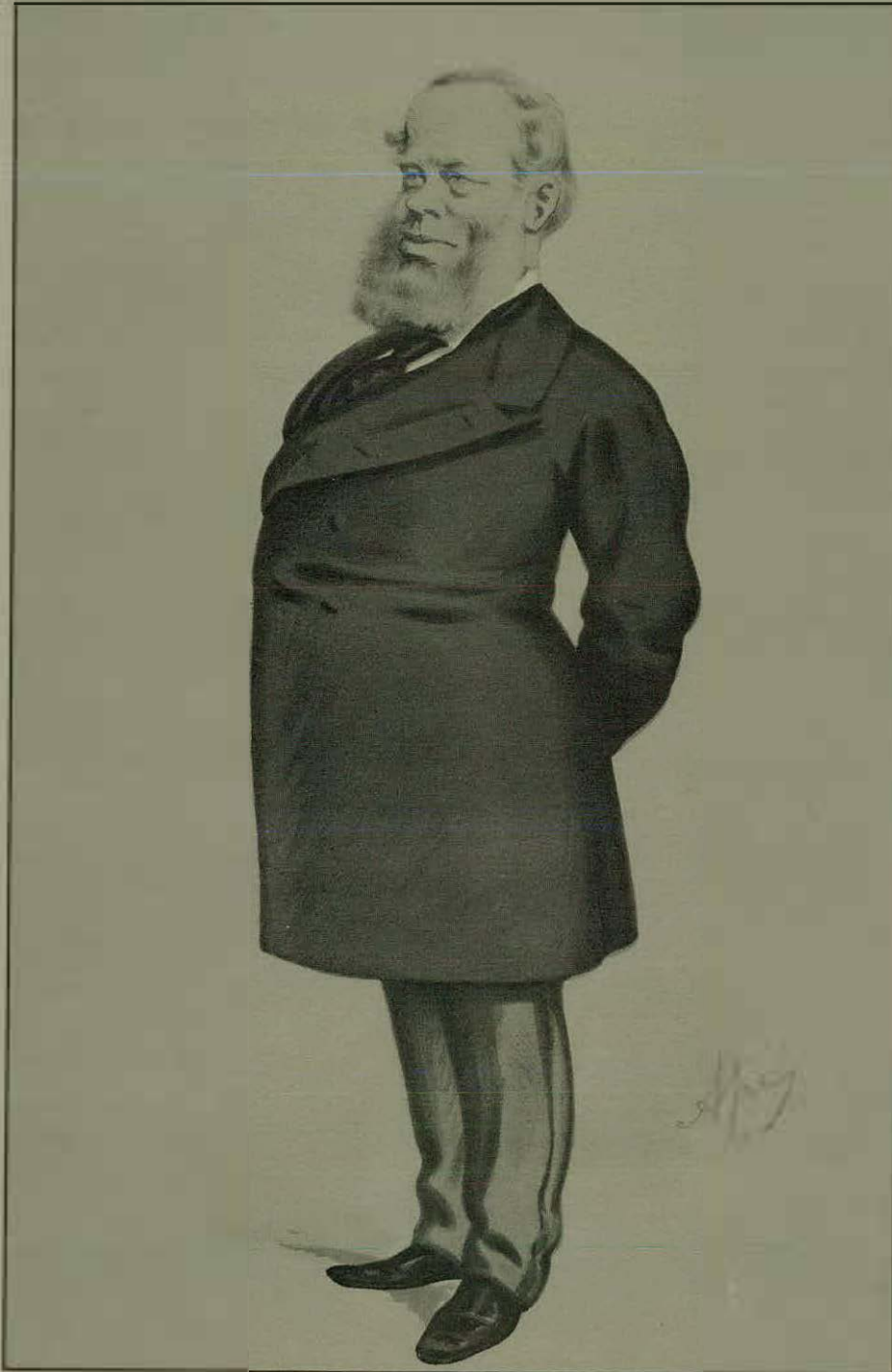
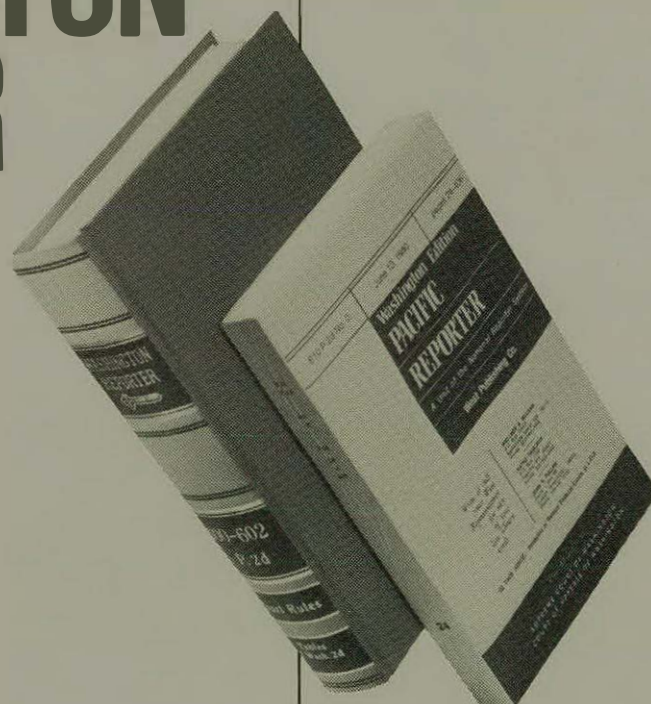

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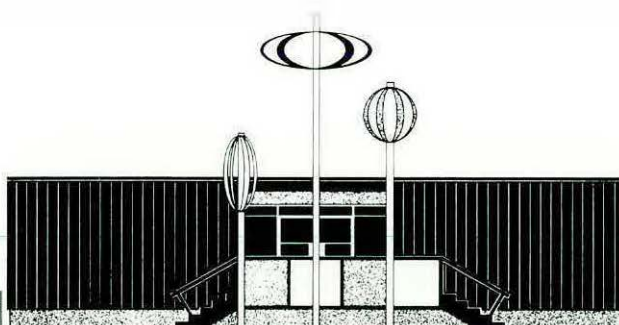
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All editorial material, including editorial comment, appearing herein represents the views of the respective authors and does not necessarily carry the endorsement of the Association or of the Board of Governors.

Published monthly on the 10th day of the month. Deadline for editorial and classified advertising materials: 25th day of second preceding month.

Direct all correspondence and editorial copy to Washington State Bar News, State Bar Office, 505 Madison, Seattle 98104. Telephone: (206) 622-6054

Subscription price is \$12.00 a year, or \$2.00 per single copy. Subscription included with active membership. Back issues \$2.00 per issue.

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Printed by United Graphics, Seattle

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Our Cover



The Spy print, "The Court of Appeal", appeared in Vanity Fair on December 11, 1875. Outgoing editor Jay V. White selected the cover and explains, "If it was good enough for Vanity Fair in December, 1875, it's good enough for the Bar News in December, 1980."

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Don't Restrict "Foreign" Lawyers

Editor:

The editorial by our distinguished President [*Bar News*, 34:9:15], suggesting that we tighten up the admission of "foreign" lawyers to practice in this State, suggests that Mike doesn't practice much outside the State of Washington. The fact is that the growth of urban practice has caused lawyers to specialize to a degree unknown only a few years back, while the jet airplanes have made it possible for a qualified lawyer thus specializing to travel conveniently throughout the country—even throughout the world. The parochial views of our President are understandable but the proposed tightening of our admission practices for particular cases will only hasten the day when Congress will provide for national licensing of lawyers. Admittedly my views are prejudiced in that

I have more cases to be tried in other States than here, but I also believe this is the way of the future, like it or not.

STUART G. OLES

Seattle

Plaintiffs Can Sue Insurance Companies

Editor:

Dick Marquardt expressed his justifiably felt pride in the Unfair Claims Settlements Practice Regulation expressed in his article in *Bar News*, 34:8:12. Mr. Marquardt indicated however, that there was no, "... provision for private action against an insurance company" when at least one superior court has accepted the proposition that there is such a private right of action enforceable by injured parties.

The Unfair Claims Settlements Practice Regulation is embodied in

WAC 284-30, the most important probably being WAC 284-30-330, which states that the following is an unfair or deceptive act or practice in the business of insurance:

"(6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear."

In a recent Yakima County Superior Court case, the Honorable Carl Loy ruled that failure to fulfill that duty constitutes an unfair and deceptive act or practice and therefore is a violation of the Consumer Protection Act, RCW 19.86. Based on this, a plaintiff who is injured as a result of that violation is entitled to recover for damages proximately caused by this violation and otherwise recoverable. The court based its decision partially on RCW 19.86.170, which states that actions prohibited by the laws administered by the Insurance Commissioner shall

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be subject to the Consumer Protection Act.

The existence of a private right of action in that case allowed the plaintiff to collect his attorney's fees incurred in a personal injury lawsuit, together with other damages.

The case demonstrates the importance of the "Private Attorney General" concept adopted by the Supreme Court in various consumer protection cases.

All those who represent plaintiffs in personal injury actions should take their hats off to the Insurance Commissioner's office for the adoption of this Regulation. It goes far to prohibit certain unfair tactics from being used by the insurance companies who have such an obviously stronger negotiating position than the injured plaintiff.

JAY R. INSLEE

Selah

On Rosselini's "Two Hats" Ethics

Editor:

As a member of the bar (just short of one year) I would like to query some of the older, more experienced members.

It has always been my theory that one way to learn is to observe an expert, a prominent attorney, and model some techniques after that person. Of course, suitable adjustments have to be made for style and type of practice.

With that in mind I wonder if the Bar Association could prevail on John Rosselini to conduct a seminar in the handling of estates, and trust accounts. Justice Stafford, dissenting in *In Re Salvesen*, 94 Wn.2d 73 (1980) stated:

The lawyer is a well-trained, highly skilled, professional practitioner on whom the public is virtually forced to rely for counsel, protection of one's

personal and business interests, as well as the care and safekeeping of one's financial well-being.

Lawyers routinely process funds through their trust accounts, aggregating very substantial amounts. Clients and other transacting parties entrust these funds to lawyers without hesitation, often without documentation. Thus the development and preservation of public trust and confidence in the legal profession, as well as our entire legal system, demands that lawyers preserve the integrity of entrusted funds and that they promptly, accurately and fully account for such funds. (Citation omitted.) In short, it is absolutely necessary that lawyers employ the utmost honesty with respect to a client's trust account.

The invasion of personal funds placed in a lawyer's trust account cannot be condoned, or rationalized. The personal urgency of the moment and the personal problems that may engulf a lawyer can neither excuse nor justify a violation of that trust however faithful to his trust a lawyer may have been in the past. (Citation omitted.) To hold otherwise is unfair to potential victims among the public and is equally unfair to the vast majority of honest lawyers who will have their good reputations tainted by the dishonesty of a few.

Disbarment has been, and still is, the proper sanction for the misappropriation or misuse of clients' funds. (Citations omitted.) In fact, for years we have held almost without exception, that the failure, refusal, conversion, embezzlement or inability to properly disburse or account for funds entrusted to the care of a lawyer



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begets disbarment. (Citations omitted.)

It is clear that Mr. Rosselini, as one of three people out front in Washington law, knows something I do not. I am sure that his explanation of his actions would be enlightening for younger lawyers. Perhaps the young lawyers' division could sponsor the course and ask Justice Stafford to moderate.

I am particularly interested in the "two hats" concept of the practice of law. If I wear a felon's cap (striped, boxy little things) does that mean that the code of ethics does not apply? If I wear an escrow agent's cap (whatever that may be) and leave to Mexico with \$100,000 of someone else's money, can I pick up my practice if I return? These questions are troubling for the young lawyer attempting to model himself after prominent members of the bar.

I look forward to attending Mr. Rosselini's explanatory CLE.

R. KEITH PARTLOW

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Editor:

Congratulations on your splendid September issue on law firm management. The issue was well balanced and provided some interesting new ideas in specific areas.

Altman & Weil, Inc., and its publications are mentioned in several places throughout the issue. Because of this, I would like to point out that our firm of management consultants has had an active, staffed office in the West for a number of years. Washington lawyers should contact us at 99 Brookwood Road, Orinda, CA 94563 (415) 254-1921 rather than at our Eastern headquarters. The resident principal, John P. Weil, M.B.A., has had more than a dozen years of ex-

perience as a consultant to lawyers.

Reference is also made in several places to *How to Manage Your Law Office* by Mary Ann Altman and Robert I. Weil. This book, as well as the newly released, *Law Office Automation and Technology* by Frank Arentowicz, Jr. and Ward Bower, is

available only from Matthew Bender & Company, Inc., 235 E. 45th Street, New York, NY 10017.

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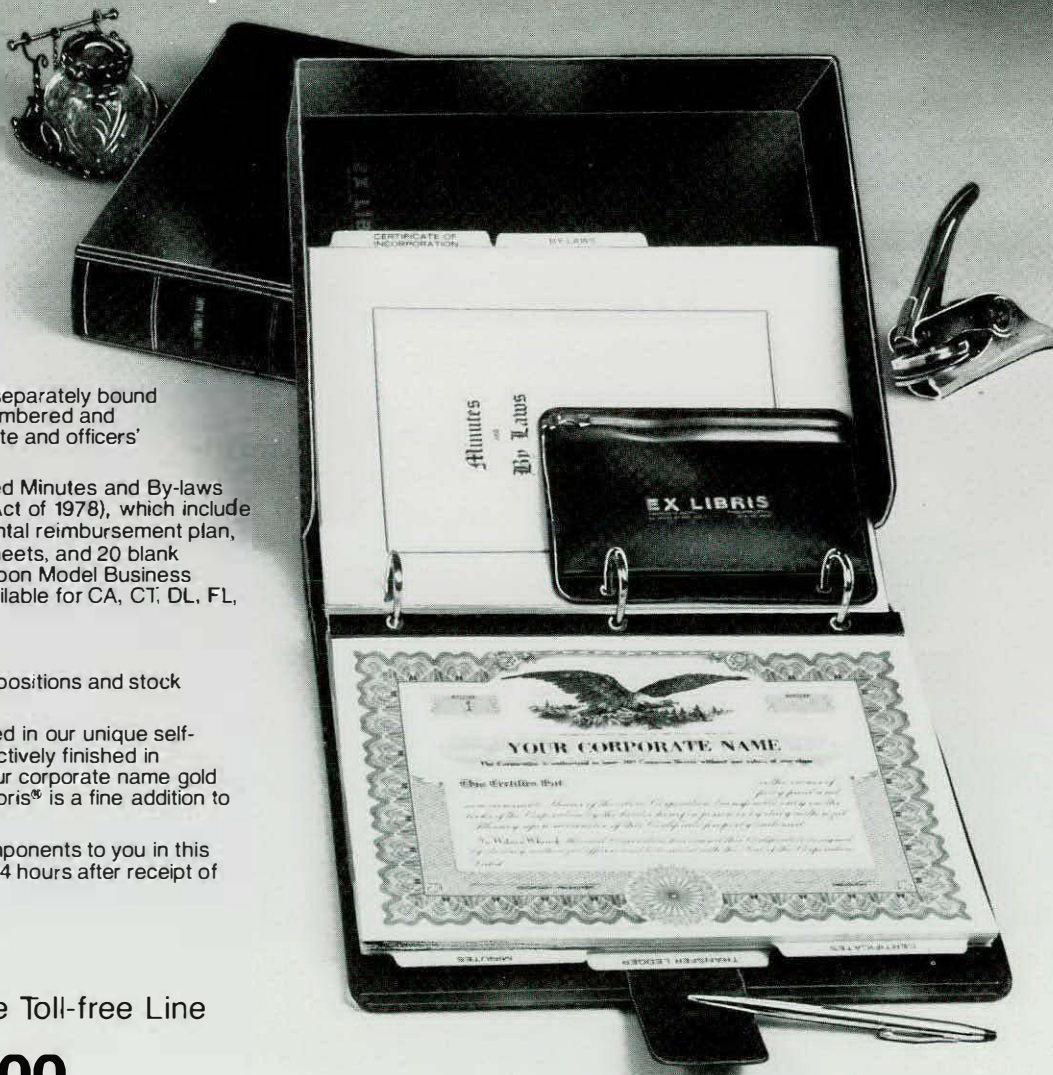
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Transition

"Law school," my father told me before I went there, "is a great thing to have done, not so great to do." The same could be said for the experience of being editor of the *Bar News*. Yet I do not regret a minute of time spent in either of those experiences. Both have opened doors to high points in my life.

I am writing this last column on Thanksgiving Day—way past my deadline—on November 27, 1980. Two years ago, on November 27, my father, Glenn White, who made his living writing, was in San Francisco. He took a sheet of white paper and rolled it into his typewriter, just as he had done thousands of times before. No words came. He went for a walk and his heart left him on the pavement.

When I came to the apartment, my mother asked me to write something for the newspapers. The sheet of white paper was still in the typewriter. I began to type: "Glenn M. White, former senior Associate Editor of the *Ladies' Home Journal* who wrote more than 300 articles for major national magazines, died November 27 in San Francisco. He was 60.

"Much of White's writing was non-fiction prose, but he also wrote fiction and light verse."

I only wrote a page and a half. I knew that editors would not print all that could be written.

But there is only this moment, Glenn once wrote, for that is all there ever is, and this moment is always too exquisite and painful to bear alone, and deep in this moment is death. Death comes in time, whether or not you have any self to give it.

Every writer, even the worst, has spells of thinking he ought to become rich and famous and that eventually he will. It is disappointing to turn out the most effective piece of writing in the world, have it published, and not get the slightest response. The horrible writer strains his ears but al-

most never hears the sound of applause. Yet a writer must never feel sorry for himself. If he must feel sorry, it's for everybody else. This is a hell of a note.

If you want to write what you feel is as close to the truth as you can get, or give a balanced view of anything, you cannot write for pay. You might get some money for your work, or a great deal, or none, but your work is no less if you get none.



GLENN WHITE

When I became editor in December, 1976, there were 7,500 Washington lawyers. Today, there are 4,000 more of us, and we have all been through our personal transition over the last four years.

I had been law clerk to Judge Herbert A. Swanson, and I was starting with Houghton Cluck Coughlin & Riley. Today, I am a member of the firm, baptized as a trial lawyer.

I was assisting UW law school Prof. Ralph W. Johnson in a training program for American Indian judges. Today, Ralph and I just returned, along with John Milne of the law school, from Ponepe in the Caroline Islands where we conducted a one-week training program for Micronesian judges.

My wife, Nancy, was a medical student. Today, she practices family medicine in Ballard.

We were new parents with the birth of our son, Matthew Adams White, on March 21, 1976. Today, we give

thanks for the birth of our daughter, Lindsay Parker White, on November 12, 1980.

* * *

A final column such as this always includes the author's lament that he has so many to thank but has insufficient space on the page to do so. To list individuals is to omit too many. With that understanding, I thank the hidden workhorses of the *Bar News*, Wayne Wilson and Katie Corrigan of the bar association staff. I thank our Executive Director, G. Edward Friar, who always returned my calls and many times cleared the trail, and Martha Smith, who makes it possible for Eddie Friar to do everything at once. I thank everyone who served on the Editorial Advisory Board and the many who contributed to this magazine during the past four years. Those people made this a first class publication. Similarly, I thank every bar president and member of the Board of Governors who has served during the past four years. Each has given me the freedom to be an unhesitating critic on this page.

I give special recognition to my law firm which has supported my editorship as pro bono activity, consistent with the firm's long tradition of public service and service to the bar. My good friend Art Butler has been the shadow editor, and every other attorney and staff member in the firm has given me support.

Finally, I thank you, the captive audience that reads this magazine. To the judges and lawyers who wrote to me in connection with my resignation, I treasure your letters. And to all who have read this magazine, I have felt your presence. You need not write. I have joked here about the "two of you" who read this column, but I know there are many more.

As *Bar News* editor I traveled nearly 18,000 miles. The 49 issues of this magazine that appeared during my editorship total almost 2,500 pages. That's quite a book. I dedicate it to Glenn.

JVW

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A Nation-Wide Bar?

This column expresses my concern over movements towards nationalizing the practice of law. Of primary current concern is the campaign being waged by the Federal Trade Commission to require time-consuming and excruciatingly detailed responses to a questionnaire directed to all state bar associations. (More of this below; this is only the biggest wind blowing at the moment; there are other gusts as well.)

The interstate practice of law, with or without branch offices, is increasing and with fewer restrictions than previously. Some of those issues are involved in the current Hahn airplane crash case as reported in the September 1980 issue of the *Bar News*.

The projected development of special qualifications for Federal Court practice carries with it the germ of a national bar examination and qualification, without reference to control of admissions, and thus of discipline, by the respective state supreme courts.

The Antitrust Division of the U. S. Department of Justice almost as a side issue to its attacks against bar association efforts to control unauthorized practice of law, clearly envisions a national bar. A couple of statements by Barbara Reeves of the Antitrust Division in an address to a state bar, illustrate these points: "... Research indicates that bar associations may be engaging in conduct that constitutes monopolization, attempts to monopolize and boycotts in its efforts to quash any competing alternative methods of handling legal services." "Given the increasing adoption of uniform laws across the country, it may also be time to question the justification for separate bar examination and admission requirements in each state."

With this as a backdrop, consider the chronology of the current forays of the FTC into the administration of the practice of law.

In December 1977, the FTC adopted a resolution for its employment of compulsory process "to determine whether trade and commerce in the delivery, availability of or access to legal and related professional services... is unlawfully restrained... in violation of Section 5 of the Federal Trade Commission Act..."

In January 1979 the Commission published for comment a proposed questionnaire to all state bar associations, containing 57 questions covering the period from 1969, requiring all documents and correspondence of any committee or body of the bar associations relating to law clinics, advertising, specialization, unauthorized practice and discipline (e.g., copies of all documents "which relate, directly or indirectly, to the formation, operation, marketing and activities of alternative legal delivery services..."). The indicated purpose was to obtain information to support an FTC rule or regulation

affecting organized bars on such subjects.

Such a questionnaire requires clearance by the Comptroller General under 44 U.S.C. 3512. The comments submitted were highly critical on a number of grounds: burdensomeness, futility for lack of jurisdiction to enter any resulting rule or regulation, invasion of confidentiality, availability in public records of substantial portions of the requested information, etc. In the face of the heavy criticism, the GAO referred the matter back to the FTC to consider the criticized aspects.

In the following period, Senator McClure proposed an act (S. 1020) in Congress denying authority to the FTC to investigate or to promulgate rules affecting legal or other state-regulated professions or their associations. This bill was defeated in the Senate by two votes, based in part on assurance from the chairman of the Commission that rule-making would be deferred until after congressional oversight hearings on FTC activities were held. These hearings were scheduled before Senator Ford's committee for the week of November 17, but have since been deferred.

However, immediately following the delayed congressional appropriation for the FTC, the Commission published a somewhat revised questionnaire which was cleared by the GAO at the end of September for distribution in November (now to be distributed in January). The questionnaire has been "shortened" from 16 pages to 23 pages. The principal favorable changes are to shorten the time span to be reported upon from 1969-to-date to 1975-to-date, and to make response "voluntary". This latter feature is qualified by the Commission's statement: "If we encounter outright refusals to respond or inadequate responses with no possibility of compromise, we may serve the respondent with a compulsory request for the material." In the elegant phrasing of Professor Kurland, "Where there's a willfulness there's a waywardness".

Some state bars have indicated an intention to fight off the questionnaire on the critical grounds expressed on the first questionnaire. The Washington State Bar Association has engaged outside counsel on the subject of response and has not yet determined its course.

While I am concerned over the willfulness and waywardness of the FTC, this may be curbed as a result of the oversight hearings or the recent election. Instead, my larger concern is the apparent trends towards nationalizing the practice of law and its administration. If the practice becomes national, it connotes that laws should become national, and the state-by-state responsiveness of courts, legislatures and bar associations will be thereby diminished.

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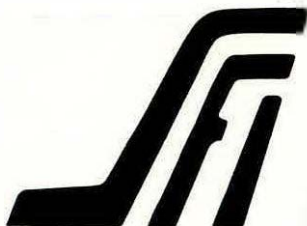
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How Much Does It Cost to Get a Witness from Othello to Yakima?

by Warren L. Dewar, Jr.

When I was a younger lawyer, I once won a lawsuit and someone told me I should prepare and file a cost bill. Although this subject was not within the law school curriculum, the research tools of my trade proved adequate to the task. The index of the R.C.W. simply referred me to RCW 2.40.010 which told me that witnesses in all courts were entitled to \$4.00 for each day in attendance, and mileage of ten cents per mile each way. (Laws of 1951, Chapter 51 §3).

In my youthful exuberance, I decided to remember these numbers so that if I was ever again victorious in court, I would be able to prepare a cost bill without referring to the Statute. I have had the occasional pleasure of doing just that as the years have passed by.

Recently, I won another lawsuit in which one of my witnesses was required to travel all the way from Othello to testify in my Yakima County trial. As I was preparing the cost bill, I was suddenly beset by a sense of middle-aged caution. Could it be that the Legislature, in its infinite wisdom, had changed the Witness Compensation Statute which had been imprinted on my mind since 1968? A review of the Statute, I thought, would put my concerns quickly to rest. I discovered, to my chagrin, that I am no longer equal to this task. The Legislature has rendered the research tools of my trade inoperative.

I found that in 1977 the Legislature changed the old familiar Witness Compensation Statute by eliminating the definite rates and stating that witnesses are now allowed the same compensation as jurors in Superior Court. (1977 Ex.S. c54 §1) I then turned to the Juror Compensation Statute (RCW 2.36.150) and found that since 1979 "petit jurors may receive up to \$25.00, but in no case less than \$10.00" per day, and that "the compen-

sation paid jurors shall be determined by the County Legislative Authority." My copy of the Yakima County Code reveals that my County Commissioners have apparently been involved in more serious matters. No such determination has ever been made in Yakima County.

The Juror Compensation Statute also says that mileage payable to jurors shall be "at the rate determined under

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RCW 44.03.060." I quickly turned to this Statute which was aptly entitled "Mileage Allowance." At last, I thought, the legislature has told me what I can pay to my Othello witness.

A reading of this latter Statute, however, says that a new bureaucratic title was established in 1979 called, auspiciously: "The Director of Financial Management." It was "the Director" who was given the power under the Statute to:

Prescribe and regulate the specific mileage rate or other allowance for the use of privately-owned vehicles or common carriers on official business and the conditions under which reimbursement of transportation costs may be allowed.

It was apparently felt that this awesome responsibility was too much to be shouldered solely by "the Director." The 1979 Legislature added the proviso that:

The initial maximum mileage rate established by the director... and any subsequent changes thereto shall be subject to legislative approval. (Laws of 1979 c151 §84(3)).

"Legislative approval" is defined in RCW 43.03.063 as consisting of:

Consultation with and a favorable vote by the Senate Ways and Means Committee and the House of Representatives Appropriations Committee during times when the Legislature is in session or consultation with and a favorable vote by the Legislative Budget Committee during periods when the Legislature is not in session or has been in recess for three or more days.

The trail was now becoming a time-consuming challenge. Surely "the Director" with "Legislative approval" would be able to tell me what I can legally pay my witness driving from Othello to Yakima. On May 22, 1980, "the Director" promulgated a regulation called WSR 80-06-074 in which it is recited that there was compliance with the provisions of the Open Public Meetings Act (Chapter 42.30 RCW), the Administrative Procedure Act (Chapter 34.04 RCW), the Higher Education Administrative Procedure Act (Chapter 28B.19 RCW), and the State Register Act (Chapter 34.08 RCW). That regulation also recites that reimbursement is allowed at a rate not to exceed 18½ cents per mile for official travel; however, mileage between points in the state shall be determined on the basis of the distance as shown on the latest State Transportation Commission map.

Nowhere in the above regulation does it recite where the "latest State Transportation Commission map" is located or how one obtains a copy thereof. In addition, there is no indication of whether the regulation was enacted while the Legislature was in session or not, and

no indication of a "consultation with a favorable vote by the Senate Ways and Means Committee and the House of Representatives Appropriations Committee during times when the Legislature is in session or consultation with and a favorable vote by the Legislative Budget Committee when the Legislature is not in session." These problems are compounded by the fact, as stated earlier, that the Yakima County Commissioners have apparently never been informed of their power to establish the per diem witness fee.

I long for those halcyon days gone by when the Legislature was composed largely of attorneys who knew the value of definite and certain legislative pronouncements. I wonder what my witness would think if he knew that the reimbursement for his travel expenses from Othello to Yakima involves decisions by the following governmental agencies:

1. The Washington State Legislature.
2. The Director of Financial Management (Formerly: Director of Program Planning and Fiscal Management).
3. The Yakima County Superior Court.
4. The Senate Ways and Means Committee.
5. The House of Representatives Appropriations Committee.
6. The Legislative Budget Committee.

7. The Yakima County Commissioners.
8. The State Transportation Commission.

In addition, the fees paid to my Othello witness involve an interpretation of the following Statutes and Regulations:

1. The Witness Fee and Mileage Statute
(RCW 2.40.010)
2. The Juror Compensation Statute
(RCW 2.36.150)
3. The Mileage Allowance Statute of the Financial Management Act
(RCW 43.03.060)
4. The Open Public Meetings Act
(RCW 42.30)
5. The Administrative Procedure Act
(RCW 34.04)
6. The Higher Education Administrative Procedure Act
(RCW 28B.19)
7. The State Register Act
(RCW 34.08)
8. The Rules of the Office of Financial Management
(WSR 80-06-074)

Despite the above pronouncements and decisions, the ultimate question has yet to be answered... How much does it cost to get a witness from Othello to Yakima? □

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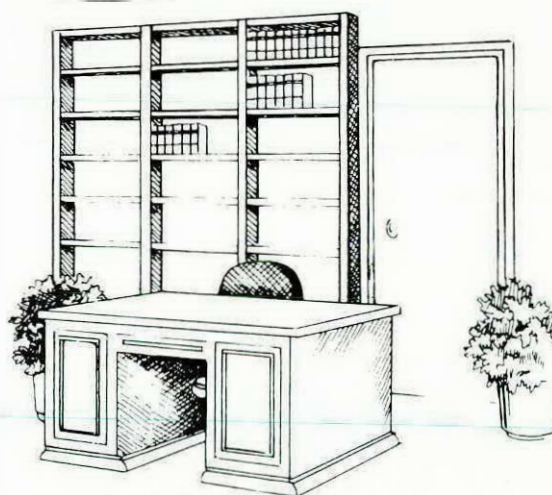
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How to Live with Stress and Love It

by Sally Thomason

You as a lawyer have a decision, a declaration. You have declared: "I want a life full of stress. I choose to be in the arena of pressure and controversy. I choose to take the problems of others on my shoulders; I choose to be responsive to demanding deadlines and answerable at all times for my words and actions." If you are a trial lawyer, your choice leads you to the highly charged arena of advocacy, always in full view of public scrutiny. But even if your specialty within the profession is title examination or patent law, leading to what might appear to be a more cloistered, less demanding area, you still live with the constant stress of knowing your work is always subject to the examination of others.

You might not recognize this choice of stress as your professional pledge, yet in honesty, you can concede, that subliminally at least, you recognize that when you were sworn in as a lawyer you were choosing a life of stress and pressure. Does it mean that because this was your professional choice you must suffer the debilitating and destructive consequences of this stress and pressure? Is this the natural lot of the lawyer? The answer has two parts. Yes, stress is the inevitable lot of the lawyer. However, the destructive effect of that stress on that lawyer is his or her choice.

It should be noted that a stressful life is not unique to lawyers. It is endemic to our society and our age. There could be no more fertile atmosphere for the nurturing of stress than in our highly mechanized, mobile, interdependent, over-organized society of America today. Stress is not going to go away. So, first we must understand the nature of stress and more importantly recognize that how such stress affects our body and our behavior is ultimately our own choice. Our capacity to handle stress is measured by our understanding of ourselves — how well we know ourselves.

Sally Thomason, Memphis, Tenn., is the Executive Director of the Memphis Arts Council. Prior to that she worked part-time at the Center for Continuing Education at Southwestern in Memphis. She was co-founder and director of the Center's program, "Women in Transition," and was project director for a two-year Humanities program, "American Values in Crises."

This article was reprinted by permission from the November 1, 1979, issue of the *Illinois Bar Journal*.

For purposes of this article, I would like to define stress as that which threatens to upset the mental, emotional equilibrium of an individual. Stress in and of itself is not bad. It is a necessary ingredient in creative action. Stress is ever present in the excitement of challenge and is a requisite for growth and change. However, we in America have generally given a negative connotation to the word. The Chinese language has a more accurate representation for this phenomenon of stress. The Chinese written word has two characters and expresses a paradox within the word. That is, where there is potential in the crisis of stress for destruction there is also the potential in that same crisis for growth. The realization of the dual potential of stress places the individual squarely at the decision center for handling his or her life.

In the final analysis we do not want to rid our lives of stress; rather we want to channel it so that it works for us rather than against us. When the stress in your life makes you feel victimized, out of control, incompetent, it is time to carefully examine the source of that discontent.

I once heard Bernard Berkowitz, an eminent psychiatrist and friend, say that the most difficult types of stress to handle are those that come at us from the environment, such as a physical disaster, a storm, a hurricane, a social or economic upheaval or severe illness. Such stress induces feelings of smallness, impotence, and incompetence. Fortunately, most of the stresses we deal with in our everyday lives are not of this cataclysmic sort. However, people tend to react to daily stress situations as if confronted by disaster stress—as if the stress were totally out of the individual's control. There is a strong tendency in the face of any stress to assume the posture of the helpless victim and to insist on one's impotence.

On the other hand, the most potent examples of human initiative and strength arise from the way some individuals handle a cataclysmic stressful situation. Those who lived through the bombing raids of London during

AUTHOR'S NOTE: This article draws heavily on the insights gained from participating in a panel discussion on "Coping With Stress" which was sponsored by the General Practice Section at the recent ABA Annual Meeting in Atlanta, Ga.

the dark nights of 1940-41, attest to the fact that citizens showed more cohesiveness, cooperation and sense of purpose than has been seen in that city before or since. One of the most impressive testaments of what life under such acute stress can give was illustrated by a college professor friend who died several years ago of cancer. During the terminal stages of his prolonged illness, many of his former colleagues, students and friends came to his bedside and went away refreshed by his insight and understanding of this most distressed part of his life.

In these two examples, victims of stress refused to become powerless. They chose how to react to the stress—how they wanted to live their lives. These are extreme examples. The usual stresses of our daily lives do not give rise to such heroic decisions. Rather they tend to wear down our professional effectiveness and lust for life. Yet the ability to maintain control and grow in a stressful situation is one which we can achieve.

To deal with stress you must know that you are in charge of your own life. In order to be in charge you must know yourself. How you spend your time, your money, how you serve your clients, how much you eat or drink or smoke or exercise, how you behave towards others, what you think, what you believe in, are all your choices.

Lawyers and all people have problems when they refuse or neglect to know themselves. Psychologist Mildred Newman suggests that we talk to ourselves—but always in an affirmative, supportive way. Most of us constantly put ourselves down by dwelling on our shortcomings when we talk to ourselves. We reprimand ourselves for what we fail to do rather than enjoy ourselves by taking satisfaction in who we are. No one can ever do everything; so do the things you want to do, the things you approve of, the things that will make you like yourself. Then be sure to give yourself the approval you have earned.

There is sometimes a tendency among lawyers—because so many people rely on them—to feel that they must be super human. No one can reach perfection. If that is your goal, you will miss the joys and fullness of realizing your human potential. Dan Zeluff, a counselor and psychologist, commissions us to “dare to be mediocre.” Many times lawyers are so success-oriented that they drive themselves to achieve, to win at all costs, to convince themselves they are good—not inferior. As this happens, the truth that there is more to life and human worth is somehow lost. The paradox of this mentality is that success does not bring a change in the self-image, a good feeling about oneself. The person does not feel gratification over success, for the driving force is fear of failure, a public display that he is really the bad guy he secretly knows he is. When Dan Zeluff says “dare to be mediocre” he is not saying “don’t work hard” or “don’t do your best.” He is saying accept yourself, forgive your imperfections, and like the person

you are living with your whole life.

We all know the hyperactive individual who is always frantically in a rush because he has so many unbelievable demands on his time—or the lawyer who never can clear his desk because of his excessive work load. It is possible that frantic individual may need the pace to make himself feel important, to look indispensable in his own eyes and in the eyes of others. Because of self-induced pressure, that desk may never get cleared. There might be a deep-seated need to live under the gun, a fear that in total relaxed freedom nothing would get done.

Lawyers should see themselves as total human beings. The intellectual, pragmatic and social side can be well served by the profession, but what of the physical bodily requirements, and the emotionally spiritual needs? When any of these human needs are ignored the total human is out of balance.

First let us consider the physical aspects. Stress can have a deleterious effect on the functioning of the human body. Medical researchers tell us that stress is the number one health hazard in America today. Stress produces or aggravates hypertension and coronary heart disease. It is indicated that arteriosclerosis is either caused or aggravated by chronic stress. A majority of the infections in the bladder in females are caused by the reaction of the body to stress. Men’s prostate problems are, for the most part, stress related. Allergies, epilepsy, migraines, pos-

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sible even cancer, can be aggravated or brought on by stress.

To borrow Dr. Walter Hoffman's remarks at the recent ABA panel on stress "you are going to be stressed the rest of your life but what can you do about it to help yourself through these stressful times? First, you should evaluate your own capacity. Everyone has his own capacity — you are born with it. You either have trait anxiety or you don't have trait anxiety overall. So evaluate your ability to do something and don't go beyond it any more than you can help it. Second, quickly evaluate environmental stresses. Get rid of them. When it's too cold in a room you turn up the heat or put on a sweater. When the jack hammers bang outside the door you close the door or the window to block out the noise. The idea is to protect yourself from environmental stresses such as repetitive sounds and noises, odors and so forth which are stressful in and of themselves. It is the additive stresses throughout our day, that get to us. I think it is extremely important to plan your day for the obvious problems which are going to arise. Plan as if there were going to be that unexpected phone call. Plan it as if Johnny were going to fall down. Give yourself room or time so that you don't stress yourself trying to keep up with the program which you couldn't possibly follow.

"Touchy point, the problem of drugs. As I said, the problem of stress is an additive problem and we in

American are continually adding the stress of nicotine and caffeine to mention only a few of the stressful drugs, to our system. This is the reason that people with peptic ulcers have more problems if they smoke. You can't heal an ulcer in a smoker well or if you do, it won't stay healed, because nicotine or caffeine in the diet will stimulate the formation of gastric acid. The other thing which is probably the greatest stress problem in this country today, is the fact that people are drugging themselves beyond the warning signs of stress. People are always coming to my office wanting me to give them something, so they won't know when they have gone beyond their limits. This is a totally ridiculous attitude, and our chronically drugged nation must recognize it as covering over the warning signals and that disease is occurring without the person being aware of it.

"And finally, I would suggest that you find your own little hole to crawl into. A little hole where you don't have to answer a telephone, you don't have to smile at a client, you don't have to plan. A place that you can go where you can stop it. Give your glands and your muscles and your organs a chance to rest. We can't go on stressing ourselves the way we are without becoming the sickest nation in the world."

Still considering the physical needs, it is an established fact that regular exercise relieves the bodily tensions created by chronic stress and helps to maintain the



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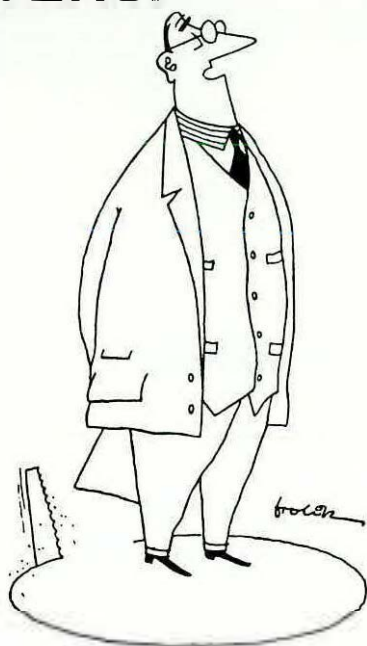
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necessary balance between mind and body. A highly stimulated mind creates muscular and nervous tension. Complete relaxation and repose are extremely difficult to achieve, particularly for the type A, highly charged individual. Since the body craves relaxation, alcohol and drugs provide a convenient answer. However, the illusion of relief only aggravates the stress on our body. Regular physical exertion utilizes and thus maintains the physique in the way nature intended, and consumes rather than accumulates the mental and emotional stresses. All joggers know that regular running has a marked effect on reducing the rate of heart beat and blood pressure. Lower blood pressure means greater capacity to handle stress. Of course, if one is over 40, before starting any new exercise program he or she should have a complete physical examination.

The mental and emotional as well as the recognized physical rewards of regular exercise are great. It is not always easy. One of my husband's law partners expresses my attitude precisely towards running. "I run first thing in the morning because I hate it so much, but after that everything is down hill the rest of the day. Nothing else could be that hard." We should establish a regular, sane maintenance program for our bodies. There is a frightening tendency in our country to use, abuse and ignore them until something goes wrong. We seem to believe there is a medical magician that can cure all. We must take responsibility for our own health — not try to give it to the physician. Our society does not have much information or understanding of the complex inner-relations between body, mind and spirit. New and better insights to this inner relationship are being explored through research and practice in such fields as preventive medicine, bio-feedback, learned relaxation, meditation and psychodietics. Through new techniques one can condition or teach the body to better handle stress.

The third part of our human holistic makeup is the emotional or spiritual side. Ever since Freud our society has been made aware of the psychic influences on our human behavior and capacity. However, there is much in the Freudian and later in the Behavioral School of Psychology that leads one to a deterministic or fatalistic view of human potential; that individual action is explained or excused by influences outside the control of the individual.

The Humanistic School of Psychology rejects this notion and puts individual creativity and decisiveness as central to human well-being. This approach, it seems to me, is the healthiest and most productive way for a person to come to terms with the stress in his or her life. The humanistic approach insists on self-knowledge and individual creative responsibility. These psychologists recognize that life is a continuing growth process and that the direction of growth is determined by *today's* decisions and actions.

When one is constantly stressed by unending interruptions from demanding clients and does not clear a space for quiet thought and recreation one is making a choice and should accept the decision. When a man works twelve to fourteen hours a day with no time for the family, he has made his choice, and no one else is responsible. It might be a wise and profitable decision but he should accept it as his decision and not feel victimized or put upon by circumstances. There are tradeoffs in any life situation. One needs to be aware of one's priorities so that a realistic assessment can be made. Many times a stressed individual can not act on these priorities. This is often the case if one has no hope or future plans because the present seems so bad. This then will create frustration or depression and add to the stress. A hope and image of one's future is important for one's self concept.

A chronically stressed individual finds it difficult to work out an effective plan for the future. A written exercise on future planning which has proved helpful is to jump, mentally, over the immediate stress causing situation and form a clear picture of what you want for yourself five or even ten years from today. Do not concern yourself with how you will overcome the stress and accomplish such a goal. Allow yourself some stress-free creative imagination. Write down your goal—make it specific and describe it clearly. After this creative dreaming, objectively think through positive and negative consequences as well as specific steps to accomplish the envisioned future and write them down. The obstacles and limitations must also be considered realistically. Alternatives and steps to overcome these obstacles should be well thought out. If you write all this down, you will be more precise and objective and have a clearer understanding of what you think. Such an approach to the future helps you to know yourself better. It helps one become pro-active rather than reactive, in charge of one's life, rather than a passive subject to outside forces. Although there will be no less stress that stress will be working for—not against—the individual.

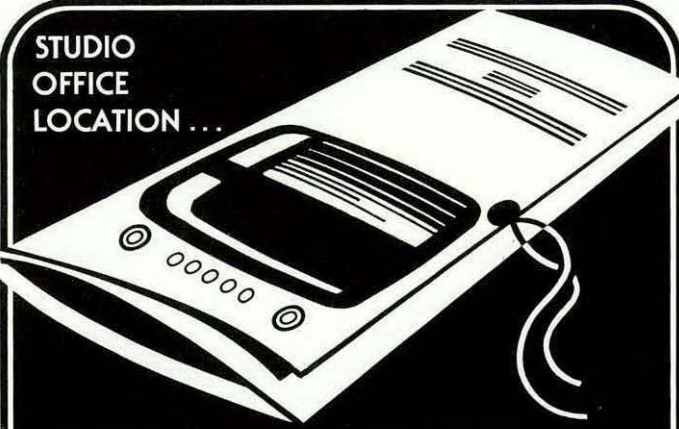
An important point—immediate stress, discomfort or embarrassment is preferable to long term habitual stress. Any change in a relationship or pattern of doing things is upsetting. When there is a flaw in a partnership agreement it is better to openly discuss and resolve the problem, than let it fester hoping it will solve itself. A change in office routine will initially create lost time and sometimes strong resistance but can in the long run relieve chronic stress. Wives who go back to work after being full-time homemakers create stress for the entire family. In the long run, however, after adjustment if she is challenged and interested in her work the ongoing family situation is less stressful.

About two years ago, one of the younger partners in my husband's firm was approached by a good friend and

law school classmate from a neighboring city and asked to leave Memphis to form a new partnership. After thorough investigation and much soul searching, this younger partner decided to accept the offer. Here was an opportunity to establish his own firm with a guaranteed lucrative practice, in a city he knew and liked, with a colleague he admired and trusted. His house was placed on the market, farewell parties were given, a new house was found in the neighboring city. He and his wife went up the weekend before the move to make final arrangements and meet the friends of his new associate. During this weekend which included a welcoming party to the new city, another decision was made. He decided he did not want to leave Memphis and his present firm. He came back. Everyone was astounded. This behavior might appear to be indecisive and cowardly. On the contrary, there were no rash decisions. At some point he recognized he had made a mistake and so he acted quickly and decisively in the face of a potentially embarrassing situation. He was his own man and recently remarked he has never been happier. He was willing to accept short term acute stress to avoid long term destructive stress.

We all are different, we each have different demands and stresses on our lives; the creative response to that stress is our uniquely human capacity. Be sure your stress is helping you be the person you want to become. □

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Childhood Favorites — Updated for Attorneys

by Claudia Welch

Hide-and-Seek

Ask your secretary to place a long-distance call for you to an important client. Leave your office immediately. Worth 20 points if you can leave without the secretary seeing you; only 5 points if you are seen leaving and your secretary is able to abort the call before the connection is made.

Hide-and-Seek (Alternate Version)

Leave your office for lunch, saying, "See you in about

an hour." Do not return to office before 4:30 p.m. Worth 10 points if your secretary is unable to locate you during that time.

Monopoly

Assure your secretary you are going right past the bank and will make the firm's bank deposit. Put it in your pocket and forget it. Worth 10 points if you are able to avoid the subject of the deposit slip for 24 hours. Worth a full 50 points if the secretary's paycheck bounces.

Octopus

Call your secretary into your office, being sure to emphasize that a note pad will not be needed. Start handing over bulky files while giving rapid-fire instructions on each file. Worth 5 points if you can hand over so many files that the secretary has both arms full when asked to catch that incoming phone call for you; a bonus of 25 points if you are able to go into a tirade about the importance of answering the phone before the third ring.

Red Rover

Give your secretary a rush project, to be done by a specific time. Worth 30 points if you are able to leave the office undetected *no earlier* than four minutes before your signature is needed. Give yourself 10 penalty points if the secretary intercepts you and gets the signature; 50 penalty points if you are forced to inquire later how the project was completed without your signature.

Sandman

Dictate a summary of pleadings or depositions in the dulllest case you can find in the office. Keep your voice in



Claudia Welch is Professional Legal Secretary, Chairman of the Greater Seattle Legal Secretaries Association. This article first appeared in that organization's monthly Bulletin. The author wishes to state that the attorneys depicted herein bear absolutely no resemblance to the partners of Morrow, Longfelder, Tinker & Kidman, where she hopes she is still employed.

a monotone, preferable at a soft and low level. Yawn into the dictation equipment as often as you can. Worth 10 points if you can catch your secretary yawning during the transcription; 20 points if the secretary is seen nodding off.

Simon Says

Eat your lunch at your desk (add 5 points if it includes something crunchy, *i.e.*, carrot sticks, potato chips), accept all phone calls, and rustle a batch of papers near the hand-set, all while dictating an urgent letter. Worth 10 points if the secretary is unable to transcribe two or more important phrases; 30 points if the secretary has to ask you to re-dictate without the sound effects.

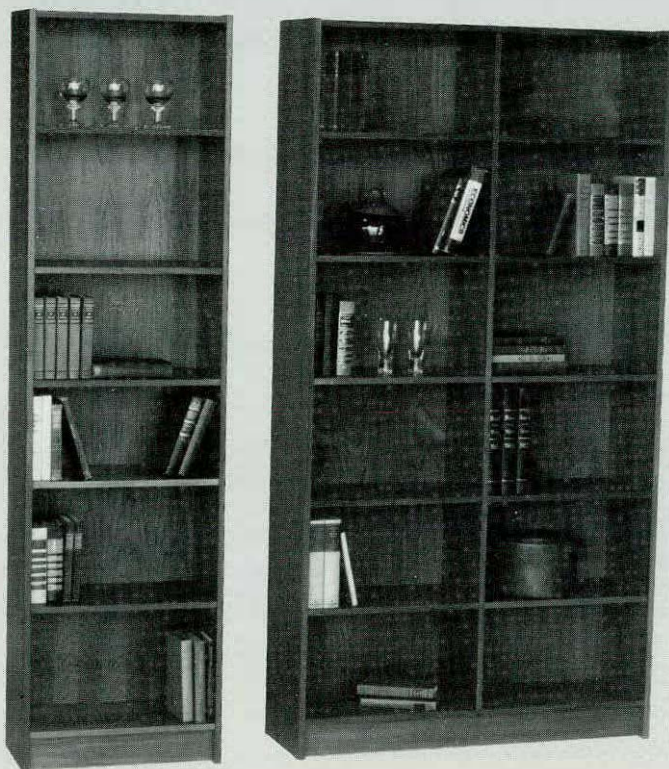
Here We Go Round the Mulberry Bush

Call your secretary from your home early in the morning and say you are expecting a very important message which you want passed on to you immediately, but you will not be coming into the office until later. You can be reached at John Doe's office. Do not go to John Doe's office, but leave message there that you can be reached at Richard Roe's office instead. Do not go to Richard Roe's office. Leave message there that you will be at your dentist's office. Do not go to your dentist. Et cetera. Worth 20 points if you successfully evade both the sec-

retary's calls and the message; worth 10 points if you evade direct contact but the message is passed on to you through John Doe, Richard Roe, dentist, etc.

Scoring

0 to 30 points: You haven't learned to play the game yet. 30 to 90 points: Consider yourself typical. 90 to 160 points: You lose—your secretary ☐



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CLE Clearinghouse

Plan Your 1981 CLE Calendar Now

Terry Noble Foster

Associate Director of Continuing Legal Education

By the time you read this issue of the *Bar News*, it will probably be too late for you to do much about attending a CLE course by year's end. Just remember to report your accumulated credits by way of affidavit submitted to the CLE Board on or before January 31, 1981.

Turning our attention to the 1981 calendar of CLE activities, you should be aware that, in many ways, CLE has come of age. This is most apparent perhaps in the sheer number and variety of courses offered around the country. This veritable plethora of educational experiences presents a choice for the lawyer/consumer: either (1) select CLE courses by the "hit-or-miss method", or, (2) use a somewhat more rational, deliberate preselection of activities, chosen to coincide with one's yearly calendar.

Let me suggest some planning aids which are now available for lawyers who desire to confront their CLE requirements early in the game. First, the *CLE Register*, published eight times a year by the American Law Institute-American Bar Association Committee Continuing Professional Education has course listings by date, title, city and state, and also contains a list of CLE publications arranged according to subject area. The

back of the book also provides names and addresses of all CLE providers who are members of the Association of Continuing Legal Education Administrators, ACLEA. The subscription rate is \$50.00 a year and single issues are \$7.00 plus 48¢ for postage and handling. For further information contact ALI-ABA at 4025 Chesnut Street, Philadelphia, Pennsylvania 19104 or call (215) 243-1628.

A newcomer to the CLE course cataloging business is the *Henning CLE Reporter*, published by Lawletters Inc., 5723 South Blackstone Avenue, Chicago, Illinois 60637, (312) 493-4318. The subscription rate is \$155.00 per year for this monthly publication. The *Henning CLE Reporter* includes articles about CLE and the legal profession, and a detailed calendar of course offerings arranged according to subject area. Entries in the calendar portion of the *Newsletter* come from every corner of the country and each one contains a short description of the course subject matter, tuition, faculty, and complete information about the sponsoring organization.

The well-known weekly *National Law Journal*, published by the New York Law Publishing Co., provides a CLE Quarterly Directory which arranges programs according to subject area and lists sponsors, program topics, and dates. For each listing, the reader should contact the program sponsor to find out tuition fees and other registration information. The *Law Journal* also carries quite a bit of advertising from CLE sponsors eager to capture your business. For further information, write 233 Broadway, New York, New York 10279, or call (212) 964-9400. Subscription rate: \$48.00 for 52 issues.

It should be mentioned that, when attempting to do long-range CLE planning, it is essential that lawyers confirm with the sponsoring organization the dates, times, tuition, and other matters listed in catalogs. Many times sponsors must put out information well in advance, and last-minute changes can force the cancellation of a program or a change in the scheduled date or time.

Even with these limitations however, it certainly behooves the lawyer/consumer to plan a year's worth of CLE activities, at least insofar as lawyers can schedule anything. How else, for example, could a Washington state lawyer possibly plan on attending the *Caribbean Cruise* sponsored by the ABA Young Lawyers Division, which sails from Miami on January 4, 1981? Skiers might want to look into the seminar on *Organized Crime* in Colorado Springs on February 8-12, 1981. Travelers might want to tie in a well-deserved vacation to the British Isles for the *Comparative Law Seminar* in London next March.

One final suggestion. In addition to planning ahead, plan to *save* the program brochure, or to enter all relevant information about the program such as sponsor, credit hours, tuition fees, travel expenses, etc., in a separate file to be used in reporting CLE requirements and for tax purposes.



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Around the State

BENTON-FRANKLIN REPORT

By STEPHEN T. OSBORNE

Diel Rettig, the outgoing Benton-Franklin Bar Association President presided over the annual bar golf tournament and election of officers in September and announced the new slate of officers. President is **Gene Schuster**, **Don Clark** is the new vice president and secretary treasurer is **Bob Merriman**. **Tom Guess** was the tournament winner. Tom's golf clubs have been gathering dust since he had the tips of two fingers groomed by his lawn mower. Anybody knowing a good products man give Tom a call. **Steve Palmer**, a Gonzaga graduate known by many of the local bar when he worked at Fred English Juvenile Center has passed the bar and joined the firm of Leavy and Taber in Pasco, as an associate. Steve's wife **Linda** is currently attending Gonzaga Law School. **Barbara F. Marks**, a graduate of the University of Michigan and University of California School of Law has recently opened general practice in the TriCities. Mrs. Marks, admitted to the bars of Maryland, California, Washington, D.C. and the State of Washington, was previously a staff attorney with the Nuclear Regulatory Commission and the Department of Energy. **Alan D. Brecke** has become a partner in the firm of Raekes, Rettig, Osborne & Forgette. Congratulations are in order to **Greg Beeler** who is about to leave the bachelor ranks. **Dean Smithmore P. Meyers** recently appointed the Magistrate of the Federal District Court Eastern Division was the guest of honor and the speaker at our monthly luncheon meeting. Dean Meyers gave an informative and entertaining history about the position of which he now holds.

PIERCE REPORT

By ROBERT L. ROVAI

The blessed events are coming faster and more furious for the Pierce

County Bar Association.

Frank Ladenburg and his wife, Dee, recently added a new baby girl to their family, Angela.

The **Robert Taubs** also have a new baby girl, Julia Eaden.

While the **Turner** family has added a new attorney to the clan, formerly Richard, Michael and Peter now Richard, Michael, Peter and Robert.

Speaking of additions, the law firm of Rovai, McGoffin & Turner has just increased by adding **Gary Rentel** to their ranks.

In the transit department, **Cy Hemmen** has announced that he is leaving the office of Cohoe & Bottinger; and **Couture** and **Gelman** have departed company, Couture claiming that Gelman was keeping the books in Yiddish. **Fred Fleming** has left **Don McGavick's** office and set up shop with Billett, Comfort & Rosenow.

Nile Aubrey and **Robert Peterson** are both leaving the private practice of law to join the ranks of the Superior Court Judges for Pierce County. The rank and file will miss their smiling faces. Hopefully both will retain their even dispositions and smiling faces.

Al Malanca and **Dick Jensen** of the firm of Gordon, Thomas, Hon-eywell, etc. just recently finished their four month sabbatical leave. During this sabbatical it is my understanding that Malanca has grown by leaps and bounds.

I have it from reliable sources that **Curt Hilton** and **Tom Baker** have been setting all kinds of records at Oakbrook Golf & Country Club. I never knew either one of them played golf.

John Petrich has recently been appointed to the Washington State Court of Appeals, Division II, and has run unopposed for re-election. Keep up the good work, John.

Stan King, **Jim Mocer**, and **Jim Manza** are all smiles having added sons to their respective law firms.



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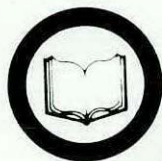
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1979 Corporations Handbook Supplement Available

Chapter 99, Laws of 1980 mandates certain changes to the Profit Corporation Act, Title 23A RCW. The changes that significantly affect filing requirements for profit corporations are available as a supplement to the 1979 Corporations Handbook published by the Secretary of State's office.

The supplement may be obtained for the nominal fee of \$1.00 by writing the Office of Secretary of State, Legislative Building, Olympia, WA 98504. Be sure to enclose \$1.00 for each requested copy of the supplement.

Notice

Due to changes enacted by the Washington State Legislature in Chapter 99, Laws of 1980, an initial annual report is now required for filing with Articles of Incorporation and for applications for Certificates of Authority for all business profit corporations.

The Office of Secretary of State has prepared a form for this initial annual report, which is required to be used after January 1, 1981.

In addition, the legislature increased the annual report filing fees from \$2.00 to \$5.00. These regulations may be found in RCW 23A.08.480 and 23A.40.020. Any questions can be directed to Helen Morris, Supervisor, Corporations Division, phone: (206) 753-7115. Requests for the above mentioned form, Form #ssf-21, also should be directed to the Corporations Division.

W.A.C. Revisions Clarified

Following are the latest revisions to the Washington Administrative Code pertaining to the administration of the 1% real estate excise tax.

King County will abide fully by these regulations, but there are two items of the W.A.C.'s that must be

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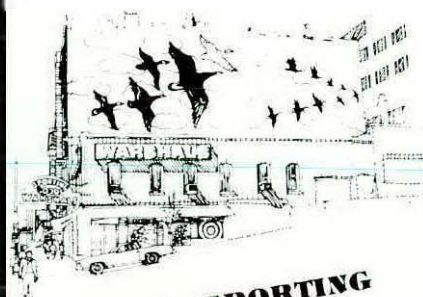
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clarified. They are:

1) Section 458-60-048, paragraph 1.

- (1) The real estate excise tax affidavit shall be required for (certain) purposes, *but the signature, under oath, will be required of either the grantee or grantor, but not both.*

King County will require all affidavits to be signed by either the grantor or grantee. No longer will we accept signatures of agents, attorneys, escrow officers, real estate persons, etc. on the 1% affidavit. These regulations will go into effect on 11-8-80.

2) Section 458-60-046, paragraph 7.

- (7) A properly executed power of attorney granted by the grantee or grantor which will suffice for the signature of either, but the grantor of said power of attorney shall

be liable for any penalties as if he had signed the affidavit himself.

A signature such as "John Smith, Power of Attorney for (grantor/grantee)" will be acceptable.

When a corporation is involved as grantor or grantee, a corporate signature will be required. "DuPont Corp., by John Smith, Vice-President", should suffice.

Because the Department of Revenue is still revising their proposed form, they have given all counties the freedom to choose the 1% form to be used until the State assumes that responsibility on September 1, 1981. To that end, King County will continue to use the single signature form for all transactions. The exception being the Classified or Designated land transactions. Those will require a supplementary form, available at King County, containing the Notice of Continuation signed by *both* grantor and grantee, and the sworn

oath also signed by both parties.

King County will accept all properly affected affidavits from all counties.

If you have any questions or need clarification on any portion of this letter or the W.A.C.'s, please call *Jim Weeks* at (206) 344-3964.

Washington Volunteer Lawyers for the Arts (WVLA)

Artists and arts groups are referred to lawyers for legal assistance by Washington Volunteer Lawyers for the Arts, Inc. (WVLA). Incorporated as a non-profit organization in May 1976, WVLA was conceived to meet the legal needs of artists and arts organizations in the State of Washington.

Attorneys interested in joining the WVLA panel please contact Barbara Hoffman, Washington Volunteer Lawyers for the Arts, UPS School of Law, 950 Broadway, Tacoma, WA 98402.

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Legal courses to be offered beginning January 5 are *Legal 105A*, Introduction to Law and Legal Processes, 5 credits and *Legal 207 S*, Domestic Relations, 4 credits (prerequisite Legal 105).

For more information call (206) 771-1685.

Graduate Tax Courses to be Offered

Golden Gate University's Graduate School of Taxation will offer seven courses in Seattle in the Spring semester which begins January 19, 1981 and ends May 2, 1981. Registration will begin December 11 at 310 Skinner Building, Seattle. New students should call (206) 622-9996 for an appointment.

The courses are open to qualified degree and non-degree students. Classes are limited to 24 students. Most of the students are accountants or attorneys. The courses are eligible for continuing education credits.

In Memoriam

William W. Montgomery, Jr., 69, of Seattle, died October 17. He was admitted to the Bar in 1935.

United States District Judge Morell E. Sharp, 60, of Bellevue, died October 19. He was admitted to the Bar in 1951.

Discipline

Notice of Disbarments

■ Benjamin N. Brunner, a Yakima attorney, has been ordered disbarred by the Washington State Supreme Court. Brunner was disbarred pursuant to a stipulation entered into between himself and State Bar Counsel and accepted by the Disciplinary Board. This notice is published pursuant to DRA 11.7(c)(1).

■ On October 9, 1980, Stanley B. Allper was ordered disbarred by the Supreme Court of the State of Washington. Allper was disbarred for repeated violations of (CPR) DR 9-102 by commingling client and attorney funds and failing to disburse trust funds to clients.

Allper was also held in contempt and reprimanded for continuing to practice law while under an order of suspension. This notice is published pursuant to Rule 11.7(c)(1) of the Discipline Rules for Attorneys.

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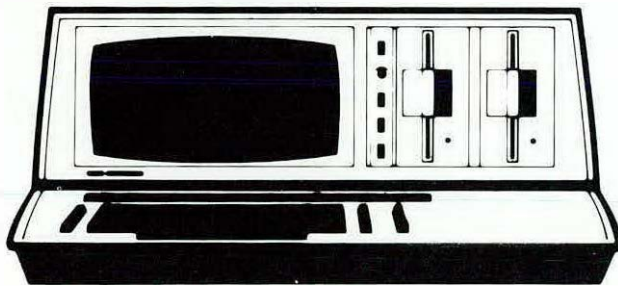


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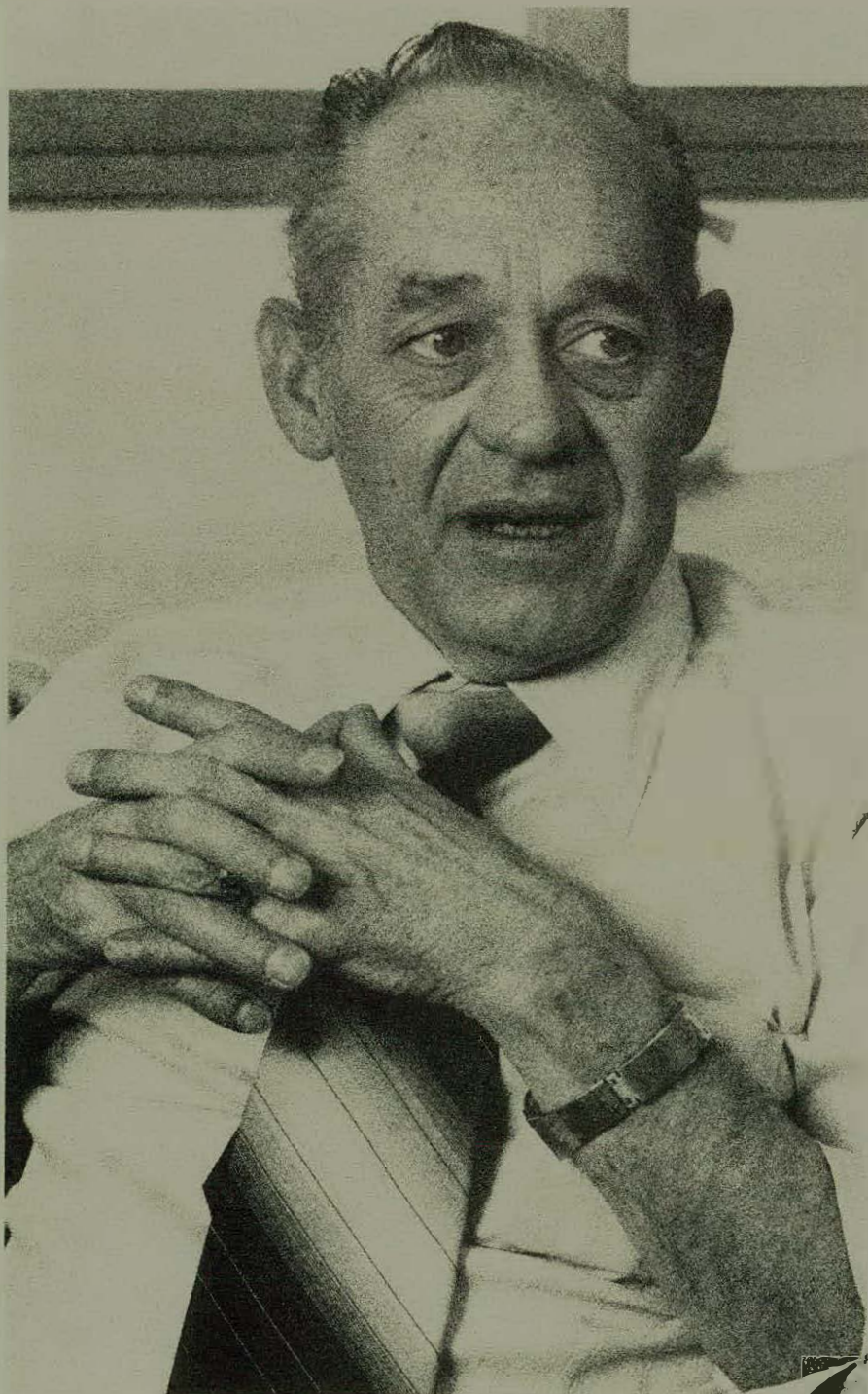
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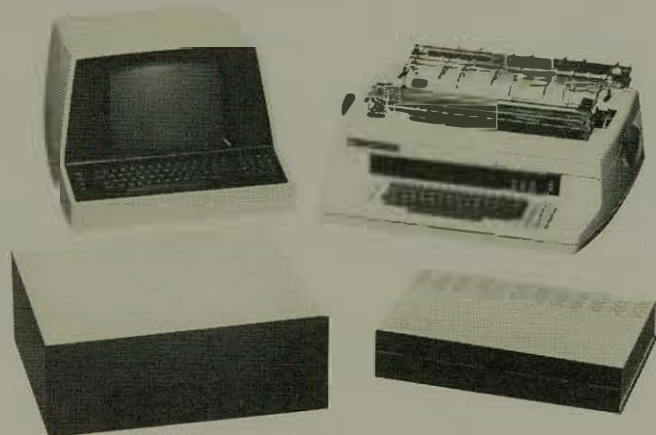
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