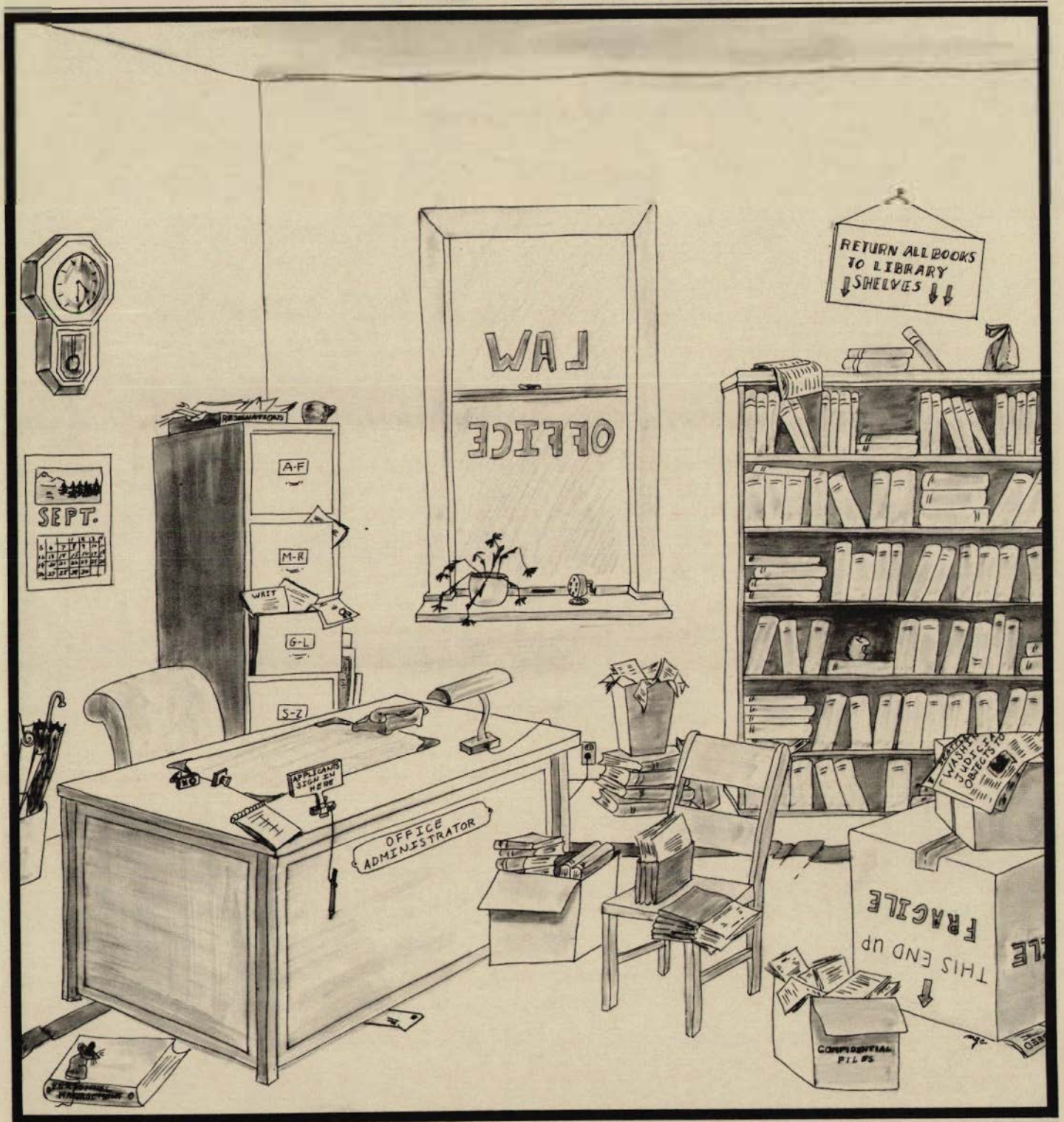


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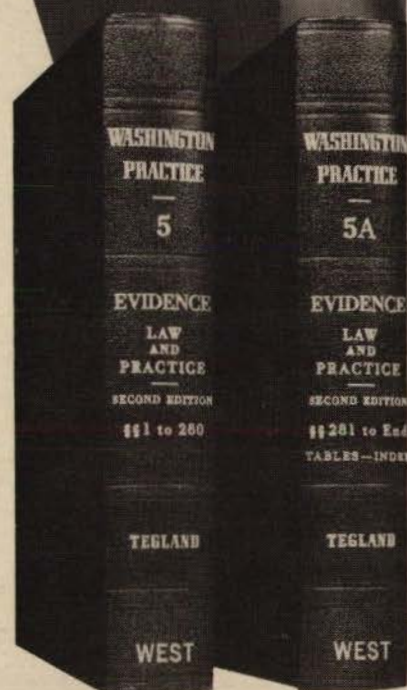


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Washington State Bar News

Volume 36, No. 9, September 1982

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Our Cover



Marie G. Creson, Assistant U. S. Attorney, Seattle, illustrates the perils of law office mismanagement. Our attention is directed particularly to the clean desk (no work done here?), the disordered "confidential files" box, the alphabetic filing cabinet (obviously computerized), and the fact that the office is already closed at 4:30. The artist assures us that she had no particular office in mind when she penciled this drawing.

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Letters to the Editor of reasonable length are invited. Such letters should be typed and signed. The Editor reserves the right to select communications or excerpts therefrom for publication and to edit any letter as may be appropriate.

Judge Eide Should Be Commended

Editor:

Although the Aukeen District Justice Court has not scheduled any civil trials for awhile (*Bar News* 36:7:5), some Judges have been scheduling settlement conferences on Saturdays to help dispose of cases. I attended such a conference last month, at which Judge Donald E. Eide heard a great number of cases single-handedly, also acting as clerk, bailiff, reporter, and receptionist.

All are hopeful that funding for a third judge at Aukeen will be available soon. Meanwhile, Judge Eide is to be commended for his voluntary efforts to expedite the case load.

DOUGLAS A. CROWDER

Seattle

Attorney's Fees to the Prevailing Parties

Editor:

I noted with interest on Page 51 of the June issue of the *Bar News* the proposal submitted by the Special Task Force on Attorney Fees to the Prevailing Parties' proposal, which would permit an award of reasonable attorney's fees, where a cause of action is brought without reasonable cause, or where one or more defenses are raised without reasonable cause. While I believe the proposed change is a step in the right direction, it does not go quite far enough.

In Alaska, the jurisdiction in which I previously practiced, attorney's fees are routinely awarded to the prevailing party under Civil Rule 82. The amount of attorney's fees awarded is on a sliding scale based on the amount of recovery, or if there is no recovery, the Court can consider

the amount of money sought by the Plaintiff in awarding attorney's fees to the defendant. Coupled with the aforementioned sliding scale there are three categories: Non-Contested (default) the lowest percentage; Without Trial (Contested); Contested (Trial), the highest; which are applied to the amount of recovery or the amount of recovery sought if there is no recovery.

If such a system for awarded attorney's fees were to be adopted in Washington, I think the following benefits would be noted: plaintiffs would want to give more careful thought to the merits of their cause of action prior to the filing of a complaint; and defendants in actions where they stand a moderate to substantial chance to losing at trial or summary judgment would have an incentive to settle at the early stages of litigation, to avoid the higher incremental levels of attorney's fees that would be awarded as litigation

progresses. In short, routinely awarding attorney's fees to the prevailing party should reduce the Court's case load and encourage settlement, in addition to providing attorneys with a strong case and a source of attorney's fees other than from their own client. We should try it; most of us would like it.

WILLIAM F. BULCHIS

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Law Practice Management Management

It is a writer's nightmare to submit something to a magazine and then never hear from the editor what he intends to do with it. The writer never knows if the article will appear in one issue or the next or if it has been mislaid, misfiled, or lost. Last year we recognized this problem and instituted a policy of letting our contributors know by pre-printed official-looking post-card mailers whether their contributions had been received and, if so, what we intended to do with them. We would use those post-cards, too, except that they appear to have been mislaid, misfiled, or lost.

As you are probably aware, the *Bar News* receives many more articles and letters than it actually prints. Frequently, an article or letter-to-the-editor is typeset in anticipation of immediate publication only to be bumped at the last minute because something else demands more immediate publication. You know what I am talking about if you have ever sat around the Presiding Judge's Department for a week or so waiting for a trial to go out.

Of course, there may be other reasons why your titillating letter-to-the-editor has never been published. It may simply be *too* titillating. Or, we may have discovered that your libelous smear of the Supreme Court bore the forged signature of opposing counsel. Most likely, however, if your article or letter has not appeared in print and you haven't heard "peep" from us, it is probably because it has fallen into the Twilight Zone of the editor's filing system.

What is this editor's filing system? Actually, it is nothing more than a brown Expando file; it certainly

does not deserve the nomenclature "system". It looks like any other brown Expando file floating about my law office, and for that reason I have oftentimes inadvertently brought your letters-to-the-editor with me to court instead of my trial notes. Somewhere in the Clerk's Office of Snohomish County, for example, you will find a proposed *Bar News* article or two docketed within the court files. More than one of your letters also have inadvertently been made exhibits to depositions. On at least one occasion I have crossed my *Bar News* mail with my business mail. Thus, opposing counsel (who had recently served me with a motion for summary judgment) received a pleasant letter thanking him for "his skillfully written, imminently persuasive analysis of the law;" whereas our poor *Bar News* contributor received a caustic letter blasting his "incomprehensible legal mumbo-jumbo and malicious misrepresentation for which I will demand terms!"

All of this points out the need for good law practice management. The following articles, though they might not help this editor keep track of your submissions to the *Bar News*, will give the average law practitioner valuable insight into how to do his/her job better and more efficiently.

A smart lawyer should know, for instance, how to hire good office personnel—like the secretary (worth her weight in gold) who can bully experienced opposing counsel into settling on *your* terms just by answering your telephone calls.

You should also know how to control your office calendar such that it does not happen that three lawyers

from your firm all appear at the same deposition in Dallas, Texas (which was, incidentally, cancelled), but no one appears at the deposition of your client in King County.

A clever attorney should know what books his law library needs and which ones he can borrow from the lawyer down the hall. If your legal briefs still cite Blackstone's Commentaries and Gilbert's Outlines of the Law, you desperately need to read this issue.

A shrewd law processor should know all there is to know about office computerization. A "hands-on" familiarity with computer technology can help you get your hands on those unpaid accounts receivable. If you are in the market for a law office computer system, you need to know what it will cost, whether it speaks legalese and whether it is lawyer/user-friendly.

The articles contained in this issue may not answer all your questions or solve all your firm management problems. They will, however, give you a leg up on some of the current practices of law office management and perhaps help you make your legal practice more profitable, more efficient and more enjoyable.

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Your Bar Association

I suppose past Bar Presidents have usually wanted their last column to be the "The Famous Final Scene." Most of them have had the wisdom to just get on with the job and then, at the end of the Annual Meeting, journey back into a normal life in the pursuit of the profession. Does the fact that we Washington lawyers are now closing out our first fifty years under the State Bar Act account for my decision to try and "say it all" in this final column? Probably not.

So, my friends, if you will share this column with the 30% of our members who don't read the President's Page, well, maybe—just maybe....

My friend and former Bar President Mike Hemovich said, as I embarked upon this year, "Things are good, maybe *too* good." Things *are* good, but, as we will see later, not *too* good.

Somehow, I want to explain the view that we Washington lawyers need a front-running, unified Bar Association. But how? I will write on and maybe it will come.

This year has been remarkable for a few accomplishments, but more significantly for what we have not lost. What we did lose was Eddie Friar, the premier Executive Director of this and other galaxies, and Martha Smith, now his wife, the lady who made the wheels turn once Eddie waved his wand on those red lights and turned them to green. In the wake of that, we inevitably lost part of the superbly qualified staff he brought together and who stayed together, knowing that one of life's significant sins would be to leave Eddie.

Kurt Bulmer, our General Counsel, moved on into the private sector. Kathy Vincent, Director of Professional Services, was lured away by Idaho to be their Executive Director. So we interviewed candidates from

all over the country and learned that the best was still here at home. John Michalik moved from CLE into the Executive Directorship. Bob Farrell stepped up a notch to become General Counsel, and ably so. Serni Reeves, who had seniority over both Eddie and Martha, and Marcia Caldwell began working miracles and, together with John's leadership and the assumption of greater responsibilities by Deborah Hofbauer and Katie Corrigan, bridged the gap at the top administrative level. Terry Foster came back from the ABA to run CLE (serves them right—they pilfered him away from us), and we hired another lawyer in the Legal Department, and the boat was again loaded and sailing well.

Wayne Wilson exhibited the finest of loyalty, looking away from job opportunities elsewhere, and has Public Relations running as well as anyone could, trying to market twelve thousand lawyers. Let's thank Cassie Short (daughter of former President Ken Short) for accomplishing even more under greater pressure. I want to credit Althea Stovall, a lovely, shy lady, for going high profile and doing whatever was necessary (handling lawyer referral, handling the reception desk with the telephone ringing incessantly), because she knew how to do it and knew some newcomer might not; and we must credit Shirley Archer for keeping our financial affairs in order so CPA Roger Wilson can stay with audits only.

I want to thank our entire staff of 36 for their unselfish, dedicated super-effort this year. Many was the time when I believed I was only doing a cut-and-paste job while the staff was gearing up and getting rolling to do the real work.

Why do these people do this? It's not the pay, I'll guarantee that. It is because, as a staff two-thirds the size of the staffs in other, comparable bar associations, they take pride in making us the best association in the business, and they take even more pride in YOU. That's right, these people

love you lawyers, and they think we have the best profession there is.

My year was blessed with what I believe to be the strongest Board of Governors in our history. I dreaded the inevitable departure this September of Seattle's Lee Campbell and Paul Steere, and Jack Dean from Spokane, all three probably future Bar Presidents. I breathe a sigh of relief, because you will be blessed with equally talented replacements in Bill Dwyer and Paul Gibbs from Seattle, and Joe Delay from Spokane. For frosting, we draw George Kargianis from the new Eight District, and that's not a step down in any league. These fellows will now team with Bob Beezer from Seattle, Pete Dewell from Everett, Dale Read from Vancouver, Jim Vander Stoep from Chehalis, Pat Comfort from Tacoma, and Tom Loftus from Seattle to see you through another year, with Paul Steere as your President.

So, things seem nicely in place for the Bar Association you need.

Why the need, you say? Well, for the discipline program, as one example, where we spend half of your dues money and where we have fairly gracefully survived the closest scrutiny of a hostile press, along with maintaining a quality relationship with a pressured and hard-worked Supreme Court. Self-regulation would not exist in this profession without your Bar Association. And where do you suppose those thousand-plus yearly complaints against lawyers, 93% of which are unfounded, would go then? And how much publicity—reputation-shattering publicity—would be given to even the unfounded complaint?

Apparently, the Supreme Court is about to adopt our new Rules for Discipline. This culminates a five-year effort requiring thousands of volunteer hours by the Disciplinary Board and Bar Staff attorneys that will give us the most efficient and effective rules in the country. We believe they present a balance between protection of the public and protection for a

THE DWI CLIENT: “JUST UNLUCKY” or ALCOHOLIC?

The answer is **Alcoholic**, in many instances, according to documented statistics.

Consider the following:

- “Almost two-thirds of the drunken drivers . . . could be identified as problem drinkers . . . (Journal of the American Medical Association Vol. 200, number 2, p. 129). Other sources cite 40% of first time DWI offenders as alcoholic, 75% of second time, and nearly 100% of third time. Simply put, if your client has had two or more DWI's the chances are he or she is not a social drinker.

- The average DWI offender is estimated to have driven with an illegally high blood alcohol level several hundred times before being arrested (National Highway Traffic Safety Council).

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falsely-accused lawyer, giving us the capacity to retain self-regulation within the profession.

In past columns, I have written of CLE, fee arbitration, lawyer referral, admissions, our legislative program, and the work of our committees, sections and special task forces. Just as significant have been our leadership positions in the ABA through our representative delegates, officers and former officers (Ken Short, Mike Hemovich, Llew Pritchard, Neil Hoff, Tom Dreiling, Bill Neukom, Dave Andrews, and Joe Gordon), in the National Conference of Bar Presidents, where Bill Gates is current national president, in the National Association of Bar Executives, where Eddie Friar was national president last year, and in the Western States Bar Conference, representing the seventeen western states, where David Hoff was president last year.

Your Bar Association has achieved a high-quality open liaison with the judiciary at all levels. We have given aid to the judges in many areas where they could not do so themselves, and this is recognized by them to have been a significant contribution by us to the betterment of an effective judicial system. The solutions that have been found to the problems of court congestion and delay come from your Board's committee. The Judicial Qualifications Commission is functioning smoothly because of us.

We have a high position of respect in Olympia, perhaps not as a "bunch of lawyers," but certainly for what we can contribute to the legislative process, and this is true although we have only seven lawyer-legislators.

So things *are* good—for now. You are allowed to practice law relatively free from regulation, and certainly free from unwarranted harassment, considering the way society functions nowadays; and much of this is because you are accountable to a unified Bar Association that is accountable to you and not to some other entity that does not understand the legal needs of a consumer public and the limitations

and/or capabilities of a legal profession to meet those demands in a cost-efficient manner.

Another Association service we should, and I hope will develop is one of a low-cost professional law office management advisory service, available to sole practitioners and small partnerships.

I foresee continued good times only if a couple of areas of activity are closely attended to in the immediate and long-term future. Of course, there is the ever-present threat of control over the profession being taken from lawyers (and the Courts), and vested in a governing body of non-lawyers who lack the expertise and the aptitudes to know what makes lawyers tick and what programs, regulations and latitudes are in the public interest. This could come at any time from almost any place, be it Constitutional amendment, federal agency intrusion, federal legislation, state sunset legislation, or yes, successful challenge through the Federal or even State Courts. The answer to that one lies not in keeping pace, but in keeping ahead of the pace, as we have done for you, in order that the collective knowledge and wisdom of your leadership, as expressed through our programs, actually shapes the future.

The more subtle, yet more real, threat to the future of our profession as we know it comes from within. It can foment only from an apathetic membership. I really don't know how many lawyers in this State care about the Bar Association, would defend it, and would be concerned enough to stand behind it. I speak not of lawyers who are involved in Bar activities; I speak of you thousands whom we serve and whom we desperately need to be members of this great team we have in Washington.

Inevitably, it is the nature of lawyers to question, to criticize, and to intellectually dissect every concept. By training, and probably by nature, we believe that if all valid arguments are presented on either side of a proposition, then things will work out

fine. Well, that *is* fine so long as we have wisdom reposing above those arguments so that a decision can be made, and someone is there to make it. But between you and your Bar Association, *you* must be the judge. *You* must decide whether or not the profession needs a Bar Association to function as liaison between twelve thousand independent, free-spirited intellectuals on the one hand and all segments of society, friendly and hostile, on the other hand. Your professional future is at stake.

Fragmentation is the threat, and the times promote it. Our philosophy tells us that if we take a collection of adverse views and place them into a melting pot and stir, we produce a marvelous stew. The reality of today is that more and more the computer is doing the stirring, and perhaps there are now too many numbers of lawyers sampling the stew to allow us to maintain both the quality and the quantity.

Coming fresh from the ranks, the sticks, five years ago, and having served on the Board of Governors, chairing the Disciplinary Board and now finishing as your President, my cumulative observation is that we have to move together now, more than at any other time, in order to preserve our place in society. I am convinced that this can best be done through a unified Bar Association. The delivery of our services to the public in the most efficient form can be realized only by a membership that takes pride in, is loyal to, and is enthusiastic about its Association.

I believe that in Washington, where we have the best of almost everything in the profession (including, this month, the number one Convention in the country in terms of membership attendance), our membership will respond to the challenge of the 1980s and beyond, in order that we might retain the practice of law as we now know it.



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Records Management: The Key to a Successful Legal Practice

by Jane Cargill

The foundation of a successful legal practice is information: up-to-date, accurate information which can be obtained at a moment's notice. It may have to be extracted from any one of a number of sources, such as libraries, case files, automated data bases, accounting records, personnel records, briefs, or memoranda. The speed with which information can be retrieved from any one of these sources varies with the size of the firm and the quality of its information systems.

To many attorneys, the term "information systems" has little or no meaning, and "records management" is an unknown quantity. If the words "information systems" are familiar at all, they are assumed to refer to automation. Almost always, attorneys hearing these words think of litigation support, or legal research data bases. Often, they think that only a large firm can support and benefit from such services.

In fact, an "information system" is simply a mechanism used to facilitate the flow of information through the organization. Such a system exists in every office, regardless of its size. The system will be less complex in a small firm than in a large one, but every business stores and handles information. Every organization needs the capability to safeguard, transmit, and retrieve information in a timely, cost-effective manner.

Because information is the backbone of an office, and because its storage and transmittal can be so expensive, knowledgeable office managers have become very aware of records management and managers. They know that a records management program, utilizing work simplification techniques and standard procedures, can cut their information-handling costs while increasing their efficiency.

A particularly astute office manager may take a personal interest in records management, because of its financial impact on his employer. However, records management is a highly technical field. Keeping up with new developments requires more time than most office managers can spare from their other responsibilities. Because of this, many office managers prefer to bring in a consultant to solve their information retrieval problems, and train the firm's staff in systems maintenance. In either case, the office manager must know the basics of records management.

An information specialist uses the term "records management" to refer to the process of designing, implementing, and maintaining an information system which utilizes standard procedures to accomplish a specific purpose in the simplest, most efficient, most cost-effective manner. This article describes the sort of information-handling system typically found in a small or medium-sized law firm. It is intended to help the manager evaluate the quality of the firm's present systems, and to aid him in making informed decisions about those systems.

The following are common elements of a legal information system:

- Information-gathering system
- Filing system
- Library

Jane Cargill is a former law librarian and corporate records manager, and has been an information professional since 1971. She has designed college and special libraries; developed in-house micrographics programs; designed and implemented an automated corporate indexing system which integrated information from libraries, files, hearings, and oil well logs; developed college and special library collections and systems; and designed a reference network system for a Canadian province. She is a graduate of the University of Washington's School of Library Science.

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- Forms management program
- Micrographics program
- Vital records program
- Word processing/Computer systems
- Litigation support systems

The majority of small and medium-sized law firms do not need, or have, automated systems or complex litigation support systems. For that reason, this article will concentrate on the other elements of the information system.

Every organization needs the capability to safeguard, transmit, and retrieve information in a timely, cost-effective manner.

The components of an information system vary with each firm's size, type of practice, financial parameters, and the preferences of its practitioners. However, every firm has information-gathering procedures, a filing system, and forms. In smaller firms, these are usually designed by an amateur (the office manager or the accounting staff) who is unaware of the need to design a system which will grow with the firm, thus obviating the need for costly, major revisions of the system in the future. This person is rarely cognizant of the need to use standard information-handling procedures which greatly reduce retrieval time and costs. However, he will probably be aware of the system's adequacy or inadequacy, because the system's users are constantly applying the test of adequacy: "Does the right information reach the right person at the right time? If the system proves inadequate, the manager must decide how to revise it.

The information professional determines which services are needed by a specific firm, and what sort of systems can best provide these services, by seeking the answers to some very specific questions:

- What information does the firm have?
- Where is it located? In what format?
- Who generates the information? Where?
- Who uses the information? How?
- How does the information pass from user to user?
- How long should the information be kept, if at all?

The answers to these and other questions tell the experienced systems analyst what will be the simplest, most efficient, and most cost-effective system for a specific firm. The analyst (or manager) must then tell the firm's partners or management committee what options are available to them, what they will cost, and what benefits each option offers, so that an informed choice can be made.



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Once the desirable options have been chosen, systems design begins. The first step is to examine the mechanisms by which various departments within the firm gather information. For example, the opening of a new matter requires that certain information be gathered about the client: his address, phone number, etc. If the firm consists of several attorneys practicing in various areas of law and working with different types of clients, additional information may be requested: client and matter type, the area of law, and so on.

The accounting department needs specific pieces of information as well: client/matter number, billing/responsible attorney, retainer period/billing frequency/pro bono/fee arrangement, and fee/retainer amount. It is not uncommon in a small or medium-sized firm for these pieces of information to be transmitted individually, and over the telephone. The secretary advises the bookkeeper of the new matter, the bookkeeper calls the secretary back to give her the billing number, and so forth. This is a very inefficient operation, and its hidden costs are high.

If the firm has a Central Files system (as opposed to a central files storage area which is unsupervised), there is probably a file clerk who will need specific information

in order to open and index the file. He must determine what to put on the labels for the file folder and its inserts, how to index the file, and what size the folders should be.

The most efficient way to gather this information, and facilitate its flow through the office, is to design a multi-copy, integrated form which will pass from secretary to accounting to files, with each department adding to the information on the form. The result is a complete "history" of the new matter, which may be permanently retained as a primary source.

A filing system does not have to be centralized in order to be efficient.

Another essential component of an information system is a filing system. In a very small firm, it may be satisfactory to file by client name. This is a "direct access" system, which eliminates the need for an index, and delineates the contents of the file folder. As the number of files handled increases, it becomes more and more desirable to file numerically, or alpha-numerically. A numerical system does require an index, but the system's consistency is easier to control, and less skill is required of file personnel.

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A filing system does not have to be centralized in order to be efficient. The information professional determines whether a Central Files system is desirable in a given firm by evaluating the physical facility, user needs, and the type of equipment and filing supplies already being used by the firm. Through discussion with attorneys and staff, a desirable level of service is defined. For example, some attorneys request that the filing system have a built-in tickler system, and that the file clerk generate tickler memos on a regular basis. Others prefer to retain this responsibility themselves, or have a senior secretary perform this function.

The most desirable method of organizing the files will be chosen after consideration of volume of work and usage patterns. File retention schedules and circulation control systems are vital to the operation of a filing system, if it is to be efficient and reliable. Active, inactive, and dead files are most effectively stored in varying ways. An active file may be retained by the responsible attorney until the case is concluded, and the fact that the file is used daily justifies its retention in costly office space. An inactive file may be accessed as little as once a month, or less. These files should be housed in less costly off-site storage space, as should dead files which need to be retained for a lengthy period of time.

If files are not controlled, they cannot be found when needed.

If a firm has a Central Files system, and a trained file clerk, it may choose to rent off-site space from a moving company, or in a warehouse. If the firm is too small to maintain a clerk to handle files and indexing, it may want to evaluate the services offered by a commercial records center, which will not only store but index records at a reasonable cost.

In either case, the files must be indexed properly, or the firm will find itself unable to retrieve materials at some time in the future. To preserve accessibility, it is also necessary to ensure that files are not removed from a central storage area without being checked out, and to establish and maintain a file orientation program for the firm's staff, so that they will understand the importance of the system and how it works.

A procedure manual should be written for the filing clerk and he should be trained in standard filing techniques. *For a system not consistently maintained will soon cease to function.* The file clerk will be directly involved in the creation and indexing of each file, as well

as its maintenance during its useful life. He will oversee the daily operation of the established system: the weeding, the tickler system, the removal of documents from a file for high-security storage, and the eventual authorization and recordation of the file's destruction when it is no longer needed.

In firms which do not have file clerks, these same operations must be done or supervised by a senior secretary or an attorney. If files are not controlled, they cannot be found when needed. If files are not destroyed when they have out-lived their usefulness, the volume of material stored by the firm grows and grows; and soon the firm is paying to store information which it doesn't need. This is true not only of case files, but also of financial records, personnel records, and all the other information generated and handled during daily business operations.

For the law firm, a library is an integral part of information handling. Some firms find it more economical to utilize the services of external law libraries than to maintain a large in-house collection. Even these small firms, however, must handle internally generated materials such as briefs, memoranda, and reports, which are essential to the conduct of their business. These, like files, must be gathered, indexed, and stored in systematic fashion, or they are valueless to the firm.

Small firms often have a rudimentary law library, the daily operation of which is supervised by a secretary, paralegal, or clerk. Many such firms hire a law library consultant to handle the matters for which a non-professional is not trained. Such consultants have degrees in library science and broad practical experience. Their services include:

- Collection development
- Acquisitions programs
- Serials control programs
- Circulation control
- Cataloging the collection to facilitate retrieval of materials
- Recommendation of micrographic equipment and materials
- Library administration (personnel management, policy/procedure manuals, and budgeting/accounting)

If the firm is establishing a new library, or moving into new quarters, the consultant will also design the facility, and select appropriate furniture and equipment.

Medium-sized or large law firms, which have full-time professional librarians, offer their attorneys a broader range of library services, including reference and research assistance, and current awareness services.

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A fourth component of a legal information system is a forms management program, which ensures that the forms used by the attorney are current, and always available to him. A forms management program controls the cost of forms by consolidating the number and types of forms used, as well as consolidating the purchase of them. Administrative forms (as opposed to legal ones), used to transmit information from one department or person to another, may be designed by an information professional, in order to ensure that the information they store and convey is gathered and handled in the most cost-effective manner.

Whether the forms collection is managed by an information professional or by a staff member, certain functions must be performed in order to maintain the value of the forms collection. The collection must be developed in a way that meets the needs of its users, and the forms must be audited regularly to verify their currency. The collection must be organized and indexed, so that the user can easily retrieve the form he needs; and an acquisitions system must be established so that forms can be re-ordered when needed.

In a firm where space for records storage is limited and a substantial volume of records must be kept for considerable lengths of time, a micrographics program may be beneficial. Often, a vendor will tell a prospective client that his records management costs can be substantially reduced *simply* by converting paper records to a fiche or film format. This statement should be evaluated very carefully, and feasibility studies should be done before a decision to convert is made.

Few firms store a large enough volume of records for a long enough period of time to break even on the cost of a microfilm conversion project. If cost-benefit analyses are done, a firm will usually find that the major benefits to be derived from such a program are 1) space savings, and 2) increased security for vital records. In such cases, a selective conversion project is recommended, with only certain records groups which require careful protection and preservation being filmed.

Whether or not a firm is considering the use of micrographics for records storage, it should take a look at its vital records: those which are essential to the reconstruction or continuation of the firm's business. Consider what action you would take if you suddenly lost part or all of the firm's:

- Financial records
- Personnel records
- Executed documents
- Time inventories
- Stock/bond certificates

- Corporate minute books
- Exhibits and evidence
- Insurance policies
- Word processing/Computer software

If these records were damaged, could you:

- Reconstruct the information that had been destroyed?
- Conduct a salvage operation, which requires both technical expertise, and a permanently retained stock of chemicals and other materials in-house?
- Retrieve "secure copies" of this information from an off-site location?

If your answer to these questions is "No", you should consider the immediate implementation of a vital records program, which would:

- Identify your vital records
- Protect them from fire/earthquake/water damage
- Include the preparation of a disaster plan, and familiarization with salvage techniques
- Establish and implement secure handling procedures for your vital records

It is a natural, human tendency to feel that disaster never strikes at home—that the office which burns or the building destroyed by an earthquake is never your own. We tend to forget that disaster can be caused by a water pipe in the ceiling of the Central Files room, which breaks at 10:00 on Friday night, and isn't discovered until Monday morning. It doesn't occur to us that a sprinkler system may malfunction and soak 100 cubic feet of files in a very short time. These are very real possibilities, and an administrator with foresight will take care to make the firm's staff and attorneys aware of them.

It is a natural, human tendency to feel that disaster never strikes at home—that the office which burns or the building destroyed by an earthquake is never your own.

Foresight, and preventive measures, may keep a potential disaster from actually becoming one. Make your staff aware that notes written in a file in felt pen, if water-soaked, will not only self-destruct, but will also destroy the materials adjacent as the ink spreads through them. Think about the action you will take if some of your records are water-damaged. Learn what expertise exists in the community in which you live, and find out what resources will be available to you in an emergency. *Most of us will never need to know, but those who do will be grateful that they invested in this particular form of "insurance."*

Earlier in this article, word processing, computers, and litigation support systems were mentioned as components of a legal information system. Since this is a very brief article, and many experts on these systems are available, the particulars of them will not be addressed. It is recommended, however, that you realize that such systems can be very expensive and very complex. Untrained personnel should not attempt to design such systems, nor should they purchase them without first consulting experts. It is a full-time job to keep up with the technological changes in these fields and a poor selection could be extremely costly to your firm.

In general, you should have no trouble making information-handling decisions within your firm if you keep a few guidelines in mind. First, maintain constant awareness of the needs of the firm as a whole, and consider the impact of any one of the components of an information system upon the rest of the firm. Look for multiple uses for equipment and supplies. Cut costs by handling materials in an efficient manner. Be aware of "hidden costs," and use cost-analyses to confirm your initial impressions. Use a common-sense, analytical approach; and if you aren't sure, consult an expert. Your initial investment will be small compared to the cost of implementing an inadequate system which must be revised repeatedly in the future. □

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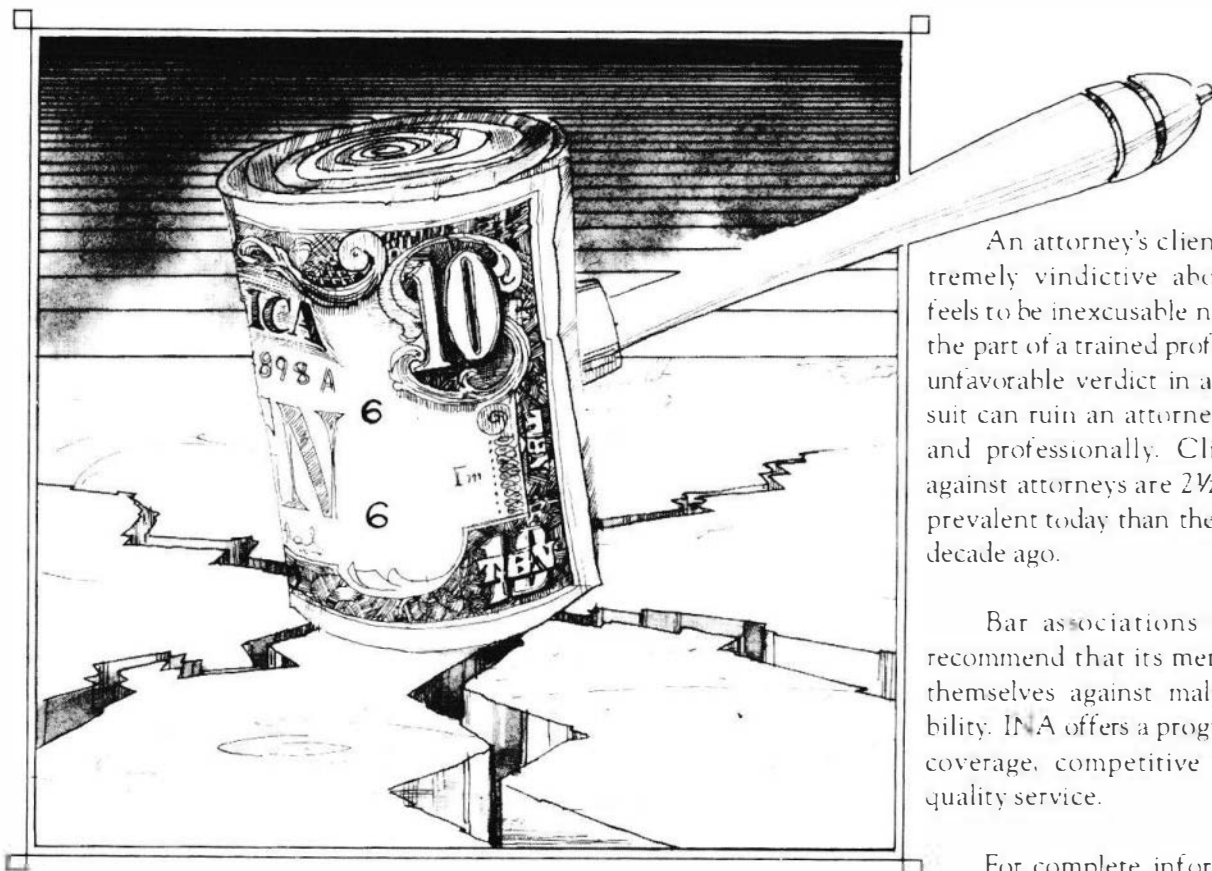
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Caseload Management

by Rita L. Bender

In the last several years, attorneys have become increasingly aware that the obligation to practice law within the confines of ethical constraints means more than a broad injunction to avoid wrong doing or the appearance of impropriety. In 1969, the Model Code of Professional Responsibility was adopted by the ABA, and within a few years it was enacted, with some modification, by the various states. The State of Washington Code of Professional Responsibility (CPR) became effective January 1, 1972. The Code was the first attempt to provide working definitions and specific restrictions to the old Canons of Professional Ethics which had been in effect since 1908. The ABA is currently in the process of a major revision of the 1969 CPR, which will clarify and further enumerate the ethical restraints upon the legal practitioner.

In Washington, the Discipline Rules for Attorneys (DRA)—those rules which establish the procedures whereby attorneys charged with violations of the rules of professional conduct are tried and sanctioned—also have been revised and the revisions are now pending adoption by the Supreme Court. The Discipline Rules for Attorneys which are currently in effect were adopted by the Supreme Court of the State of Washington effective February 3, 1975. Now, less than seven years later, the State Bar Counsel expresses a need for major revisions. Perhaps increased attention to questions of attorney ethics and the profession's capacity to regulate itself have led to a close examination of the DRA presently in effect, and have highlighted needed changes. Certainly

several recent and notorious cases of attorney misconduct have resulted in public scrutiny, but although the news media report on cases which sound in fraud and deliberate deceit practiced by attorneys upon their clients, most of the matters which are heard before the State Bar Disciplinary Board are in fact the result of *poor legal work management*—missed filing dates and statutes of limitations, neglected claims, unprobated estates. Many of these are not deliberate defalcations, *but instances of malpractice resulting from too much work and too little control over it.*

Those of us who graduated from law school prior to 1969 probably had no formal instruction in ethics. But the dramatic rise in attorney malpractice litigation and in disciplinary proceedings indicates that each of us must give careful thought to the way we structure our practice of law, in order to maximize our avoidance of ethical violations, or outright malpractice. There is far more risk for the public stemming from attorney neglect or mismanagement than there ever will be from crooked dealings.

Rita L. Bender is in private practice in Seattle. Admitted to the New Jersey and Washington Bars, she has engaged in a variety of public practice, including the Public Defender's Office of Newark, N.J. and in Seattle. She taught for three years at Rutgers Law School in Newark in a clinical law practice, and more recently was the regional Director of the Legal Services Corporation in Seattle.

Ms. Bender served for four years on the Washington Bar Association Code of Professional Responsibility Committee, and was the Committee Chairperson in 1980-81.

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This article offers but a few of the precautions which attorneys may take to tighten the management of their practices. Some will find that they are already following such procedures, while others may believe that the suggestions are too burdensome to be adopted. I urge thoughtful examination and the consideration of potential adaptation to particular practices.

The Washington State Bar Association has published guidelines for trust account procedures. The mechanisms for establishing a sound trust account have been written about before in the *Bar News*. There is guidance available through the State Bar office on particular questions, and it is my assumption that the need for careful maintenance of funds held in trust is recognized by all of us.

Certainly most lawyers do not think of themselves as engaged in unethical practice, and a suggestion that shortcomings in legal work management might lead to disciplinary proceedings would be met with shock. But attorneys in this state have been severely disciplined for assuming caseloads beyond their capacity to adequately prepare, or for failure to pursue their clients' interests in a timely fashion. Specifically, it is a violation of the Code of Professional Responsibility, DR 6-101(A)3, for an attorney to neglect a legal matter entrusted to him/her and it is a violation of DR 6-101(A)(2), to handle a legal matter without preparation adequate to the circumstances. *The Washington Supreme Court has held that a heavy workload is not an excuse for neglect of a client's interests, In re Loomis, 90 Wn.2d 98 (1978).* Not only is a failure to act competently a violation of the ethical code which, in extreme situations, could lead to suspension or disbarment, but attorney malpractice claims for missed statutes of limitations have reached staggering proportions. Many such errors arise from failure to institute a simple tickler/docket control system.

With the advent of sophisticated word processing equipment, it really is relatively easy to develop a docket control system which will serve as both tickler and monitor of caseload size. Those offices without such equipment can accomplish the same ends with the variety of forms which are available commercially for tracking the progress of each case, and by periodic review of caseload size for each attorney. The difficult part of caseload control is not the collection of the information, but the discipline within the office to act upon it, reassigning responsibility for matters when a particular caseload is too high, requiring that work undertaken be completed in a timely fashion.

During the years I practiced public law (law in an institutional setting), I believed that private attorneys knew how to manage their practices. The profit motive, if nothing else, I thought, had led to organized caseloads. It has come as a surprise to me that while many firms do

indeed manage their legal work well, some do not. Simple docket control systems, including ticklers and adverse party indexes, are absent from too many practices. Large numbers of cases are assumed, and clients are promised results which their overworked lawyers can't deliver in a timely fashion. If legal work management procedures were instituted, the flow of work could be better controlled.

Many lawyers, including those in moderate and larger firms, tend to do their work in isolation from others. Their clients often come to them directly, and the problems presented are resolved by the individual practitioner, as if he/she were practicing by himself/herself. The isolation is even more dramatic for the sole practitioner. As a profession, we have been aggressive in protecting client confidentiality, but one unfortunate result has been the frequent failure to provide for in-depth discussion or review of work in progress. Although it is clearly possible to structure case review in a manner which protects the confidences of the client, the need for confidentiality is sometimes used as an excuse for avoiding review. Even young associates in larger law firms often are not immersed in a setting in which their work is consistently and systematically reviewed. It is likely that the economics of practice have created a reluctance to take the time which such review entails.

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New doctors are taught to practice medicine by means of a clinical experience in which their diagnostic and other skills are observed, critiqued and refined. Even after graduation from medical school, and well into professional practice, doctors submit their judgments about their patients' problems to staffing, wherein their decisions are reviewed by a group of peers and/or more experienced practitioners. Lawyers have only begun to adopt this model in the few clinical teaching programs at some law schools. Many lawyers have not experienced a clinical teaching program, and even if they have, the legal problems they encounter as practitioners are much more complex than those they worked upon as students.

The notion of regular case review has not been a part of private law practice. It is a method of practice which has been attempted and refined in some of the more effective public law entities—a number of legal services programs and defender offices around the country have been trying various methods of peer review and evaluation for several years now. Granted that such practices are not subject to the same financial constraints as are private firms, the pressure of high volume practice exists. The public offices' need grew out of a recognition that high volume practices must be controlled if clients are to be adequately served. The experience has been that while the quality control mechanisms have been costly when first instituted, they do result in more effective legal work. Cases which should not be litigated can be weeded out and resolved in less costly fashion, practice and procedural issues can be confronted early in case preparation, and strategies thereby plotted.

Private law firms likewise should be establishing in-house supervision and training programs. Work plans might be developed for each new entrant which chart an evolutionary growth from novice to experienced practitioner. Experienced practitioners could be given definite responsibility for critiquing the work of their younger colleagues, not merely the cursory review prior to signing pleadings and briefs which in some offices is the present custom. Similar cases can be subject to team discussion and the development of litigation plans. More experienced practitioners, whether or not they have responsibility for review of new lawyers' work, might themselves be subject to periodic review by their peers. Sole practitioners, or attorneys in small firms, may find it useful to associate with other attorneys whose skills they trust, for purpose of periodic case review.

One of the methods for reducing the time taken for case review is the use of opening file memos in all but the most routine cases. File memos can be used to memorialize the individual case work plan, thereby establishing a strategic approach to each client's problem from the outset. Periodic attorney review can then be

accomplished, at least in part, by an examination of opening file memos, with an eye to the timeliness of steps taken to accomplish the goals originally set forth. Review of the memos can also be a means of identifying attorneys who are unclear about appropriate procedure or strategy for achieving their client's particular purposes.

While the program I describe is costly, if measured as a short term event, a law firm which consistently followed such a practice for the development of the talented new lawyers they have worked so hard to recruit would be likely to find that over a period of several years their neophytes had matured more quickly and more competently into polished attorneys. Experienced practitioners who participated in such a practice would be less likely to feel their own skills growing stale and their reactions to problem solving becoming too routine.

Happily, it is true that most lawyers will never be charged with malpractice and will never be in violation of the attorney disciplinary rules, even if they do not engage in formalized case review, and even if their docket systems are not completely trustworthy. But some few will find themselves in that predicament, not because they are necessarily less wise or less effective lawyers than the rest of us, but perhaps because just once they were too busy, too harried to see the solution to their client's problem, or to move it in a timely fashion. □



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Managing Your Small to Medium-sized Private Law Library

by Denyse I. McFadden

With the current price of a single volume of the *General Digest, 6th Series* costing nearly \$60, or a year-long subscription to the *CCH Standard Federal Tax Reports* costing nearly \$800, it is clearly important that the investment in your private law library be managed carefully. It is the intent of this article to give you guidelines for good management and to aid you in determining when it is expedient to hire a professional librarian for that management.

Administrative Structure and Support

Any firm of more than five or six attorneys needs to begin sharing its individual library resources and making them easily accessible to all people within the firm. A core collection for a firm of this size in Washington state would include the *Revised Code of Washington* or the *Revised Code of Washington Annotated*, the *Washington Reports* (preferably both the first and second series), the *Washington Appellate Reports*, the *Washington Digest*, *Shepard's Washington Citations*, *U.S. Law Week* and appropriate court rules. Beyond this core, the variables and choices are limitless. It is, therefore, important that early in a firm's growth a Library Committee be included in its organizational structure to sensibly develop the collection.

Ideally, a Library Committee would consist of at least one partner, who would serve as a liaison with the Executive Committee or Managing Partner, and one associate, who would provide the prospective of a frequent library user. The members of the Library Committee should be professionally interested in the library and should be willing to give the necessary time to address its needs. The primary function of a Library Committee is to review all requests for new acquisitions;

no books should be purchased without Library Committee approval, thus preventing duplication and avoiding haphazard collection development. When the firm ultimately hires its first professional librarian, the Library Committee would continue to act in an advisory capacity for new acquisitions in addition to providing the librarian guidance in all aspects of library management.

Personnel in the Library

Library Assistant

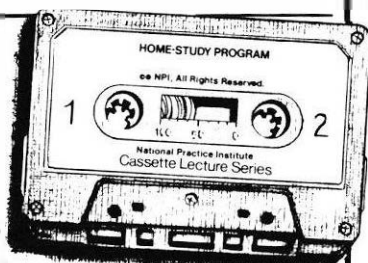
Initially, most small firms will not require the services of a professional librarian. However, all libraries, if taken seriously, should have a specific individual assigned the responsibility for its maintenance. If this individual, your library assistant, has other responsibilities (as a legal assistant, secretary, or receptionist), he or she should nonetheless set aside a definite time every day to spend in the library. The responsibility should never take second place; otherwise, you may find your recent

Denyse I. McFadden has been a librarian with the Seattle law firm of Lane, Powell, Moss and Miller since 1975. She holds a Bachelors of Arts in English from Whitman College and a Masters in Library Science from the University of Washington.



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RCWA pocket parts stashed away in a closet six months after receiving them. The most useful tools for the library assistant will be *A Manual for Small and Medium-Sized Law Libraries* and the *Manual of Procedures for Private Law Libraries* described in the bibliography at the end of this article. Parenthetically, it is generally not a good idea to assign the responsibility for the library to a new associate. New associates are more interested in practicing and learning about the law, not in managing the library; the library will often be lowest on their list of priorities.

Your First Professional Librarian

"A law office can afford to hire a librarian whenever the value of the hours that the librarian saves all lawyers in the office approximates the librarian's salary. . . (or hourly rate). . . Most of the time that a librarian saves lawyers—and the savings range from ten to twenty hours a week—lawyers can use for billable work." (p. 350-351 *Legal Research and Law Library Management*.)

By the time the firm grows to ten attorneys, you should consider hiring your first professional librarian, if only on a part-time or consulting basis. Through efficient and careful management, the librarian can save attorneys from wasteful and fruitless efforts to locate library materials.

A professional librarian is one who has (1) a four-year college degree and (2) a graduate library school degree (Master of Librarianship or Master of Library Science). The master's degree assures you that the individual has had training in acquisitions, cataloging and classification, collection development, personnel management, budgeting, reference materials, interlibrary loan procedures, and computer technology. Preferably a private law librarian will have also had courses in legal research, legal bibliography and government documents, as well as experience working in a law library.

The responsibility should never take second place; otherwise, you may find your recent RCWA pocket parts stashed away in a closet six months after receiving them.

What a Professional Librarian Offers Your Firm

Records Systems and Procedures

Initially, the librarian will set up a number of systems to assure the smooth operation of the library. If not already established, a circulation system for checking material out of the library and returning it to the shelves

will be developed. This may simply be accomplished by preparing a log sheet or more traditionally by using cards and pockets.

Procedures for checking in subscriptions will be established to verify receipt of all issues or releases. Included in this system will be the routing and circulation of advance sheets, newsletters, periodicals and law reviews of interest to individual attorneys or staff throughout the firm.

A card catalog will be established so that any user will know what materials are available in the library. In conjunction with the catalog, a classification scheme will be selected or the materials will simply be arranged by general subject area.

A professional law librarian will also be able to prepare a system of indexing the attorney's work product in the form of legal memoranda, opinion letters and briefs with the intent that all significant research done by any attorney in the firm will be available to any other attorney working on a similar problem.

Other activities may include establishing policy and procedures for sending material to the bindery; weeding the collection of unused or out-of-date material; developing and maintaining a forms file; and developing and maintaining pamphlet and clipping files.

Supervision of the Library Assistant

Under the direction of the librarian, the library assistant will handle most of the day-to-day, routine operations of the private law library and see that the systems established are followed. These responsibilities include check-in of the mail, routing of periodicals and advance sheets, regularly shelving books and maintaining a neat appearance in the library, filing looseleaf services and replacing pocket parts, and processing new materials.

Interlibrary Loan Procedures

Because no private law library will contain all of the materials your attorneys need, it is most helpful to have a professional librarian familiar with resources outside the firm; librarians are trained library users and know how to take full advantage of resources in other libraries. In addition to borrowing from your local county law library or law school library, the librarian will direct your needs to sources such as the state law library, the state library, the local public library, and the various college and university libraries. He or she will have professional contact with many other librarians not only in your city and state but in states throughout the country and will be able to draw from their collections. Through training and professional development, the librarian will be familiar



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with computer data bases not generally associated with legal research (Lockheed's DIALOG, SDC/ORBIT, OCLC, and Disclosure, Inc. to name a few) and may be able to apply them to your needs.

Space Planning and Physical Layout

Often a librarian is hired at the time a firm is preparing to move to a new location. Planning for a new facility and moving the library are arduous tasks; this is an excellent time to benefit from your librarian's training and experience. A librarian may be able to offer a variety of space saving ideas, including the use of microforms, double shelving, different types of storage, and the best arrangements for shelving. In addition to knowing about standards for good lighting, adequate seating capacity, the advantages and disadvantages of metal and wood shelving, the librarian will be able to help a firm predict its future space requirements for the library.

Common or Shared Library Facilities

With the spiraling costs of maintaining a private law library, more firms are investigating sharing library resources on a formal basis. There are two interesting well-written articles on this subject: (1) "The Formation and Operation of a Common Library," and, (2) Section 12 on "Cooperative or Common Libraries," in *Private Law Library 1980's and Beyond*, mentioned in the bibliography at the end of this article.

Two or more firms, particularly when moving to a new location, may want to seriously consider this alternative which would include the shared costs and services of a professional librarian.

A librarian may be able to offer a variety of space saving ideas, including the use of microforms, double shelving, different types of storage, and the best arrangements for shelving.

Collection Development

The librarian will maintain a file of publishers' information and will be in contact with local publishers' representatives in order to be aware of new materials. Working closely with the Library Committee, the librarian will recommend cancellation of unused subscriptions, offer suggestions for better resources on a given subject, prevent unnecessary duplication of material and see that material ordered on approval be sensibly considered or returned or purchased within the allotted time. A librarian is often familiar with the authority of various authors, the reputation of the publishers, the method of updating materials and their method of billing.

Budget Controls

Your librarian will be able to help plan the library budget and to work with the Library Committee to maintain the limits set by that budget. He or she will have the responsibility for approving payment of individual invoices and for reviewing statements in order to avoid double payment. An annual report should be prepared evaluating the activities during the previous year and predicting the needs for the following year.

Smaller firms may benefit greatly by using the computer as an indexing tool to locate materials not in their own library.

Computerized Legal Research

Because most librarians have had computer science training during library school, they are familiar with the fundamentals of computer technology. A professional librarian will be most informative in helping the firm decide whether to subscribe to one of the commercial legal data bases, LEXIS or WESTLAW. Smaller firms may benefit greatly by using the computer as an indexing tool to locate materials not in their own library. It is

conceivable that firms would be able to reduce their number of subscriptions, if the material is available on-line. Most firms bill nearly all of their computer time to clients, but are not comfortable billing the cost of other library materials. The librarian will act as a resource person for computer users and will arrange for training once a system is selected.

General Reference

The professional librarian can save attorneys and staff a great amount of time simply by being the person most familiar with materials in the library and resources outside of the firm. Requests ranging from the address of a federal district judge, a copy of the new corporation code, how to update the *Federal Register*, what the county seat of a particular county is, how to obtain a copy of the most recent addition of the *Washington Style Manual*, and the like are all questions quickly answered by the professional librarian. The librarian will orient all new employees to the firm's information resources and will greatly aid the new associates in their transition from law student to attorney.

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Requests for bibliographies, legislative histories, LEXIS or WESTLAW searches and Shepardizing are common. A librarian can provide statistical information, information on corporations, background medical material for personal injury cases, current events in the media, and biographical information on judges, to name a few.

How to Find and Hire a Librarian

First of all, it is important that the firm, particularly the Library Committee and the Administrative Manager and/or Managing Partner, identify those needs which could best be filled by a professional librarian. A job description should be prepared, a salary range discussed, an estimate made for the number of hours per week a librarian would be required, and determination made of who will interview, select and supervise your first librarian. Section 2 of *The Private Law Firm Library: An Integral Tool of the Law Firm* offers excellent guidelines as preparation.

There are several sources to check when searching for qualified applicants. The American Association of Law Libraries (AALL, 53 West Jackson Boulevard, Chicago, Illinois 60604 312 939-4764) provides a placement service and publishes a Placement List in its monthly newsletter. The annual AALL meeting held mid-summer every year draws many candidates searching for employment. Other sources for placement would include: accredited library schools (such as the Library School at the University of Washington); professional law librarians already employed by law schools, county, state and federal law libraries, or larger law firms. In metropolitan areas, such as Seattle, there are associations of private law librarians who meet regularly and provide placement referrals.

In Conclusion

In the past only the larger law firms have enjoyed the skills and knowledge of a private law librarian. However, with the increasing costs of information resources and the growing dependency upon computer technology, it is the wise small or medium-sized firm that will recognize the value of professional management of their library.

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Effective Legal Research, 4th ed., by Miles O. Price, Harry Bitner, and Shirley Raissi Bysiewicz. Boston: Little, Brown, 1979. 643 pages. \$18.50.

A standard legal research tool; this volume should be in every library.

"The Formation and Operation of a Common Library," by Rice M. Tilley, Jr. and Marvin Champlin. 4 Legal Economics 41, Summer 1978.

An informative, well-written article on a shared library facility; describes the partnership agreement.

"A Functional Law Office Library Needs a Librarian," by Ronni F. Begleiter. 28 Practical Lawyer 77-82, April 1982.

A recently-written article on the private law librarian; general information.

How To Find the Law, by Morris L. Cohen, General Editor. St. Paul: West Publishing Company, 1976. 542 pages. \$17.95.

An excellent resource, directing the reader to all aspects of the law; another standard legal research tool.

"A Law Library Consulting Service in the Philadelphia Area," by Margaret T. Doms. 72 Law Library Journal 68, Winter 1978.

A well-written, well-documented article on a consulting arrangement; useful information for any law firm evaluating its library.

Legal Research and Law Library Management, by Julius J. Marke, and Richard Sloane. New York: Law Journal Seminars—Press, 1982. 468 pages. \$32.00.

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A collection of articles written for the New York Law Journal; there is an emphasis on material available in and for New York State; articles vary in quality; Part III on "Phases of Library Management" is the most relevant section.

"Librarians: Crucial Members of the Law Firm Team," *Legal Times of Washington*, June 23, 1980, p. 18, 20.

This is a short informative article written by private law librarians in Washington, D.C.; describes generally what a law librarian does.

A Manual for Small and Medium-Sized Law Libraries, by Devra L. Altman. Chicago: American Bar Foundation, 1976. 31 pages. \$3.50

Although somewhat dated, this is an excellent resource for a firm without a librarian; the manual gives practical information and many examples to aid the library assistant.

Manual of Procedures for Private Law Libraries, by Elizabeth Finley. South Hackensack, New Jersey: Fred B. Rothman and Company, 1966. 176 pages. (AALL Publication Series No. 8.) \$12.50.

A standard excellent source for private law librarians; very practical, down-to-earth; somewhat dated; updated by the Bibliography in Appen-

dix B of The Private Law Firm Library: An Integral Tool of the Law Firm.

The Private Law Firm Library: An Integral Tool of the Law Firm, Marie Wallace and Julius M. Pomerantz co-chairpersons, 1977. New York: Practising Law Institute; Patents, Copyrights, Trademarks and Literary Property; Course Handbook Series, no. 85. 432 pages. \$25.00.

One of the better collections of course materials; generally in outline form; some very useful information on all aspects of the private law library.

Private Law Library 1980's and Beyond, Richard Sloane and Marie Wallace co-chairpersons, 1979. New York: Practising Law Institute; Patents, Copyrights, Trademarks and Literary property; Course Handbooks Series, no. 107. 320 pages. \$25.00.

Collection of course materials; generally in outline form; duplicates in part The Private Law Firm Library: An Integral Tool of the Law Firm; emphasis on space planning and technology.

"Your Law Library Can be Only as Good as Your Librarian," by Marie Wallace, from *Manual For Managing the Law Office*, pages 9801-9805. January 31, 1978.

A brief section of a management text; provides sample job description. □

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Acquisition of Word Processing Equipment: a Cost Effective Approach

by Carl P. Gilmore

Not long ago, the selection of document production equipment was a question of deciding between the popular IBM Selectric typewriter and several competitors. A little later, we were asked to compare the features of Mag Card versus MTST Word Processors. We are now challenged with evaluating very different pieces of equipment representing substantial capital investment and offering a wide array of performance features. This article suggests an approach to selecting the correct equipment in a cost effective manner.

Originally, word processing equipment allowed documents to be redrafted, insuring that the entire text would remain the same as in the original draft with the exception of specifically intended changes. It was used largely in the preparation and use of "form" documents where standardized language remained substantially the same in each document, with only certain unique details being inserted when necessary.

With the dramatic change in both the technology and its applications within the law office, the individual attorney is faced with the question of how best to initially approach equipment selection and how to fully utilize the selected equipment at its highest potential and greatest net profit. This presents a "Catch-22". Without full information of what hardware and software is currently available, it is difficult to analyze your practice with a view towards equipment selection. At the same time, without a careful analysis of the nature of an individual attorney's practice (and, more importantly, the nature of the entire firm's make-up), equipment selection leaves one at the mercy of the vendors with little detailed information of what his or her individual requirements and objectives really are.

Just as in your legal practice, the process begins with a detailed investigation and evaluation of the facts. Only after one has learned the facts can one begin research of the law applicable to those facts.

Although there are many similarities between the practice of law in different firms, the application of word processing technology must be individually tailored to each situation. Due to the varying ages, backgrounds, and experiences of the attorneys, and to the nature of the practices and requirements of staff support, no single vendor can meet the needs of all offices with a single "canned" solution.

Initially one needs to define the objective. I propose that a simplified statement of the ultimate objective is to practice law in an area in which one is competent to deliver timely and effective legal services at an acceptable profit for which the client is willing and able to pay in a timely manner.

To the extent one can achieve this objective without the investment of time and capital in sophisticated word and data processing equipment, *he or she should do so*. Unfortunately, few attorneys are able to avoid the capital, equipment and personnel investments necessary to meet this objective.

The difficult part is to accurately measure the extent to which personnel, equipment and other facilities are *required* in order to achieve the stated objective. The

Carl P. Gilmore received his J.D. degree from the University of Missouri Law School in 1968. After serving as a Law Specialist in the U.S. Coast Guard, he entered private practice in 1972. He is a member of the ten-lawyer firm of Weinrich, Gilmore & Adolph, P.S.





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proposition sounds simple, but too often attorneys making these decisions turn first to the vendors for information and guidance regarding what they need, what they will need in the future, or what other law firms of comparable size and character are using. There is a time at which those questions should be directed to vendors, but as indicated above, it is not at the beginning of the selection process.

If the process begins first with the vendor, in the expectation that the vendor will determine what you need, you are certain to be persuaded that you need exactly what the vendor sells. Needless to say, the vendor's representatives are trained to present their principal's product in a light most favorable to the vendor and the information that they will present to you will be information designed to convince you that a particular product meets your requirements. Keep in mind that in the initial stages you may not even know your requirements.

None of the information stated thus far is new. Beginning the process with an understanding of your requirements sounds simple enough. The difficult part is putting this into practice. The following information is designed to help in this process.

Beginning the Selection Process

Phase One

The real starting point in evaluating your needs and the needs of your firm is first to analyze the individual attorneys in the firm. Evaluate each attorney's age, experience, the nature of his/her practice, the ratio of partners to associates, and what each of their experiences has been with respect to automated equipment. It is difficult to generalize about this subject with any accuracy because some law offices have no word processing equipment, whereas other law offices equip all staff with word processing work stations. Some attorneys themselves using work stations in their own offices. These attorneys are correcting and finalizing drafts which arguably results in a savings of time by not re-routing the documents through the staff level a second or third time. The best equipment available requires proper utilization in order to realize its fullest potential. This begins with the attorneys themselves and their willingness to tailor their work habits to utilize the equipment.

Second, you should analyze exactly how document-oriented the practice of each of the attorneys is. Typically, attorneys practicing in the areas of securities, financial syndications, complex real estate or estate and business planning will generate a high volume of documentation and should be able to maximize the use of sophisticated word processing equipment and high speed printers. This is not to say that litigators do not need word

processing equipment, but generally their needs are of a different nature. Again, it is difficult to generalize with any accuracy; an evaluation of the document generation characteristics of your individual firm should be made. This may take some time, and it may require the aid of staff personnel over a defined period of time to log the types of documents prepared and their length.

Next, having evaluated the individuals in the firm and the nature of the document production, it is recommended that you combine the two areas in further analyzing the sources of documents that are being produced. For example, if the firm has a large number of associates in comparison to a relatively small number of partners, it may be that the associates are requiring far greater staff support resulting in higher document generation than at the partner level. In many instances, this is common; but, again, the circumstances can and will vary from firm to firm, depending not only upon the individuals and the nature of the practice, but also upon the way in which particular partners supervise and delegate work.

Take the internal examination one step further. I recommend that you evaluate your current staff-to-attorney ratio and the *nature* of the staff. Consider how many secretaries there are for how many attorneys; how many paralegals, if any, are supporting the attorneys; and in which areas of practice the paralegals are

working. Evaluate the extent to which the paralegals themselves generate documents in addition to, or instead of, associates. Also, decide whether your current staff-to-attorney ratio is desirable, or if you intend to alter the ratio with the installation of different equipment. Equipment selection can play a very great role in this ratio, although you are cautioned against blindly believing that improved equipment necessarily means less staff. This may be a true statement in a limited sense, but the ability to reduce personnel is not solely dependent upon equipment. A skilled secretary with word processing equipment can normally serve the needs of a greater number of attorneys than if the same secretary typed manually. The extent to which this advantage can be maximized, however, depends greatly upon the individual attorney's demands upon the secretary regarding personal tasks and the extent to which the attorney generates large volumes of documents. This varies with each attorney, depending upon his/her personal requirements and demands, the efficiency with which he/she practices, and the extent to which he/she is able to prepare documents in near final form early in the preparation process.

The layout of an office cannot be ignored. There may be severe limitations upon placement of equipment, and upon available office space for a "word processing center." Opinions vary regarding the advisability of



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having word processing concentrated in one area. An alternative is to have full word processing capability at each "secretarial" work station. This can be achieved through a system using a single CPU and printer with the addition of low-cost work stations at each secretary's desk. It is not the purpose of this article to recommend particular solutions, but to raise the issue as it relates to the physical facilities available. Needless to say, if a move is planned, greater flexibility is available with the ability to design the interior space.

Once these basic steps are completed, the process should be repeated projecting the same questions 6, 12, 24 and 60 months into the *future*. This is time consuming, *but the minimum time lapse between your initial evaluation of the areas first enumerated above and the actual delivery of the equipment finally selected will probably be six months, in any event.* This takes into account all of the various contingencies, such as the consensus required among the partners to finalize a decision, and the training of staff in utilizing the new equipment. Since the new equipment may be financed on a five-year lease arrangement, the 60-month projection is likewise appropriate. Many firms have projections of this nature already prepared in connection with their financial planning, recruiting, and space arrangements. Consequently, use of that information for purposes of evaluating word and data processing equipment selections should not be difficult.

Once the above steps have been completed, it is recommended that the firm analyze in detail the manner in which personal labor is converted into cash. If an attorney has a very limited practice serving a few substantial clients who pay promptly and who do not demand itemization on billings for work performed, then this attorney probably does *not* have:

- a) A need for accurate and periodic accounts receivable reports;
- b) A requirement for generating a volume of documents to create and deliver statements for services; or
- c) The need for a system to track cost advances, pre-billed costs, telephone, postage, word processing and photocopy costs, etc.

The attorney described above probably has little need for data processing equipment to manage internal finances. Smaller organizations have less difficulty in accurately evaluating the labor and economic contribution of each of the members in the firm and do not have the same volume of potential risks regarding conflicts of interest. Also, the creation of "matters-pending" lists and docket control systems is far less complex. As the number of attorneys in an organization increases, these problems increase in a seeming geometrical progression,

giving rise to the need for automated systems to record and report the necessary information.

Unfortunately, many firms, both small and large, are not able to escape the accounting and document generation problems required in connection with the financial reporting aspects of operating the business. In finalizing the internal analysis of the firm's equipment needs, the following matters must be examined:

- a) The frequency of billing (monthly or otherwise);
- b) The basis for preparing bills (time slips, contingent fee, fixed fee, a combination of all of these);
- c) The types of docket control systems currently in use, or desired (if the current system is inadequate);
- d) The volume of the accounts receivable data and the minimum requirements of the new equipment to record accounts receivable, as well as additional information that is desirable (e.g. aging schedules, etc.);
- e) The number and types of financial reports desired regarding production of attorneys in hours, dollar volume, and supervisory responsibility (both in hours and dollar volume), and the reports needed to distribute profits among the principals; and



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- f) The information required (or desirable) to be furnished to the firm's bank to satisfy or exceed its requirements.

Even though you may already have concluded that your practice does not require, or is not yet ready for, in-house data processing equipment, these issues are still very relevant, and should be analyzed in connection with the selection of word processing equipment. The reason for this is that the level of sophistication now available in word processing equipment also includes the capacity to perform mathematical functions which, if programmed correctly, can prepare many financial documents. There is also an increasing availability of equipment which combines both word processing and full data processing capabilities. For the incremental increase in cost, you should know to what extent you can utilize the data processing capacity when you finally negotiate with a vendor and begin evaluating different types of equipment. Some equipment can be upgraded, and others cannot.

Having completed the internal analysis of the nature and character of your practice, its limitations and capabilities regarding physical space, the make-up of the staff supporting the attorneys, and what the future holds, you should now have an accurate idea of *your* firm's needs. *You can now enter the market place and interview vendors to learn what each has available and the extent to which each available product will meet your needs.* You have defined your needs based upon your internal analysis instead of relying upon the vendors' definition of your needs. Notwithstanding the efforts of the vendors to analyze document generation in a law firm, it varies greatly from firm to firm and among the individual attorneys themselves.

Phase Two

Once you have completed the internal analysis, you can begin interviewing vendors who have equipment which meets your criteria. This part of the process should go much more quickly than if you had not completed Phase One. Instead of being overwhelmed by the professional presentation of the vendors, you can continue to measure the extent to which the product of each vendor meets the requirements that you have independently established. Needless to say, you will learn many new things from the vendors, because the state-of-the-art and the level of technology changes daily. This rate of change is also an important reason why future projections about your word and data processing requirements are essential. One alternative is to acquire only a limited system initially, and wait for the state-of-the-art to catch up with your requirements. New issues will be raised which were not originally understood when the internal analysis was completed, such as the space, power, and

ventilation requirements of various systems. Also, noise levels of printers and other equipment, and the storage, filing and coordination requirements among staff personnel, if a shared logic system is to be utilized, will all require re-examination. Having completed the initial round of interviewing vendors, additional questions will have been raised which require answers.

Phase Three

The final step in this analysis is to return to the internal evaluation of the firm. Now you can answer the important questions and make a final selection.

An Alternative

Time is money. This is particularly true for attorneys who generate income by billing directly for their time. The proposal outlined above for selecting equipment may require a significant investment of an attorney's time. This investment is justified when one analyzes the cost resulting from an incorrect decision. The attorney's investment in time can be substantially reduced, however, through the help of a consultant. As the focus has developed in recent years on the operation of a law practice as a profit-oriented business with interest in maximizing efficiency and finding cost-effective solutions to administrative problems, certain individuals have developed an expertise in analyzing the issues

reviewed in this article. These persons have not only an expert knowledge about the operation of various types of practices, but also a detailed knowledge of the hardware and software commercially available, and its capabilities and limitations. Because the state-of-the-art is changing rapidly, it is virtually impossible for a practicing attorney to stay abreast of all of the technological developments featured in the many products offered. A further advantage to enlisting the services of an independent consultant is that the opinions and recommendations generated should presumably be objective and not economically tied to the promotion of a particular product. Fees vary for the consulting work performed and are negotiated on an individual basis depending on the scope of the work required.

In Conclusion

Selecting the right equipment for a particular application requires time and a detailed knowledge of the user's requirements and objectives. Reliance only on the vendor's recommended "canned" package is best calculated to lead to dissatisfaction with actual performance, premature changes in the future, and resultant unnecessary costs. The product search *begins internally*, and the services of a consultant can result in a net cost savings of substantial sums with greater ultimate satisfaction. □

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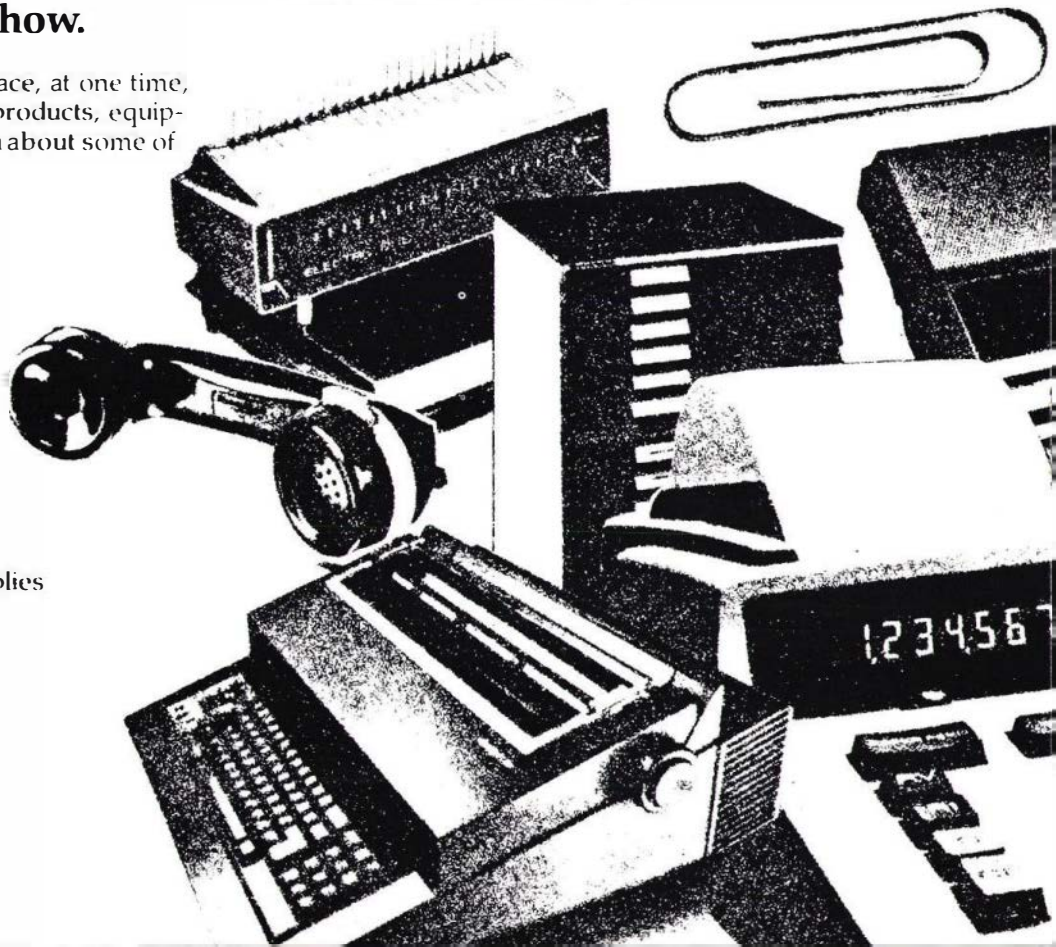
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How to Hire and Retain Good Office Support Personnel

by Sandra J. Wong

PEOPLE are your firm's most important asset. Personnel cost is one of the highest overhead items. For these two reasons alone, careful hiring and retention of personnel is critical to a profitable law practice.

Hiring Personnel

Recruiting

There are several hiring alternatives:

1. *Newspaper Advertisements.* The cost of a one-week ad is only about \$75, vs. an agency fee which could run over \$1,000. In this ad, include a detailed job description, location (downtown), benefits, and any other pertinent data to attract qualified applicants. There are also several alternatives in running an ad: (a) you may refer to your own office and/or telephone number or (b) you may have resumes forwarded to a box number provided by the newspaper. There are advantages and disadvantages to both: (a) applicants can easily identify the name of the firm (so you may have many of them telephoning your office, qualified as well as unqualified), and (b) applicants may not wish to apply to an anonymous box number (but you will be able to screen resumes and limit interviewing to only qualified applicants).
2. *Posting Job In-House.* This method allows your staff to review the opening as well as proceed with the "word-of-mouth" or "grapevine" method. The referral and recommendation by a staff member of an applicant is an outstanding reference.
3. *Agencies.* This method is expensive, but it is also an excellent source of applicants. Develop a rapport with several agencies. They must know the personality of your firm, its benefits, the makeup of your present staff, necessary qualifications, and any other pertinent information you can give them so that they can fill your position as accurately as possible. For those of you in the law business who may not have time to use methods 1 and 2, an employment agency may be the best alternative. Once a rapport is established and an agency has placed applicants in your firm, it will be familiar with your standards and mode of operation. It will also do complete reference checks for you.

Interview

The initial interview is the most critical stage in the hiring process. You should clear your mind, and desk, and give the applicant your complete and undivided attention. This will be the applicant's first impression of you and of your firm. This is the time when you will be selling your firm, the job and its benefits. Be candid and open in your job description.

Reference checks are absolutely necessary. You may wish to inquire of previous employers about the applicant's:

1. Dates of employment.
2. Attendance record, was employee on time?
3. Attitude.
4. Strengths/weaknesses.
5. Did the employee go the extra mile?
6. Would you rehire?

Offer

In this phase, cover the salary and any questions the applicant may have about benefits. Let the applicant have a reasonable time to consider your offer. This is a decision for a long term commitment.

Acceptance

Confirm salary, any questions and starting date. Always allow at least two weeks' notice. You would want your firm to be treated in the same manner.

Retaining Personnel

Now that you've completed all of the above, the most important and most difficult part is retaining this employee.

At Reed, McClure, Mocerri & Thonn (RMMT), we always send out an in-house newsletter announcing the arrival of new people, giving brief personal histories (college attended, degree, former firm, hobbies, etc.), explaining with whom they will be working, and listing their locations and telephone extensions. I assign each of

Sandra J. Wong is a Legal Administrator for the Seattle law firm of Reed, McClure, Mocerri and Thonn. She is a past president of the Association of Legal Administrators, Seattle Chapter.

them someone of whom they can ask questions, and I try to overlap experienced and inexperienced persons whenever possible. This saves many hours of training. New employees are introduced around the office and given a complete tour of our floors.

Give employees a booklet about the firm which they can keep; it should outline the history of the firm, its benefits, its hours and policies on overtime, etc. They will be able to refer to it during their tenure with the firm.

At this time, also, give each employee a copy of the firm manual (probably a three-ring binder—easily revised), which he/she can use as a reference while learning your office systems. Some of the items it should contain are samples of forms and instructions for use and completion, and an explanation of the policies, functions and capacities of departments. This manual will save hours of an administrator's, the lawyers', and the employees' time. The American Bar Association has just released an excellent, easy, do-it-yourself manual entitled *Law Office Staff Manual*.

Following are some of the things we do at RMMT to try to retain our employees.

Career Path

If an employee is part of an entry-level department (Central Services Department), he or she may have an opportunity to advance to become an assistant when he/she possesses the basic qualifications. We have been successful in training one employee from that department to become an in-house freelancer, and then eventually to become an administrative assistant. We have also promoted accounting assistants from our Central Services Department, and administrative assistants have advanced to legal assistants. Try to promote within your own staff whenever possible.

Evaluation

This should be done at least once a year—twice a year, if possible. There are many ways to gather input. For example, evaluation forms may be used or conferences arranged with an employee's lawyers or supervisors. With this input, you will be able to decide the salary increase and the type of performance review this employee should receive. During this conference, it is also important to get an employee's point of view about his/her job and responsibilities. Most importantly, these reviews should be done on a regular basis.

Social

It is important that there be out-of-the-office social activities. This promotes camaraderie and healthy office relationships. We participate in the law firms' softball league, we have an annual Christmas dinner-dance, we have an annual picnic, and we also have a monthly birthday party.

Environment

Try to provide the best environment possible. We have no policy on smoking, but if smoking bothers anyone, we request the smokers in the area to respect that person's air space.

Provide good office equipment that is well maintained. A good working environment allows employees to be more productive.

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We sponsor our staff members who wish to take courses or attend seminars related to their field. It is our belief that education will assist them in doing a better job for our firm and for clients, too.

Communication Is Important

A firm should maintain an open door policy. This means employees may feel free to enter your office any time to discuss their work and personal problems. Be receptive and responsive. Most of all, listen. The firm should keep employees challenged, be aware of their needs and encourage growth in their fields. This is an ongoing process. With this philosophy, a firm will be better able to retain its personnel.

The cost of hiring and training is high. The retention of capable, loyal and valuable personnel preserves the firm's investment. ☐

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Tips from CPT on what to look for in a word processor

CPT offers a plain English explanation of exactly what word processing is, and some helpful pointers on how to choose from over 70 makes.

Word processing is simply a faster, easier, less expensive way to type.

With a modern word processor (such as the CPT 8000, right), you type on a screen instead of paper.

You can type at full rough-draft speed without worrying about errors. Leave out a word or a paragraph? No worry. Just go back and type it in. You can readjust the entire text *without* retyping.

"Electronic filing"

Most word processors have some form of memory. This may range from a magnetic card, which holds a single business letter, to the disks used in the CPT 8000, which hold over a hundred full-page letters.

This electronic storage allows you to recall individual pages to the

begin with these basics:

1. Don't buy too little—or too much—word processor. Least expensive are

"intelligent typewriters," with very limited functions. At the other end of the scale are expensive shared systems.

Most popular by far are the "standalone" models. The CPT 8000, for example, fits easily on a desk top,

yet has nearly all the automated features of even the largest systems.

2. Look for a full-page screen with a clear image. The full-size, black-on-white screen is a major feature of the CPT 8000. Some competitive models have only a partial-page display, and a green-on-green computer-like screen.

3. Be sure the word processor you select is

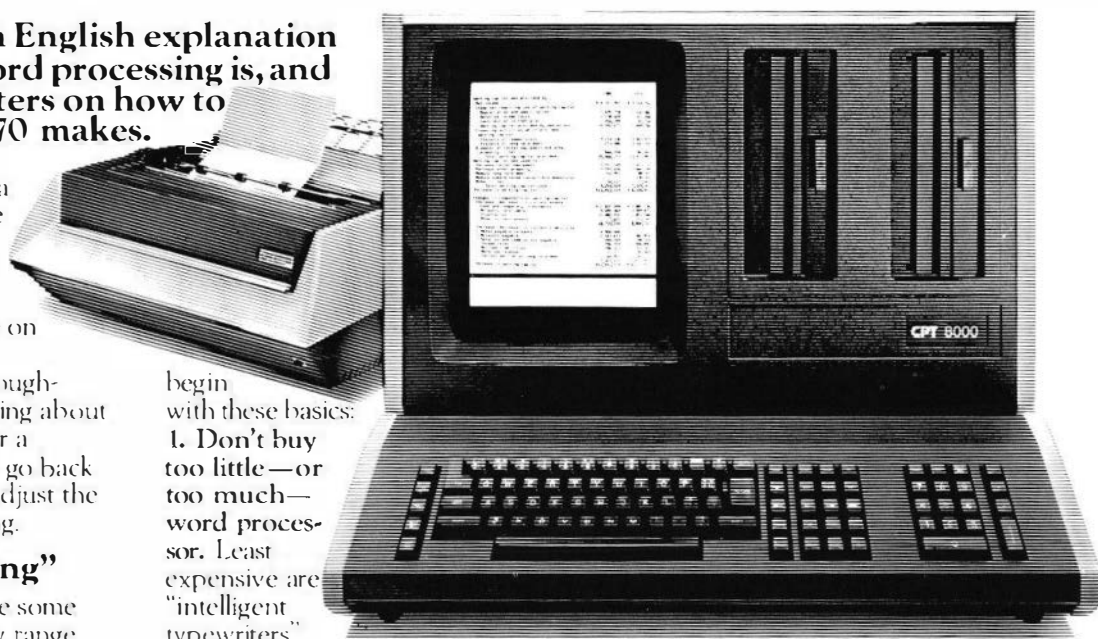
easy to use. Look for things like a standard keyboard, and plain English commands. The CPT 8000 is so easy to learn, most secretaries will be turning out actual work after a short period of instruction.

4. Plan for your needs. It is tempting to use your word processor as a "fancy typewriter" just because your procedures are set up that way. However, a relatively new feature,

called "software programming," can enhance your word processor so it can perform many other office tasks.

The CPT 8000, for instance, can also be used to prepare your office payrolls, keep ledgers, handle inventory and bookkeeping, and more. Be sure the word processor you choose has this important feature.

There are more things to look for than we can touch on here. For a thorough explanation of word processing, and more tips on what to look for, send for our free booklet *CPT Takes the Mystery Out of Word Processing*.



Clip and save this checklist of features to compare different models								
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Advantages of Law Firm Automation

by Thomas M. Krippaehne

Computerized application systems can provide many benefits to lawyers and law firms of all sizes. However, the computer is not a panacea for improving a lawyer's effectiveness or efficiency in overall practice management or on specific cases. Because law firm automation is not the answer to all users' problems, systems and cost-benefit analysis must be carried out before a decision to automate can be justified.

Current Environment

The current computerized market in the legal arena is characterized by rapid change. Attorneys are becoming involved in all aspects of data processing, efficient state-of-the-art machines are being manufactured, and a variety of software applications are being developed to aid in law firm administration and practice management. In short, the legal marketplace is mushrooming. A clear picture of this mushrooming activity can be illustrated by discussing three key resources.

First is the labor resource. As law firms have grown, lawyers have required more capacity to process data to provide information to make better decisions and increase their effectiveness and that of their organization. Therefore, the capacity of the labor resource has been expanding to enhance the availability, timeliness and accuracy of information.

Because of the expansion in the required labor resource, increasing costs have forced law firms to look for alternatives for processing data and providing information. Automation provides a viable and cost-effective alternative.

Second, the computer industry is continuing to experience improved data processing capabilities. The changes that are visible are those readily apparent in the general data processing environment. Computers are becoming smaller in physical size, while becoming faster in processing speed and larger in storage capability. Furthermore, technological improvements and competition in this market are encouraging manufacturers to

produce computers that are more reliable, less costly, and, at the same time, more powerful.

Finally, and perhaps most critical to the success of a newer system, is the emergence of prepackaged application software. Dozens of packages are currently reaching the marketplace, the beginning in what appears to be a multimillion dollar business.

Many software packages, however, are still unproven; that is, in the final stages of development. Three key phases of software development can be identified: developing the package, testing the application, and working the "bugs out" of the system. Obviously, the more extensive and proven a package is, the higher the price tag.

As stated above, many systems specifically designed for the law firm industry are now reaching the market. This is largely because of the ease of market entry, and because of the simplicity involved in writing specific software applications. Many small regional companies are surfacing and, not surprisingly, there is already active turnover in the industry.

General Systems Automation

Automated systems directly affect the timeliness, speed, and accuracy of information. If used properly, computers often result in cost avoidance and improved administrative services. The data processing environment may also act as a catalyst to increased employee morale. A clear distinction, however, between computer capabilities and limitations is necessary prior to evaluating systems. In general, automated systems will not:

- Reduce clerical costs.
- Speed original documents (e.g., time sheets, billing information, etc.).
- Solve or prevent information problems.
- Provide personnel with more absolute time.

Thomas M. Krippaehne, C.P.A., is a financial consultant in the Seattle office of Price Waterhouse. He holds a Masters in Business Administration from the University of Washington, and he is a member of the A.I.C.P.A. and the State Society of C.P.A.s.

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But automated systems will:

- Lessen future need for hiring administrative personnel as volumes increase.
- Speed the processing of data, thus providing more timely information, reducing the cost of data storage, and improving cash flow.
- Provide managers an opportunity to review and manage an increasing amount of useful information in a systematic manner.
- Provide for reallocation of time to more productive activities.

Law Firm Automation

The advantages of automating law firm systems lie in the ability to assemble routine information to produce necessary management reports as a direct by-product of the time and billing process. Furthermore, with the advent of litigation support and word processing capabilities, countless hours can be saved by providing nearly instantaneous legal research and efficient information processing. Automatic reports can be produced without a significant time investment, thereby allowing nonlegal personnel to perform other necessary administrative functions.

Several distinct advantages of automation become readily apparent when considering the legal environment. For example, automation will generally:

- Decrease attorney and administrative efforts spent on the billing function, thus facilitating the billing of clients on a more timely and standardized basis. Most firms spend countless administrative hours on activities that can be automated; i.e., typing lengthy nonstandardized narratives, and checking and proofing final bills. These repetitive tasks typically account for 5 to 10% of administrative time that can be reallocated to other tasks.
- Prepare the firm for growth (in numbers of clients, attorneys, matters, etc.).
- Provide more timely and detailed information to partners and firm management. Automated reports include, but are not limited to: attorney utilization, aging of work-in-progress, billings and realization, billing memorandum, uncollected bills written off, partner billings and realization, client billing history and associate and department performance analysis.
- Improve cash flow by decreasing unbilled work-in-process and uncollected billings. Billings are often delayed well into the following month. If a firm's billing and collection process could be accelerated by two weeks as an example, two related benefits would impact cash flow.

The initial impact should be an increase in cash flow by two weeks. Secondly, a monthly opportunity savings may be obtained indefinitely, based

upon the cost of money at current market rates. Although the above assumptions may vary, the point remains that a significant improvement on a firm's cash flow may be available.

- Provide capabilities which can address the potential evolving needs of your firm. Potential applications include a multitude of capabilities: document retrieval, accounts payable, docket control, conflict of interest identification, litigation support, time and billing accounting, word processing, calendaring and library management. Futuristic packages will include any area of law that remains consistent from year to year. Examples of these packages include real estate, wills, probate, contracts, and patents.

Potential Benefits of Law Firm Automation and Associated Effect on the Bottom Line

The ultimate question with regard to law firm automation is how the decision will affect the bottom line. At first glance, initial system costs may appear staggering, causing a reaction similar to sticker shock, as noted in the automobile industry.

A complete decision, however, cannot be made until both costs and benefits are reviewed. Typically, the process of analysis concentrates initially on administrative savings and future cost avoidance. Frequently, in major purchase decisions the financial benefits resulting from improved processing speed and accuracy justify system purchase. However, many other advantages are also available.

Listed below are some potential benefits and related effects that must be considered when analyzing the costs and benefits of system purchase:

Potential Benefits of Law Firm Automation

- Reduces lawyer time in the billing process
- Provides for prompt billing collection of time charges and out-of-pocket costs
- Provides more reliable and complete information, thus improving management and forecasting abilities
- Provides new information for planning and control, with capability to analyze firm work load by case/department/attorney
- Improves credit management, providing capability to analyze client accounts
- Provides better client services
- Improves firm cash management
- Provides for prompt drafting of standard legal forms and reports through word processing
- Provides immediate systematic access to a library of legal information.

Potential Effects on Bottom Line

- Increased profitability through increased chargeable time

- Improves billing realization and cash flow
- Improves cash flow and increases profitability
- Increases profitability
- Reduces bad debt expense and improves cash flow
- Increases revenues
- Improves cash flow
- Increases lawyer productivity
- Reduces research expense and increases profitability

Summary

Law firm automation *can* have a favorable impact on operations. Many benefits are readily apparent, most of which directly affect the bottom line.

The industry is one of the most dynamic in the world economy today. In general, automation results in improved information. Specifically, law firm systems provide more usable information to attorneys, reduce the number of repetitive administrative tasks, and perhaps most importantly, prepare the firm for the future.

The benefits of automation can be significant. The potential positive effects on a firm's operations and financial statements from automation justify thoughtful consideration. □

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The Poulsbo Bar Association Small Town Lawyer's Aptitude Test

by Jeffrey Tolman

Please read the following hypotheticals and mark what you consider to be the best answer after each. Your answer will be tabulated against the answers of our selected experts.

1. A whiny but paying client calls you at home every night to fill you in about his/her day despite many previous discussions that you are his/her lawyer, not Mother. You should:

- a) Bill "time-and-a-half" and encourage him/her to call.
- b) Have your spouse answer the phone at night and tell him/her you're not home.
- c) Withdraw, telling him/her your privacy is more important than paying clients.
- d) Call him/her every morning at 5 a.m. to tell him/her you're fine.
- e) Negotiate a quick joint custody settlement so that you'll be out of the case and he'll/she'll quit bugging you.

2. After your (in your opinion, excellent) off-the-cuff argument on Show Cause, your opponent cites a recent Harvard Law Review article directly on point in his favor. On rebuttal you should:

- a) Distinguish the law review article on the basis that Harvard is in Massachusetts.
- b) Don't charge your client for the time spent on this humiliating defeat.
- c) Pray for rain.
- d) Do the best you can, then, win-lose-or-draw, bill your client for your discomfort.
- e) Argue that what is *fair* and what the law *should be* are more important than what the law is.

3. A semi-familiar person stops you on the way to the Clerk's office Friday morning. Two weeks before, you had told this stranger/client that today his non-contested dissolution would be finalized. He has a wedding set up for the next day. The final papers

aren't drafted. You don't have the file. You don't recall the client's name so that you can call your secretary and have her draft the papers. You should:

- a) Act appalled and apologetic that the Clerk negligently forgot to set the matter on the calendar (the old "the check was sent a week ago" approach) and tell him/her that you're going to make sure this doesn't happen again.
- b) Ask the client to come back next Friday and agree to deduct his day's pay (but not the cost of the ruined wedding) from your bill.
- c) Discuss in detail the 72 emergency custody hearings that came up during the week, going into particular detail about the 12 children stolen from your struggling client. Hopefully this will make your client's situation, even with an aborted wedding, seem less important and keep him from calling the Bar Association from the Courthouse.
- d) Tell him/her your secretary didn't give you the file and that you're going to fire her when you get back to the office.

4. You have gotten thousands of promises of payment but no money from a client the past year. Now you're mad. You should:

- a) Sue the client.
- b) Make an agreement with your biggest client to deduct 50¢ from his bill for every \$1.00 he gets from your former client-now-adversary, even if he has to pinch the client's head off.
- c) Send the client pictures of Biafran war children with a note that it's what your son looks like because you can't afford to feed him.
- d) Move for the Court to reconsider the client's previous DWI sentence and this time ask for the death penalty and/or sterilization as an appropriate punishment for the sleezebag.

Jeffrey L. Tolman is an attorney in Poulsbo, Washington.

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5. You've worked out a settlement satisfactory to you, your client, your opponent and your opponent's attorney. You hear, however, that there is a law review article which cites cases strengthening your position at trial. You should:

- Settle the matter. If everyone thinks it's fair, that's great.
- Read the article, write a brief on it, go to the settlement conference and hear the settlement judge's position regarding your brief and only then consider resurrectoring your settlement position.
- Tell your client you'd be happy to do the research if they wish, but you want \$3,000.00 up front.
- Call the opposing attorney to see what his/her chances are of getting paid if the legal activity on the case continues.

6. You receive a letter from the State Bar Association which is in a typed envelope, not addressed by label. You should:

- Cry.
- Not be frightened. After all they're on our side. !!!!!
- Make a mental checklist of what clients have gone away dissatisfied recently.
- Make an appointment to see your lawyer.
- Buy a ticket to Guatemala.

7. You're sitting in your office having a beer after a horrid 3/4 day trial. Your secretary buzzes you and says a CPA from the Bar Association is in the reception area for a Spot Audit of your trust account. You've spilled the beer all over you and now have the proverbial "obvious odor of intoxicants" on your person. You should:

- Consume 2 packs of Certs and a bottle of Listerine post haste.
- Try and remember what year you last balanced your trust account. If it was before the CPA was born, panic.
- Thank him for coming and indicate that you'd been trying to get a hold of the Bar Association and have him come over to straighten out the mess your "last bookkeeper" left.
- Be cordial and honest. He may well have your destiny in hand.
- Ask him for his search warrant and, when one cannot be produced, throw him out of the office. This will buy *your* CPA time to salvage your career.

8. A local attorney is Judge Pro Temming for the first time. He/she is noticeably nervous. Your case is weak. You should:

- a) Be nice. It probably won't be his/her only time to pro tem.
- b) Object to everything. Make him/her earn the money.
- c) Begin every argument, "Historically, in this court..." It will intimidate this virgin judge to adopt your weak position.
- d) Plead your client guilty.

9. As you are making your standard final argument in a DWI case to your favorite judge, he begins mouthing the words with you. After hearing it, and deliberating 20 seconds, he finds your client guilty. Your client asks if that closing argument has ever been successful. You should:

- a) Lie and say it has.
- b) Tell him it is the first time the telepathic judge heard the argument.
- c) Put the client in his place by screaming, "I wasn't the one who drank and drove!"
- d) Discuss the question logically with the client. Then bill him double time for his foolish question.

10. At a CLE class you see a judge who (unjustifiably, of course) chewed your tail in court. You've had a few drinks and you're mad. You should:

- a) Be polite to him, realizing that life goes on, no

grudges will be held, and that you are probably a better lawyer because of the chewing.

- b) Tell him you don't have to take that criticism from *anyone*... then immediately move your practice to New Mexico.
- c) Buy him a couple of drinks. Then call the State Patrol, anonymously, describing his car as containing a cocaine shipment for gradeschoolers.
- d) Leave your anxieties, pressures, and petty gripes at work and treat the CLE as a social occasion.

0-2 correct: Did you ever consider another occupation?

3-4 correct: Destined to be on a first name basis with the Bar Association Disciplinary Committee.

5-8 correct: Please fill out a Poulsho Bar Association membership application.

9-10 correct: Ex-law review editor. Too technical for small town practice. Probably a bookworm. Too qualified to be "one of the persons."

The correct answers are: 1-F; 2-F; 3-E; 4-E; 5-E; 6-F; 7-A; 8-B; 9-C; 10-E.

□

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Scope of Review on Appeal

by Douglass A. North

There are basically two types of limitations which an appellate court will place upon what issues it will review: (1) limitations based upon the manner in which the issue is presented to the court, and (2) limitations based upon the actions or omissions of the appellant. Understanding these limitations will help you both in evaluating whether the court will review the issue you wish decided and what you must do to properly present the issue to the court.

Presentation of Issue

Evidentiary Issues

A party must object at trial to the admission or exclusion of any evidence in order to raise the issue on appeal.

This is true even when the evidence is subject to an order upon a motion in limine. In *State v. Wilson*, 28 Wn. App. 821, 626 P.2d 998 (1981), the Court of Appeals held that a pretrial order admitting or excluding evidence is only advisory and not subject to review until a party attempts to enforce or circumvent it at trial. The Supreme Court has held, however, that once the objection is made, it will be considered to be continuing based upon the pretrial motion, absent a request from the trial court that the objection be repeated. *State v. Evans*, 96 Wn.2d 119, 634 P.2d 845 (1981).

A party also waives any error in the trial court's denial of his motion to dismiss for insufficient evidence when he proceeds to present evidence on his own behalf at trial, *State v. Wilson*, 28 Wn. App. 821, 626 P.2d 998 (1981).

Constitutional Issues

A reviewing court will not pass on a constitutional issue unless absolutely necessary to decide the case. *State v. Hall*, 95 Wn.2d 536, 627 P.2d 101 (1981).

Mootness

A case is generally moot when the controversy between the immediate parties has been resolved. An issue dependent upon existing facts and affecting existing rights, however, is not moot, *Davenport v. Elliott*

Bay, 30 Wn. App. 152, 632 P.2d 76 (1981). An appellate court will review a question of substantial public importance though moot, however. *Federated Publications v. Kurtz*, 94 Wn.2d 51, 615 P.2d 440 (1980).

Changes in the Common Law

Willingness of the Court to Change the Law. The court is hesitant to make a change in a common law rule unless the party arguing for the change can thoroughly document the change's policy advantages, its ability to deal with all hypotheticals and its practical application in other states. *Wenatchee Wenoka v. Krack Corp.*, 89 Wn.2d 847, 576 P.2d 388 (1978). (Refusing to adopt a rule of contribution amongst joint tortfeasors). However, the court has held that a court abdicates its function when, in a field peculiarly non-statutory, it refuses to reconsider an old and unsatisfactory court-made rule. *deElche v. Jacobsen*, 95 Wn.2d 237, 622 P.2d 835 (1980). It has also stated that each time a rule of common law is applied, it should be re-examined to make sure that the conditions and needs of the times have not so changed as to make further application of it an instrument of injustice. *Lungren v. Whitney's, Inc.*, 94 Wn.2d 91, 614 P.2d 1272 (1980).



Douglass A. North is a Seattle attorney with the firm of Hennings, Maltman, Weber & Reed. He is a former law clerk to Judge Keith M. Callow of the Washington State Court of Appeals.

Will Appellant Benefit? A change in the common law may be applied to the prevailing party to give it the benefit of its own lawsuit while otherwise limiting the change to prospective application in order to protect existing agreements. *Whitaker v. Spiegel, Inc.*, 95 Wn.2d 661, 23 P.2d 1147 (1981).

What Will the Court Consider? Trial and appellate courts can take notice of "legislative facts"—social, economic and scientific facts that are simply premises in the process of legal reasoning. *Wyman v. Wallace*, 94 Wn.2d 99, 615 P.2d 452 (1980) (agreeing to abolish action for alienation of affections on an incomplete record).

An appellate court will not make factual determinations based upon evidence which was not before the trial court. *In Re Saltis*, 94 Wn.2d 889, 621 P.2d 716 (1980). The court cannot take judicial notice of the effect of inflation upon the value of specific property. *Hedgwald v. Neal*, 28 Wn. App. 783, 626 P.2d 535 (1981).

Circumstances Affecting the Scope of Review

Actions of Appellant

Error Invited by Appellant. The appellate court will not consider error by a trial court which was induced and invited by the party asserting it. *State v. Atkinson*, 19 Wn. App. 107, 574 P.2d 744 (1978); *State v. Wilson*, 28 Wn. App. 821, 626 P.2d 998 (1981).

Appellant's Compliance With Order. Appellant's voluntary compliance with the trial court's ruling will not prevent review where the appellate court can still grant effective relief. *Pentagram Corp. v. Seattle*, 28 Wn. App. 219, 622 P.2d 892 (1981).

Failure to Provide Record. The court will not review a claimed error which occurred in a part of the record not before the court. *Bach v. General Electric Company*, 27 Wn. App. 25, 614 P.2d 1323 (1980). The court will not consider assignments of error challenging sufficiency of the evidence when no verbatim report of proceedings has been included in the record on appeal. *State v. Orsborn*, 28 Wn. App. 111, 626 P.2d 980 (1980).

No Supporting Citations. Errors assigned but not argued with supporting citations will not be considered on review. *North Sea Products v. Clipper Seafoods*, 92 Wn.2d 236, 595 P.2d 938 (1979); *State v. Partin*, 88 Wn.2d 899, 567 P.2d 1136 (1977). The court will, however, review an assignment of error which is meritorious on its face even though intelligible argument and citations are lacking. *Whatcom Co. v. Kane*, 31 Wn. App. 250, ____ P.2d ____ (1982). A party is deemed to have abandoned any claimed error which is neither argued nor briefed on appeal. *State v. Savage*, 22 Wn. App. 659, 591 P.2d 851 (1979).

Failure to Assign Error. The court will not consider an argument made on a point to which no error was

assigned. *State v. Fortun*, 94 Wn.2d 754, 626 P.2d 504 (1980). Failure to specify the grounds for objection to the admission of evidence waives the objection for purposes of appellate review. *In Re Luntsford*, 24 Wn. App. 888, 604 P.2d 195 (1979).

Self-Imposed Restrictions by the Court

Acceptance of Benefits. RAP 2.5(d) provides that a party may appeal after accepting the benefits of a decision which is subject to modification by the court that made the decision. See *In Re Marriage of Hadley*, 88 Wn.2d 649, 565 P.2d 790 (1977) (Court rejected an argument based upon *Potter v. Potter*, 46 Wn.2d 526, 282 P.2d 4052 (1955), that Mrs. Hadley, who had received benefits under the divorce decree, could not appeal from that decree).

Law of the Case. RAP 2.5(c) restricts the application of the law of the case doctrine, allowing the appellate court to reconsider issues previously decided on the basis of the appellate court's opinion of the law at the time of later review. *O'Brien v. Franich*, 19 Wn. App. 189, 575 P.2d 258 (1977).

Understanding the rules governing appellate court scope of review will help in evaluating the merits of any projected appeal. □

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Soviet Justice

by Edward E. Henry

After visiting five Republics in the Soviet Union with a group of lawyers and their wives from Washington State at the invitation of the Moscow Bar Association, striking differences between the American and Soviet Judicial systems remain strong in one's memory.¹

Panel discussions were held in Moscow, Tiblisi, Erevan and Baku with Soviet jurists.

"Our Constitution is not based on the separation of powers doctrine," said a lady judge of the People's Court in Moscow.

"That is correct," said her colleague, a professor of law. "A judge does not have the right to declare a law invalid that has been adopted by members of the Supreme Soviet of the USSR or the Supreme Soviet of the Republic. Members of the Supreme Soviets are elected by the people. They represent them. They are concerned about the welfare of the State. If, after a law is adopted by the Supreme Soviet, that is the law. It is not the right of a judge to say that it is invalid."

We were given an English version of the Constitution² and we referred to Article 50, "How about this provision," we asked, "which provides:

Article 50. In accordance with the interests of the people and in order to strengthen and develop the socialist system, citizens of the USSR are guaranteed freedom of speech, of the press, and of assembly. . . ."

"Why may citizens be prosecuted for publishing or expressing their views as they see them?"

"Ah," responded the professor, "look at Article 39, which provides:

Article 39. Enjoyment by citizens of their rights and freedoms must not be to the detriment of the interests of society or the state, or infringe the rights of other citizens."

The anti-parasite law provides for resettlement in specially designated localities of persons who are leading an anti-social parasitic way of life. This is considered as administrative, not a penal measure.³

"In 1961 and 1963 the USSR Supreme Court decreed that persons charged as parasites were guaranteed the right to counsel at the hearing. On the other hand, if the Supreme Soviet determines that certain acts which are detrimental to the interests of the state or society, are crimes and subject to punishment; it is not for the courts to say that such laws are in violation of the Constitution."

The Power of the Procurator

In a panel discussion in Tiblisi, I asked, "Do you have the writ of Habeas Corpus in Georgia?" "The what?" responded the professor. "The writ—what is that?"

"Habeas Corpus is a Latin term meaning 'You have the body.' The writ gives the person who has been incarcerated without charge the right to be brought before the court or judge, to require the state to charge the person or release him from custody."

"Oh, no," responded the professor, "it is up to the procurator, not the judge to make that decision. The law provides that a person must be charged within 10 days or released. If he is held longer, he must be released within 30 days unless the procurator has determined that the welfare of society is best preserved that he remain in custody for a longer period while investigation is undertaken and carefully considered for a period up to nine months." "Must he be let out then?" "Yes, unless the procurator or Supreme Soviet determine that he should remain longer in custody."

"What are the powers and duties of the procurator?" we asked.

Edward E. Henry is a retired judge of the King County Superior Court.

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"The Procurator General of the USSR is appointed by the Supreme Soviet of the USSR. He appoints the procurator of the Soviet Union Republics and autonomous regions. The procurators of autonomous areas and districts and city procurators are appointed by the procurators of the Union Republics, subject to confirmation of the Procurator General of the USSR."

"The Procurator has the supreme power to observe and administer justice in the USSR, and to see that the courts are properly engaged in the administration of justice in the Soviet Union. He also has the duty to investigate and prosecute violators of the law."⁴

A Procurator may institute or enter any lawsuit, and may protest any decision, civil or criminal.

The Courts of the Soviet Union

At the top is the Supreme Court of the USSR, which sits in Moscow. Next are the Supreme Courts of Union Republics, Supreme Courts of Autonomous Republics, Territorial, Regional and city courts, courts of Autonomous Regions, courts of Autonomous Areas, People's Courts, and military tribunals in the Armed Forces. (Article 151)

People's Courts. Most criminal and civil cases are tried in People's Courts. However, the Supreme Court of the USSR and the supreme courts of the constituent republics may assume jurisdiction over any case which is normally within the jurisdiction of a lower court, including a People's Court, and by means of directive rulings influence the practice of such courts.

People's judges are elected for a term of five years by the citizens of the district. People's assessors are elected for a period of two and one-half years at meetings at their places of work or residence by a show of hands.⁵

Judges of the higher courts are elected for a term of five years by the corresponding Soviet of People's Deputies. Judges and assessors may be recalled during their term by the people or bodies that elected them. (Article 152 of the Constitution). We were told that they were seldom recalled. An accused may, however, object to an assessor, and another one will be selected.

Judges of people's and city courts are usually nominated by the Communist Party in their district, but persons not so nominated apparently may also run for election. Article 6 of the Constitution provides:

The leading and guiding force of Soviet Society and the nucleus of its political system of all state organizations and public organizations, is the Communist Party of the Soviet Union. The CPSU exists for the people and serves the people. . . .

In the People's and city courts, a judge and two assessors try the case. The judge sits in the middle with an assessor on each side. No robes are worn. Consistent

with the Continental Civil Law system, the judge conducts most of the examination at the trial. Little interrogation is left to counsel, although they may ask additional questions, which the judge may not have covered.

The assessors have the same power as the judge to determine the law and facts. A vote of two to one may render a verdict in civil and criminal cases. Thus the assessors may out-vote the judge.

Both counsel may appeal a decision to a higher court. Thus the prosecutor may appeal a vote of acquittal.

In a criminal case the state has the burden of proving the guilt of the accused.

The defendant cannot be compelled to testify and is guaranteed the right to legal assistance. Counsel is provided by the College of Advocates. It is free of charge to those who cannot afford to pay a fee. The right to counsel usually begins after the Procurator has completed his investigation.⁶

At the trial the "whole man" is tried. His background, education and past activities are admissible in evidence. This means in practice that an educated or more intelligent man, we were told, is held to a higher standard of care than an ignorant or unintelligent man. This may have an effect on the verdict in a civil case and the sentence in a criminal case.

Comrades Court

Comrades Courts are in neighborhoods, factories, collective farms, universities, etc. They have jurisdiction of minor offenses which impose a fine of not to exceed 10 rubles, and to render judgment in civil disputes not to exceed 50 rubles. The judges are neighbors and fellow workers; lawyers seldom participate in the argument. Attendance is open to all, and comments from the floor are encouraged.⁷

We were advised that over 75% of trials in the People's Courts were civil in nature. Thus it may be that the Comrades Courts take up much of the cases of a criminal nature that might otherwise be tried in the People's Courts.

The Constitution provides that trials shall be open to the public, except as provided by law. The Procurator apparently has the right to determine who is not permitted in the courtroom during the trial.^{8,9}

Economic disputes between state bodies are settled by arbitration.

Apparently in the Soviet Union the welfare of the state is paramount—the liberty of the individual is secondary.

Historically no tradition of freedom upon which the judiciary may rely exists in the past history of Russia.

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That is an important distinction between the East and the West.

Obviously we were not in the Soviet Union long enough to get an indepth view of Soviet courts in action. As the Chinese would say, "You were looking at the flowers from a galloping horse."

We were told that nearly one thousand lawyers from the United States had visited the Soviet Union in 1978-79 at the invitation of the Soviet legal profession. Soviet jurists seemed friendly and willing to exchange views about our legal systems.

No society is infallible. A friendly exchange between ours and their legal professions might well lead to a peaceful world in the future.

After observing the absence of the separation of powers doctrine in the Soviet Union and the authority of the Procurator General over the judicial system, one appreciates the wisdom of the separation of powers doctrine in the United States and our constitutional privilege of the Writ of Habeas Corpus.¹⁰

As Montesquieu asserted: political freedom could be maintained only by separating the executive, legislative, and judicial powers of government. When they were divided, one checked and balanced the other and the result was freedom.¹¹

The Soviet Union has prepared a Constitution¹² of which they are very proud. But with absence of a privilege similar to the Writ of Habeas Corpus, freedom from arrest and incarceration without trial cannot be enforced by their courts.

As history reveals, the Magna Charta was signed by King John at Runnymede, June 15, 1215. But for several hundred years thereafter, many persons were arrested and held without trial and had no access to court for relief until Parliament enacted the Habeas Corpus Act in 1679.¹³ Thereafter a friend or lawyer could obtain a writ which would order the police to bring the person arrested into court and have the court decide whether the person should be charged and given an early trial or be released. This writ has been referred to as "The Great Writ of Personal Liberty."

Annex 1

A View of Hearings and Trials in the Supreme Court, People's Court and Comrade's Court in Moscow

On a side street away from the noise of the busy thoroughfares of Moscow is a drab graystone, four-story building, 7-3 Kubisheff Street. A plaque reads in Russian, "The Supreme Court of the Russian Federated Republic." At the door a man about 40 years of age, in a gray uniform with red trimming, casually smoking a cigarette greets you. You are in a small lobby with a single light globe of about 60 candlepower. An old man

with a long beard takes your coat in the checkroom. You walk up three flights of stairs—there is no elevator—to room 323, the office of Mr. Justice Orlov. A girl sits at her typewriter, greets you, and your interpreter opens the door to the chambers of the Justice. He rises and says in Russian, "Good morning. We are very glad you could come. Please be seated." On a small table in front of the desk are sandwiches, coffee, a bottle of vodka and glasses. "Please have a sandwich," he said. "In about thirty minutes there will be a session in one of the branches of the court. If you like, I will take you there to listen."

Thus I was ushered into the chambers of *The Supreme Court of the Russian Federated Republic*. After lunch of sandwiches and coffee and the ever-present vodka, Justice Orlov took me to one of the sections of the Supreme Court where a hearing was being held. It was before three judges—none wore robes. To their right was a deputy procurator. To their left, counsel for defendant. The appeal was on behalf of a defendant who had been convicted in a People's Court in an eastern district of the Republic. He made his appeal five months after conviction. The law requires appeals to be made within seven days. His lawyer pleaded the defendant did not know his appeal had to be made during that time, and because of circumstances he claimed were unusual, the

appeal should now be permitted. The deputy procurator argued for seven minutes. Counsel for the defense argued for ten minutes. The court adjourned and retired.

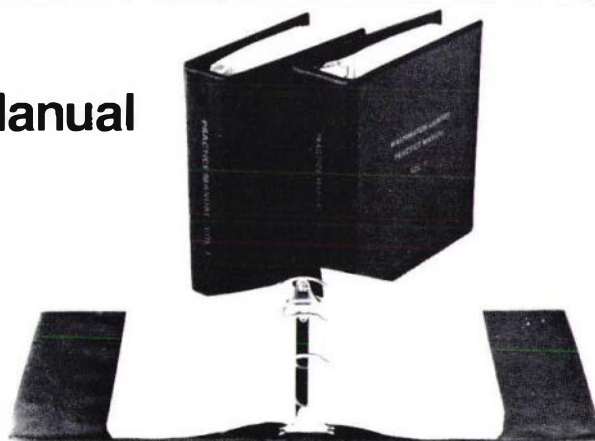
There were three spectators in the courtroom excepting the Justice and me. They were probably members of the defendant's family. Three-quarters of an hour later, the judges returned and we all stood while the chairman read the decision from a handwritten document, announcing the appeal was denied because it was not made within the seven-day period. An appeal could be taken from this section of the court to the presidium of the court, and theoretically from the presidium to the Supreme Court of the USSR.

The trial courts in Moscow are referred to as the *People's courts*. They are presided over by one professional judge and two lay assessors. About one-third of the judges are women. They are elected from their district for a period of five years; the assessors for two years and serve 14 days to a month. None wore robes. In chambers I talked to people's judges Martinova and Carina of the Baumanskaya District of Moscow. They were women professional judges presiding over the people's court. During our discussion I showed them an article from "Pravda" entitled, "A Call for the Establishment of a Type of Jury System in our Courts

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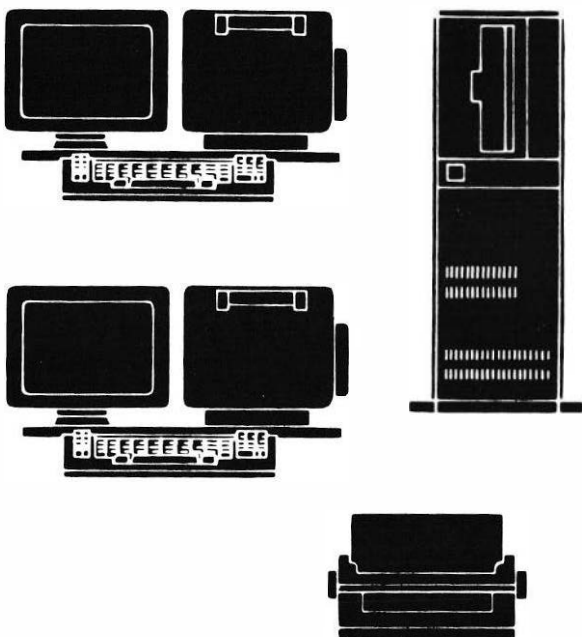
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and a Stricter Observance of the Principles of the Presumption of Innocence." The article suggested the judge should be assisted by seven to nine lay assessors or jurors instead of the present two. This was to answer the criticism of those who had complained that many persons were being convicted on flimsy circumstantial evidence. They said they had seen the article but did not agree with it. They asserted there had been some criticism of the present assessor system, but there had been no suggestion that they use the jury trial as in common-law nations. It had been suggested that more assessors be used such as in France and Germany.

"You seem to be the procurator," I said. "You have all the evidence before you and ask most of the questions." "Oh, no," she responded, "both the procurator and the defense lawyer have their different functions to perform. It is the duty of the people's judge to be impartial, to examine the record the police have prepared to see that the defendant has not been unjustly accused. If he is guilty, we and the assessors then must determine what the penalty should be."

I observed a trial in progress. The defendant was charged with falling asleep at the wheel and injuring a pedestrian. On each side of the judge sat two lay assessors. There were no decorations in the courtroom but above the judge was a picture of Lenin. To their right was a court reporter and the deputy procurator. To the left was the defendant and his attorney. Next to the defendant was a police officer. On the judge's desk were all the exhibits and statements of witnesses. The judge called the witness. He meekly enters the courtroom and stands at a rail before the judge. The judge states, "You are aware the penalty for failure to tell the truth is five years?" "Yes," meekly responds the witness. The judge then pulls out one of the statements, reads it to him and asks if he made that statement. Witness nods. The entire trial is conducted by the judge. Once in a while defense counsel suggests a question or asks the witness an additional question to bring out evidence not in the statement. During the interrogation, a worker pokes his head in the door and asks the judge, "Is this the case of Knosky?" The judge looks up and says, "No, that is down the hall," and continues the interrogation. The case may last until seven or eight in the evening. The procurator and defense counsel each make a closing statement. The judge and two assessors retire to deliberate. The assessors may outvote the judge on law and fact. On this case they returned with the unanimous verdict: the driver was sentenced to one year probation. He may keep his job and pay 10% of his wages to the injured victim.

The lowest court in the Soviet Union is the *Comrade's Court*. It may be found in an obscure room in any

neighborhood in Russia. Each large housing project has one. The judges are laymen elected by the people for two-year terms. They receive no pay. They usually meet in the evening once or twice a week to hear complaints of citizens of their neighbors. Thus the case of Selbevia v. Kreslik, that Mrs. Kreslik uses all the hot water in the community laundry. Each time Mrs. Selbevia comes home from work at night to do the family wash, no hot water is available. The trial commences at 7:30 p.m. in a room with two benches at one end and a table at the other, at which are three rustic chairs for the people's assessors. On the walls are banners depicting the glories of communism. Someone shouts let's get on with the case. The chairman reads the complaint. One addresses the complainant. "Is there anything else you desire to add to your complaint?" "No," replies Mrs. Selbevia. The defendant is called on. "You have heard what has been said about you; what is your response?" Friends and neighbors testify for the parties. The assessors retire and return with their admonishment. The defendant is called before the court and advised: "You have not conducted yourself as a good Soviet citizen; you must realize that all workers are entitled to an equal share of the hot water in the laundry. You must conduct yourself accordingly." That is the decision of the court. Usually this admonishment is all that is necessary. If the case is of

sufficient importance it may be referred to the town court for another trial.

The Supreme Court of the Autonomous Federated Russian Republic consists of 76 members, divided into sections. Appeals from the town courts are made to one of these sections. Justices are appointed for five-year terms by the Supreme Soviet of the Republic. There is an appeal section of the Supreme Court called the Presidium of the Court and usually consists of the chairmen of the sections. In criminal cases the procurator, as well as the defendant, may appeal. The procurator may sit with the court and discuss the case while the court has the case under consideration, but he may not vote. A law or decree may not be declared invalid. The court may merely construe the law.

NOTE: In approaching consideration of Soviet law, one must consider that it is of comparatively recent origin. Marx and Engels, economists, made little pretense of establishing a system of jurisprudence. Lenin, the lawyer, had been educated under the tsarist system. His brother had been hanged by decree of a tsarist judge. The Tsar's courts and lawyers, historians are pretty well agreed, were principal contributing causes to the 1917 revolution. The Tsar's legal system patterned on that of the West fell far short of the western brand of justice. It

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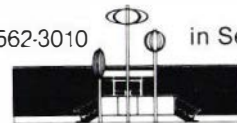
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protected property but at the expense of human rights. It was a dignified system but it did not dignify justice. There were lengthy procedural delays, police investigations were inept, accused were brought to trial long after the statute of limitations had run and witnesses had died. Lawyer Nicolai Lenin was one of the harshest critics. To him the court system of the Tsar was a "bourgeoise court" that pretended to defend law and order but was a weapon for the brutal suppression of the people and the protection of bourgeoisie. Again, under Marxian theory, when the ideal form of communism is obtained, the state will "wither away" and the law will disappear. When the ideal is reached, that each person will give to the state according to his ability and receive according to his need, and private property will be completely abolished, the "state will wither away" and the courts will not be necessary. Thus, to the triumphant Bolsheviks after the 1917 revolution, the courts were temporary and the legal profession justifiable only during the period necessary to establish the "ideal state."

In the 1920's, however, Lenin called for a "strategic" restoration of legal institutions as part of the "retreat" to a mixed capitalist-socialist economy. As a result, legal education has advanced; the legal profession in 1967 exceeded 101,000, and over 85% of lawyers and judges had a higher legal education. (Barry and Berman, "The

Soviet Legal Profession", Vol. 82; Harvard Law Review, pg. 1 (1968))

Today we were told practically all lawyers and judges have had a higher legal education.

¹Washington State lawyers who made the visit received 16½ hours of C.L.E. credit.

²Constitution (Fundamental Law) of the Soviet Socialist Republics, adopted by the Supreme Soviet of the USSR, October 7, 1977.

³Harold J. Berman, "Justice in the USSR", pps. 291 ff. Anti-Parasite Law is also a legacy of tsarist Russia. "Persons who committed no other crime but that of having the wrong friends, wrong opinions, could be banished to Siberia, by a secret administrative hearing, without the right to appeal to the courts." (Berman, *supra*, p. 233)

⁴Procuracy was founded by Peter the Great in 1722. It was abolished in 1917 by the new Bolshevik regime but reestablished in 1922.

⁵Constitution (*supra*), Article 152.

⁶Constitution (Articles 158, 161)

⁷Berman and Spindler, "Comrades Courts," Vol. 38, Washington Law Review, p. 842 ff.

⁸Constitution, Article 157.

⁹A portion of our group was able to attend a trial in a People's Court while the writer and others were in session with the panel. On a previous visit to the Soviet Union I attended several trials in Moscow as described in Annex 1.

¹⁰U.S. Constitution, Article I, Sec. 9, Par. 2. Washington State Constitution, Article I, Sec. 13.

¹¹"The Spirit of the Laws", published in 1750, had a persuasive effect on the framers of our Constitution.

¹²Note 2, *supra*.

¹³English Statute of 31. Car. 11, c. 2.



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3.2M BUDGET APPROVED; NO DUES HIKE FOR '83

SALISHAN LODGE, OREGON, August 20 & 21 -- By unanimous vote, the Board of Governors approved a \$3,241,938 budget for fiscal 1983. Executive Director John Michalik told the Governors that

the Bar Association is presently in excellent fiscal health and even expects to build a modest \$70-100,000 surplus. Michalik warned that it is important to build up a strong reserve fund now as a hedge against the necessity for any dues increases in the future.

The WSBA currently staffs 36 employees at its main office. The total salary outlay for all WSBA employees in 1983 is budgeted at approximately \$943,000. The Bar currently pays \$8.71/square foot at its Seattle headquarters where it will remain at least through 1987. Approximately 1.9% of the annual budget pays for meeting expenses to be incurred by the Board of Governors. Approximately \$63,000 has been budgeted for 1983 to fund the Bar Association's legislative listening-post in Olympia (exclusive of salaries). Michalik forecast that the Bar would earn interest income in 1983 of about \$47,500. Because of high interest rates in 1981-82, however, the Bar earned nearly \$40,000 more interest income than originally predicted.

The 1983 budget includes a \$6,000 allotment to pay travel expenses related to the Bar's traveling spot audit program. The budget, pursuant to a written contract entered into approximately two years ago, also provides for \$48,000 annual deferred compensation to be paid to former Executive Director Friar for life. Although the Continuing Legal Education Program had amassed an accumulated deficit of about \$110,000 over the past four years, Michalik told the Board that progress is now being made to reduce that deficit and to make CLE self-supporting.

At the request of Governors Dewell and Read, the Executive Director will, in the future, endeavor to utilize the Bar's new computerized accounting system to provide itemized quarterly budget reports.

BOARD ADVOCATES BAR FUND BOARD

At its July meeting, the Board of Governors endorsed the concept of a court rule providing for interest-bearing client trust accounts. It had previously also decided that participation in

the program should be mandatory. Jack Dean, reporting on behalf of the special Task Force, advised the Board that its prior decisions had been bolstered by the issuance of a recent ABA ethical Opinion which finds no ethical conflict between professional ethics and a careful administration of interest-bearing trust accounts.

By unanimous vote, the Board adopted Dean's recommendation that attorneys be absolved from liability to clients if they act with ordinary diligence in choosing to invest clients' funds in short or long term accounts. By a 7-2 vote (Loftus and Comfort voting nay), the Board also voted to leave it to individual attorneys whether

to disclose to a client that his/her trust funds are being used to generate interest income. Governor Beezer had recommended that attorneys be "strongly urged" to make that disclosure.

The real issue now, stated Dean, is what to do with the money generated by trust fund interest and which organizations should get it. Governor and President-elect Steere cautioned that now that money will be available, people and organizations will come out of the woodwork to claim a piece of the pie. Steere suggested that rather than create a new board to administer the Fund, the new monies should be administered by the WSBA's already existing Bar Foundation. Steere described that body as "apolitical and high-minded." Governor Comfort also wanted to tie the Bar Association into this new program because of the tangible public relations benefits attached to it.

Governor Vander Stoep moved that the Board of Governors recommend to the Supreme Court that a board be created along the lines of that in Minnesota. The Minnesota plan calls for the establishment of a 9-person board comprised of six lawyers (three appointed by the Board of Governors, three by the Supreme Court). This board, Jack Dean pointed out, would decide which bodies or organizations would receive foundation money independent of the Board of Governors. Vander Stoep's motion passed unanimously.

Voting 9-0, the Governors also recommended to the Supreme Court that the Board should establish a means to use the interest on pooled Trust Funds for law-related charitable and educational purposes, such as legal services for the poor, programs for the education of children and other members of the public about law, as well as other law-related public purposes which may be prescribed by the Board.

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OTHER BOARD ACTIONS:

THE RALPH BUNCHE AWARD -- The World Peace Through Law Section received the unanimous approval of the Board of Governors to present its annual Ralph Bunche Award for promoting peace in the world to UW Professor Giovanni Costigan.

WESTERN STATES BAR CONFERENCE -- The Board unanimously voted to send its President and Executive Director to the February meeting of the Western States Bar Conference in the Virgin Islands. Although the entire Board normally attends such meetings, the WSBA's nominal attendance at the 1983 meeting reflects displeasure at the failure of the Western States Bar Conference to confine its meetings to the western states.

SPECIAL BULLETIN: Jack R. Dean of Spokane has been appointed Chairman of the state BAR-PAC Committee. Seattle attorney F. Lee Campbell has accepted the Vice-Chairmanship. An executive committee will be announced shortly. BAR-PAC intends to make a concerted effort to solicit contributions from every Washington attorney by direct mail. Personal solicitation by executive members with larger firms seeking an annual stated contribution will be ongoing. Dean and Campbell call attention to the fact that Bar dues have not been used and will not be used to support individual candidates or political parties. However, political action funds raised by this voluntary designated "BAR-PAC" can be used to support lawyer candidates, regardless of political parties, and to assist legislators sympathetic to our needs and concerns. They state that this need is urgent. In July, the Public Disclosure Commission reported that monies available to the combined PACs of the medical, dental and chiropractic societies was in excess of \$153,000. BAR-PAC showed cash available of less than \$500.

THE NEXT MEETING OF THE BOARD OF GOVERNORS WILL BE IN VANCOUVER, B.C., SEPTEMBER 14. THE BOARD MEETS ON OCTOBER 15 & 16 IN BELLEVUE.

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Don't Forget....

by **John M. Redenbaugh**

Assistant Director of Continuing Legal Education

October is just around the corner, and it's filled with CLE seminars that merit your attention.

LAW OFFICE MANAGEMENT is our lead off October program. This stimulating half-day seminar, to be held on October 1, 1982, at the Doubletree Plaza at Southcenter (Seattle), should be of value and interest to lawyers from firms of all sizes. Subtitled "Getting Financial Control of Yourself and Your Practice", it will feature **JAY G. FOONBERG, ESQ.**, author of the helpful book entitled *How to Start and Build a Law Practice*, as Program Speaker. A glance at his background dramatizes his credentials. Mr. Foonberg was sworn in as a lawyer in January of 1964 and immediately opened his own practice. By 1976, he was President, Chairman of the Board and Principal Shareholder of a Law Corporation with offices in Los Angeles and San Francisco employing 17 lawyers, 4 clerks and 38 non-lawyer personnel. The program he presents will include a focus on such topics as "Lawyer Marketing in the 1980s—Fundamental Techniques For Upgrading Your Practice" and "Finding and Motivating Good Non-Lawyer Staff". Don't miss your opportunity to learn more about law office management from this nationally recognized lecturer.

Another October offering will be **TRIAL ADVOCACY 1982: DISCOVERY**, this year's offering in the continuing Trial Advocacy series. Co-sponsored by the Trial Practice Section and the WSBA's CLE Committee, this program is designed to deliver practical and valuable assistance in the area of discovery. The seminar will include reviews of various discovery tools plus application of those tools to specific litigation areas. As a special feature, a discovery deposition-related demonstration will be presented. The faculty includes many experienced trial attorneys who do both plaintiff and defense work. Topics to be covered include: Using Interrogatories, Production of Documents and Requests for Admissions; Effective Use of Depositions; Use and Abuse of Protective Orders; Failure to Make Discovery; and Discovery in Products Liability, Dissolution, Personal Injury Auto and Medical Malpractice Cases. Registrants have the choice of attending this seminar in either Yakima (October 8, 1982), Everett (October 15, 1982), Spokane (October 22, 1982) or Seattle (October 29, 1982).

BUSINESSES IN TROUBLE will be produced in Seattle on October 15, 1982, and in Spokane on October 19, 1982. It will focus on the intricacies of bankruptcies, with particular concern for Chapters 7 and 11 of the Bankruptcy Code. Don't miss this opportunity to hone your skills and increase your understanding of the law in this area. Just a few of the many topics to be covered during this all day seminar are: Overview of the Bankruptcy Code—Jurisdiction, Organization, Definitions, Rules & Procedures; Preferences and Fraudulent Transfers; Claims; Workouts; Debtor in Possession, Financing and Use of Property; Plans and Disclosure Statements; and Confirmation.

Finally, a half-day seminar dealing with **REAL ESTATE FINANCING** will be presented on October 29, 1982, in Richland, on November 5, 1982, in Renton and on November 12, 1982, in Spokane. Watch for further information regarding this timely seminar in the next edition of the CLE Clearinghouse Column.

Approved Continuing Legal Education Activities

COURSES APPROVED

FEDERAL BAR ASSOCIATION

Federal Civil Practice and Procedure and the Local Federal Rules

October 8, 1982: Seattle 4.0

WASHINGTON STATE BAR ASSOCIATION

1982 Bar Convention CLE Programs

September 15-18, 1982: Vancouver, B.C. (19.0 total available)

Law Office Management

October 1, 1982: Seattle 4.0

Trial Advocacy 1982: DISCOVERY

October 8, 1982: Yakima 7.0

October 15, 1982: Everett 7.0

October 22, 1982: Spokane 7.0

October 29, 1982: Seattle 7.0

Businesses in Trouble

October 15, 1982: Seattle 6.0

October 19, 1982: Spokane 6.0

Real Estate Financing

October 29, 1982: Richland 4.0

November 5, 1982: Renton 4.0

November 12, 1982: Spokane 4.0

NW CENTER FOR PROFESSIONAL EDUCATION

Estate Planning

September 22, 1982: Seattle 18.0

UW GRADUATE SCHOOL OF BUSINESS ADMINISTRATION

Legal Aspects of Business Regulation

October 5, 1982: Seattle 15.0

WASHINGTON LEGAL ASSISTANTS ASSOCIATION

1982 State Convention

September 10, 1982: Seattle 12.0

WASHINGTON STATE BAR ASSOCIATION

FALL CLE CALENDAR

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OCTOBER

LAW OFFICE MANAGEMENT (301)

4.00 CLE credits \$65.00
October 1, 1982, Seattle
Doubletree Plaza at
Southcenter

TRIAL ADVOCACY 1982: DISCOVERY (302)

7.00 CLE credits \$85.00
October 8, 1982, Yakima
Thunderbird
October 15, 1982, Everett
Holiday Inn
October 22, 1982, Spokane
Sheraton
October 29, 1982, Seattle
Westin Hotel

BUSINESSES IN TROUBLE (303)

6.50 CLE credits \$75.00
October 15, 1982, Seattle
Red Lion
October 19, 1982, Spokane
Sheraton

REAL ESTATE FINANCING (304)

4.00 CLE credits \$65.00
October 29, 1982, Richland
Hanford House

NOVEMBER

REAL ESTATE FINANCING (304)

4.00 CLE credits \$65.00
November 5, 1982
Renton Sheraton
November 12, 1982
Spokane Ridpath

27th ANNUAL ESTATE PLANNING SEMINAR (305)

15.25 CLE credits \$145.00
November 18-19, 1982
Seattle, Westin Hotel

Enclosed is my check for \$_____ for my registration fee for the seminar(s) checked on this page. (Make photocopies, if needed, for each additional registration.)

Registration fees are refundable, less handling fee, if cancellation is received two business days in advance of the program.

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DECEMBER

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Seattle, Westin Hotel

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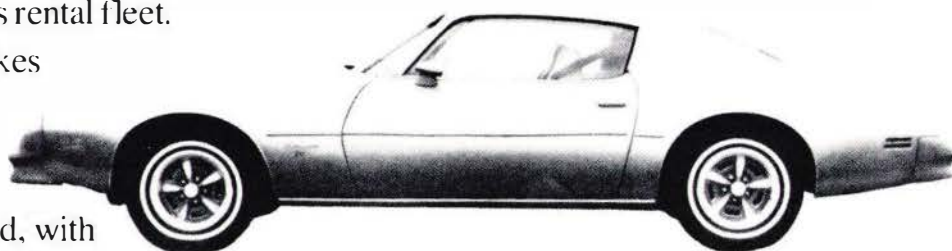
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	Mon-Fri 9-6 Sat & Sun 10-5
	924-7676



Gibbs, Dwyer, Delay and Kargianis Elected to Board of Governors

The Board of Governors will welcome four new members at the Annual Meeting this September in Vancouver, B.C. Paul C. Gibbs, William L. Dwyer, Joseph P. Delay and George Kargianis will begin their three year terms at the close of the Annual Meeting.

Seattle Attorney Paul Gibbs has been elected to represent the lawyers of the First Congressional District. Active in service to the legal profession for many years, he attended the University of Washington, receiving his undergraduate degree in 1948 and law degree in 1951. He was admitted to the Bar in 1952. After serving two years in the King County Prosecuting Attorney's Office, he joined the firm of Williams, Lanza, Kastner & Gibbs, of which he is now a senior partner.

Gibbs, who served as President of the Seattle-King County Bar Association in 1980-81, is presently a member of the Executive Committee of the Ninth Circuit Judicial Conference. He is a member of the Association of Insurance Attorneys (President, 1973-74), Defense Research Institute (member of Board of Directors, 1972-75), and Washington Association of Defense Counsel. He also is a Fellow of the American College of Trial Lawyers and International Society of Barristers.

Gibbs will succeed Paul W. Steere as First Congressional District representative on the Board.

William L. Dwyer has been elected to represent the lawyers of

King County as a Member-at-Large on the Board.

Bill Dwyer is a Seattle trial lawyer and a partner in the firm of Culp, Dwyer, Guterson & Grader. He received his B.S.L. degree from the University of Washington in 1951 and his LL.B. from New York University in 1953. He then served in the Judge Advocate General's Corps of the U.S. Army in Europe. Mr. Dwyer has practiced in Seattle for over twenty-five years. He is a fellow of the American College of Trial Lawyers and has served as president of the Seattle-King County Bar Association, chairman of the WSBA's Committee on Continuing Legal Education, chairman of the WSBA Special Commission to Study the Antitrust Laws, and in other bar capacities. He claims that he has been "far luckier than he deserves and owes a great deal to his wife, three children, secretary, partners, and other benefactors."

Dwyer will succeed F. Lee Campbell as one of two King County-at-Large representatives.

Elected to the Board to represent the lawyers in the Fifth Congressional District is Spokane attorney Joseph P. Delay.

Having graduated from Gonzaga University in 1952, Joe Delay entered the private practice of law in February, 1952, in Spokane, as a sole practitioner. In 1963, the partnership of Delay & Curran was formed, and now the firm is known as Delay, Curran, Thompson & Pontarolo. Mr.

Delay and his wife, Helen, have three sons.

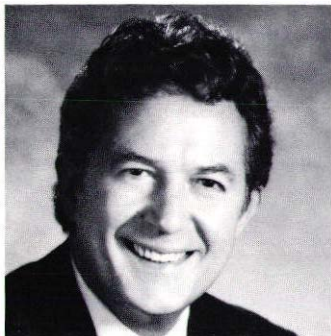
Delay will succeed Jack R. Dean as the Fifth Congressional District representative on the Board.

The Board of Governors has now been enlarged to a total of eleven members to provide for representation of lawyers in the newly-created Eighth Congressional District, and the Board's newly-elected representative from that district is George Kargianis, senior partner in the Seattle law firm of Kargianis and Austin.

A native of Aberdeen, Washington, Kargianis was graduated from the University of Washington Law School in June, 1953. He was admitted to practice in Washington in 1953, and he is a member of the Washington State and District of Columbia Bars.

He is a member of the Seattle-King County Bar Association, the Washington State Bar Association, the American Bar Association, the Washington State Trial Lawyers Association, the American Trial Lawyers Association and the Federal Bar Association.

Kargianis has been active in various state and county bar committees. He is a former chairman of the WSBA Administrative Law Section and was formerly the Chief Administrative Law Judge for the Washington Utilities and Transportation Commission. George and his wife, Sharon, have two daughters attending the University of Washington and one married daughter and two grandchildren.



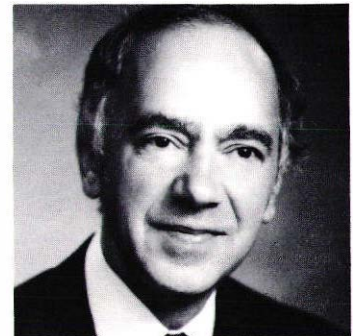
Paul C. Gibbs



William L. Dwyer



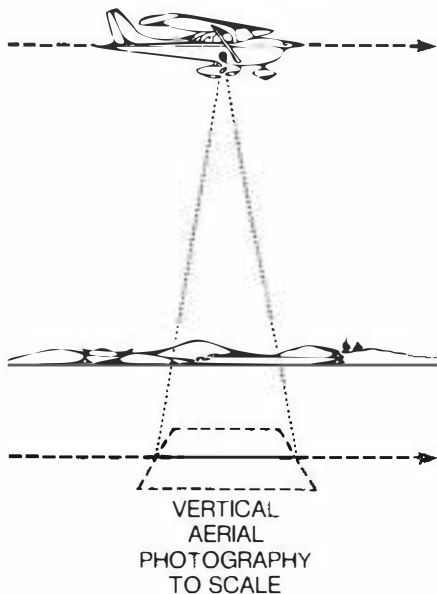
Joseph P. Delay



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CPAs Announce Fall Invitational Tournament

The Attorney/CPA Fall Invitational Golf, Racketball and Tennis Tournament is scheduled for September 24, 1982, at Twin Lakes Golf and Country Club in Federal Way and Pacific West Sports and Racket Center in Federal Way.

For more information contact the Washington Society of Certified Public Accountants, 347 Logan Building, Fifth and Union, Seattle, WA 98101, telephone (206) 624-7246.

NFPA Announces Regional Conference

The National Federation of Paralegal Associations will hold a Region I Conference on "Energy Management: Success Strategies for the Future" on September 24-26 in San Diego, California.

For more information, contact Janet A. Lande-Owens, Region I Director, c/o Stoel, Rives, Boley, Fraser and Wyse, 900 S.W. Fifth Avenue, Suite 2300, Portland, OR 97204, telephone (503) 224-3380.

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Nuclear Arms Control Symposium Offered

The Lawyers Alliance for Nuclear Arms Control will offer a two-day symposium entitled "Can We Negotiate Our Way Out of a Nuclear War?" on October 23 and 24. The symposium will be held at San Francisco's Masonic Auditorium and Hastings School of Law. Featured will be arms control experts with scientific, political and diplomatic backgrounds presenting a variety of perspectives on the arms race and what can be done about it. Speakers include Soviet SALT II Negotiator Alexander Bessmertnykh and California Supreme Court Justice Frank Newman.

Tickets for the event are \$20.00. For more information, contact the Lawyers Alliance for Nuclear Arms Control, 807 Montgomery Street, First Floor, San Francisco, CA 94133, telephone (415)391-7996.

Federal Practice Seminar Offered

On October 8, 1982, an updated presentation of the 1979 seminar "Federal Civil Practice and Procedure and the Local Federal Rules" will be held at the New Federal Building Auditorium, Seattle, at 1:00 p.m. The seminar, a comprehensive, nuts-and-bolts primer for attorneys with limited knowledge of the local Federal Court and the peculiarities of Federal Procedure and Jurisdiction, is sponsored by the Federal Bar Association. The faculty will include U.S. District Court Judge John C. Coughenour and Dean Frederic C. Tausend, U.P.S. Law School, as

well as attorneys active in civil practice before the local U.S. District Court.

For more information, contact the Federal Bar Association, P.O. Box 1873, Seattle, WA 98111, before September 30.

King County Superior Court Announces Changes

The following changes in procedure and new hours have been announced by the King County Superior Court:

1. The Receivership Calendar, currently heard in the Ex Parte Department at 2:00 p.m. each Friday, will be heard at 2:00 p.m. each Monday. The effective date of this change is September 1, 1982.

2. Effective September 1, the Ex Parte Department's hours will be from 9:00 a.m. to noon and from 1:30 p.m. to 4:15 p.m. This change will

facilitate the filing of documents in the Clerk's Office prior to their closing.

3. The King County Superior Court Judges have implemented a new procedure for the processing of motions for reconsideration.

Effective immediately, motions for reconsideration shall be filed within 5 days after the oral decision. A copy of the motion and the documents in support thereof are to be delivered to the Hearing Judge and served on the opposing party on the same date. The motion must set forth specific grounds for the reconsideration and the arguments and authorities therefore.

The opposing party shall have 5 days after he/she receives the motion and materials in support thereof to file documents in opposition thereto. A copy of said documents shall be served on the moving party and de-

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livered to the Hearing Judge on the same date.

Each of the parties shall include in the materials submitted to the Hearing Judge a proposed order sustaining his/her side of the argument.

Oral arguments will be scheduled only if the Hearing Judge requests the same.

Reminder

Lawyers are reminded that completed "Certificates of Dissolution" (Vital Statistics Form) must accompany signed decrees of dissolution when filing them with the King County Superior Court Clerk's Office.

Third Annual Women and the Law Seminar

The Northwest Women's Law Center is sponsoring its Third Annual Women and the Law CLE event on Friday, October 29, 1982, from 9:00 a.m. until 5:00 p.m., at the Seattle Hilton. This program is designed to acquaint the practitioner with the emerging legal issues affecting women clients such as medical malpractice/products liability, adoption and related issues, use of state ERAs, older women and age discrimination, and sexual harassment. A lecture on comparable worth will be given by Winn Newman, former general counsel for International Union of Electricians (IUE) and lead attorney on *IUE v. Westinghouse*, a Third Circuit comparable worth case. A luncheon will be offered and the Honorable Betty B. Fletcher, Judge, U.S. Court of Appeals, Ninth Circuit, will be the featured speaker.

For registration information contact the Northwest Women's Law Center at (206)632-8468.

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DISCIPLINE

Gordon L. Walgren Disbarred

On June 21, 1982, Gordon L. Walgren was ordered disbarred by the Washington Supreme Court. Walgren was disbarred for his 1980 federal felony conviction in the case of *United States v. Bagnariol, et al.*, pursuant to a Stipulation entered into between himself and State Bar Counsel, approved by the Supreme Court. This notice is published pursuant to DRA 11.7(c)(1).

Shirley M. Saulnier Suspended

Seattle attorney Shirley M. Saulnier has been suspended from the practice of law for a period of two years by order of the Washington Supreme Court dated July 22, 1982.

Saulnier was suspended for taking merchandise for which she had not paid from three different stores. It was found that her actions violated DRA 1.1(a), prohibiting conduct involving moral turpitude.

Kenneth M. Brown, Jr. Reprimanded

Seattle attorney Kenneth M. Brown, Jr., was reprimanded before the Board of Governors at the Board's July 16, 1982, meeting. The Reprimand was administered pursuant to an opinion of the Supreme Court as a result of Brown's criminal conviction for failure to file federal income tax returns. This notice is published pursuant to DRA 11.7(c)(3).

Joseph J. Roller Reprimanded

Tacoma attorney Joseph J. Roller received a Reprimand from the Board of Governors of the Washington State

Bar Association on July 16, 1982. Mr. Roller was found to have violated DR 9-102(B) which requires an attorney to render appropriate accounts to a client for his client's funds in his possession, and to deliver promptly to his client all funds to which the client is entitled.

Lowell H. Ashbach, Jr., Reprimanded

Tacoma attorney Lowell H. Ashbach, Jr., stipulated to receipt of a Reprimand before the Board of Governors on July 16, 1982. Mr. Ashbach was disciplined for violating DR 9-102(B)(3). The conduct arose after Mr. Ashbach accepted real property of his client for a fee and failed to account to his client regarding profits realized after the real property was resold.

This notice is published pursuant to DRA 11.7(c)(3).

Jon W. Orton Censured

Jon W. Orton of Puyallup, Washington was censured by the Board of Governors on July 19, 1982. The Censure was issued pursuant to a Stipulation with Mr. Orton that his conduct had violated (CPR) DR 6-101(A)(3) and DR 7-101(A)(2). This notice is published pursuant to DRA 11.7(c)(2).

IN MEMORIAM

Ralph Llewellyn Jones, of College Place, died July 3 at the age of 59. Mr. Jones was admitted to practice in Washington in 1961.

Seattle attorney **Burroughs B. Anderson**, 63, died July 17. Mr. Anderson had been a member of the Bar since 1949.

Herald A. O'Neill, of Seattle, died July 23 at the age of 75. Mr. O'Neill was admitted to the Bar in 1930.

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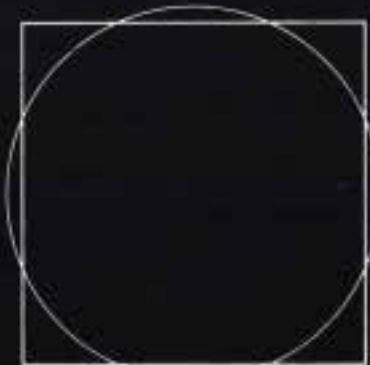
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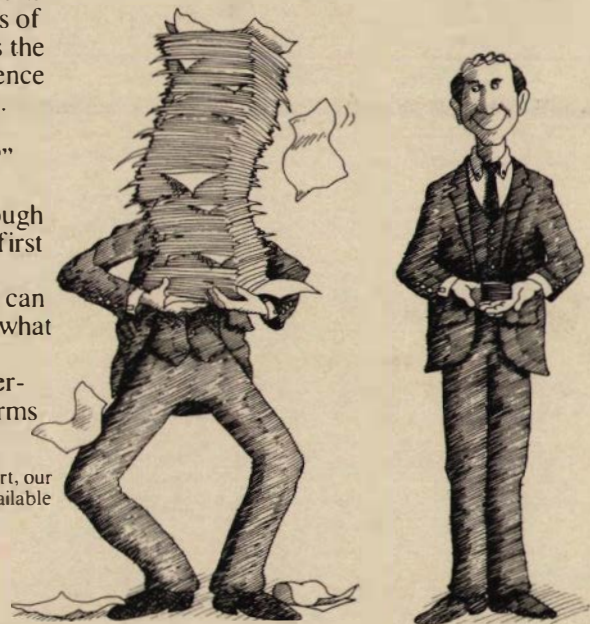
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