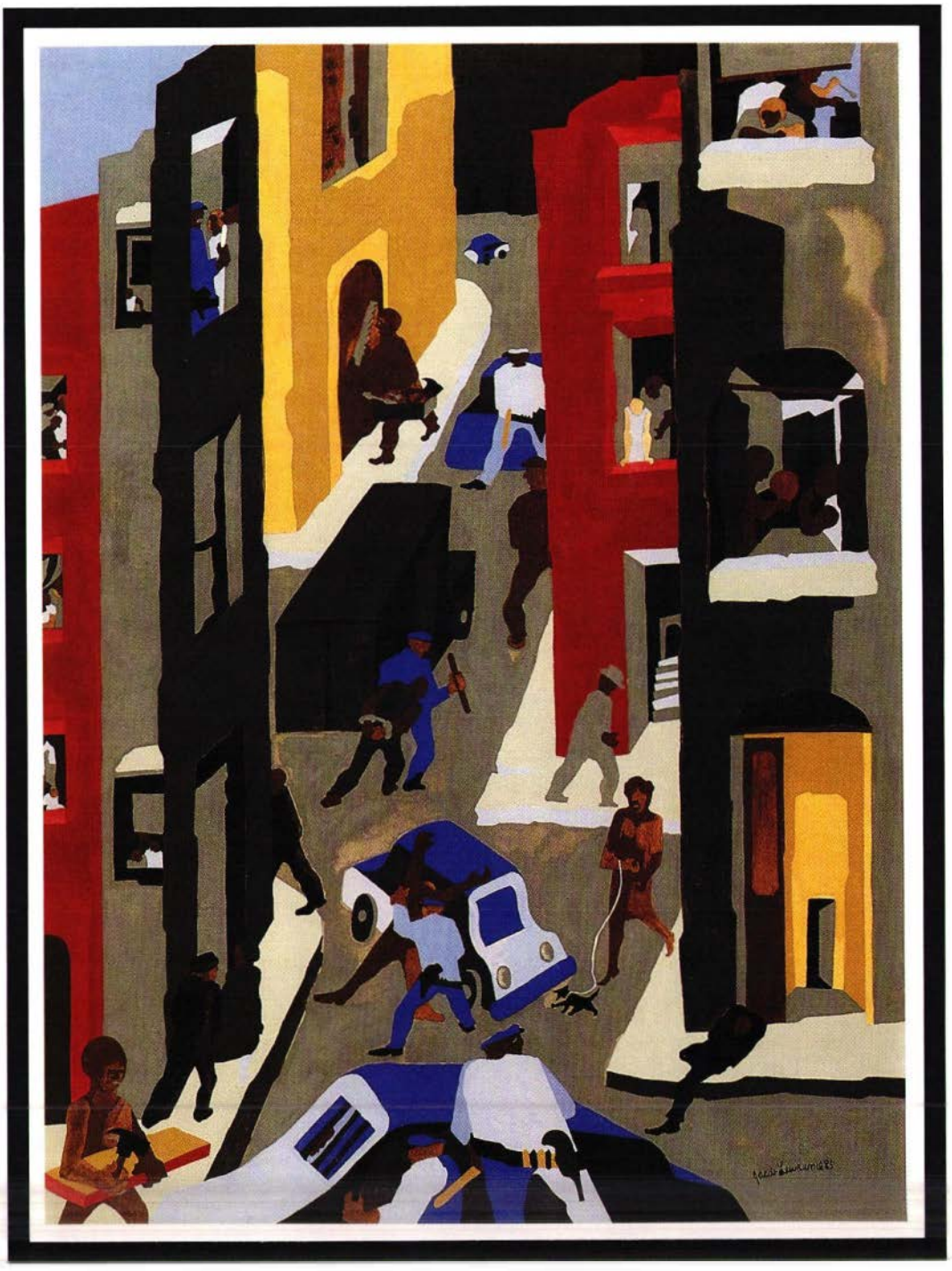
Washington State Bar News
Vol. 39, No. 11, November 1985



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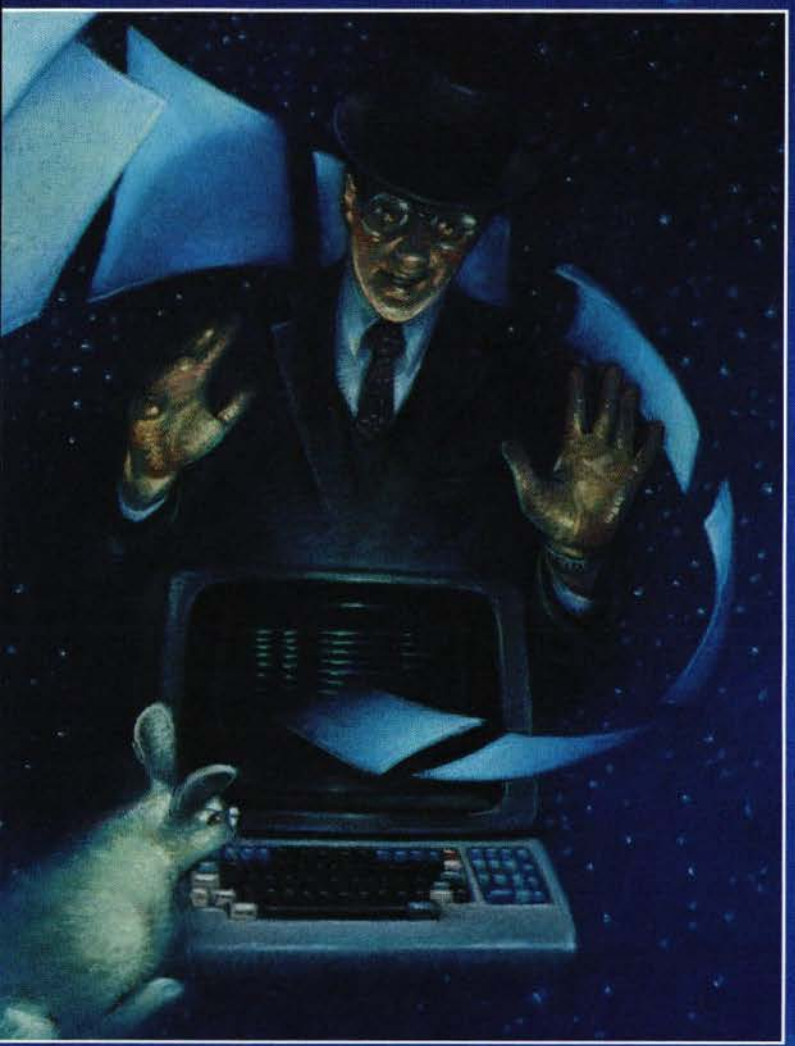

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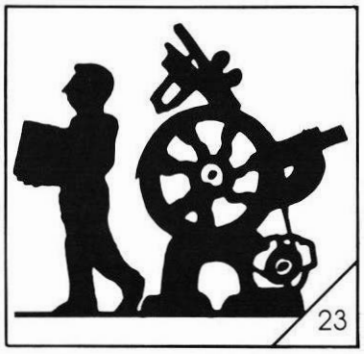
FEATURES



IN THE NEWS

DEPARTMENTS

COVER ART

STREET SCENE by Seattle artist **Jacob Lawrence**. Gouache, 29½ x 21¾. Courtesy of Francine Seders Gallery. Lawrence is shown at work in his studio on page 9.

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We have been impressed by a number of things during our first several months in the traces—the efficiency and effectiveness of Executive Director, John Michalik, and his staff; the dedication and application of our elected governors; and the multitude of ongoing activities within our association.

But what has impressed us most is a characteristic which, though known all the while, has recently been brought into sharper focus. The 13,000 plus members of the Washington State Bar Association provide a barrel full of service to the citizens of this State.

We are a service profession. Our fundamental aim is to provide a valuable service to our clients and we seek to do so in the highest traditions of our profession. Our continuing legal education and skill-training programs evidence our determination to enhance our ability to render effective, efficient legal service in a modern, complex society. But we provide numerous adjunct services during the course of our professional careers. Foremost among these is the Pro Bono service we provide to assure that legal representation is not denied to those who cannot afford full payment for our service. Currently, through organized providers, over 20,000 cases are processed annually. In addition, however, numerous private bar panels provide voluntary legal service to the poor in this state, and each of us, in our own private practices, provides a greal deal of legal service without compensation. These services, together with the multitude of public service we render within our communities, mark our profession as one of the highest order.

The Legal Aid Committee of the State Bar recently completed a study through which it reported there were a number of excellent legal service programs and providers in Washington, providing legal representation to poor people. The programs, it concluded, provided excellent resource and service, not only to their clients, but also the community as a whole. However, the committee further found that the services were inadequate and that there is a pressing need for an increase in resources available to provide representation to poor people in civil matters.

A task force of this association has recently been formed to study our current Pro Bono service programs in effect throughout the State. Its purpose, in part, will be to find out if the various programs are effective, if supplemental programs are required or whether a different approach may be in order.

While not attempting to prophesy what the task force will conclude, we predict two things—first, a call for even greater participation by our members will be solicited; second, we will respond in our deep-rooted traditional fashion by even greater services then we now render.

The third area of service is our service to our profession. Service to our profession includes committee and task force service, continuing legal education panel and seminar service, local bar association service, service in our sections and special projects such as MENTOR and all the multiple activities which move this great association. Past President, Lee Campbell, and I recently contacted over 50 members to request their service on four separate task forces. Each and every person contacted agreed to serve without hint of complaint. Every one of these lawyers is busy at his or her own practice. Yet, each seemed to welcome the opportunity to serve the profession and ultimately the public. Many even thanked us for being considered for service. Were we surprised by this unselfish attitude? Not really—but impressed, you bet.

Image starts within one's self. If we feel good about ourselves, we'll feel good about others and, in turn, others will see us in a better light. We think we have the right to be proud of the lawyers of this association and the service they provide to the citizens of this State. Maybe it's time we stopped hiding our lights under a bushel barrel and start talking about it. I'm game—how about you?

LETTERS

Thanks

Editor:

Please accept our thanks for publishing our request for information in the August *Bar News* about locating persons willing to act as trustees for smaller estates. We received numerous telephone calls from attorneys, legal assistants, and individuals. A few attorneys and legal assistants even volunteered to be trustees, at no charge, as a public service. We were very impressed by the response and it is a firm indication why this association is a leading organization in the nation. Our gratitude to those persons as well.

We thought the information made available to us would be of use to our membership, so we asked some of the responding attorneys. They being available to act as trustees and/or guardians for smaller estates and persons. Although we made a choice from this grouping in our particular matter, we have no opinion on their comparable qualifications and that task is upon those who might utilize any of these. (We have not included the volunteer attorneys and legal assistants in an effort to spare them that burden.)

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GUEST EDITORIAL

by Gregg Rodgers

Artists are supposed to be poor; poverty inspires creativity. Any artist who tries to formalize agreements or understand business must be too "commercial" to be any good.

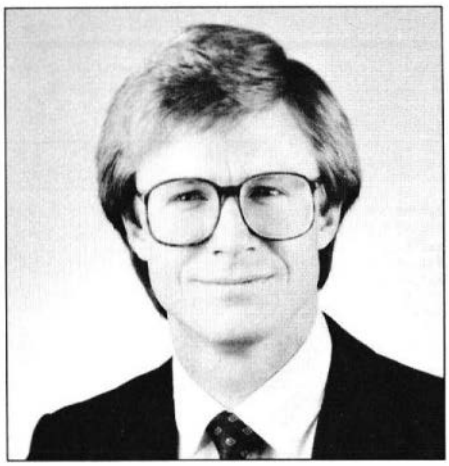
These are misconceptions that put artists in a difficult position in our society. The very nature of their work gives them an array of legal rights and concerns not encountered by the typical businessperson. Artists must understand how to deal with these issues and business methods to be financially successful and continue creating. To whom do they turn for help?

Artists in our state frequently turn to Washington Volunteer Lawyers for the Arts. This statewide group of lawyers, known in the arts community as WVLA, provides *pro bono* and paid legal services in the area of arts law. It works with other arts groups, including Business Volunteers for the Arts, in helping artists understand issues they must face.

Artists benefit from legal referrals and educational programs conducted by WVLA. Our panel attorneys deal with specialized questions in such areas as copyrights, tax-exemption for arts organizations and arts contracts.

Lawyers on the WVLA panel have access to our extensive files of sample forms and contracts, receive discounts on our educational programs and meet some very interesting clients. Attorneys who have registered with WVLA also receive our newsletter giving updates on the law and advance notice of our programs.

The general population benefits by having successful artists. . .ones who can devote more time to their art and less time to legal and business problems.



I hope you enjoy this arts-law issue. It highlights some of the many matters our panel attorneys deal with on a regular basis. Please keep it as a reference so you, like WVLA, can help the arts flourish in Washington.

Gregg Rodgers

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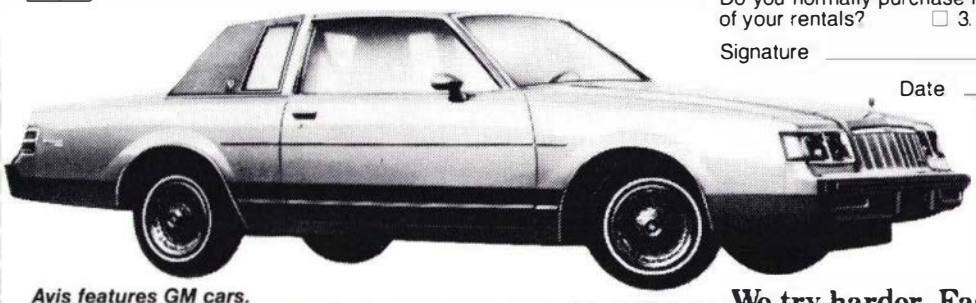

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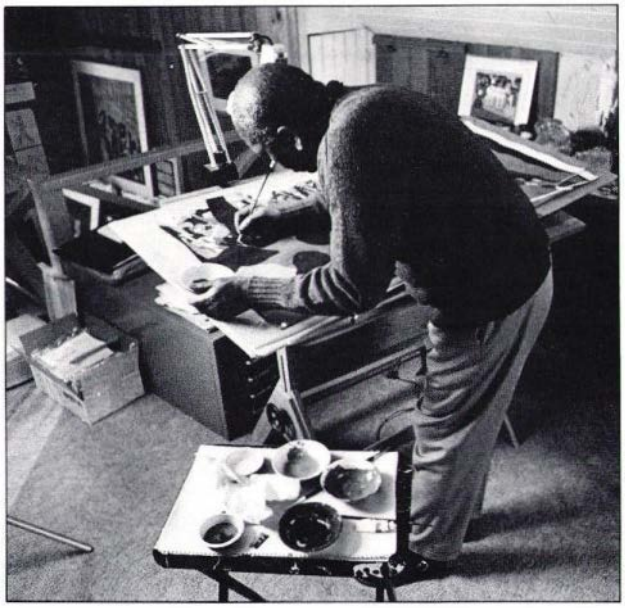

Photo by Mary Randlett

THE ARTIST/GALLERY CONSIGNMENT LAW

by **Adam Kline**

The stereotypes have been with us for ages: the Starving Artist to whom commercial considerations are less than secondary, the Gallery Owner who operates more like a museum curator than businessperson. They inhabit, we long believed, the Art World, a world where our established legal and commercial practices apply only marginally, a world free from the self-dealing and mistrust that characterize the world of commerce. Indeed, the denizens of this world often baffled lawyers: Seemingly negligent in their observation of the cardinal rule (Get It in Writing), hesitant to seek or follow legal advice, and somewhat repelled by the dreadful clank and chatter of the entire legal process.

Imagine then, a King County Deputy Sheriff, a man of no uncertain authority, armed with a writ of attachment upon the goods, chattels, inventory and fixtures of a hapless gallery owner, including the artworks entrusted to her by aspiring artists. To the gallery owner, these works are her stock-in-trade, and the "eye" with which she chose them a matter of professional pride. To the artists who consigned them to her, they represent not only livelihood, but aspiration, their statements to the world and their deliverance from a lifetime of waiting tables. More to the point, the creditor whose writ takes their babies away is not theirs, but hers. The artists are left with a cause of action against an insolvent business. The worlds of art and commerce have clashed, and art is the loser.

It was this real-life event, and persistent prodding by artists and individual members of Washington Volunteer Lawyers for the Arts, that sparked legislative action in 1981 to correct this injustice. It was in that year that the Legislature passed the Artist-Gallery Consignment Act, now encoded as Chapter 18.110 RCW.

The new chapter does more than exempt consigned artworks in a gallery's possession from the claims, liens, and security interests of the gallery's creditors. It defines the relationship between artist and gallery, attributing to it (in the absence of a specific contract provision to the contrary) certain legal protections which artists have long sought and imposes certain other protections which may not be waived at all. To their credit, the Seattle gallery owners did not protest, and in fact one of their number testified in favor of the bill.

RCW 18.110.030 requires that an art dealer (gallery owner), before or at the time of accepting a work of art on consignment, enter into a contract with the artist setting: a) the value of the artwork, b) the minimum sale price and c) the fee or commission to be received by the dealer. A dealer may display the work, or use a poster or flyer containing a photo of the work, only with the artist's written

consent to the particular use, and by giving "credit" (naming the artist) in the text. As a necessary safeguard in light of the often disparate bargaining power of the parties, these protections may not be waived, even by written contract.

A dealer violating any of these rights is liable to the artist for actual damages (including incidental and consequential damages), punitive damages of $50 and attorney's fees. Equally important, the gallery's commission is voidable.

RCW 18.110.020 creates a series of rights, only some of which may be modified by written contract. First, and foremost, the dealer is the artist's agent and trustee as to the artwork and its sale proceeds. The proceeds must be paid to the artist within 30 days of receipt, unless the parties expressly agree otherwise in writing. If the work is sold on an installment basis, the initial proceeds must first be applied to the artist's portion unless the artist expressly agrees in writing to accept his or her percentage of the installments as they come due. The dealer is strictly liable for loss or damage to the work while it is in his or her possession, based upon either the contractual value of the work, or in the absence of a contract, its fair market value. Even in the event the dealer purchases the work for his or her own account, the trust relationship continues until the artist's percentage is fully paid.

A close reading of Section .020 reveals that certain basic characteristics of the artist-gallery relationship may not be modified, particularly the dealer's fiduciary obligations as the artist's trustee, which require him or her to account for money or property in his or her possession. Likewise, the subsection subjecting the dealer to strict liability for damage contains no language which would imply that it might be modified. In light of the clear statement of RCW 18.110.030 (3), voiding any portion of a contract which waives any provision of this chapter, modifications by contract will be strictly construed in favor of the artist. This is especially true in light of the common practice of galleries to have a pre-drafted form contract or (still, in some cases) none at all.

Over the last four years, the effect of the statute has begun to be felt in the art community. Some galleries which previously operated on a handshake basis have now gone to written contracts. Although there are still some holdouts, their number is declining. This trend is seen by many artists as a recognition of their rights and, by some, as evidence of the commercialization of art. Although the "artist's rights" movement of the past few years seems to have peaked, artists do indeed seem more willing to Get It in Writing, and galleries seem more willing to oblige. □

Adam Kline is a Seattle sole practitioner active in arts law and personal injury. He is Board Chairman of Danceworks Northwest.

ADVISING YOUR CLIENTS ON PLANNED GIVING

by **Clare M. Grausz**

How can charitable organizations, faced with sharp cuts in federal and state funding, attract large gifts from the private sector? With an innovative fundraising technique known as planned giving, charitable organizations enable donors to combine charitable motives with individual estate planning objectives.

Since cash gifts may not be the most convenient form of contribution for certain individuals, many organizations now allow donors to contribute real property, tangible personal property or intangibles, such as stock, instead. In addition to outright gifts, donors may make a partial gift of property or receive an income interest and donate a remainder interest in the property to charity. These alternative ways of giving, and their resulting tax and income benefits, are what constitute a planned gift.

1. Bargain Sale

A bargain sale enables a donor to make a gift of long-term appreciated property, such as securities or real estate, and to recoup the donor's investment in the property. Since this transaction is part gift and part sale, a charitable deduction is allowed for the difference between the fair market value of the property and the sale price. (*I.R.C.* § 170(e)(2).)

The donor must recognize capital gain on the sale portion of the transaction. To determine the amount of recognized gain, the donor's cost basis in the property must be allocated between the "sale" portion and the "gift" portion. A formula to compute the amount of gain allocable to the sale portion is: $\text{Gain} \times \frac{\text{Sale Price}}{\text{Fair Market Value}}$. The donor is not taxed on the appreciation allocated to the gift portion of the bargain sale. (*I.R.C.* § 1011(b).)

Example: A 71-year old client has low-yield stock that she would like to convert into income. She also would like to give part of the proceeds of the stock to a charitable organization. The stock's value has increased from $10,000 to $50,000 in the 10 years it has been held. The client is reluctant to sell because it would trigger a large capital gain. A bargain sale to the charitable organization is arranged instead. Under the terms of the bargain sale, the charity pays the client $10,000 cash for the stock. She is entitled to deduct the full value of the gift portion of the bargain sale, or $40,000 (up to 30% of her adjusted gross income) in the year the gift is made. Any excess deduction that cannot be taken in the first year may be exhausted in the next five years.

Using the formula stated above, the client will have to recognize $8,000 of capital gain ($40,000 $\times \frac{\$10,000}{50,000}$). This amount should be more than offset by the charitable deduction. Moreover, any taxation on the $32,000 of appreciation attributable to the gift portion of the bargain sale is avoided.

If mortgaged property is donated to a charity, the gift is automatically considered a bargain sale. (*Treas. Reg.* § 1.011-2(a)(3).) The outstanding balance on the mortgage must be recognized by the donor as capital gain. The difference between the fair market value of the property and the mortgage is treated as a gift, and a charitable deduction is allowed for this amount.

2. Charitable Remainder Trusts

A donor who is in a position to make a substantial gift to charity may prefer to use a charitable remainder trust because of its favorable tax and income benefits. Three kinds of charitable remainder trusts enable a donor to qualify for an income tax charitable deduction: the Pooled Income Fund, the Charitable Remainder Unitrust and the Charitable Remainder Annuity Trust. (*I.R.C.* § 170(f)(2)(A).) In each case, the donor irrevocably transfers property to a trust which makes an income distribution, at least annually, to one or more non-charitable beneficiaries. The income is payable either for life or for a term of years not to exceed 20 years. At the end of the income interest or at the death of the income beneficiary(ies), the trust is terminated and the remaining trust assets are transferred to the charity.

A. The Pooled Income Fund

A pooled income fund is recommended for donors who want to maximize their investment return by pooling their tax contribution to the fund with other donors' contributions. The fund allows a donor to diversify his investment without the tax conse-

quences that normally attend such an activity. The fund is maintained either by a qualified charity or by a bank for such a charity. (See *I.R.C.* § 170(b)(1)(A)(i-vi) for a list of qualified charities with pooled income funds.) The donor receives his pro rata share of the fund's earnings each year for life. A life income may also be provided for a surviving spouse. At the death of the income beneficiary, or other beneficiary, the fund distributes the donor's share of the fund assets to the charitable organization.

A charitable deduction is allowed for the present value of the charity's remainder interest in the fund's assets in the year the contribution is made, up to 50% of adjusted gross income for cash gifts and up to 30% of adjusted gross income for gifts of long-term appreciated property. The same five-year carryover period applies for any excess deduction that cannot be taken in the first year. Treasury tables which take into account the age of the income beneficiary and the fund's rate of return determine the charitable deduction. (*I.R.C.* § 170(f)(2)(A).)

All income received by the income beneficiary is taxable as ordinary income. In the event that appreciated property is donated to the fund, there is no tax on capital gain. Moreover, neither the fund nor the donor is taxed on capital gain arising from the sale of long-term assets held by the fund. However, short-term gains from the sale of short-term assets by the fund are taxable to the fund. (*I.R.C.* § 642(c)(3).)

B. The Unitrust

Unlike a pooled income fund, a unitrust is established on an individual basis. The donor's contribution of cash, real estate or securities constitutes all of the trust assets. This arrangement provides great flexibility in meeting a donor's financial needs. For instance, instead of paying out all of the income which the trust earns annually to the income beneficiary, a unitrust pays a specific percentage of the fair market value of the trust assets, revalued yearly (not less than 5% in order to qualify for a charitable deduction). (*I.R.C.* § 664(d)(2).) As long as the percentage established in the governing instrument is less than the yearly earnings of the trust, payments to the income beneficiary will increase over time. This potential growth in income offers a built-in hedge against inflation to donors and is unique to the unitrust.

If a donor would rather limit income for several years, the governing instrument may limit income payments to the lesser of trust income or the specific percentage rate. By contributing high-growth but low dividend-paying securities, a donor can effectively control the amount of income the trust earns. Although the trustee cannot be expressly bound to invest in low-yield securities, the trustee has a duty to consider the financial objectives of the donor as well as the objectives of the charity. The trust assets can be converted to

high-yield investments later, when the donor's income needs change. Provisions can also be made in the governing instrument to make up any deficiencies in income payments from previous years, when the trust earned less than the specific percentage. (*I.R.C.* § 664(d)(3).)

No capital gain is realized by the donor when appreciated assets are transferred to a unitrust. Income payments retain the character they had in the trust and are taxed according to a four-tier structure: first, as ordinary income to the extent the trust earns ordinary income for the year or distributes ordinary income from prior years; second, as capital gain; third, as tax-exempt income; and fourth, as tax-free return of principal. /*I.R.C.* § 664(b)). Therefore, if the trust sells the long-term assets, there will be some capital gain passed through to the income beneficiary.

C. The Annuity Trust

The principal difference between an annuity trust and a unitrust is the income payment scheme. To qualify for a charitable deduction, the annuity trust pays a fixed sum of income annually (at least 5% of the initial fair market value of the trust assets). (*I.R.C.* § 664(d)(1).) Thus, the annuity trust should appeal to donors more interested in receiving a fixed amount of income each year than in investing for growth. Unlike the unitrust, additional contributions may not be made to an annuity trust. (*Treas. Reg.* S1.664-2(b).)

The tax benefits of the annuity trust parallel those of the unitrust. The donor receives a charitable deduction for the present value of the charity's remainder interest in the trust assets at the end of the income interest. (*I.R.C.* § 170(f)(2).) The donor also avoids any recognition of capital gain when appreciated assets are transferred to the trust. Income generated by the trust is taxed to the income beneficiary according to the same four-tiered system as in the unitrust. Thus, some capital gain may be passed through to the income beneficiary if a long-term capial asset is sold by the trust.

The Treasury Department recently issued new gender-neutral tables for computing the charitable deduction for charitable remainder trust and lead trusts. The increase in the assumed rate of return from 6% to 10% under the new tables gives the annuity trust a larger charitable deduction than the unitrust in comparable payout rates of up to 10%.

Example: Under the 10% tables, a transfer of $50,000 in stock to an 8% unitrust by a husband and wife, both 65 years of age, who wish to receive income for the rest of their lives, would yield a charitable deduction of $12,433. The same gift to an annuity trust paying $4,000 per year (8%) would yield a charitable deduction of $16,482.

The I.R.S. has stated that an annuity trust must meet a "5% probability test" in order to qualify for a charitable deduction. (*Rev. Rul.* 77-374, 1977-2 CB 329.) This test measures the likelihood that a given annuity trust payout rate would exhaust principal prior to the death of the income beneficiary. However, with the new 10% tables, this test should only be applicable to annuity rates exceeding 10%.

3. The Charitable Lead Trust

The lead trust is the opposite of a charitable remainder trust: the income earned by the trust is paid to the charity for a term of years (or for a life in being), and the donor or someone designated by the donor receives the remainder interest. In order for the lead trust to qualify for an income tax charitable deduction: 1) the income payments must be in the form of either a guaranteed annuity (as in an annuity trust) or a fixed percentage of the fair market value of the trust assets, revalued yearly (as in the unitrust); 2) the trust term must be no longer than 10 years; and 3) the donor must be treated as owner of the trust and, as a result, be taxed on the income paid to the charity during the trust term. (*I.R.C.* § 170(f)(2)(B).) The charitable deduction is limited to 30% of adjusted gross income (20% for gifts of appreciated property to the trust)

with a five-year carryover period permitted to exhaust any remaining deduction. (*I.R.C.* § 170(b)(1)(B).)

The most significant benefit of a charitable lead trust is that it offers donors the opportunity to remove assets from their estates and pass them on to heirs with minimal estate and gift tax consequences. Since the value of the property is determined as of the date the property is transferred to the trust, any appreciation in the property's value over the trust term is not subject to estate or gift tax. Any remaining gift tax could be eliminated by increasing the charity's income interest or the length of the trust term sufficient to theoretically exhaust the trust principal. This would result in a zero remainder value for gift tax purposes. However, payment of gift tax need not be an issue if the donor has a sufficient unified gift and estate tax credit available to cover the amount of the gift.

Example: A client with an estate worth $3,000,000 has $500,000 in stock he would like to pass on to his grandchildren. Rather than bequeath the stock to them, he donates the stock to a charitable organization to fund a lead trust for 12 years. The annual payout from the trust to the charity is $30,000, or 6% of the initial fair market value of the trust assets. Since the trust is set up for more than 10 years, the client cannot take a charitable deduction for the $360,000 gift to charity. However, he will not be taxed on the income from the trust either.

Assuming the trust has a net annual yield of 12%, the stock should be worth $1,224,000 by the time it is distributed to the grandchildren in 12 years. However, only $295,589, or the present value of the grandchildren's remainder interest, is subject to gift tax in the year the trust is established. This tax could also be eliminated if there is enough unified credit available.

When this gift is added back into his estate for estate tax purposes, the estate would have to pay a tax of $147,795 on the gift (assuming a 50% estate tax bracket). However, this would be much less than the estate would otherwise have to pay if the

stock were bequeathed to the grandchildren instead.

4. The Charitable Gift Annuity

Finally, a donor may transfer money or property to a charity in exchange for a gift annuity that pays a guaranteed income for life. The gift annuity is basically the same as a commercial annuity, except that the donor purchases the annuity from the charity and is able to deduct the difference between the amount transferred to the charity and the actuarial value of the annuity as a gift. (*Rev. Rul.* 72-438, 1972-2 C.B. 38.)

Most annuity rates offered by charities are based on the rates recommended by the Committee on Gift Annuities, which represents most educational and philanthropic organizations in the United States. Rates are gender-neutral and, as with the commercial annuity, they vary with age: the older the income beneficiary, the higher the annuity rate. The fact that the gift annuity rates are generally lower than commercial rates emphasizes the charitable element of the transaction.

The charitable deduction is based on the difference between the value of the property transferred and the actuarial value of the annuity. Government tables used for calculating the investment in the contract or the actuarial value of the annuity may be found in *Rev. Rul.* 84-162, 1984-2 C.B.8.

The portion of each annuity payment that represents a return of capital is not taxable. The remaining portion of each annuity payment representing earned income will, however, be taxable. In order to determine the amount of each payment which is excluded from tax, use the following ratio:

$$\frac{\textit{investment in contract}^*}{\textit{expected return}^\dagger}$$

*(same as for calculating charitable deduction)

†(use tables in Reg. §1.72-9).

If appreciated property is used to fund a gift annuity, a portion of the gain will be taxed as capital gain under the bargain sale rules. However, the reporting of gain may be extended over the donor's lifetime as long as the annuity is made non-assignable and the donor is either the sole annuitant or one of two life annuitants. (*Reg.* § 1.011-2(a)(4) and (c).)

Conclusion

The four gift plans described in this article give some indication of the variety of opportunities available to those donors who wish to combine charitable motives with certain investment or estate planning objectives. These planned gifts should ultimately offer charities greater financial return if they are willing to enjoy the expectation now and the income later.□

Clare M. Grausz, Seattle attorney, is the manager of KCTS/9's Planned Giving program, which she and a handful of other public television stations around the country established three years ago. She has written brochures on making a planned gift under Canadian and U.S. law.

WASHINGTON STATE BAR **NEWSLINE**

The Board's Work

by **Carole Grayson**

LEAVENWORTH October 11,12, 1985. Governors present; Bracelin, Bond, Lane, Johnson, Petruss, Reisler, White. Governors absent: Moceri, Vhugen, Zylstra. Also present: Chuck Snyder (WSBA Young Lawyers), Peter Mair, John Michalik (WSBA exec. dir.), Susan Davis (WSTLA pres.-elect) Bob Boruchowitz (director, The Defender Assn.), John Gray (Governmental Lawyers), Seth Dawson & Patrick Sutherland (Wa. Assn. of Prosecuting Attys.), Willard Zellmer (Superior Ct. Judges Assn.), Stew Cogan (SKCBA Bd. of Trustees), Karl Tegland (WSBA Court Rules Cmte.), John Fattorini, (WSBA lobbyist), Mary Drobka (SKCBA Young Lawyers.)

MALPRACTICE Following presentation of the Bar Task Force on Malpractice Insurance by chair William H. Gates and member Jerry Edmonds, the Governors unanimously authorized the Task Force to spend up to $20,000 on consulting and study of the malpractice situation and potential solutions.

Susan Davis, president-elect of the 2,400-member Washington State Trial Lawyers Association, said WSTLA has no position on whether malpractice coverage should be made mandatory. They are, however, "intensely concerned" with the cost and availablility of adequate insurance for lawyers.

Governors Johnson and Lane were named to serve on the Task Force.

ANNUAL MEETING RESOLUTIONS In split votes indicating concern that a mandatory Bar ought not take positions on matters outside the scope of Washington practice, the Governors adopted the two resolutions which were overwhelmingly approved at the Annual Meeting during the Bar Convention in September. The Governors' actions were taken pursuant to Article VII, Sections 5 and 11 of the Bar By-Laws.

By a 5-2 vote (Bond and Lane opposed), the Governors approved amending Article 1 of the Bar By-Laws to add Section 9 as a purpose of the Bar: "To advance the rule of law in the world." Supporters termed the resolution "very innocuous" (Bracelin) and "sufficiently apolitical" (Johnson). Dissenter Bond, warning of "opening a Pandora's box of resolutions in the future," said the resolution might be "quite appropriate for the ABA, but not for a mandatory group concerned with the practice of law within Washington."

By a 4-3 vote, the Governors adopted the resolution on apartheid as approved at the Annual Meeting. The result is that the Bar now opposes South African apartheid and any government's policies which discriminate against its inhabitants on the basis of race or color. Bond, Lane and Johnson voted nay. They indicated that their opposition was based on considerations including the proper scope of Bar involvement and in no way reflected support of apartheid.

3.2 DERRING-DO New Bar president, Pat Comfort, displaying parliamentary derring-do, twice elected to vote to make a tie, as authorized by Robert's Rules of Order. His first vote came during debate on proposed Criminal Rule 3.2. Comfort sided with Governors Reisler, White and Bracelin in voting against the rule as proposed by the Washington Association of Prosecuting Attorneys. Bond, Johnson and Lane favored the WAPA proposal, which would allow judges to consider a suspect's "dangerousness" in setting bail.

Karl Tegland, chair of WSBA Court Rules Committee, which has twice rejected the WAPA proposal, noted that currently the only legitimate purpose of bail is to secure the defendant's appearance. Said Tegland: "The committee was not convinced the proposal was one, constitutional and two, necessary, and saw no reason to depart from the policy since statehood."

The trustees of the Superior Court Judges Association, said member Willard Zellmer of Lincoln County, approved the WAPA proposal despite concerns with its constitutionalilty.

"Is there a compelling interest justifying the attempt to make a prediction of violent behavior to enter into the bail-setting process?" asked Snohomish County prosecutor Seth Dawson. Yes, he argued. "I honestly don't know what percentage (of persons released) commit violent crimes pre-trial," he said, but estimated that 10-20% of defendants commit some type of crime pending trial. "I don't care if it's one percent or 25% or 80%. If it happens one percent of the time, something's got to be done about it."

Seattle lawyers Bob Boruchowitz and Peter Mair urged the Governors to follow the recommendations of the Court Rules Committee and reject the WAPA proposal. Ex-chair of the WSBA Criminal Law Section, Boruchowitz said the proposal "pushes the system away from the presumption of innocence." Mair, a criminal defense expert and former federal prosecutor, agreed. "Undoubtedly a person released has threatened witnesses," he acknowledged, "but no study demonstrates that the changes proposed would have prevented this if the proposal were law."

Describing Dawson's "worst case scenario" as "troubling" and "inflammatory", Governor Bracelin said, "You don't tamper willy-nilly with the Constitution." Governors White and Reisler felt that a constitutional amendment was the better way to

remedy Dawson's concerns. Said Governor Lane: "We need as a Board to come clearly forward and take a stance and say, 'We favor the policy, but under the present circumstances we can't say we approve something of questionable constitutionality.'"

All other criminal rules approved by the Committee and the Governors will be forwarded to the Supreme Court with a recommendation that they be approved.

47% PASS BAR EXAM Only 408 of 865 aspirants successfully negotiated the July Bar Exam. 68% passed the essay section; 55% passed the ethics.

"WHERE WE MEET IS SYMBOLIC OF WHAT WE ARE" A motion by Governor Reisler to move the August, 1986 Board of Governors meeting from Gleneden Beach, Oregon to a location in Washington determined by President Pat Comfort ended in the second tie of the weekend. The new president himself cast it, joining Governors Johnson, Petruss and Lane in rejecting the motion.

Reisler expressed his "philosophical" difficulty with an Oregon meeting of the Washington Bar Association: "Where we meet is symbolic of what we are." Joining him were Governors White, Bond and Bracelin.

Gleneden Beach is approximately 115 miles SW of Vancouver, WA. Ten of the 12 meetings during Comfort's term will be held in Washington.

GOVERNORS APPROVE NEW APA 6-1 Seattle attorney C. Dean Little, chair of the Bar's Administrative Procedure Act Task Force, and Task Force member and UW law professor William Andersen discussed the Legislative Committee's unanimous recommendation that the Governors approve in concept their proposed APA. The act, which in Andersen's words "is very, very boring," has had no wholesale revision in over 25 years. The proposed draft, they said, would increase public confidence in government. It would:

- make all agencies subject to its provisions,
- give flexibility to the agency or the administrative law judge to tailor the proceeding,
- encourage settlement,
- increase checks and balances on agencies,
- substitute the "substantial evidence" test for the "clearly erroneous" test for review, and
- codify concepts such as standing, intervention and exhaustion of remedies.

John Gray of Governmental Lawyers and Jeff Lane, chair of the WSBA Administrative Law Section, described their groups' oposition to the proposal. Gray saw "no demonstrated need" to throw out the present APA. The proposed draft, he said, "is not thoroughly thought through,... will increase agency costs and complexity" and "increase citizen frustration."

"What about the law of unintended consequences, which tends to march along with a lot of legislation?" wondered Governor Bond. Bar lobbyist John Fattorini assured the Governors they could review the APA draft as it worked its way through the 2-3-year legislative process.

Governors Bond and Lane expressed concern about being a "rubber stamp." Said Lane, the sole dissenter in the 6-1 vote, "The Task Force has spent four years on the draft, and the Governors have had one week to review it." He was

also "uncomfortable with the unrest between sections of the Bar."

OTHER WORK

DISCIPLINE--J. Donald Curran of Spokane was unanimously named vice-chair of the WSBA Disciplinary Board.

LEGAL SERVICES--The Governors unanimously appointed Pullman attorney Robert F. Patrick to the Board of Directors of Evergreen Legal Services.

ABSENCE MAKES...--Governor Vhugen, who was absent, was named Treasurer of the Bar. Governor Zylstra, who was also absent, was named Board liaison with the British Columbia Law Society. Governor Reisler was named to join Vhugen and Bracelin on the Governors' audit and budget committee.

YOUNG LAWYERS SECTION--The Governors unanimously approved the $30,450 budget of the Section as presented by chair Chuck Snyder of Bellingham. The budget includes a $9,370 subsidy, which is an increase of $3,130 over last year.

LEGAL FOUNDATION OF WASHINGTON--The Governors unanimously moved that the Trustees of the Legal Foundation of Washington consider broadening its Interim Grant Criteria to permit funding for educational programs which would have a positive impact on the legal problems of the public. Recalling that the Foundation is to be "absolutely independent" of the Bar, Governor Lane worried that the motion "would be one more thing for people to say the Bar exercises control over IOLTA."

UPCOMING MEETINGS--NOVEMBER 8-9 (EVERETT: EVERETT PACIFIC), DECEMBER 13-14 (SEATTLE: STOUFFER MADISON), JANUARY 17-18 (OLYMPIA: WESTWATER).

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OF SPECIAL INTEREST TO READERS OF THIS ISSUE

FREE COPYRIGHT APPLICATION FORMS AND INFORMATION CIRCULARS (5 max.): Federal Information Center, 1220 SW 3rd Ave., Rm 321, Portland OR 97204, (503) 221-2222. Toll free numbers: Seattle 442-0570, Tacoma 383-5320. Ask for TX (written word), SR (radio and sound recording), PA (performing arts, e.g., audio-visual tapes, plays, movie scripts), VA (visual artwork), and SE (serialized items, e.g., numbered volumes.) Also available are a general descriptive booklet and specific circulars on computer programs, music, video, etc. Each copyright application costs $10.00 to file.

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LIABILITY FOR DEFAMATION IN WORKS OF FICTION

Demetra Pittman as GENEVA LEE BROWNE in Tacoma Actors Guild's "The 1940's Radio Hour"

by **Bruce P. Kriegman & Susan Reifel**

Writers and lawyers may be unaware that a defamation action can arise in a work of fiction. This article addresses this area of the law and a fiction writer's exposure when a reader claims to be defamed by a work of fiction. Due to space limitations we will be unable to address a frequently alleged alternate theory, false light invasion of privacy, which often accompanies a defamation action of this type. Bear in mind, however, that the "false light" theory constitutes additional "ammunition" for pursuing redress along this line.

To our knowledge there has been no published Washington decision on defamation and works of fiction. Nevertheless, we will relate the law on this subject to relevant Washington case authority.

BASES FOR ACTION

The elements which must be present to maintain an action for defamation are: (1) a false and defamatory statement of and concerning another; (2) an unprivileged communication of that statement to a third party; (3) fault amounting to at least negligence; and (4) damages. (*Mark v. Seattle Times*, 96 Wn.2d 473; (1981) *Sims v. KIRO, Inc.*, 20 Wn.App. 229, (1978) *cert. den.*, 441 U.S. 945 (1979) (citing Restatement Second of Torts, §558 (1977)). Since the U.S. Supreme Court constitutionalized this tort (see, *New York Times v. Sullivan*, 376 U.S. 254 (1964) and *Gertz v. Welch*, 418 U.S. 323 (1974)), the standard of fault is determined in accordance with the status of the plaintiff. Public figures/officials must show "actual malice" while private citizens need only show negligence (*Taskett v. KING Broadcasting Co.*, 86 Wn.2d 439 (1976).)

This article is concerned primarily with the plaintiff/private citizen because this individual represents the greatest difficulty to writers who so often base their fictional characters on people whom they have known. As E.M. Forster wrote: "The novelist . . .makes up a number of word-masses roughly describing himself. . . [T]heir nature is conditioned by what he guesses about people, and about himself, and is further modified by the other aspects of his work." (*Aspects of the Novel*, Harvest/HBJ ed. 1985). This point has been given explicit recognition by the U.S. Court of Appeals: "Authors of necessity must rely on their own background and experiences in writing fiction." (*Middlebrooks v. Curtis Publishing Co.*, 413 F.2d 141 (4th Cir. 1969).)

LEADING CASES

The two leading cases on defamation in fictional works are *Middlebrooks*, and *Bindrim v. Mitchell*, 155 Cal. Rptr. 29 (1979), *cert. den.*, 444 U.S. 984 (1979). In both cases the controversy centered on the existence of the first element of defamation mentioned above (identification of plaintiff). Plaintiff Larry Esco Middlebrooks alleged that he was defamed by a fictional article, "Moonshine Light, Moonshine Bright" featuring a character named "Esco Brooks." Although defendant was a boyhood friend of plaintiff and admitted basing the character on him, the Fourth Circuit upheld the lower court's finding that "persons reading the story could not conclude reasonably" that Esco Brooks was in fact or intended to be plaintiff. That holding was based upon application of the following test: Whether the fictional character could reasonably be understood as a portrayal of plaintiff. The court noted that the context in which the alleged defamation occurred was important and that obvious works of fiction are "normally understood by all reasonable men as not intended to depict or refer to any actual person" (citing Restatement (Second) of Torts Sec. 580, comment j, tentative draft no. 12, 1966; the Restatement Sec. 564, comment d, now provides that the trier of fact should consider fictional setting as a factor as long as the author states that the work is exclusively one of fiction and in no sense applicable to a living person.) Nonetheless, the court added, "[T]he fictional setting does not insure immunity when a reasonable man would understand that the fictional character was a portrayal of the plaintiff."

L to R: Bill terKuile as NEVILLE, Peter Lohnes as CLIVE, Mary Ellen Hanson as PHYLLIS, C.R. Gardner as BERNARD in TAG's "Season's Greetings"

In *Bindrim*, defendant/best-selling author signed a written agreement before joining a nude therapy group not to write articles or "in any manner" disclose who attended therapy sessions or "what has transpired." The agreement further stated that failure to adhere to its terms would give rise to liability for damages to "leaders and participants." After participating in therapy sessions, defendant published the novel *Touching* in hard and paperback editions. Plaintiff/PhD psychologist—leader of the therapy sessions—sued, alleging that "Simon Herford", the alleged fictional counterpart, portrayed him in a defamatory manner. In addition to the name, Herford differed from plaintiff in physical description and occupational title (psychiatrist). The court seemed particularly impressed by the nature of evidence received at trial: Similarity of dialogue appearing in *Touching* to plaintiff's tape recordings of actual sessions and testimony of

plaintiff's acquaintances that Herford or his style of talking reminded them of plaintiff. Defendant claimed that the degree of similarity between plaintiff and character did not significantly vary from *Middlebrooks* to *Bindrim*. The court responded: "Here, there were many similarities between the character, Herford, and the plaintiff and those few differences do not bring the case under the rule of *Middlebrooks*. . . There is overwhelming evidence that plaintiff and 'Herford' were one." The standard the *Bindrim* court appeared to apply was whether defendant could show that "no one who knew plaintiff" could "reasonably identify him with the fictional character." The court applied the *Middlebrooks* test to dismiss the defendant's contention that *Touching* being labeled a "novel" effectively disclaimed liability for anyone taking the book to be a factual representation. Thus did the court give *Middlebrooks* a narrow application.

Bindrim is subject to question because of the weight the California Court of Appeals gave to subjective elements such as testimony from witnesses already familiar with plaintiff. This is in sharp contrast to the treatment of witness testimony in *Middlebrooks* where the court, approving language from an earlier case, held that it would not be "sufficient to establish a cause of action that someone said he understood that the character depicted *** referred to plaintiff.' *It is, of course, one factor which the trier of fact may consider.*" (emphasis added). Perhaps the best explanations for the divergence between the two opinions are: (1) *Middlebrooks* court relied on the broad rule of Restatement Second that reasonable persons normally understand that works of fiction are not intended to portray actual people, while the *Bindrim* court did not follow that rule; and (2) the court in *Bindrim* was impressed factually with the more journalistic rather than fictional quality of *Touching* and implicitly saw the "novel" label as pretextual.

Certain factors are important to the trier of fact in determining whether the plaintiff and the allegedly defamatory character are the same. They include (a) testimony of witnesses who are acquainted with the plaintiff and/or his background; (b) the context or setting in which the character appears (is it fiction or something else?) and (c) the degree of similarity between the plaintiff and fictional character.

A leading Washington case on the identification element of defamation is *Sims v. KIRO, Inc.* (20 Wn.App. 229 (1978), *cert. den.*, 441 U.S. 945 (1979)). *Sims* indicates that Washington will probably follow an objective test. The court in *Sims* stated, "The defamatory character of the language used must be certain and apparent from the words themselves, *and so must the identification of the plaintiff as the person defamed. . . This is not to say that it is necessary that a plaintiff be mentioned by name . . . but it is sufficient if viewers, hearers or readers will conclude from a perusal of the article that the plaintiff is the one against whom publication is aimed*" (emphasis added). The court further cited with approval the following test: "[W]ho a part of the audience

may reasonably think is named—'not who is meant but who is hit.'"

In addition, Washington requires plaintiffs to prove with "convincing clarity" that the plaintiff was the person about whom the publication was made in order to overcome a defense motion for summary judgment. (*Mark v. Seattle Times*, 96 Wn.2d 473 (1981).) The same quantum of proof is required for plaintiff to establish a prima facie case of defamation. *Id.* It should be noted, however, that it is unclear exactly when evidence meets the test of convincing clarity.

While authors in Washington may take some comfort in the relatively objective approach of *Sims* and the convincing clarity requirement, there is obviously no assurance that they would prevail as defendants in a *Bindrim*-type action. This emphasizes the potentially chilling effect of defamation actions on fiction writing. Underlying the application of defamation analysis to fiction is the fact that the defendant-writer starts out in a weaker position than most other defamation suit targets since one element, falsity of the alleged defamatory statement, is assumed. Moreover, in those instances where plaintiff is not a public figure/official, defendant-writer will not be entitled to the highest "actual malice" standard of fault which *New York Times v. Sullivan* mandates.

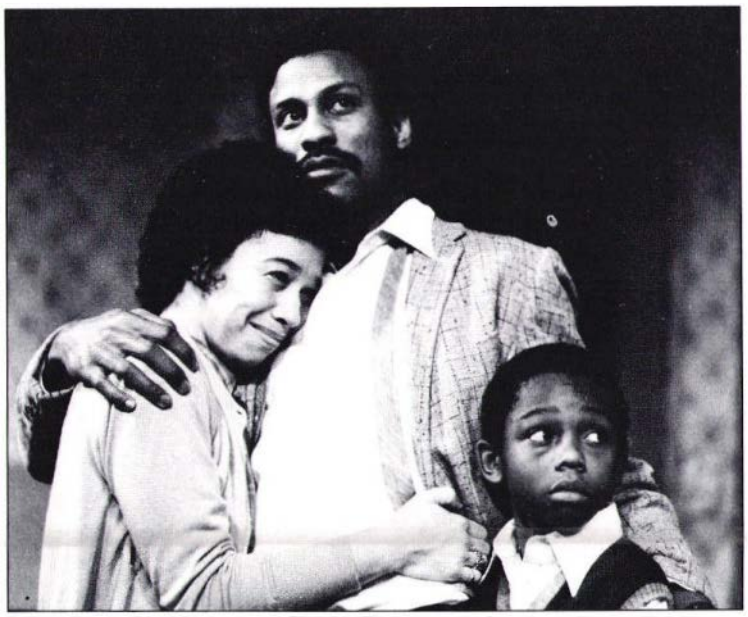
In *Taskett* the Washington Supreme Court concluded that a negligence standard applied to the private plaintiff due to the greater interest of the state in aiding those with less access to the media. However, the balancing of interest may be out of kilter in the context of fictional works. As has been discussed indirectly with respect to Restatement 2nd, writers generally have no intention of identifying actual individuals with their fictional characters. Accordingly, defendant-writers may wish to advance a policy argument in favor of recognizing in this state a qualified privilege.

That this privilege should apply has been cogently stated in Hill, "Defamation and Privacy Under the First Amendment," (76 *Colum. L. Rev.* 1205 (1976)). Professor Hill points out that fiction writers do not come within the privilege of fair comment in the traditional sense. (See, *Cohen v. Cowles Publishing Co.*, 45 Wn.2d 262 (1954) for an explanation of that privilege in Washington). Arguably the opinion privilege, at least as recognized in this state, should apply to writers of fiction. A defendant-author of a work of obvious fiction can argue that his/her work satisfies the opinion test enunciated in *Benjamin v. Cowles Publishing Co.* (37 Wn.App. 916 (1984)): Looking at the entire work, the truth or falsity of a statement can be objectively determined with relative ease and without resort to speculation, and ordinary persons reading the work perceive the statement as an expression of opinion and not a statement of fact. If, however, the opinion privilege is found not to apply, then the writer can argue for recognition of a privilege for fiction "as fiction". As Hill, writes,

> Literature is not given its due under the first amendment if, in the case of fiction, the protective scope of the amendment is defined by the degree to which the particular literary work embodies elements are not fictitious. All forms of literary and artistic expression are protected by the first amendment. Fiction is entitled to protection as fiction . . . irrespective of whether the living model is a public or private person.

CONCLUSION

An action for defamation can arise over a work of fiction. Washington writers concerned with exposure to such liability should attempt to limit the degree of similarity of any characters whom they know have served as models for their character. They also should be certain that the intent for the work to be regarded as fiction and nothing else is clearly and unequivocally communicated to readers. Aside from arguing an objective standard for proof of the identification element and asserting the convincing clarity test, lawyers defending writers can argue for the qualified privilege of opinion and fiction as fiction. A caveat, of course, is that any qualified privilege will not immunize defendant from liability, but will, at least, force the plaintiff to prove that the defendant had "actual malice."□



L to R: Jacqueline Mosceau as RUTH, William Earl Ray, I as WALTER LEE, Jason Jenkins as TRAVIS in TAG's "Raisin in the Sun"

Bruce Kriegman graduated in 1984 from Georgetown University School of Law, where he won first prize in the ASCAP law-writing contest. He is with the Seattle firm of Franco, Asia Bensussen, Coe & Finegold.

***Susan Reifel** is in her third year at Hastings School of Law and is a WVLA volunteer.*

Copyright Concerns for the General Practitioner

by **Marshall J. Nelson & Stuart R. Dunwoody**

Copyright issues are almost always under-lawyered in the beginning and over-lawyered in litigation. Unfortunately, the two symptoms are related.

With rare exceptions, clients who raise copyright questions are either starving artists or new businesses with great plans and little else. In both cases, the client is creating something that may have great potential value but has not yet generated a cent. Faced with this situation, the general practitioner will either add to the client's financial burdens by involving a specialist or, more likely, grab Title 17 U.S.C. and do the best he or she can.

In many cases, the latter course makes sense. There is much the general practitioner can do to preserve the client's copyright in the initial stages. At the same time, there is much damage that can be done—some of it irreparable—if certain steps are not taken at the very beginning, or if what seems to be good common sense advice is substituted for a careful reading of the Copyright Act.

This article is neither a summary of the Act nor a mini-hornbook on copyright law. What it tries to do is identify the situations most likely to confront the general practitioner and to provide some practical "first aid" for protecting the client's rights until the specialist needs to be called. These copyright situations generally fall into two broad categories---either protection of the client's own creation, or the client's desire to use someone else's. (If the client has already used someone else's creation and comes bearing letters from lawyers, call the specialist.) In either case, an understanding of basic copyright theory is essential.

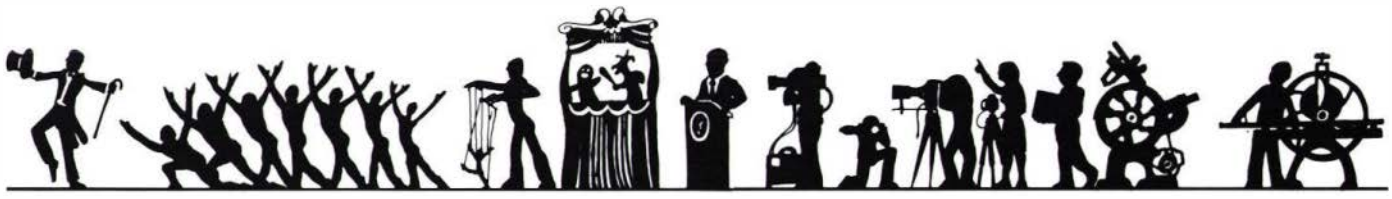
Basic Theory of Copyright

Copyright is the legal protection recognized in "original works of authorship" that gives the "author"[1] certain exclusive rights to control use of the work. Unlike patent protection, it does not depend upon originality in the sense of novelty or invention. All that is required is that the work *originate* with the author. Also unlike a patent, it does not depend upon a specific grant from the government. You don't "apply for a copyright." Copyright protection exists automatically from the moment the original work is fixed in a tangible medium of expression, which includes any medium from which the work can be communicated, either directly, or with the aid of a machine.[2]

In theory, then, copyright exists without the need of any further action by the author. In practice, however, *enforcement* of copyright and the level of protection available depend upon strict compliance with statutory requirements. The copyright owner therefore has a range of options, one of which is to do nothing until there is a problem. This option is viable in some cases, but only if the work remains unpublished[3] and the client is willing to forfeit certain valuable remedies available to those who do comply with the statutory formalities. These remedies will be discussed later.

Copyright protects virtually any form of expression, but does *not* protect "any idea, procedure, process, system, method of operation, concept, principle, or discovery."[4] Consistent with First Amendment principles, these remain available in the public domain unless they are carefully protected as trade secrets or rise to the level of patentable invention. Thus, the client who wants to "copyright" a great idea may be entitled to copyright protection of the particular description, but not the underlying idea itself. Without this understanding, a certificate of copyright registration can create a dangerously false sense of security.

Copyright is not an absolute monopoly over all uses of the copyrighted work. The Copyright Act, in fact, lists specifically defined rights belonging to the copyright owner and elaborate limitations on those rights in §§106-118. The result is a carefully-tailored national policy governing uses of copyrighted works, some free, some restricted, and some conditioned upon payment of statutory royalties. The result is also a concept of an intangible property right that



can be divided, sold, and licensed in as many separate pieces as there may be willing buyers. Therefore, it is always important to know what rights the client may have acquired and/or given away before offering advice on what may be left of the copyright.

Finally, and in some ways most important, there is the principle of federal preemption. The new Copyright Act (which became effective in 1978) expressly preempts "all legal or equitable rights that are equivalent to any of the exclusive rights within the general scope of copyright . . . ."[5] This provision, which has been and will continue to be the subject of much litigation, creates the strong possibility that theories of misappropriation, unfair competition, and other common law or contractual remedies may not be available in cases where the statutory formalities of copyright should have been pursued. When this is coupled with the fact that federal courts have *exclusive* jurisdiction of copyright matters under 28 U.S.C. §1338, it can result in embarrassing dismissal of a case brought in state court.

An attorney who understands copyright theory, can avoid many errors even if the specifics of the law have not been researched. Affirmative steps to protect the copyright, on the other hand, require careful compliance with the statute.

Protection of Copyright

When the casual copyright client brings a new work into the office, the general practitioner should make sure the options under the Copyright Act are understood and take whatever steps are necessary to preserve the level of protection desired by the client. This requires an understanding of the structure of remedies under the Act.

First, although registration of copyright is optional under Section 408, it is a precondition, under Section 411, to bringing suit for infringement. So the client is going to have to register at some point if the copyright is to be enforced.

If registration occurs before the infringement, or within three months after publication in the case of a published work, the copyright owner may elect to claim statutory damages of up to $10,000 ($50,000 if willful infringement in shown) and may be entitled to an award of attorney's fees.[6] Otherwise, monetary relief is confined to actual damages and recovery of the infringer's profits.[7] Given the subjective and sometimes speculative value of copyrighted works, the availability of statutory damages may be the difference between a viable suit and no practical remedy at all. The prospect of attorney's fees can also be a valuable deterrent to the kind of war of attrition sometimes encountered when dealing with the well-heeled infringer.

In addition, if registration is delayed until a dispute arises, the client risks the possibility that copies of the work in its original form will not be available. Also, delay in processing the application at that point may interfere with settlement strategy. Copyright registration is inexpensive ($10 registration fee) and relatively simple in most cases, so it will usually be worth the expense early on to avoid these risks.

Registration is accomplished by submitting an application (available from the Copyright Office) with the registration fee and two copies of the work, if published, one copy if unpublished, to the Copyright Office. For the totally original work by a single author, filling out the application form is relatively simple and the instructions are straightforward. For a work of joint authorship, a corporate product, and/or a work incorporating

pre-existing material, the job is more complex. Each of these situations *can* be handled by filling in a blank on the form, but the legal implications of what goes in that blank are anything but simple.

Joint authorship, for example, may give rise to a presumption that each author is entitled to exploit the work without the other's permission or consent, subject only to a possible duty to account for a share of the profit.[8]

If an employee of the client prepared the work within the scope of his or her employment, the work is a work for hire, in which case the client, as employer, is itself the "author." If the work was specially commissioned by the client, it may or may not be considered a work for hire, depending on the written agreement of the parties *and* the nature of the work.[9] If it is not, the application may have to reflect an assignment from the individual author(s).

If the work incorporates other materials, it may be entitled to separate copyright as a compilation or derivative work, but only if the pre-existing works are used "lawfully," *i.e.*, with permission, or otherwise in compliance with law.[10]

When these kinds of issues arise, it may be time to consult a specialist. They often point to more substantive concerns that need to be resolved before they are memorialized as possible admissions in the application.

If the client arrives with a published work in hand, look first for the copyright notice. In written material this should consist of three elements grouped together: the word "Copyright," the abbreviation "Copr.," and/or the international copyright symbol ● the year of publication; and the name of the copyright claimant.[11] If you do not find it, consult Section 405 of the Copyright Act. If you find a defect in name or date, consult Section 406. Under the new Act there are ways to remedy the absence of, or errors in, the copyright notice, but the statute must be carefully followed. If there is a question as to whether the work has been "published,"[12] it is usually best to assume that it has and proceed accordingly.

A common opportunity for error occurs when the successful copyright client decides to incorporate. The creator finds one or more partners who are willing to finance the business of exploiting the work, and the lawyer is asked to draft the standard articles, bylaws, and organizational minutes. What happens to the copyright? It might be transferred into the corporation, licensed to the corporation, or simply lumped into the other intangibles being transferred, and forgotten. The problem occurs when the corporation decides to sue a third party for copyright infringement and discovers that neither the notice on the work nor the registration on file with the Copyright Office reflects the corporate owner. It is further aggravated when the lawyer discovers after filing the Complaint that Section 205 required recording of an instrument of transfer before the infringement action could be pursued.

Assignments of copyright should not be overlooked, and they should be recorded. There is no specific form for such assignment. The document effecting the transfer (or a certified true copy) is simply filed with the copyright office and assigned a "reel and frame" location number. It then acts as constructive notice of the transfer, *but only if* the document specifically identifies the copyrighted work, and only if registration has been made.[13]

The specific problems that will arise are as varied as the types of creative works that may cross the lawyer's desk. But the basic concepts will apply, whether the work in question is a photograph or a catalog, a screenplay or an advertising brochure. All are covered by copyright, and all depend on compliance with the Copyright Act for their protection. There is no escaping the fact that the initial steps taken to protect the copyright at the time it has the least value will determine the kind of protection available when it becomes valuable enough to fight over.

Use of Materials Protected by Copyright

A few brief notes should be added concerning the use of copyrighted materials. In some ways, it is misleading to speak of "copyrighted" works. As noted above, virtually all original works are protected by copyright, regardless of whether they carry a copyright notice[14] or have been registered. In this sense, all works that have not passed into the public domain are technically "copyrighted." This does not mean, however, that all uses of such works constitute copyright infringement.

First, it is important to recognize that the owner of copyright has only certain exclusive rights, specifically defined by the Act.[15] If the proposed use does not fall within those specifically reserved, it is not an infringement. For example, the owner of a copyright in music has the exclusive right under Section 106(4) "to perform the copyrighted work *publicly*"; a *private* performance is therefore not an infringement. Sections 108-118 of the Act set down in great detail conditions under which certain uses of copyrighted works are permitted without the consent of the copyright owner. Each of these sections represents a delicate, but not always logical, compromise between the interests of copyright owners and those of copyright users. In these areas, in particular, what seems like a common sense answer should never be substituted for a careful reading of the statute.

Then there is the deceptively simple concept of "fair use." Section 107 of the Act codifies the judicially-developed concept that some uses of copyrighted works should be permitted, either because they do not rise to the level of infringement or because the infringement, if any, should be tolerated as a matter of public policy. Although fair use is not expressly defined under Section 107, it is clear that it is something more precise than what seems "fair" or equitable under the circumstances. The use must first fall within the purposes spelled out in the statute—*e.g.*, criticism, com-

ment, news reporting, research, etc.—and then must also pass muster under four analytical factors also outlined in the statute.[16] A full discussion of fair use and its recent judicial interpretations could, and does, fill a major part of a copyright treatise.[17] What is important to the general practitioner is to recognize that the concept exists, but that it must be analyzed under the specific statutory guidelines and, in many cases, under the most recent judicial interpretations. If the issue seems close, it may be time to call the specialist.

Finally, to end where this article began, one should not lose sight of the fact that copyright does not protect the concepts, ideas or principles underlying the copyrighted work. The user is free to incorporate these (if they are not protected as trade secrets or patented) in his or her original expression. This does not mean, however, that the particular compilation and arrangement of those ideas may be slavishly copied, nor does it mean that the original expression of those ideas may be borrowed with impunity. There is a fine and often elusive line between what constitutes unprotected ideas and the copyrighted expression of those ideas, and it is a line that often leads directly to the court room.

Some Practical Conclusions

If there is one overriding message in this brief navigation of copyright law, it is that the general practitioner cannot escape consulting and complying with the Copyright Act when dealing with this subject matter. At the same time, there will be times when the technical answer provided by the Act seems totally out of proportion to the practical needs of the client. When that occurs, it is sometimes helpful to view copyright as something akin to the law of trespass. It grants the property owner certain legal rights which the owner may or may not choose to enforce, depending on the nature and value of the property, the severity of the intrusion, and the practical expense of preventing or redressing the trespass. The analogy cannot be taken too far, however. The property covered by copyright is, at the same time, harder to define, easier to damage, and sometimes more valuable, than any other property the client may own. When the property is a screenplay version of the unpublished manuscript of the Great American Novel, and the client is the starving writer who authored one but not both, practical legal advice may require almost as much creativity as the creation of the work itself.□

[1]The term "author" as used in the Act refers to the creator of *any* copyrighted work, *e.g.*, composers, painters, etc., and is not confined to literary works.

[2]17 U.S.C. § 102(a).

[3]Published works must bear a copyright notice 17 U.S.C. § 401; *see* also text *infra* at n. 11. Without such notice, the copyright may be invalidated, 17 U.S.C. § 405(a).

[4]17 U.S.C. § 102(b).

[5]17 U.S.C. § 301.

[6]17 U.S.C. §§ 412, 504(c) and 505.

[7]17 U.S.C. § 504(b).

[8]*See, Oddo v. Ries*, 743 F.2d 630 (9th Cir. 1984).

[9]17 U.S.C. §§ 201(b) and 101. If a work is not created by an employee in the course of his or her employment it can be converted by agreement into a work for hire only if it is specially commissioned as a contribution to certain types of works. Individual creations of artists and writers are generally not within these categories.

[10]17 U.S.C. § 103(a). Anyone may use a preexisting public domain work in creating a compilation or a derivative work, but the copyright on the compilation or the derivative work does not confer any exclusive rights to the preexisting public domain work. 17 U.S.C. § 103(b).

[11]17 U.S.C. § 401.

[12]"Publication" is defined as "the distribution of copies of phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending." 17 U.S.C. § 101.

[13]17 U.S.C. § 205(c).

[14]The absence of a copyright notice no longer automatically invalidates the copyright (see text *infra* at n. 11-12), although it may excuse the innocent infringer from monetary liability "if such person proves that he or she was misled by omission of notice." 17 U.S.C. § 405(h).

[15]17 U.S.C. § 106 through 118.

[16]These factors are:

(1) The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

(2) The nature of the copyrighted work;

(3) The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

(4) The effect of the use upon the potential market for or value of the copyrighted work 17 U.S.C. § 107.

[17]3 M. Nimmer, *Nimmer on Copyright* § 13.05, pp. 62-129 (1985).

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Jim Schoppert "Killer Whale", 28" x 24" x 18", wood, feathers, beads. Department of Corrections Portable Collection. Photo by Colleen Chartier courtesy of Washington State Arts Commission, Art in Public Places Program.

AFTER SALE RIGHTS FOR VISUAL ARTISTS

by **Gregg Rodgers**

Any attorney drafting sales contracts for artists should consider *droit moral* and *droit de suite*. These are not two new French restaurants where you can enjoy lunch with your client, but concepts of after-sale rights that can greatly benefit your client, the artist. These rights are contractual in Washington and statutory in two states, and they are quite different from copyrights. This article discusses the statutory and contractual equivalents of these European concepts.

Droit moral is a moral right in the work of art, the right to protect the integrity of the piece as well as the reputation of the artist. This right can help assure that the work will not be altered from the form intended by the artist without his or her consent or participation and it can be used to prevent his or her name from being associated with mutilated work.

Droit de suite is a right to proceeds, a right to continuing economic benefits (similar to royalties and residuals) which can enable the artist to benefit from the rising value of the art long after it has left the studio.

DROIT MORAL: MORAL RIGHTS

Moral rights provisions assure that the artist's name is associated only with works maintained and displayed as are intended, not as altered or mutilated by others. They can serve to protect and enhance the artist's reputation by avoiding defamation.

The moral right to maintain the integrity of art has an immediate and ongoing effect. Your contract can require the purchaser to display art in a specified manner, to properly credit the artist, to maintain the art work and to consult with the artist before alteration or restoration. The agreement may require that the purchaser offer the artist first rights to do such work. Additional provisions may give the artist rights to have the work returned at specified intervals to allow it to be photographed or exhibited.

A paternity clause, or authorship right, is another moral right that should be considered, especially if the artist is, or hopes to be, well known and the work is expected to be viewed by the public. The artist may require that his or her name be associated with the displayed work or reproductions. An additional provision should be that, if the work is damaged, defaced, altered or in some way mutilated and not fully restored, the artist may require that his or her name *not* be associated with it.

The benefits of including moral rights clauses should come at little cost in the negotiation process. We assume that, at the time of the sale, the purchaser appreciates the work, wishes to have it beneficially displayed and intends to keep it in its present form. The clauses offered by you should reflect what the purchaser already intends. Without such contractual clauses, the future is always in question, especially as community or commercial interests change. Some examples are illustrative.

Alexander Calder, the world famous sculptor, created a massive mobile entitled ***Pittsburgh***, which was altered from its original free-moving, black bars and white paddles, to become a re-balanced, motorized, poorly lit, green and gold object that spun above advertising displays. To some, the changes made to this abstract piece might be considered negligible, but to others they were the equivalent to the mutilation of a Renoir or Picasso.

Calder never consented to the changes and was greatly upset by the effect it had on the aesthetic appreciation of the mobile and on his reputation. Fortunately, the great public pressure brought to bear resulted in restoration to the artist's original design.

The integrity of art and the improper attribution of altered work to the original artist was tested in *Gilliam v. American Broadcasting Companies*, 538 F.2d 14 (2d Cir. 1976). In it, the British comedy troupe, Monty Python, prevailed, enjoining ABC from broadcasting edited versions of its series, Monty Python's Flying Circus. The court held that, among other violations, contractual clauses precluded editing without consent and that representing the edited work as that of Monty Python was false representation, a violation of the Lanham (Trademark) Act, §43(a), 15 U.S.C.A. §1125(a).

Moral rights concepts have had their effect in our own state. Consider the great debate over "The Labors of

Hercules" by Michael Spafford. This mural was commissioned to hang in the state capitol building but was ultimately covered over before it could be completed. Mr. Spafford now has an uncompleted, unseen piece of major art that might have been saved by contractual provisions.

Neon art in the Tacoma Dome has also been the subject of controversy. There, the city commissioned a major piece of public art by Stephen Antonakos. When it was finally displayed, there was great public outcry and demand for its removal. Ultimately, the work was kept in public view, in part because of contractual provisions requiring that it be publically displayed.

DROITE DE SUITE: ECONOMIC RIGHTS

Clauses of this kind may require the seller to remit a specified percentage of the resale price or exhibition income to the artist or the artist's heirs. The triggering mechanism is usually the fact of increased value of the work.

The idea that an artist should financially benefit from successive sales of a work is controversial, even among artists. This concept may have had its birth in the belief that many artists sell their works while impoverished and unknown, only to have the purchaser reap tremendous financial reward on subsequent sales after the artist has been "discovered."

This approach assumes the artist receives no benefit from subsequent sales at higher prices. However, it may fail to take into account that the original purchaser took a chance at the time of purchase that it would not increase in value. It also fails to consider that the living artist who is still producing art benefits from higher prices of current work.

Some artists are strongly opposed to the *droit de suite*. They feel it hinders sales negotiations and may have the effect of reducing the present value, just on the chance that there will be some sale in the future at a higher price. The *droit de suite* may not be well suited to artists dealing in multiples or large scale works. (Price, "Government Policy and Economic Security for Artists: the Case of the *Droit de Suite*," 77 *Yale Law Journal* 1333 (1968).)

The attorney should discuss the *droite de suite* clause with the client and consider the strength of the artist's current reputation as a negotiating tool.

An economic rights clause is not without precedent in Washington. The City of Seattle at one time included a resale provision in its contracts as part of its one-percent-for-the-arts commissions. The contract stipulated that the artist would receive 15% of the appreciated value for deaccessioned works, provided that the artist kept a current address on file.

STATUTORY EXAMPLES

California and New York have adopted legislation creating rights similar to those discussed above. *Cal. Civ. Code* §§986-989 (effective 1/1/80); *N.Y. Arts & Cultural Affairs Law* §§11.01-14.03 (effective 12/31/84). Each relates to the integrity of the art, but with different effects.

The California act is directed toward the art, prohibiting the intentional "commission of any defacement, mutilation, alteration, or destruction" of certain defined art within its state boundaries. (*Cal. Civ. Code* §987(c).) New York does not prohibit these acts, but does prohibit subsequent public display in which the altered work could be attributed to the original artist and which would damage his reputation. (*N. Y. Arts & Cultural Affairs Law* §14.03.1.) In New York, the artist can demand authorship be attributed to him or may disclaim it. The New York act protects the art by protecting the artist's reputation.

Remedies in New York are legal and injunctive, whereas California provides for injunctive relief, actual and punitive damages, attorney's fees and more. The statutory right exists only for the life of the artist under New York law, but for life plus an additional fifty years in California.

California goes one step further by creating economic rights for the life of the artist plus twenty years. It requires that the artist shall receive from the seller "5 percent of the amount of such [subsequent] sale" within state boundaries, and which "may be waived only by a contract in writing providing for an amount *in excess* of 5 percent. . ." (*Cal. Civ. Code* §986(a).)

CONCLUSION

Moral rights are important rights which all artists should consider including in their contracts. Economic rights may be helpful bargaining devices and can provide continuing monetary rewards comensurate with the artist's reputation.

The ability to negotiate economic and moral rights that continue after the original sale of art depends not just on the bargaining power and negotiating skills of the artist and an attorney. It depends on their willingness to try them. You should consider both concepts in order to benefit your client long after the contract is signed.□

SUGGESTED READING

Comment, "The New York Artists' Authorship Rights Act: Increased Protection and Enhanced Status for Visual Artists," 70 *Cornell Law Review* 158 (1984).

Damich, "The New York Artists' Authorship Rights Act: A Comparative Critique," 84 *Columbia Law Review* 1733 (1984).

Stoneware plate from dinnerware set by Bothell ceramicist and attorney Alexander M. Hart. Glaze is hand-screened Carbon River glacial till fired at cone 10 (1320° C).

Comment, "The California Art Preservation Act: Statutory Protection of Art Work Against Intentional Alteration or Destruction," 49 *Cincinnati Law Review* 486 (1980).

Comment, "*Monty Python* and the Lanham Act: In Search of the Moral Right," 30 *Rutgers Law Review* 452 (1977).

Rose, "Calder's *Pittsburgh*: A Violated and Immobile Mobile," *ARTnews*, Jan. 1978 at 39.

***Gregg Rodgers** received his J.D. from University of Puget Sound Law School and is currently the Assistant Attorney General, Labor and Industries Division. He is President of Washington Volunteer Lawyers for the Arts and our guest editor for this issue of the Bar News.*

Editor's note—The Association of the Bar of the City of New York has developed a model Public Art Contract incorporating and discussing issues such as moral and economic rights. This model contract will be published soon, but can be reviewed prior to publication, by inquiring of Barbara Hoffman, 25 West 44th Street, New York, NY 10036, (212) 840-1793.

Paul Horiuchi "The Yellow in the Garden", 16" x 21½" collage on board. Photo by Robert Schreiber courtesy of King County Arts Commission.

PUBLIC ART: THE TACOMA LESSON

by **Robert Mack**

In 1984, the City of Tacoma commissioned a major art work for the interior of the Tacoma Dome. Thus was ignited a debate over public art that may imperil not only Tacoma's acquisition program but those of other Washington municipalities with similar programs. The Dome work, costing $272,000, consisted of two neon art panels by New Yorker Stephen Antonakos. The panels have become the most controversial man-made objects in Tacoma since Galloping Gertie.

In a city whose primary experience with neon has been the decrepit strip of Lower Pacific Avenue bars, book shops, and cinemas, the Dome neon has generated a hotly debated ballot issue, several recall attempts and contentious City Council meetings, not to mention grist for family and social gatherings. After waiting for most of the smoke to clear from the battlefield, the Tacoma City Council and Mayor decided in late 1984 that a group of citizens should review the City's public art ordinance.

The result: the appointment of the City of Tacoma Task Force on Public Art. ("Committees" are out; "task forces" are in.) Of the fifteen people appointed to the task force, five opposed the Antonakos art and five supported it; the remaining five were considered "neutral". Two of the fifteen were lawyers.

In June 1985, the task force filed its final report with the Tacoma City Council, drafted a revised ordinance based on some of them. That ordinance and the one it would replace both appear on the general election ballot this November.

The existing Tacoma City ordinance authorizing expenditures of a percentage of capital funds on art works was enacted in 1975. Approximately fifteen Washington counties and cities, most notably Seattle, have similar public art ordinances.

The State also has public art acquisition statutes, based on the legislature's declaration "that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be used for public buildings." RCW 43.46.090. State funds are used for public art acquisitions by school districts, RCW 28A.58.055, universities and community colleges. RCW 28B.10.025. State agencies are required to spend one-half of one percent of appropriations for the original construction of any building on "works of art which may be an integral part of the structure, attached to the structure, detached within or outside of the structure, or. . .exhibited by the agency in other public facilities." RCW 43.17.200.

The Tacoma ordinance generally requires city agencies (except for the Public Utilities Department) to set aside one percent of every capital project budget for visual art works. After examining ordinances from other cities, the State program, and the history of Tacoma's public art acquisitions, the Tacoma task force debated the city ordinance and related regulations. The debates were occasionally acrimonious. During a later session, two of the "anti-neon" members read lengthy prepared statements for the benefit of the press present, after which one of them walked out. (He later returned to our meetings, and used the threat of a second walk-out in unsuccessful attempts to gather additional support for his position.)

The issues that most deeply concerned the Tacoma task force members may have arisen, or may arise in the future, in other communities. These issues concern lawyers who represent government agencies and lawyers who represent artists who may deal with these agencies. Issues include the following.

I. FUNDING PUBLIC ART THROUGH A PERCENTAGE OF CAPITAL FUNDS

A few members felt that, because art selection involves individual tastes, a democratic government is particularly ill-suited to make decisions on art acquisition. And yet they would not think to question the propriety of a government selecting an architect for a large building project. Doesn't an architect—at least a good one—bring design (and therefore artistic) considerations into the planning of significant public buildings? The answer is yes. If subjective artistic judgments are inappropriate for public projects, should we not have public buildings "designed" only by engineers, and have such buildings reflect an architectural "style" as style-free as possible? The answer is no.

The task force finally voted 12-3 for the City of Tacoma to continue to fund a public art program by earmarking a certain percentage of capital funds. (The present ordinance has a 1% requirement.) Supporting the concept of public funding, the task force

determined:

> Art in public places contributes to the enrichment and betterment of the economic, social, cultural and attitudinal climate of the City.

II. THE ROLE OF LEGISLATORS IN PUBLIC ART DECISIONS

After a year of fighting over the Antonakos work, the Tacoma City Council could agree with Lord Melbourne's warning, "God help the Minister that meddles with art!" Although the task force recognized the need to provide democratic diversity in choosing the selectors of civic art, it also decided that a municipal legislative body should not be the selector. The task force recommended that the City's Arts Commission, which is appointed by the Mayor and Council, be the final arbiter on public art purchases.

The task force recommended amending the ordinance to state:

> Decisions on the type and nature of art authorized by this ordinance are to be made by the Tacoma Arts Commission.

III. ART SELECTION PANELS

In order to provide a diversity of community interests that may not be best represented by the Arts Commission, the Tacoma Task Force suggested that art selection panels should be used for any art acquisition exceeding $3,000. The task force concluded:

> In selecting art selection panels, the Commission should always be conscious of the varied and diverse economic, social, ethnic, and geographic background of the Tacoma community."

The task force also recommended:

> For all art selection panels, the majority of the panel must be residents of the Pacific Northwest Region.

However, the task force also specifically recogized that art work should not be limited to those produced by Northwest artists.

IV. PUBLIC ACCESS TO ART

The public art opponents on the task force tended to want to limit the buildings and sites at which public art could be displayed to those where the public could obtain free and unlimited access during business hours. Such a policy, however, would prohibit the placement of city-funded art in such places as theatres, athletic arenas, convention centers, zoos, and other similar facilities, indeed in precisely those types of facilities where public art is often the most appropriately placed.

If such a policy were in effect at the state level, the bulk of the state's art collection probably would have to be relocated. After wearisome fights over the issue, the task force recommended, by a close vote, that public art only appear in "public places", defined to mean areas "accessible to all members of the public during normal operating hours, generally without permission and without charge." The precise meaning of that statement, however, is one which members subsequently have debated.

V. MAXIMUM EXPENDITURES

Part of the incredible animosity directed at the Antonakis panels was no doubt due to their price tag. Recognizing this and hoping that reasonable limits on public art expenditures might defuse some of the opposition to Tacoma's program, the task force recommended that until December 31, 1988, "no more than $75,000. . .be spent on any single one percent artist's project. . .".

VI. ARTS ADMINISTRATION

Most of the task force felt that the Tacoma Arts Commission had been given insufficient funds over the years to adequately catalog and display the city's art collection. Almost all members felt that a city which wished to have a public art acquisition program must give adequate attention to funding not only purchases but also maintenance and administration.

VII. PROJECT SCHEDULING

The task force was concerned that the artist in previous art acquisitions had been brought into the capital project planning too late. For that reason, the task force recommended that a design team, including the project architect, the relevant city officials, and the visual artist meet as soon as possible "with early involvement of the selected artist" in planning for project construction.

The above proposals were adopted. Various others were rejected. Among the more interesting rejects were the following:

- That public art contracts be awarded through competitive bidding. (Senator Rasmussen filed a similar proposal in the 1985 legislature; it died in com-

mittee). If the Vatican had followed such a requirement, Michelangelo probably would have been unsuccessful bidder on the St. Peter's project.

- That "one percent funds must be divided equally between representational and abstract art". The sponsor of this resolution, now a candidate for Mayor, felt that all art could be placed into one or the other of the two categories. Question: is Seattle's International Fountain, for example, "representational" or "abstract?" Answer: Maybe it is either, both, or neither. This resolution fortunately failed to pass.
- That public art funds should be spent according to percentages representing affirmative action hiring guidelines. The task force punted on this, recommending that the City Council consider "an affirmative action provision" without specifying what it would be or how it would apply.

WHITHER TACOMA?

If Tacoma's experience is symptomatic of what other communities experience, then issues over the purchase and display of public art are potentially some of the most emotionally difficult ones that may face attorneys representing municipalities or artists. A task force member who opposed any publicly funded art seriously described the Tacoma ordinance as "a robbery of our constitutional rights." Another member countered arguments based on the "high cost" of public art by saying that "all of the money spent on the entire one percent Public Art Fund in the last five years amounts to less than the cost of a Snickers candy bar per year for each resident".

The intensity of feelings of task force members who opposed the Tacoma ordinance was matched by the strength of emotions of those who supported it. In her final written statement, one member wrote: A City recognized for its air pollution, water contamination, and urban blight on Pacific Avenue can only have its image enhanced by art—even controversial art.

There is one final note that lawyers might find of interest. Only two of the 15 members were lawyers. One other was the wife of a lawyer. Almost all of the remaining members of the task force had strong feelings about two matters that probably would not have concerned most lawyers.

First, the non-lawyers were bothered by what they felt to be ambiguous legalese used in both the Tacoma City ordinance and the regulations adopted under it. Indeed, as a result, they specifically voted: "To the maximum extent possible, ordinances and resolutions [should] be drafted in explicit language." Yet they also disliked the desire by the lawyers in the group to define with some particularity the langauge used in the various resolutions considered by the task force. It is possible that law school professors have succeeded in accomplishing the frightening message I received on the first day of law school, namely, that they would make us "think like lawyers." The non-lawyers on the task force may not object to lawyers thinking like lawyers, but they clearly object to lawyers writing like lawyers.

Second, lawyers may take for granted that groups of people dealing with difficult issues often experience strenuous and contentious sessions. Most lawyers are not surprised by divisive meetings and debilitating debates. But most people, we need to remind ourselves, are not lawyers. And most people are not used to such meetings. The vice chairman of our group concluded: "Working with people holding strong opinions has not been easy." Anyone who joins a public art fray should keep that in mind.

People most opposed to public art tend to suspect that civic arts commissions and art selection panels are dominated by elitists who attempt to impose on the entire community their own subjective and avant-garde notions of what is acceptable art.

On the other side of the field are people active in the arts. They tend to fear public art opponents as Philistines who will lay siege to the community's art patrimony and not be satisfied until they have eliminated all vestiges of it. Those involved in public art debates should be prepared to join one group or the other—or find a protected trench lying somewhere between them.□

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So why go east, when you can procure the same credentials right here at home?

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333 First Avenue West Seattle, WA 98119 (206) 284-9250

GRASS-ROOTS LRE : THE SPEECH

by **Jo Rosner,** *Attorney/Educator* *&* **Cheri Brennan,** *WSBA Assistant Director of Public Affairs*

Ever been asked to give a speech?

Our State Bar receives frequent requests from service clubs, church groups and other organizations to provide a speaker for an upcoming meeting. Until now, such requests have been handled informally, often with assistance from local bar associations and Section chairpersons.

Recognizing that public speaking opportunities are an excellent means of promoting public understanding of the law, the Board of Governors has approved a proposal from WSBA's Public Relations Committee to establish a Speakers' Bureau. This public service program, to be administered by the Public Affairs Department, enables each member to become directly involved in conveying information about the law. As noted by the American Bar Association, public opinion polls show that the more people know about the law, the more they are inclined to respect it—and use the services of lawyers.

Speechmaking, as a law-related education activity, offers many benefits. Among the advantages the P.R. Committee cited in its proposal are:

- Speechmaking can be an effective tool for introducing, clarifying or reinforcing information.
- The appearance of speakers helps "personalize" an organization, while demonstrating a desire to be a "good neighbor" and active participant in community affairs.
- A speakers' bureau provides local audiences a chance to hear and meet local attorneys—people they know, respect and trust.
- It provides face-to-face communication and the ability to establish a rapport that does not exist in other media.
- It has the potential to reach other audiences, via news media coverage, the sponsor's publications and other publicity.
- It's effective and economical.

The Speakers' Bureau's initial emphasis will be on recruitment and promotion. Every active member of our State Bar is invited to register as a volunteer member of the Speakers' Bureau. Alphabetical, topical and geographical indexes will be maintained. A rotational system will be used to assure equal opportunity for speechmaking and to match preferences of the participants. Coordination with local bar associations will continue.

Other components of the WSBA Speakers' Bureau include promotion and publicity, training, and evaluation. Once an initial registration of speakers is completed, an informational pamphlet will be distributed to clubs, service groups and other prospective audiences, and announcements will be made to news media.

Training and resources are also contemplated. Eventually, the P.R. Committee hopes to sponsor public speaking seminars and provide other instructional materials, such as videotapes and speechmaking tips. A Resource Center is also planned, wherein speech outlines, tapes, handout materials and other information will be available.

To monitor the effectiveness of our Speakers' Bureau, an on-going system for evaluating each speech will be administered. Both the speaker and audience will be asked to complete a brief questionnaire after each WSBA-arranged speech.

WSBA's Speakers' Bureau is designed to be a "grass-roots" LRE activity. Its structure is flexible. Its opportunity for involvement is open to every member. And its potential benefits are extensive.

If you're interested in joining, and would like registration details or other information about our Speakers' Bureau, contact WSBA's Public Affairs Department.

Notes From the Academy

Edited by **Professor William B. Stoebuck**
University of Washington School of Law

Administrative Law. *(Case 1.)* Rule of Department of Labor and Industries that prevented chiropractors from rating persons for permanent partial disability in worker's compensation cases is within department's delegated authority. ***Brannan v. Department of Labor & Inds.***, 104 Wn.2d 55, 700 P.2d 1139 (6/6/85).

(Case 2.) Affirmed: Higher Education Personnel Board (HEPB) interpretation of its rule on the filing of appeals, which allowed filing within 30 days of date that employee *discovered* alleged violation of law in a layoff. Rule had required appeal within 30 days after *effective date* of action appealed (WAC 251-12-075). Affirmed: Employees' reinstatement by HEPB, based on its determination that university contracted out their work in violation of RCW 28B.16.240. ***Barrington v. Eastern Wash. Univ.***, 41 Wn. App. 259 (7/25/85).

—*J. M. Vaché*

Local Government Law. Complaint fails to state a cause of action which alleges negligence by county in allowing consumption of alcoholic beverages by minors in park, in failing to enforce alcoholic beverage use laws, and in directing a minor who had been drinking to leave park. ***Hostetler v. Ward***, 41 Wn. App. 343 (7/19/85).

—*J. M. Vaché*

Real Property. *(Case 1.)* Real estate broker's duties to listing seller do not extend beyond time broker has earned his commission, in this case the execution of earnest money agreement. Therefore, broker had no fiduciary duties to seller at closing of sale. ***Pilling v. Eastern and Pacific Enter. Trust***, 41 Wn. App. 158, 702 P.2d 1232 (7/8/85).

(Case 2.) To condemn private way of necessity under RCW 8.24.010, owner need not show he is absolutely landlocked but that, without the way sought to be condemned, he does not have "reasonable" or "effective" access. Thus, owner could condemn private way to develop part of land on top of bluff when only other access was to land at bottom of bluff. ***Beeson v. Phillips***, 41 Wn. App. 183, 702 P.2d 1244 (7/15/85).

(Case 3.) Lease to corporation with clause providing that "this agreement shall be binding upon the parties personally" was ambiguous where corporate officers signed only over signature blocks that listed their corporate capacities. On remand parol evidence should be admitted to show parties' intent. ***Diversified Realty v. McElroy***, 41 Wn. App. 171, 703 P.2d 323 (7/11/85).

—*W. B. Stoebuck*

The Pacific Northwest CORPORATE COUNSEL INSTITUTE Counseling The Corporation In Changing Times

by **John M. Redenbaugh,** *Assistant Director of CLE*

On Thursday and Friday, November 14 and 15, 1985 the Washington State Bar Association's Continuing Legal Education Committee and the Corporate Law Subsection of the Corporation, Business And Banking Section will present the Pacific Northwest CORPORATE COUNSEL INSTITUTE in Seattle at the Westin Hotel. The program will particularly appeal to the attorney who represents corporations on a regular or occasional basis, whether as outside or inhouse counsel.

This outstanding two-day event features more than twenty distinguished faculty members assembled to lecture, share discussion, and provide workshops dealing with issues facing American corporations and those who must counsel these corporations. In addition to speakers from the states of Washington and Oregon, the Institute will include faculty members from San Francisco, Boise, Denver, and Los Angeles. The program will include appearances of General, Associate or Assistant General Counsel from the following companies: The McKesson Corporation, The Boise Cascade Corporation, Pacific-Gamble-Robinson, Thousand Trails, Inc., The Microsoft Corp., Capital Holding Corporation, The Boeing Company, and Family Life Insurance.

The Keynote Speaker is **C. Bruce Maines,** President and Chief Operating Officer of SAFECO Corporation. His remarks will focus on "The Role of Corporate Counsel From Management's Perspective." On Friday, the featured luncheon speaker is **Michael J. Parks,** editor and publisher of Marple's Business Newsletter. Mr. Parks will comment upon his "Outlook For The Pacific Northwest Economy."

The Institute has been designed to provide an analysis of the law on selected topics of current importance and offer practical solutions to problems facing the attorney who must solve the challenges arising from corporate, legal and litigation management concerns.

Program co-chairpersons **Julie W. Weston,** Secretary and General Counsel, Skinner Corporation, Seattle and **Robert A. Dowdy,** Senior Legal Counsel, Weyerhaeuser Company, Tacoma, have recruited the following faculty for this presentation: **C. Bruce Maines,** President and Chief Operating Officer, SAFECO Corporation, Seattle; **Ernesta B. Barnes,** Regional Administrator, Environmental Protection Agency, Region X, Seattle; **Ralph H. Palumbo,** Heller, Ehrman, White and McAuliffe, Seattle; **Susan L. Paulus,** Assistant General Counsel, McKesson Corporation, San Francisco; **Stephen M. Kite-Powell,** Associate General Counsel and Assistant Secretary, Boise Cascade Corporation, Boise; **Richard C. Yarmuth,** Culp, Dwyer, Guterson & Grader, Seattle; **Joseph C. Ratway,** Vice President, The TRACOM Corporation, Denver; **Barnes H. Ellis,** Stoel, Rives, Boley, Fraser & Wyse, Portland; **Tom A. Alberg,** Perkins Coie, Seattle; **Kinne F. Hawes,** General Counsel, Pacific-Gamble-Robinson, Kirkland; **Edward N. Lange,** Davis, Wright, Todd, Riese & Jones, Seattle; **Rodney J. Vessels,** Assistant General Counsel, Family Life Insurance, Seattle; **Stephen B. Bonner,** Executive Vice-President and General Counsel, Capital Holding Corporation, Louisville; **Gerhardt Morrison,** Bogle & Gates, Seattle; **C. David Anderson,** Tuttle & Taylor, Los Angeles; **Julie A. Brooks,** General Counsel, Thousand Trails, Inc., Bellevue; **Raymond B. Ferguson,** Secretary and General Counsel, Microsoft Corp., Bellevue; **John S. Calvert,** Executive Vice President and Director, The Westin Hotels, Seattle; **Michael C. Hallerud,** Assistant General Counsel, The Boeing Company, Seattle; **David L. Slate,** Morrison & Foerster, (Formerly General Counsel, Equal Employment Opportunity Commission, Washington, D.C.), San Francisco; **Stanley H. Barer,** Garvey, Schubert, Adams & Barer, Seattle; and **Ronald Wambolt,** Vice President and Director of International Operations, John M. Fluke Mfg. Co., Inc., Everett.

Tuition for the course is $215.00, which entitles the registrant to admission, coffee service, the luncheons on Thursday, November 14 and Friday, November 15, complimentary admission and hors d'oeuvres in connection with the Thursday hosted reception, and a copy of the course manual prepared especially for this program.

For further information about attendance at this program and to obtain a copy of the Institute brochure, please contact Colette Cao, Washington State Bar Association, 505 Madison Street, Seattle, WA 98104 or telephone (206) 622-6021.

APPROVED CLE COURSES

WASHINGTON STATE BAR ASSOCIATION

Thirtieth Estate Planning Seminar
15.25 credits **$165.00**
NOV 7 & 8, 1985 Seattle (Westin Hotel)

The Pacific Northwest Corporate Counsel Institute
13.25 credits **$215.00**
NOV 14 & 15, 1985 Seattle (Westin Hotel)

Advising Financially Troubled Businesses
6.50 credits **$135.00**
DEC 6, 1985 Seattle (Westin Hotel)

The Second Northwest Antitrust Conference: Directions in Antitrust Enforcement
6.75 credits **$160.00**
DEC 13, 1985 Seattle (Westin Hotel)

The Best of CLE 1985
7.75 credits **$95.00**
DEC 30, 1985 Seattle (Stouffer Madison Hotel)

WASHINGTON COUNCIL ON CRIME AND DELINQUENCY

Washington State New Sentencing Reform Act
12.00 credits **$90.00**
NOV 14 & 15, 1985 Seattle (Crown Plaza/ Holiday Inn)

For information contact: Larry Fehr, (206) 624-3421.

AROUND THE STATE

SEATTLE-KING REPORT

by **JAMES L. VARNELL**

Honors. **Evan Schwab** has been named president of the Federal Bar Association of Western Washington. **Morris H. Rosenberg** was appointed to a three-year term as membership chairman of the American Bar Association for the State of Washington. **Alan H. Kane** has been elected to a three-year term as state chairman of the American College of Probate Counsel.

Office Moves. **Lee M. Barnes** and **Kathleen Kim Coghlan** have become associates with Keller, Rohrback, Waldo, Hiscock, Butterworth & Fardal. **Charles S. Hamilton, III** and **Mark A. Lange** have joined Sharpe Law Firm as associates. Culp, Dwyer, Guterson & Grader announces: **James E. Hadley, Kathleen L. Albrecht** and **Earle J. Hereford, Jr.** have become partners; **Timothy M. Blood, Kyron J. Huigens, Gayle E. Bush** and **Donald A. Bailey** are now associated with the firm; and **Robert O. Sailer** is now "of counsel" to the firm. **Mark J. Abrahams, Ken M. Anderson** and **Nancy Koptur** are now associated with **Michael Walsh. Robert A. Green** is now associated with the law offices of Harold A. Thoreen.

J. James Gallagher, Stephen M. Klein, Douglas Schafer, Mark C. Lewington, John L. Bley and **James T. Firn** have joined Graham and Dunn, which has opened a Tacoma office. Mitchell, Lang & Smith announces the opening of its Seattle office with **E. Pennock Gheen** as resident partner and **Greg Bartholomew** as associate. **Joseph E. Shickich, Jr.** has become a member of Riddell, Williams, Bullitt & Walkinshaw; **Patrick W. Dunn** has joined the firm as "of counsel" and **Karen F. Jones** (former clerk to the **Honorable H. Barefoot Sanders,** U.S. District Court, Northern District of Texas), **Irene M. Bronstein, Morris G. Kremen** and **Paul J. Kundtz** are now associated with the firm. **Jackie R. Brown, Christopher E. Mathews, LaVeeda Garlington-Mathews** and **Darlynda K. Bogle** are now practicing under the firm name of Brown Mathews. **Michael B. Mallon** has been appointed vice-president of National Associates, N.W.

CLE: Securities Law. Is there an error in the drafting of RCW 21.20.140, which makes it unlawful to offer or sell a security in Washington except: where the security may be exempt, registered by coordination or qualification, or sold in transactions except [exempt?] under RCW 21.20.320? Please direct all responses to **Rick Dodd.**

PIERCE COUNTY REPORT

by **ROBERT W. MARSDEN**

Claude Pearson took on the alias of "Count Dracula" as he spearheaded the recent Tacoma-Pierce County Bar Association's blood drive. The "Count" reports that 63 pints of blood were donated to the local bar association's account during the drive.

Congratulations to **Jack Hill**, who was recently appointed the Director of Pierce County's Department of Assigned Counsel. Jack replaces **Fred Weedon**, who resigned to enter private practice.

Elsie Ackerman recently opened her own law office in downtown Tacoma.

Steve Hemmen has become a partner with Talbot, Orlandini, Waldron and Hemmen. Steve, of course, is the son of the late Cy **Hemmen.**

YAKIMA COUNTY

Yakima attorneys **Robert R. Redman** and **John S. Moore** have become fellows of the American College of Trial Lawyers. Redman, WSBA President from 1983-1984, is a partner in Gavin, Robinson, Kendrick, Redman & Pratt, Inc. Moore, who has practiced in Yakima for over 37 years, is a principal in Velikanje, Moore & Shore.

CHELAN COUNTY

Charles D. Zimmerman has joined the Wenatchee office of Ogden, Ogden and Murphy. Zimmerman practiced law in Yakima and served as Republican caucus attorney for the House of Representatives in Olympia in 1984.

CLARK COUNTY

McClaskey, Greig & Troutwine announces that **Mark F. Stoker** has become a partner in the firm and that the firm name has been changed to McClaskey, Greig, Troutwine & Stoker. Stoker is admitted to practice in Washington and Oregon.

NOTICE OF HEARING ON PETITION FOR REINSTATEMENT

A petition for reinstatement after disbarment has been filed on behalf of **Richard W. Hart,** who was disbarred on February 2, 1977, upon stipulation to discipline based upon a federal criminal conviction. At the time of his disbarment, Hart practiced in Bellevue, Washington. He is presently a resident of Seattle.

Hearing on Hart's petition for reinstatement will be conducted before the Board of Governors on Saturday, December 14, 1985, beginning at 9 a.m. On or before the date of the hearing, anyone wishing to do so may file with the Board of Governors a written statement for or against reinstatement, such statements to set forth factual matters showing that the petitioner does or does not meet the requirements of RLD 9.6(a). Except by its leave no person other than the petitioner or petitioner's counsel shall be heard orally by the Board of Governors.

This notice is published pursuant to RLD 9.5(a).

DISCIPLINE

Disbarred

Spokane attorney **Richard P. Solberg** (admitted 5/17/77) was disbarred by the Washington State Supreme Court on September 16, 1985. The order of the court was based upon findings of multiple counts of misappropriating client funds, neglect of legal matters, failure to cooperate with bar investigations and knowingly submitting a false affidavit to the Supreme Court.

Seattle attorney **Robert A. Sutton** (admitted 11/6/75) was disbarred by the Washington State Supreme Court on September 16, 1985. The Court's order was based on findings that Sutton had been convicted of the federal crime of attempting to possess with intent to distribute cocaine, and that the conduct for which he was convicted involved moral turpitude.

Suspended

Pasco attorney **Irene A. Cleavenger** (admitted 5/17/77) was suspended from the practice of law for 30 days by order of the Supreme Court entered August 28, 1985. The court approved her stipulation for discipline based on her neglect of a child support modification matter, and her failure promptly to respond to inquiries from the Bar regarding that matter. Upon termination of the suspension, Ms. Cleavenger will be on probation for two years.

On May 21, 1985, the Supreme Court of the State of Washington ordered attorneys suspended for failure to pay 1985 bar dues. The following attorneys continue to be suspended for non-payment of dues as of September 20, 1985:

KING COUNTY
Thomas C. Boyle
Lamar M. Faulkner
Janelle S. Freed
Daniel S. Perlman
Janet Quimby
Daniel T. Scott
Michael V. Tonning
Hamilton B. Underwood
James E. Walsh, III
Richard K. Wilson

SPOKANE COUNTY
Gordon L. Bovey

CHELAN COUNTY
Iris Del Socorro Gomez

KITSAP COUNTY
Peter H. Bodnarchuk

SNOHOMISH COUNTY
Tony F. Saavedra

WHATCOM COUNTY
John D. Pappas

PIERCE COUNTY
Tracy L. Rosellini

YAKIMA COUNTY
Daniel Masters

Current membership status information about any of these attorneys may be obtained from the Association's Legal Department at (206) 622-6026.

Seattle attorney **Dwight L. Holloway** (admitted 1960) was ordered suspended for a period of 60 days, by Supreme Court order entered August 28, 1985. Credit was given for time he had been suspended under an interim order of suspension which commenced May 14, 1984 and ended September 4, 1984. The Supreme Court order approved a stipulation for discipline based upon trust account violations, including misappropriation of client funds to his own benefit or the benefit of other clients, co-mingling of attorney and client funds, and inadequate record keeping. The trust account violations were revealed during an audit, which was performed in response to a complaint regarding Holloway's handling of estate funds. During the period covered by the audit, Holloway was suffering from alcoholism.

The discipline imposed includes two years' probation and payment of costs.

Reprimanded

Seattle attorney **Jennings P. Felix** (admitted 8/5/48) has been ordered to receive a Reprimand based upon a hearing officer's findings that Mr. Jennings violated DR 5-104(A) in entering into a real estate transaction with a

Artist Linda Hawkins-Israel with U.S. Supreme Court Justice Sandra Day O'Connor. Washington jurists Carolyn Dimmick and Barbara Durham received lithographs at WWL's annual reception.

client without advising her to seek other counsel before entering into the transaction, without disclosing to her his inability to comply with the terms of the transaction, without disclosing to her any remedies available to her, and without doing anything to rectify the problems he had caused his client.

Lower Court Rules: Please Comment

This year, the Court Rules & Procedures Committee has selected the Rules for Appeal of Decisions of Courts of Limited Jurisdiction and the Justice Court Traffic Infraction Rules for its annual, cyclical review. It is anticipated that there may also be adequate time to review the Rules of Evidence and the Justice Court Civil Rules before June, 1986. Your written suggestions for changes or general comments on these rules are invited, and should be received at the Washington State Bar Association offices by February 28, 1986.

Check This Move

The Legal Foundation of Washington announces the relocation of their office to 600 Central Building, 810 Third Avenue Seattle, Washington 98104.

The Foundation is the recipient of interest earned on lawyers' trust accounts (IOLTA).

Washington Women Lawyers

by **Linda Dunn McQuaid**

Washington Women Lawyers held its annual reception September 12 at the State Bar Convention. The special unveiling of "Women in Law", a lithograph by local artist Linda Hawkins-Israel, highlighted the reception.

Hawkins-Israel conceived the idea of a painting depicting women in law several years ago. She, Lee Kraft and other members of WWL presented the painting to U.S. Supreme Court Justice Sandra Day O'Connor in July. It will hang in the National Museum of Women in the Arts in Washington, D.C.

State approved alcoholism and drug abuse treatment services

ADAMS COUNTY
Adams County Community Counseling Services
165 North First
Othello, WA 99344
(509) 488-5162

ASOTIN COUNTY
Western Consortium for Human Services
Valley Therapeutic Services
1321 Highland
Post Office Box 437
Clarkston, WA 99403
(509) 758-5522

Asotin County Mental Health Center Association
900 - 7th Street
Clarkston, WA 99403
(509) 758-3341

BENTON COUNTY
Benton-Franklin Alcoholism Program
Post Office Box 607
Pasco, WA 99301
(509) 545-0855

Comprehensive Alcohol Program
5219 West Clearwater, Suite 9
Kennewick, WA 99336
(509) 735-1191

Mid-Columbia Mental Health
1175 Gribble
Richland, WA 99352
(509) 943-9104

Psychological Consultants
550 George Washington Way
Richland, WA 99352
(509) 946-9313

Tri-Cities Alcohol Treatment Center
1350 Grandridge Boulevard
Suite 200
Kennewick, WA 99336
(509) 735-6347

CHELAN COUNTY
Chelan County District Court Probation Department
DWI Assesssment Facility
415 Washington Street, 210
Wenatchee, WA 98801
(509) 644-5239

Community Alcoholism Services Association of Chelan & Douglas Counties, Inc.
Post Office Box 950
Wenatchee, WA 98801
(509) 662-9673

CLALLAM COUNTY
Clark's Counseling
934-½ Caroline
Port Angeles, WA 98362
(206) 452-4791

North Olympic Alcohol & Drug Center
223 East 4th, Clallam County Courthouse
Port Angeles, WA 98362
(206) 452-2381

Peninsula Counseling Center, Inc.
603 East 8th Street, Suite 4
Port Angeles, WA 98362
(206) 457-0431

West-End Outreach Services
Forks Community Hospital
Forks, WA 98331
(206) 374-6177

CLARK COUNTY
Alcoholism Treatment Center
Branch, St. Joseph Community Hospital
Post Office Box 1600
Vancouver, WA 98668
(206) 256-2170

Clark County Council on Alcoholism
John Owen Recovery House
Post Office Box 1678
Vancouver, WA 98668
(206) 696-1631

Clark County Probation Services
Law Enforcement Center
707 West 13 St.
Post Office Box 5000
Vancouver, WA 98668
(206) 699-2342

Intensive Inpatient Treatment Program
St. Joseph Community Hospital (Clark County)
Post Office Box 1600
Vancouver, WA 98668
(206) 699-4443

Nuri Institute– Brighten Center
Post Office Box 194
White Salmon, WA 98672
(206) 696-2283

Square One
1010 Washington Street
Vancouver, WA 98660
(206) 696-3307/3309

Starting Point
200 East 25th Street
Vancouver, WA 98663
(206) 696-2010

Swarf Alcohol and Drug Programs
1104 Main Street, Suite M-100
Vancouver, WA 98660
(206) 693-4975

Swarf Inpatient Center
VA Medical Center, Wards 16-20
Post Office Box 1738
Vancouver, WA 98668-1738
(206) 696-1659

Swarf Outpatient Center
2703 Mill Plain Boulevard
Vancouver, WA 98668
(206) 695-1297

Veterans Administration Medical Center, Vancouver Division
Alcohol and Drug Dependence Treatment Section
4th Plain and "O" Street
Vancouver, WA
Mailing Address:
P.O. Box 1035
Portland, OR 97201
(206) 696-4061, ext 501

COLUMBIA COUNTY
Columbia County Services
213 West Clay
Dayton, WA 99328
(509) 382-2525

COWLITZ COUNTY
Drug Abuse Prevention Center
2112 South Kelso Drive
Kelso, WA 98626
(206) 636-1050

Evergreen Center
Branch, Swarf Alcohol and Drug Programs
3rd Floor, Bldg 1952, 1514 E Kessler Blvd

Longview, WA 98632
(206) 636-4859

Lower Columbia Council on Alcoholism
1260 Commerce, Suite 213
Longview, WA 98632
(206) 577-2215

Monticello Medical Center Careunit
Post Office Box 638
Longview, WA 98632
(206) 577-6955

Swarf Outpatient Center
Branch, Swarf Alcohol and Drug Programs
1127 Broadway
Longview, WA 98632
(206) 425-1914

The Phoenix Center
1417 - 15th, Suite 8
Longview, WA 98632
(206) 423-6020

FERRY COUNTY
Ferry County Community Services
Post Office Box 406
Republic, WA 99166
(509) 775-3341

Keller Alcohol Program
Colville Tribe
Keller, WA 99140
(509) 634-4304

GARFIELD COUNTY
Western Consortium for Human Services
Post Office 758
Pomeroy, WA 99347
(509) 843-3791

GRANT COUNTY
Grant County Alcohol and Drug Center
Post Office Box 1217
Moses Lake, WA 98837
(509) 765-5402

GRAYS HARBOR COUNTY
Chehalis Reservation Confederated Tribes
Post Office Box 536
Oakville, WA 98568
(206) 273-5911

Grays Harbor Adult Probation Services
103 Junction City Road
Aberdeen, WA 98520
(206) 532-0164

Grays Harbor Community Alcoholism Center (KAIROS)
100 South "I" Street, Suite 203
Aberdeen, WA 98520
(206) 533-4940

Quinalt Indian Nation
Substance Abuse Program
Post Office Box 189
Tahola, WA 98587
(206) 276-8211

St. Joseph's Hospital Careunit
1006 North "H" Street
Aberdeen, WA 98520
(206) 533-8500

Youth Help of Grays Harbor
510-½ Eighth Street
Hoquiam, WA 98550
(206) 533-7500

ISLAND COUNTY
Camano-Whidbey Alcohol Services
404 South Main Street
Coupeville, WA 98239
(206) 678-4005

Herbert Johnson Clinic
8092 - 80th Street NW
Suite 2
Oak Harbor, WA 98277
(206) 675-7984

Counseling and Assistance Center
Whidbey Island Naval Air Station
Oak Harbor, WA 98278
(206) 257-2394

Island Mental Health Center
Post Office Box 160
Coupeville, WA 98239
(206) 678-5555

JEFFERSON COUNTY
Community Alcoholism/Drug Abuse Center
802 Sheridan, MS 115
Port Townsend, WA 98368
(206) 385-0650

KING COUNTY
Alcohol and Drug 24-Hour Helpline
3700 Rainier Avenue South, Suite B
Seattle, WA 98144
(206) 722-3703

Alternatives
1818 Westlake North, Suite 106B
Seattle, WA 98109
(206) 282-4161

Amanna Alcoholism Services
300 - 120th Ave NE, Suite 240B, Bldg 1
Bellevue, WA 98005
(206) 453-1464

Auburn Youth Resources
816 "F" Street Southeast
Auburn, WA 98002
(206) 939-2202

Ballard Community Hospital Careunit
5409 Barnes Avenue NW
Seattle, WA 98107
(206) 789-7209

Bellevue Probation Division
655 - 10th Ave Northeast
Bellevue, WA 98009
(206) 455-6956

C & M Counseling and Consultant Services
2366 Eastlake Avenue East, Suite 428
Seattle, WA 98102
(206) 323-3699

C.A.R. Institute
222 Williams Avenue South
Renton, WA 98055
(206) 255-7614/7616

CareUnit Hospital of Kirkland
Post Office Box 480
Kirkland, WA 98083
(206) 821-1122

Carey-Justice Associates
Aurora Village Medical Center
1207 North 200th Street, Suite 217

Seattle, WA 98133
(206) 542-1136

Case Services, Inc.
Post Office Box 4295
Seattle, WA 98104
(206) 467-7964

Cedar Hills Treatment Center
15900 - 227th Avenue Southeast
Maple Valley, WA 98038
(206) 464-6479

Center for Addiction Services
120 - 23rd Street
Seattle, WA 98112
(206) 323-0930

Center for Human Services
17011 Meridian Avenue North
Seattle, WA 98133
(206) 546-2411

Central Area Community Alcoholism Center
340 - 15th Avenue East, Suite 301
Seattle, WA 98112
(206) 322-2970

Central Area Mental Health Center
2200 Rainier Avenue South
Seattle, WA 98144
(206) 329-1751

Chemical Dependency Program
1207 Pine Street
Seattle, WA 98101
(206) 682-4695

Chinook Center
1800 Westlake Avenue North, Suite 201
Seattle, WA 98109
(206) 282-9991

Choice
2448 - 76th Avenue Southeast, Suite 203
Mercer Island, WA 98040
(206) 232-4330

Community Psychiatric Clinic
4319 Stoneway North
Seattle, WA 98103
(206) 447-3614

Comprehensive Alcohol Services
2450 Star Lake Road
Auburn, WA 98002
(206) 941-3677

Conquest Center Women's Residence
19204 - 15th Avenue
Seattle, WA 98155
(206) 526-3422

Consejo Counseling And Referral
3808 South Angeline
Seattle, WA 98118
(206) 721-0800

Crosby Enterprises, Inc.
12525 Willows Road, Office Park Bldg A, Ste 130
Kirkland, WA 98034
(206) 821-6231/488-1482

Dell Craig Therapists, Inc.
22030 - 7th Avenue South
Des Moines, WA 98188
(206) 824-9273

Eastside Alcohol Center
606 - 120th Avenue Northeast, Suite 204
Bellevue, WA 98005
(206) 454-1505

Evergreen Treatment Services
557 Roy Street
Seattle, WA 98109
(206) 282-2959

Federal Way Counseling Services
32700 Pacific Highway South, Suite 11
Seattle, WA 98002
(206) 874-4443

Federal Way Youth Services
31101 - 18th Avenue South
Federal Way, WA 98003
(206) 839-6555

First Step
Careunit Clinic of Washington
14400 Bel-Red Road, 204
Bellevue, WA 98007
(206) 746-3888

Genesis House
4508 - 16th Avenue Northeast
Seattle, WA 98105
(206) 524-6767

Group Health Cooperative Adapt

Highland Youth Service Bureau
156th and Des Moines Way South
Seattle, WA 98166
(206) 243-5544

Group Health Cooperative Alcohol and Drug Abuse Program
1600 East John, Annex 5
Seattle, WA 98112
(206) 326-7057

Intercept Associates
30620 Pacific Highway South, Suite 108
Federal Way, WA 98003
(206) 941-7555

Kent Valley Youth Services
525 North 4th, Kent Commons
Kent, WA 98051
(206) 872-3550

King County Detoxificaton Center
1421 Minor Avenue
Seattle, WA 98101
(206) 587-0161

King County District Court Probation Service Division
516 - 3rd Ave, E-310 King County Courthouse
Seattle, WA 98104
(206) 344-3897

King County Division of Alcoholism & Substance Abuse Services
1008 Smith Tower Building
Seattle, WA 98104
(206) 344-7615

King County Emergency Service Patrol
1008 Smith Tower
Seattle, WA 98104
(206) 344-7616

Mental Health North
10510 Meridian Avenue North
Seattle, WA 98133
(206) 365-5550

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Seattle, WA 98105
(206) 542-6106

Milam Counseling Centers, Inc.
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Suite 201
Seattle, WA 98188
(206) 824-9780

Milam Recovery Center
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Bothell, WA 98011
(206) 621-9636

Moss and Associates
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Bellevue, WA 98005
(206) 453-0550

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(206) 828-4774

Mt. Baker Youth Service Bureau Community Association
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(206) 322-7676

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Municipal Probation Services
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Seattle, WA 98104
(206) 625-4618

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Seattle, WA 98122
(206) 324-3560

Northwest Treatment Center
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Seattle, WA 98117
(206) 789-5911

Pioneer Center South
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Seattle, WA 98118
(206) 722-2993

Pioneer Human Services
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Seattle, WA 98144
(206) 322-6645

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3000 Northeast Fourth Street
Renton, WA 98056
(206) 235-2352

Renton Area Youth Services
1025 South Third
Renton, WA 98055
(206) 271-5600

Residence XII
14506 Juanita Drive Northeast
Bothell, WA 98011-4992
(206) 823-8844

Riverton General Hospital Carcunit
12844 Military Road South
Seattle, WA 98168
(206) 244-0180, Ext 234

Ryther Child Center
Adolescent Alcohol and Substance Abuse Program
2400 Northeast 95th Street
Seattle, WA 98115-2499
(206) 525-5050

Saint Cabrini Recovery Program
Saint Cabrini Hospital
920 Terry Avenue
Seattle, WA 98104
(206) 583-4344

Salvation Army Harborlight Center
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Seattle, WA 98104
(206) 621-0145

Schick Shadel Hospital
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Seattle, WA 98148
(206) 244-8100

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Seattle, WA 98124
(206) 767-0244

Seattle Indian Alcoholism Program
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Seattle, WA 98101
(206) 324-9360, Ext 322

Shamrock Group, Inc.
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Seattle, WA 98103
(206) 789-4784

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Kent, WA 98032
(206) 854-6513

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15025 - 4th Ave. S.W.
Seattle, WA 98166-2301
(206) 242-3506

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Issaquah, WA 98027
(206) 392-7815

Sunrise Centers
12650 - 1st Avenue South
Seattle, WA 98168
(206) 248-3006

TASC of King County
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Seattle, WA 98101
(206) 467-0338

Thunderbird Fellowship House
1531 - 13th Avenue South
Seattle, WA 98144
(206) 322-6230

Vashon Community Alcohol Center
Sunrise Ridge Vashon-Maury
Post Office Box 99
Vashon, WA 98070
(206) 463-9492

Veterans Administration Medical Center
Alcohol Dependence Treatment Program
1660 South Columbian Way
Seattle, WA 98108
(206) 764-2123

Washington Drug Rehabilitation Center
Post Office Box 4036
Seattle, WA 98144
(206) 325-4005

Western Clinical Health Services
34507 Pacific Highway South, Suite 3
Federal Way, WA 98003
(206) 874-2030

Youth Eastside Services
257 - 100th Avenue Northeast
Bellevue, WA 98004
(206) 454-5502

KITSAP COUNTY

Alcohol Rehabilitation Service
Navy Hospital
Bremerton, WA 98314
(206) 478-9488

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Port Orchard, WA 98366
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(206) 779-2900

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532 - 5th Street
Bremerton, WA 98310
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Port Orchard, WA 98366
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Bremerton, WA 98310
(206) 373-5031

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3710 Madrona
Bremerton, WA 98310
(206) 479-0744

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Tacoma, WA 98409
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McCord AFB
Tacoma, WA 98438
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Pierce County District Court Probation Department
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Puget Sound Hospital
South 36th and Pacific Avenue
Tacoma, WA 98408
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Sumner, WA 98390
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Tacoma, WA 98404-0188
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Branch, Shared Health Services (Pierce Co.)
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Puyallup, WA 98373
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Serenity Counseling Services
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Tacoma, WA 98405
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Shared Health Youth and Family Services
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Tacoma, WA 98402
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Tacoma, WA 98409
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Branch, Shared Health Services (Pierce Co.)
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Tacoma, WA 98466
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Western Washington Alcoholism Center
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Tacoma, WA 98409
(206) 473-7122

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San Juan Community Alcoholism Center
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Friday Harbor, WA 98250
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SKAGIT COUNTY

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Branch, Pioneer Human Services (King Co.)
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Sedro Woolley, WA 98284
(206) 856-3186

Skagit Community Mental Health
208 Kincaid
Mt. Vernon, WA 98273
(206) 336-3193

Skagit County Council on Alcoholism
John King Recovery House
121 Broadway
Mt. Vernon, WA 98273
(206) 336-5757

SKAMANIA COUNTY

Skamania County Counseling Center
Post Office Box "Q"
Stevenson, WA 98648
(509) 427-5636, 39

SNOHOMISH COUNTY

Alcohol & Drug Abuse Council of Snohomish County
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Everett, WA 98201
(206) 259-7142

Alcohol & Drug Abuse Council of Snohomish County
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Lynnwood, WA 98036
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(206) 355-1250

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Edmonds, WA 98020
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Everett, WA 98204
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Court Probation Department
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Monroe, WA 98272
(206) 794-7497

SPOKANE COUNTY

Alcoholism Consultation Services
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Spokane, WA 99205
(509) 326-2301

Alcohol Information Network
Spokane County Health District
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Spokane, WA 99201
(509) 458-2528

Alcoholism Outpatient Services
East 905 - 3rd Avenue
Spokane, WA 99202
(509) 534-3132

Center for Drug Treatment
Spokane Community Mental Health
West 1625 - 4th Avenue
Spokane, WA 99204
(509) 458-7437

Community Alcohol Center
Turning Point
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Spokane, WA 99202
(509) 534-5070

Daybreak of Spokane
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Spokane, WA 99203
(509) 448-1255

Deaconess Hospital Careunit
Deaconess Hospital
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Spokane, WA 99210
(509) 458-2273

New Horizon House
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Spokane, WA 99202
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Raleigh Hills Hospital
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Spokane, WA 99205
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Post Office Box 2198
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(509) 624-3251

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Spokane, WA 99202
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North 2002 Atlantic Street
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Tribal Alcoholism Program
Spokane Tribe of Indians
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Wellpinit, WA 99040
(509) 259-4513

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Alcohol-Drug Treatment Program
North 4815 Assembly
Spokane, WA 99205
(509) 328-4521, 228

STEVENS COUNTY

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Colville, WA 99114
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THURSTON COUNTY

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Olympia, WA 98501
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Olympia, WA 98507
(206) 754-2731

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Olympia, WA 98507
(206) 754-3888 business, (206) 352-2211 Thurston Crisis Line

New Life Foundation
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Olympia, WA 98507
(206) 459-5500

Social Treatment Opportunity Programs (STOP)
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Olympia, WA 98507
(206) 754-2731

Talbot Clinical Services
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Olympia, WA 98503
(206) 459-7122

Thurston & Mason Alcoholism Recovery Council (TAMARC)
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Olympia, WA 98507
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WALLA WALLA COUNTY
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180 South Fifth
Walla Walla, WA 99362
(509) 525-7800

WHATCOM COUNTY
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Bellingham, WA 98225
(206) 733-5840

Community Alcohol Center
1728 Iowa, Suite 0
Bellingham, WA 98226
Director
(206) 733-2400

Contact Counseling
1229 Cornwall Avenue, Suite 309
Bellingham, WA 98225
(206) 671-3277

Human Services Associates, Inc.
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Bellingham, WA 98225
(206) 671-9797

Olympic Center
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1603 East Illinois
Bellingham, WA 98225
(206) 733-9111

Whatcom Counseling and Psychiatric Clinic
1135 Mount Baker Highway
Bellingham, WA 98225
(206) 676-8455

Whatcom County District Court
Probation Department
311 Grand Avenue
Bellingham, WA 99225
(206) 676-6708

WHITMAN COUNTY
Phase One
1230 Northwest Nye Street
Pullman, WA 99163
(509) 332-8146

Whitman County Alcoholism Center
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Pullman, WA 99163
(509) 332-6585

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Central Washington Comprehensive Mental Health
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Yakima, WA 98907
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Yakima, WA 98907
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Yakima, WA 98907
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Bertha B. Fitzer, LL.M., announces her availability for referral, consultation or association on appellate arguments and briefs.

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FOR SALE/WANTED

Attorney Jobs: The National and Federal Legal Employment Report—a monthly detailed listing of hundreds of attorney and law-related jobs with the U.S. Government and other public and private employers in Washington, DC throughout the U.S., and abroad. 3 months—$30; 6 months—$50; 12 months—$90. Send check to Federal Reports, P.O. Box 3709, Georgetown Station, Washington, DC 20007, or call (202) 393-3311. Visa/MC.

Burroughs RIII Dedicated Word Processor with stand, Qume 55 cps printer with sound cover. $2200. Seattle, (206) 447-9681.

New and used law books for sale, steel book shelving also. Call us for your library needs. Rod Pullen & Company, Rt. 1, Box 48, Colbert, WA 99005, (509) 466-6312.

For sale: Am.Jur 2d, ALR 3rd, 4th and Fed. Any reasonable offer accepted. Call John Bergmann or secretary, (206) 292-1144.

For Sale – Xerox LDC-3100 copy machine. Excellent condition, always maintained by Xerox Service Company. Price: $1,125.00. Telephone (206) 833-1660 or (206) 839-2660.

For sale: Silver Reed EX78 advanced memory typewriter. $3,000. (206) 692-3612.

For sale – IBM Displaywriter – Diskette Unit, display, keyboard, electronics module, printer, feeder, software with updates, on IBM maintenance since new. $8,000.00 or OBO. Box 14, WSBA.

Books for sale: *U.S. Supreme Court Reports*, L.Ed.: 1L.Ed. through 73L.Ed.2d: $1200.00/set, *U.S.C.C.-A.N.*: 1941 through 1956 and 1961-1962: $10.00/volume, *West Federal Forms:* volumes 1-8 (does not include 1985 v.6): $200.00/set, *Environment Reporter Cases* (BNA): volumes 1-19, Cumulative Indexes: $100.00/set. Best offers also considered. Contact Elizabeth at (206) 682-3333.

Law books for sale: Best Offer, all series current unless otherwise noted: *ALRs* 1,2,3,&4 w/Digests, Supplemental Decisions, Word Indexes, Quick Indexes, & Later Case Services (ALR 1st has some volumes missing but all other parts of series are complete & current); *Collier's* on *Bankruptcy* (14 & 15th editions); *Collier's Bankruptcy Practice Guide; Moore's Federal Practice Manual; CCH U.S. Tax Cases* 55-1 to present; I.R.S. Cumulative Bulletins 1950-1 through 1984-2; *Real Property Deskbook; Fletcher's Corporations; Fletcher's Corporations Forms Annotated;* Bender's *U.C.C. Service* (vol. 5-5D). Call (206) 624-5760.

For sale: New IBM-PC Computer, dual-disk drive, letter quality printer, word-processing program and extras. $4750 or best offer. Call Karen Emery 1-800-562-8410.

For Sale: 136 Vols. Wash 1st, Good Cond. $1,450. Contact: Manager Retail Sales (206) 272-5166, Tacoma Goodwill Industries.

OFFICE SPACE

First Interstate Center. Several attractive offices available for lease in professionally designed suite with congenial attorneys. Contact Sherrie, (206) 624-9400.

Very attractive office in three-attorney suite in excellent downtown Seattle location (Westland Building). 5 minutes from courthouse. Includes base telephone, copier and receptionist. Parking, secretarial, word-processing and other amenities available. (206) 682-1771.

Office sharing—for up to four attorneys in beautifully restored Pioneer Square building. All amenities including: receptionist, phones, conference room, full library, photocopier, sauna and workout area. Contact: Melinda MacLeod (206) 622-7050.

Fourth & Blanchard Building: Office space with view. Secretarial & conference room space, library, copier and other amenities. (206) 728-6900.

View offices, Bank of California – Two well-established attorneys with business and public utility oriented practices seek one or two others with compatible clientele to share well appointed suite with a view towards future partnership. Includes library, separate conference room, receptionist, photocopier, secretarial stations, file and supply storage. Please phone (206) 623-3932.

Market Place Two. One to four offices available in ten-office suite. Exceptional view—Puget Sound, Mt. Rainier. Across from Seattle Club. Parking within building. Secretarial space, receptionist, telephones, copier access, law library, conference room, kitchen, file and supply storage. Contact Anita, (206) 448-1010.

Paying for office space you don't need or get elsewhere free? But need a place for conferences, mail, telephone and answering service, copying, and maintaining contact with other lawyers? $225.00. (206) 547-0040.

Bellevue: Two-person firm seeks one experienced attorney to share beautiful suite. View of lake/Olympics. Across from One Bellevue Center. Parking, secretarial space, receptionist, library, copier, and conference room. Wang equipment, time and billing, and phone system available. (206) 462-8222.

Sixth & Pike Bldg. View office available in three-office suite. Secretarial space available, access to library, conference facilities, copier and more! Please call Verlaine or Kim at (206) 447-8665

Office in five-attorney suite. Word processing, receptionist, conference room, library, copier. $476.21/month plus share of services used. Parking in building. Bob Dawson (206) 624-5000.

Share office space: Dexter Horton Building. One private office in two-lawyer office. Secretarial space, library, $350.00 per month, plus telephone expense. (206) 622-1340.

Space available, Highland Professional Plaza, North 175th Seattle. Excellent access and parking. Suited for doctors, dentists, lawyers, pharmacists and all professionals. Low rates. Call Gene Gauche, First Western Properties, (206) 775-4611.

Very attractive office in three-attorney suite in downtown Seattle. Five minutes from courthouse. $385 per month includes base telephone, copier and receptionist. Parking and secretarial available. Perfect for beginning practice. (206) 682-1771.

POSITION WANTED

Attorney seeking postion with corporation or law firm. One year's experience in general civil practice. Two years' experience in general business planning, estate planning, and tax planning. LLM. Reply to Box 20, WSBA.

Lawyer with three years' major firm experience in corporate, tax and securities seeks position in Seattle or Bellevue. Excellent academic and professional credentials. Reply to Box 19, WSBA.

Tax attorney, 3+ years' tax experience seeks position in Seattle or Bellevue firm. Reply to Box 22, WSBA.

Position wanted: Admiralty attorney with litigation experience seeks position in established firm. Reply to Box 23, WSBA.

Business manager: Facilities and personnel management. Full spectrum business management from budgeting to training. Mr. Gary A. Rhule 2823 Grandview Drive West, Tacoma, WA 98466, (206) 565-1633.

POSITION AVAILABLE

Part-Time contract attorneys needed: Medium-sized litigation/business firm with excellent reputation seeks part-time lawyers (20-25 hours/week)to do litigation support work. Applicant must have excellent academic qualifications and research and writing skills, although the job would entail other litigation tasks. The position is not limited to a specific project or time and would be open ended. Preference will be given to people with prior litigation experience. The position is very well compensated. Write Box 24, WSBA.

Taylor, Bryan & Hintze, a Seattle-based law firm, seeks an associate for its expanding Anchorage office and invites resumes from attorneys with experience or strong interest in construction and surety law. Please respond to: Kirby Wright, c/o Taylor, Bryan & Hintze, 310 K Street, Suite 603, Anchorage, Alaska 99501. Confidentiality assured if requested.

Experienced Bellevue sole practitioner with overflowing corporate, business, and civil litigation practice looking for 2+ experienced practitioners to share overhead and help with overflow. Will consider assuming an equity position in a small to medium size Bellevue firm. Reply to Box 15, WSBA.

Established, growth-oriented corporate law firm, offices in Seattle and Bellevue, seeks Associate with 1 - 2 years' experience, preferably in litigation. High academic achievement and excellent writing skills are prerequisites. Send resumé and writing sample to: Nancy Miller, Jones, Grey & Bayley, P.S., 3600 One Union Square, Seattle, WA 98101.

Established 20-lawyer firm in Seattle's Columbia Center building seeks two associates, each having superior academic credentials and two to five years' experience. One position requires experience in commercial, construction and real estate litigation. The other requires experience in commercial real estate and business transactions. Reply to Box 18, WSBA.

Construction lawyer. Large Portland, Oregon law firm with branch in state of Washington seeks attorney with approximately one to three years' experience handling contracts, claims and litigation arising in the construction industry. Nonlaw experience in the industry and license to practice law in Washington or California would be beneficial. Candidate will be expected to be or become a member of the Oregon Bar. Send resumé, college and law school transcripts, and legal writing samples to: Jacquelin Lee, Stoel, Rives, Boley, Fraser & Wyse, 900 SW Fifth Avenue, Portland, Oregon 97204.

Small but prestigious litigation office has two associate positions available for attorneys with two to four years' experience in litigation. Product liability, personal injury, commercial and labor backgrounds preferred. Outstanding academic record and excellent recommendations required. These positions provide a unique opportunity for the highly motivated individual. All responses confidential. Resumés to: Box 21 WSBA.

Roberts & Shefelman is seeking an associate with one to three years of experience for its litigation section. Applicants with excellent academic credentials and litigation experience should apply to Recruiting Committee, 4100 Seafirst Fifth Avenue Plaza, Seattle, Washington 98104. Inquiries to be kept confidential.

Director sought by Evergreen Legal Services, Seattle, Washington. Large statewide program providing representation to low-income people. Approximately 110 staff, $4 Million budget, 15 offices. Duties include overall legal and fiscal supervision of program. Member of Washington Bar or willing to take next bar exam. Prior legal management experience required. E.O.E. Salary $45,000 D.O.E. Send resumé to: Search Committee, Evergreen Legal Services, 2018 Smith Tower, Seattle, WA 98104.

Medium-sized law firm with excellent reputation is seeking an attorney to do business, corporate and tax work. Applicants must be well qualified academically and have the background for and interest in a business practice with a tax emphasis. CPA's and LLM's in tax are preferred but not required. Persons with more than 3 years of practice experience will not be considered. Reply to 16, WSBA.

Medium-sized law firm with a sophisticated commercial litigation practice is seeking associate applicants for a litigation position. Applicants must be well qualified academically and must not have practiced for more than 2 years. Judicial clerks are en-

couraged to apply. Reply to 17, WSBA.

Wickwire, Lewis, Goldmark & Schorr seeks attorneys with up to five years of litigation experience. Send resumé, references and writing samples to Hiring Coordinator, Wickwire, Lewis, Goldmark & Schorr, 500 Maynard Building, Seattle, Washington 98104.

Established, growth-oriented, medium-sized firm in Bellevue with a growing practice seeks an associate with two to three years of experience in commercial, real estate and/or construction law. Litigation experience preferred. High academic achievement and entrepreneural insight are prerequisites. Please respond to Box 66, WSBA.

Small, dynamic Portland Oregon firm needs lawyer experienced in securities, private placements and general business, with or without portfolio. Box 73, WSBA.

Seattle firm with extensive environmental/hazardous waste practice seeks an associate with a minimum of two years' litigation experience, preferably in the environmental/hazardous waste area. Strong academic credentials including a science and/or technical background preferred. Send resumé to Daniel D. Syrdal, Syrdal, Danelo, Klein, Myre & Woods, P.S., 2400 Fourth & Blanchard Bldg., Seattle, WA 98121. All replies held in confidence.

SERVICES

Legal Research and Writing: David N. Mark, J.D., magna cum laude, Cornell Law School; editor, *Cornell Law Review;* admitted Washington (1983), Ohio (1978); (206) 323-8586 (Seattle).

Member – Missing Persons Unlimited. Professional, confidential investigations. Over 20 years' experience. Kearns Investigations, 3201 Fremont Ave. N. Suite 203, Seattle, WA 98109, (206) 633-1009.

WILL SEARCH

Lost wills: Anyone having information regarding the Last Will and Testament of Ruth (Hoag) Piasecki or Joseph Piasecki, please call Marlin Appelwick, Appelwick, Trickey & Sluiter, (206) 365-4300.

MISCELLANEOUS

Sail the San Juan Gulf Islands to *EXPO "86"* aboard a 51′ ketch or a 47′ sloop. Both crewed and exceptionally beautiful! Reserve your week now! Phone: (206) 281-8024 Write: Island Trader Charters P.O. Box 17415 Seattle, WA 98107

Sun Valley – New 4 br, 3-bath house just north of town, with hot tub and large fireplace, fully equipped, maid service – $850 – $1,000/week – Marty Treece – (503) 221-0584.

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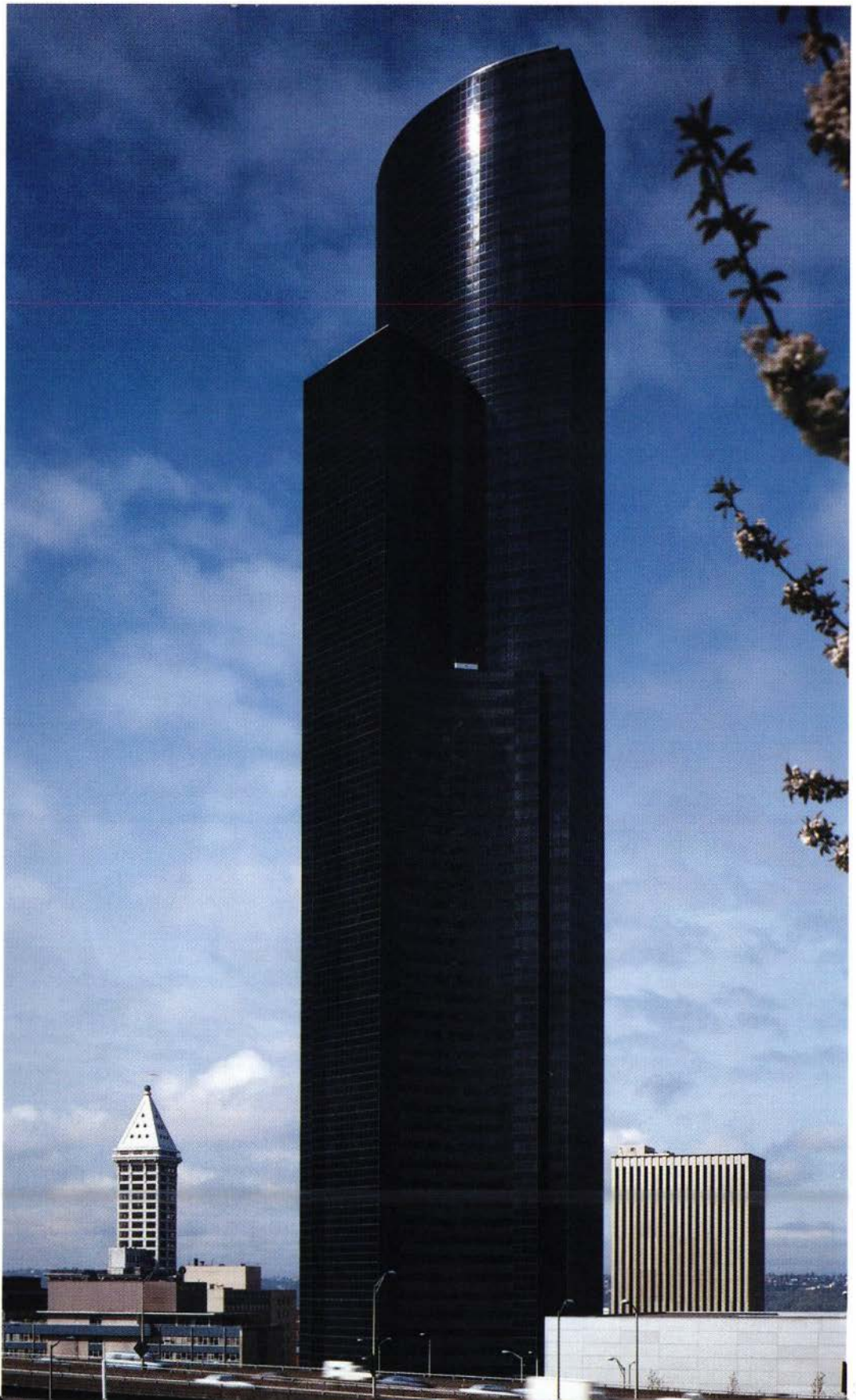

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