Building to the 37th Floor, Bank of California Center.

Byron H. Ward, a Deputy Prosecutor in King County for the past four years, has associated with **Jack Burgeson** for the practice of law at 405 Auburn Way North in Auburn.

Lewis M. Wilson and **Howard Ratner** have joined forces for the practice of law under the firm name Ratner and Wilson in Seattle. **John Caughlan** is of counsel to the firm.

DeGarmo, Leedy, Oles & Morrison announce that **David L. Ashbaugh** has become a partner in the firm.

Gust S. Doces has become a partner with **Barnett, Robben, Blauert & Pease** and the firm name has been changed to Bar-

nett, Robben, Blauert Pease & Doces.

Carl G. Dowrey and **Harry M. Cross, Jr.**, formerly partners with Seed, Berry, Dowrey & Cross, announce the formation of a partnership for their practice specializing in patent, trademark and copyright law under the firm name of Dowrey & Cross, 1254 Bank of California Center in Seattle.

The Bellevue firms of **Nelson & Lucas** and **Oseran, Hahn & Kelley** have merged effective April 1, 1974. The new firm, Oseran, Han, Nelson, Lucas & Kelley, can be found in the Business Center Building in Bellevue.

Effective April 15, **A. Kyle Johnson** has left Foster, Pepper and Riviera, and has joined **Frank Jerome Johnson** in the partnership of **Brown & Johnson**, 3822 Seattle-First National Bank Building.

YAKIMA REPORT

By **RANDY MARQUIS**

John Vanik has been employed as a staff attorney at the Yakima Legal Services Offices. John is a grad of the law school at the University of California at Davis. Following law school, he was in the Peace Corps as an instructor of law at Louis Arthur Grimes Law School at Monrovia, Liberia in West Africa for two years. He recently was a staff attorney in the Legal Services Center in Seattle.

Jon Harlan, Prosecuting Attorney, announces the acquisition of two Deputy Prosecuting Attorneys: **Kenneth (Wes) Raiber**, formerly of the local support enforcement and collection service; and **Michael J. McGuigan** a grad of Seattle University

and Gonzaga Law School.

Terry A. Brooks has been named Chairman of the TEAMS Organization for Yakima YMCA's \$1,500,000.00 building campaign. Donald W. Schussler, has been named Section Chairman of the project.

SKAGIT REPORT

By PAUL LUVERA

We noticed on the Motion Calendar where some old gaffer got a case assigned for May 7, 1974. He *claims* that's his 83rd birthday. He *claims* to be a few days from 60 continuous years in the active practice of law. It all sounds very improbable to me, but then it's mostly before my time.

He says his name is R. V. Welts in case anyone remembers back that far. (He was Bar Association President in 1953!)

George McIntosh addressed our last meeting and told us about law office efficiency. Everyone who got hooked will now close at 4:00 and go sailing on Friday.

Earl Angevine and Gil Mullen will be leaving as Prosecutor and Chief Deputy to form a partnership in a downtown Mount Vernon revolutionary decor dressed-up building. The plans look beautiful and when fully implemented you can bet the fees won't be Revolutionary War era. Word has it there will be a couple other lawyers with them, the Bar Examiners willing.

A tip of the hat to Judges Walter J. Deierlein, Jr. and Harry A. Follman who have the Jury calendar running more efficiently than ever notwithstanding vastly increased civil filings and the new criminal speedy trial requirements.

Come to think of it, I can't remember the last time I had to

wait more than five or six weeks between trial assignment and a date for trial to the court. Now that's not too bad, huh?

Did you ever notice how many more Washington Reports there are on the shelf now as compared with when you were in law school? And how some of them have changed color? And that it's Springtime, 1974, already?

KITSAP REPORT

By WM. J. KAMPS

Oluf Johnsen, Kitsap Superior Judge, resigned effective May 1. Judge Johnsen served the Court sixteen years having been appointed to the Kitsap bench in 1958 by Governor Albert Rosellini. Only 61, the judge cited a desire to enjoy life while still in good health as one reason for his retirement. He plans a two-month visit to Norway where he has already enrolled at the University of Oslo for a Norwegian language course. Plans have also been made to visit relatives in South Africa. Everyone familiar with the Kitsap bench will miss Judge Johnsen's common sense approach to the resolution of legal problems.

James Munro recently attended a public defenders conference at Aspen, Colorado. Only nine defenders from across the country were invited to the conference. Jim claims he didn't do any skiing.

Bill Crawford has just (May 4) married the former Marilyn Mikola. Good luck!

Dave Armstrong (Sanchez, Martin & Armstrong) and wife Stephanie are selling their waterfront home and moving onto a 42 foot sailboat at the new Port Orchard Marina. And with that bit of news I'll drop anchor for another month.

SNOHOMISH REPORT

By JAMES A. SIMONTON

Our senior Judge, Edward M. Nollmeyer, has officially announced his resignation to be effective June 1st. For many years Lake Chelan has been Judge Nollmeyer's favorite vacation spot and now it is reported that he and Mrs. Nollmeyer will make Chelan their year-around retirement home.

At the March bar association meeting our guest speaker was Paul N. Luvera, Jr., of Mount Vernon, who presented a most interesting program of efficient law office management.

Covering bar members who are on the move:

Ed Novack recently returned from a Bar governors' conference in Mexico.

Paul Williams is also in Mexico climbing mountains with a group of fifteen members from the National Mountain Rescue Council. Paul is President of the Council this year.

Henry Newton spent a few days at Harrison Hot Springs.

Randall St. Mary is now with the firm of Kafer, Wilson & Luchini, having moved from Spokane where he was a clerk in the Court of Appeals.

PIERCE REPORT

By KENYON E. LUCE

Frank P. Girolami and Robert W. Skidmore, formerly of Girolami, Skidmore and Self, announce the formation of the law firm of Girolami & Skidmore. J. Arvid Anderson is an associate of the firm. Durward E. Self announces he is now practicing at Suite 210, Clover Park Professional Square, 10828 Gravelly Lake Drive, S.W., Tacoma.

Robert Kane of Kane, Vanderberg & Hartinger, has been selected for membership in the American College of Probate Counsel.

Pierce County Legal Aid Foundation has moved into new quarters at 744 Market Street, Tacoma. It has the second floor of the old Doctors' Hospital. The Foundation is operating the Public Defender Program for Municipal Courts of Tacoma with **Hugh Fountain** as Director of the program. **Rogers Wilson**, Gonzaga '73, is the Staff Attorney. **Hank Hibbard** of Kansas has also joined Legal Aid as a Staff Attorney. **Jerry Zimmerman** is serving as a Vista attorney. **Seth Armstrong** has left the office after three years. **Stan Wagner** remains as Director. **Tim Bruce** is Director of Litigation and **Robert Taub** is a Staff Attorney. In the January election, **Murray Anderson** was elected President, **Tom Oldfield** was elected Vice-President. The lawyer board members are: **Murray Anderson**; **Tom Oldfield**; **Dale Carlisle**; **John Troop**; **Gary Steiner**; **Robert Deutscher**; **Frank Burgess**; **Kenyon Luce**; **Donald Thompson**; and **Perrin Walker**. Visitors are welcome at the new quarters which are more effective as law offices than the Old Store Front on South "M" Street.

Our gal **Jan** went to Atlanta, Georgia, to the Lawyer Referral Workshop. She reports that the weather was fantastic, and that she met a lot of interesting people, including a single Austin, Texas attorney. She further reports that the Tacoma Lawyer Referral office is one of the few that is operating without a deficit.

GOVERNMENTAL LAWYERS

By **JOHN A. HOGLUND**

A new development on the Olympia scene is the creation of the Land Development Registration and Administration Office (established under DMV, Bus. & Prof. Ad'min, Real Est. Div.) as the enforcement arm of the new Land Development Act of 1973 (effective Mar. 1, 1974). This law is basically a disclosure act requiring property reports to be given to purchasers of underdeveloped lots at the time of sale. The law applies to any offering of more than 10 lots, parcels, units, etc. (inc. unfinished condominiums) *except* for real estate upon which are completed buildings or for lots which are within city or incorporated entity limits.

The new right created under this Act is a mandatory 48-hour right of rescission (after a property report has been received) or the absolute right of rescission if the seller does not give the buyer such a report. The LDRA Office, under the able leadership of attorney **Ethyl Williams** and Deputy Chief **Richard Johnson**, is primarily responsible for reviewing the documents of sale to insure full disclosure of potential risks to purchasers, *e.g.*, avalanches, floods, inability to secure good title. Their office is staffed with three investigators, one auditor, and three clerical persons.

The Government Lawyers' welcomed the advent of spring with a fun-filled wine tasting party. Spouses and friends alike were invited to join the event. Personnel notes to the present include: GLA President **Bob Wallis** has been hired as a Hearing Examiner for the Utilities &

Transport. Comm'n (formerly with Employ. Secur.); former DSHS Hearing Examiner **John Von Rees** has also been transferred to Util. & Transp. Comm'n; AG **Henry Wager**, formerly at Dep't of Revenue, has retired—congratulations and good luck!! A hearty welcome is also due to attorney **Leland Johnson** who recently joined the AG Central Office from a law firm in Washington, D.C.

BENTON-FRANKLIN REPORT

By **NEAL J. SHULMAN**

The Benton-Franklin Bar Association welcomes **Daniel R. Rooney**, a former Assistant Attorney General who has joined the staff of the Washington Public Power Supply System. Dan is a 1970 graduate of Northwestern University, single, and has taken up residency in the City of Kennewick.

Family Retreat for Lawyers

The Christian Legal Society's Annual Family Retreat will be at Singing Hills Lodge and Ranch, which is located in Thorp, Washington, near Cle Elum. The dates are June 21, 22 and 23, 1974. The topic and speakers for the weekend will be available for announcing in the June edition of the *Bar News*. For information, contact Joel H. Paget, Seattle.

LAW FOCUSED EDUCATION IN WASHINGTON SCHOOLS

The Young Lawyers Section Law Focused Education Committee, chaired by Lawrence L. Longfelder, Seattle, are beginning a broad based effort to correct the current deficiency in Legal Related Education in Washington State Schools.

The Bar Association has been offered a unique opportunity to host (in conjunction with Educational Organizations) a Regional Conference on Law Related Education in Seattle in the fall of 1974. At the present time details of sponsorship are being worked out with the Seattle-King County Bar Association and the Washington State Bar Association. It is hoped that the three-day Regional Conference will attract participants from the educational and legal community in the states of Washington, Oregon and Northern Idaho. The American Bar Association Special Committee on Youth Education for Citizenship has agreed to bring in resource leaders from all over the United States to teach the sessions and discuss with participants the programs in Law Related Education now in effect in many states and cities.

In addition to planning for the fall regional conference, the Law Focused Education Committee is setting up a state wide speakers bureau to aid teachers in presenting law related material in the classroom. The Committee is also in the process of reviving the "Youth and the Law Bulletin" which was widely acclaimed by educators and which ceased publication in May of 1972. In addition, in cooperation with the State Superintendent of Public Instruction Office, the Law Focused Education Committee will be participating in approximately thirty-six workshops state wide to instruct teachers in the substance of law and to motivate teachers to teach law related education. This effort is being directed by Mr. George Whitney of the State Superintendents Public Instruction Office.

In addition to the programs outlined above, the Law Focused Education Committee members from King County will be participating in a summer training institute for high school teachers in the Criminal Justice System as well as other areas of the law, to be held at the University of Washington, Department of Education, for four weeks in June and July.

All of the above efforts are directed at the establishment of a Law Related Education Program, kindergarten through twelfth grade, in Washington State schools. This effort is strongly supported by the Superintendent of Public Instruction and his staff as well as members of the Department of Education at the University of Washington and other educators throughout the state. Currently a curriculum guideline for Law Focused Education is being developed by the State Superintendent's Office for distribution in the fall of 1975. It is hoped that by the fall of 1976 there will be a Law Related Education Curriculum in a majority of Washington Schools.

Any members of the Bar who are interested in assisting the Young Lawyers Law Focused Education Committee or who have an interest in speaking in high schools or otherwise participating in Law Related Education are urged to contact Mr. Lawrence L. Longfelder, Chairperson, 1010 Hoge Building, Seattle or the State Bar Association offices. □



Lawrence Longfelder, Sally Pasette, Members of Committee.

ENVIRONMENTAL LAW SECTION REPORT

HOW MANY TREES? or; REPRODUCE STATUTORY PROVISIONS!

All invitations for bid proposals issued by public agencies must set forth all provisions of federal, state or local environmental laws that affect a project. Were you aware? — if not see Chapter 61, Laws of Washington, 1973 First Ex. Sess. Ever wonder how many trees need be cut to produce the paper on which to print the provisions verbatim? SEPA incidentally requires an impact statement on "legislative proposals" as well as "actions"—was there an EIS with Chapter 61; or did the Legislature de facto not require an EIS.

Local assistance will be available to help you with the Environmental Coordination Procedures Act (RCW 90.62). Each county will have an office where you can get a Master Application.



George Mack and Joel Haggard

For King County, see Cliff Marsten in the County's Building Department. Regulations for implementing ECPA were adopted on April 30, 1974 by the Department of Ecology (See WAC 173-08).

Counties and cities now have until late June to prepare their Master Program under the Shorelines Management Act (RCW 90.58). Your clients may want to be concerned about what uses will be permitted. If your use is not permitted and a conditional use or variance is required for the Shoreline Permit, your burden is heavier since there must be no detrimental effect on the public interest. Then the permit will be granted only in extraordinary circumstances.

More on "Negative Declarations"—that is, a decision that an impact statement is not required under SEPA. The District Court in D.C. recently held that a statement of rationale why an EIS is not required is needed to allow a court to decide that an agency a) took a "hard look" at the situation, b) identified all relevant factors, and c) can convincingly demonstrate that the impact is not significant (See *Nader v. Butterfield*, 6 ERC 1360). Incidentally, 58% of the documents received by the Department of Ecology under SEPA in the last 3 weeks were Negative Declarations.

Some draft EIS's recently filed give an idea as to the scope of SEPA's mandates: 1) a water district's water storage tank project, 2) a county's proposed Shoreline Master Program, 3) a county's comprehensive Solid Waste Management Plan, and 4) a city's building permit renewal for apartment development. If environmental legislation is starting to affect your clients, consider attending the Practicing Law Institute's "Legal Control of the Environment." Set for Seattle, May 2 and 3, 1974, the course costs \$150 (or the handbook can be ordered for \$20). And don't forget our invitation to you to join the Environmental Law Section (Send \$5 to Cassie Morris at the State Bar Association).

Joel Haggard
Chairman



Jury Verdict Statistics

A recent statewide survey of personal injury verdicts for the years 1970 through 1973 by **Bob Griesel**, proprietor of the Attorneys Information Bureau located in the King County Courthouse revealed the following statistics:

1970

Cases Reported	214
Defendant Verdicts	90
Plaintiff Verdicts	124
Money Awarded	\$1,113,329
Average Amount	8,978
Ratio of Specials to Verdict	30%

Scale:

0-2000	22 Verdicts
2001-10,000	71 Verdicts
10,000 - 50,000	25 Verdicts
50,000 and up	3 Verdicts

1971

Cases Reported	149
Defendant Verdicts	60
Plaintiff Verdicts	89
Money Awarded	\$1,073,890
Average Amount	\$11,841
Ratio of Specials to Verdict	21%

Scale:

0-2000	20 Verdicts
2001-10,000	47 Verdicts
10,000 - 50,000	20 Verdicts
50,000 and up	3 Verdicts

1972

Cases Reported	164
Defendant Verdicts	70
Plaintiff Verdicts	94
Money Awarded	\$1,104,207
Average Amount	\$11,746
Ratio of Specials to Verdict	32%

Scale:

0-2000	17 Verdicts
2001 - 10,000	42 Verdicts
10,000 - 50,000	34 Verdicts
50,000 and up	1 Verdicts

1973

Cases Reported	183
Defendant Verdicts	75
Plaintiff Verdicts	108
Money Awarded	\$2,106,482

Defending the Environment: A Problem for Lawyers and Laymen Alike

A seminar open to attorneys and interested laymen will examine the question of the ways by which the environmental crises can be handled within the traditional concepts of the common law and the ways in which the environmental crises must be handled with new and not yet existing legal tools. Special attention will be paid to the problems created by the current energy shortage, and to the role of the legal system in dealing with energy supply and demand.

The Seminar will be conducted at The Ghost Ranch, Abiquiu, New Mexico 87510, during the week of July 1-8, 1974. For further information write James Hall, Director, at Ghost Ranch.

Legal Staff for the Seminar: Joseph L. Sax, Professor of Law, University of Michigan; Richard B. Wilks, Practicing Attorney, Phoenix, Arizona.

Average Amount	\$19,504
Ratio of Specials to Verdict	22%

Scale:

0-2000	16 Verdicts
2001 - 10,000	47 Verdicts
10,000 - 50,000	35 Verdicts
50,000 and up	9 Verdicts

Comparison

1970 Intersection Average Verdict (38 Cases)	\$9,539
1973 Intersection Average Verdict (34 Cases)	\$11,082
1970 Rear End Average Verdict (55 Cases)	\$5,759
1973 Rear End Average Verdict (47 Cases)	\$13,605

The Attorneys' Information Bureau is located in Room C-913 and offers the following services:

1. Phones for Subscribing Attorneys.
2. Withdrawal of Court files and return of requested information by phone.
3. Xeroxing.
4. Continue and strike motions and probate matters.
5. Jury book service (additional fee) containing information sheets on jurors showing past P.I. cases, nature of case, attorneys, injuries, amount asked for and amount of verdict.

How To Avoid Legal Malpractice

by Paul N. Luvera, Jr.

There is a rising tide of malpractice suits against lawyers in this country. Successful claims against attorneys have increased by twenty-five (25%) percent in the last five years and the upward trend is continuing, according to one of the leading insurance companies offering professional liability insurance. The size of claims has climbed as well up more than one-third since 1965.

A survey made by a big insurance company lists these major grounds for malpractice: Errors involving statutes of limitations, missed appearances in court, misfiled documents, failure to file lawsuits on time, and similar "forgetfulness"—45%; errors in legal judgment—25%; unclear relationship between clients and lawyers—21%; and alleged fraud on the part of a lawyer—9%.

A survey of Missouri lawyers recently indicated that the amounts of settlement of reported malpractice suits range from 0 to \$80,000.00. In over one-third of the cases, a settlement amount was 0 and in approximately two-thirds of the cases, it was \$1,000.00 or less in that state.

Some typical examples of malpractice cases are as follows:

A client seeking a tax refund hires a big mid-western law firm. The file papers in the case were accidentally clipped to a sheath of unrelated material. The statute of limitations ran out. The client sued the law firm and won a \$100,000.00 judgment.

A closed corporation instructed a law firm to file papers with the Internal Revenue Service so that certain tax losses could be passed on in a way that would be to an advantage to the

stockholders. The papers were not filed on time. The stockholders won a verdict of \$63,000.00.

An attorney handling an auto accident case tried to negotiate an out-of-pocket settlement but overlooked the statute of limitations. The time limit expired, the client recovered a judgment of \$28,000.00.

In another case, an attorney filed a damage suit and the defendant offered to settle out of court for \$5,000.00. The attorney failed to communicate the offer to the client and the case went to trial with a verdict for the defendant. When the client learned of the settlement offer, he sued the lawyer and recovered a judgment of \$38,000.00.

LEGAL BACKGROUND OF MALPRACTICE OF LAWYERS

As early as the middle of the 18th century, an attorney could be held liable for professing to have competence as an attorney when, in fact, he failed to demonstrate such competence. However, a solicitor at English Common Law was liable only for "culpable negligence." The barrister was not subject to liability for negligence.

Malpractice actions against lawyers may either be based upon a breach of contract or a concept of negligence.

THE GENERAL DUTY OF CARE OWED BY THE ATTORNEY

In the State of Washington as generally throughout the United States, an attorney is bound to exercise a reasonable amount of skill and knowledge in the course of his employment.

An attorney is not a guarantor of the results of his services and is not liable for the loss of a

case unless it occurred because he failed to possess a reasonable amount of skill or knowledge or failed to exercise the same.

As in the case of the medical profession, the courts generally and Washington hold that a lawyer is not liable in the exercise of discretion or for a "simple error of judgment." On the other hand, it is questionable whether the "error of judgment" defense employed in both legal and medical malpractice cases is a sound one. As pointed out by one writer:

"In a case involving the negligent operation of an automobile, it would be absurd to relieve a defendant of liability merely upon his assertion that he made an error of judgment. Virtually all actions for negligence are predicated upon errors of judgment. The defense of errors of judgment may rebut an inference of negligence that would otherwise arise from defendant's conduct only when he can show that the choice of any other alternative available to him would have been similarly unreasonable."

In establishing legal malpractice, the plaintiff must show: (1) that an attorney-client relationship existed, (2) the standard of care, skill, diligence and knowledge commonly possessed and exercised by a reasonably careful and prudent lawyer in the State of Washington, (3) that the defendant failed to meet that standard of care, and (4) that as a result of that failure the plaintiff was damaged.

Locality Rule

Unlike the "locality rule" applicable to the medical profession which varies depending upon the circumstances, the standard for the attorney in the State of Washington is uniform. The correct standard to which an attorney is held in the performance of his professional services is that degree of care, skill, diligence and knowledge commonly possessed and exercised by a reasonably careful and prudent lawyer in the practice of law in the State of Washington.

Statute of Limitations

In Washington a suit for legal malpractice is subject to the three year statute of limitations. The application of the statute differs from the medical negligence field. Before 1971 the medical malpractice statute of limitations began to run when the negligence was discovered, or should have been discovered by the patient. Presently under an amendment to the statute civil actions for malpractice against physicians must be brought within three years of the wrongful act or

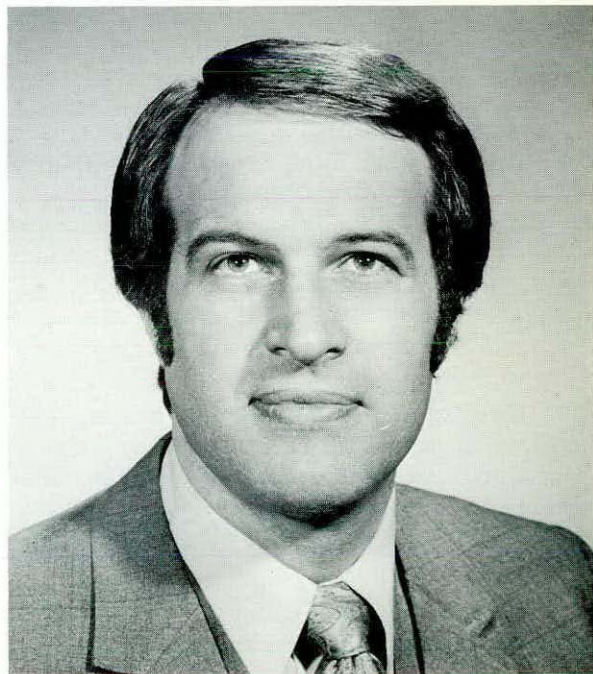
one year from the time the patient discovers the injury, whichever period of time expires last. In the case of the attorney, however, in the absence of fraudulent concealment, the statute of limitations begins to run at the time the negligence occurs, not the time when it is discovered.

Examples of Legal Malpractice

Lawyers have been held responsible to clients for negligence in Washington for a variety of reasons including some of the following: for abandoning a client at a critical stage in the proceedings, allowing time periods to expire to the detriment of the client, rendering incorrect or incompetent advice, committing error in the execution of wills or documents, and the negligent handling of trials, as well as for a variety of other reasons.

SUGGESTIONS FOR AVOIDING MALPRACTICE SUITS

One of the factors in the upsurge of malpractice cases against lawyers is poor client-lawyer relationship. The Public Relations Committee of the Washington State Bar Association has spoken on this subject numerous times. However, the major problem as indicated by survey consists of errors, omissions, mistakes, and forgetfulness on the part of the attorney. Proper office efficiency can avoid any of these dangers. Some suggestions are as follows:



Paul Luvera

Efficiency in Handling Mail

Failure to become aware of or respond to incoming mail can be the source of problems in law offices. The problems can be avoided by establishing a policy in the law office that as soon as mail is received, it will be opened and examined for important mail. Important mail generally will be mail dealing with time deadlines, including such things as scheduled depositions, defense examinations, motions in court, trial dates, and other similar deadlines. Important mail should be treated with priority and acted upon immediately. Delegating responsibility to a secretary or legal assistant to examine all incoming mail and prepare answers to routine correspondence as well as looking for important mail is one alternative to solving the problem.

Such simple things as applying a "copy received" stamp with the date and time on incoming mail can become a record when mail was actually received in the law office which might be important later.

Using Ink Stamps for Efficiency

A supply of ink stamps in a law office can save considerable time. Stamps reading "client copy for your information" can be applied to copies of material sent to client without a cover letter where none is required. Applying a stamp "copy mailed to client" to the original becomes a record that copy was, in fact, sent to the client. A stamp reading "compared, date by" can be used on the office copy of real estate documents to indicate that the legal description was compared with the original from which it was taken and is accurate. A stamp consisting of an affidavit of mailing which can be applied to the original document and notarized may save preparing a separate affidavit of mailing.

Paul N. Luvera, Jr., is a 1959 graduate of Gonzaga Law School. He was a Deputy Prosecuting Attorney for Skagit County from 1959 through 1962, and is now in private practice in Mount Vernon. His practice is limited to trial work, 90% of which is personal injury. In a one lawyer office, he has four legal assistants and one investigator. He is President of both the Skagit County Bar Association and the Washington State Trial Lawyers Association. From 1967 to 1972, he was Editor of the WSTLA publication, *Trial News*. He is the author of "Attorney's Guidebook of Forms and Techniques for Successful Handling of Personal Injury Cases," published by Executive Reports Corp., Englewood, New Jersey, 1970, and several articles on trial practice and office management.

An ink stamp can save time and become a record which is important in a lawyer's office, thereby avoiding potential liability suits.

Reminder Systems

Controls and reminder systems in a law office are one of the most important ways to avoid malpractice suits. There are various reminder systems being used in law offices and being sold commercially. One of the simplest is that employing 5' x 7' cards with blanks for the date the reminder is due, the person to whom it should be given, the name of the client for which the work is required, and the nature of the work to be done or the purpose of the reminder.

A box like a recipe card box to hold the cards is then used. In this box are placed divider cards for the twelve months of the year and individual dividers for each day of the month. Reminder cards are placed ahead to be removed when that day arrives in the future. For example, if a lawyer on June 1st wishes to remind himself that on June 20th the answers to interrogatories in a particular case are required to be mailed out, he would dictate a reminder card to that effect which would be placed behind the divider for June 20th. On June 20th, all cards behind that divider will be removed, examined and directed to the person who is responsible to do the work. The reminder cards are pulled daily, generally by a secretary or legal assistant.

Calendar Controls

There are many flow charts, blackboards, and other similar visual reminder devices published commercially to visually display future work required. One simple device, however, is to purchase a calendar with large squares for each day of the month. Court cases, motion calendar requirements and other important dates are entered on the calendar, using a felt-tipped pen or colored pencil for color coding. By glancing at the calendar, the attorney can immediately tell whether he is obligated to something important or not. When a legal assistant or secretary maintains an identical calendar, there is an advantage of two people being alert for important events in the law office. If such a color-coded calendar for two months is displayed prominently, additional protection against overlooking important events is achieved.

Checklists

Utilizing checklists in a client's file serves as an important additional control for insuring that

client work is performed timely. If a lawyer identifies the major areas of practice he engages in and prepares a checklist for each area of practice which is placed in the client file, each time the file is opened a visual reminder is presented as to what work has been done and what work is required. Such a checklist placed in a prominent position in the file will allow both the secretary and the lawyer to be alert for required work that has not yet been done.

Memos in the Law Office

Many law offices, attorneys and secretaries habitually scribble on scraps of paper or small forms telephone messages and inter-office memorandums which are either mislaid, lost or overlooked. One simple device for avoiding this problem is to require telephone memorandums and inter-office memorandums to be placed on color-coded forms, letter size, pre-punched for filing in the client's file as a part of the client record.

A telephone memorandum color-coded on yellow paper and pre-punched typically would have a place for the name of the calling party, the date, the time, the telephone number, the name of the case, the person who received it and the person who is to respond as well as a space for writing down the subject matter of the telephone conversation. This memorandum would then be placed in the client file and become part of the client's file. By color coding telephone messages letter sized are easily picked out in a perusal of the file.

Inter-office memorandums color coded would typically have a place for the name of the case, the date, the originator of the memorandum and the person to whom it is directed, as well as a space to indicate whether action has taken place in connection with the memorandum. It would also have a space for the communication and any comments. Such a memorandum color coded and letter size is easily visible in perusal of the client's file. Furthermore, color coding and use of letter size paper avoids the easy mislaying or losing of such important communication.

Office Manual

To insure uniform procedures in the law office, a written office manual is required. Such a manual would contain all of the policies and rules pertaining to the office. Such subjects as general office rules relating to hours, vacation, holidays, sick leave and so on would normally be set forth. In addition, the policies of the office relating to

reminder systems, maintaining files, answering mail, use of office stamps, and so on can be set forth in detail. This provides a single source to which all personnel in the office can go for the law office's policies in that regard.

File Organization

An unorganized file can result in costly mistakes in a law office. If the law office has a uniform procedure for filing material, this problem can be avoided. For example, a client's file may be uniformly prepared in the following way: all correspondence will be placed on the right hand side of the file. On top of correspondence will be found a cover sheet which will set out the name, address and telephone number of each client, as well as attorney representing any other party involved, the statute of limitations date involved, and other information which is often required. Such a sheet avoids hunting through the file for names, addresses, telephone numbers and other information each time correspondence or action is required. On the top left hand side of the file will be fastened the checklist for that particular type of work. Under this checklist will be found divider sheets appropriately marked for material in the file such as pleadings, memorandums and other similar records.

In the case of a litigation file, there are available file folders with six fasteners. One order of organizing such a file is to place all correspondence on the first fastener, all pleadings on the second fastener, all discovery on the third fastener, all documentary evidence on the next fastener, all client memorandum and miscellaneous material on the next fastener, and all miscellaneous court papers on the last fastener, such as affidavits of mailing, notes for the trial docket, etc.

Whatever procedure is employed, the important thing is to have a uniform procedure in the office for all clients files in which material is clearly divided and organized to avoid losing or mislaying important material in a client file.

The Lawyers Relationship to his Staff

Since the lawyer is largely dependent upon the staff employed by him, the relationship with that staff becomes very important in the efficient operation of a law office. Regular meetings with the legal staff for the purpose of exchanging information for the betterment of the law office or for the purpose of educating the staff is an important asset to any office.



An Invitation to Summer Law School

A lawyer who is willing to recognize that women can be as creative, intelligent, competent and responsible as men, who desires to improve his present office procedures, who has the humility to listen to the advice of women and give them credit for their own ability, who has a willingness to create a team effort in the practice of law rather than a dictatorship, who has a willingness to change old, inefficient habits, who has a willingness to take the time to make the changes needed and to cooperate with the secretary in making these changes, rather than expecting her to do everything, is required for the correct utilization of the legal staff in improving office efficiency. The utilization of para-professional personnel in a law office and the delegation of work is one major way of increasing office efficiency.

Personal Mental Habits

There are personal mental habits which the lawyer should adopt in addition to changing the office procedures for greater efficiency. For example, some attorneys have adopted the following rules about themselves:

1. They revise their life goals list once a month.
2. They carry blank 3' x 5' index cards in their pocket to jot down notes and ideas.
3. They put up signs reminding them of goals.
4. If they procrastinate, they ask themselves: "What am I avoiding?" And then try to confront that thing headon.
5. They delegate everything they possibly can.
6. They keep a list of specific items to be done each day, arrange them in priority order and then do their best to get the important ones done as soon as possible.
7. They set deadlines for themselves and others. These and similar changes in mental attitude about the practice of law can contribute greatly to better office efficiency.

CONCLUSION

There is an increasing number of malpractice suits against attorneys. As the lawyer's volume increases, his chance of error resulting in law-suits also increases.

It is economically sound and legally prudent to employ every reasonable device for greater efficiency and control in a law office. It behooves every attorney to examine his own law office for ways to avoid malpractice suits by increasing law office efficiency and control. □

The University of Washington School of Law invites attorneys in the Puget Sound metropolitan area to register for and attend regular summer quarter law courses on a noncredit basis.

Each course meets daily. The fee for one course is \$80; for two courses, \$161; for three or more courses, \$188.

Term A - June 17 through July 24

- | | |
|------------------|--|
| 8:30-9:30 a.m. | Commercial Transactions,
Law 516a
Professor Richard Cosway |
| 9:40-10:40 a.m. | Personal Property Security,
Law 538a
Professor Frank W. Smith |
| 10:40-11:50 a.m. | Federal Income Tax III,
Law 531a
Professor Richard O. Kummert |
| 12:00-1:00 p.m. | Economic Analysis of Law,
Law 521a
Professor William R. Andersen |
| 1:10-2:10 P.M. | Conflict of Laws VI, Law 553a
Professor Dan F. Henderson |
| 2:20-3:20 p.m. | Community Property,
Law 551a
Professor Harry M. Cross |

Term B - July 25 through August 30

- | | |
|------------------|--|
| 8:30-9:30 a.m. | Domestic Relations, Law 559b
Professor Luvern V. Rieke |
| 9:40-10:40 a.m. | Individual Rights from a
Purveyor State, Law 511b
Professor Lehan K. Tunks |
| 10:50-11:50 a.m. | Employment Discrimination,
Law 547b
Professor Cornelius J. Peck |
| 12:00-1:00 p.m. | Death and Gift Taxation,
Law 558b
Professor Roland L. Hjorth |
| 1:10-2:10 p.m. | Conflict of Laws VI, Law 553b
Professor Philip A. Trautman |
| 2:20-4:30 p.m. | Comparative Land Use and
Regulation, Urban Planning 498
Sir Desmond Heap, Professor
R. Duane Shinn and Associate
Dean of Law Robert S. Hunt. |

Comparative Negligence Guidelines — Use and Misuse

by William Brosche, Jr.

Comparative negligence will undoubtedly bring forth a readjustment in settlement negotiations particularly in automobile cases in the State of Washington. The value of cases should take a downward trend offset by an increase in the number of recoveries. Settlement negotiations are expected to take on new flavor as mathematical equations are applied to predetermined sums to arrive at a hoped for settlement.

Unfortunately, one speaks of the new law in terms of degree of negligence or percentage of fault rather than dollar damages as under the old law. This can result in the stereotyping of accidents into percentage classifications uninfluenced by the individuality of the case itself.

The insurance industry in Oregon and Idaho established guidelines to facilitate settlement of automobile accidents before them under inter-company arbitration proceedings. The guidelines provided an efficient and effective way to expedite claims influenced by the realization there was an eventual balancing of losses between the companies. The guidelines were as follows:

Type of Accident	Degree of Negligence	
	Defendant	Plaintiff
Defendant rearends plaintiff	100 %	0 %
Intersection:		
Uncontrolled - plaintiff		
on right	75 %	25 %
Controlled for plaintiff	85 %	15 %
Defendant passes as plaintiff turns	50%	50 %
Defendant turns as plaintiff approaches	80 %	20 %
Four way stop	50 %	50 %
Plaintiff passes turning		
defendant	60 %	40 %
Defendant passes as plaintiff oncoming	100 %	0 %

Parking Lot:		
Both leaving parked position	50 %	50 %
Plaintiff on aisle, defendant leaving parked position	60 %	40 %
Parked Car:		
Defendant strikes parked plaintiff	100 %	0 %
Defendant opens door on passing plaintiff:		
Damage to side of plaintiff vehicle	100 %	0 %
Damage to front of plaintiff vehicle	60 %	40 %

The insurance industry, however, was unable to restrict the guideline use to the confines originally intended and their application crept into cases outside inter-company arbitration. The rigidity of the guidelines and their inflexible use by adjusters created dissatisfaction even in the insurance industry. The individuality of the case had been substituted for a percentage classification. Each case is better considered on its own merits influenced by contributing factors peculiar to that particular case. Guidelines should be no more than one factor in the consideration.

Settlement negotiations can never be effectively instigated when discussed in percentage of fault terms. The name of the game is settlement and it's ultimately played in dollars. The offer and demand will reflect percentage of fault consideration without creating another plateau for argument. Successful procedures used in negotiations in the past should be retained. Washington has operated under a form of comparative negligence in this area for years. The legislature merely legalized it. □

Wm. Brosche, Jr., is a 1956 graduate of the University of Washington Law School, and a member of the Legal Department of Unigard Insurance Group, Seattle.



SUPREME COURT PRACTICE

By **WILLIAM M. LOWRY**
Supreme Court Clerk

A summary of issues of general interest pending before the Supreme Court follows:

42891 – Haislip v. Burdman

Upon a conviction under the Habitual Criminal Act, is a petitioner precluded under the full faith and credit clause from collaterally attaching a foreign conviction upon which it is based?

42942 – Gluck v. Hutt

Does the proviso of RCW 50.20.010(5) (b) which allows those who have established eligibility prior to July 3, 1971, for additional unemployment compensation, but denies such compensation for those attempting to establish eligibility after July 3, 1971, violate the equal protection clauses of the State and Federal Constitutions?

42975 – State v. Jones

Does the test for legal insanity, as embodied in the new Act relating to the criminally insane (Ch. 117, Laws of 1973, 1st Ex. Sess.) represent a departure from the traditional McNaughton Rule? Did the Court deprive the respondent of his constitutional rights of equal protection and due process by acquitting him of the crime charged, but committing him as criminally insane under Sec. 11 of that Act?

43016 – State ex rel. Martin Marietta Aluminum v. Washington Pollution Control Hearings Board

Do RCW 43.21B.140 and RCW 43.21B.230 allow an aggrieved party, as a matter of the law, the right to choose between a formal or informal (requiring de novo review) hearing before the Board?

43031 – Bartlett v. Hantover

In an action for negligence against a motel owner for injuries received as a result of a robbery was evidence of safeguards installed after the robbery admissible? Is there a duty to protect an employee from acts of third persons?

43036 – Holt v. Morris

Whether an individual who alleges grounds for relief which would state a cause of action either under traditional habeas corpus proceedings or CrR 7.7 (procedures for post-conviction relief) must proceed under CrR 7.7.

43079 – Massie v. Brown

Are warrant servers for the municipal court of Seattle included in Article 16 of the Seattle City Charter which established a civil service system for "all the offices and places of employment" in the public service of the city? If so, would such inclusion constitute a violation of the separation of powers doctrine?

43086 – Bonica v. Gracias

In a rear-end collision situation, does the sudden stop of a forward vehicle, whether required by traffic conditions or not, raise the issue of contributory negligence requiring that the issue be submitted to the jury?

43093 – Flory v. Dept. of Motor Vehicles

Is the hearing procedure of the Department of Motor Vehicles in suspending an individual's driver's license under the Financial Responsibility Laws violative of the due process clauses of the State and Federal Constitutions?

43097 – State v. Woo

43098 – State v. Louie

May an omnibus hearing judge order a polygraph test and admit the results thereof into evidence at the trial?

43104 – State v. Hynds and Whittle

Is the State in an action for violation of the Washington Securities Act required to prove willful violation of the law with specific intent to defraud?

43105 – Dept. of Ecology v. Ballard Elk's Lodge

Can a Superior Court reverse the Shoreline's Hearing Board without viewing the property? Does the Shoreline Management Act require imposition of the "dry land rule" without regard to the situation created by surrounding property?

43106 – Finch v. Carlton

May a releasor set aside a general release of all claims under circumstances where he had no knowledge that he had suffered any personal injuries in an auto accident, had not consulted a physician, did not contemplate executing a release for personal injuries and received no consideration for the release other than the payment of a property damage claim.

43112 – Dillenburg v. Morris

Are indigents entitled to appointed counsel at parole revocation hearings?

43113 – State v. Johnston

Where some expert testimony indicates that a defendant is incompetent to stand trial must a

full evidentiary hearing be conducted to determine his competency? In allowing him to decide whether a defense of insanity may be raised must a determination be made that his decision was knowingly, intelligently, voluntarily and understandingly made?

43116 – *Lawrence v. City of Issaquah*

Are the durational residency requirements of RCWA 12.030 constitutional?

43121 – *State v. Devine*

Was appellant denied equal protection of the law by the prosecuting attorney having the discretionary power under five statutes to determine under which statute he could elect to charge for accepting a bribe? Is appellant denied equal protection by being subjected to a ten year statute of limitations for a bribery charge rather than the normal three year statute?

43124 – *Washington State Higher Education Assistance Authority v. Robert V. Graham and Wallace G. Miller*

Is ch. 28B.17 RCW creating the Higher Education Assistance Authority and allowing it to subsidize needy students a violation of Art. 1, Sec. 11 and Art. 9, Sec. 4 of the Washington Constitution?

43133 – *Coldwell Banker & Co. v. Mall Centers, Inc. and*

43134 – *DeHart v. Clausing*

Is a pre-judgment attachment of real property under ch. 7.12 RCW a deprivation of property within the protection of the due process clauses of the State and Federal Constitutions?

43141 – *State v. Lesnick*

Is an anonymous phone call a sufficient basis to place a defendant under "investigative detention?"

43162 – *Boise Cascade Corp. v. Pierce Co.*

In determining true and fair market value of industrial machinery and equipment for property tax purposes is it necessary for the Court to consider in addition to cost of reproduction less physical and functional depreciation the comparable market analysis and income analysis techniques.

43163 – *Grimsby v. Samson*

Does the duty of a physician and hospital owed to a patient extend to a husband, which if breached, causing manifest emotional injury, entitle the husband to recover damages?

43187 – *Narrowview Preservation Association v. Tacoma*

The city rezoned an 89 acre tract of land sloping towards the Tacoma Narrows from R-1 to R-5 PRD to allow construction of high rise apartments. Does the ordinance constitute spot zoning? Does the rezoning lack the appearance of fairness? Are business records of a bank and the owner of more than one-half the land in question admissible into evidence? Must the city file an environmental impact statement? Is a permit under the Shoreline Management Act necessary prior to application for a building permit?

43190 – *State v. Perkowsky & Foster*

Are Findings of Fact and Conclusions of Law as to the criminal conduct alleged in an information necessary under the new procedures for the criminally insane, ch. 117, Laws of 1973, 1st Ex. Sess.?

43203 – *Godfrey v. State of Washington*

Does the newly adopted comparative negligence statute, RCW 4.22.010, have retroactive application?

JUDICIAL COUNCIL REPORT

By Dean R. Sargeant

Beginning with this issue of the *Bar News* there will appear a regular report of the activities of the Washington Judicial Council.

The Judicial Council is an agency of the state created by statute (RCW 2.52). The Council is chaired by the Chief Justice of the supreme court, and has twenty-four members including representatives from all levels of the judiciary, from the bar, the prosecutors, the attorney general, the legislature, the law schools, and the county clerks. The Council's staff consists of an Executive Secretary, Professor Luvern Rieke, University of Washington School of Law, a full-time staff attorney, two secretaries, and varying numbers of law student research assistants. Offices are in the new Condon Hall, 1100 N.E. Campus Parkway, Seattle 98195.

Quarterly meetings of the Council are held in Seattle at the University of Washington except for one meeting a year which is in Olympia. In the broadest terms the Council considers problems in administration, practice, and procedure at all levels of the judicial system. Most of these

problems are referred to the Council by individual members of the bar. Other sources of referrals include the Governor, the Legislature and members of the Judiciary.

Some of the items referred to the Council result in proposed additions or amendments to legislation or court rules. Since the rule-making authority is in the supreme court, the Council proposes specific changes by recommendation to the court.

One of the services a regular report on the Council's activities can provide to the bar is earlier notice of matters being considered with consequently greater opportunity for comment. Comments would be welcomed on several matters the Council is currently considering. Included in these are the new criminal rules for superior courts and the dissolution of marriages act. Both of these have been in effect for several months, and the Council is reviewing them in order to make recommendations to the legislature and the supreme court. Copies of the proposed rules for appellate procedure have been distributed to the bench and bar. The June meeting of the Council will be devoted to consideration of the rules and comments received regarding them. (An article concerning the rules appears elsewhere in this issue of the *Bar News*.) Comment is also sought on a proposal to provide for acquittal in criminal cases by less than unanimous jury verdict. Please address all correspondence to the address appearing earlier in this article.

SUPERIOR COURT NEWS

*By Robert M. Elston, Judge
King County Superior Court*

Superior Court Judges **James J. Lawless** (Benton-Franklin) and **Solie M. Ringold** (King), together with Aukeen District Judge **Donald A. Eide** (King), will serve as Deans of a session of the Washington State College of the Judiciary to be held June 24 through June 26 at the Providence Heights Conference Center, Issaquah. The "Review and Update" course will consider recent legislation in the areas of comparative negligence, commitment of mentally ill, environmental law, and landlord-tenant law. Sentencing considerations and criminal law revision will also be on the three-day agenda. The session is being presented in conjunction with the Washington Criminal Justice Education and Training Center. □

The Skagit Bar met on Hope Island and went lib. Members were allowed to bring their wives to the bar banquet, breaking a precedent of five years. There was hope a new precedent had been established.

Births

John Valentine deserted Washington, D.C. to join Mt. Vernon Bar. This indicated superior judgment.

Walla Walla: **John Philip Rowe** left Missoula, Montana to open in the Drumheller Building.

Tacoma: Lincoln Day Banquet opened with an address by **Richard C. Hilton** on the subject "Lincoln Numquam Id Tam Bonum Habuit." Judge **Bertil Johnson** made history by completing his speech in thirty seconds. **Harold Tollefson** was elected President of the local bar.

Union of Ireland and Scandinavia was indicated by formation of the law firm O'Connor and Anderson.

Bob Reynolds joined Metzger, Blair & Gardner, a firm described as overrun with Montana products.

Tom Sauriol opened in South Tacoma. Hanson and Nelson opened in the Security Building. **Valen Honeywell** joined Henderson, Carnahan, Thompson & Gordon. **Al Overland** joined with **Frank Ruff**.

Tonasket: **Homer Crollard** moved from Wenatchee to Tonasket.

Kitsap County: **Frederick B. Cohen** elected President. The meeting was entertained by a skit authored by Seattle attorney, **Betty Taylor Howard**, Title: "Don't Call Me Madam." But they did.

Olympia: Mr. and Mrs. **Don Cary Smith** opened offices there and in McCleary. **Bob Em-mick** left to join the legal department of Weyerhaeuser Timber Company, Tacoma.

Crossed the Bar

Port Orchard: **Ross W. Watt**, 61, justice of the peace for almost twenty years.

Judge **Frank P. Weaver** of the Supreme Court leaked some secrets in a Seattle meeting under the heading "What Happens to Your Case When You Sit Down." Those present felt that the good judge sat down without revealing all.

David J. Williams

FOSTER MOTHER

Full Maiden Name: _____

Date of Birth: _____ Place: _____

Race or Color: _____

Residence at time of this birth: _____

Address

City

County

State

AGENCY:

Name: _____

Address: _____

Person to contact: _____

CHARGES:

Attorney's fees: _____

Costs: _____

(Filing Fee, Birth Certificate)

THINGS TO DO:

Yes

No

Completion Date

- | | | | |
|---|-------|-------|-------|
| 1. Petition to adopt | _____ | _____ | _____ |
| 2. Order appointing Next Friend and requesting Next Friend Report | _____ | _____ | _____ |
| 3. Decree of Adoption | _____ | _____ | _____ |
| 4. Relinquishment and consent to adoption by Natural Mother | _____ | _____ | _____ |
| 5. Relinquishment and consent to adoption by Natural Father | _____ | _____ | _____ |
| 6. Letter to State to obtain revised Birth Certificate | _____ | _____ | _____ |
| 7. Letter to agency RE: completion of adoption | _____ | _____ | _____ |
| 8. _____ | _____ | _____ | _____ |
| 9. _____ | _____ | _____ | _____ |
| 10. _____ | _____ | _____ | _____ |

OTHER ITEMS:

- | | | | |
|---|-------|-------|-------|
| 1. Prepare Wills for clients | _____ | _____ | _____ |
| 2. Prepare CPA for clients | _____ | _____ | _____ |
| 3. Change insurance beneficiaries for clients | _____ | _____ | _____ |
| 4. _____ | _____ | _____ | _____ |
| 5. _____ | _____ | _____ | _____ |

Submitted by
J. Donald Curran of Spokane
Harry E. Hennessey



Notices

Wanted and Unwanted

Wanted: Complete set of RCWA's with current supplements. Wash. State Law Library, Temple of Justice, Olympia, WA 98504, Tel. 753-6525.

Wanted: Used Stenocord Dictating and Transcribing machines. Robert A. Castrodale, Box 770, Grand Coulee, Wash. 99133; Tel.: 509-633-2400.

Office Space: Smith Tower, Seattle. Fully equipped and furnished office, 9' x 13', including air conditioner, IBM electric typewriter, dictating equipment, desk, with south exposure facing Mount Rainier. Share use of large reception area, excellent library, copy machine, office supplies, full secretarial services, and telephone. \$795 per month. Call 622-2418.

USDC Admission Ceremony to be Held on June 14

The next group ceremony for admission to the bar of the United States District Court for the Western District of Washington at Seattle will be held Friday, June 14, 1974 at 2:00 P.M.

Any attorney filing a petition for admission, pursuant to Local Rules, on or before Friday, June 7, 1974, will be eligible for admission. Those planning to be present should so advise the Clerk's office (308 U. S. Courthouse, Seattle, Washington 98104, or phone 442-5597, 5648 or 5412) by the close of business June 11, 1974. It will not be necessary to have a sponsor present at the time of admission. The statutory fee for admission is \$10.00, which must be paid on June 14, 1974.

Labor Law Conference Scheduled for May 10-11

Strikes and picketing and collective bargaining will be the focus of the Seventh Annual Pacific Coast Labor Law Conference May 10 and 11 at the Olympic Hotel in Seattle. The conference is sponsored by the University of Washington School of Law and the Labor Law Section of the Seattle-King County Bar Association.

Speakers will address the attorneys, labor union leaders, and labor management personnel at the conference on "Selected Legal Problems Involving Strikes and Picketing" from the view of both the private and public sectors. Both a management and a union view of the impact of National Labor Relations Board deferral policies on collective bargaining will also be given.

Following the luncheon address by Robert E. Nagle, general counsel for the U.S. Senate

Labor and Public Welfare Committee, on pension legislation presently pending in Congress, conference registrants will participate in afternoon workshop sessions either on issues related to strikes and picketing or collective bargaining.

Highlighting the second day of the conference will be Karen Clauss, Associate Solicitor, U.S. Department of Labor, Washington, D.C., speaking on "Toward Better Litigation Under the Fair Labor Standards Act," and a presentation of a management and a union response to the question, "Does Impartiality Mean Impotence in the Arbitration Process?"

For registration information, contact Continuing Education's Office of Short Courses and Conferences, Lewis Hall DW-50, University of Washington, Seattle 98195. Telephone (206) 543-5280.

LAWYER PLACEMENT SERVICE

By DAVID L. BROOM, *Spokane*

The Young Lawyer's Committee of the Washington State Bar Association operates a Lawyer Placement Service at the State Bar Office, 505 Madison Avenue, Seattle, Washington 98104, and at the Spokane County Law Library, Paulsen Building, Spokane. The service is available to members of the Association and recent law graduates seeking legal opportunities and employers seeking legal personnel. The service is offered without cost to either the applicant or prospective employers. The following are summaries of a few of the many applicants on file:

1. HEW has several openings on file for Appeals Council Board member.
2. National real estate syndication corporation seeking additional staff attorney with one to three years experience for work in securities, corporation, partnership and real estate law fields.
3. Hearings Board in new environmental field is seeking staff attorney to advise Board, review questions of law and prepare opinions.
4. Western Washington county Legal Defender Program has opening for attorney. Prefer at least three years experience but will consider other applications.
5. Sole practitioner in medium-sized western Washington community seeking associate to share expenses. Has completely furnished office and library available.
6. Northwestern Washington county has opening for deputy prosecutor.

**New Bankruptcy Rules,
Comparative
Negligence Manuals
Now Available**

The State Bar's newest CLE Practice Manuals on Personal Injury Practice Under Comparative Negligence and on the New Bankruptcy Rules, now are available from the Bar Office.

The 229-page soft-cover Comparative Negligence manual, 8½ x 11 inches, was prepared by members of the panel of speakers for the March 1974 CLE Committee-Trial Practice Section seminar on the subject. Price is \$12.50.

Authors are Judge Edward E. Henry, Sam L. Levinson, James M. Lindsey, James D. McCutcheon, Jr., Willard H. Walker and Henry Woods of Little Rock, Ark.; chairman was F. Lee Campbell. Additional sections of the book were contributed by Hugh R. McGough, John A. Hoglund and A. Peter Parsons of the Washington Bar and Frank E. Everett, Jr. of Vicksburg, Miss.

The manual on general practice under the New Bankruptcy Rules (adopted last October) was written by members of the panel of the seminar sponsored by the CLE Committee and Section of Creditor-Debtor Rights: Willard Hatch, Chairman, and Robert W. Skidmore, Bruce T. Thurston, Eugene J. Craig, Dillon E. Jackson and Judge Sidney C. Volinn. Price of the manual is \$12.50.

Also still available from the Bar Office, and also at \$12.50, are copies of the Practice Manuals on Washington State Taxes and Products Liability.

- May 3 CLE Seminar: General Practice Under New Bankruptcy Rules. 1 to 6 p.m., Olympic Hotel, Seattle. Willard Hatch, Program Chairman; Robert W. Skidmore, Bruce T. Thurston, Eugene J. Craig, Dillon E. Jackson, Hon. Sidney C. Volinn.
- May 10-11 Pacific Coast Labor Law Conference, sponsored by the U of W School of Law and the Labor Law Section of the SKCBA, Olympic Hotel, Seattle. Contact: Office of Short Courses and Conferences, Lewis Hall, BW-50, University of Washington, Seattle 98195. (206) 543-5280.
- May 11 Corp., Business & Banking Law Section, Wash. Athletic Club, Seattle, 9:30 a.m. Luncheon speaker, William P. Jeske on "Prospects for Washington Businesses, Review of Wash. State Economy."
- May 17 CLE Seminar: Family Law Update, Dissolution Developments and New Practice Problems. 9 a.m. to 4 p.m., Olympic Hotel, Seattle. Robert M. Reynolds, Miles F. McAtee, Kenneth W. Weber, Bernice Jonson, Carol A. Fuller, Prof. Roland L. Hjorth, J. Porter Kelley, Robert F. Phillips, Kenneth W. Weber, Prof. Harry M. Cross, Edward L. Mueller; William L. Dwyer, Local Chairman.
- May 31 CLE Seminar: Family Law Update, Dissolution Developments and New Practice Problems. 1 to 6 p.m., Ridpath Hotel, Spokane. Local Chairman, Jan G. Otterstrom.
- June 14 Group ceremony for admission to the Bar of the United States District Court for the Western District of Washington. 2 p.m., Eighth Floor Courtroom (Room 815), United States Courthouse, Seattle. Judge William N. Goodwin, Presiding.
- Aug. 12-16 Annual Meeting, American Bar Association, Honolulu, Hawaii.
- Sept. 11-14 Annual Meeting, WSBA. Hyatt Regency and Hotel Vancouver, Vancouver, B.C.
- Sept. 20 CLE Seminar, Practice under Revised Probate Code, Spokane.
- Sept. 27 CLE Seminar, Practice under Revised Probate Code, Seattle.
- Oct. 3-4 CLE Estate Planning Seminar, Seattle.
- Oct. 18 CLE Seminar, Antitrust law, Seattle.
- Nov. 1 CLE Seminar, Antitrust law, Spokane.
- Nov. 22-23 CLE Seminar, Basics of Trial Advocacy, Seattle.
- Dec. 12-13 CLE Seminar, Basics of Trial Advocacy, Spokane.

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