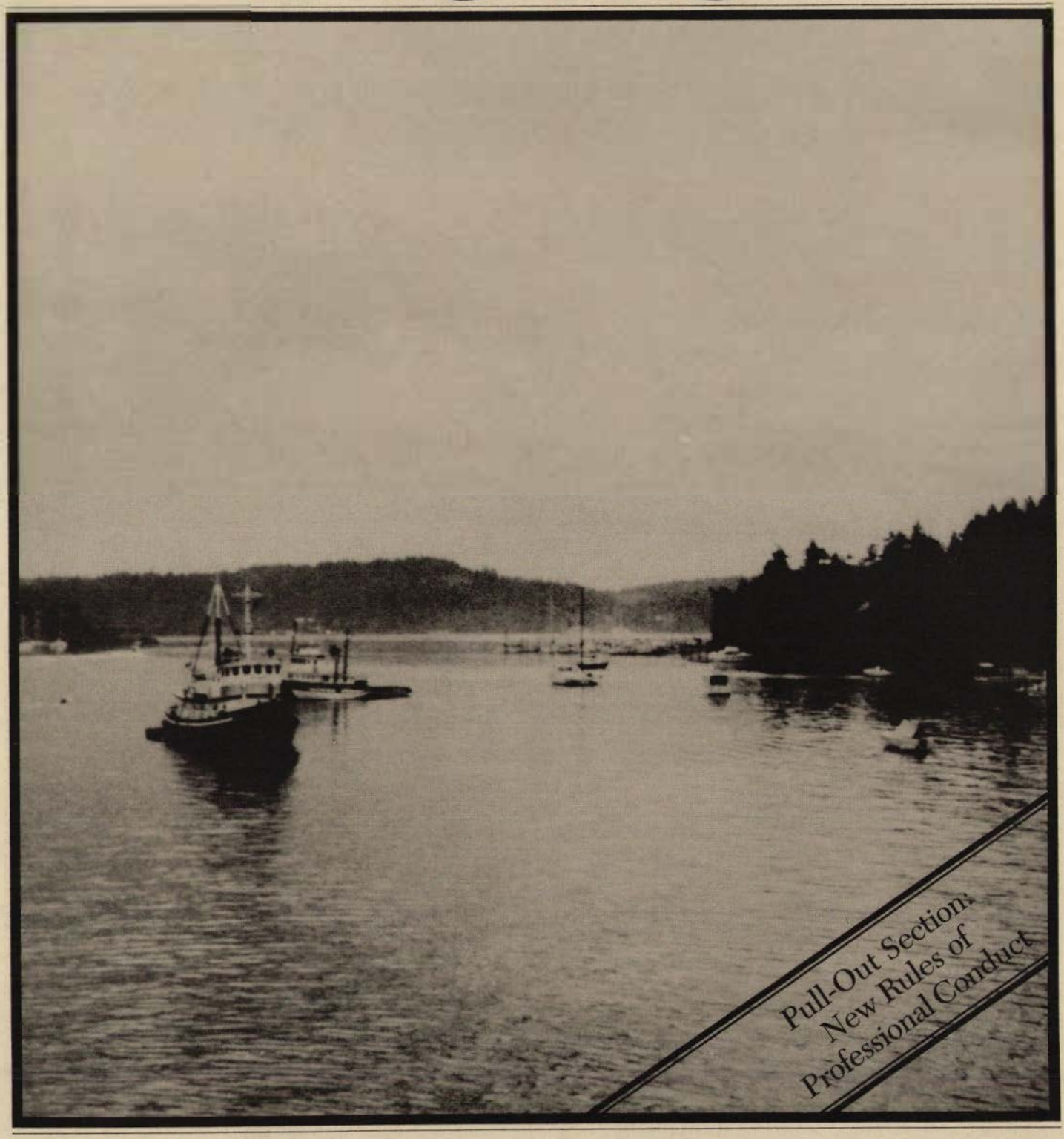
Washington State Bar News
Vol. 39, No. 9, September 1985



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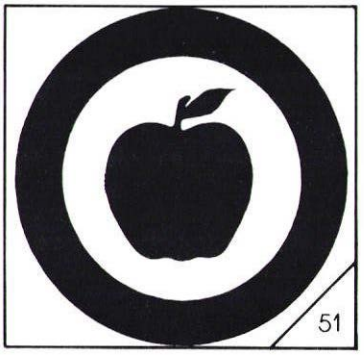
FEATURES



IN THE NEWS

DEPARTMENTS

Cover Art: Friday Harbor, San Juan Islands, Washington. Photograph by **Carole Grayson.**

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LETTERS

Letters to the Editor should be double-spaced typed and signed. The Editor reserves the right to edit any letter as may be appropriate.

Self-Study: A Viable Option

Editor:

As an attorney who emphasizes family law and as the publisher of the *Washington Family Law Reporter*, I propose an amendment to existing CLE rules which prohibit credit for self-study.

I concur with the comments of Douglas Shaw Palmer in the June 1985 issue of the *Bar News*. Self study is a valid and effective means of improving the competency of attorneys. It should be encouraged by the Bar Association both in assisting in the dissemination of printed and video information and in the allowance of educational credits.

During the three years I have published the *Washington Family Law Reporter*, I have witnessed the rapid specialization of family law, both substantively and procedurally. During the same time I have observed an inability of seminar speakers to fully and timely address the needs of family law practitioners. Seminars do serve a purpose, especially for the newly admitted attorney, but for the busy and experienced practitioner self-study is a viable educational option.

The Bar Association should step away from its rigid and dated requirement of personal attendance at seminars for all receipt of CLE credits. Instead, it should adopt fresh rules which include credit for self-study of approved publications and viewing of video tapes.

It may be argued that I have a pecuniary interest in advocating such change. That is partially true, in that I believe many attorneys would welcome the opportunity to receive credit for reading the monthly issues of the *Washington Family Law Reporter*. This interest, however, should not detract from the proposal. The *Reporter* and the Bar Association share a similar goal: improving the competency of attorneys in a rapidly changing legal environment. My publication and the CLE Board should work together toward achieving that goal.

I do not know the mechanisms for change. If you wish further input from the Association members, I suggest polling their responses through a printed questionnaire in the *Bar News*. If a formal resolution is required, I propose drafting one for submission to the Bar Association at next year's annual meeting.

CHRISTOPHER J. FOX
Kirkland

Catch-22

Editor:

The Real Estate Contract Forfeiture Act passed in 1985 and effective January 1, 1986 requires notice provisions similar to a non-judicial deed of trust forfeiture. This new act provides a method by which a real estate contract can be forfeited without a quiet title lawsuit. Section 1 of the new act defines "cure" to include paying the costs of attorney's fees prescribed in the contract. Unfortunately, the standard A-1964 real estate contract provides for attorney's fees and costs if the seller shall bring suit to terminate the purchaser's rights.

If a purchaser reinstates the real estate contract under the new forfeiture act under a standard real estate contract, the seller would not be entitled to his attorney's fees and possibly not the costs of the forfeiture action because no lawsuit was filed. The seller does not file a lawsuit under the act but the seller cannot get attorney's fees unless he files a lawsuit. The act needs to be amended to allow costs and attorney's fees in all cases of reinstatement.

R. DRAKE BOZARTH
Seattle

Mail Vote: Aye

Editor:

I am writing to endorse the suggestion, made by Mary Alice Theiler in her July 1985 letter to the editor, that the Bar Association allow voting by mail on resolutions presented at its annual meeting.

NICHOLAS WAGNER
Seattle

Post Hoc Ergo Propter Hoc?

Editor:

Even while sojourning in Hawaii, I try to keep up with current events. While perusing the *Honolulu Advertiser* (April 30, 1985), I ran across the enclosed. I leave judgments concerning the tawdriness of such a promotion to the membership, but I wonder whether advertising necessarily leads to such vulgarity.

DAVID H. BRUNEAU,
Port Angeles

"Self Proving Wills"

Editor:

Somehow I feel out of step for criticizing "Self Proving" Wills. I refer to the affidavit of witnesses which many attorneys attach to a Will at the time it is executed, pursuant to RCW 11.20.020 (2).

This certainly makes it convenient at the time of starting a probate. However, is not anyone concerned about the possibility of fraudulent use or the

possibility that a Codicil might be overlooked?

I can see the sense of an attorney preparing the affidavit at the time the Will is executed and keeping it in the office file, to avoid problems in running down a former secretary or whatever at the time of probate. However, I do not think releasing the affidavit with the Will to the client is a completely wise practice.

An attorney probating a "Self Proving" Will drawn by another office should check with the other office to make sure the Will is an accurate copy and to determine whether there has been any Codicil.

THOMAS M. BLAKE
Seattle

Poulsbo CLEbration

'Twas the day after Poulsbo
And all through the state,
Lucky lawyers were thinking,
"Oh, boy, that was great!"

Our files unchanged from two days before,
Climbing the walls and hogging the floor,
But still there remained, etched in our brains,
The lessons of Poulsbo, a welcome refrain.

A program of laughter and learning and jeers
And sharing our victories and losses and fears
With names widely noted, from D.C. to Tex.,
Who talked about matters from clients to sex.

The program, it triumphed, with wonderful speakers.
When they were all over, we surely were weaker
Not a bad thing, mind you, not a bad thing at all,
We were weak from our laughter which reigned through the hall.

Oh, Lindseth and Johnson and the younger Luvera!
What voir dire you showed us! What reversible error!
So that's how a jury is often selected:
A juror's inspected, then quickly rejected.

The criminal jury, which came along second,
Gave us much more than we'd ever reckoned.
With the showman Haynes and the suave Canova,
It was, "Git along, Racehorse!" and "Canova, Roll over!"

At the Sons of Norway 'midst the tippling and clatter
We looked from our tables and turned from our chatter
To a local lawyer standing up front
A cute little fellow, much more than a runt,

With a soul full of wisdom and caring and zeal
So, this was the guy who'd closed this great deal
To get Justice Stevens, complete with bow tie,
And "Racehorse" Haynes, of 5'9" a tad shy.

As we staggered home past the Poulsbo stoplight
We recalled Local Rule with its profound insight.
In Poulsbo, we'd heard at the grand CLE,
"Don't let the truth interfere with a clever story."

From Hamilton and Buchholz, Roof and Kirk
To Sherrard, McGonagle, McKinstry and Green
From Norbut and Botkin, Malone and Peach
To Hawkinson and Alvarado the Poulsbo Bar doth reach

But there's one more guy, too, a real nonpareil,
The Asotin A-Bomb, the Kitsap Jewel
Wide-thinking he is, but tall in stature,
His energy and vision we'd all love to capture

As I wind up my thoughts and wend my way home
I near the end of this blankety blank poem,
And search for some rhymes for a name unlike most—
That of Jeff Tolman: beleaguered, best host.

He stands by himself, in a class all alone
In his inventive CLEbration for us, the drones
Of a system at once grand, and also quite small;
The legal profession includeth us all.

Jeff is unique, spontaneous, hip.
His inspired creation was well worth the trip.
He sought to entice a Justice Supreme
To journey to Poulsbo—Impossible dream?

But Stevens was there and most of our High Corps
Dolliver, Dimmick, Pearson, Callow and Dore
We missed having Utter, whose landing gear failed him,
And his Brother Brachtenbach, whose vertebrae ailed him.

350 attendees all joined in the motion
To show appreciation and plentious devotion
To big names in small towns, and above all the rest
To this labor of love, CLEbration at its best.

The first of August is now long past
Jeff's loved ones sigh with relief at last.
But I fear it'll be a short-lived reprieve—
Jeff's next act you simply will not believe!

Carole Grayson

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By DAVID BOERNER

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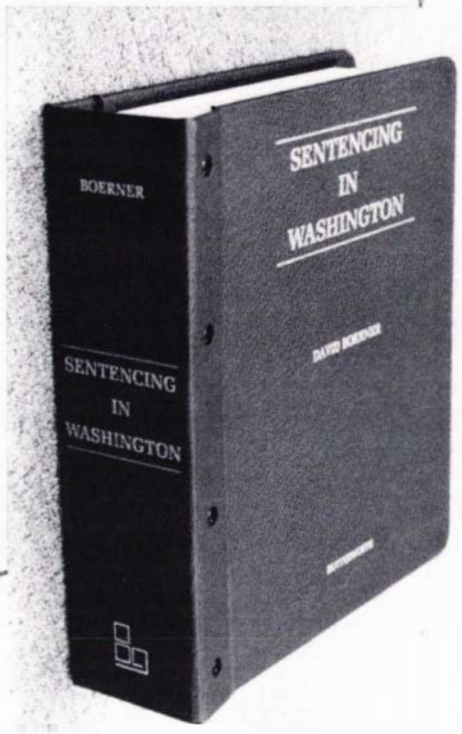

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In Search of an Attitude

In early July I attended the Annual Meeting of the National Conference of Bar Presidents, in Washington, D.C. The program this year was excellent, particularly the "breakout" session which I attended and which allowed an exchange of ideas and discussion between the Presidents of various state Bar Associations similar in size to ours. I was especially interested in comments made by several of the Presidents that most of the fun has seemingly gone out of the practice of law. Despite my feeling that law practice is the greatest way in the world to earn a living, I have to generally agree with their comments. It just isn't much fun anymore. Somehow it now seems more demanding, stressful and income-oriented than in the past. As one of the Presidents said, "Why don't we do something to try and bring the old flavor back?" Unfortunately, no one at the session had a good answer.

Now before you reach for Martindale Hubbell to find out how old I am and how long I've practiced law, let me say that those are factors unrelated to the issue involved. It's true that I've been at this business for thirty-five years and am now in somewhat of a senior category; however, there are many lawyers in this state who often remark about significant changes in our profession within just the past ten years—even the past five years—and they aren't having as much fun either. I hear more complaining than I do expressions of satisfaction.

Why has the practice become more onerous? Well, how about the effect of billable hour quotas, requirements relating to time sheets, marketing efforts and involvement with computers? How about the lawyer down the street who might be trying to wine and dine one of your clients? How about the one who tries to set up depositions during a period when he or she knows that you are planning to take a long-planned and needed vacation? Have you encountered one who seems to make a habit of setting matters for hearing without checking with you first? And then there's the one who seems to get a great thrill out of telling the court about how you have contorted everything in your brief. I could go on and on, but let me get to my point: Maybe this old business of practicing law would be a lot more fun if we all tried to be more friendly and cooperative throughout our professional relationships with each other.

It really is too bad that we do not have more frequent opportunities to socialize together and to know each other better. As lawyers we are members of a great profession and we are constantly seeking the respect and understanding of the public. Each of us should also be seeking the respect and understanding of our fellow lawyers. Cooperation, within the limitations of our adversary system, should be favored rather than ignored. Assistance to other lawyers when necessary and required should be a byword. A friendly attitude toward opposing counsel, even in the heat of battle, should be something we could all expect. A pat on the back and a congratulatory word to the lawyer who has just won out over you should be routine. A pleasant word or two to others for another lawyer who has done a good job on a matter should come easily to you. Even a smile rather than a grim or disinterested expression would go a long way when you are dealing with another lawyer.

All of this might seem quite trivial to you but please give it a little thought. I've personally found that a friendly and cooperative attitude, a respectful and hopefully dignified manner, a sense of humor and a ready smile have brought me a long way through the past thirty-five years. (Please allow me this immodest moment.) If you stop and think for a while, I'll bet most of the members of our Bar Association for whom you have the greatest respect conduct

themselves in that manner. I recommend that you give it a try. At the very least, you might find practicing law a lot more fun.

This is my final monthly column. I find it difficult to believe that the past twelve months have gone by so quickly. They have provided me with one of the greatest experiences in my life and certainly the highlight period of my career. I am extremely grateful to the Board of Governors for giving me the opportunity to serve the lawyers of this state as their President. I am also most grateful to all who have given me assistance this past year, particularly members of the Bar staff, those who chair our various sections and committees and John Michalik, without whose excellent counsel and guidance I would never have survived.

On September 14 I will hand the gavel to Pat Comfort, your new President. I am confident that Pat will provide us with outstanding leadership during the 1985-86 year, and he has my very best wishes and congratulations. From one professional to another, I'll see you in court!

Lee Campbell

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COMMON MISTAKES IN AUTOMATING YOUR CLIENT ACCOUNTING SYSTEM (. . .and how to avoid them)

by **Loretta Harris, CPA**

MISTAKE #1 – NOT KNOWING WHY A COMPUTER IS NEEDED

Many owners of systems that function perfectly well are disappointed. Unfortunately, their objectives were not clearly defined at the outset and, thus, not met. Identify your current problem areas and future goals and convey these expectations to the vendors. For example:

- If your current automated or manual system is faltering due to rapid growth, hardware expansion capability will be key.
- If you are having difficulty producing on-demand bills, the ability to update files daily and produce bills for particular clients is critical.
- If you wish to evaluate profits contributed by your offices, departments or areas of law, management reporting flexibility is important.
- To improve the accuracy of time entry, consider direct time input by secretaries or attorneys, and evaluate automated accounting in conjunction with word processing or personal computers.

MISTAKE #2 – CONCENTRATING ON HARDWARE RATHER THAN SOFTWARE

If the software of a system will not do YOUR job YOUR way, then the hardware does not matter. Select finalists based on software only. Once you have narrowed the range to vendors with adequate software, then consider their hardware characteristics.

Smaller firms may have more flexibility here. Software which runs on small personal computers often runs on more than one brand. Once adequate software is found, the firm may be able to select from several computers to run it. Hardware considerations are important, but the suitability of the software to your needs is far more critical.

MISTAKE #3 – NOT FULLY DEFINING SOFTWARE FUNCTIONS

Each software package functions differently and will meet your needs differently. Since most vendors are unwilling to customize their software for a single client, understand their regular offering thoroughly before purchasing it. Be aware that many packages, particularly those for personal computers, have built-in limitations for the number of clients and matters, length of billing narrative, and the number of general ledger accounts.

Study reporting capabilities carefully. At first glance, virtually any report looks useful. Consider who will use it, the sequence it should have, comparative information needed, and level of summarization. Example: Does your managing partner want to monitor accounts receivable? If so, he or she will respond to a summary report with one line per responsible attorney, will ignore a thick report detailing every case, and find a report in client sequence to be totally useless.

MISTAKE #4 – NOT THINKING CREATIVELY

Don't limit your sights to replicating your current system. Study a number of software packages and remember that their features exist primarily because others have asked for them. Enhance the management of your practice with the tools an automated system can provide, such as area of law, budget, and time-utilization reporting.

MISTAKE #5 – APPOINTING THE WRONG PERSON TO SELECT THE SYSTEM

If the selection committee consists of one person, it is the wrong person—no matter who it is. Only the administrative staff can provide accurate information on the daily exceptions and problems which need to be addressed. Only the management can define future management information needs and firm direction. Solicit ideas and information from all levels of the organization.

MISTAKE #6 – RELYING ON VENDOR VERBAL REPRESENTATIONS

You must see and work with a system in order to understand it. Assess its ease of use and ability to handle exceptional situations. Visiting a law firm with an installed system is helpful but not sufficient. Insist upon and attend demonstrations dedicated specifically to you. A typical demonstration takes approximately three hours. View a system at least three times before committing. For larger, more comprehensive systems, a minimum of two days is advisable.

Some personal computer vendors mail demonstration diskettes. While helpful in conducting preliminary evaluations, they seldom provide a sufficient basis for selecting the system. Be cautious of vendor promises for future enhancements—they often do not materialize. It is safer to evaluate options based on demonstrable features and to consider any future enhancement as a bonus. Most important, negotiate a written contract which clearly specifies the software functions and defines the vendor's role and responsibilities.

MISTAKE #7 – NOT ASKING ENOUGH QUESTIONS/NOT ASKING ALL VENDORS THE SAME QUESTIONS

A Request For Proposals (RFP) is the recommended method for asking consistent questions and obtaining comparable, comprehensive responses.

Unfortunately, vendors of less expensive personal computer systems and retail stores are often not inclined to prepare lengthy written proposals. A Request For Information (RFI) is often a useful alternative tool. The RFI poses a limited number of major questions regarding software (such as multiple office capability, file and field size limits, multi-user capability, report writer availability) and requests general configuration and pricing information. The RFI's usefulness is limited to helping you determine which vendors to evaluate further. It will not provide the comprehensive information of the RFP or serve as a basis for incorporation into a contract.

At a minimum, prepare a written checklist for yourself and use it while talking to vendors and viewing systems.

MISTAKE #8 – DISORGANIZED EVALUATION

It is easy to become confused and focus on limited criteria or meaningless factors such as the salesperson's personality. Be methodical. Identify your selection criteria, assign priorities, and score the vendors *in writing*. The results may surprise you.

MISTAKE #9 – BUYING A SYSTEM THAT IS TOO SMALL

Many people fear being oversold by vendors. In fact, it is far more common to buy too little capacity. In the vendors' defense, many firms do not adequately assess or communicate their growth projections. Others add applications such as word processing or litigation support without appreciating the hardware requirements.

Be sure that there is room for growth on the inital system plus the ability to expand the memory, disk storage and, for multi-user systems, the number of terminals. Generally, the realistic maximum number of terminals that a system can handle is smaller than the theoretical maximum advertised by the vendors. In other words, a system with a theoretical maximum of twelve terminals will not usually handle twelve full-time users without unacceptable degredation in performance.

Vendors can and should provide disk storage estimates using your volume statistics. Most first-time users need more disk space than either they or the vendors anticipate. To be safe, at least 40 percent of the disk space should be available for margin of error and immediate growth.

MISTAKE #10 – MISUNDERSTANDING THE VENDOR'S ROLE AND RESPONSIBILITIES

Learning how to operate the system is not your major challenge. Your real challenge is to define your system codes and parameters, build and balance data files, revise forms, design reports, establish processing schedules, and define internal controls and balance procedures.

Most vendors limit their role to teaching you how to operate the system. Unfortunately, many buyers mistakenly assume that the vendor will provide more guidance than this.

- Don't assume that the vendor will verify and balance your data files after you build them.
- Don't assume that the vendor will design a chart of accounts or financial reports.
- Don't assume that the vendor will define your revised procedural flow.
- Don't assume that the vendor will devise internal control and balancing procedures.
- Don't assume that the vendor will define your processing schedule.
- Don't assume that the vendor will make sure that people receive the appropriate management reports.
- Don't assume that the vendor will ensure that you use all possible system capabilities.
- DO ASSUME only that the vendor will provide a tool; effective use of it is your responsibility.

LORETTA HARRIS is a manager in the Management Advisory Services Department of the Seattle office of Moss Adams. She specializes in law firm management consulting.

LTAC*

A TESTING FACILITY FOR COMPUTER SOFTWARE

by **Richard L. Robbins**

Since May 1985 lawyers contemplating office computerization have been able to request from the ABA the results of intensive testing done on computer software—testing which verifies whether and how well the systems work in law offices. These reviews, published by the ABA's Legal Technology Advisory Council (LTAC), will help lawyers reduce uncertainty in software purchases. Soon LTAC will provide a broad range of assistance to small and medium-sized firms, even those in rural areas, who are considering automation or upgrading present systems.

As its initial project LTAC staff used ABA computers to test timekeeping and billing software submitted by vendors or manufacturers. Vendors pay a fee for the service. A detailed review will be published, and vendors will be permitted to state that the ABA has approved their system. All reviews will be available to ABA members at a nominal cost, and vendors may distribute them as well.

LTAC expects to review from 40 to 60 systems in its first year of operation—but plans are underway to expand the testing operation to meet the vendors' demand for approval.

Following review of timekeeping and billing software, LTAC expects to review systems for litigation support, database access and management, word processing, docket and office management, and to review hardware as well. Education, public information and other approaches are also being considered by LTAC. Since software and hardware systems change rapidly and are revised and updated, LTAC, at a vendor's request, will also review revised versions.

LTAC issued draft guidelines for the review process in August 1984, and distributed them to more than 1,000 vendors, attorneys and other interested professionals. More than 100 sets of comments were received. The guidelines were revised by early November and LTAC began testing systems soon afterward.

LTAC's testing process follows a strict due process approach. Vendors must provide names of users so that a user survey of potential problems can be made. They also provide copies of advertising claims. Documentation is reviewed so that LTAC can determine whether information is clear and readable. Access to technical assistance is tested. A standard database is used for testing all software, and standard tests are run on the software. Testing determines if the software meets basic minimum operating needs of the small to medium-sized law firm. LTAC looks at efficiency, reliability and completeness and assesses how the software meets these parameters and how sophisticated the package is. Testing of each package is expected to take two to four weeks.

Vendors have the right to comment on the review and to appeal LTAC's recommendations to an impartial body.

Among more than 100 parameters tested and reported on are the price of the software; the extent of user assistance; the early trapping of errors; the range and extent of management reports; the variability in billing formats; the linkage to general ledger; the speed and ease of data input; the number of attorneys, matters and clients the system can handle; and the speed of the system when it is working at capacity.

LTAC's testing attempts to replicate the law office installation and use of the system. It is not only a formal software testing technique; ease of installation and extent of education and assistance are important factors in the LTAC review.

**This is an edited version of an article by the same name appearing in the January/February 1985 publication of Legal Economics.*

***Richard L. Robbins** is director of the Legal Technology Advisory Council. He is an attorney and electrical engineer. He has practiced law in a small firm, built computers, programmed, and helped attorneys automate their offices.*

**The Legal Technology Advisory Council was created by the ABA in 1983 to help lawyers in small and medium-sized firms use new technology and computerize their offices. LTAC reviews and approves software for firms which could not otherwise obtain responsible advice at a reasonable cost. LTAC reviews are from 30-50 pages in length and include a chart of features.*

Each month the ABA Journal *will list software that is in the review process and has received ABA approval. Legal Economics, published by the ABA Section of Economics of Law Practice, will publish synopses of reviews.*

LTAC has approved in 1985, as an Advanced System for use by small or medium-sized law offices (defined as single or multiuser microcomputer-based system for 6-20 lawyers requiring a number of management reports), the following:

1) TABS III [Software Technology, Inc., Bradley J. Berlin, 6720 N. 48th St., Suite 120, Lincoln NE 68504, (402) 466-1997]

2) PROMIS [Western Computer Systems, Inc., Marie Miller, 1000 Bertelsen, Unit 1, Eugene, OR 97402, (503) 485-4222]

Reviews may be ordered from the ABA, Order Fulfillment Code 219, 750 N. Lake Shore Drive, Chicago, IL 60611. Cost is $10 for ABA members and $25 for nonmembers; add $2 for handling. Standing orders are also available. Call (312) 988-5555 for more information on orders. Call (312) 988-5642 for more information on LTAC and the review process.

LTAC is directed by **Richard L. Robbins**, *attorney and electrical engineer.* **Francis H. Musselman** *of Washington, D.C., who is Council Chairperson, has been computerizing his law office for over 15 years.*

Council members include **Roberta Cooper Ramo**, *an attorney from Albuquerque and former chair of the Economics Section;* **Betsy Turner**, *a Great Bend, Kansas, law office administrator and head of the Section's Computer Division; and* **Albert L. Moses**, *editor of Legal Economics, a Columbia, South Carolina, attorney.*

Other members include **Rudy Engholm**, *an Ann Arbor, Michigan, attorney and a past editor of LOIS (Law Office Information Service) and LOCATE (a directory of legal software);* **Richard M. McGonigal**, *a Miami attorney, former chairman of the ABA Science and Technology Section and former editor of* Jurimetrics Journal; **Richard K. Donahue**, *a Lowell, Massachusetts, attorney and former member of the ABA Board of Governors and* **L. R. Hibbs of Reno**, *a former president of the State Bar of Nevada and a member of the ABA Board of Governors.*

Johnson, Reisler and White Elected to Board of Governors

Seattle attorney Steven A. Reisler has been elected to represent lawyers of King County as a Member-At-Large on the Board.

Reisler received his B.A. and M.A. degrees from Penn State University and, in 1979, received his J.D. from Georgetown University Law Center. Born at Fort Meade, Maryland, Reisler resided many years in Naples, Italy, West Berlin and Munich, Germany, and Washington D.C. before moving to Seattle. He became a member of the Washington Bar in 1979. He served as law clerk to the Honorable George H. Revelle of the King County Superior Court from 1979-1980. Currently, he is an associate in the law firm of Ogden, Ogden & Murphy.

Reisler was the editor of the *Washington State Bar News* from 1981-1985. He subsequently served on the Washington State Bar Association's Editorial Advisory Board. He is a member of the Washington State Bar Association's Young Lawyers section and also a member of the American and Seattle-King County Bar Associations.

Steven Reisler will succeed William L. Dwyer as one of two King County At Large representatives on the Board of Governors.

Frank Hayes Johnson of Spokane was born in 1928. He graduated from Gonzaga University Law School and was admitted to the Bar in 1951. He served as Adjunct Instructor in trial practice at Gonzaga from 1972 to 1973 and was Chief Criminal Deputy Prosecuting Attorney for Spokane County from 1955 to 1959.

He is a member of Spokane County and American Bar Associations as well as the International Association of Insurance Counsel. He is a Fellow of the American College of Trial Lawyers, of which he was State Chairman from 1983 to 1985. He was elected President of the Washington State Society of Hospital Attorneys in 1980.

He succeeds Joseph P. Delay as representative of the Fifth Congressional District on the Board.

Seattle attorney Jay V. White has been elected to represent the lawyers of the First Congressional District.

Admitted to the Bar in 1972, White is a sole practitioner with offices in an 1890 building in Ballard's Historic District and in downtown Seattle. He is a graduate of Amherst College and the University of Washington School of Law. He served as Law Clerk to State Court of Appeals Judge Herbert A. Swanson, 1972-75, and was an associate and shareholder with the firm of Houghton Cluck Coughlin & Riley, now Skellenger Ginsberg & Bender, 1976-84.

As Editor of the *Washington State Bar News*, 1976-80, White reported on 49 monthly meetings of the Board of Governors and created the "If You Ask Me" column.

Although his present general practice is marked by a business, corporate and personal injury caseload, White has written extensively in the field of Indian law. He is author of a book on the scope of Indian tax exemptions, *Taxing Those They Found Here* (1972), and was a contributing writer to the 1982 revision of the classic treatise, *Felix S. Cohen's Handbook of Federal Indian Law*.

White's other publications include feature articles in *The Seattle Times* and *The Philadelphia Bulletin*.

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

White will succeed Paul C. Gibbs as First Congressional District representative on the Board.

Frank Hayes Johnson

Steven A. Reisler

Photo by McLauchlan

Jay V. White

Dear Successor. . .

by **Claudia L. Palmer,** PLS

If you have ever wondered about the high staff turnover at some law offices, this letter may shed some light. When I gave the boss my resignation, he said he'd be hiring a trainee legal secretary. Because I won't be staying to introduce you to your duties, I'm leaving this to fill you in on some details the boss may not consider important enough to mention.

I'm leaving a secretarial manual for you—a 1945 edition I found in a used book store. It is dog-eared and worn, but you will need it because it covers office equipment and procedures no longer mentioned in modern business courses.

Your working tools reflect the boss' abiding concern with the dangers of purchasing office equipment before new developments have been perfected, not to mention what he feels are exorbitant prices for "flashy gimmicks."

The typewriter does not have an on-off switch. It does not plug into an electrical outlet. At the end of each line use the lever on the left to push the carriage to the far right to begin typing the next line. These features will be unsettling at first, but the boss is sold on this model's advantages. You can generally handle the maintenance yourself. He gets his money's worth from a ribbon—Even if there is a total power failure, you can continue typing.

The supply of extra typewriters for replacement parts is down to two, but Harry at the Antique Shoppe is keeping his eyes open and will call if one shows up. Herman is the only surviving repairman in the area familiar with this model; be prepared to wait for repairs if his arthritis is acting up.

Don't expect to catch up on the backlog in the morning. The boss always dictates until 11:30. Have several pencils sharpened and your shorthand pad ready at 9:00 sharp. When making calls for the boss, be sure to say you can't take return calls during that time.

There is a tiny shelf above and to one side of the typewriter. The boss becomes quite upset if his correspondence does not go out the same day it is dictated, and the shelf is just the right height to hold a milkshake with a bent straw. This makes a very nourishing lunch and leaves both hands free for typing.

A perfectionist regarding all his work, the boss has a color code for drafts. The rack below the milkshake shelf has colored paper in the proper order for the first eight drafts, beginning with the light green. For the ninth and subsequent drafts begin the sequence again, marking each carefully to avoid confusion with earlier versions.

Bookkeeping is not included in your duties, but you will be expected to type the monthly billings to clients. Endora, who set up the triple-entry ledger system before she retired, can fill you in. She comes in from the Sunset Home on Tuesdays and Fridays.

Keep the last weekend of each month free to come in to type the billings and envelopes.

The copying machine makes what are called "wet copies." Operating instructions are posted near the copier. Extra clothespins for the drying line are in the bottom desk drawer.

Client files are kept in the back storeroom, away from public view. Always take the flashlight (top drawer of the desk) when you look for a file. This will help avoid eyestrain.

If questions come up, feel free to call me at Looking Forward & Modern, P.S. Ask for the computer center, where I am training on the Avocado 2000—word processing to begin with, then client billing programs and central client data files—before I start my regular legal secretarial duties for Ms. Modern, using the computer terminal at my desk.

Claudia Palmer is past President of the Greater Seattle Legal Secretaries' Association. She has been a professional legal secretary for over nine years with Longfelder, Tinker, Kidman and Flora, who seriously began considering the installation of office computers after reading the pre-publication copy of the above article.

1985 INTERIM GRANT CRITERIA

The Legal Foundation of Washington was created by the Washington Supreme Court to receive interest on lawyers' pooled trust accounts. Lawyers' pooled trust accounts hold client funds that are so small in amount or held for such a brief period that it is not possible for the funds to economically benefit the individual client. Previously, attorneys' pooled trust accounts earned no interest, and financial institutions were the primary beneficiaries. In 1984, the state of Washington joined 36 other states in creating an interest on lawyers' trust accounts program (IOLTA) that will benefit charitable and educational interests. The Board of Trustees of the Legal Foundation of Washington has adopted interim grant criteria by which the interest earned in 1985 will be disbursed. The Board reserves the right to change these criteria as it continues to assess how and where its funds might be best used.

The Foundation provides the following information to guide grant applicants in applying for funds, and to explain how it proposes to distribute IOLTA funds during 1985.

Grant applications are available from the Foundation:

LEGAL FOUNDATION OF WASHINGTON
505 Madison, Suite 217
Seattle, Washington 98104
(206) 624-2536

All grant applications must be received by 5:00 p.m. October 15, 1985 in order to be considered. Grant funds will be disbursed no later than December 31, 1985.

STATEMENT OF PURPOSE

The Board of Trustees of the Legal Foundation of Washington will use the interest earned on IOLTA accounts as directed by the Supreme Court of Washington. The Supreme Court ruled that, "[T]he Foundation must use all funds received from lawyers' trust accounts for tax-exempt law-related charitable and educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, as directed by this court." *In the Matter of the Adoption of Amendments to CPR DR 9-102*, No. 25700-A-357, at p. 4.

In addition, projects eligible for funding in 1985 will be limited to the following six program areas.

1. Civil legal services for the poor,

2. Law-related educational programs for lay persons or which will have broad positive impact upon the legal problems of the poor,
3. Development of alternative dispute resolution mechanisms,
4. Development of *pro bono* and/or private bar representation for the indigent,
5. Development of new and innovative programs that will have broad impact on legal problems of the poor,
6. Discretionary funds to be disbursed in emergency situations by the Trustees of the Legal Foundation of Washington to assist organizations or community groups with unexpected need and to enable them to continue law-related educational or charitable services.

GRANT CRITERIA

The Foundation desires to make the best use of IOLTA funds and obtain maximum effect from each grant. Trustees will use the following guidelines, with exception where necessary, to assist in the grants decision-making process.

1. The Foundation favors funding groups or organizations (as opposed to individuals).
2. The Foundation favors challenge grants, or other types of fund-matching arrangements to leverage IOLTA money.
3. Grant applicants should, if possible, have sources of income in addition to the IOLTA funds requested.
4. Greater weight will be given to applicants with a prior history of service reflecting clear ability to deliver quality services successfully.
5. Greater weight will be given to applicants that work to develop cooperative efforts between grantees in a given service area.
6. The Foundation prefers to fund applicants that have community support.
7. The Foundation will fund applicants to achieve broad geographic and demographic distribution of IOLTA funds throughout the state.
8. The Foundation prefers to avoid replacing other funding sources.
9. In reviewing grants for renewal, greater weight will be given to previous Foundation recipients that have successfully utilized Foundation funds.

The Trustees will make funding determinations primarily on the basis of written applications. Applications should be directed to the Foundation's address to the attention of the executive director. The Trustees may, at their discretion, request supplements to the application and make on-site visits. The Trustees may request applications from potential providers in priority funding areas where no grant application has been received. All grants will be made pursuant to a

written contract between the recipient and the Foundation, and the Trustees will require periodic written reports regarding the use of the funds from each grantee.

The Trustees have defined a number of procedures with which grant applicants must comply.

1. Grant applicants must demonstrate fiscal responsibility and integrity.
2. All applicants must normally provide a copy of a program audit prepared within the previous two years.
3. Grant requests must be in writing in a manner prescribed by the Foundation, or on forms provided by the Foundation.
4. Grant requests must be consistent with the Foundation's statement of purpose.
5. Applicants must agree to follow Foundation grant assurances.
6. Applicants' financial records must be open to review, upon request of the Foundation, during the application process and thereafter if a grant is awarded.
7. Applicants agree that their applications, once received, become the property of the Foundation. The Foundation reserves the right to use any or all ideas presented whether or not an application is accepted for funding.

The Foundation wishes to avoid duplication of services within service areas and will not fund political campaigns, religious organizations for the purpose of furthering their religion, or constitutionally mandated legal services.

The Trustees do not know, at this time, the amount of total funds that will be available for distribution during the first year. In order to guide applicants as to the funds available, the Trustees will fund the six program areas based on the following priorities.

1. Civil legal services for the poor,
2. Development of new and innovative programs that will have broad impact on legal problems of the poor,
3. Development of alternative dispute resolution mechanisms, development of *pro bono* and/or private bar representation of the indigent, law-related educational programs for lay persons or which will have broad positive impact upon the legal problems of the poor,
4. Discretionary funds.

Where Are We Heading?

by **Harry E. Hennessey**

American lawyers are headed for serious financial trouble because they are feeling the bite of unaccustomed competition, according to an article entitled "Lawyers Versus the Marketplace" in the January issue of Forbes.

The article quotes Michael Magness of Martindale-Hubbell as stating: "Competitive pressures are forcing lawyers to become businessmen. The lawyer who doesn't become a good businessman isn't going to make it." The article states tens of thousands of lawyers take home $30,000.00 a year—many a good deal less. Statistically, their professional income is about evenly split between corporate and personal clients. On the personal side, real estate closings are a major revenue producer, along with divorce settlements and wills. On the business side, lawyers do lots of routine incorporation work and contract review. Many people have visions of takeover fights, huge negligence claims and dramatic murder trials, but these account for only a tiny portion of total legal income.

The article suggests that much of today's trouble stems from one simple fact: There are too many lawyers chasing too few clients. There were only 355,000 lawyers in the United States in 1970. There are 622,000 now, and there will be over a million in another ten years. The United States boasts over twice as many lawyers per thousand people as England and Wales, about five times as many as West Germany, and over 25 times as many as Japan.

According to a study of law firms nationwide, net income per partner was ten percent less, adjusted for inflation, in 1981 than in 1978. Several large firms have gone out of business. One 100-lawyer New York City firm closed its doors in 1982. Two other larger firms have followed suit.

Lawyers are feeling the effects of deregulation. In June of 1975, the Supreme Court ruled that State Bar Associations could no longer set minimum fees. Prior to that, lawyers could fix prices. Activities that would have sent ordinary businessmen to jail had been permitted. State Bar Associations stopped maintaining so-called unauthorized practice books. Today, lawyers must compete for estate tax and tax planning business with bankers and accountants. In addition, we are faced with reforms, such as no-fault insurance and no-fault divorce, which will continue to reduce lawyer income.

Once lawyers were permitted to advertise, many did so. It has become common for law firms to hire public relations consultants. Five thousand firms told the American Bar Association last year that they had tried advertising. A twelve-office firm based in Pennsylvania uses matchbook covers and bowling alley score sheets. Law firms now have glossy brochures they mail to prospective clients, and partners make cold calls on corporations.

Lawyer advertising is another step toward prepaid group practice. Plans are now available to perhaps two mil-

lion households, largely as a collective bargaining fringe benefit. Participants receive a guaranteed hourly rate for legal services. There are also free telephone consultations and low fixed prices for wills and divorces. An industry association study estimates that 25 million people will have such coverage in another 6 years. Nationwide Legal Services is a sponsor of prepaid legal plans that usually require attorneys to work for $50.00 per hour. They state that when they advertise for legal services, answers pour in by the hundreds.

One large insurance company is now testing its On-Line Legal Service program in six states. Potential customers receive flyers in Mastercard or VISA bills offering unlimited free consultations through a toll-free telephone number. The cost: $8.75 per month. Tough cases are referred to participating local counsel, who promise thirty minutes of office time for $15.00 and a 25% discount for plan members.

Legal clinics—the best known of which are Jacoby & Meyers and Hyatt Legal Services—are a threat to conventional law firms. These production-line operations offer basic legal services for a flat fee. They advertise heavily and operate out of easily accessible storefronts. Hyatt Legal Services works closely with H & R Block and now employs some 300 lawyers, ranking among the nation's 15 largest law firms. Hyatt claims it will soon be the largest law firm in America.

The Hyatts in this world are changing the way the public views legal services, changing them to a mere commodity bought in the marketplace. Much of the law is on its way to becoming a business like any other. This poses a direct threat for the 200,000 or more one-man offices. We ask ourselves if they will go the way of the Mom & Pop grocery stores which have been crowded out by supermarkets offering greater variety at better prices. On the other hand, the 7-11 and Quick Stop franchise stores appear to be successfully replacing the Mom & Pop groceries. Perhaps the legal franchise offices will do the same.

In the field of corporate law, the most obvious way corporations cut legal costs is to hire less expensive staff lawyers. GTE, for example, now has 117 lawyers, up from 61 in 1974. Firms are getting tougher, too, with outside counsel. It is becoming an era of getting paid by the job as opposed to charging on an hourly basis.

Leverage in law firms stems largely from hard-working associates. A partner who charges $120. per hour may bill 30 hours per week, but if he can keep two associates billing $75.00 per hour for 45 hours a week, he can share in their profits as well. This structure sometimes pushes law firms to grow too rapidly. Take a firm with 10 associates and 5 partners: Suppose 7 years later, one partner has left and 6 associates are ready to become partners. Now the firm needs as many as 20 associates to leverage the ten partners if traditional growth patterns are followed. The choice: either mushroom in size or see profits for partners shrink.

The picture is now clear—if American lawyers are to survive, they are going to have to adjust to the marketplace and become businesspersons as well as professionals.

***Harry E. Hennessey** is a founding partner of Hennessey, Curran and Blair in Spokane. He is a Fellow of the American College of Probate Council and an author and lecturer on real estate, estate planning, probate and office practice.*

Must Reading . . .

Management for In-House Counsel

(A 1985 Publication by the American Bar Association)

reviewed by **Michael B. Goldenkranz**

The knowledge and skills necessary to manage an effective corporate law department are rarely acquired through formal legal training. As this publication aptly states: "The role of the corporate counsel has evolved dramatically over the years; once considered merely legal advisors, these lawyers are now most often members of the senior management team."

Whether you are in the role of general counsel for a small or large business or need to develop your in-house organization, or all the managing partner of a law firm, this publication will help.

Many companies are building up their in-house legal staff. Some are cutting back on outside counsel, some are trying to dispense with outside counsel, and others are striving to put together a successful team of inside and outside counsel to provide corporate clients the desired level of legal services on an effective, timely, and optimum cost basis. Technology, the economy, and today's legal environment create significant challenges to the general counsel.

Management for In-House Counsel is divided into four parts: (1) Role of in-house counsel; (2) corporate law departments and organization structure; (3) management tools and techniques; (4) case studies. The authors are prominent business counsel with vision and foresight.

Corporate counsel must aggressively practice preventive law, not reactive law. Corporate counsel should be instrumental in setting up procedures to prevent legal infractions and to detect early warnings of possible improprieties. Besides being part of the planning process, audits and seminars should be utilized to update various departments on the latest developments. House counsel must also have an excellent business sense. One of the articles, by John J. Creedon (an attorney CEO of a large insurance company), explains that general counsel must be not only the manager or executive in charge of the law department, but an executive contributing to the overall policy making of the business enterprise as well.

Corporate legal counsel also should be utilized with government affairs personnel to evaluate and formulate prospective legislation and regulation.

House counsel need to take great care to differentiate their often dual role as advocate and advisor. Litigators must change their hats quickly when they walk in over the corporate threshold so as to be perceived as authoritative and articulate, but not arrogant. The negotiating skills used outside are far different from those utilized within, and internal counsel must relearn a double set of sometimes contradictory skills.

Being responsive to the client's needs means clearly delineating legal risks and measuring the likelihood of consequences adverse to the corporation. To make an informed decision management must weigh the benefits of proposed corporate action against the potential legal risks. To prevent problems from arising, corporate lawyers must be given the opportunity to learn the essentials of the client's business and to consult with management before making decisions.

Inside legal departments should develop litigation strategies that blend the use of staff litigators with their law firm counterparts, rather than being the passive recipients of outside legal sevices. Corporate legal departments should contemplate utilizing Lexis, Westlaw or other computer-base support systems—hardware may already be present within this and other departments.

Staying abreast of the demarcation between legal advice and business advice is difficult but crucial. Preserving the attorney-client and work-product privilege is extremely important. It's sometimes difficult, however, to determine where privileged legal advice ends and discoverable business advice begins.

According to a 1983 Harvard Law School study cited in the publication, the number of lawyers employed by corporations has almost doubled in the past decade; about 20 percent of all attorneys are now employed by corporations. House counsel is also unique in being both an attorney and consumer of outside legal services. House counsel must work side by side with outside counsel as equals. Certain corporate entities are developing small law firms within their company utilizing the expertise of specialists just as do outside firms.

An attorney who is successful in a corporate legal department may be lured by a firm into a future partnership situation. Sterling house counsel have gone on to senior management positions that may oversee more than just the legal departments.

Learning about the corporate client is not as simple as it initially appears. The attorney owes his or her allegiance to the entity—not to a stockholder, director, officer, or employee. Putting that into practice requires political, business and legal skills.

While articles proclaiming the necessity for—and the attraction of becoming—a corporate counsel abound, the literature dealing with organizing an in-house law department is still somewhat recent. In the large corporate setting a decision must be made whether the law department is centralized or decentralized. Working for a large national or regional organization often means that attorneys must be permanently stationed in or rotated through offices other than corporate headquarters. Whether all attorneys should report to general counsel or whether other specific departments should, in fact, be the "employer" of the particular attorney servicing their needs is often a perplexing issue. Whether the legal department should be closely modeled along the lines of a private law firm or similar to other corporate departments is an issue that needs to be addressed.

General counsel are acutely aware of the crunch to save their companies' legal dollars. As manager of a law department, they must plan, implement, and monitor a budget which includes unknown factors that cannot always be anticipated, such as the defense of lawsuits.

Management for In-House Counsel is a publication that is easy to read and reread as the occasion demands. The Economics of Law Practice Committee is to be commended for packing so powerful a punch in only 156 pages.

Michael B. Goldenkranz has been the Assistant General Counsel for Blue Cross of Washington and Alaska (and its subsidiaries) for a year and a half. He has been a trial lawyer in a law firm and with the government, is an instructor with the Highline Community College paralegal program and has hosted a South King County radio program, "Inside the Law."

WASHINGTON STATE BAR **NEWSLINE**

The Board's Work

by Carole Grayson

WHISTLER, B.C.--August 16-17, 1985. Present: All Governors except Elizabeth Bracelin and Harold Vhugen. **Also present:** Geoffrey Revelle (SKCBA Board of Trustees); C.J. Merritt and James Noe (Superior Court Judges Assn.); John Michalik (WSBA Executive Director); Bradley T. Jones, David Welts, and Robert Redman (ex-WSBA presidents); James M. Murphy (Magistrates Assn.); Seth Dawson (Wa. Assn. of Prosecuting Attorneys); Tom Loftus; John Fattorini (WSBA lobbyist); Patrick Comfort (WSBA president-designate); Steven Reisler, Jay White, and Frank Hayes Johnson (Governors-elect). **Present August 17:** Claire Cordon and Thomas Fitzpatrick (WSBA Young Lawyers Section), Patricia Schlosser (Wa. Women Lawyers), John Gray (Governmental Lawyers).

A LONG HARD LOOK AT LONG RANGE PLANNING

The Governors' agenda on August 18 consisted of one item: consideration of the Long Range Planning Task Force's 1985 Report. After the Board's August 1984 meeting in Coeur d' Alene, President Bob Redman of Yakima and President-elect F. Lee Campbell of Seattle appointed a 27 person task force to investigate the subject. Former Bar president Bradley T. Jones of Seattle chaired the task force, which included sub-committees on the Bar's structure, its members, and the public.

The only seriously controverted vote of the weekend came after a presentation by Seattle lawyers Claire Cordon and Tom Fitzpatrick of the WSBA Young Lawyer Section, who advocated a Young Lawyers seat on the Board of Governors. The duo proposed that the Governors create a task force (to include Governors and Young Lawyers) to work out a closer relationship between Young Lawyers and the Board. President Campbell broke a 4-4 tie by joining with Governors Dwyer, Delay, Petruss, and Bond in voting in favor of the task force. Voting against the motion were Lane, Zylstra (because the motion "gets away from the issue"), Moceri, and Gibbs.

Young Lawyers--persons under 36 years of age or with less than five years' membership in a Bar--constitute 70 per cent of the Washington Bar. "Having a Young Lawyers seat would be in the long range interest of the Bar," said Cordon. "It would enable Young Lawyers to become active in the Bar (and would provide) a leadership training ground."

In some of their dozens of decisions, the Board of Governors:

---tabled action on a recommendation of the task force which would allow non-resident members to vote for any position on the Board of Governors. Presently the 800+ nonresident members are disenfranchised because they do not reside in any congresssional district or qualify to vote for the King County At-Large positions. The motion to table prevailed by a vote of 5-3, with Petruss, Bond and Dwyer opposed.

---created a committee to study the specific physical plant needs of the Bar

---authorized investigation of a toll-free phone number to assist lawyers and the public to obtain access to the Bar, upon the motion of Governor Joe Delay of Spokane.

---adopted as the policy of the Board that "lay participation in Bar activities should be limited to areas of public interest."

---created a committee to consider whether to establish a "for profit" service corporation subsidiary corporation to handle unrelated income from the sale of books, etc.

The task force did not consider the question of voting by mail on resolutions. Executive Director Michalik said that a simple one way mailing to the Bar membership costs $8000; a two way mailing (without postage prepaid) costs $26,000. Upcoming conventions are in Hawaii (1986), Vancouver B.C. (1987-88), Whistler B.C. (1989).

SKILLS TRAINING

"It's very new, very experimental. We don't want to make any false steps if we can avoid them." With these words of Governor Dwyer of Seattle, the Board of Governors unanimously approved a pilot skills training program to be offered to a limited number (perhaps 96) recent admittees to the Bar. Student:faculty ratio will be 16:1.

British Columbia offers North America's most ambitious skills training program. During the required 13 months of "articling" (clerking) for a firm, new lawyers participate in a 10 week program that meets four days a week for six hours a day. Annual program costs in excess of $1 million (for seven full-time salaried staff and an executive director) are defrayed by the students (who pay $500 each for tuition), BC Law Society members, and the BC IOLTA program (which covers 1/2 the cost). More than 80 per cent of the participants have tuition paid by their firms; 70 per cent have their salaries continued during the program. The BC program does not include government funding, although skills training programs in Quebec and Ontario programs do. Lawyers in remote areas receive priority in participation.

At the other extreme is New Hampshire's program, mandatory during the first year following admission to the Bar. Its program comprises two full-days and 3 1/2 day Saturday sessions in a courtroom. Tuition of $80 include classroom and courtroom handbooks.

CrR 3.2

The Board of Governors voted to refer all versions of Criminal Rule 3.2 back to the Court Rules and Procedure Committee for further study, including consideration of a new ABA Standard (adopted July 10, 1985 and containing very restrictive preventive detention provision) and input from various interested groups. Governor Angelo Petruss of Olympia dissented from the motion to table. The matter will be considered for the third time in October.

IS IOLTA JUST?

The Board of Governors approved 6-2 (Zylstra and Bond dissenting) a resolution authorizing the Florida Justice Institute to represent the WSBA, at no cost, on an amicus curiae brief in opposition to a request that the U.S. Supreme Court grant certiorari in a California case involving the constitutionality of IOLTA programs.

A PRACTICAL NEW WSBA SECTION

The Board of Governors unanimously approved the creation of a WSBA Section on Law Office Economics & Management. The Section replaces the current committee on the same subject. The Governors' action came following

Rules of Professional Conduct

PULL-OUT SECTION

Effective September 1, 1985

Rules of Professional Conduct

INTRODUCTION TO THE RULES OF PROFESSIONAL CONDUCT

By order dated June 25, 1985, to be effective September 1, 1985, the Washington State Supreme Court rescinded the Code of Professional Responsibility and adopted the Rules of Professional Conduct. 104 Wn.2d 1102 (July 5, 1985). Because this new set of court rules establishes and regulates the ethical conduct of every member of the Washington State Bar Association, the Board of Governors decided to provide each member of the Association with a copy of the rules as adopted by the Supreme Court.

This brief introduction highlights some provisions of the Rules of Professional Conduct, but is not in any way intended to be authoritative, definitive, or exhaustive. You are cautioned, too, that material discussing the Model Rules of Professional Conduct, adopted by the American Bar Association House of Delegates in August, 1983, should be examined carefully. The Washington Rules of Professional Conduct are based on the ABA Model Rules but differ in several areas, including but not limited to disclosure of confidential information, advertising, the duty of candor toward the tribunal, conflicts of interest, safekeeping property, and imputed disqualification. The ABA Model Rules also included Comments, 69 A.B.A.J. 1671 (November, 1983), that were *not* adopted in this jurisdiction and so are only a useful secondary source of information.

The most immediately apparent difference between the Rules of Professional Conduct (RPC) and the former Code of Professional Responsibility (CPR) is the structure or format in which the provisions are arranged. The CPR consisted of aspirational Canons, advisory Ethical Considerations, and mandatory, enforceable Disciplinary rules. The RPC eliminate this three-tiered approach. Instead, the RPC state one set of definitive, black-letter rules. The status of the ethical rule as mandated or advised depends, in general, on the more conventional device of verb form, such as "shall", "should", or "may".

The Rules of Professional Conduct are arranged in eight Titles that are organized around the variety of roles a lawyer undertakes in daily practice. For example, Title 1 regulates the client-lawyer relationship while Title 4 provides guidance for transactions with persons who are not clients. However, the rules are also integrated throughout the Titles. As an illustration, RPC 1.6 and RPC 1.15 affect a lawyer's course of action under RPC 3.3. The RPC provide definitions in the "Terminology" section following the "Preliminary Statement". RPC 1.11(d) and (e) contain definitions for terms unique to that rule. Rule 7.3 describes the meaning of "solicit".

Rule 1.6 of the RPC governs the lawyer's duty of confidentiality. The rule closely follows former CPR DR 4-101, and the definitions of "confidences" and "secrets" found in CPR DR 4-101(A) have been added to the "Terminology" section. A lawyer is prohibited from revealing confidences or secrets unless the client consents after "consultation" (a term that is also defined in the "Terminology" section) or except as is impliedly authorized in order to carry out the representation. (Compare former CPR DR 4-101(C) (1)). The rule also permits disclosure to the extent the lawyer "reasonably believes" (a concept defined in "Terminology") such to be necessary to prevent the client's commission of a crime. (Compare former CPR DR 4-101(C)(3)). Lastly, a lawyer is permitted to disclose: pursuant to court order; to establish a defense to a civil or criminal claim against the lawyer; in a controversy with the client; in response to allegations in any proceeding concerning the lawyer's representation. (Compare former CPR DR 4-101(C)(2),(4)).

The Rules of Professional Conduct enhance the client's protection in any situation of potential conflict between the lawyer and the client, or between clients. In addition to advisements and the lawyer's own assessment, within guidelines stated in the rules, the rules require the client's written consent in certain situations. Pursuant to RPC 1.7(a)(2), a lawyer may not represent clients whose interests are directly adverse unless, as one prerequisite, each client consents in writing after full disclosure of the material facts. Similarly, RPC 1.7(b)(2) imposes a requirement of written consent before a lawyer assumes representation which may be materially limited by responsibilities to another client, or to a third person. A former client's written consent is required, under RPC 1.9, when a lawyer contemplates representation of another person in the same or a substantially related matter in which that person's interests are materially adverse to the former client. Each client's written consent is also required when the lawyer will be acting as an intermediary under RPC 2.2.

Title 7 of the Rules of Professional Conduct governs the dissemination of information about legal services. Rule 7.1 contains the basic prohibition against false or misleading communications, which underlies most of the remaining rules in the title. Rule 7.1 specifies three forms of communication that are deemed to be inherently false or misleading within the rule. Under rule 7.4, a lawyer may communicate the fields of law in which the lawyer does or does not practice. However, a lawyer may not state or imply that he or she is a specialist unless the lawyer is admitted to practice before the United States Patent and Trademark Office. (Compare CPR DR 2-105).

Rule 7.5 forbids the use of a trade name, except as precisely described by the rule. Thus, the term "legal clinic" may be used alone, or with a geographical designation, or with the name of one or more lawyers connected with the practice, subject to the basic prohibition of RPC 7.1. The provision in former CPR DR 2-102(B), stating that a firm may continue to use the name of a retired or deceased member, was added to RPC 7.5(a).

Several other provisions from the Code of Professional Responsibility were incorporated, in whole or in part or in concept, into the Rules of Professional Conduct. The Preamble and Preliminary Statement from the CPR were substituted for the Model Rules Preamble and Scope. CPR DR 5-103(B) was incorporated into RPC 1.8 as paragraph (e). CPR DR 9-102, as amended at 101 Wn.2d 1242 (1984), replaced the model rule on the subject of safekeeping property, entirely. The supersedure of RCW 2.44.040, found in former CPR DR 2-110(B), was added to RPC 1.15. RPC 3.4(f) was modified by inclusion of the phrase from CPR DR 7-106(C)(4) allowing a lawyer to argue for any position or conclusion based on his or her analysis of the evidence. Portions of CPR DR 5-101 and CPR DR 5-102 were integrated into Rule 3.7 of the Rules of Professional Conduct. Lastly, the suggestion in EC 8-6 that the bar should support adjudicatory officers against unjust criticism was developed into RPC 8.2(c).

As set forth in RPC 8.5, these new rules apply to a lawyer licensed or admitted for any purpose to practice in this jurisdiction although engaged in practice elsewhere.

RULES OF PROFESSIONAL CONDUCT

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Title 4—TRANSACTIONS WITH PERSONS OTHER THAN CLIENTS

Title 5—LAW FIRMS AND ASSOCIATIONS

Title 6—PUBLIC SERVICE

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PREAMBLE

The continued existence of a free and democratic society depends upon recognition of the concept that justice is based upon the rule of law grounded in respect for the dignity of the individual and the capacity through reason for enlightened self-government. Law so grounded makes justice possible, for only through such law does the dignity of the individual attain respect and protection. Without it, individual rights become subject to unrestrained power, respect for law is destroyed, and rational self-government is impossible.

Lawyers, as guardians of the law, play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship with and function in our legal system. A consequent obligation of lawyers is to maintain the highest standards of ethical conduct.

In fulfilling professional responsibilities, a lawyer necessarily assumes various roles that require the performance of many difficult tasks. Not every situation which a lawyer may encounter can be foreseen, but fundamental ethical principles are always present as guidelines. Within the framework of these principles, a lawyer must with courage and foresight be able and ready to shape the body of the law to the ever-changing relationships of society.

The Rules of Professional Conduct point the way to the aspiring and provide standards by which to judge the transgressor. Each lawyer must find within his or her own conscience the touchstone against which to test the extent to which his or her actions should rise above minimum standards. But in the last analysis it is the desire for the respect and confidence of the members of the legal profession and the society which the lawyer serves that should provide to a lawyer the incentive for the highest possible degree of ethical conduct. The possible loss of that respect and confidence is the ultimate sanction. So long as its practitioners are guided by these principles, the law will continue to be a noble profession. This is its greatness and its strength, which permit of no compromise.

PRELIMINARY STATEMENT

The Rules of Professional Conduct ("Rules") are mandatory in character. The Rules state the minimum level of conduct below which no lawyer can fall without being subject to disciplinary action. Within the framework of fair trial, the Rules should be uniformly applied to all lawyers, regardless of the nature of their professional activities. The Rules make no attempt to prescribe either disciplinary procedures or penalties for violation of a Rule, nor do they undertake to define standards for civil liability of lawyers for professional conduct. The severity of judgment against one found guilty of violating a Rule should be determined by the character of the offense and the attendant circumstances.

TERMINOLOGY

"Belief" or "Believes" denotes that the person involved actually supposed the fact in question to be true. A person's belief may be inferred from circumstances.

"Confidence" refers to information protected by the attorney-client privilege under applicable law, and "secret" refers to other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.

"Consult" or "Consultation" denotes communication of information reasonably sufficient to permit the client to appreciate the significance of the matter in question.

"Firm" or "Law firm" denotes a lawyer or lawyers in a private firm, lawyers employed in the legal department of a corporation or other organization and lawyers employed in a legal services organization.

"Fraud" or "Fraudulent" denotes conduct having a purpose to deceive and not merely negligent misrepresentation or failure to apprise another of relevant information.

"Knowingly," "Known," or "Knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

"Partner" denotes a member of a partnership and a shareholder in a law firm organized as a professional corporation.

"Reasonable" or "Reasonably" when used in relation to conduct by a lawyer denotes the conduct of a reasonably prudent and competent lawyer.

"Reasonable belief" or "Reasonably believes" when used in reference to a lawyer denotes that the lawyer believes the matter in question and that the circumstances are such that the belief is reasonable.

"Reasonably should know" when used in reference to a lawyer denotes that a lawyer of reasonable prudence and competence would ascertain the matter in question.

"Secret" *see* "Confidence", *supra.*

"Substantial" when used in reference to degree or extent denotes a material matter of clear and weighty importance.

Title 1—CLIENT-LAWYER RELATIONSHIP

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RPC 1.1

COMPETENCE

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

RPC 1.2

SCOPE OF REPRESENTATION

(a) A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (c), (d) and (e), and shall consult with the client as to the means by which they are to be pursued. A lawyer shall abide by a client's decision whether to accept an offer of settlement of a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

(c) A lawyer may limit the objectives of the representation if the client consents after consultation.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

(e) When a lawyer knows that a client expects assistance not permitted by the rules of professional conduct or other law, the lawyer shall consult with the client regarding the relevant limitations on the lawyer's conduct.

RPC 1.3

DILIGENCE

A lawyer shall act with reasonable diligence and promptness in representing a client.

RPC 1.4

COMMUNICATION

(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

RPC 1.5

FEES

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

(b) When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.

(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by para-

graph (d) or other law. A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(d) A lawyer shall not enter into an arrangement for, charge, or collect:

(1) any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a dissolution or annulment of marriage or upon the amount of maintenance or support, or property settlement in lieu thereof (except in post dissolution proceedings); or

(2) a contingent fee for representing a defendant in a criminal case.

(e) A division of fee between lawyers who are not in the same firm may be made only if:

(1) the division is between the lawyer and a duly authorized lawyer referral service of either the Washington State Bar Association or of one of the county bar associations of this state; or

(2) the division is in proportion to the services provided by each lawyer or, by written agreement with the client, each lawyer assumes joint responsibility for the representation; the client is advised of and does not object to the participation of all the lawyers involved; and the total fee is reasonable.

RPC 1.6

CONFIDENTIALITY

(a) A lawyer shall not reveal confidences or secrets relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraph (b).

(b) A lawyer may reveal such confidences or secrets to the extent the lawyer reasonably believes necessary:

(1) to prevent the client from committing a crime; or

(2) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, to respond to allegations in any proceeding concerning the lawyer's representation of the client, or pursuant to court order.

RPC 1.7

CONFLICT OF INTEREST: GENERAL RULE

(a) A lawyer shall not represent a client if the representation of that client will be directly adverse to another client, unless:

(1) the lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and

(2) each client consents in writing after consultation and a full disclosure of the material facts (following authorization from the other client to make such a disclosure).

(b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:

(1) the lawyer reasonably believes the representation will not be adversely affected; and

(2) the client consents in writing after consultation and a full disclosure of the material facts (following authorization from the other client to make such a disclosure). When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

RPC 1.8

CONFLICT OF INTEREST: PROHIBITED TRANSACTIONS: CURRENT CLIENT

A lawyer who is representing a client in a matter:

(a) shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:

(1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner which can be reasonably understood by the client;

(2) the client is given a reasonable opportunity to seek the advice of independent counsel in the transaction; and

(3) the client consents thereto.

(b) shall not use information relating to representation of a client to the disadvantage of the client unless the client consents in writing after consultation.

(c) shall not prepare an instrument giving the lawyer or a person related to the lawyer as parent, child, sibling, or spouse any substantial gift from a client, including a testa-

mentary gift, except where the client is related to the donee.

(d) shall not, prior to the conclusion of representation of a client, make or negotiate an agreement giving the lawyer literary or media rights to a portrayal or account based in substantial part on information relating to the representation.

(e) shall not, while representing a client in connection with contemplated or pending litigation, advance or guarantee financial assistance to his or her client, except that a lawyer may advance or guarantee the expenses of litigation, including court costs, expenses of investigation, expenses of medical examination, and costs of obtaining and presenting evidence, provided the client remains ultimately liable for such expenses.

(f) shall not accept compensation for representing a client from one other than the client unless:

(1) the client consents after consultation;

(2) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and

(3) information relating to representation of a client is protected as required by Rule 1.6.

(g) shall not, while representing two or more clients, participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case an aggregated agreement as to guilty or nolo contendere pleas, unless each client consents after consultation, including disclosure of the existence and nature of all the claims or pleas involved and the participation of each person in the settlement.

(h) shall not make an agreement prospectively limiting the lawyer's liability to a client for malpractice unless permitted by law and the client is independently represented in making the agreement, or settle a claim for such liability with an unrepresented client or former client without first advising that person in writing that independent representation is appropriate in connection therewith.

(i) shall not, if related to another lawyer as parent, child, sibling or spouse, represent a client in a representation directly adverse to a person who the lawyer knows is represented by the other lawyer except upon consent by the client after consultation regarding the relationship.

(j) shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may:

(1) acquire a lien granted by law to secure the lawyer's fee or expenses; and

(2) contract with a client for a reasonable contingent fee in a civil case.

RPC 1.9

CONFLICT OF INTEREST: FORMER CLIENT

A lawyer who has formerly represented a client in a matter shall not thereafter:

(a) represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client consents in writing after consultation and a full disclosure of the material facts; or

(b) use confidences or secrets relating to the representation to the disadvantage of the former client, except as Rule 1.6 would permit.

RPC 1.10

IMPUTED DISQUALIFICATION: GENERAL RULE

(a) While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7, 1.8 (c), 1.9 or 2.2

(b) When a lawyer becomes associated with a firm, the firm may not knowingly represent a person in the same or a substantially related matter in which that lawyer, or a firm with which the lawyer was associated, had previously represented a client whose interests are materially adverse to that person and about whom the lawyer had acquired confidences or secrets protected by Rules 1.6 and 1.9 (b) that is material to the matter.

(c) When a lawyer has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interests materially adverse to those of a client represented by the formerly associated lawyer unless:

(1) the matter is the same or substantially related to that in which the formerly associated lawyer represented the client; and

(2) any lawyer remaining in the firm has acquired confidences or secrets protected by Rules 1.6 and 1.9(b) that is material to the matter.

(d) A disqualification prescribed by this Rule may be waived by the affected client under the conditions stated in Rule 1.7.

RPC 1.11

SUCCESSIVE GOVERNMENT AND PRIVATE EMPLOYMENT

(a) Except as law may otherwise expressly permit, a lawyer shall not represent a private client in connection with a matter in which the lawyer participated personally and substantially

as a public officer or employee, unless the appropriate government agency consents after consultation. No lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter unless:

(1) the disqualified lawyer is screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(2) written notice is promptly given to the appropriate government agency to enable it to ascertain compliance with the provisions of this rule.

(b) Except as law may otherwise expressly permit, a lawyer having information that the lawyer knows is confidential government information about a person acquired when the lawyer was a public officer or employee, may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. A firm with which that lawyer is associated may undertake or continue representation in the matter only if the disqualified lawyer is screened from any participation in the matter and is apportioned no part of the fee therefrom.

(c) Except as law may otherwise expressly permit, a lawyer serving as a public officer or employee shall not:

(1) participate in a matter in which the lawyer participated personally and substantially while in private practice or nongovernmental employment, unless under applicable law no one is, or by lawful delegation may be, authorized to act in the lawyer's stead in the matter; or

(2) negotiate for private employment with any person who is involved as a party or as attorney for a party in a matter in which the lawyer is participating personally and substantially.

(d) As used in this Rule, the term "matter" includes:

(1) any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties; and

(2) any other matter covered by the conflict of interest rules of appropriate government agency.

(e) As used in this Rule, the term "confidential government information" means information which has been obtained under governmental authority and which, at the time this Rule is applied, the government is prohibited by law from disclosing to the public or has a legal privilege not to disclose, and which is not otherwise available to the public.

RPC 1.12

FORMER JUDGE OR ARBITRATOR

(a) Except as stated in paragraph (d), a lawyer shall not represent anyone in connection with a matter in which the lawyer participated personally and substantially as a judge or other adjudicative officer, arbitrator or law clerk to such a person, unless all parties to the proceeding consent after disclosure.

(b) A lawyer shall not negotiate for employment with any person who is involved as a party or as attorney for a party in a matter in which the lawyer is participating personally and substantially as a judge or other adjudicative officer, or arbitrator. A lawyer serving as a law clerk to a judge, other adjudicative officer or arbitrator may negotiate for employment with a party or attorney involved in a matter in which the clerk is participating personally and substantially, but only after the lawyer has notified the judge, other adjudicative officer or arbitrator.

(c) If a lawyer is disqualified by paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in the matter unless:

(1) the disqualified lawyer is screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(2) written notice is promptly given to the appropriate tribunal to enable it to ascertain compliance with the provisions of this rule.

(d) An arbitrator selected as a partisan of a party in a multi-member arbitration panel is not prohibited from subsequently representing that party.

RPC 1.13

CLIENT UNDER A DISABILITY

(a) When a client's ability to make adequately considered decisions in connection with the representation is impaired, whether because of minority, mental disability or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.

(b) When the lawyer reasonably believes that the client cannot adequately act in the client's own interest, a lawyer may seek the appointment of a guardian or take other protective action with respect to a client.

RPC 1.14

PRESERVING IDENTITY OF FUNDS AND PROPERTY OF A CLIENT

(a) All funds of clients paid to a lawyer or law firm, including advances for costs and expenses, shall be deposited in one or more identifiable interest-bearing trust accounts maintained as set forth in RPC 1.14(c), and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:

(1) Funds reasonably sufficient to pay bank charges may be deposited therein.

(2) Funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, but the portion belonging to the lawyer or law firm may be withdrawn when due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

(b) A lawyer shall:

(1) Promptly notify a client of the receipt of his or her funds, securities, or other properties.

(2) Identify and label securities and properties of a client promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable.

(3) Maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to his or her client regarding them.

(4) Promptly pay or deliver to the client as requested by a client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive.

(c) Each trust account referred to in RPC 1.14(a) shall be an interest-bearing trust account in any bank, credit union or savings and loan association, selected by a lawyer in the exercise of ordinary prudence, authorized by federal or state law to do business in Washington and insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, the Washington Credit Union Share Guaranty Association, or the Federal Savings and Loan Insurance Corporation, or which is a "qualified public depository" as defined in RCW 39.58.010(1). Interest-bearing trust funds shall be placed in accounts in which withdrawals or transfers can be made without delay when such funds are required, subject only to any notice period which the depository institution is required to reserve by law or regulation.

(1) A lawyer who receives client funds shall maintain a pooled interest-bearing trust account for deposit of client funds that are nominal in amount or expected to be held for a short period of time. The interest accruing on this account, net of any transaction costs, shall be paid to The Legal Foundation of Washington, as established by the Supreme Court of Washington. A lawyer may, but shall not be required to, notify the client of the intended use of such funds.

(2) All client funds shall be deposited in the account specified in subsection (1) unless they are deposited in:

(a) A separate interest-bearing trust account for the particular client or client's matter on which the interest will be paid to the client; or

(b) A pooled interest-bearing trust account with sub-accounting that will provide for computation of interest earned by each client's funds and the payment thereof to the client.

(3) In determining whether to use the account specified in subsection (1) or an account specified in subsection (2), a lawyer shall consider only whether the funds to be invested could be utilized to provide a positive net return to the client, as determined by taking into consideration the following factors:

(a) the amount of interest that the funds would earn during the period they are expected to be deposited;

(b) The cost of establishing and administering the account, including the cost of the lawyer's services and the cost of preparing any tax reports required for interest accruing to a client's benefit; and

(c) The capability of financial institutions to calculate and pay interest to individual clients.

(4) As to accounts created under subsection (c)(1), lawyers or law firms shall direct the depository institution:

(a) To remit interest or dividends, net of any service charges or fees, on the average monthly balance in the account, or as otherwise computed in accordance with an institution's standard accounting practice, at least quarterly, to The Legal Foundation of Washington (the Foundation);

(b) To transmit with each remittance to the Foundation a statement showing the name of the lawyer or law firm for whom the remittance is sent, the rate of interest applied, and the amount of service charges deducted, if any, and the account balance(s) of the period in which the report is made, with a copy of such statement to be transmitted to the depositing lawyer or law firm.

(5) The Foundation shall prepare an annual report to the Supreme Court of Washington that summarizes the Foundation's income, grants and operating expenses, implementation of its corporate purposes, and any problems arising in the administration of the program established by section (c) of this rule.

(6) The provisions of section (c) shall not relieve a lawyer or law firm from any obligation imposed by these rules with respect to safekeeping of clients' funds, including the requirements of section (b) that a lawyer shall promptly notify a client of the receipt of his or her funds and shall promptly pay or deliver to the client as requested all funds in the possession of the lawyer which the client is entitled to receive.

RPC 1.15

DECLINING OR TERMINATING REPRESENTATION

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall, notwithstanding RCW 2.44.040, withdraw from the representation of a client if:

(1) the representation will result in violation of the rules of professional conduct or other law;

(2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or

(3) the lawyer is discharged.

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if withdrawal can be accomplished without material adverse effect on the interests of the client, or if:

(1) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;

(2) the client has used the lawyer's services to perpetrate a crime or fraud;

(3) the client insists upon pursuing an objective that the lawyer considers repugnant or imprudent;

(4) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(5) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or

(6) other good cause for withdrawal exists.

(c) When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

(d) A lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law.

Title 2—COUNSELOR

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RPC 2.1

ADVISOR

In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation.

RPC 2.2

INTERMEDIARY

(a) A lawyer may act as intermediary between clients if:

(1) the lawyer consults with each client concerning the implications of the common representation, including the advantages and risks involved, and the effect on the attorney-client privileges, and obtains each client's written consent to the common representation;

(2) the lawyer reasonably believes that the matter can be resolved on terms compatible with the clients' best interests, that each client will be able to make adequately informed decisions in the matter and that there is little risk of material prejudice to the interests of any of the clients if the contemplated resolution is unsuccessful; and

(3) the lawyer reasonably believes that the common representation can be undertaken impartially and without improper effect on other responsibilities the lawyer has to any of the clients.

(b) While acting as intermediary, the lawyer shall consult with each client concerning the decisions to be made and the considerations relevant in making them, so that each client can make adequately informed decisions.

(c) A lawyer shall withdraw as intermediary if any of the clients so requests, or if any of the conditions stated in paragraph (a) is no longer satisfied. Upon withdrawal, the lawyer shall not continue to represent any of the clients in the matter that was the subject of the intermediation.

RPC 2.3

EVALUATION FOR USE BY THIRD PERSONS

(a) A lawyer may undertake an evaluation of a matter affecting a client for the use of someone other than the client if:

(1) the lawyer reasonably believes that making the evaluation is compatible with other aspects of the lawyer's relationship with the client; and

(2) the client consents after consultation.

(b) Except as disclosure is required in connection with a report of an evaluation, information relating to the evaluation is otherwise protected by Rule 1.6.

Title 3—ADVOCATE

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RPC 3.1

MERITORIOUS CLAIMS AND CONTENTIONS

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

RPC 3.2

EXPEDITING LITIGATION

A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

RPC 3.3

CANDOR TOWARD THE TRIBUNAL

(a) A lawyer shall not knowingly:

(1) Make a false statement of material fact or law to a tribunal;

(2) Fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client unless such disclosure is prohibited by Rule 1.6;

(3) Fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel;

(4) Offer evidence that the lawyer knows to be false.

(b) The duties stated in paragraph (a) continue to the conclusion of the proceeding.

(c) If the lawyer has offered material evidence and comes to know of its falsity, the lawyer shall promptly disclose this fact to the tribunal unless such disclosure is prohibited by Rule 1.6.

(d) If the lawyer has offered material evidence and comes to know of its falsity, and disclosure of this fact is prohibited by Rule 1.6, the lawyer shall promptly make reasonable efforts to convince the client to consent to disclosure. If the client refuses to consent to disclosure, the lawyer may seek to withdraw from the representation in accordance with Rule 1.15.

(e) A lawyer may refuse to offer evidence that the lawyer reasonably believes is false.

(f) In an ex parte proceeding, a lawyer shall inform the tribunal of all relevant facts known to the lawyer that should be disclosed to permit the tribunal to make an informed decision, whether or not the facts are adverse.

(g) Constitutional law defining the right to assistance of counsel in criminal cases may supersede the obligations stated in this rule.

RPC 3.4

FAIRNESS TO OPPOSING PARTY AND COUNSEL

A lawyer shall not:

(a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;

(b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;

(c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;

(d) in pretrial procedure, make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party;

(e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, or assert personal knowledge of facts in issue except when testifying as a witness; or

(f) in trial, state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused, but the lawyer may argue, on his or her analysis of the evidence, for any position or conclusion with respect to the matters stated herein.

RPC 3.5

IMPARTIALITY AND DECORUM OF THE TRIBUNAL

A lawyer shall not:

(a) seek to influence a judge, juror, prospective juror or other official by means prohibited by law;

(b) communicate ex parte with such a person except as permitted by law; or

(c) engage in conduct intended to disrupt a tribunal.

RPC 3.6

TRIAL PUBLICITY

(a) A lawyer shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial

likelihood of materially prejudicing an adjudicative proceeding.

(b) A statement referred to in paragraph (a) ordinarily is likely to have such an effect when it refers to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration, and the statement relates to:

(1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness;

(2) in a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;

(3) the performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;

(4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration;

(5) information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing an impartial trial; or

(6) the fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.

(c) Notwithstanding paragraphs (a) and (b)(1-5), a lawyer involved in the investigation or litigation of a matter may state without elaboration:

(1) the general nature of the claim or defense;

(2) the information contained in a public record;

(3) that an investigation of the matter is in progress, including the general scope of the investigation, the offense or claim or defense involved and, except when prohibited by law, the identity of the persons involved;

(4) the scheduling or result of any step in litigation;

(5) a request for assistance in obtaining evidence and information necessary thereto;

(6) a warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and

(7) in a criminal case;

(i) the identity, residence, occupation and family status of the accused;

(ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;

(iii) the fact, time and place of arrest; and

(iv) the identity of investigating and arresting officers or agencies and the length of the investigation.

RPC 3.7
LAWYER AS WITNESS

A lawyer shall not act as advocate at a trial in which the lawyer or another lawyer in the same law firm is likely to be a necessary witness except where:

(a) The testimony relates to an issue that is either uncontested or a formality;

(b) The testimony relates to the nature and value of legal services rendered in the case; or

(c) The lawyer has been called by the opposing party and the court rules that the lawyer may continue to act as an advocate; or

(d) The trial judge finds that disqualification of the lawyer would work a substantial hardship on the client and that the likelihood of the lawyer being a necessary witness was not reasonably foreseeable before trial.

RPC 3.8
SPECIAL RESPONSIBILITIES OF A PROSECUTOR

The prosecutor in a criminal case shall:

(a) refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;

(b) make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel;

(c) not seek to obtain from an unrepresented accused a waiver of important pretrial rights, such as the right to a preliminary hearing;

(d) make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal; and

(e) exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6.

RPC 3.9
ADVOCATE IN NONADJUDICATIVE PROCEEDINGS

A lawyer representing a client before a legislative or administrative tribunal in a nonadjudicative proceeding shall disclose that the appearance is in a representative capacity and shall conform to the provisions of Rules 3.3(a) through (e), 3.4(a) through (c), and 3.5.

Title 4—TRANSACTIONS WITH PERSONS OTHER THAN CLIENTS

Table of Contents

RPC 4.1
TRUTHFULNESS IN STATEMENTS TO OTHERS

In the course of representing a client a lawyer shall not knowingly:

(a) make a false statement of material fact or law to a third person; or

(b) fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.

RPC 4.2
COMMUNICATION WITH PERSON REPRESENTED BY COUNSEL

In representing a client, a lawyer shall not communicate about the subject of the representation with a party the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized by law to do so.

RPC 4.3
DEALING WITH UNREPRESENTED PERSON

In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding.

RPC 4.4
RESPECT FOR RIGHTS OF THIRD PERSON

In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

Title 5—LAW FIRMS AND ASSOCIATIONS

Table of Contents

RPC 5.1
RESPONSIBILITIES OF A PARTNER OR SUPERVISORY LAWYER

(a) A partner in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the rules of professional conduct.

(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the rules of professional conduct.

(c) A lawyer shall be responsible for another lawyer's violation of the rules of professional conduct if:

(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

RPC 5.2
RESPONSIBILITIES OF A SUBORDINATE LAWYER

(a) A lawyer is bound by the rules of professional conduct notwithstanding that the lawyer acted at the direction of another person.

(b) A subordinate lawyer does not violate the rules of professional conduct if that lawyer acts in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional duty.

RPC 5.3
RESPONSIBILITIES REGARDING NONLAWYER ASSISTANTS

With respect to a nonlawyer employed or retained by or associated with a lawyer:

(a) a partner in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is com-

patible with the professional obligations of the lawyer;

(b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and

(c) a lawyer shall be responsible for conduct of such a person that would be a violation of the rules of professional conduct if engaged in by a lawyer if:

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

RPC 5.4
PROFESSIONAL INDEPENDENCE OF A LAWYER

(a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:

(1) an agreement by a lawyer with the lawyer's firm, partner, or associate may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons;

(2) a lawyer who undertakes to complete unfinished legal business of a deceased lawyer may pay to the estate of the deceased lawyer that proportion of the total compensation which fairly represents the services rendered by the deceased lawyer; and

(3) a lawyer or law firm may include nonlawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement.

(b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.

(c) A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.

(d) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:

(1) a nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;

(2) a nonlawyer is a corporate director or officer (other than as secretary or treasurer) thereof; or

(3) a nonlawyer has the right to direct or control the professional judgment of a lawyer.

RPC 5.5
UNAUTHORIZED PRACTICE OF LAW

A lawyer shall not:

(a) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; or

(b) assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.

RPC 5.6
RESTRICTIONS ON RIGHT TO PRACTICE

A lawyer shall not participate in offering or making:

(a) a partnership or employment agreement that restricts the rights of a lawyer to practice after termination of the relationship, except an agreement concerning benefits upon retirement; or

(b) an agreement in which a restriction on the lawyer's right to practice is part of the settlement of a controversy between private parties.

Title 6—PUBLIC SERVICE

Table of Contents

RPC 6.1
PRO BONO PUBLICO SERVICE

A lawyer should render public interest legal service. A lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations, by service in activities for improving the law, the legal system or the legal profession, and by financial support for organizations that provide legal services to persons of limited means.

RPC 6.2
ACCEPTING APPOINTMENTS

A lawyer shall not seek to avoid appointment by a tribunal to represent a person except for good cause, such as:

(a) representing the client is likely to result in violation of the rules of professional conduct or other law;

(b) representing the client is likely to result in an unreasonable financial burden on the lawyer; or

(c) the client or the cause is so repugnant to the lawyer as to be likely to impair the client-lawyer relationship or the lawyer's ability to represent the client.

RPC 6.3
MEMBERSHIP IN LEGAL SERVICES ORGANIZATION

A lawyer may serve as a director, officer or member of a legal services organization, apart from the law firm in which the lawyer practices, notwithstanding that the organization serves persons having interests adverse to a client of the lawyer. The lawyer shall not knowingly participate in a decision or action of the organization:

(a) if participating in the decision would be incompatible with the lawyer's obligations to a client under Rule 1.7; or

(b) where the decision could have a material adverse effect on the representation of a client of the organization whose interests are adverse to a client of the lawyer.

RPC 6.4
LAW REFORM ACTIVITIES AFFECTING CLIENT INTERESTS

A lawyer may serve as a director, officer or member of an organization involved in reform of the law or its administration notwithstanding that the reform may affect the interests of a client of the lawyer. When the lawyer knows that the interests of a client may be materially benefitted by a decision in which the lawyer participates, the lawyer shall disclose that fact but need not identify the client.

Title 7—INFORMATION ABOUT LEGAL SERVICES

Table of Contents

RPC 7.1
COMMUNICATIONS CONCERNING A LAWYER'S SERVICES

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it:

(a) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;

(b) is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the rules of professional conduct or other law; or

(c) compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated.

RPC 7.2
ADVERTISING

(a) Subject to the requirements of Rule 7.1, a lawyer may advertise services through public media, such as a telephone directory, legal directory, newspaper or other periodical, outdoor, radio or television, or through written communication not involving solicitation as defined in Rule 7.3.

(b) A copy or recording of an advertisement or written communication shall be kept for two years after its last dissemination along with a record of when and where it was used.

(c) A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may pay the reasonable cost of advertising or written communication permitted by this rule and may pay the usual charges of a not-for-profit lawyer referral service or other legal service organization.

(d) Any communication made pursuant to this rule shall include the name of at least one lawyer responsible for its content.

RPC 7.3
DIRECT CONTACT WITH PROSPECTIVE CLIENTS

A lawyer shall not solicit professional employment from a prospective client with whom the lawyer has no family or prior professional relationship, by mail, in-person or otherwise, when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain. The term "solicit" includes contact in person, by telephone or telegraph, by letter or other writing, or by other communication directed to a specific recipient but does not include letters addressed or advertising circulars distributed generally to persons not known to need legal services of the kind provided by the lawyer in a particular matter, but who are so situated that they might in general find such services useful.

RPC 7.4
COMMUNICATION OF FIELDS OF PRACTICE

A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law. A lawyer shall not state or imply that the lawyer is a specialist except that a lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "patent attorney" or a substantially similar designation.

RPC 7.5
FIRM NAMES AND DESIGNATIONS

(a) A trade name may not be used by a lawyer in private practice except that the use of the words "legal clinic" may be used alone or in conjunction with a geographical designation or the name of one or more of the lawyers connected with the practice so long as the name is not otherwise in violation of Rule 7.1 and except if otherwise lawful a firm may use as, or continue to include in, its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession.

(b) A law firm with offices in more than one jurisdiction may use the same name in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

(c) The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.

(d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.

Title 8—MAINTAINING THE INTEGRITY OF THE PROFESSION

Table of Contents

RPC 8.1
BAR ADMISSION MATTERS

An applicant for admission to the bar, or a lawyer in connection with a bar admission application, shall not:

(a) knowingly make a false statement of material fact; or

(b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

RPC 8.2
JUDICIAL AND LEGAL OFFICIALS

(a) A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications, integrity, or record of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office.

(b) A lawyer who is a candidate for judicial office shall comply with the applicable provisions of the code of judicial conduct.

(c) A lawyer, in order to assist in maintaining the fair and independent administration of justice, should support and continue traditional efforts to defend judges and courts from unjust criticism.

RPC 8.3
REPORTING PROFESSIONAL MISCONDUCT

(a) A lawyer having knowledge that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, should promptly inform the appropriate professional authority.

(b) A lawyer having knowledge that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office should promptly inform the appropriate authority.

(c) This rule does not require disclosure of information otherwise protected by Rule 1.6.

RPC 8.4
MISCONDUCT

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the rules of professional conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice;

(e) state or imply an ability to influence improperly a government agency or official; or

(f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

RULE 8.5
JURISDICTION

A lawyer licensed or admitted for any purpose to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction although engaged in practice elsewhere.

Direct Dial Telephone Numbers

Admissions
(206) 622-6853

Continuing Legal Education
(206) 622-6021

Legal Department
(206) 622-6026

General Information
(206) 622-6054

Rules of Professional Conduct

Washington State Bar Association

505 Madison Street
Seattle, Washington 98104

September 1985

a presentation by Vancouver attorney Steve Horenstein on behalf of the committee. The new section's first midyear meeting and CLE will be October 23-25 in Seattle.

RULE 9: TAKE TWO

In one Rule 9 matter, the Board of Governors voted 7-1, Governor Delay dissenting, to deny Robert Kuvara of Kent permission to supervise a Rule 9 intern. In August 1982 Kuvara received a censure for two unrelated matters (a conviction of simple assault and an admission that he had suggested to a client that she backdate a deed of real property).

In a second Rule 9 matter, the Board unanimously recommended to the Supreme Court that the Rule 9 petition of Pamela R. Studeman be extended for a period of six weeks (by which time she will have received the results of the Summer1985 Bar Exam). Studeman is an intern in the Pierce County Office of Assigned Counsel.

CASH, SI; ACCRUAL, NO!

The Board of Governors unanimously approved a motion to advise the ABA and Washington legislators of its rejection of the Reagan Administration's proposal to require personal service businesses with gross receipts in excess of $5 million dollars to convert from the cash method to the accrual method of accounting. The ABA Taxation Section's opposition to the Reagan proposal was unanimously adopted by the ABA House of Delegates on July 11, 1985.

OTHER WORK

•CREDITOR-DEBTOR---The Board of Governors unanimously authorized the Creditor-Debtor Section to raise its annual dues from $5 to $10.

•IOLTA TRUSTEE REAPPOINTED---The Board of Governors unanimously reappointed Seattle lawyer a Bender as a trustee of the Legal Foundation of Washington.

* * * * * * * *

GOVERNORS AT WORK: SEPTEMBER 10 (SEATTLE SHERATON), OCTOBER 11-12 (LEAVENWORTH: ENZIAN MOTOR INN), NOVEMBER 8-9 (EVERETT PACIFIC HOTEL), DECEMBER 13-14 (SEATTLE STOUFFER MADISON)

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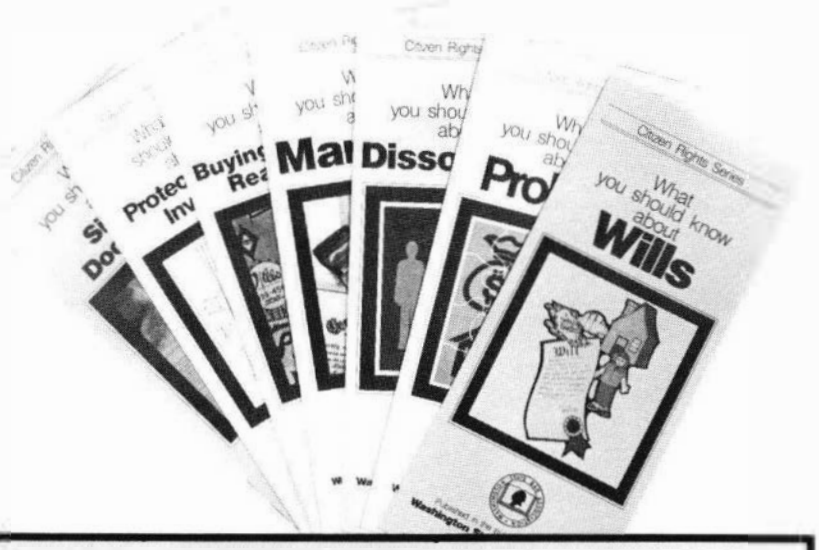
EDUCATE YOUR CLIENTS



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As a service to its members and the public, the Washington State Bar Association is publishing a series of consumer information pamphlets on various legal topics. Written for the non-lawyer, these comprehensive pamphlets are intended to educate citizens about their legal rights and responsibilities. The Q&A format answers frequently asked questions and explains basic aspects of Washington State laws. As explained in the pamphlets, the information is general and not intended as legal advice or as a substitute for a lawyer's services.

Single copies of each pamphlet are available from WSBA's Public Affairs Department at no charge. *(Please include a long (#10/business size), self-addressed stamped envelope for each title requested.)* Copies in quantity (minimum order: 25) may also be obtained at modest cost to cover printing and distribution expenses. A display rack, which contains 9 compartments, may also be purchased.

TOPICS (currently available)
- ☐ **Wills**
- ☐ **Trusts**
- ☐ **Probate**
- ☐ **Marriage**
- ☐ **Dissolution**
- ☐ **Signing Documents**
- ☐ **Buying & Selling Real Estate**
- ☐ **Landlord-Tenant Rights**
- ☐ **Protecting Your Invention**

Other subjects are planned for future pamphlets. We welcome your inquiries and suggestions.

L.E.A.R.N., MENTOR & MORE

by **Jo Rosner,** *Attorney/Educator* **& Cheri Brennan,** *Assistant P.R. director*

Would you believe that. . .

* More people rely on television for information about the law than rely on schools and libraries?
* Half of all Americans believe that when someone is accused of a crime, he must prove his innocence?
* 55% believe that if the defendant is found innocent the state can appeal the case?
* 59% don't know Warren E. Burger is a judge?
* 45% think a district attorney defends accused criminals who can't afford a lawyer?

—from "The American Public, The Media & The Judicial System,The Hearst Corporation, 1983.

Surprised or alarmed by these statistics? Then you probably agree it seems appropriate to try to increase public understanding of the law.

Our State Bar actively supports an array of activities to promote understanding of our legal system.

"Public education in the law, our system of dispute resolution, and the role of lawyers in our society," said WSBA president F. Lee Campbell in his 1985 annual report, "are important obligations and undertakings for both individual lawyers and the organized bar."

This issue marks the debut of our Law-Related Education column. "LRE UPDATE" will keep you informed on the Association's LRE activities and provide a forum for exchanging ideas to promote law-related education and citizenship. We hope to alert you to opportunities to fulfill your duty to educate the public, in conformance with Canon Two of the Code of Professional Responsibility.

MENTOR, the Bar's law-related education program, pairs law firms and high school classes to make the law "come alive" for students. Launched in five pilot sites earlier this year, MENTOR will be in at least a dozen schools this fall. Law firms in Seattle, Spokane, Tacoma, Yakima, Wenatchee and Everett are working with judges to bring citizenship education to the schools.

L.E.A.R.N., the Law-related Education and Resource Network (formerly the Law-related/Citizenship Education Coalition of Washington) brings together teachers, lawyers, judges, law enforcement officers, community leaders and others. The Network's progress is reported in "LRE ACCESS," L.E.A.R.N.'s quarterly newsletter, available from WSBA.

To celebrate the bicentennial of the U.S. Constitution in 1987, "Today's Constitution and You" has been designed to teach high school students and adults more about our Constitution. The project joins WSBA with Metrocenter YMCA of Seattle and other agencies.

We'll also keep you up-to-date on the Bar's award-winning "Citizens Rights" pamphlet program. In the past year, eight topics have been published (with 100,000 copies now in circulation).

Feedback, please! Our aim is not only to report, but also to inspire involvement. We hope you'll find LRE Update educational and entertaining. Let us hear from you—with letters and phone calls, questions and story ideas, comments and reports of your own law-related experiences and expectations. Contact WSBA's Public Affairs Department.

MANAGING THE GROWING LAW FIRM IN THE 1980s
and
THE THIRTIETH ESTATE PLANNING SEMINAR

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

TECHNOLOGY—FINANCE—PERSONNEL: Three key words describing spheres of concern for attorneys and professional law firm administrators that cannot be ignored. MANAGING THE GROWING LAW FIRM IN THE 1980's will be presented in Seattle on October 23, 24 and 25, 1985 at the Four Seasons Olympic Hotel to address issues regarding these matters.

This comprehensive program features lectures, workshops, a special exhibition of law office management products and services, luncheon roundtable discussion on current issues, a hosted reception for registrants and their guests, and a luncheon with **W. Randall Revell** of Context Trainings Corporation, San Francisco.

Following a joint keynote address by **Richard C. Reed** and **Gary R. Garrett**, the first day's sessions will include presentations by **William A. Cobb**—"Strategic Planning;" **Robert G. Baylor**—"Fundamentals of Financial Management;" **Leigh C. Webber**—"Technology;" and **Roberta Cooper Ramo**—"Systems for the Law Office." The second day will feature **Robert Sebris**—"Employment Law Issues in the Law Firm: Keeping Lawyers Legal;" **Joel F. Henning**—"On the Job Training in the Law Firm;" **Robert G. Baylor**—"Fees, Billings & Collections;" "Technology Workshops" facilitated by **Leigh C. Webber, Arlen C. Swearingen, Jon Stacey, H. Allen Cameron, Leon Deranleau, Guy M. Bennett, Sherry D. Leshner**, and **Linda Penner**, plus **Mary Anne Baggeley**—"Litigation Support." The final day of the program will include "Personnel Workshops" led by **John E. Coop, Jr., Nancy Rudin, Stephen W. Horenstein, Sandy Wong, Ann Ashworth, Thomas M. Chase, Joel F. Henning**, and **Joan Jabker**. The program will conclude with a special closing address by **Clinton Stevenson**—"Technology-Finance-Personnel: Putting It All Together."

For further information regarding this program, please contact Program Coordinator Sharon Clemence, Washington State Bar Association, 505 Madison Street, Seattle, WA 98104 or telephone (206) 622-6021.

The THIRTIETH ESTATE PLANNING SEMINAR is an outstanding two-day program focusing on the issues and developments regarding estate planning and related tax issues. This year's presentation will be held on November 7 and 8, 1985 in downtown Seattle at the Westin Hotel. Seminar Co-Chairmen **Henry C. Nielsen** and **Bruce P. Flynn** have assembled an excellent faculty and designed a program schedule which features two days of lectures, with *concurrent sessions* on November 8 from 8:30 a.m.-12:30 p.m. which will permit the registrant to choose from two levels of estate planning concern: (1) "The $300-600,000 Estate" or (2) "The $600,000+ Estate."

The first day of the program will feature **John Lee**, CLU—"Estate Planning: Communication Among All Family Members;" **Dwight J. Drake**—"The Marital Deduction Revisited;" **Jonathan G. Blattmachr**—"The Fundamentals of Income Taxation of Estates, Trusts and Beneficiaries and the New IRS 1041 Audit Program;" **Jim Benson**—"Deferred Compensation: Planning For Tomorrow's Compensation Today;" **Professor Glenn Pascall**—"The Trillion Dollar Budget;" **S. Stacy Eastland**—"Estate Planning For Real Estate

Development;" **Paul Gordon Hoffman**—"Planning For The Distribution From Qualified Employer Benefit Plans;" and **Malcolm A. Moore**—"Recent Developments." The concurrent sessions will be held on the second day of the program and will be broken down into two categories: (1) "The $300-600,000 Estate"—led by **Alan H. Kane, George F. Velikanje, Janis A. Cunningham**, and **Robert Brown** and (2) "The $600,000+ Estate"—led by **Dean John R. Price, Professor Jerry Kasner, Malcolm A. Moore, Edward B. Kibble**, CLU, and **Robert L. Perez**. The afternoon will include a "Tax Reform Update" and presentations by **Anne V. Farrell**—"Practical Aspects of Charitable Giving;" **Conrad Teitell**—"Charitable Giving;" and **L. Henry Gissel, Jr.**—"Family Income Shifting." Please contact Program Coordinator Debbie Kirchhauser for further details regarding this program at the Washington State Bar Association, 505 Madison Street, Seattle, WA 98104 or telephone (206) 622-6021.

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Not withstanding memory typewriters and rapid photocopiers, it is often most expedient to substitute revised pages in the drafts of lengthy and complex documents. This creates a problem at the time of closing. How can one make certain the modified pages have been substituted in each and every "final" draft without comparing every page?

One solution is to code each page of each draft. We suggest that the initials of the person initiating the draft, the date the draft was typed, and the initial of the staff person creating the draft be added in the upper left hand corner of each page to appear similar to this: -SH110784bmac.

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— Dale E. Sherrow

District Court Forms Policy

The King County District Courts have adopted a policy that all forms used by them be of a standard 8½" by 11" size.

In order to maintain uniformity in forms utilization, attorneys are requested to file papers of the same size when practicing in the district courts.

Lawyer Referral Panel Seeks Members

The Lawyer Referral Section of the Washington State Bar Association is seeking additional members for the statewide lawyer referral panel, Lawyer Referral Service (LRS). Attorney members pay a $25 fee to join the panel. In return, they are referred clients in case areas of their own choosing. Clients receive a thirty minute consultation contributed by the attorney, after which they may retain the attorney at a fee agreed upon. Application to join the panel is available from: Lawyer Referral Service
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Edited by **Professor William B. Stoebuck**

U. of W. School of Law

Administrative Law. Since no statutory time limit exists, petition for writ of certiorari seeking review of city council decision affirming issuance of use permit must be filed within reasonable time (SEPA's 30-day limit, not 14-day limit of JCR 73). Reverses 37 Wn. App. 221. ***Akada v. Park 12-01 Corp.***, 103 Wn.2d 717 (2/28/85).

Jury waiver in worker's compensation trial does not carry through to retrial after appellate review. ***Spring v. Department of Labor & Inds.***, 39 Wn. App. 751 (2/7/85).

Derogatory racial remark uttered in public place (7th-grade classroom), but inadvertent and not directed at the offended person, is not a discriminatory practice or act in violation of RCW 49.60.215. ***Evergreen School Dist. No. 114 v. Human Rights Comm'n***, 39 Wn. App. 763 (2/11/85).

Agency whose determination is reversed by superior court is "aggrieved party" under RCW 34.04.010 for purpose of seeking judicial review. ***Rauch v. Fisher***, 39 Wn. App. 910, 696 P.2d 623 (3/5/85). —*J. M. Vaché*

Creditor-Debtor Law. After purchasers defaulted on real estate contract, vendors sued in state court for forfeiture and possession. U.S. was not made party or served with notice, although tax liens had been filed against purchasers. After default judgment was entered, vendors resold land to Allard. In later suit by U.S. for judgment against purchasers on tax liabilities and for foreclosure of tax liens, default judgments were entered against vendors and purchasers and action dismissed as to Allard. *Held:* Judgment dismissing action as to Allard reversed. Not having been preceded by notice of forfeiture, vendor's state court action was not for possession but to quiet title, requiring that U.S. be made party, per 26 U.S.C. § 7425(a); federal tax liens were therefore not affected by judgment. Dictum: Since vendors lacked actual notice of federal tax liens, these could have been extinguished had forfeiture been effected by appropriate notice before resort to judicial proceedings. *U.S. v. Winterburn*, 749 F.2d 1283 (9th Cir. 1984). —*M. D. Rombauer*

Criminal Law and Procedure. Storekeeper may use force reasonably necessary to arrest person suspected on reasonable grounds of shoplifting. Assault with intent to resist this lawful arrest is Class C felony. ***State v. Miller***, 103 Wn.2d 792 (4/18/85).

—*G. R. Nock*

Evidence. In rape prosection: (a) Victim's statement to her daughter that "I was raped," made seven hours after incident, was hearsay but admissible as excited utterance because statement was part of "continuous process" caused by stress. (b) Victim's statement to her son that "Something upset me," made two and a half hours after incident, was hearsay but admissible because statement reflected then-existing state of mind. (c) Victim's question to her son, "Did you

take the bastard home"? was hearsay but admissible because question was not offered to prove truth of matter asserted. ***State v. Flett***, 40 Wn. App. 277 (4/16/85). —*K. B. Tegland*

Personal Property Security. Contractor made progress payment to subcontractor who, rather than paying suppliers, gave payment to bank to whom subcontractor had assigned its receivables. In contractor's suit to recover payment from bank, court affirmed judgment for bank, holding that RCW 62A. 9-318(1)(a) permits account debtors to assert affirmative defenses, not affirmative claims, against account assignees. Court rejected more liberal construction adopted by some courts and some commentators. ***Lydig Constr., Inc., v. Rainier Nat'l Bank***, 40 Wn. App. 141 (3/28/85).

—*M. D. Rombauer*

Planning and Zoning. Upholds City of duPont's grant of shoreline conditional use permit to Weyerhaeuser Company for large log loading pier within Nisqually Delta shoreline of statewide significance. Notice of hearing indicating two alternative sites for pier was adequate notice of hearing on application for pier that overlapped both sites. City's shoreline master plan that provided for conditional use permits to cause "no adverse effects on the environment" is interpreted to mean no "unreasonable" adverse effects, because literal interpretation would allow no development whatever. ***Nisqually Delta Ass'n v. City of duPont***, 103 Wn.2d 720, 696 P.2d 1222 (3/7/85).

—*W. B. Stoebuck*

Real Property Security. Upon statutory redemption, purchaser at mortgage foreclosure sale is entitled to be paid necessary expenses of running a going business on mortgaged land (farming business), to extent of profits from business. (*i.e.*, expenses are offset against, and cannot be reimbursed for more than, profits from business). But purchaser's expenditures to keep current installments on loan secured by mortgage on land that is superior to mortgage under which he purchased, being necessary to preserve his interest in land, are to be reimbursed in full, without reference to business profits. ***GESA Federal Credit Union v. Mutual Life Ins. Co. of N. Y.***, 39 Wn. App. 875, 696 P.2d 607 (2/28/85).

—*W. B. Stoebuck*

Torts. Failure to revoke habitual traffic offender's driver's license under RCW 46.65 does not make county or state liable for death of plaintiff's decedent in collision with drunk driver. Recognizing functional equivalence of "legal cause" and "duty" in tort law, court reasons that requisite legal cause or duty depended *either* upon special relationship between governmental entity and victim or offender *or* upon statutory intent to protect special class of persons that included decedent. Neither factor was present here. ***Hartley v. State***, 103 Wn.2d 768 (4/11/85).

—*R. L. Settle*

SEATTLE-KING REPORT

by JAMES L. VARNELL

Office Changes. Perkins Coie announces that **William D. Ruckelshaus** has joined the firm; **James R. Lisbakken** (Seattle office) and **Donald J. Friedman** (Portland) have joined the firm as partners, and **David W. Content** is now "of counsel", Seattle office. Sax and MacIver announces that **Lawrence B. Ransom, John R. Ruhl** and **Gail P. Runnfeldt** have become partners and **Wendy D. Welkom** has become associated with the firm. **John G. Bergmann** has become a member of Helsell, Fetterman, Martin, Todd & Hokanson. **David H. Rockwell, George W. Steers, Andrew H. Zuccotti** and **Gordon W. Tanner** are the resident attorneys of Jones, Grey & Bayley's Bellevue office. **S. Leigh Fulwood** has become an associate of the firm.

Daniel M. Caine, James P. Donohue, Gary R. Duvall, James N. Jory, Jr., Joel C. Merkel and **John C. Merkel** announce the formation of a partnership with offices in Seattle and Silverdale.

William H. Ellis has joined Estep & Li, whose name has been changed to Ellis & Li. **Stephen M. Todd, David E. Breskin, Neil G. Dorfman** and **R. Franklin Wohlford** have become members of Reed, McClure, Moceri, Thonn & Moriarty, and **Pamela A. Okano** has become an associate of the firm. **Wendy W. Cairncross** has become a principal in Hillis, Cairncross, Clark & Martin and **Deborah S. Malane** has become an associate.

David S. Roth has opened an office at the Sixth & Pike Building. **William Lothian Sells, Jr.** is now associated with Skellenger, Ginsberg & Bender. **Steven L. Thorsrud** and **Michael C. Walter** have become associated with Keating, Bucklin & McCormack. **Rod Paul Kaseguma** is now associated with Roberts & Shefelman. Ogden, Ogden & Murphy has merged with **Robert A. Kiesz**, with offices in Seattle and Wenatchee. **Carl A. Taylor Lopez, Jane I. Fantel, Neal G. Taylor** and **Kathryn F. Koehler** announce the formation of a new law firm with offices in the Alaska Building. **William S. Weinstein & Donald E. Hacker, Jr.** have opened an office at Seafirst Fifth Avenue Plaza. **Arthur R. Chapman** is now associated with Le Gros, Buchanan, Paul & Whitehead. Shidler, McBroom & Gates and Lucas, Glase, Sherman and Hendrickson have merged under the name Shidler, McBroom, Gates & Lucas with offices in Seattle and Bellevue. Abbott, Curtis, Galvin & Doyle, after 40 years near Green

Lake, has moved to the Northgate area.

CLE: Appellate Review. (1) Under what circumstances could the "uncontested" (and self-serving) testimony of the loan guarantor in *Nichols Hill Bank* v. *McCool*, 104 Wn.2d 78, 80 (1985), have been contested, and by whom? (2) Although an appellate court may view the evidence presented at trial differently from the finder of fact, *Allen* v. *Seattle Police Guild*, 100 Wn.2d 361, 378 (1983), can the appellate court substitute its judgment for the trial court's? Compare *Nichols Hill Bank*, 104 Wn.2d at 82, with *Goodman* v. *Darden, et al.*, 100 Wn.2d 476 (1983) for a surprise.

Batting Practice. For the third consecutive year (the past two without the services of this correspondent) Pro Se has won its division of the Seattle city league. Stellar performers for Pro Se included **Clem Barnes, John Weinberg, Jim Grutz, Leonard Kerr, Doug Berry, Ken Kaplan, Gary Strauss, Tom "Heat" Clark, John Matthews, Terry Cullen** and **David Wilson.** Finishing second for the third straight year was Nolo Contendere, led by **Rick Troberman, Bob Wayne, Alex Friedrich, Jim Schaefer, Mike Fitzgerald, Craig Gordon, Scott Smouse, George Lubrs, John Atchison, Mike Sander** and **George Newsham.** (Nolo will be looking to duplicate their win over Pro Se in the 1983 post-season tournament, of which **John Atchison** has taken great pleasure in pointing out to all who would listen over the past two years.) The Drifters, another perennial thorn in the side of Pro Se, finished well this year behind the play of **Dick Weil, George Mack** and **Keith "Chapel Hill" McClelland.**

In the local bar association league, Roberts Shefelman, through the efforts of league co-commissioner **Roger Myklebust**, remains undefeated. **Williams Lanza** behind **Bill "Defense Verdict" Leedom** is looking to repeat as champions, but is facing a stiff challenge from Shidler, McBroom, Gates & Lucas, which features the slugging of **Gary "The Hammer" Huff** and **Karl Quackenbush.** Short & Cressman is also contending with **Dave Koopmans** and **Bob Jaffe** leading the way.

BRIEFLY NOTED

WSAMA

The Washington State Bar Association of Municipal Attorneys elected the following persons at its 29th annual meeting on June 21, 1985, in Spokane:

Patrick L. Brock, Kelso City Atty, Pres.
William L. Cameron, Kennewick City Atty, 1st V.P.
John D. Wallace, Bothell-Mill Creek-Poulsbo-Tukwila City Atty, 2nd V.P.
Two Board Members from cities of 2,000 or more:
Michael J. Reynolds, Enumclaw-Black Diamond City Atty (2,500 +)
William A. Broughton, Bremerton City Atty (2,500 - 50,000)
Scott C. Broyles, Asotin-Clarkston City Atty, Member at Large

WSBA Travel Committee Cancels Oxford Seminar

Owing to scheduling difficulties, the Oxford Seminar to have been sponsored by the WSBA Travel Committee has been postponed indefinitely.

UW Law Class of 1960

The 25th-year reunion of the University of Washington Law School Class of 1960 is planned for September 12, 1985, beginning with cocktails at 6:30 pm and dinner at the home of class member Judith Callison McCabe in Seattle.

IN MEMORIAM

Anthony G. Chase died in Washington, D.C. on April 26 at the age of 47. The former Tacoman served as assistant to the U.S. Secretary of Commerce and as general counsel and deputy administrator for the Small Business Administration. He was admitted to the bar in 1969.

Frank Manley Preston, 90, senior partner in the Seattle firm of Preston, Thorgrimson, Ellis & Holman from 1940 to 1966, died May 5. His father, Harold Preston, had founded the predecessor law firm in 1883. Preston received his undergraduate and law degrees from the University of Washington. He was a former president of the University of Washington Alumni Association.

Drue A. Heggie, who struggled through 32 years of muscular dystrophy, died April 20. The Seattle native was 14 months old when the disease was diagnosed. A 1973 graduate of the University of Washington, Heggie was initially rejected from its law school. After overcoming the physical handicaps of the degenerative disease and related respiratory ailments, Heggie received his law degree from the University of Washington in 1977. He passed the four-day bar exam on his second try and was admitted to the bar in 1979.

Timothy R. Fishel, 38, died June 26, 1985, following a seven-year battle with a brain tumor. The Seattle attorney graduated in 1972 from the University of Washington Law School, where he was Student Bar Association president and a student delegate to the WSBA Board of Governors. In 1971, Fishel and two other law students sued their law school because its faculty meetings were closed to the public. Dismissed in superior court, the case was reversed on appeal and upheld in 1975 by the state supreme court, leading to open law school faculty meetings. Fishel practiced for 10 years with Fishel, Seligmann and Dreiling before going into practice on his own last year. He served on the Board of the Young Lawyers Section of the Seattle-King County Bar Association and on the editorial board of *Barrister*, a national legal publication. He leaves a wife and three young sons. Remembrances to the UW Law School for scholarships for needy students.

Farrel E. Cook, 67, died July 16, 1985. A 1950 graduate of the Willamette University Law School, he and his wife, Shirley Geddes Cook, practiced together in Bremerton as Cook and Cook until their retirement in May 1985.

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On February 18, 1985, Seattle attorney **Hans Hoerschelmann** and his wife, Jean, died in an automobile accident near Leavenworth, Washington while returning from a ski vacation with their children. At their memorial service a letter from his mother, translated from the German, was read. Some excerpts follow:

> Hans Hoerschelmann was born January 28, 1944 in the former West Prussian, now Polish, town of Bromberg. He was the seventh child. His parents and ancestors had lived in the Baltic region. In 1939, due to the Hitler-Stalin Treaty, his family had to leave their home town.
>
> When Hans was five weeks old, his father saw him for the first and only time. His father was then serving in the German army as an interpreter. . . In 1945, at the end of the war, he was captured by the Russians, and eight years later he died in a Russian camp east of the Ural Mountains. Hans was not yet one year old when his family had to flee from the Russian Army. After many a hardship, his mother and all her children settled down in a suburb of Frankfurt, newly built for refugees. There Hans spent his childhood in severe poverty, but he nevertheless enjoyed life. . . He was an enthusiastic soccer and handball player, and in high school and university, a member of a famous Frankfurt choir. In 1968 he married Jean, and they soon came to Seattle. . .

Hoerschelmann graduated from University of Puget Sound Law School with distinction in 1976. A member of the Seattle firm of Tewell, Thorpe and Findlay, he practiced principally as a civil litigator. A trust fund has been created for the children, ages 12 and 2: Hoerschelmann Family Memorial Trust, Old National Bank, PO Box 19206, Seattle, WA 98111.

District Court Proposed Civil Rules

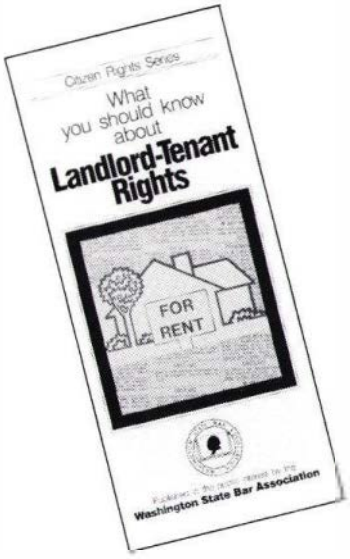
The rules committee of the King County District Court Judges Association has promulgated proposed civil rules for review and comment by attorneys practicing in district court. Copies of these rules can be obtained at the District Courts Administrator's office, Room E-340 of the King County Courthouse, 3rd and James, in Seattle.

Comments should be addressed to the Administrator by September 30th.

Free Landlord-Tenant Pamphlet

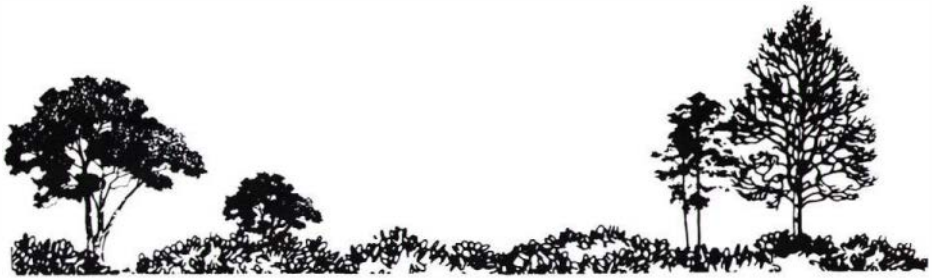
Can a landlord increase a tenant's rent or charge a late fee? Can pets be prohibited? Who is responsible for upkeep and repair of rental properties?

These and other questions are answered in the latest consumer information pamphlet published by the Washington State Bar Association. "What you should know about Landlord-Tenant Rights" explains some legal terms and issues associated with housing laws and discusses basic rights and duties of landlords and tenants.



The landlord-tenant pamphlet is one in a series of free consumer information publications the Bar Association provides to acquaint citizens with their legal rights. Other topics available in the "Citizens Rights" series of pamphlets are probate, marriage, dissolution, signing documents, buying & selling real estate, protecting inventions, and wills.

For a free copy, write "Landlord-Tenant Pamphlet", 505 Madison St., Seattle WA 98104; Include a #10, business size SASE.



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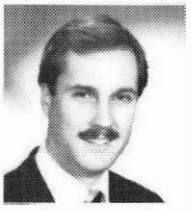

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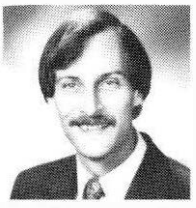

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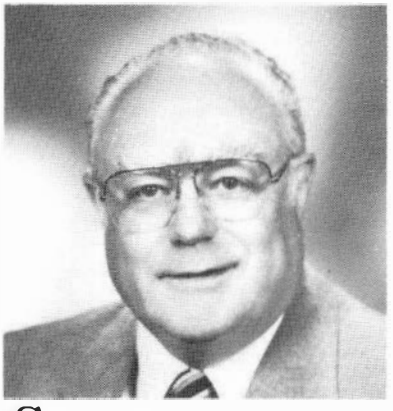

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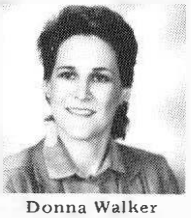

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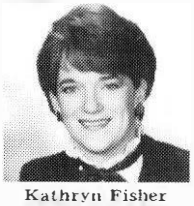

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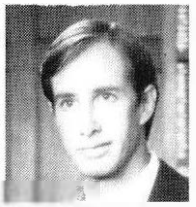

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September 4	9a-noon 1p - 4p	Mt. Vernon (2 sessions)	Media Center Skagit Valley College 2405 College Way Mt. Vernon, WA
September 6	9a-noon 1p - 4p	Bremerton (2 sessions)	Humanities Building, Room H102 Olympic College 13th & Chester Bremerton, WA
September 11	9a-noon 1p - 4p	Kelso (2 sessions)	General Meeting Room - 3rd Floor Cowlitz County Administration Bldg. 207 North 4th Kelso, WA
September 18	9a-noon 1p - 4p	Wenatchee (2 sessions)	Chelan County Planning Office King and Washington Streets Wenatchee, WA
September 20	9a-noon 1p - 4p	Spokane (2 sessions)	Sheriff's Training Room Public Safety Bldg. W. 1100 Mallon Spokane, WA
September 25	9a-noon 1p - 4p	Kennewick (2 sessions)	Basement Meeting Room Kennewick City Hall 210 West 6th Kennewick, WA
September 27	9a-noon 1p - 4p	Yakima (2 sessions)	Marine Corps Training Center 1702 Tahoma (16th & Tahoma) Yakima, WA
October 1	9a-noon 1p - 4p	Burien (2 sessions)	Criminal Justice Training Center 2150 South 142nd Street Seattle, WA
October 3	9a-noon 1p - 4p	Olympia (2 sessions)	Criminal Justice Training Commission St. Martins Campus Olympia, WA

TRAINING AGENDA:

9 - 10 am 1 - 2 pm	Breath Test Program History and Legal Basis
10 - 11 am 2 - 3 pm	Infrared Theory, Instrument Operation, Testing Procedure, Instrument Certification
11 - 12 pm 3 - 4 pm	Training, Implementation, Data Collection, Instrument Demonstration

Preregistration will not be necessary. Attendees may attend the session most convenient to their schedules.

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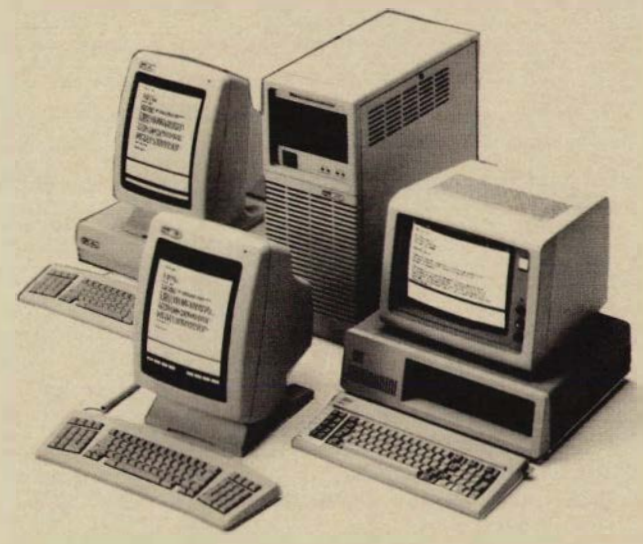

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Networking	How to use your existing equipment with the new technology.
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