

Washington State Bar News

Volume 38, No. 4, April 1984

INSIDE: First Annual
April Fools' Day Lampoon



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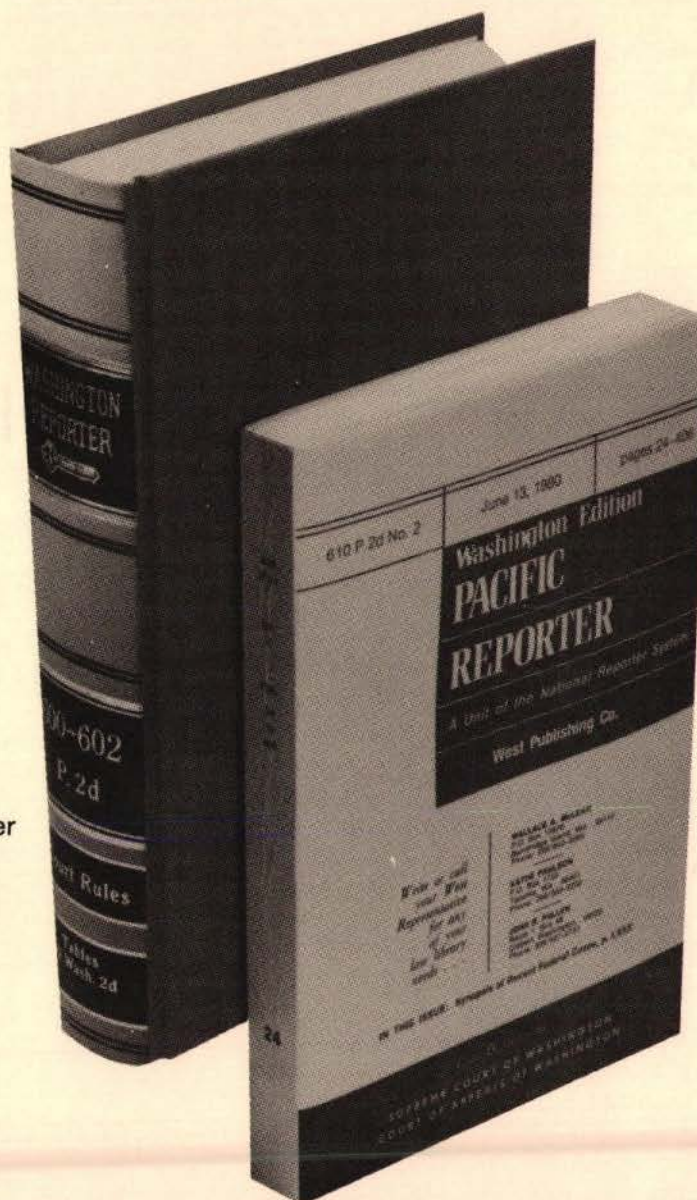
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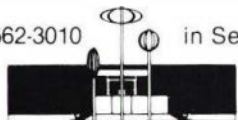
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Washington State Bar News

Volume 38, No. 4, April 1984

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Board of Governors Elections to be Held

Nominations Requested

Lawyers residing in the Third, Sixth and Eighth Congressional Districts, and in King County, please note:

Members of the Board of Governors of the State Bar to represent those districts, for three-year terms ending in 1987, are due to be elected this year. Expiring in September, 1984 are the current Board terms of James A. Vander Stoep (Third District), Patrick C. Comfort (Sixth District), George E. Kargianis (Eighth District), and Thomas D. Loftus (King County at Large).

Article III of the Association's By-Laws provides that any active member in good standing, except a member previously elected to the Board of Governors, may be nominated for the office of Governor from the district in which he or she resides upon petition signed by at least twenty but not more than thirty active members also residing in the district.

Nominating petitions may be obtained from the State Bar Office, 505 Madison Street, Seattle, WA 98104. The petitions must be filed in the State Bar Office by 5:00 p.m. on Thursday, May 31, 1984.

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WASHINGTON STATE BAR NEWSLINE

The Board's Work



by Steven A. Reisler

A SUCCESS STORY OF WHICH WE CAN ALL BE PROUD!

Association, President Redman noted that the enactment of legislation increasing judicial salaries was the fruit of many lawyers' efforts to maintain the quality of the judiciary in this state. As a result of the Bar's and judiciary's educational campaign, judicial salaries will henceforth be reviewed biannually by the Washington legislature.

PASCO, March 16-17 -- WSBA President Bob Redman called it "a success story of which we can all be proud!" Speaking at a joint luncheon meeting of the Board of Governors and the Benton-Franklin Bar

Redman also reminded the Benton-Franklin Bar Association that the Supreme Court will hear oral argument on a proposed IOLTA rule on May 14. The Board of Governors discussed IOLTA on at least 10 separate occasions before sending the proposed rule to the Supreme Court in the Fall, 1983. The Court designated the King County Bar Association to submit a brief in favor of the proposed IOLTA rule and designated the Walla Walla County Bar Association to submit a brief in opposition. The WSBA, Redman explained, remains neutral and takes no position on IOLTA because of the diverse views of its state-wide constituency.

WSBA WELCOMES ATLA CONVENTION

ton State Trial Lawyers Association asked the WSBA to contribute \$8,000 to help purchase canvas "attache cases" stuffed with souvenirs and tourist information and bearing the silk-screened welcome of the WSBA. The Board of Governors has on other occasions authorized grants of \$500 to the Greater Seattle Legal Secretaries Association to underwrite a coffee service during its parent organization's national convention in Seattle, \$750 to host the Ninth Circuit Judicial Conference in Seattle in August, 1984, and \$350 to fund a coffee service during the National Court Clerks Annual Meeting in Seattle in August, 1984.

The Washington State Bar Association has extended its welcoming handshake to the Association of Trial Lawyers of America (ATLA) which will hold its annual convention in Seattle in July, 1984. The Washing-

A proposal to grant WSTLA's \$8,000 request was defeated 1-7 with two abstentions. Governor Paul Gibbs moved that the WSBA authorize \$500 to host a coffee and social break for the ATLA conventioners, consistent with the Bar's previous acts. Governor George Kargianis agreed that a nominal contribution would be in the best interests of the WSBA and that to deny a request for financial participation would be misunderstood. He moved to amend the motion to allocate \$1,000 for the ATLA coffee service.

Governor Pat Comfort agreed that ATLA does good work for the legal community, but he noted that the WSBA had on no previous occasion voted money to support any organization which represents only a part of the Bar. Tom Loftus, King County's Governor at Large, urged the Board to carefully think through its donation policies regardless what it had done in the past. Loftus wondered if there was a difference between helping out legal secretaries' and law clerk associations and helping plaintiffs' or defense lawyers' groups. "Is this a Pandora's box?" he asked. "Will the defense bar associations also request money?"

Governor Jim Vander Stoep, however, argued that the WSBA should encourage any major legal organization to meet in Washington. Although he thought \$8,000 was out of the question, Vander Stoep supported a gesture of support. Fifth District Governor Joe Delay agreed, noting that ATLA and WSTLA work with the WSBA on legislation of mutual interest.

The motion to donate \$1,000 to provide a coffee service at the ATLA convention passed 8-1. Governor Gibbs voted nay and Delay abstained because of his membership in ATLA.

OTHER ACTIONS

- NO DUES FOR DRINKS -- The Bar Association has a general policy that WSBA membership and section dues may not be used, directly or indirectly, to fund the purchase of alcoholic beverages for hosted social events. By unanimous vote, the Board adhered to that position and denied a request from the Corporation, Business and Banking Law Section to hold a hosted beer or wine tasting at its midyear meeting and seminar.

- **BIGGER BAR** -- Executive Director John Michalik reported that 443 candidates sat for the Winter session of the Washington State Bar Examination. He expects the Summer exam to have in excess of last year's 826 examinees.
- **JUDGE BEEZER RECOMMENDED** -- By unanimous vote, the Board of Governors passed a resolution favorably recommending that the Senate Judiciary Committee confirm the presidential appointment of Robert R. Beezer to the United States Ninth Circuit Court of Appeals.
- **FRIVOLOUS LAWSUITS** -- Without dissent, the Board accepted an invitation by the Association of Superior Court Judges to place a WSBA representative on a Task Force on Frivolous Lawsuits and Common Law Liens. The task force will investigate the growing problem of frivolous lawsuits brought against public officials by various political and social fringe groups.
- **COMMITTEES CREATED** -- President Redman appointed Governors Paul Gibbs, Jim Vander Stoep, and Betty Bracelin to search for candidates for the Presidency of the WSBA in 1984-1985. Messrs. Loftus, Bond, and Delay were appointed to a committee to seek nominations for the Bar Association's annual award of merit.
- **REPORTERS VS. RECORDERS** -- By unanimous vote, the Board opposed proposed CR 80 regarding the permissive use of electronic or mechanical recording devices to record oral court testimony, but requested additional time for comment on the proposed rule from lawyers and bar sections.
- **LEGISLATIVE BATTING AVERAGE** -- Executive Director Michalik reported that the Bar batted .999 during the last legislative session. Virtually every bill opposed by the WSBA or on which it took no position died in session.
- **LEGAL EDUCATION** -- Voting 8-1-1 (Zylstra opposed, Kargianis abstaining), the Board approved a test videotape project for prison inmates focusing on general areas of family law. The total projected cost of the project is \$4,930.00.

THE NEXT MEETING OF THE BOARD OF GOVERNORS WILL BE: April 13 & 14 -- Laurel Point Inn, Victoria, B.C.

IOLTA ERRATUM -- In a "Special Announcement" at page 19 of the March Bar News it was stated that the Washington State Bar Association would file an amicus brief in support of IOLTA. The WSBA remains neutral on IOLTA and will not participate in the briefing or oral arguments for or against IOLTA.

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Here in the Pacific Northwest, we recognize logging and mining as being hazardous. But how many of us have ever thought of the legal profession as hazardous?

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May Mid-Year Meetings

by **Joel G. Green**
Assistant Director of CLE

The Corporation, Business & Banking Section will hold its 1984 Mid-Year Meeting in Richland, Washington May 18-20. Chairperson **Robert J. Diercks** of Foster, Pepper & Riviera, Seattle, has recruited an outstanding faculty. The first day of programming consists of a series of updates, which will be presented by **Daniel B. Ritter** of Davis, Wright, Todd, Riese & Jones, Seattle; **Prof. Douglas M. Branson** of the University of Puget Sound School of Law; **James M. Jerge** of Murphy, Jerge & Sirianni, Seattle; **Kevin C. McMahon** of Jones, Grey & Bayley, P.S., Seattle; and **John E. Shaw** of Karr, Tuttle, Koch, Campbell, Mawer & Morrow, Seattle.

The theme for the remaining seminars is FINANCING BUSINESS TRANSACTIONS. **Robert L. Williams** of Williams, Lanza, Kastner & Gibbs, Seattle, will cover *Partnerships and Sub S Corporations—Their Use as Financing Vehicles*. *Commercial Financing* will be covered by **Gary E. Fluhrer** of Foster, Pepper, and *Opinion Letters for Financing Transactions* will be presented by **Joel R. Starin** of Preston, Thorgrimson, Ellis & Holman, Seattle.

On the final day, concurrent seminars will be presented by **Cynthia M. Weed** of Preston, Thorgrimson and **Gary R. Duvall** of Duvall, Caryl & Wells, Seattle, who will cover *Industrial Revenue Bonds as Creative Financing Vehicles*, and *Franchising as a Financing Vehicle*, respectively. They will be followed by **Christopher J. Barry** of Bogle & Gates, Seattle, on *Insider Trading*, and **Stanley A. Carlson** of Davis, Wright on *Regulation D*, while **John A. Reed** of Davis, Wright handles *Lien Conflicts with Secured Interests*.

From May 31-June 2, the Environmental and Land Use Law Section will hold its Second Mid-year Meeting and Seminars at Rosario Resort. Chairperson **Thomas M. Walsh** of Roberts & Shefelman, Seattle, has modeled this program after the successful format of the program held last spring at Lake Chelan. Once again the program is being held at a resort location to allow for maximum interaction among the participants. Adequate free time has been built into the program schedule to enable registrants and their families to take advantage of the resort setting.

William H. Rodgers, Jr., a nationally recognized professor of law from the University of Washington School of Law, is the featured speaker. A noted environmental and natural resources author, Prof. Rodgers will speak on *Current Developments in Fisheries Law*.

Susan R. Agid of Cohen, Andrews, Keegan & Goeltz, P.S., Seattle, **Judith M. Runstad** of Foster, Pepper & Riviera, Seattle, and **Prof. Richard L. Settle** of the University of Puget Sound School of Law will present *Recent Developments in*

the Law. After each presentation, commentary and debate on the meaning, significance, and policy implications of the developments by faculty and registrants will occur.

On day two, **Charles W. Lean**, an Assistant Attorney General with the Department of Ecology, and **William N. Snell** of Haggard, Tousley & Brain, Seattle, will discuss *The New SEPA Regulations*. This will be followed by a workshop involving a *Negotiation of an Environmental/Land Use Dispute* with **Joel M. Gordon** of Buck & Gordon, P.S., Seattle, **Peter J. Eglick** of Seattle, and **Linda M. Youngs**, Bellevue City Attorney, assuming the roles of attorneys for the developers, citizen opponents, and reviewing agency.

Day three has another workshop involving a *Hearing Examiner*, which will be led by **Richard R. Wilson** of Hillis, Phillips, Cairncross, Clark & Martin, P.S., Seattle, **Thomas H.S. Brucker** of Smith, Brucker, Winn & Ehlert, Seattle, and **John Galt**, Snohomish County Hearing Examiner. The concluding seminar presented by **Stephon O. Kenyon**, deputy Prosecuting Attorney for King County, will deal with *Alternative Avenues for Superior Court Review of Governmental Decisions*.

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Real Property, Probate & Trust Mid-Year Meeting

May 11-13, 1984: Richland	11.50
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Law Office Management

May 11, 1984: Seattle	4.00
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Corporation, Business and Banking Mid-Year Meeting

May 18-20, 1984: Richland	12.00
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Post-Dissolution Proceedings

May 18, 1984: Seattle	4.00
May 25, 1984: Spokane	4.00

Environmental and Land Use Law Mid-Year Meeting

May 31-June 1-2, 1984: Rosario Resort	10.75
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On December 17, 1983, Seattle attorney **John R. Cissna** was reprimanded by the Board of Governors for his conduct in purporting to represent members of a class having a \$3,000,000 class action judgment against him to set aside that judgment, without having the authority of each person whom he was purporting to represent after fully and candidly advising each of them of the conflict of interest in such representation. His conduct was found by the Disciplinary Board to violate DR 5-101(A) and DR 5-105.

Mr. Cissna also received a letter of censure for his conduct as counsel for various parties in securities and antitrust proceedings involving the Federal Old Line Insurance Company and Federal Shopping Way, Inc., when he had little or no competency in those law fields and failed to either associate experienced and competent co-counsel or withdraw from those areas of the cases. The Disciplinary Board found this conduct to violate DR 6-101(A)(1).

Suspended

Seattle attorney **Jean H. Scharf** has been ordered suspended from the practice of law pending the outcome of disciplinary proceedings against him. The Supreme Court entered this order on February 15, 1984, pursuant to a stipulation between Mr. Scharf and Bar counsel.



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gram director. Jessie may be reached at the *Seattle Office*: 202 Pioneer Bldg., Seattle, Wa 98104, (206) 467-0793. There are now Washington Arbitration offices in Seattle, Bellingham, Tacoma, Olympia, Vancouver and Spokane. We offer arbitration for general civil disputes including underinsured motorist claims, dissolution property settlements, partnership accountings, computer problems, etc.

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Washington Arbitration is pleased to announce the opening of a *Vancouver Office*: Randall Fritzler and Katherine Lewis, 1112 Columbia, Suite 200, Vancouver, WA 98660, (206)696-1600. We also welcome Jessie Dye as our new pro-

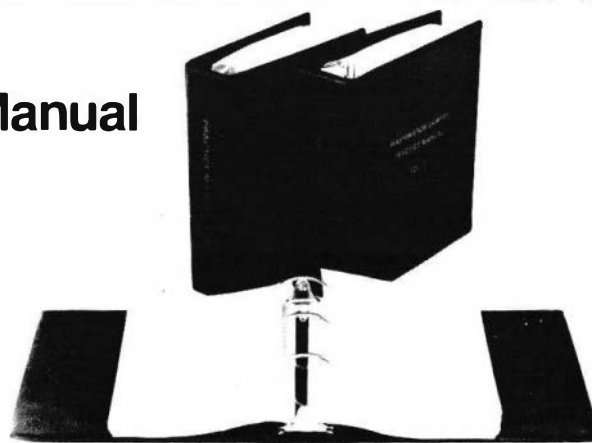
WILL SEARCH

Information needed regarding A. Lloyd Nielsen, Seattle artist. Believe he consulted attorney around 1978 regarding eviction matter. Call Robert Prince, attorney, (206)382-0000 with any information.

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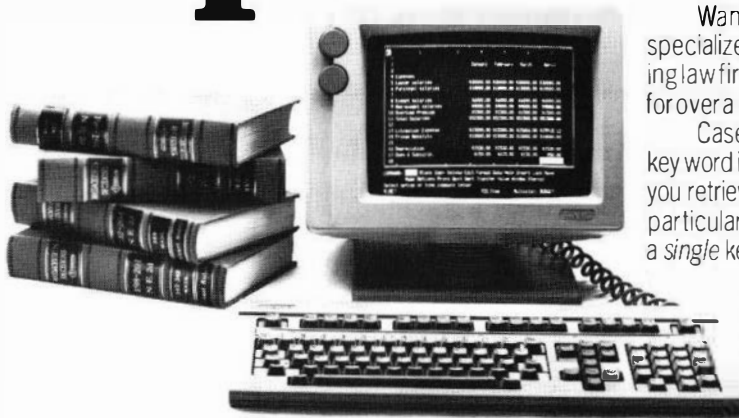
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This issue written by
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Michael A. Kirk, Editor

Jeff Tolman, Chief Cook & Bottle Washer

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Direct all positive comments to Poulsbo Bar Association, P.O. Box 851, Poulsbo, Washington 98370.

All negative comments or criticism, constructive or otherwise, should be mailed to Those Insensitive Lawyers, General Delivery, New York, New York 00000.

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This issue is dedicated to Chief Justice Warren E. Burger, who incorrectly believes that all lawyers do is litigate.

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This Nonsense

"Satire: The highest form of humor and flattery. Appreciated by most people of great wit, depth and personality. Not enjoyed by bookworms who think John Belushi designed Italian sports cars." *Poulsbo Bar Association Dictionary of Small Town Legal Terms of Art.*

About a year ago, several Poulsbo lawyers relaxing over a pot of coffee were trying to solve the mystery of why we lawyers take ourselves so *seriously* when our profession is so filled with interesting anecdotes and characters. In an uncharacteristic burst of ambition (probably caffeine-induced), we decided to take the bull by the horns and lampoon the *Washington State Bar News*. This issue is the result of our work.

I would like to thank Steven Reisler, Editor of the *Bar News*, for his cooperation and for sticking his neck out; Justice Robert Utter, Paul and Lita Luvera, Jim Vache, Jeff Hartje, Dave Wecker, Bill Hall, Stew Cogan and my Poulsbo colleagues for their contributions; Mike Kirk for editing the materials; and the Editorial Advisory Board of the *Bar News* for humoring us.

We mean only to amuse and to offend no one. We hope you will laugh with us.

JEFF TOLMAN



Letters

Letters to the Editor are invited, especially those that reflect the Editor's own viewpoint, and/or those accompanied by payment. The editor reserves the right to change all or part of each letter at his whim prior to publication.

Let's All Get Rich

Editor:

There are 12,000 lawyers in this state and the number is growing rapidly. I recommend each of us sue some of them. Make sure, though, they are older, well-established lawyers, because lots of the new ones do not have much. Legal malpractice for money and fun is a coming trend.

I also think we should consider advertising. Lots of people suggest big budgets. I recommend writing your name and phone number on restroom walls

and public phone booths with a sexy note. Maybe you can pick up some work from the calls. Even if not, you will sure be well known.

Lastly, some of us may want to consider locating a mobile van adjacent to the Emergency Room of our local hospital. Injured clients could be signed up as they are carried in. Make sure, though, that you have the right side of the case.

What I like about being a lawyer most is that we can all share ideas that will help us all have happy, healthy professional lives.

T. ACHE THAT

Sumner

Bar News Too Serious

Editor:

The *Bar News* is far too serious. Lighten up. Get silly.

THE POULSBO BAR ASSOCIATION
Poulsbo

Law Is Not Funny

Editor:

I do not appreciate your continued attempts to change the *Bar News* into a *Mad Magazine* clone. Let's get serious. Contrary to what you young liberal lawyers think, the law is *not* funny.

R.I. LOQUITOR

Vancouver

Bamboozled

Editor:

I read with amusement C. Juris Secundum's article on "Bamboo Harvesting Law" in last month's *Bar News*. His lack of knowledge about the trends in this area of law was blatant. After reading the article, I had 21 of our law clerks and three associates check his cites. Perhaps his cursory approach cuts the mustard in Endicott. Not, however, in *Seattle*.

Our 2,157 man-hours of research found three *fatal flaws* in his article. First, the trend is not toward awarding attorney's fees in bamboo poaching cases, as he represented. The most recent case on point is *Ard. v. Vark*, 1 Antarctica 1, decided a full six weeks ago, in which the judge refused to award attorney's fees against an American researcher whose pet beaver ate every bamboo plant on the continent. The bamboo was growing in a greenhouse at the Norwegian research station on McMurdo Sound. Clearly, Mr. Secundum did not do his homework in failing to cite this landmark decision.

Second, Mr. Secundum's assertion that "law is scarce on this subject" is misleading. See 4 *Kenya Law Rptr.* 16 (1916).

Finally, Mr. Secundum's assertion that "this article may be more esoteric than practical in the State of Washington" is incorrect. For ten years our firm has had an "Exotic Crops" section. We plan on continuing our full service to area bamboo farmers, who should certainly stay away from attorneys in Endicott.

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Our Final Offer

Okay, you members of the Editorial Advisory Board, it's time we got down to serious business!

Ever since we kidnapped the Editor of the *Bar News* over a month ago, you guys have treated the whole thing like a *joke*. As you know, our initial demand was modest: either Poulsbo lawyers get their own personal representative on the State Bar's Board of Governors, automatic waiver of 15 CLE credits, and a guaranteed minimum income, *or you will never see your Bar News Editor again!*

"Too steep," you wiseguys told us.

So we lowered our ransom price: you give us a non-voting observer at Spokane meetings of the Board of Governors, 15 paying clients, and a ten percent reduction in annual dues, *or you will never see your Bar News Editor again!*

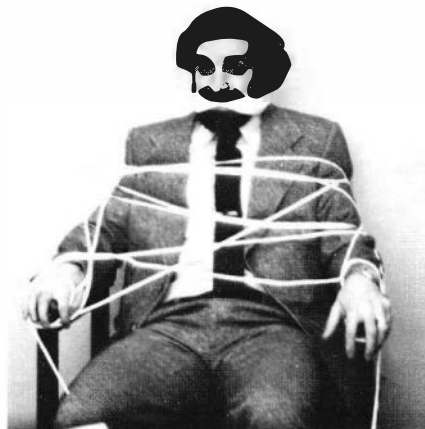
"Too steep," you jokers told us.

Again we cut our demand: you give us a role of postage stamps so we can write letters to the Board of Governors, 15 Scot tissue "Proof of Purchase" seals, and a Washington lottery ticket, *or you will never see your Bar News editor again!*

"Still too steep," you wiseacres told us.

Just what kind of proof do you people need to understand that we're serious about this? We sent you a photograph of the Editor bound and gagged and all your Board did was *praise* us for our good sense! You even offered to reimburse us for the gag. We threatened that we would permit no more "straight" issues of the *Bar News* to be published unless you ransomed the Editor; but all you did was ask for *five years* to think about it!

What kind of bar association is this, anyway? We sent you a lock of the Editor's hair as proof that he was still alive and well, and you demanded that we also send you his beard and moustache, his nose, wallet, charge cards and license to practice law. And then you also insisted that we send you a writing sample, because only if it put you to sleep



Reisler kidnapped!

by the second paragraph would you know that we were holding the bona fide goods!

Okay. We know you're hardnosed bargainers, but *this is absolutely our final offer*: We'll give you a lifetime subscription to the Poulsbo Bar Convention, a leather bound edition of the Harvard Blue Book, and a video disc of the Poulsbo High School marching band play top forty hits from the fifties...if only you agree to take the Editor back again!

Now come on, you guys on the Editorial Advisory Board, have a heart! If you don't take the Editor back pretty soon, he's liable to like it out here and hang out his own shingle. And you know the *last* thing we need is another hungry mouth to feed around here...



"NEGOTIATE...AND WIN"

Negotiation Seminar For Tort Attorneys Set For May 5

A refreshingly different approach to negotiation will be presented in a seminar at the Bellevue Holiday Inn Saturday, May 5 from 8:15 a.m. to 12:15 p.m.

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Course leader Robert W. Jeans, Seattle City Attorney's claims manager, has extensive experience as a negotiator and lecturer throughout the West and is author of the book *Negotiation...Winners Without Losers*.

CLE AND MORE

The seminar is approved for 3.5 CLE credits and includes refreshments, Jeans' book and more.

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At the seminar, you'll learn the five keys to successful negotiation, how to develop a negotiation plan, the eight rules of timing, a variety of negotiation strategies, and nine important tips about persuasion.

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Registration is open at \$85. Space is limited. Registrations mailed by April 13 qualify for early-registration fee of \$75.

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Welcome to Joey's Bar

Now listen up, youse guys, this is Joey "the Lip" Bosco talkin' at you, and I'm the new President of this here Bar now!

That's right. When the past President and the old Board of Governors flew off for their March meeting in Paris, me and some of my boys kind of moved on in here to straighten things out. So now that we're all part of da "family," so to speak, things are gonna be a whole lot different, right? Right!

First order of business is cuttin' your annual Bar dues. That's right, guys, you don't need to pay no annual dues to be admitted to Joey's Bar. You heard right, buster, no more Bar dues! Malpractice insurance, however, is gonna be mandatory from here on out. As lawyers, you know you need protection against sudden and unexpected catastrophes like office fires, broken arms, bricks thrown through your windows and summary disbarment. From now on, if you pay insurance to me, Joey "the Lip" Bosco, at the Bar office, you're protected against the unexpected. And that goes for your loved ones also.

You've heard a lot about IOLTA these days, huh? Well, me and the boys at the Bar got a great new idea to make IOLTA even better. We're gonna take all that nominal and short-term trust account money which was gonna earn interest to benefit charities and public interest projects, and instead of making outright grants to deserving organizations, we're now gonna *lend* 'em IOLTA money instead! That's right, guys. We're gonna lend out your IOLTA money to hard-up charities and public interest projects and charge 'em 20-25% interest! Sure they'll squeal a bit, but they'll pay it, 'cause *where else* are those public interest types gonna get funding these days? And with all da bucks our loans bring in, da Bar will have enough change left over to give all our judges a big fat pay raise. And that means you can expect more of the quick and sure justice your clients demand from you.

Now that me and my boys are runnin' da show, things will be run so efficiently and profitably that we won't need to have monthly meetings of da Board of Governors anymore. Don't worry though. You can still come to our annual conventions, which will alternate between Vegas and Chicago.

Hey, you're gonna like this change, too! Now that Joey's in charge, da Bar's gonna do away with that useless and anachronistic Code of Ethics. Kutak? Who needs it? I mean, if you graduated from law school somewhere and if you're old enough to get into a Washington bar, you've gotta be some kind of ethical guy, right? So no more spot audits and canons of ethics 'cause they just give the public the wrong impression that lawyers ain't basically ethical in the first place, right? Right!

Instead of a lawyer's code of ethics, we're gonna give you what you guys really need: a *client's code of ethics*! That's



right, from now on, your *client* better treat their *lawyer* right. That means no more hassles from ungrateful clients who always want you to answer their phone calls or document the work you claim you did for them. And if you got a client who doesn't want to pay your bill, you just tell them to see the Bar's new Client Ethics Enforcement Department and we'll set 'em straight real fast!

See you at the Bar!

JOEY "THE LIP" BOSCO



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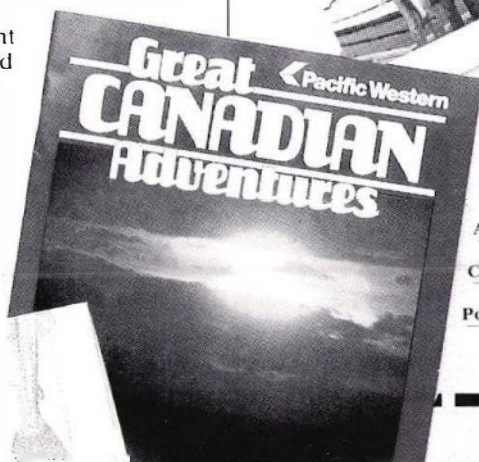
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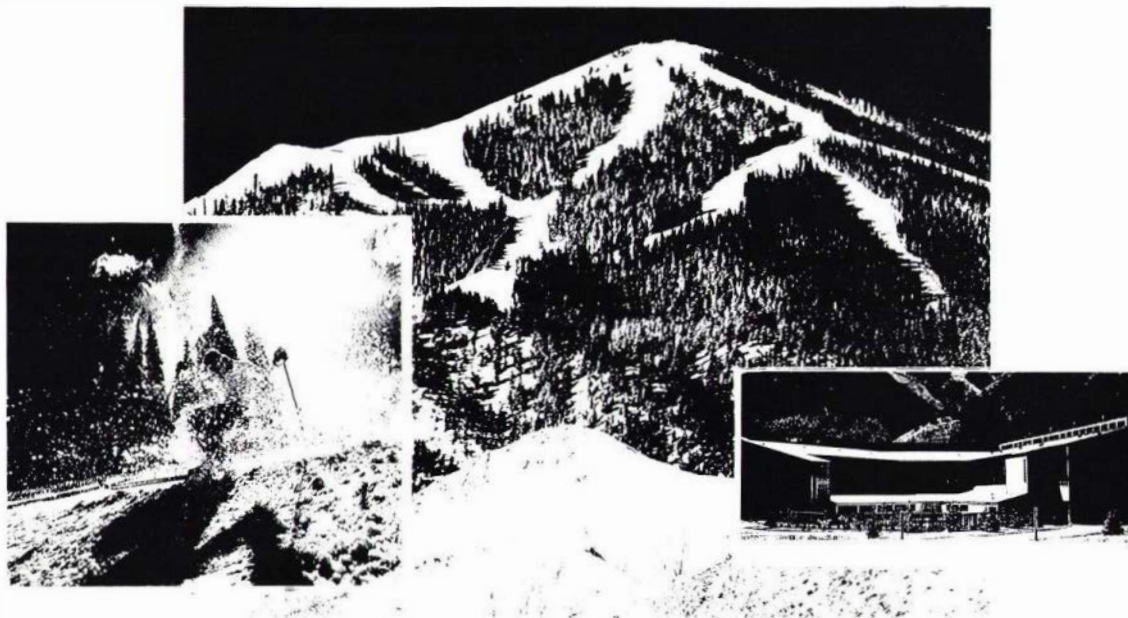
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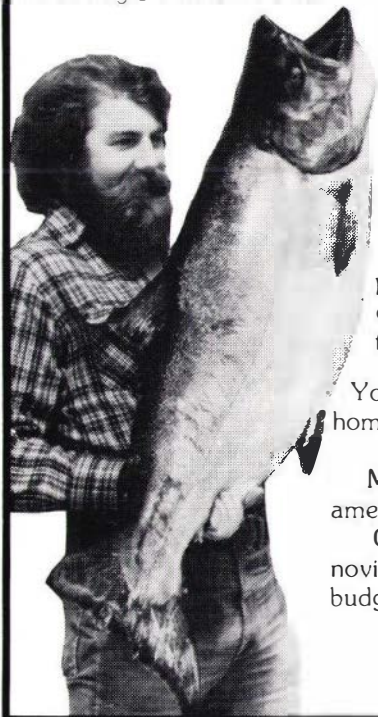


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Growing Up a Lawyer

by Jeffrey Tolman

There are approximately 12,000 lawyers in the State of Washington. Contrary to most of my colleagues, I'm surprised there are not more. Many of us were destined to be lawyers by the time we left home. In my family, for example, I was raised to be a defense attorney. Law school was merely three years spent discovering the differences between our family legal system and our state scheme.

In our family court my sister, Ann, was the Prosecutor. When a report that I had violated the family rules came to her attention, she would carefully evaluate it to see if the charge was provable and the violation blatant enough to be charged. If the violation was minimal, Ann was willing to plea bargain. In exchange for not bringing the violation to our court, I would usually take over some of Ann's household duties for a few days or, before she was old enough to drive, drive her to seemingly endless and always inconvenient events.

When Ann felt I had substantially violated the family rules there was no plea bargaining. She saw her job as protecting the family unit by firm enforcement of our rules. With this feeling of righteousness (which I have found in many prosecutors) Ann would take my alleged violation to our family court.

FAMILY COURT

My mother was our trial judge. When a charge was brought to her attention she would hear testimony, find the facts and, based on our family rules in effect at the time, render a decision.

Mom's court had many procedural differences from our state system. For one, the determination as to which party's evidence the court heard was in large part based on decibel output. This put me at a distinct disadvantage, since Ann has a voice like a stereo with its volume on *high*.

Second, hearsay was always admissible. And in a town of 700 there was never lack of hearsay.

Third, while no formal oath was administered, the penalty for perjury was very severe. Our primary family rule was,

"Always tell the truth, even if you'll get killed for it." I would never have lied in Mom's court. It would have been the ultimate lack of respect for the family. No "not guilty" finding was worth that.

Fourth, there were no affidavits of prejudice. Mom heard all the trials, whether I liked it or not.

Fifth, there was a sliding presumption of innocence. On the first charge of a given offense I was presumed innocent. On each succeeding charge of a given offense I was presumed less innocent. On the third and later charges for the same offense the presumption ceased to exist.

Sixth, the Prosecutor's burden of proving charges was on a sliding scale inversely proportionate to the severity of the crime. Lying to the family or alcohol-related charges needed to be proved only by a preponderance of the evidence. Lesser charges had to be proved beyond a reasonable doubt.

Finally, the Constitution was less important than finding the truth. Often this was devastating to the Defendant.

I remember one particular trial in Mom's court. One Saturday morning at the breakfast table, Ann read the charges against me:

"1. Last night Jeffrey L. Tolman drove the family car with an unknown girl as a passenger to the Asotin gravel pit instead of the movie as represented to you beforehand, Your Honor.

2. At said gravel pit the Defendant, his date and several accomplices consumed an undetermined number of beers.

3. At the time of said consumption the Defendant, his date and his accomplices were all under the legal drinking age in this State.

4. After drinking said beers the Defendant drove his date home in the family car, suspiciously taking at least an hour to travel three miles.

5. These acts violate our family rules against drinking-and-driving and constitute felonious lying."

One of the notable characteristics of our family court system was the depressing availability of trial dates. That trial,

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for example, started so quickly after the charge was read to the Court that Mom almost swallowed her coffee cup arraighning me.

"And what do you have to say?" the Court inquired.

As I took four aspirin and a drink of coffee, I mumbled through hung-over lips "Prove it," our version of a not guilty plea.

As always, Ann presented her case with the cool precision of a surgeon. She showed the Court on the car's odometer that not enough miles were travelled the night before to get to the movie and back, and she requested and granted a "smell" of the car by the Court. A "smell," similar to a "view" in state courts, was admissible evidence in our family court only in alcohol-related offenses and charges of First Degree Lack of Manners. The crushing blow, though, came when she called me as an adverse witness.

Always tell the truth,
even if you'll get killed for it.

I objected on the basis of the Fifth Amendment, the only constitutional amendment I knew for sure. My objection was overruled and the intense-as-usual cross-examination began.

"Mr. Tolman, do you have a cold?"

"No."

"Then why are your eyes so bloodshot?"

"I slept badly."

"Does your tongue feel unusually thick this morning?"

"Like King Kong's."

"Why?"

"I slept badly."

"Why are you so pale?"

"It's the bad light in here."

"Did you have a date last night?"

"Yes."

"Did you drive the family car on that date?"

"Yes."

"And where did you drive?"

"None of your business."

"Mom, I demand that he answer the question."

The Court: "Answer it, Jeff."

"I won't."

At that point Ann paused... and I knew I was in trouble. After a minute she said, "Mom, I will rest my case after one final question."

"Jeff, if I get a can of beer out of the fridge will you take a drink of it?"

When I attempted to casually say "Sure," a vivid memory

of the "undetermined number of beers" appeared—as did a growing discomfort in my stomach. As I leapt toward the bathroom, I heard a gloating voice quietly say, "The prosecution rests."

I returned from the bathroom with a green hue about me and began my defense. In short order I argued that (1) the Judge had a conflict of interest because she was my mother, (2) the Prosecutor had a conflict of interest because she was my sister, (3) I had a fool for a client, and (4) for leniency.

Judgment was passed quickly.

"GUILTY! No use of the car until you're 30!"

THE COURT OF APPEALS

I immediately filed an oral Notice of Appeal with our appellate court, my dad, who was mowing the lawn. The procedures in Dad's appellate court were similar to our state appellate courts. He didn't re-try the case, but instead gave Ann, Mom and I each about five minutes to summarize our positions. Based on those presentations and the family rules in effect at the time, he would make his decision. Both the trial court's judgment and sentence were within his jurisdiction to review. As the final arbiter of our family rules, his decision was law.

Since the appellate court sat very near the trial court, across the kitchen table in fact, appeals were heard promptly. In the

case of my gravel pit adventure, it was heard immediately after I finished mowing the lawn, washing the cars, cleaning my room and begging Dad for mercy.

Dad had a tough job. His decisions had to enforce our family rules while, at the same time, making his wife, son and daughter happy. And he was a master at it. He had a knack for finding a resolution that was fair but kept me in line. For my unwise acts at the gravel pit, Mom's judgment was upheld, but the sentence was dramatically reduced. I went away realizing I'd done wrong, Ann went away with her 106th consecutive victory, and Mom went away affirmed by the higher court.

After defending myself many times in our family court (thank God we didn't have a habitual criminal statute) I discovered several things about myself and the law. For one thing, I enjoyed the advocacy. Second, a court system could be fair. Finally, judges are people, too. With those realizations, it was only a matter of time before my destiny to become a lawyer became apparent.

My years of practice in our family and in state legal systems have shown me that it's easier to be a lawyer than a defendant, that lawyers who represent themselves *do* have fools for clients, and that my sister could get a job with any prosecutor's office in the country if she were a lawyer.

I only hope my son, Chris, finds his mom and dad as just as I found mine to be. ☐

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Some Things Never Change. . .

by Justice Robert F. Utter

With over 12,000 members in our Bar Association and hundreds of bright new lawyers added each year, we tend to believe that the problems facing modern-day practitioners are of entirely new dimensions. A glimpse of early territorial days will show that such familiar subjects as probation, work release, fiscal accountability, preparation for the Bar Examination, jury selection and closing argument, speedy trial and jury composition were all subjects of immediate interest to the earlier Bar. Only the setting in which these problems occurred was different. The heart of the problems remains the same.

Probation and Work Release

The first documented experience with work release occurred when King County was still a part of Thurston County, Oregon Territory. Dr. David S. Maynard, as Justice of the Peace for the Seattle area, held court in Yesler's Cook House in July, 1842. The purpose of the hearing was to try the mate of the brig *Franklin Adams* for misappropriating money and goods belonging to the ship.

While Dr. Maynard probably possessed no jurisdiction over such matters, that bothered him little. He heard the case and convicted the mate. Once having arrived at a proper verdict, however, proper sentence was indeed a problem as there was no jail in the County. With that obstacle in mind, his order was simply that the mate was to be released and admonished to keep his books in better order.

Fiscal Accountability

Fiscal accountability for jury expenses was as much a problem in early Washington territorial days as it is now.

Frank Clark, Prosecuting Attorney at the second term of the King County District Court in October, 1854, was then

a young lawyer who worked hard for his convictions in order to make his reputation. The Felker House where the court met was operated by Mrs. Mary Ann Boyer Conklin, more generally known as "Mother Damnable."

Following the term of the court, Frank Clark, as Prosecuting Attorney, settled with "Mother Damnable" for the use of the rooms for court purposes. She charged him \$25 for her best room as a courtroom, \$100 for rooms for the jurors, \$4 for the use of furniture and \$66 for the jurors' meals at the rate of 50¢ a meal.

Thinking these charges excessive, Clark demanded a receipt. The illiterate "Mother Damnable" did not know the meaning of "receipt," but she had a particular distaste for young Clark. Telling him she would give him a receipt, she stepped back into the kitchen, returned with her arms full of wood, and pelted him from the room with it, screaming as he fled, "You want a receipt, do you? Well, here's your receipt." No one ever asked her for a receipt after that.

Bar Examination

Our three-day Bar Examination, complete with a section on Professional Responsibility, makes every lawyer-to-be long for a simpler day. Perhaps, though, not quite as simple as the 1855 Bar Exam.

The October term of court at Coveland in 1855 was presided over by Judge Chenoweth. Winfield S. Ebey, brother to Colonel Isaac N. Ebey and an employee at the Port Townsend Customs House, was admitted to the Bar at this time. His diary reveals his examining committee consisted of Elwood Evans, Victor Monroe and Frank Clark, all heavy drinkers. The only examination Ebey had to face was a single question by Frank Clark, who asked if he had any good brandy in the Customs House. The answer being in the affirmative, Clark moved his admission.

Jury Selection and Closing Argument

Techniques in jury selection and closing argument have changed some, but not much in the hundred years since Washington first became a territory. Old forms were not rig-

Robert F. Utter is a Justice of the Washington State Supreme Court.

idly adhered to in the new territory; therefore, in territorial days any proposition agreed to between the two conflicting parties was considered fair.

On one occasion in Pacific County when the challenges for a jury in a murder trial were exhausted, there were not enough persons left to complete the jury. The two counsel agreed on a compromise. Nine jurors would be elected from among the Grand Jury who had just solemnly rendered a true bill against the prisoner.

In closing argument, the Prosecutor liberally referred to the American Revolution and George Washington while the defense relied on ancient authors and proved his propositions through extracts from the "Arabian Nights." The ancient authors apparently had the most force, for the Prosecution folded and the defense won easily.

"Whenever I take off my hat,
the court is in session,"
said the judge.

Some lawyers complain of too much formality in the courts, while others decry at the length of time it takes to bring a matter to trial. Neither of these were problems in territorial days. The informality of the earlier courts is best illustrated by a story from the Port Angeles Justice Courts.

Justice H. was noted for the promptness with which he administered justice. When one evening an individual for whose arrest he had issued a warrant was brought before him after all places of business had closed, he, the sheriff, the prisoner and the witness went to one of the settler's cabins. Although the settler was in bed, the judge and his company walked in and informed the startled man that they were going to hold court.

When the owner of the cabin continued to protest for some time against this disturbance of his slumber, Judge H. fined him \$5 for Contempt of Court.

"Court?" responded the frightened man, "I did not know you had a court there!"

"Joe," replied the judge, "I want you to understand that whenever I take off my hat the court is in session."

Speedy Trial and Jury Composition

It was a blessing of this State that strong men of strong opinions were prominent members of the early judiciary.

Judge J. E. Wyche, a member of the court from 1861-1870, was extremely caustic when he considered himself to be right. When a jury returned a verdict which displeased him in a suit over 100 acres of land, he first threatened to set aside their

verdict. Later he added, "While I am a judge, it takes thirteen men to steal a ranch."

Problems in the use of wire taps and electronic eavesdropping may be more sophisticated now, but difficulties existed with the essence of these problems in the early territorial days.

Hotel accommodations were often very meager in places where court was held. On one occasion, two men charged with Grand Larceny were placed in the room next to Judge Hoyt with only a flimsy partition between them. That evening, despite Hoyt's raps to quiet them, the two men entered into a lengthy discussion on how they had committed the crime and the means they must use to overcome the strong case against them. It was difficult for the judge not to be prejudiced the next day when the two appeared before him. In fact, it was impossible. The two were summarily convicted.

In his epic work on the judiciary, *The American Judicial Tradition*, G. Edward White summarizes the elements of that tradition as a tension between independence and accountability, a delicate and unique relation to politics, and a recurrent trade-off between acknowledged powers and freedom in the individual judge and acknowledgment constraints on the institution of the judiciary.

Our predecessors, in their own roughhewn way, sought to live out these ideals. While we can laugh at and with them, we are also indebted to them. □

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Using Behavioral Science to Run an Efficient Law Office

by Paul N. Luvera

Modern Behavioral Scientists have discovered many techniques to improve the efficiency of employees in business. Lawyers should incorporate these concepts in their business to maximize office efficiency and profit. Following are illustrations of three Behavioral Science "truths" and their practical use in a law office setting.

I. Employees May Be Motivated Through Salary Adjustments

We recognize that with inflation, salary is an important consideration to employees. It is important that salary be reviewed frequently with a view toward bringing an employee's pay to a reasonable level based on current needs. Below is an actual salary review meeting conducted by a lawyer knowledgeable in these behavioral concepts, which illustrates a practical way of putting them to use:

Attorney: Well, Mrs. Boin, let's see, you have been with me for two years now and I think it's time we discussed your salary.

Staff: Actually, Sir, it's been seven years and I've been putting memos in your files, your desk and even in your car about my pay for the past six years. As you know, it's difficult being the sole support for my ten children and invalid husband on the pay you give me, even with food stamps and the food bank.

Attorney: Tut, tut, Mrs. Boin, you've forgotten Christmas bonuses. . .

Staff: Oh, I do appreciate the Kiwanis apples and the boxes of potatoes you've given us, but. . .

Attorney: And then there is the *prestige* of working in a law office—not to mention working for a well-known lawyer such as myself. However, tell you what,

beginning today I'm not going to charge you for parking your car in the office lot and, in addition, I'm giving you Saturday afternoons off. How's that?

Staff: Frankly, Sir, I had hoped for something a little more substantial in the area of compensation. Especially since you did settle that injury case last week for \$500,000,000,000,000.

Attorney: Where is your *loyalty*, Mrs. Boin? There is a lot of *overhead* running this place, you know. In addition to the two of us I've got to pay telephone bills, copy machine costs, malpractice insurance and many other expenses. Running a law office is a very expensive undertaking these days!

Staff: But, Sir, you are driving a Ferrari and have gone on vacation twelve times this year already. Also, Sir, if you don't mind my saying so, you only pay taxes on the fees you run through the books. I would hope there might be some room for adjustment of my salary. *Especially, since, as you know, the IRS is auditing your books next week.* As your bookkeeper, there will be considerable extra work and I will have to work closely and exchange a lot of information with the IRS representative.

Attorney: Ah, Mrs. Boin. I wasn't able to understand your problem until you explained it to me clearly just now. Now that you have explained it, I can see your needs. How much of a raise would you think is fair?

As you can see, clear communication about salary is essential to a well-run, efficient law office.

II. Employees May Be Motivated By Challenging Work

Studies in the workplace have indicated that employees who find their work challenging are far more content and efficient. Therefore, it is important to motivate employees through the quality and quantity of work assigned. Here is another actual exchange between a lawyer using this Behavioral Science technique and her secretary:

Paul Luvera is a Mount Vernon lawyer who has written numerous articles on motivation techniques.

Attorney: You do good work, honey, for a *boy*. When you get done with this pile, stop and get my husband a present—it's our 25th wedding anniversary. Here's a twenty.

Staff: Well, I don't know, Ms. Grief, I'm not sure what to get. Also, I won't have any time until the noon hour and I have a doctor's appointment.

Attorney: What's the matter? Male problems? (Patting him in an offensive manner.) Besides, you can see the doctor on weekends or after work. And you guys always seem to know what other guys like anyway.

Staff: But Ms. Grief, I have all this work to get out...

Attorney: That reminds me, pick up a dozen roses for my boyfriend during your coffee break, too. Also, would you mind babysitting my brother's kid this afternoon? He has to have his hair fixed and can't get a babysitter. I told him you wouldn't mind.

Staff: Good grief, Ms. Grief! The last time he brought her here she set fire to my letters and dictation work, and I already have all these invitations your husband brought in to address for his party.

Attorney: Sweetie, that's why this is such a great job—something new and exciting all the time. Keep up the good work...and don't think I don't notice.

As you can see from this example, the attorney has managed to put the secretary's varied and challenging job duties in a positive light. She has chosen words which show her affection toward the secretary and given praise at the same time. All attorneys should use this motivation technique, whether the attorney is female and secretary male or vice versa.

III. An Efficient Telephone Technique Will Maximize Impact and Leave a Lasting Image With the Other Party

With so much of an attorney's time spent on the telephone, it is important to develop good telephone techniques. Studies show that people form quick impressions of you by your manner of answering and using the telephone. Following is a recorded conversation involving an attorney using an assertive phone technique to make an immediate and lasting impression:

(The phone rings in a Seattle law office.)

Staff: 225-3636. May I help you?

Attorney: That's a *terrible* way to answer a phone. 225-3636! How can anyone tell whether they have the right joint or not?

Staff: I'm sorry, Sir, but that's the way Mr. Schmygure directs me to answer the phone.

Attorney: Yeah, that pinhead would probably tell you that. Is the guy there?

Staff: Who may I say is calling?

Attorney: Tell him 775-4545 is calling and see how he likes that.

Staff: But, Sir, I must have your name—it's company policy.

Attorney: What for? Is he going to say he's out if he doesn't want to talk to me? Let's surprise the twerp.

Staff: Well, he's in conference right now. Would you like to leave a message?

Attorney: Listen. He called me up and left a message that he wanted a favor from me and to call him right away. I'm calling long distance at *his* request and on *my* dime. Get in there and tell him lawyer Jones is on the phone and I want to talk to him *NOW*—got it?

Staff: I'm very sorry, Sir, he left instructions not to be disturbed when he is in conference. Are you sure you don't want to leave a message?

Attorney: Yeah, tell him the Pussy Cat Motel called and wanted him to know that he left his credit card there along with a pair of nylons from Frederick's of Hollywood. Does he want to pick them up or should they mail them to him?

Notice how Jones immediately developed rapport and an upper hand with Schmygure's secretary through his precise phone technique. Advantage can be gained, and was here, by a fair-but-firm, efficient telephone technique.

It is the author's hope that these suggestions for greater efficiency will improve your everyday practice of law. □

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Rev. Rul. 83-119 & 83-120

NEW VALUATION CONSIDERATIONS FOR RECAPITALIZATIONS

The use of preferred stock recapitalization as an estate planning tool for family owned businesses can be very effective.

But, the recent Revenue Rulings 83-119 and 83-120 will require estate planners to be more careful about preferred stock valuations.

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SPOTLIGHT ON LAW FIRMS

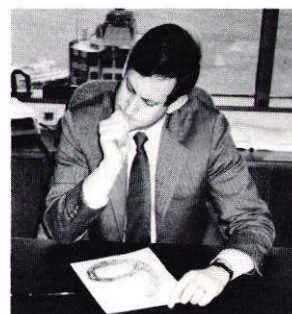
Mills & Cogan

This month's Spotlight on Law Firms is proud to review the prestigious Seattle firm of Mills and Cogan.

Mills & Cogan, one of Seattle's largest law firms, has over 165 lawyers working for it, although for budgetary reasons only two are ever in the office or listed on the letterhead. Although they specialize in Writs of Assumpsit and the law of Horse and Rider, Mills & Cogan consider themselves a full-service law firm, able to satisfy the legal needs of a sizable number of Seattle's albinos. Biographies of the senior partners, required by firm protocol to be called "Head Honchos," "Sir," or "Your Highness" by the underlings in the office, follow.



Mills & clients



Cogan at work

Lawrence R. Mills, B.S., J.D., L.S.M.F.T., has practiced in Seattle since 1975. Larry's practice emphasizes furniture law. Not one to lose sight of new technology, Larry's office is equipped with telephones, a typewriter, and staplers. Although overtly competent, Larry takes pride in the fact that his library consists solely of *Case and Comment*. An aggressive attorney, Larry's future goals include winning a contested motion, attending a deposition, and, ultimately, becoming a part-time hearing examiner for the Utilities and Transportation Commission.

Stew Cogan, B.A., J.D., S.A.S.E., has practiced law in Seattle since 1976. Stew has always wanted to practice law in the worst way, and he does just that. Stew (fondly referred to by most who know him as "Idi Amin Cogan"), although admitted to practice in all state, federal and international courts, has carved out a specialty representing unpledged freshmen in fraternity proceedings. To Stew, the practice of law presents as big a challenge as combing his hair and remembering his name, especially since the accident. Stew's lifetime goal is to memorize the number "6."

We salute you. You are truly a law firm to be spotlighted.

WASHINGTON STATE BAR NEWSLINE

The Bored's Work



PARIS, FRANCE, March 1 - 26 — The Bored, in an unusual show of support for the World Peace Through Law Section of the WSBA, held its March meeting in Paris. Present were one member of the French Bar, two American tourists, and 29 senior partners from major Seattle firms.

REAL ESTATE AGENTS EXPAND LIMITED PRACTICE? The Bored began debate on a proposal to allow real estate agents to handle dissolutions and probate matters upon proof that they know someone who has no criminal convictions. Proponents of the plan argue that by drafting earnest money agreements and listing agreements real estate agents have shown they are clearly competent to expand to these limited areas. Opponents argue that Law is a profession and Real Estate is not. If we give real estate agents these additional areas of "limited practice" they will soon want to attend Bar conventions and require each law firm to wear identical, brightly-colored jackets.

While the Bored appeared to be opposed to the proposal, it was noted that the Bar Association is not looked upon with great respect by the public, and if this measure is not passed the Legislature may take over the governing of the legal profession from the Supreme Court. In response the Supreme Court has drafted a 2,000 page compromise Court Rule to present to the Bored next month.

APPEARANCE OF PROPRIETY In response to increasing public pressure for lawyers to not only be honest, but also *appear* to be honest, the Bored passed a resolution allowing spot audits of lawyer's personal checkbooks by non-lawyers. The WSBA President commented, "This is a big step toward restoring public confidence in our profession. If a lawyer can't balance his checkbook, certainly he'll have problems doing a proper job on his client's behalf. In the end, this proposal will make all of us better lawyers and businesspeople." The Twelfth District Governor was outraged by the proposal. In one sentence alone he used the words "First Amendment" five times...all to no avail.

NEW FEE PANEL? A resolution heavily lobbied by insurance defense lawyers to establish a panel of physicians to arbitrate lawyer's fee disputes was tabled 5-4. The Walla Walla at Large Governor, with his usual panache, asked "What the hell is this? Have we gone nuts??" Proponents argued, "If you can't trust your doctor, who can you trust? Isn't it inconsistent to

allow someone to give you a procto exam but not decide if your fees are reasonable?" To which the Walla Walla Governor commented that every lawyer involved in a fee dispute under this proposal would get a procto exam. The issue is expected to come before the Bored again soon.

YOUNG LAWYERS REPORT ON SUMMER BAR EXAM The Chairperson of the Young Lawyers Section of the WSBA, gave a mixed report about the Young Lawyers' first year governing the Bar Exam. The good news was that there was great interest by Young Lawyers to work as Bar Examiners. The bad news was that no one passed the exam. The Bored discussed this report at some length. They felt that the interest and participation by the Young Lawyers was admirable and were hopeful the spring Bar Exam would have a better pass rate. The Chairman was applauded by the Bored for his group's effort, with the exception of the Governor from Garfield County, who said the running of the Exam by the Young Lawyers reminded him of throwing Brer Rabbit into the briar patch.

NET WORTH CEILING A Petition by the Poulsbo Bar Association was introduced to the Bored. The Petition requested that a maximum net worth for lawyers be established, after which they would have to contribute surplus funds to a worthy cause, such as the (underpaid) Poulsbo lawyers. Conrad Green, senior Poulsbo attorney, in supporting this approach, argued that "It is important that the public understand we are lawyers in a service capacity and not to make money. What could be better for our public relations than to set a maximum net worth for lawyers?" During the Bored's question and answer period, it became apparent that unless the "maximum net worth" is set at \$5,000 or less no one from Mr. Green's association would have to share excess funds. It was moved, seconded and passed to table this motion until the April meeting.

LAW PROFESSORS PROPOSAL The Bored unanimously tabled a proposal supported by law school professors throughout the state under which full professors with one semester or more of teaching experience would receive automatic support from the Bar Association for any judgeships that became available. The professors' argument that "We need more thinkers on the Bench" apparently fell on deaf ears.

THE NEXT MEETING OF THE BORED OF GOVERNORS WILL BE: April 11-28—Sheraton Maui

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Notes from the Ivory Tower

Edited by Mike Kirk
former first-year student,
Evergreen School of Law

CRIMINAL LAW. (1) It is against the law to shoot someone in the back with premeditation. *State v. Doe*, 193 Wn.2d 1088 (1984). (2) A defendant's reply of "b---s---" to an accusation of criminal activity on the part of that defendant means that what the speaker said is "absurd and fanciful" and is not an admission of guilt. *People v. Nitti*, 312 Ill. 73, (1924). (3) The fact that an act was intended to show a person's dedication to a fraternal organization is not a defense to a charge of murder or felonious silliness. *State v. Cogan*, 324 Wn.App. 1050 (1983).

ADMINISTRATIVE LAW. (1) The Appearance of Fairness doctrine does not apply to fraternity rush proceedings. *Cogan v. E.Tu. Brute?*, 324 Wn.App. 1057 (1983). (2) The Appearance of Fairness does not apply to proceedings in towns with a population of less than 1000 people. *Boring v. Touchet*, 325 Wn.App. 17 (1983).

PERSONAL INJURY. (1) In judging a party's veracity a jury may consider the fact that the Plaintiff had filed 37 other personal injury claims. *Jones v. Doakes*, 325 Wn.App. 196 (1983). It was improper for a Plaintiff's attorney to tell the jury that in 107 consecutive trials the defense attorney has argued that the Plaintiffs were insane, money-hungry malingerers. *Id.* (2) An insurance company cannot escape liability under an uninsured motorist clause on the ground that the defendant in a suit brought for personal injuries suffered by their insured had homeowners insurance in effect at the time of the accident. *Bates v. Shifting Sands Ins. Co.*, 301 Wn.2d 46 (1983).

REAL PROPERTY. The doctrine of mort d'ancestor is not dead in Washington, only dormant. *Clarke v. Moynihan*, 101 Wn.2d 163 (1968). (2) To everything there is a seisin. *Dufford v. Old Prospector Homes, Inc.*, 202 Wn.2d 36 (1983). (3) Libel of Title actions do not exist in the State of Washington. *NW 1/4 SW 1/4 NW 1/4 Sec. 23 R. 1 E MM v. Famous Title Insurance Co.*, 4 Wn. 4th 1 (1988).

CONTRACTS. Lawyers will not be consumed by the Consumer Protection Act. *Longer v. Talliwacker*, 204 Wn. 3rd 1986 (1984). Clientum Emptor (let the client beware) is a common law principle applicable to members of the Bar Association and will not be overcome by clear, cogent and convincing evidence that the attorney was blatantly wrong and the client had paid his bill in full prior to filing litigation. *Id.*



Advice for New Lawyers

Recent telephone contact with people in law-related fields elicited the following answers to the question "What advice do you have for new lawyers?":

Gary Gilbert Gilbertson, former attorney—

"Don't get drunk and go to Mazatlan with your secretary and pay for it from your trust account."

George Haberdawnboy, Seattle attorney recently Spot Audited—

"Never call the WSBA, ask them a question and tell them your name."

Berle Milton, Asotin attorney—

"Don't snort and laugh when a client tells you about an embarrassing experience."

Jay Hamilton, former Kitsap County Superior Court Judge—

"Don't *EVER* tell the judge a half-truth."

John Mitchell, Bremerton attorney—

"Send your bill after a successful trial before the tears of gratitude have had a chance to dry on your client's face."

Rob Trucker, attorney-turned-dairy-farmer—

"Cows and clients are a lot alike. Both need prodding sometimes. Except cows don't talk back, call you at home or forget to pay their bills. All-in-all, if there is a new client and a cow in the reception area, take the cow. They're easier to milk."

Garth Garworth, (flourishing) Seattle attorney—

"Tell your clients you're the best lawyer in the State and bill the hell out of them."

Sally Salymander, legal secretary—

"Never forget who runs the office. . . your secretary."

B.O. Spats, IV, successful small town lawyer—

"Never forget that you can't pay the country club with client's promises. Feeing is believing."

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Around the State

GARFIELD COUNTY

by P.R. CAPITA

The Garfield County Bar Association recently adopted a position paper and forwarded it to the local media stating once and for all that the county was *NOT* named after its comic strip namesake.

KING COUNTY

by PER STIRPES

In a move which reminds this writer of a human cock-fight, last month Daring, Rot, Toad, Toad & Toad hired 21 new associates, edging out Bagle & Lox and Oogy-Loogy, who hired 19 each. Good luck, new attorneys. One-third of you have a bright future.

KITSAP COUNTY

by B.R. DOUBT

Two lawyers left the county for greener legal pastures. One lawyer went bankrupt. Two local firms are making money hand-over-fist. Three Seattle firms are rumored to be coming into the county. And the Prosecutor is the highest paid county official. All-in-all, things are pretty much the same as last year.

MASON COUNTY

by MASON REESE

The Belfair Bar Association will hold its annual Valentine's Day Dinner at 7:30 p.m. on February 14 in the phone booth adjoining the Belfair Cafe. Visitors and guests are welcome. BYOB and food. Rochester attorney **Denny Allen** will show slides of his trip to Kennewick. No reservations are required.

SKAMANIA COUNTY

by JOE BAZOOKA

The County Clerk has introduced a new Local Court Rule which requires the Clerk's Office to throw away all pleadings (1) on which the county's name is misspelled, (2) on which the heading is "State of *Oregon* in and for Skamania County," and (3) filed by out-of-county lawyers. The motion passed the County Bar 4-2, with 1 abstaining and 1 absent.

WHITMAN COUNTY

by MARCUS WHITMAN

The County Bar Association recently passed a resolution condemning the ongoing attack on lucrative probate practices. The sponsors of the resolution cited a 1962 "Whitman County Probate Fee Schedule," which showed that in

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constant dollars higher fees were charged in 1962 on estates then are charged now.

Comments from the members included "How are lawyers in rural counties supposed to make a living without healthy probate fees?" and "Why would anyone live in Tekoa unless they had a chance to get rich?"

The resolution urged the legislature to repeal non-intervention powers and community property agreements and to re-enact inheritance tax and long, complex inheritance tax forms. The resolution, with its amendments, passed unanimously.

Peace Through Exercise Mid-Summer Meeting

The State Bar's World Peace Through Exercise Section's 1984 Mid-Summer meeting will be held August 16-19 atop Mount Rainier. Tentative speakers include Richard Simmons, Jack LaLanne and Frank Shorter. Topics include "Wearing Down the Aggressive Nations," "A Fit Body is a Happy Body," and "Voor Dire of the Physically Unfit." The meeting has been approved for 15.0082 CLE credits. It is not anticipated that any State Bar personnel will make the trek to check seminar attendance.

For pre-registration information write to John Skyhiker, Seminar Chairman, Mountain Climber and Attorney at Law, World Peace Through Exercise, P.O. Box 00113, Seattle, WA 99000.

Surviving in a Small Town Practice

"Surviving in a Small Town Practice," a seminar offered May 23 from 9:00 a.m. to 5:00 p.m., is a must for the small town general practitioner. Topics include "Writing Effective Demand Letters Without Profanity," "Suing Your Neighbor Without a Guilty Conscience," "Collecting Fees: Tortures Allowed by the Canons of Ethics," and "Conflicts of Interest: A Review of What, When, Where and How Not to Get Caught."

The esteemed faculty includes all of the Poulsbo Bar Association, and two (as yet unnamed) Bremerton lawyers (to give an update on law practice in the big city).

Tuition is \$200 per person. Attendance will be limited to the first 10,000. Sign up now!!! (We need the money.)

Write to the Poulsbo Bar Association, CLE Division, P.O. Box 851, Poulsbo, WA 98370.

(After considering the content and faculty for this 8-hour seminar, the State Bar has decided not to accredit it.)

IN MEMORIAM

Ferman Grasp, 29. Grasp, a Seattle sole practitioner, opened his office in February, 1983. Apparently, shortly thereafter he died of malnutrition. His body was found four months later by the process server of his Notice to Pay Rent or Vacate. Although we can find no family, friends or clients, we have no reason to believe Grasp was not a nice person or a good lawyer. We're sure his death is a loss to all of us, whoever he was.

Meyer Meyer Stokes, Spokane attorney, died December 12 at the age of 48. He had been a member of the Bar since 1962. Mr. Stokes, a specialist in consumer representation, was apparently overcome while attempting to make a photocopy of the middle finger of his right hand. His law partners commented that Stokes considered such "finger copies" the ultimate in notice pleading. Memorials should be sent to "The Fund to Study That Green Light Given Off by Copy Machines and What It Does to People, c/o Box S, WSBA.

DISCIPLINE Disbarred

Anatone attorney **D. O. Trust** was disbarred by stipulation at his request. Trust made this unusual application to the WSBA in what he described as "an attempt to gain credibility in the com-

munity." He plans to continue to practice law under the "Limited Practice Rule," where he feels he can make a better living.

Suspended

The entire Cowlitz County Bar Association has been suspended for six months for violation of DR 12(b)(6), conduct unbecoming Homo Sapiens, arising from the 1983 Bar Association Christmas Party.

Reprimanded

Spokane attorney **J.D. Gonoga** received a Letter of Reprimand for violating DR 1.000. Gonoga's violation springs from comments to a local newspaper that "there are lawyers I wouldn't trust as far as I can throw them." The Bar's Disciplinary Board felt Gonoga's comments were detrimental to the public image of our profession. Gonoga responded to the Reprimand, "This isn't exactly how I hoped to hit the Advance Sheets."

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Police Association Announces New Alcohol/Drug Arrest Report For Comment

The Northsweat Police Association has adopted the following revised version of the Alcohol/Drug Arrest Report. This new form will assist police officers by including commonly-asked questions left off the previous form (such as "Would you like to admit you are drunk, or go to jail?"), and pre-printed X's in boxes that are almost always filled in. Comments may be sent to: Northsweat Police Association, c/o P.O. Box 8, Mars, by Star Date 608.4.

NORTHSWEAT POLICE ASSOCIATION ALCOHOL/DRUG ARREST REPORT					
ALL ITEMS IN THIS FORM REFER TO THE BELOW-NAMED SUBJECT:					
Name (last, first, middle)		Date of Birth		Address	
Date/Time of Report		Day of Week		Case/Citation No.	
Accident Involved — yes ☐ no ☐		Type— PD ☐ I ☐ F ☐			
Booked ☐ Bailed Out ☐ PRed ☐		Released To		Vehicle License, Year, Make, Model, Color	
Date/Time of Arrest		In City/County		On Street/Highway	
				Direction of Travel	
INTERVIEW					
1 Do you have anything in your mouth? yes ☐ no ☐ Mouth checked? yes ☐ no ☐ Time?		2 Do you have any physical defects? Explain: Do you have any mental defects? Explain:		3 Do you limp? Do you snore? Do you have body odor? Do you have gas?	
Do you have anything in your ears? yes ☐ no ☐ Ears checked? yes ☐ no ☐ Time?		Do you have anything in your eyes? yes ☐ no ☐ Eyes checked? yes ☐ no ☐ Time?		Do you have anything in your navel? yes ☐ no ☐ Navel checked? yes ☐ no ☐ Time?	
4 Are you sick/injured? Explain: Are you ready to vomit? Explain: Do you have to go to the bathroom? Explain:		5 Under care of a doctor or dentist? If yes, who?		6 Are you diabetic/epileptic? Do you have athlete's foot? Do you have V.D.? ☐ Do you have an upset stomach?	
7 Do you take insulin? Do you take aspirin? Do you take cocaine?		8 Are you taking medicine/drugs? Last dose: Type: Are they prescribed ☐ nonprescribed ☐ "off the street" ☐ ?		9 Do you have a glass eye? Do you have a glass nose? Do you have porcelain ears?	
10 Do you wear corrective lenses? Do you wear corrective shoes?		11 Wearing when you were stopped/before accident?			
12 Are you wearing false teeth?		13 Did you work today?		14 Time you got off work?	
15 Hours of sleep last night?		16 Were you driving vehicle? Were you riding horse? Were you walking?		17 Anything mechanically wrong with vehicle? Anything mechanically wrong with horse? Anything mechanically wrong with feet?	
18 Have you been injured or involved in any accident(s) in the past 10 years?		19 Have you had any alcohol to drink since being stopped/the accident? What? How much? If not, would you like to now?		20 Time accident occurred?	
21 What street/highway were you on? Direction of travel? What continent were you on? What planet were you on?		22 Where were you going before stopped/involved in accident? Where were you going yesterday? The day before yesterday?		23 Started from?	
24 Time started?		25 Day of the week?			
26 What city/county are you in now?		27 What is the date?		28 What time is it now? (Actual time)	
29 What have you been doing during the past 3 years?		30 Have you been drinking? What? How Much? When did you start?			
31 Who have you been drinking with?		32 What were you drinking?		33 Time of last drink?	
34 Do you feel affected by what you have had to drink? Do you feel affected by meeting me? Do you feel affected by being arrested?					
OBSERVATIONS					
1 Attitude: uncooperative ☐ belligerent ☐ unpredictable ☐ other ☐			2 Coordination: poor ☐ bad ☐ terrible ☐ other ☐		
3 Clothes: disorderly ☐ messy ☐ disheveled ☐ other ☐			4 Type of Shoes		
5 Breath — describe odor: alcoholic beverage ☐ like dirty socks ☐ rancid ☐ other ☐					
6 Eyes: abnormal ☐ watery ☐ bloodshot ☐ glassy ☐ pink & scaly ☐ other ☐			7 Speech: poor ☐ slurred ☐ incomprehensible ☐ other ☐		
SOBRIETY TESTS (erase any Xs that do not apply)					
1 Sobriety tests administered? yes ☐ no ☐ refused ☐ failed ☒			2 Time		3 Location
4 ABC's — indicate letters missed: Q W E R T Y U I O P A S D F G H J K L Z X C V B N M					
5 Finger into nose — indicate contact areas on picture (R=right, L=left)					
6 Physical tests: a. recite the name of each state capital: missed ☐ uncooperative ☐ failed ☒ other ☐ b. count to one million in 30 seconds: slurred ☐ stopped at 874,063 ☐ failed ☒ other ☐ c. perform the final scene of Swan Lake: appeared unsteady ☐ uncooperative (said didn't know it) ☐ failed ☒ d. run a 4-minute mile: uncooperative (time:) ☐ out of breath ☐ failed ☒ other ☐ e. sing the Bulgarian national anthem: uncooperative (said didn't know it) ☐ mispronounced words ☐ failed ☒ other ☐					
7 Officer's opinion and evaluation: moderate impairment ☒ obvious impairment ☒ substantial impairment ☒ gross impairment ☒ other ☐ young ☐ longhair ☐ ugly ☐ superugly ☐ guilty ☐ other ☐					

IMPLIED CONSENT WARNINGS (erase any X's that do not apply)

WARNING: You are under arrest for:

- ☐ driving a motor vehicle while under the influence of intoxicating liquor.
☐ being in actual physical control of a motor vehicle while under the influence of intoxicating liquor.
☒ resisting arrest.

Further, you are now being asked to submit to a chemical test of your breath to determine the alcohol content of your blood. You are now advised that you have the right to refuse the breath test; that if you refuse, you are impliedly consenting to us jailing you immediately, and your privilege to drive will be revoked or denied by the Department of Licensing; and that you have the right to additional tests administered by a qualified person of your own choosing and at your own expense and that your refusal to take the test may be used against you in a subsequent criminal trial.

I have read or have had read to me the above statement.

Witness' Signature _____

Defendant's Signature _____

Date _____

Time _____

Location _____

BREATHALYZER REPORT (erase any X's that do not apply)

- X 1. Warm up machine, more or less.
- X 2. See that Null Meter is centered, more or less.
- X 3. See that comparison ampoule is in place in left-hand roller.
- X 4. Gauge test ampoule and record test ampoule control number.
- X 5. Insert and connect test ampoule.
- X 6. Turn selector to "TAKE," flush out, and turn selector to "ANALYZE."
- X 7. When "EMPTY" light comes on, wait 1-1½ minutes and center meter using balance wheel or knob with light on and selector in "ANALYZE" position. (There is no need to be too precise)
- X 8. Align scale pointer with start line.
- X 9. Turn selector to "TAKE," put the defendant's mouth over the intake tube and jab him/her in the stomach, and turn selector to "ANALYZE." Record time sample was taken.
- X 10. When "EMPTY" light comes on, wait 1-1½ minutes and center meter using the balance wheel or knob with light on and selector in "ANALYZE" position until it shows what you believe is a reasonable doubt.
- X 11. Read answer on scale and record reading. This reading indicates the percent by weight of alcohol in the person's blood, which means the percent on a weight-to-volume basis. Show the defendant the reading.
- X 12. Turn selector and power switch to "OFF" position and handcuff the defendant.
- X 13. Dispose of test ampoule and bubbler. Take the defendant to jail.

BREATHALYZER SERIAL NUMBER _____

TEST AMPOULE CONTROL NUMBER _____

RESULTS: .10 ☐ .12 ☐ .14 ☐ .16 ☐ .18 ☐ other ☐ PERCENT OF BLOOD ALCOHOL BY WEIGHT _____

DATE _____

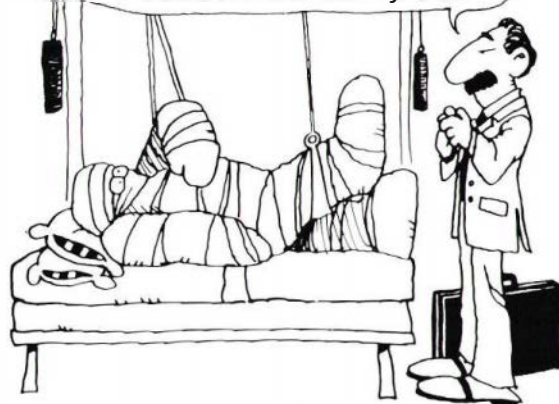
TIME _____

OPERATOR _____

If 15-minute observation period was interrupted, give reason and the time new observation began: _____

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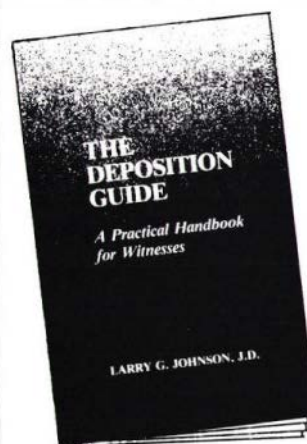
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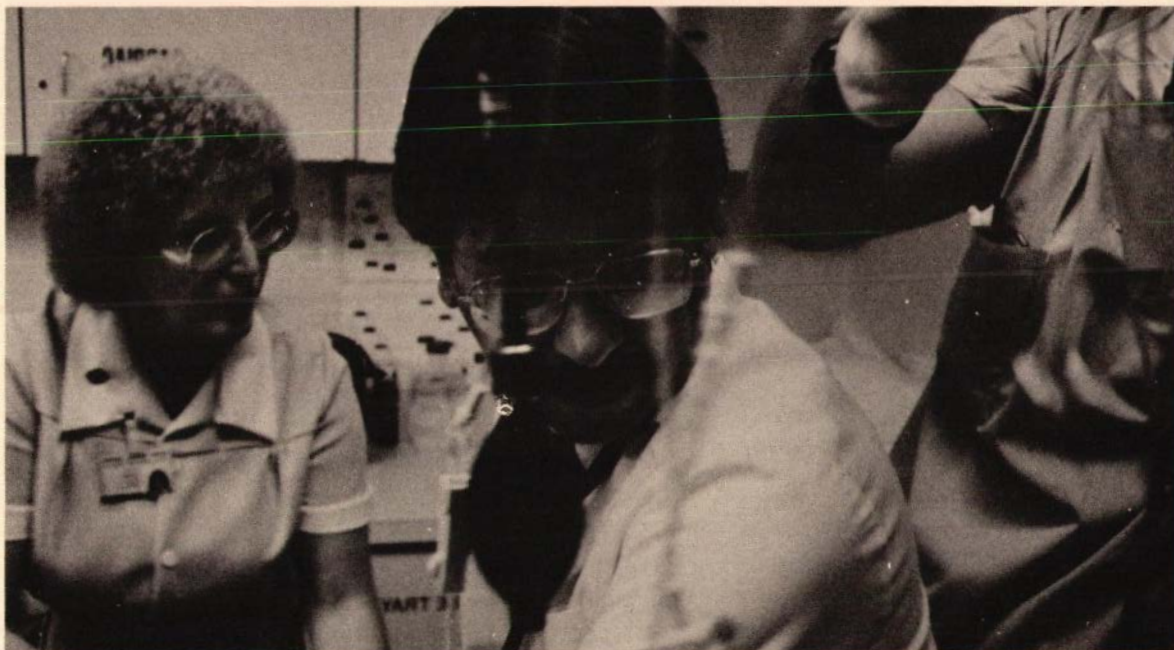
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