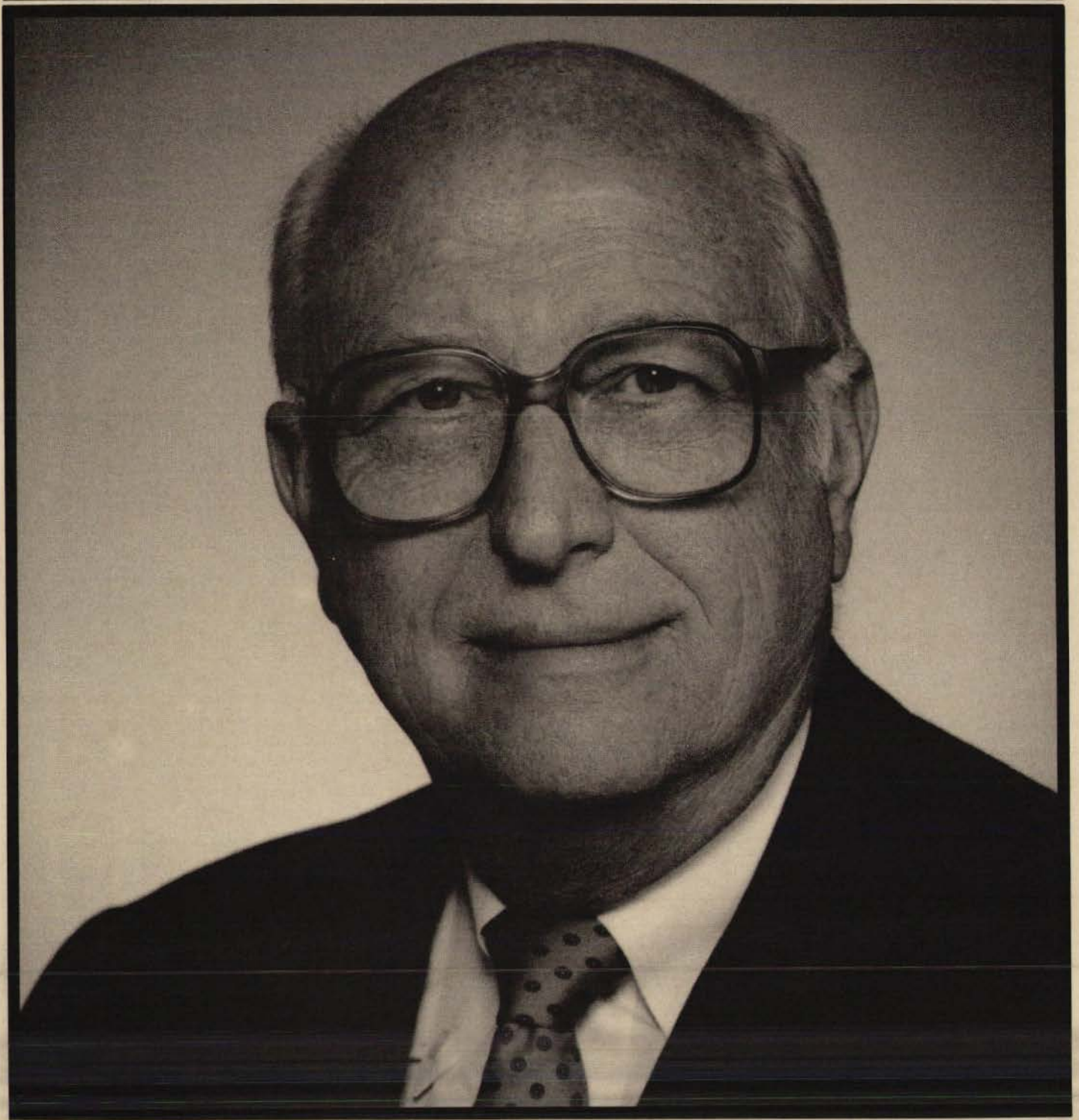


Washington State **Bar  
News**

Vol. 40, No. 11, November 1986



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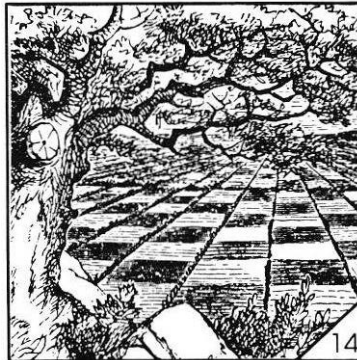
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● 1986 by Washington State Bar Association  
Printed by United Graphics, Seattle

PUBLISHED the last day of the month before cover date. Editorial deadline 25th day of month for second issue following. Direct correspondence to *Washington State Bar News*, 505 Madison Street, Seattle, WA 98104, telephone (206) 622-6054. All editorial material, including editorial comment, appearing herein represents the views of the respective authors and does not necessarily carry the endorsement of the Association or the Board of Governors. Likewise, the publication of any advertisement is not to be construed as an endorsement of the product or service offered unless it is specifically stated in the ad that there is such approval or endorsement. SUBSCRIPTION, included in active membership, is \$12.00 a year for inactive members (WA State residents add \$0.95 WA State Sales Tax), and \$24.00 a year for nonmembers (WA State residents add \$1.90 WA State Sales Tax).



**Must We Be Broken?**

Editor:

At an "input" session with the Bar Insurance Plan Task Force, they assumed its adoption; some obviously glowed with power.

My practice is declining and I pay for nursing home care for my wife, who is very ill. In 46 years, no client has ever claimed for negligence. No group of expenses on my income tax return is half the quoted insurance cost, and this compulsory plan would be a maybe impossible addition to my expenses.

I said, "At a discount I'd pay a large percent of my gross; couldn't there be exemption based on a low gross shown on the first of the year excise tax return or a rate of a very low percent?" That question wasn't

answered by the Task Force; they said "We're bound to create lots of hardships," and (later) "Offices will close that can't afford the plan." They like to aid tort specialists; moonlighting professors; the salaried, fast, busy lawyers who make serious mistakes. These have clout.

Must a thousand or so low earners—mostly the newest and the oldest—be "broken" for this huge omelet that's contemplated, while breaks are given to some better able to pay?

**FRANK DUBOIS**  
Everson

**The Non-Practicing Lawyer**

Editor:

I understand that the proposal for malpractice insurance is intended to include only independent practitioners. I have not heard how "independent practitioner" is to be defined, and I am concerned that the definition might be too broad and include two classes of lawyers who, while "independent," do not create any danger of legal malpractice.

The first class is lawyers who are not practicing any law either because they are unemployed or have taken some work in another profession.

The second class is lawyers who are not practicing because they have returned to school for advanced degrees or other education to advance their careers as attorneys.

The malpractice insurance plan should have a provision to exempt the "independent" but not practicing lawyer from the costs of the plan. Perhaps a "nonpracticing-but-active" status for lawyers should be created with provision that when one became a "practicing" independent practitioner he or she would then have to pay the malpractice insurance costs.

I have been an unemployed attorney who had to work at other jobs. I am now in school full time to obtain education which I hope will assist my practice of law later. I am certain that there are other lawyers in similar situations.

**JOHN S. SANDMEYER**  
Lynnwood

**Robin Hood in Reverse**

Editor:

I am writing to express my concerns with the Bar's proposed solution to the 'malpractice problem.'

The Bar's proposal displays an alarming lack of sensitivity to the needs of part-time lawyers. As a part-time attorney devoting the majority of my legal time to pro bono practice, I am somewhat mystified and bewildered by the proposal that I be forced to subsidize the malpractice insurance expense for attorneys earning as much as fifty or one hundred times as much as I am. The Bar's proposed liability fund assessment schedule constitutes a windfall for attorneys with lucrative practices which expose them to a large risk of costly malpractice actions; at the same time it constitutes a severe and onerous tax upon part-time practitioners.

I hope the Bar will modify or discard its well-intentioned, though ill-conceived, proposal to provide insurance for all by robbing the poor to give to the rich: Robin Hood in reverse!

**EITAN KASSEL YANICH**  
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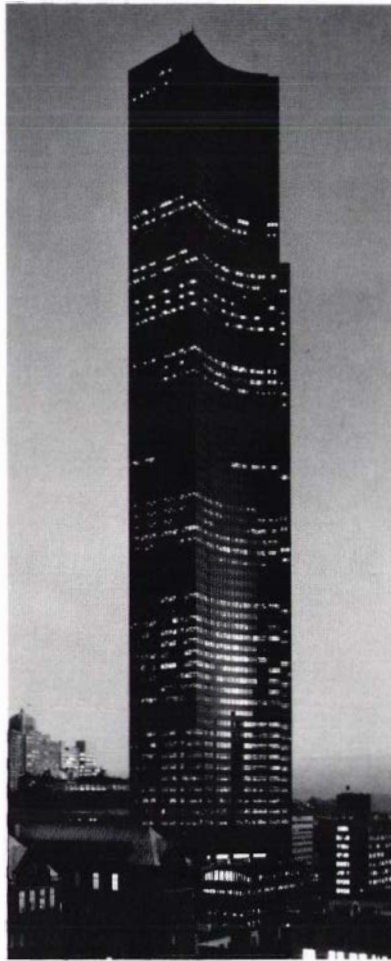
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## Grounds for Discipline?

Editor:

I have attended seminars on the new Real Estate Contract Forfeiture Act and corresponded with those involved in its drafting. Until the statute is amended, attorney fees and costs are not recoverable under the standard "A-1964" real estate

contract form in a forfeiture under the act.

Nevertheless, I have seen several Notices of Intention to Declare Forfeiture prepared by attorneys which included attorney fees and costs as amounts necessary to cure the forfeiture.

It makes it difficult for a knowledgeable attorney who will not

include such fees and costs to explain to the client why they cannot be included when you know other attorneys charge and possibly collect them from contract purchasers. Is the collection of attorney fees by a knowledgeable attorney under these circumstances grounds for disciplinary action?

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## Thanks All Around

Editor:

I heartily disagree with J.R. Sherard's evaluation of the Real Estate Contract Forfeiture Act in the August *Bar News*. After processing five forfeitures under the new Act and countless forfeitures over the past forty years or more under the court-mandated procedures which it replaced, I find the new procedure to be far more desirable from the standpoint of both the lawyer and the client. The rights of the contract vendor as to time and result are now readily determinable. The suit to quiet title, with its expense and its delays, has been eliminated. The rights of redemption are now fixed.

Under the old procedures, they were entirely within the discretion of the court and the results were, naturally, unpredictable. In a case in which I was involved a few years ago, Division II ruled it would be improper to allow a contract purchaser to reinstate a contract by paying the delinquent installments and costs, since that result would reduce all the proceedings up to the point of the status of a Notice of Intention to Forfeit. A few months later, Division III reached the opposite result.

My congratulations, and thanks to the members of the Bar Association committees and the legislature who developed the legislation and passed it, for a job well done.

**CARL H. SKOOG**  
Tacoma



## The Verdict Is In . . . MENTOR Is a Class Action!

by Jo Rosner  
Attorney/Educator

With a target of twenty-eight partnerships of law firms and high school classes set for school year 1986-1987, the WSBA's law-related education MENTOR project is being organized in twenty-two schools across the state. Teachers and lawyers will be working together to bring a better understanding of the law to students in U.S. History, Civics and Business Law classes . . . and enjoying themselves in the process!

The basic premise of the program is that a series of interactions with a lawyer or lawyers from a firm will give students a chance to develop rapport with the lawyers, and therefore not only gain information about the substance and procedure of the legal system, but also begin to perceive the law's practitioners as

human rather than as unapproachable or cold. Through events such as visits to court and lunch with members of the firm, students find the law demystified, and a deeper understanding and appreciation of the law develops.

Benefits to the high school teacher and the students are fairly obvious. For both, the lawyers are a direct source of information about law and the legal system. But what are the benefits of the program for the lawyers, who are giving up hours that could be billed to clients, or spent at leisure with friends or family?

Some answers to the questions have come from lawyers involved in a MENTOR partnership since the project began in spring of 1985.

First, there is the opportunity to fulfill the professional duty, arising from the Rules of Professional Conduct, to educate the public. As the public becomes aware of the role of the lawyer in advancing education among young people, there is a ben-

efit to everyone who practices law. The Rules also call for each lawyer to improve the legal system, and teaching high school students certainly increases the lay public's understanding of the law.

Perhaps the most-reported effect is the satisfaction the lawyers experience from using their skills and legal knowledge in a positive and helpful way. So often in the school setting, it is possible to see immediate, beneficial results in the attitudes of students toward authority, once they realize the interrelationship of rights and responsibilities.

These are some of the compelling reasons that the State Bar's Public Affairs Office has made the MENTOR project available to interested law firms. The numbers are increasing and the schools are counting their blessings.

*LRE Update is a regular column featuring news and notes of law-related education (LRE) activities. The author welcomes your comments.*

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## William H. Gates Elected WSBA President for 1986-1987 Term

**W**ith the conclusion of the Washington State Bar Association 1986 Annual Meeting in November, the gavel of leadership will be passed to our new president for 1986-1987, William H. Gates.

Bill Gates brings to the presidency a long record of outstanding service to his profession and a strong commitment to professionalism, both as a lawyer and as a leader. We look forward to a progressive year with his hand on the tiller.

Gates has worked hard in many professional capacities for the members of the Washington State Bar Association, the Seattle-King County Bar Association, and the American Bar Association. He was a member of the WSBA Board of Governors from 1972 to 1975 and served a term as president of the Seattle-King County Bar Association in 1969-1970.

Gates has served on the ABA's Lawyers Professional Liability Committee since 1974 and was its chairman from 1976 to 1979. He was president of the National Conference of Bar Presidents in 1982-1983. He served in the ABA House of Delegates from 1975 to 1978 and from 1983 to the present.

In his recent service as chairman of the WSBA Professional Liability Fund Task Force, Gates has been instrumental in its exploration of alternatives and the formulation of a WSBA Professional Liability Fund Plan (see "Lawyers' Malpractice Insurance: What Shall We Do?", *Bar News*, May 1986, page 4 and the professional liability status report beginning on page 27 in the October 1986 *Bar News*.)

In addition to these many aspects of professional service, Gates is a principal in the Seattle firm of Shidler McBroom Gates & Lucas.

Bill Gates has been a busy man!

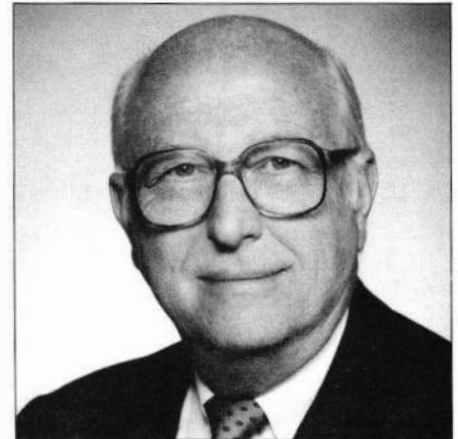
Born in Bremerton, Gates went through the Bremerton Public School system and was graduated from Bremerton High.

He enlisted in the U.S. Army and was graduated from Fort Benning Infantry School. He went on to serve in the Philippine Islands and Japan and was honorably discharged in November of 1946.

He enrolled in the University of Washington, where he received his BS in 1949 and his LLB in 1950. He was admitted to the Washington State Bar that same year.

Bill Gates has dedicated many years to Seattle's cultural and civic organizations. He was president of the YMCA in 1957 and 1958 and secretary of the United Good Neighbor Fund from 1957 to 1967. He served as a Seattle Board of Adjustment member from 1959 to 1962 and as its chairman from 1962 to 1964. He was also chairman of the Municipal League Public Schools Committee from 1968 to 1974. He was active on the Municipal League Board of Trustees from 1968 through 1974, holding the vice presidency in 1969, 1970 and 1973.

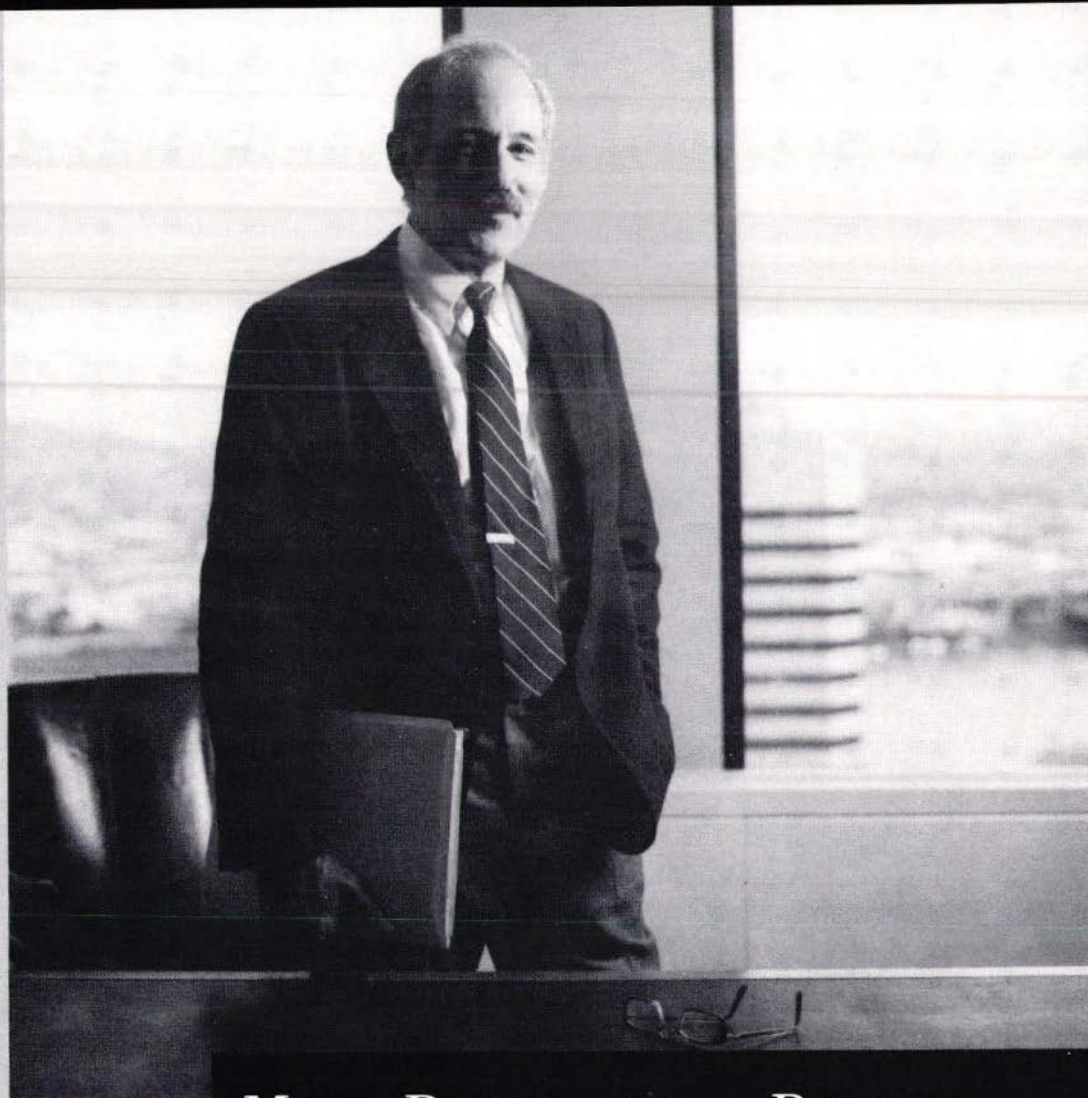
Gates was on the Seattle Repertory Board of Trustees from 1976 to 1985 and the Seattle Planned Parenthood Center Board of Directors from 1966 to 1972, serving as its treasurer and vice-president from 1967 to 1971. He was then elected to serve on the National Board of the Planned Parenthood Federation of America from 1971 to 1974. He chaired the Seattle Public Schools Levy campaign in 1971 and served as general counsel to the Greater Seattle Chamber of Commerce from 1982 to 1984. He was elected to the board of the Chief Seattle Council, Boy Scouts of America, in



1985 and continues to serve. He is on the Greater Seattle Chamber of Commerce Board of Trustees for the 1986 to 1989 term.

Bill Gates has remained active on the university scene since his graduation. He was on the University of Washington College of Arts and Sciences Visiting Committee from 1966 to 1975 and on the University of Puget Sound Law School Visiting Committee from 1979 to 1983. He joined the University of Washington Law School Visiting Committee in 1983 and continues to serve. He was elected an honorary of the Order of the Coif, Washington Chapter, in 1972.

This lengthy record of public service, dedication and accomplishment demonstrates more than words the energy and enthusiasm which Bill Gates brings to the presidency of the Washington State Bar Association. As a description of the man elected to lead the WSBA during the coming year, it shows that the State Bar will be well served by a leader well chosen.



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## A Healthy Step

**W**ho are we? Where are we? And where are we going?

These questions became the underlying theme of the Governors' meeting in Seattle. Rather than showing an ignorance of Bar function and scope, the questions are a healthy response to a heady time in the life of the Washington State Bar Association.

Any relationship, be it of the heart or the pocketbook, benefits from periodic assessment by the involved parties. Such assessment can clear up false assumptions and yield an increased sense of well-being and trust in oneself, each other, and in the relationship.

The questions of identity are implicit in some major issues confronting the Bar: What are the limits of a mandatory association? Should the Bar become involved in a mandatory professional liability fund? Should the Bar allow the existence of certain political positions—say, in its World Peace Through Law Section, or in its various lobbying postures?

There are no easy answers to the question of Bar identity. The State Bar Act and the Graham case are mere beginnings. The search for our roots may teach us more than any "final" answer. Now is the time for all good...lawyers of all incomes and hometowns to ask ourselves what it means to be part of the social compact that is the Washington State Bar Association.

## Gates Rates

New WSBA President Bill Gates is a formidable guy. For one thing, he stands taller than most of us (not many lawyers, even bar presidents, stand 6'4"). Fewer have a wife who has been a University of Washington regent for over a decade and who has twice chaired that board. Fewer still have a 30-year-old son, about whom, in its lead article on August 27, 1986, the *Wall Street Journal* said, "Mr. Gates' stake in Microsoft is valued at more than \$300 million."

Such familial genius doesn't faze père Gates. He comes across as a man comfortable with his surroundings and with an easy sense of command. He brings considerable intellect to the President's seat.

I first learned of another Gates strength when he volunteered to write a piece on the Malpractice Insurance Task Force, which he has been chairing with unending diligence. Overcome by the intricacies of the situation, I appreciated his enthusiasm.

"When would you like the piece?" he asked. How do you tell a bigwig that he's got four days until deadline? Gently. Well, he delivered the article to me a day before deadline, and it so simply and articulately discussed the issue that my red pen dried up from disuse. (The finished product appeared in the May issue.) What a rare delight! A lawyer able to deal with a complex subject in easily digestible terms! Bodes well for the Association.

## A Robe By Any Other Name

Hath a judge clad in black acetate the jurisdiction to render rulings from the bench?

Can it be true that the courts of this state systematically violate

well-established Washington law?

Rule 9 intern Roy Roistacher of Seattle was so moved by my August plea for judges' robes of "silk or linen or cotton" that he sent me RCW 2.08.110, a 77-year-old statute that disposes of the questions:

"Each of the judges of the supreme court and the judges of the superior courts shall in open court during the presentation of the causes, before them, appear in and wear gowns, made of black silk, of the usual style of judicial gowns."

Since 1971, the statute has included judges of the courts of appeals. A fair reading should include district or municipal court judges, no?

Silk is silk, God bless the Chinese, and vive le difference between it and those Godforsaken polyester and related heathen abominations.

*Editor's note: The Board of Governors will meet Monday, November 3 at the Sheraton Waikiki before the 97th Annual Meeting. The meeting report will appear in the December 1986 Bar News.*

*Carole Grayson*

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## A New Headquarters for the State Bar Association

by John J. Michalik  
WSBA Executive Director

After many years in the Corner Office, I am delighted, right here and now, to inaugurate this new *Bar News* column. My intent in taking up a few inches of space and a few moments of your time will be to bring new developments in the Association to your attention and, where needed, to fill in the gaps with regard to ongoing programs and activities. This first effort may be "just in the nick of time"; there is major news to report.

The many years I have spent in the Corner Office are but a fraction of the time during which you have been accustomed to seeing the State Bar Association located at the familiar address of 505 Madison Street in Seattle. In its 54-year history the State Bar has had only three headquarters and we have enjoyed a nearly twenty-year relationship with our current landlord, the College Club of Seattle. During those years the State Bar operation in the College Club Building has grown from one corner of the third floor to the present occupancy involving virtually all of the rentable office space in the building. The present lease expires in the spring of 1987.

In the late summer of 1985, and looking toward the end of that lease term, then State Bar President Lee Campbell appointed a Special Task Force to study the Association's short and long term physical facilities needs. That Task Force, chaired by Seattle attorney Keith Grim, first assessed the possibility of renewing the current lease with the College Club but quickly concluded that that course of action, while in some ways attractive, involved only a short-term answer; the amount of rentable space in the College Club Building would probably suit the Association's needs for only a very few years. On a parallel track, and with great professional assistance

from Wade Cole, a WSBA member and commercial broker with Kidder, Mathews & Segner, the Task Force conducted a detailed exploration, review and analysis of alternative space in downtown Seattle.

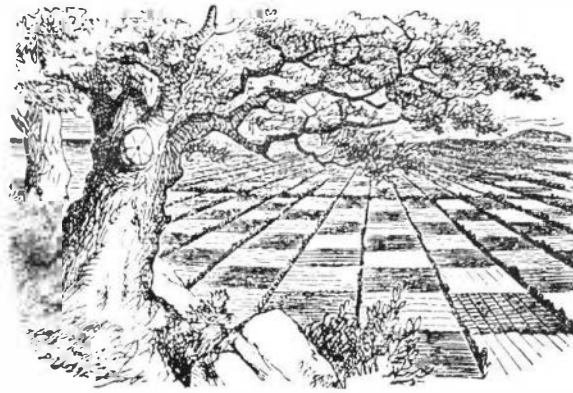
By July of 1986 the Task Force had concluded that the market was such, and the offers from a number of building owners so attractive, that a move should be recommended to the Board of Governors. With authority from the Board, the Task Force worked through over 40 possibilities; conducted serious negotiations with three properties; and in August 1986 presented a final recommendation to the Board of Governors. That recommendation, for relocation of the Association Headquarters to the Westin Building, was unanimously adopted by the Board and in late August the new lease was executed.

The Westin Building is an approximately five-year-old, 34-story structure located at Sixth and Virginia, right next door to the Westin Hotel. The Association's lease covers the fourth and fifth floors and, eventually, will provide nearly 7,000 more square feet of space than available in the College Club Building. I say "eventually" because at the outset of the lease some of the space will be held, in a "space pocket" and without a rental obligation, for future Association use. In addition, the lease gives the Association guarantees with regard to other expansion space in the building as the years progress. The lease in question is for ten years, with two five-year options. The initial rent rate, and this is for office space being built to the Association's specifications, is virtually identical to the lowest end of the scale quoted by the College Club for a five-year renewal of the existing lease. Most importantly, the lease provides that if the two five-year options are exercised the Association's rent 20 years from now will be no more than \$16.50 per foot. As part of the lease,

the Westin Building owners have also agreed to assume the existing Association lease with the College Club and to pay, in full, all moving expenses. If all goes according to schedule, the official move will occur by early December.

The College Club Building has served the Association well for many years, but the facilities and opportunities at the Westin Building are truly outstanding. More space and more *usable* space will allow the Bar to serve its members and the public better. That same space will also allow for the implementation and development of new and needed programs, such as the Lawyer's Assistance Program approved by the Board and reported on in the September *Bar News*. Our Conference Room space will be more than doubled, allowing more Committee meetings, hearings, etc. to be held on premises and not in rented hotel meeting room space. The new, "unworn" facilities will project a better image to the public. And, not to be overlooked, our proximity to the Westin Hotel will provide direct benefits to the Association as a whole (in terms of CLE Seminar space, etc.) and to individual members through recently negotiated and about-to-be-announced corporate rates for State Bar members which will be the *lowest* corporate rates the Westin offers.

You will, of course, be hearing and reading much more in the coming months about the Association's new Headquarters, its facilities and services. There have been many good years at 505 Madison, and the prospects for even better years at 2001 Sixth are bright.



## A Protocol for the Judicial Management of Family Violence Cases

by Hon. Stephen M. Gaddis

### I. The Background

“Domestic violence” encompasses the physical, mental, emotional, or sexual abuse of one family member by another. In this article, “family” includes those related by blood, marriage, or common children, or those who have lived together in a familial relationship.

Undoubtedly domestic violence has existed since the beginning of humanity, and therein lies the paradox. As people have sought peace among themselves and with each other, laws have been formulated to govern behavior within societies. But the door to the remaining enclave of uncivilized conduct—the family—has only recently been open.

### II. The Problem

Social scientists have unveiled the hundreds of thousands of violent incidents occurring within the home each year and the large percentage of persons who have been injured or scarred by such abuse.

As we have moved from descriptive, historical or anecdotal accounts to findings of present instances of abuse, cases have flooded our judicial system. Prosecutors bring criminal cases to punish abusers. State protective

agencies bring juvenile actions to isolate children from harm—present and potential. Victims seek protection with Domestic Violence Orders and redress by filing dissolution proceedings and personal injury claims.

The judicial system is the supreme law enforcement agency in a civilized society and so is an appropriate forum to deal with the problem. But within a systematic procedure for dealing with family violence cases, the courts can aggravate the abusive situation and exacerbate the injuries suffered.

For example, the propensity toward violence will increase as the conflict is made public and the offender is confronted. The level of violence will predictably escalate as victims complain to police and document allegations in court files. Helping agencies intervene to attempt to interrupt the cycle of violence, an act which itself may occasion more conflict. Families with cases in litigation may find members having to testify against one another in two or more trials and having to give evidence in others; children undergo many interviews and evaluations; and all family members have to deal with police, protective workers, family court investigators,

attorneys, psychologists, psychiatrists, judges, probation counselors and therapists of all kinds.

Worst of all, the multitude of lawsuits may lead to the entry of court orders which, decided by different judges, themselves are in conflict in their determinations, resolutions, and future requirements. Intact, damaged families disintegrate into powerless, helpless, damaged individuals. There may be peace, but with a greater, more sophisticated kind of emotional abuse suffered. *This can be remedied.*

### III. Court Processes and their Mechanics:

While descriptive titles may vary from state to state, most court systems are open to handling family violence cases in four types of action.

A *criminal case* is the formal proceeding by the state against a law violator in an attempt to punish to rehabilitate him or her.

A *juvenile proceeding* is that brought by a state protective agency charged with the responsibility of guarding the well-being and safety of children. The purpose is to monitor family activities and relationships so that the child is not exposed to further harm or risk.

## Court Proceedings Dealing with Family Violence

Case Type (Citation) <sup>1</sup>	Initiated by (Filing Fee)	Role of Victim (Role of Abuser)	Most Common Temporary Relief (duration of order)	Most Common Permanent Relief (duration of order)	Penalty for Violation of Order (Who initiates enforce't.)
Criminal (R.C.W. 9.9A.10.99)	Victim, Police (\$0.)	Witness (defendant)	Conditions of Release No-Contact Order (60-90 days)	Conditions of Probation No-Contact Order Treatment (probation period)	Imposition of Sentence New Criminal Charge (Police, Prob. Off.)
Juvenile (R.C.W. 13.32.13.34)	Family, Police or Protective Agency (\$0.)	Witness/Respondent (respondent)	Restraining Order Custody/Visitation Evaluations (1-6 months)	Restraining Order Custody/Visitation Treatment Monitoring (indefinite)	Term. of Parental Privileges Criminal Charge Contempt of Court (Family, Prot. Agency)
Dissolution/Parentage (R.C.W. 26.09.26.26)	Parent or State (\$70. <sup>2</sup> )	Petitioner (respondent)	Occupancy of Home Restraining Order Custody/Visit.  (Evaluations No- Contact Order (6-9 months)	Ownership of Home Restraining Order Custody/Visitation  Limitations on Paren- tal rights No-Contact (child's minority)	Mandatory Arrest Possible Criminal Charge Contempt of Court (parent)
Protection Order (R.C.W. 26.50)	Victim (\$20. <sup>2</sup> )	Petitioner (respondent)	Occupancy of Home Restraining Order Custody/Visitation (14 days)	Occupancy of Home Restraining Order Custody/Visitation (1 year)	Mandatory Arrest New Criminal Charge Contempt of Court (Petitioner, Police)

1. All citations are to the Revised Code of Washington Titles and Chapters.
2. Fee is waived in cases of indigency.

A *dissolution or Parentage Act* case is that brought by one adult against another for the purpose of entry of a court order which will regulate the relationship as regards common children, property and debts, and payment of family expenses.

A *protection order action* is the summary proceeding available in various states which provides for a restraining order against harassment, abuse, molestation, physical violence, or contact between parties who have been involved in family violence previously.

Each case enters the court system in a different way, is prosecuted by different members of the cast, and may yield a different court order or result. Often one family will be the subject of more than one proceeding, resulting in the same act or actions of domestic violence being evaluated, treated, and punished in ways that are not coordinated, consistent, or mutually supportive. The

chart illustrates some of the differences in the proceedings.

### IV. A Protocol for Domestic Violence Cases:

The following precepts emerge as guidelines for the handling of family violence cases in the way that is the healthiest for the family and effective in fostering the goals of various judicial proceedings. They represent a balancing of the needs to treat families from a systemic point of view while acknowledging their individuality in specific cases. A duality of purpose is served in measuring the impact on all families subject to domestic violence by how this class of cases is handled while blending the array of court-offered services to assist the family subject to more than one proceeding.

#### A. Systemic Considerations for Handling Family Violence Cases:

1. Keep access to court for all

types of proceedings unhampered. The incidence and repetition of domestic violence will decrease as the cases move into the judicial system.

2. Consolidate civil cases whenever feasible. This will eliminate duplication of services and intervention.

3. Transfer all cases to the same court, or level of court, according to local statutes. This will decrease the number of courts involved, increase uniformity and consistency of policy and increase accountability.

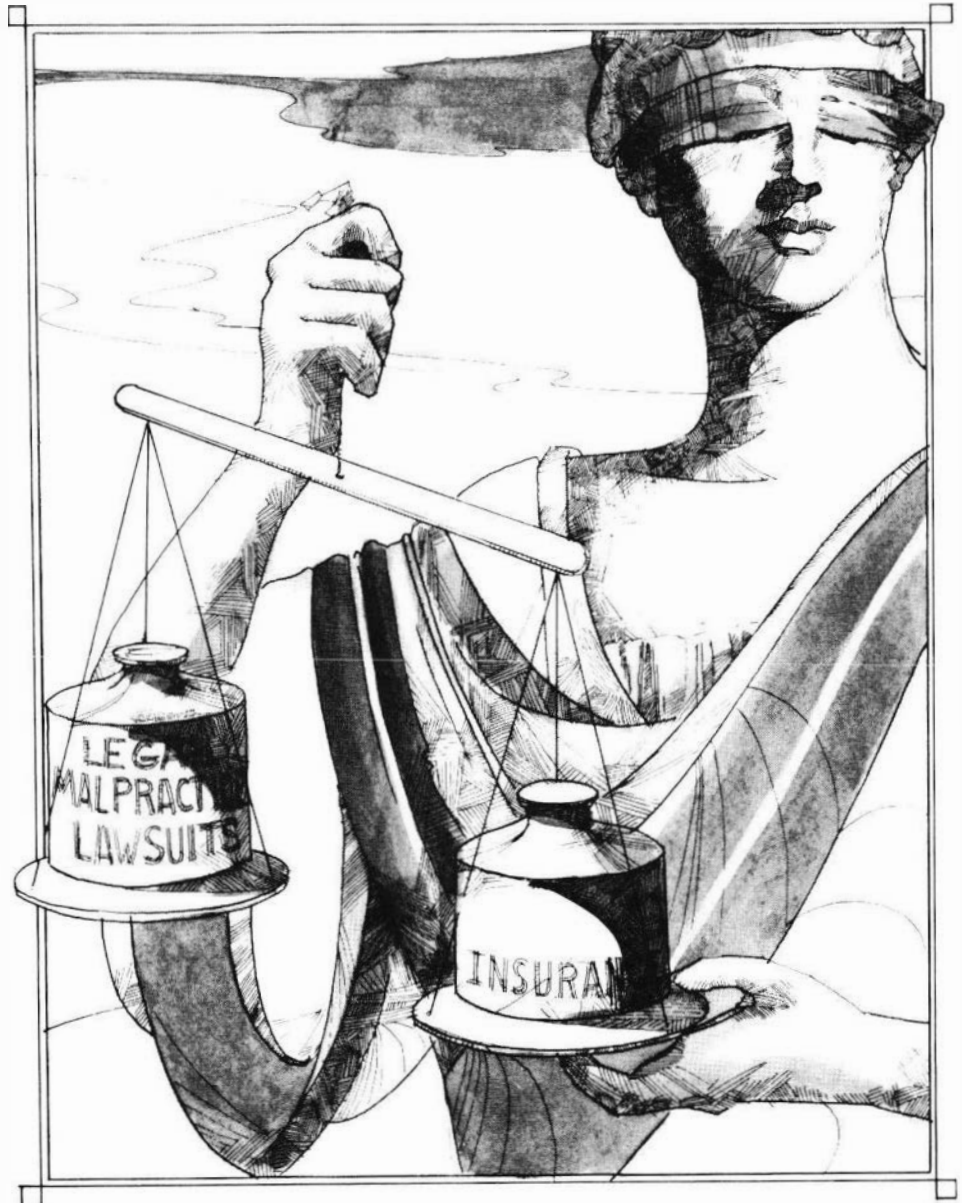
4. Assign civil cases dealing with the same family to the same judge when feasible. This will decrease the likelihood of conflicting orders being entered and conflicting services provided.

5. Require cross disclosure of information on all pending cases relating to the family. Have the parties disclose all knowledge

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concerning other actions at the time of filing each new case; have the court clerk's office cross index actions by family name, and provide all information and files to a judge hearing a case; have the court refer to other existing court orders and their priority in judgments entered involving the family.

6. Internally prioritize court orders regarding the same family on adjudication of evaluation, restraining order, and no contact issues:

- First priority: Criminal Orders—Constitutional privileges supersede other social goals.
- Second Priority: Juvenile Orders—Immediate, protective intervention supervised by the state is more urgent than other forms of private ordering.
- Third Priority: Dissolution/parentage actions—The relationship of and for private parties is less important than where the state is a necessary party, but jurisdiction is greater and of longer duration than in other transitory actions.
- Fourth Priority: Protection Orders—Those which control behavior formerly not regulated by civil procedures, but for which the jurisdictional grant is neither as great nor as lasting as that available in other proceedings.

7. Establish priority of court orders regarding adjudication of custody issues:

- First Priority: The most restrictive order entered—to afford the greatest full faith and credit to orders entered with due process.
- Second Priority: Juvenile orders—in deference to their urgency and the plenary power of Juvenile Court.
- Third Priority: Other orders entered with sanction of Juvenile Court. Some states permit Juvenile Court recognition of other court orders as a means of transferring a case from state to private supervision.
- Fourth Priority: Dissolution/parentage decrees—the most traditional form of adjudicating

issues in a nonabusive context.

• Fifth Priority: Protection orders—better than nonregulated self-help remedies otherwise available but which are not as long lasting nor afford the due process protections of other court-ordered remedies.

8. Each judge should acknowledge the upward, vertical supersession of court orders in each order that is issued. In this way there can be no doubt as to which order ought to be followed by the family on the particular issue.

9. All orders should include language that a violation may constitute a criminal offense, civil contempt, or be cause for mandatory arrest, if that is the law of jurisdiction. Orders are taken more seriously when the consequences are spelled out.

10. The court should require coordination among the prosecutor, child protection worker, and defense counsel for concurrence on a single evaluator, if possible, with evaluation and the report to remain confidential (immunity granted if necessary) as it pertains to the criminal proceeding so that family planning may be initiated and implemented.

11. Civil fact finding should abide by the criminal case flow processing. This allows the cases with the highest constitutional privileges, shortest time parameters and highest burden of proof to be resolved first, which itself may resolve related civil matters.

12. Children should be represented in all proceedings by a victim advocate, *Guardian ad Litem*, or an attorney. Children are truly real parties in interest and, to the extent that there is not an advocate in our adversary system for them, the resolution will be incomplete.

13. Whenever feasible, the same person should be appointed as child advocate in all proceedings involving the family.

Specific planning also needs to be given to the prehearing stage of adjudication by the court and its staff.

B. Measures to Implement for Handling Specific Cases:

1. The judge and staff must receive specialized training on the cycle of violence and psychological effects on family members. Particular training ought to be afforded on the interrelationship of domestic violence lawsuits and their impact on family members.

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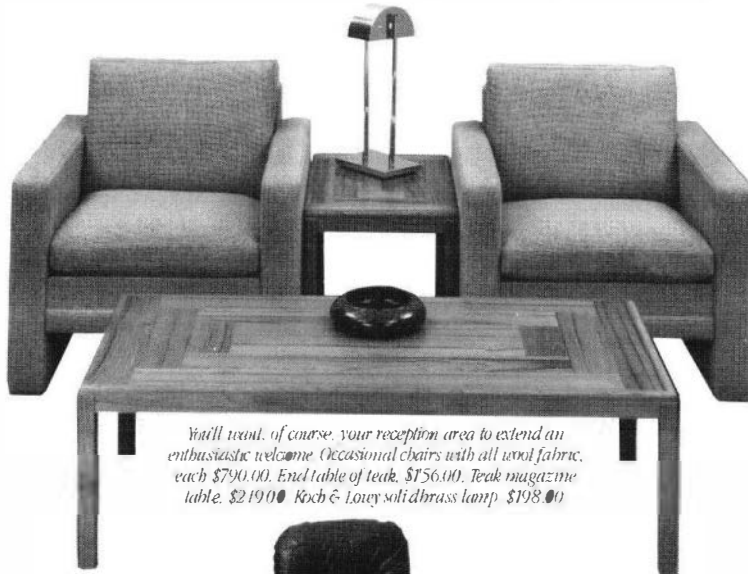
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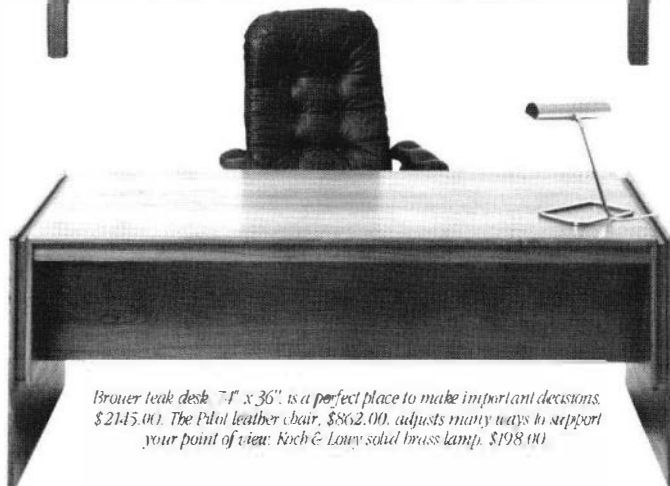
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2. Court staff needs to be instructed on the specific skills required to provide an environment that will be supportive, yet impartial; informative, but not directive to the litigants.

3. The court facility ought to be designed to maximize security concerns, not only for the staff but for the litigants. For example, there ought to be two or more independent means of egress from the courtroom, so that disputants need not exit together and carry on their case in the courthouse corridors.

4. Written and recorded materials ought to be liberally available so that litigants can learn about the court process, what to expect for likely outcomes, and where to go for legal and other assistance.

5. Resource lists ought to be compiled and made readily available to the bench, bar and litigants which include information on shelters, support groups, therapists, anger management programs, and low-cost legal services. The needs of litigants are recognized and their forum moved from the home and streets to our courtrooms. Yet the court is but one step in the process which ought to take into account and prepare parties for the steps to follow.

6. The court and staff should be aware of and involved with community agencies for the establishment of victim advocacy programs, so that there may be true equality before the law at the time of each hearing.

With the protocol for court management of domestic violence cases established, and the courtroom environment specifically responsive to the needs indicated, special treatment must also be afforded at the hearing itself.

#### C. Particular Concerns for Domestic Violence Hearings:

1. Except where prohibited by law or sensitivity of issues dictate (such as child molestation cases), keep the hearings public and open! Access to hearings other

than a litigant's own is informative and has a normalizing effect on observers and litigants. The presence of others affords a degree of safety and distance and decreases the confrontive potential at one's own hearing.

2. Employ the special skills required for dealing with *pro se* parties in *all* cases when litigants are present, whether or not they are represented.

- Insist that all communication be directed to the judge.
- Stress getting to the *substance*, not the barriers of legal formality.
- Respect all persons' feelings and the fact that they come to court fearful of their situation and intimidated by the process.
- Clearly differentiate between the fact finding and decisional part of the hearing by seeking information without imparting judgment. Prematurely transmitting thoughts and attitudes will, more than in other cases, severely limit and affect the flow of information.
- Express clear judgment in the decision so that parties know exactly where they stand and what their relationship shall be. Include disclosure on possible consequences for violations in the

oral decision and in the written court order.

3. In making and rendering a decision, address both dimensions of the problem: The immediate impact on the people involved *and* what impact the decision and process followed will have on the future choice of forum for the family. It is likely that the problems which gave occasion to the litigation will reemerge through escalation, repetition, or enforcement proceedings, so particular attention needs to be given to the sense of process and progress in resolving the discordant family needs.

4. A written order should be entered at the conclusion of each hearing. All parties to the proceeding require certainty and direction; to merely set the matter over for another date for presentation of order, or to expect litigants to reduce to writing the direction of the bench may engender false expectations.

5. Avoid continuances of the hearing whenever practical. Often one would like more information, further testimony, or a legal brief. Yet the problems are compelling and the parties need guidance immediately. It is pre-

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ferred that future hearings be scheduled to modify an order, if such is indicated, rather than postpone the immediate needs of the family for a decision.

### V. A Final Perspective:

The development and implementation of a domestic violence protocol will conserve court resources while decreasing the exacerbating influences on the victim and family. Consistent, enforced orders of the court will bring peace to those involved and their families while offering the greatest possible justice for all. As our knowledge of underlying family problems increases, and the effects of these procedures are weighed, this protocol and those improvements to follow will better serve our community. □

*The author, a King County Superior Court Commissioner, was recently appointed by Governor Gardner to retiring Superior Court Judge David Hunter's seat. Judge Gaddis presented a longer version of this article at the Workshop on Family Violence, which he chaired, at the 24th Annual Convention of the International Association of Family and Conciliation Courts on May 23, 1986 in Boston.*



### Did You Know?

Spokane lawyer Tari Eitzen's article, "A Child's Right to Independent Legal Representation in a custody dispute", 19 FAM. L.Q. 53 (Spring 1985), contains comprehensive historical and state-by-state analysis of the unique legal situation, the child's constitutional rights in it, and the role of the attorney for the child.

### Tort Reform Act Section Presents Potential Trap

Lawyers undertaking to file a wrongful death or personal injury action under the new tort reform act will be exposed very quickly to a dangerous time limit trap. Every lawyer should be aware of this problem and prepared to act quickly to avoid it.

Chap. 305, Sec. 101(4)(b), an amendment constituting part of the tort reform act, provides mandatorily that any plaintiff in such action make an election as to whether or not to waive the physician-patient privilege within 90 days of filing the action. If the plaintiff does not make such an election within that time, he or she forfeits the right to recover damages for the mental or physical condition involved.

If Washington lawyers fail to meet this limitation through lack of knowledge or neglect, this will constitute malpractice as a matter of law. The resulting effects could be broad if large numbers of lawyers were involved, including a potential increase in malpractice insurance rates.

To wit: Be aware of the 90-day deadline and act accordingly.

"I wonder, now, what the Rules of Battle are . . . One Rule seems to be, that if one hits the other, he knocks him off his horse; and, if he misses he tumbles off himself. . . . Another Rule of Battle . . . seemed to be that they always fell on their heads; and the battle ended with their both falling off in this way, side by side."



## Decision Avoiders in Child Custody Actions

by Terrence V. Sawyer

The Biblical story of Solomon's famous custody/maternity decision is frequently alluded to by jurists in family court. Ironically, Judge Solomon did not make a reasoned decision regarding custody. Recognizing that he had no evidence before him, the judge pulled a trick on the parties, threatening to cut the baby in half. He awarded custody to the party who appeared to be more compassionate, drawing the inference that this person would be a better parent for the infant. In doing so, Judge Solomon avoided the more difficult task of actually deciding the case on the basis of the best interests of the child. His decision would not have survived appeal in Washington.

Family court judges today face similar pressures in their dockets. They must draw inferences from the facts before them to permit them to make the decisions mandated by the Dissolution Act. The trial court is specifically required to consider all

"The complexities of the problems presented in child custody matters would tax the wisdom of Solomon. . . ." *In Re Walker*, 43 Wn.2d 710, 719 (1953).

of the relevant factors in RCW 26.09.190, even if the court has to order its own investigation or appoint an attorney for the children, *Marriage of Waggener*, 13 Wn. App. 911, 917, 538 P.2d 845 (1975). However, pressures of the docket and human nature frequently encourage judges to apply a type of shorthand to the decision-making process.

I call the process of substituting inferences for direct evidence "decision avoiders," referring not to the judge, but to the thinking process. The use of decision avoiders permits the judge to substitute a

simple finding for the more searching inquiry mandated by the statute. Too frequently, decision avoiders are applied without critical analysis of the validity of the unstated inference.

The tender years doctrine is a classic example of a decision avoider: Children of tender years were commonly awarded to their mother without regard to the merits of their father's claims for custody. *Marriage of Murray*, 28 Wn. App. 187, 622 P.2d 1288 (1981) specifically rejected the application of the tender years doctrine as a decision avoider.

Custody awards based *solely* on the tender years doctrine shorthand undermine the statutory scheme, lend to cursory fact finding, and encourage judges to interject their own personal beliefs of family life and sex roles. . . . Instead, each case should be based on a thoughtful, individualized

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determination.”

(Emphasis in original.) *Id.* at 191.

Sexual activities are another decision avoider that has met with substantial treatment in the courts of appeals. In *Marriage of Cabalquinto*, 100 Wn.2d 325, 669 P.2d 886 (1983), the Supreme Court rejected the inference that a finding of homosexuality, without more, would support a decision to restrict visitation. In *Wildermuth v. Wildermuth*, 14 Wn. App. 442 (1975), the court rejected a decision avoider which would have allowed the court to infer from the mother's illicit relationship (which the trial court characterized as creating an "immoral atmosphere"), that transfer of custody from the mother to the father would be in the children's best interests. The court stated, "We find the controlling statute requires more than a showing of illicit conduct by the parent who has custody. There must be a showing of the effect of that conduct upon the minor child or children." *Id.* at 445.

### Today's Decision Avoiders

Many decision avoiders still flourish, and more are being invented each day. Examples that I have found in my limited practice include:

(1) *The temporary custodian is doing fine; therefore, custody should be granted to that person.*

The effect of this decision avoider is to make the temporary custody hearing a final determination on the merits. This decision avoider gives the advantage to the custodial parent where there has been a delay between the time of the temporary custody order and the final decree.

(2) *The parties have separated, leaving the child with one spouse; therefore, the court will abide by their agreement and award temporary custody to that spouse.*

The decision to leave the children with the other parent in the home is viewed as an abandonment or as admission that the spouse in the home is a better custodian for the children. This decision avoider can

work an injustice where one party leaves the house without any clear understanding of where that person would live and/or where the children would live after separation. This inference has more validity where the parties have actually structured their relationship such that one party is the primary caretaker.

(3) *The court shall not interrupt the child's education by transferring custody during the school year.*

This decision avoider appears to have considerable merit, but is easily abused. Parents pull their children out of school for many reasons: moving, loss of tuition, or whim. Some courts, however, won't change schools in any case. Obviously, the court should not compound the problems inherent in a dissolution of the marriage by taking the children out of the school environment, which may be the only stable influence in their lives. However, in the worst cases, the court may decide 13 years of parenting on the basis of not taking the child out of a particular school for a particular year.

(4) *The new girlfriend will be a helper to the father.*

(5) *The new boyfriend will be a*

*threat to the child.*

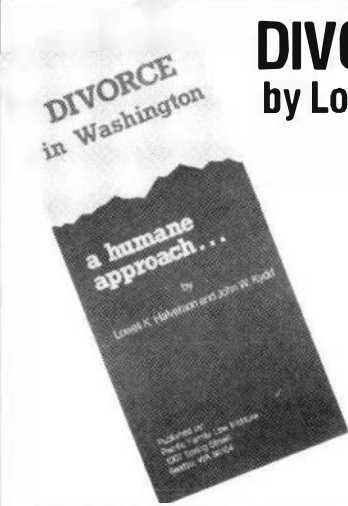
Sexism plays a continuing role in decision avoiders (4) and (5). The inference expressed in No. (4) was implicitly rejected in *Marriage of Waggener, supra*. Too often the fact of sexual activity by the mother is frequently considered more damning than sexual activity by the father. See *Wildermuth, supra*. Unfortunately, the experience of the judge may reinforce No. (5). A judge who rotates into the juvenile court for a substantial period of time will see a number of cases where the state is alleging neglect because the mother's new boyfriend is abusing the child.

(6) *Mental illness is permanent.*

I call this decision avoider the mental health tar baby. Once an individual has contact with the mental health system, the person is stuck and cannot avoid the mental illness label.

Trial courts have been directed to look deeper than the mere evidence of mental illness in numerous appellate decisions, including *Marriage of Nordby*, 41 Wn. App. 531, 705 P.2d 277 (1985); and *Fint v. Fint*, 15 Wn.2d 443, 131 P.2d 426 (1942).

(7) *Misconduct of a proposed guardian always affects the welfare*



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of the child.

Despite the injunction that "the court shall not consider conduct of a proposed guardian that does not affect the welfare of the child," RCW 26.09.190, trial courts continually draw the inference that bad acts of a proposed custodian do affect the welfare of the child and therefore are relevant. If the client takes a lover, takes drugs, or takes

off to Mexico, someone whose values are much like the client's great-grandfather's may be looking at the situation when it comes time to decide what kind of parent the client is. This inference is accurate much of the time, but it often traps the litigant who has thrown too little mud at the temporary custody hearing.

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### **Combatting Decision Avoiders That Work Against Your Client**

Decision avoiders (1), (2) and (3) operate to preserve the status quo. If a custody award in your favor would change the status quo, then that factor must be carefully considered by counsel. Be prepared to show why change is necessary.

If your client loses the temporary custody hearing, he or she should be instructed to take every available minute of visitation which is granted by the court or offered by the other side. This is the only way to counter the effects of decision avoider No. (1). If the other side begins to rely on your client for extended visitation, then decision avoider No. (2) may work in your client's favor at the trial on the merits.

A client who has engaged in bad acts should be cautioned to make a major reversal of lifestyle. The New Testament provides insights into decision making in this context. The lost sheep that is returned to the fold merits more rejoicing than the ninety and nine who have remained. A client who makes a dramatic improvement in lifestyle may overcome the decision avoider regarding bad acts.

Utilization of community resources for assistance in this area is very helpful. It provides the client with a record of improvement, and if good progress has been made, expert witnesses may be called from the resource to testify to that fact. Although mental health counseling is appropriate in many cases, client and counsel should beware of the tar baby effect.

### **Utilizing Decision Avoiders to Advantage**

The concept of decision avoiders should be communicated to clients. The parties should understand that if they cannot decide among themselves such intimate issues as the custody of their children, they take a tremendous risk by placing the matter before a trial judge. If clients understood decision avoiders and

the difficulty that trial judges may have obtaining any more than an inkling as to their personality and lifestyle, they would understand that a reasonable settlement offer is not to be lightly ignored, and they would avoid pitfalls like the bad acts decision avoider.

Parenting classes are the secret weapon of the motivated litigant. Parties benefit from parenting classes for three reasons: (1) They probably will learn something about parenting which will be useful should they get custody or substantial visitation. (2) They will demonstrate to the court the ability to set a goal and achieve it over a period of time. This demonstration supports an inference that the person can undertake long-term responsibility for their children. (3) When they complete the course they will receive a "diploma" from parenting school. Since the judge has accumulated four diplomas in his 20 years of schools, he may place great store by them.

Understanding the role of decision avoiders in the judicial process can clarify the factors included in deciding whether to appeal an adverse decision. Rejection of decision avoiders is the central theme of many of the most important appellate decisions in the family law area. The appellate court essentially reviews decision avoiders which have been adopted by trial judges and considers whether they do support an inference which leads to a finding regarding the best interests of the child.

Even if an adverse decision is appealed, the attorney must be aware that the stability inferences will apply on remand. Appropriate steps must be taken immediately or years of effort can be wasted. In *Marriage of Little*, 96 Wn.2d 193, 198, 634 P.2d 498 (1981), for instance, the Supreme Court affirmed the decree but ordered the trial court to "look into the present circumstances" before transferring custody to respondent, as the

decree provided. Appellant had obtained a stay of the decree pending appeal, and the court recognized that continued residence with that parent could not be ignored.

### Conclusion

Whether they know it or not, parties and counsel abuse decision avoiders every day. People bring groundless temporary restraining order motions to take advantage of temporary custody, or sling irrelevant mud at each other in court. This type of behavior does not serve the best interests of the children; it only exploits the tendency of judges to ignore the statutory factors. If the attorneys and clients recognize decision avoiders when they surface, they can refocus their attention on the best-interest standard. The alternative is to issue a large sword to all family court judges. □

*Terrence V. Sawyer is a staff attorney at Spokane Legal Services Center.*

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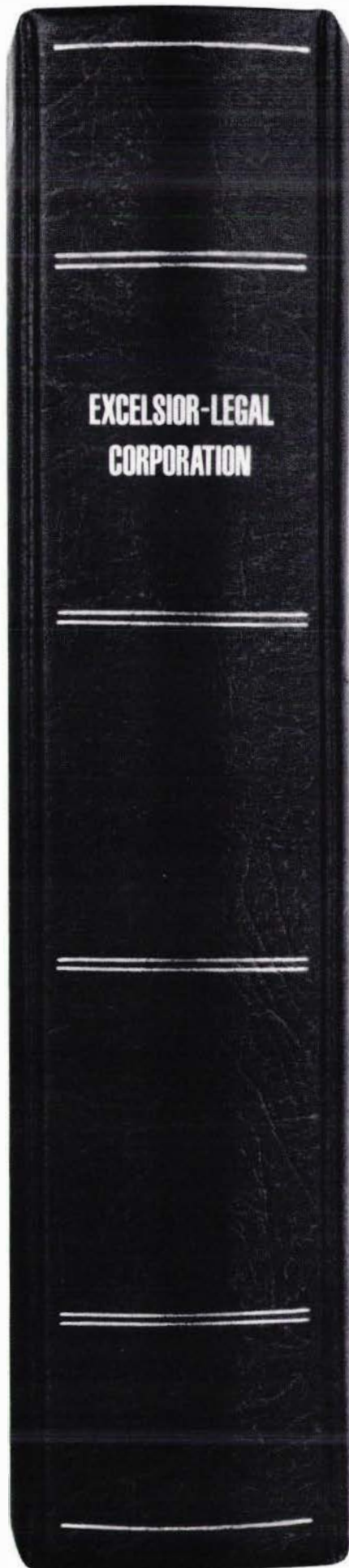
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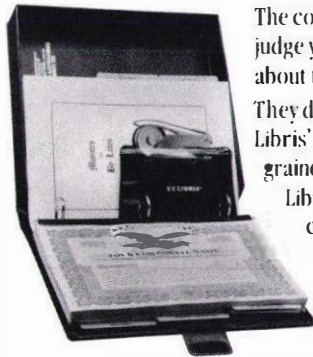
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# The Proposed New APA —Miracle Drug or Snake Oil?

by James B. Wilson

In 1959 Washington State adopted its first Administrative Procedure Act (APA) (Laws of 1959, Ch. 234, Ch. 34.04 RCW), and in 1967 provided for the compilation and publication in uniform format in the Washington Administrative Code (WAC) of all agency rules and regulations, as well as providing procedures for agency conduct of contested cases (Laws of 1967, Ch. 237). Henceforth the Code Reviser, on behalf of the Statute Law Committee, provided ready access to all state agency rules and regulations in a codified, agency-by-agency compendium which is continually updated.

With the passage by the legislature of the Washington State Register Act of 1977, (Ch. 34.08 RCW), periodic publication by the Code Reviser of the Washington State Register (WSR) was required. All proposed new, amended or repealed rules and regulations by all state agencies, commissions, etc., as well as the full text of newly adopted rules and regulations, public meeting notices, summaries of attorney general opinions, court rules, etc., are published monthly and are readily accessible in libraries, law offices and courthouses. More recently, the legislature has followed Congress' "deregulation" lead in subjecting state agency regulations to legislative review and comment.

Consistent with most states,

Washington's original APA was modeled after an early draft of the 1961 Model State Administrative Procedure Act. The 1967 amendments to the APA made major improvements for providing public access to state government, its procedures, rules and regulations, and in handling contested cases within state agencies.

In 1971, the legislature determined that the provisions of Chapter 34.04 RCW for state agencies were not adaptable to the unique needs of state institutions of higher education, whose rules and regulations were not usually of general public interest and had application only within the institutions—regulating students, faculty, administrator and employee relations, and involving contested cases from within those internal constituencies. A special Higher Education Administrative Procedure Act (HEAPA) was enacted and the institutions were removed from coverage under Chapter 34.04 RCW (Laws of Wash. 1971, Ex.Sess. Ch. 57, Ch. 28B.19 RCW).

## The Proposed Administrative Procedure Act

The state of Washington can hardly be criticized as lagging in uniform governance processes and in opening those processes to public scrutiny and access. There has been no groundswell of demand for

sweeping reform of the processes now in place. As the annotations to Chapter 34.04 RCW show, the APA has been broadly used and its provisions tested and interpreted in numerous appellate court decisions.

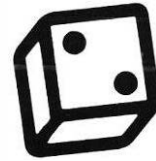
While there may still be some need for reform of certain provisions because of the ever-growing role of state agencies in all aspects of the community, the APA with its 1967 and 1971 amendments has proven to be a stable and responsible means of assuring fair play and public accountability for the myriad governmental functions that exist in our modern society. It is therefore difficult to understand why in October 1985 the WSBA Board of Governors, without any explanation or justification, "endorsed in principle" so sweeping a proposal as that prepared by an APA Task Force. ("The Board's Work," November 1985 *Bar News*, p. 15.)

The proposal was introduced as SB 4530 in the 1986 legislature by Senators Phil Talmadge and Stuart Halsan, Chair and Vice Chair of the Senate Judiciary Committee. Opposition to the bill quickly surfaced when state agencies realized the drastic effect its passage would have on their budgets and operations. The bill failed to pass out of the Senate Judiciary Committee.

Thereafter, Senator Talmadge with Representative Seth Armstrong, Chair of the House Judiciary Committee, formed a Joint Select Committee on the APA. The com-



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mittee consisted of some members of the two legislative committees, representatives of the APA Task Force, and three state agency members appointed by Governor Booth Gardner. The proposal is currently being reviewed by this committee to determine whether or not it should be given further consideration by the legislature, and if so, in what form and with what modifications.

The APA Task Force was created by the WSBA Board of Governors in 1980 to draft legislation to establish an Office of Administrative Hearings for the purpose of providing impartial hearings for state agencies. The Task Force completed its original assignment on administrative law judges by 1981, when its proposal was enacted by the legislature. (Laws of Wash. 1981, Ch. 67; Ch. 34.12 RCW.) With its assignment completed, the Task Force undertook, *on its own and without any special mandate*, the complete revision of the APA. It was apparently guided by a new 1981 Model States Administrative Procedure Act, proposed by the National Conference of Commissioners of Uniform State Laws in 1981, and created by a panel of administrative law professors.

The Task Force members feared that state government had evolved into a complex and mystifying labyrinth of secret operations indifferent to public concerns, which was inaccessible to the public because of complex and inconsistent processes in various state agencies. Yet they failed to cite any factual examples justifying their concerns.

Their proposal broadly expands the definition of "agency actions" to include failures to act, and permits "any person," not "any aggrieved party," to seek judicial review of a *non-final* agency action in the rule- or decision-making process. Such expanded judicial oversight of agency action has not generally been perceived as necessary or desirable by either legal or political scholars or by the courts themselves. The proposed scope of judicial review goes beyond the traditional "arbitrary or capricious"

standard to permit the substitution of a judge's discretion for that of the administrative expert in a broadened range of cases. The proposal would more than double the grounds for judicial reversal of agency actions.

The increased role of the judiciary under the proposal is alarming. Judicial dockets are already overcrowded and justice too frequently delayed. The courts have not indicated, by opinion or otherwise, any interest in the expanded role proposed for them by the Task Force. On the contrary, they have scrupulously avoided substituting judicial for administrative judgment while properly giving careful scrutiny to the jurisdictional basis for agency action and while measuring such action against a carefully defined "arbitrary or capricious" standard.

The language used by the drafters throughout the 94 sections of the proposal will also need judicial interpretation before agencies will fully understand their obligations.

Under the proposal, a reviewing court may remand to the agency issues raised for the first time on appeal, in effect calling for a *denovo* review of each administrative case by the court.

The proposal would require agencies to engage in costly and usually useless processes to codify orders as rules, publish them and subject them to further public and judicial scrutiny and modification *ex post facto*; and to establish indexes and compilations of all interpretive or policy statements and orders for public inspection and copying, as well as provide written policy statements on "current approaches" on most all matters coming within the agency's jurisdiction.

Each agency would be required to appoint a rule coordinator and maintain a rule-making docket which would have to include "possible" rules under "active consideration" by the agency.

The proposal sets forth a uniform administrative rule and decision-making procedure for all state agencies without considering the vastly different programs and procedural requirements of those various agencies.

### Cost/Benefit Analysis

No one on the Task Force or on the Board of Governors ever suggested the need for a cost/benefit analysis of the proposal. The Department of Social and Health Services would be particularly hard hit by the enact-

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ment of the proposal. It would incur over \$2.5 million in estimated start-up costs and an enormous continuing impact on its operating budget. There will be similar cost impacts with the other forty state agencies, six state universities and colleges, twenty-seven community colleges, and most of the 250-plus state boards and commissions.

The Task Force had not in its four years of deliberations considered the impact of its proposals on higher education institutions, but included them within the proposal's coverage.

The Model Act proposed by the National Conference of Commissioners of Uniform Laws in 1981, which guided the Task Force, did not even consider the impact of its proposal on state educational institutions. It was clearly designed to deal with administrative agencies only. The commissioners explicitly recognized that their proposal should not apply to political subdivisions "because of the very different

circumstances of local government units when compared to state agencies" (Comm. Comments, Model State Adm. Proc. Act, 1981, p. 7). Those few states who have considered the model act for their purposes have all excluded higher education institutions from coverage. The Select Committee has been urged to exclude them, too, and at this writing agreement seems likely to do so.

### Conclusion

The APA and HEAPA have both effectively provided for efficient and responsive state government. A review of those acts may be warranted to determine which sections may be improved or updated.

The approach of the Task Force, however, is to abandon the APA and HEAPA and to limit the inquiry to what sections, if any, of its proposal should be dropped or amended. The Governor's representatives seek to eliminate higher education institutions from the proposal and to nar-

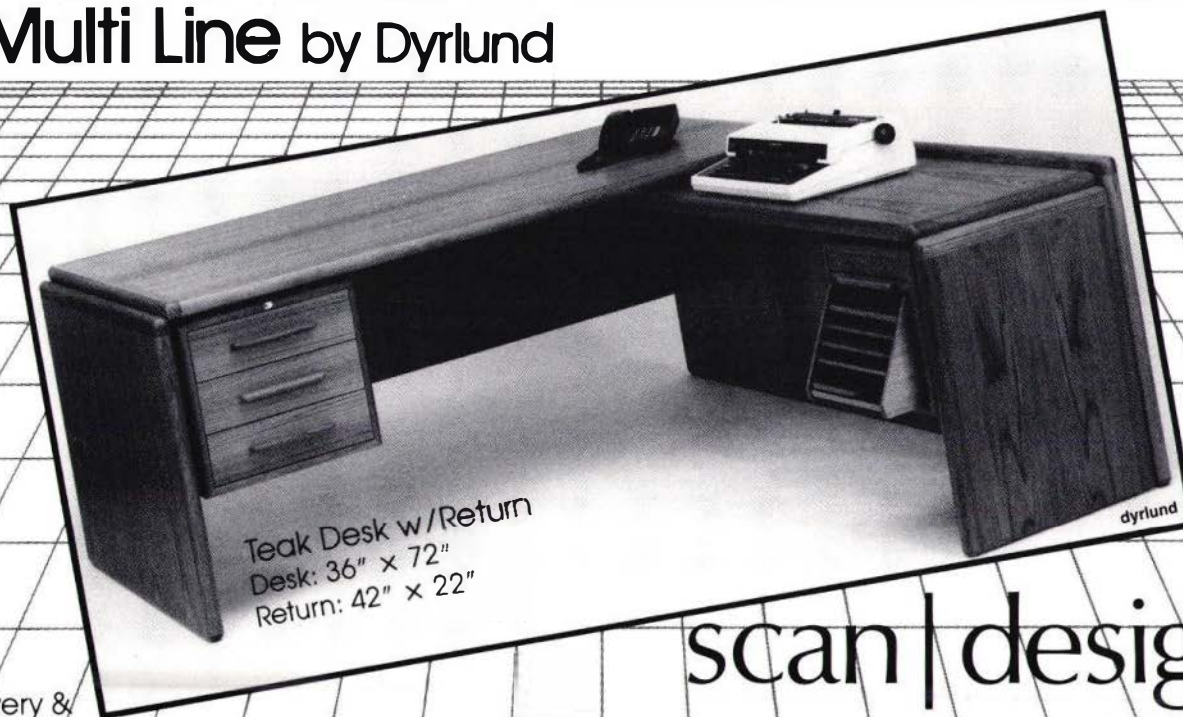
row substantially the definitions of agency "action," the standing provisions and the scope of judicial review. Much of the useless record-keeping and rule-making complications must be eliminated, and the expanded public role needs to be modified to enable agencies to implement their programs without undue delay or disruption.

If a proposal emerges that can warrant support, a modern miracle of alchemy may have been wrought, converting snake oil into a potential miracle drug. □

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*James B. Wilson, a 1950 graduate of the University of Washington Law School, has been a senior assistant attorney general and chief counsel for the University of Washington since 1963. A former president of the National Association of College and University Attorneys (1979-1980), he is a representative of the Governor on the Joint Select Committee on the Administrative Procedure Act.*

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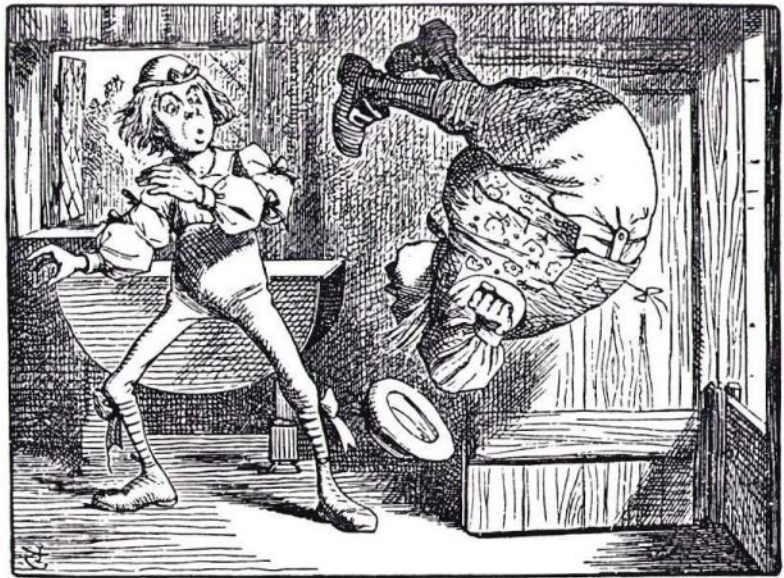
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*“You are old,” said the youth,  
 “and your jaws are too weak  
 For anything tougher than suet;  
 Yet you finished the goose,  
 with the bones and the beak—  
 Pray, how did you manage to do it?”*



*“In my youth,” said his father,  
 “I took to the law,  
 And argued each case with my wife;  
 And the muscular strength,  
 which it gave to my jaw  
 Has lasted the rest of my life.”*

## Learning From Each Other

by Douglas Shaw Palmer

I am sorry to see the State Bar “fractionating” into younger and older generations in a formal way, as the Seattle-King County Bar Association did some time ago. It seems to me that older and younger lawyers have a lot to learn from each other, as in other walks of life. There used to be a saying in Boston that “The Lodges speak only to Cabots, and the Cabots speak only to God.” I fear that there has been a tendency, in recent years, for the “Young” lawyers, who now predominate in the State Bar, to huddle unto themselves and talk only to each other, ignoring and at times showing disdain for older members of the Bar and their views.

Why should there be a Bar Association Committee on Antitrust Law, and also a Young Lawyers’ Committee on the same field? Or a Bar Association Probate Committee, and a Young Lawyers’ Probate Committee? The law in these fields knows no gap, no barrier, between

one generation and another.

When I was a younger lawyer, I, too, thought that many of the old-timers were fogies or crocks. But in many cases, after I got to know them better by serving with them on committees, and by watching them in court, I came to appreciate what some of them had to say and how well they said it, in many areas of the law and on the ethics of the profession and its customs.

I fear that the “fractionating” of the Bar is leading us down the road to stratification of age groups such as was common in so-called primitive societies. Men and sometimes women were initiated at birth into age groups having a span of perhaps five years, and thereafter marched in lockstep through life as members of that age group, with the peerage of age being more important than that of membership in the community. I hate to think that this would happen—although I fear that it is beginning to happen—in the Bar of Washington.



## God Save This Honorable Court

by Mark A. Olague

I discovered Lawrence H. Tribe's recent monograph, *God Save This Honorable Court: How the Choice of Supreme Court Justice*

*Shapes Our History* (Random House, 1985), quite by accident. Professor Tribe was a member of a discussion group analyzing the Burger Court for a national news program. At the end of the segment came a plug for his new book. I ordered a copy the

day that Chief Justice Burger retired, Justice Rehnquist was nominated to be his successor, and Judge Scalia was nominated in Justice Rehnquist's stead as an Associate Justice.

This effort by one of America's best known "Court Watchers" and constitutional scholars deserves your attention. The value of Tribe's book is not so much in the conclusions that he draws from history, but in the questions he poses about the selection of justices:

- Does the Supreme Court affect our daily lives? If so, how?
- Does the selection of a single justice impact the court as an institution?
- Does the label "strict constructionist" have any real meaning?
- Historically, have presidents been surprised by their appointments once on the bench? Or, have the appointees reacted as expected except for cases and controversies unanticipated at the time of appointment?
- Has the Senate assumed an active or passive role in granting its "advice and consent" to nominations in the past?
- Should a nominee be tested not only on his or her individual merit, but on how his or her ascension would impact the "overall balance" of the court?

Lastly, Tribe advances a model for the exercise of the Senate's power to grant its "advice and consent" to nominations.

As I write this, the chair of the Chief Justice of the United States is once again vacant. Over time, mortality and retirement will bring new members to the court. The very essence of our republic is judicial supremacy; therefore, the continuing evolution of the American dream will depend upon the questions we ask about the men and women who will sit upon the United States Supreme Court.

*Mark A. Olague, a graduate of Creighton University School of Law and WSBA member, lives in Renton.*

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## Effective Use of the Civil Appeal Statement and the Appellate Settlement Conference

by William H. Ellis, Jr.  
Court Commissioner,  
Division One

The civil appeal statement and the settlement conference can be effective tools in managing and resolving appellate litigation. This article briefly discusses their mechanics and offers some suggestions on their use.

### The Civil Appeal Statement

The civil appeal statement is a condensation of substantive and procedural information about the case. Every civil appellant must file a statement within 15 days of filing the notice of appeal. RAP 5.5. Organization of the statement is as set forth in RAP 5.5(c) and RAP Form 21. The respondent must file an answer to the appellant's statement. RAP 5.5(d).

Though vital to the settlement process, the civil appeal statement is important for other reasons and should therefore be as accurate and complete as possible. It is a ready source of information about the appeal, and, properly presented, can make the review process more efficient for the court and counsel. As appellate caseloads increase, there may be greater emphasis on the statement as an early and perhaps binding method of issue identification. See, e.g., *Northwest Ins. Co. v. Albrecht*, 22 Wn. App. 16, 587 P.2d 1081 (1978).

Perhaps most importantly, the statement is counsel's first opportunity to set forth the appellate position in writing. Formulation of this position and the identification of issues are vital to preparation of the

appellate record and planning the brief. The effort put into the statement may set the tone for the rest of the appeal. If carefully drafted, it can be a tool for "educating" the court and opposing counsel.

### The Appellate Settlement Conference

Division I routinely schedules settlement conferences for all civil appeals except those involving pro se litigants; Divisions II and III may schedule a conference if requested. The conference is conducted by a commissioner. Attendance by counsel is mandatory. RAP 5.5(g). Sanctions may be imposed for failure to attend or noncompliance with any settlement conference order. RAP 5.5(i). Though not required to attend, clients are strongly urged to participate in the conference. The client's input and immediate ability to react to settlement proposals are often crucial to settlement. Before the conference, counsel are requested to submit settlement proposals to the commissioner and/or opposing counsel. These proposals and the settlement conference discussions are kept confidential and not seen by anyone considering the merits of the appeal.

Before the conference, the settlement commissioner will review any settlement proposals, the civil appeal statement and any parts of the record necessary to gain an understanding of the case. The commissioner will arrive at some tentative conclusions about the relative merits of the parties' positions and the chances of success on appeal. Initial conferences are scheduled for one-half hour at the Court of Appeals.

The conference has shown itself to be an effective case management tool. Statistics indicate that conferences increase the non-opinion disposition rate for civil cases by approximately 10 percent.<sup>1</sup> Even if settlement is not possible, the conference may be useful for clarifying or limiting issues. This can aid both parties and may significantly affect the cost of the record on appeal. Problems inherent in individual appeals can be identified and resolved before they delay consideration on the merits. Finally, the conference is an excellent opportunity for counsel who may be unfamiliar with appellate procedure to ask questions about the process.

Much of the preparation for an appellate settlement conference should already have been done by the time the appeal is filed. The case may have involved pretrial conferences where many of the same settlement considerations were present. There is usually some careful consideration of possible issues before the decision to appeal is made. Though settlement approaches vary from case to case and between counsel, certain preparatory steps are common to all cases.

Each side should know its own case thoroughly before the conference. This means understanding the issues and facts and also the client's interests, priorities, and financial and emotional state. It includes an appraisal of what can be accomplished on appeal and some realistic estimate of the chances of success. There is almost always some risk of losing an appeal. (Frivolous appeals, those with no chance of success, are uncommon. A civil appellant is

granted some relief in approximately 20 to 25 percent of all cases.)

Each side should know what options are available to settle a case. Money is not the only consideration in most appeals, and often a settlement can be reached on non-monetary issues. Identifying options can also help parties avoid becoming "locked in" to one position before the settlement conference.

Counsel and clients should approach the conference with a positive attitude. Accepting a settlement may be preferable to the difficulty of collecting a judgment. Settling after an unfavorable verdict is not an admission of blame but a recognition of economic reality that may save money in the long run. Losing a summary judgment motion, even if the decision is erroneous, is a comment on how others perceive the case and may well warrant a settlement on appeal rather than a retrial. In many cases, the conference is a great opportunity to forestall more litigation.

The input of the settlement conference commissioner is an important part of the settlement process. The commissioner's evaluation of the appeal is the product of constant contact with the court and involvement in a large number and variety of appeals. The commissioner's estimate of the chances of success on appeal is a useful tool for computing a "settlement value," which is a handy starting point around which to structure settlement discussions.

The commissioner's role as a disinterested third party is also important. As a mediator, the commissioner can suggest solutions that have worked in other cases, translate "advocacy" positions into settlement proposals and act as a conduit for offers. As a judicial officer, the commissioner can provide a perspective which is often important in convincing clients that a mediated settlement is "fair."

The commissioner can implement full or partial settlements, dismiss or stay the appeal, limit issues to those

the parties agree on, alter the perfection schedule, and may direct additional conferences or impose sanctions.

### Conclusion

The civil appeal statement and the settlement conference are powerful tools which serve a variety of important functions for litigants and the court. An attention to detail and conscientious effort invested in them early in the appellate process can sometimes resolve a case . . . and usually pays dividends even when the case does not settle.

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<sup>1</sup> See also Talmadge, "Toward a Reduction of Washington Appellate Court Caseloads and More Effective Use of Appellate Court Resources," 22 *Gonz. L. Rev.* 21 (1985/86).

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**Notes From the Academy**

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

**Creditor-Debtor Law. (Case 1.)** Amendment of homestead statute making homestead automatic does not apply retroactively to nullify a creditor's judgment lien on excess value of homestead where effect would not be remedial (to protect creditor's interest) but would be merely to nullify judgment creditor's lien status for benefit of unsecured creditors. *Erickson v. Wenner (In re Wenner)*, 61 B.R. 634 (W.D. Wash. 1985), *rev'g* 39 B.R. 288 (Bankr. W.D. Wash. 1984), reported in this column in Dec. 1984.

(Case 2.) Where debtor-partner deeded real property to partnership as debtor's contribution to capital of partnership, receiving cash also, but

deed was not recorded before debtor filed bankruptcy Chapter 11 petition, debtor could avoid transfer under trustee's hypothetical bona fide purchaser status of Bankruptcy Code § 544(a)(3). There was no resulting trust because it was intended that title vest in partnership; due process did not preclude application of § 544(a)(3) to a transfer that occurred after its adoption, though before its effective date. Dissent: The hypothetical bona fide purchaser status conferred by § 544(a)(3) should not be recognized on these facts. *Washburn & Roberts, Inc., v. Park East (In re Washburn & Roberts, Inc.)*, 795 F.2d 870 (9th Cir. 1986).

(Case 3.) Under Bankruptcy Code § 506(b), creditor with allowed secured claim was entitled to postpetition interest at contract rate where value of collateral exceeded secured portion of claim, even though total claim (security for which was in large part avoided as a preference) exceeded value of col-

lateral. *P. J. Taggares Co. v. Glenn (In re Glenn)*, 796 F.2d 1144 (9th Cir. 1986).

—M.D. Rombauer

**Evidence.** In wrongful death action arising out of automobile accident, trial court properly admitted results of blood-alcohol test administered to decedent, which showed decedent had been drinking heavily before accident. Issue was one of admissibility under ER 702 and 703, and toxicologist was properly allowed to testify as to results because (1) foundation evidence established witness as expert, (2) his opinion was based on test generally accepted in scientific community, and (3) his testimony was helpful in explaining decedent's actions. Court of appeals rejected plaintiff's argument that test results should have been excluded because test had not been administered in accordance with double-testing procedures recommended by state toxicologist, saying objection went to weight of evidence rather than to



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its admissibility. *Tennant v. Roys*, 44 Wn. App. 305, 722 P.2d 848 (7/14/86).

—K.B. Tegland

**Real Property.** (Case 1.) First purchasers of land on forfeitable real estate installment sale contract resold land at higher price on contract to second purchasers, who covenanted to make payments on first contract. When second purchasers quit paying on both con-

tracts and abandoned premises, first purchasers lacked financial ability to reinstate first contract, so that original owner-vendor forfeited first contract. *Held*, second purchasers were liable to first purchasers for damages for loss of benefit of bargain, which here was difference between purchase prices on first contract and second contract. Second purchasers might have had defense that first purchasers had

failed to mitigate damages, but they would have had to show first purchasers had ability to reinstate first contract, which evidence did not show. *Smith v. King*, 106 Wn.2d 443, 722 P.2d 798 (7/24/86).

(Case 2.) Landowner's contract with excavation contractor, whereby landowner gave contractor exclusive right for five years to do earth filling on land was not running covenant that bound landowner's grantee to hire that contractor. Reasons were: (1) Covenant did not touch and concern the land; and (2) there was no "horizontal privity" between original parties, i.e., contract was not made in connection with transfer of some interest in land. (Comment. Second ground is dubious. It overlooks theory that covenant could run under equitable servitude doctrine, which does not require "horizontal privity."—W.B.S.) *Bremmeyer Excavating v. McKenna*, 44 Wn. App. 267, 721 P.2d 567 (7/7/86).

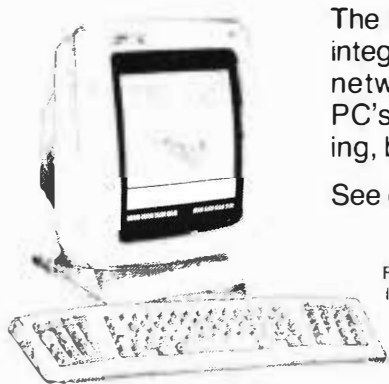
—W.B. Stoebuck

**Torts.** (Case 1.) State's motion to dismiss negligence action brought on behalf of U.S. Army soldiers injured and killed by artillery fire by members of Washington National Guard was upheld. Application of *Feres* tort immunity doctrine was denied because National Guard was not acting in federal status. Because firing artillery did not require exercise of basic policy evaluation but involved operational level decisions only, discretionary acts exception to statutory waiver of sovereign immunity was inapplicable. *Emsley v. Army Nat'l Guard*, 106 Wn.2d 474 (7/31/86).

(Case 2.) False-light invasion of privacy claim is governed by two-year statute of limitations for defamation (libel and slander—RCW 4.16.100[1]), even though harm involved in former, injured feelings or mental suffering, may be distinguished from harm caused by defamation, damage to reputation. *Eastwood v. Cascade Broadcasting*, 106 Wn.2d 466 (7/24/86).

(Case 3.) In products liability action governed by law prior to effective date of RCW

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7.72.030(1)(b) and (c) and RCW 7.72.050 (permitting state of the art evidence), a manufacturer may be held strictly liable for failing to warn of risks it allegedly had not and could not have discovered. Appellate court has jurisdiction under RCW 4.22.060 to hold hearing to determine reasonableness of post-judgment settlement. *Lockwood v. A C & S, Inc.*, 44 Wn. App. 330, 722 P.2d 826 (7/14/86).

—J.T. Richardson

**Wills and Estates.** In *In re Estate of Little*, 106 Wn.2d 269, 721 P.2d 950 (6/26/86), the Washington Supreme Court for the second time in recent years rejected arguments based on the early law of ancestral property, in the process reading the half-blood exclusion statute (RCW 11.04.035) to make sense, despite difficulties with its language.

Pearl Little died intestate, the owner of valuable San Juan County land. Pearl's mother, Maggie, had initially owned the land prior to her marriage to Charles, Pearl's father.

Charles, incidentally, had been married prior to his marriage to Maggie. During her marriage to Charles, Maggie conveyed the land to him in exchange for his promise to pay off a mortgage on it. Still later, Maggie and Charles executed a community property agreement, apparently treating the land as community. (At least, the supreme court accepted the proposition that the property became wholly Maggie's upon Charles's death.) Long after Charles's death, Maggie conveyed to Pearl. (This conveyance was apparently a gift; the court remanded the case to have a factual finding on this point.)

Upon Pearl's death intestate, she left both half-blood relatives, descendants of children born to Charles by his first marriage, and whole-blood relatives, descendants of a maternal aunt. The descendants of the maternal aunt were more remote in degree to Pearl than were the descendants of the half-blood. (The court speaks of the aunt's descendants as second and third

cousins of Pearl. They were not; they were first cousins once and twice removed.)

In early English law, if the decedent left no lineal descendants, only those collateral relatives who were of the blood of the first person in the decedent's blood line who had purchased the property could take by inheritance. (See R. Powell, Real Property § 1001.) In both *In re Kurtzman's Estate*, 65 Wn.2d 260, 396 P.2d 786 (1964), and now in *Little's Estate*, the supreme court has rejected the proposition that RCW 11.04.035 was intended to invoke or perpetuate that law in its early form.

The intestate's relatives in *Kurtzman* who argued for the application of ancestral property law in its early form were encouraged to do so by the unfortunate word order and punctuation in the statute as it then read. The first clause prescribed the civil law for determining degrees of kinship. The second clause, joined to the first by a comma and "and," permitted half-

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blood and whole-blood relatives to inherit equally. The third clause, joined by a comma and "unless," provided, however, that if the property came to the intestate by gift from an ancestor or a person of the ancestor's blood, then only "those" of the ancestor's blood could inherit. All of the *Kurtzman* survivors were of the whole blood. Nevertheless, those of the blood of the ancestor who had given the property to the intestate sought to exclude those who were not, arguing that the "unless" clause modified both preceding clauses. They were bolstered in this argument by the omission of the word "half-bloods" immediately following "those" in the third clause. The court sensibly rejected that contention, pointing out for legislative drafters that the simple device of a semicolon rather than a comma between the first two clauses would have obviated the entire lawsuit.

The argument for the claimants in *Little* was less drastic, but, as in

*Kurtzman*, they, too, sought to enforce a bit of the early law. Their argument was that the ancestor of whom they must be "of the blood" was not necessarily the person who conveyed to the intestate (Pearl's mother, Maggie) but the most recent purchaser in the ancestral line (pointing to Charles, who had taken the deed from Maggie in return for his promise to pay off the mortgage debt). The court rejected this argument, as being based on the early English law and not intended to be adopted by the Washington legislature.

Finally, as in *Kurtzman*, the *Little* claimants tried without success to take advantage of the less-than-perfect punctuation and word usage in the statute, by the time of *Little* amended to omit the first clause, which prescribed the civil law degrees. The statute continued to identify the half-bloods who were not excluded as being those who were of the blood "of the ancestors" (emphasis supplied). Seizing on the

fact that the word was in the plural, the *Little* claimants argued that they had only to be of the blood of just any one of those of Pearl's ancestors who had been in the chain of title and again pointed to Charles. The statute, however, in an earlier part of the clause speaks of "one of his ancestors," thus allowing the court to say that Pearl's immediate grantor, Maggie, was the ancestor with whom the half-blood claimants had to be consanguineous.

Thus, we have had two cases in which strained interpretation of the half-blood exclusion was urged. The court has rejected the arguments, wisely so, for the arguments were not only based on unlikely interpretations, but also, if successful, they would have resurrected law long since laid to rest and properly forgotten. Indeed, the court says that statutes "of this kind" (even as kept narrow by these two decisions) "are not favored in American law," but the court of course bows to the legislative prescription.

The Washington State Bar Association in 1965 recommended complete abolition of the half-blood disqualification. Perhaps the *Little* decision will revive the interest in abolition, for surely the current statute, despite these decisions, is a remnant of the past that serves scant purpose.

—R.L. Fletcher



### Court Rules: Please Comment

This year, the Court Rules and Procedures Committee has selected the Rules of Evidence and the Justice Court Traffic Infraction Rules for its annual, cyclical review. Your written suggestions for changes or general comments on these rules are invited, and should be received at the Washington State Bar Association offices by January 31, 1987. Please direct your comments to the attention of Steven Rosen, c/o the CLE Department.

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

A November 21 seminar, "How Lawyers Can Become Better Business Persons With Law Office Management," will be presented at the Red Lion Inn at Sea-Tac. It will feature nationally recognized speakers and a special exhibition of law office products and services.

The four program sessions feature **John A. Krsul, Jr.** (Dickinson, Wright, Moon, Van Dusen & Freeman, Detroit); **Phil J. Shuey** (Phil J. Shuey, Professional Corporation, Denver); **James E. Brill** (James E. Brill, P.C., Houston); and **Demetrios Dimitriou** (Maier Dimitriou & Ross, San Francisco).

Please contact Louise Thomas at the Washington State Bar Association, 505 Madison Street, Seattle, WA 98104 or telephone (206) 622-6021 for further information.

The Consumer Protection, Antitrust and Related Business Torts Section and the CLE Committee have combined their efforts to present a full-day program on December 5 at the Seattle Sheraton Hotel dealing with "Consumer Protection, Antitrust and Related Business Torts."

Program Co-Chairpersons are **David J. Burman** (Perkins Coie, Seattle) and **Hugh F. Bangasser** (Preston, Thorgrimson, Ellis & Holman, Seattle). The featured speaker is Professor **Lawrence A. Sullivan**. He is the Earl Warren Professor of Public Law and Director of the Earl Warren Legal Institute, Boalt Hall School of Law, University of California, Berkeley. He is also the author of *The Handbook of the Law of Antitrust* (West).

Other faculty members include: **Thomas L. Boeder** (Perkins Coie, Seattle); **John R. Ellis** (Washington State Attorney General's Office, Seattle); **Peter R. Jarvis** (Stoel, Rives, Boley, Fraser & Wyse, Portland); **James L. Magee** (Graham &

Dunn, Seattle); **Robert H. Alsdorf** (Armstrong & Alsdorf, Seattle); and **Lucinda S. Whaley** (Winston & Cashatt, Spokane).

For further information about this seminar, please contact Debbie Kirchhauser at the Washington State Bar Association or telephone (206) 622-6021.

The CLE Committee of the Washington State Bar Association and the CPE Committee of the Washington Society of Certified Public Accountants will present a comprehensive "Professional Liability—Loss Prevention" seminar on December 12 in Seattle at the Westin Hotel. This year's joint program will feature nationally prominent and local speakers who can help put you and your firm on the right track for avoiding malpractice lawsuits.

Seminar co-chairpersons **Robert J. Fleming** (Peterson Sullivan & Co., CPAs, Seattle) and **Suzanne M. Koestner** (Bogle & Gates, Seattle) have recruited an excellent faculty to review considerations, issues, and loss prevention tips you should be aware of to formulate your loss prevention strategies.

Faculty members appearing on the program include: **John R. Barker** (Bittner & Barker, Portland); **Manfred Seiden** (CPA and Consultant, Larchmont, New York); **Richard M. Clinton** (Bogle & Gates, Seattle); **Robert E. O'Malley** (Loss Prevention Counsel, Attorneys' Liability Assurance Society, Ltd., Washington, D.C.); **Kenneth J. Ashcraft** (Benson & Neff, CPAs, San Francisco); **H. Graham Gaiser** (Attorney at Law, Seattle); **Jerry B. Edmonds** (Williams, Kastner & Gibbs, Seattle); **David E. Wilson** (Ernst & Whinney, CPAs, Seattle); **Kaycee W. Krysty** (Moss Adams, CPAs, Seattle); and **Geoffrey P. Knudson** (Of Counsel, Jones, Grey & Bayley, P.S., Seattle).

For further information about this

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**CLARK COUNTY REPORT**  
by **JOHN F. NICHOLS**

Unfortunately the usual topical content of this column will be even more outmoded than usual. Living in Clark County we have become accustomed to time delays, time warps and time stoppage. Witness the clock on the third floor wall of the courthouse. Due to construction, said clock has been transixed at 9:10 for the past eight months. Yet Ben Shafton insists that, based on this clock, he is twenty minutes early rather than thirty minutes late for 9:30 docket. Soon Ben will be trying to convince us that it is actually 9:10 P.M. and he is entitled to a default judgment.

Speaking of dockets, out of town practitioners be forewarned: Commencing in January 1987, a new docket schedule will be enacted. Highlights include all six superior court departments hearing their motions Friday mornings. Schizophrenics and those having alter egos will have a definite advantage.

Speaking of mental disorders, the District Court campaign has turned out to be as entertaining as walking

through the courthouse rubble. Due to the retirements of Judges Eugene Harris and C.B. Nevin and the creation of a new department, three judgeships are being contested. Match one has Deputy Prosecutor Darvin Zimmerman v. former Prosecutor Jim Carty. Match two pits Randy Fritzler against George Brintnall. Headlining the card are Ken Eiesland v. Marcine Miles. Weights and reaches of the contestants were unavailable, but everyone apparently will be wearing basic black trunks.

Dennis Hunter, former CCBA member, passed through Vancouver while relocating from Cowlitz County to Portland. Visit anytime Denny. I have been advised that Pat Pabst is now a partner with Horenstein & Horenstein. I thank Pat's mother for that information. Craig Schauermaun and Bill Thayer recently opened up their office in the former location of a Shell Gas Station. Renovations include a torts rack, self-serve island and a drive-thru contracts window. Mike Langsdorf has forsaken private practice for the Office of Support and Enforcement. Mike sold said practice to Mike Hicks and Jerry Hall complete with the etched "L" on

the front door. Jerry, an avowed thespian, appeared with Mike Graff in the local production of *12 Angry Men*. Other roles were filled by former clients.

**EAST KING COUNTY REPORT**

by **DOUGLAS W. HARRIS**

I received my first press release this month from Hanson, Zwink, Baker and Ludlow. They have recently added two new associates. Janet Gray has joined the firm with a master's degree in tax from N.Y.U. and will concentrate her practice on taxation, estate planning and business planning law. Janet was previously with Short and Cressman. Paul Rytting has also joined the firm as a recent graduate of BYU Law School.

In other developments, Howard Bundy, David Meyer and Greg Home have formed the firm of Bundy, Meyer and Home at 1125 Skyline Tower in Bellevue. Bill Morris of Morris & Rodgers also announced that he will be joining Casey, Pruzan and Kovarik. Scott Wilson will be joining Barry Hasson in his practice at 11117 NE Second in Bellevue. Steven Gordon recently announced the formation of the Law Office of Steven J. Gordon at Suite 1000, 10900 NE Eighth Street, also in Bellevue. Finally, Robert B. Kornfeld announced the opening of his law office at Honeywell Center, Suite 820, 600 108th Avenue N.E., Bellevue. This has been a busy month. Thank you all for your calls and letters.

Well, the Christmas party/election is set for Thursday, December 18. It was decided to start earlier this year to give you all a good excuse to leave the office early. No host bar and hors d'oeuvres will begin at 4 p.m. in the Olympic Room, Suite A at the Bellevue Athletic Club and should go until about 8 p.m. The BAC did a great job last year, so I hope to see you all there.

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tory will be out soon if not out already. Each member will receive one copy and additional copies should be available at about one dollar each. What a bargain.

Doug Cowan, Chairman of the EKCB District Court Committee requested the Board of Trustees to approve a judicial preference poll in the judicial elections for Bellevue and Northeast District Courts. The board unanimously approved the idea. We will see how this works out because the elections will be over by the time this article is printed. The board also recommended that Dave Shank and Jim Trujillo fill two vacancies on the district court committee.

That's about it for this month. Please call me with any announcement or newsy stuff.

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### GRAYS HARBOR COUNTY REPORT

by JOHN L. FARRA

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Continuing the updating of attorneys in Grays Harbor County, I indicated last month that I would update who's who in the Grays Harbor prosecutor's office. Michael Spencer, who was unopposed for reelection this fall, is the prosecutor. Gerald Fuller is chief criminal deputy. Other attorneys working in the office are deputies Jennifer Wieland, H. Steward Menefee, W. David Rovang, Betsy Brinson-Bergholz, John J. Greaney and William P. Gilbert.

Judge L. Edward Brown is not seeking re-election to District I of the Justice Court in Montesano. Running for his seat are his son, Stephen Brown, and Montesano attorney John Lindel. David Foscue, who received an interim appointment to Superior Court, is unopposed for that slot.

One of the remaining bachelors in Grays Harbor County, Frank Franciscovich, married recently. All members of the Bar Association of Grays Harbor County wish him well. Frank practices with Gladys Phillips and James Brown in Aberdeen.

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### KITSAP COUNTY

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Bremerton lawyer Bruce G. Martin has joined Great Northwest Federal Savings and Loan Association as corporate counsel.

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### OKANOGAN COUNTY REPORT

by R. JOHN SLOAN, JR.

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Yes, Virginia, there is a Bar Association in Okanogan County. It is composed of a group of approximately forty lawyers, some of whom have been referred to by visiting members of the judicial branch as "the most cantankerous group of lawyers I have ever encountered." The Okanogan County Bar Association has become active over the last few years in events relating to law-related education, CLE programs, remodeling of the law library, and the annual Bar Bash at Judge James Thomas's home in Omak.

In the past two years, the Bar Association has been led by Melanie Romo, President. In October 1984, the Bar Association worked in conjunction with Jo Rosner to put on a law-related education program for

teachers and attorneys in the Okanogan County area. This program took place at the Okanogan High School on an in-service day for the teachers. Members of law enforcement, judicial branch, and local attorneys took part as well as Jo Rosner and members of her organization. Earlier this year, the Bar Association helped sponsor a CLE dealing with the use of court interpreters. This was an opportunity for attorneys, judges and court interpreters to meet and discuss problems associated with the use of interpreters in court room proceedings.

The Bar Association was once again solidly represented in the local slow pitch league. This year's team, sponsored by Hancock, Rawson & Sloan, Inc., P.S., managed to win eight games (managed to lose about twenty).

New Bar Association officers were elected for this year. John Sloan, being absent from the meeting, was unable to properly defend himself and, therefore, has been elected president of the County Bar Association. The new secretary-treasurer is Owen "Bud" Gardner of Mansfield, Reinhold and Gardner.

The political year has brought on



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a number of interesting races. **Henry Rawson** and **Christopher Culp** will do battle in the November general election for the District Court Judge Position No. 1 being

vacated by **Eugene McLean**. Judge McLean is one of the lay judges to serve in Washington, and no lawyer in his right mind wanted to run against Judge McLean. Once he

announced retirement, the door was open for attorneys seeking his position. **Jack Burchard** and **Mike Dempsey**, both Democrats, sought the position of prosecutor being vacated by **Douglas Boole**. Jack Burchard won the primary and therefore will go into the general election unopposed.

No immediate social events are on the calendar, although all are awaiting the announcement of the next annual **Rhesa Mansfield** retirement dinner.

## PIERCE COUNTY REPORT

by **ROBERT W. MARSDEN**

Superior Court Judge **Waldo F. Stone** presided over the swearing-in ceremony for newly admitted Pierce County lawyers on October 22. A reception for the new members of the Bar was held at the U.P.S. Law School following the ceremony.

The Seattle firm of **Williams, Kastner and Gibbs** has announced that **Steven P. Helgeson** and **Joseph A. Just** have joined the firm as associates in its Tacoma office. **John A. Rosendahl** has moved from the firm's Seattle office to the Tacoma office.

**Erik L. Bauer** has moved his downtown Tacoma office from "K" Street to 945 Fawcett Street.

**Grant L. Anderson**, a partner for a number of years with the firm of **Tuell, Anderson and Fisher**, has been part of a somewhat confusing situation during the past several months. The reason: **Grant B. Anderson** recently moved his practice from Kirkland to Tacoma. Grant L. has, consequently, been subjected to numerous rumors that he has left his firm or moved his office and, in addition, has had some of his mail delivered to Grant B.'s office.

## SEATTLE-KING REPORT

by **JAMES L. VARNELL**

*Office Moves.* **Dennis J. Perkins** has opened his office in Bellevue. **Laurence B. Finegold** and **Jon R. Zulauf** have formed a partnership with offices in the Tower Building.

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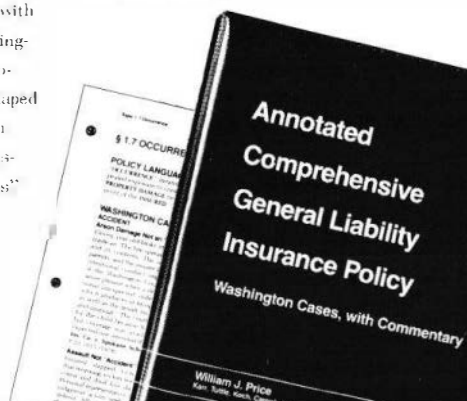
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Eileen P. Farley is associated with the firm. Clyde H. MacIver is the Seattle resident partner of Miller, Nash, Wiener, Hager & Carlsen. Bart Anderson is the managing attorney at Hyatt Legal Services' downtown Seattle office.

Karen Southworth Weaver has joined the legal department of Uni-gard Security Insurance Company, and James R. Woolston has been appointed assistant general counsel there. John A. Henry and Elaine G. DuCharme have formed a new partnership with Jerome A. Froland as an associate. David T. Spicer has been made a partner in the firm of Appelwick, Trickey, Sluiter & Spicer.

*Honors.* George V. Powell and Philip J. Weiss have been recognized by the American Bar Association for 50 years of membership. Thomas B. Russell has been appointed as associate dean of the National Judicial College located on the campus of the University of Nevada at Reno.

*Social Scene.* One of the highlights of this summer's social calendar was the wedding of Marc Slonim and Kay Sirlin at Kiana Lodge in scenic Kitsap County. The presence of a sizable contingent of Kay's friends from the King County Prosecuting Attorney's Office was offset, fortunately, by the attendance of several of Marc's ACLU-member friends.

*Sartorial Excellence.* Once again, after exhaustive interviews and consideration, the selection of the Seattle area's Best Dressed Attorneys has been made. (Readers who would scoff at such trivia as this would do well to remember that last year's listing of Best Dressed Attorneys was prominently noted by one of Seattle's leading columnists in a major Seattle daily newspaper.) This year's selections include the following: Mike Welch (who says that L & I work is not profitable?); Jose Gaitan; Peggy Hughes; John R. Praeger, A. Kyle Johnson, and Bruce Pym (Bill Blass has nothing on any of these three); Amy Thompson-Amis; Rafael Stone; Leslie Wagner, Jane Rhodes and Roger Gustafson (and

you thought south King County attorneys didn't measure up to their downtown counterparts?). Noticeably absent from this year's list are Steve Chestnut (those shirts worn at the engineer's drafting table in 1962 won't make it on the legal scene of 1986), and Lew Pritchard (he doesn't know that polyester leisure suits went out in 1978).

## SKAGIT COUNTY REPORT

by WM. H. NIELSEN

We have new lawyers everywhere. Twede and Svaren have added Jim Richmond and Bannister, Bruhn and Clark have added Paul Taylor. Eugene Knapp of Lane Powell Moss and Miller has opened an office here in town as well, although he is not an official member of the Skagit Bar Association until the firm has an open house.

New officers were recently elected, with Colonel Betz of Youngquist and Betz having assumed the duties of president. Ron

Wolff of La Conner was elected vice-president but, given his attendance record, will probably read about it in this column, if in fact he even reads the *Bar News*. Mike Winslow from Betz's office was directed by him to be secretary-treasurer, an unenviable task at best.

Mike Lewis recently was in charge of the Skagit-Island-Whatcom golf tournament, and a successful time was had by all. Many dignitaries attended, but unfortunately Mike gave the list to District Court Judge Gene Anderson who emceed the affair and lost the list, and we now are unable to mention all of the people in this column. Complaints should be directed to Gene.

At a recent poorly attended marine law seminar, yours truly and one Paul Reilly under the able tutelage of my partner, Ken Evans, successfully landed a couple of twenty pound kings. Another day Ken allowed me to haul in a thirty-pound king. I decided that his true

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**THURSTON-MASON  
COUNTY REPORT**  
by **ALAN SWANSON**

There have been plenty of new partnerships and mergers in the last few months. To name just a couple: Joe Tobin is now a partner in the

firm of Miles, Way, Coyne & Tobin. And Toni Sheldon has joined up with Joe Snyder in Shelton to form Snyder & Sheldon.

Ed Holm and Margaret Cunniff have formed a life-long partnership in marriage! Congratulations to both of them!

Some of you may have read the Sunday supplement article in the *USA Weekly Magazine* last August, which indicated that the City of

Olympia ranks fifth highest in the nation for lawyers per capita! All of you graduating law students, take note.

In keeping with that notorious distinction, we have welcomed several new attorneys in the last few months. Jocelyn Lyman is an associate with Law, Dominick & Hemstad, Sheryl Simpson is an associate with Lundgaard & Aitken; Rosemary McCauley has been hired on by Miles, Way, Coyne & Tobin; Robert Greene has joined up with Cullen & Hvalsoe; and the City of Olympia has stolen Leslie Ching from the Island County Prosecuting Attorney's Office to act as a new Deputy Prosecutor.

For all of you out there who have copies of our Local Rules for District Court and Superior Court, be advised that you will shortly be out of date. We are now in the process of revising those rules. Contact me at (206) 357-7791 for particulars.

**WHITMAN COUNTY REPORT**

Wallis W. Friel of Pullman has been elected to the board of the Washington State Trial Lawyers Association.

**YAKIMA COUNTY REPORT**

by **JONATHAN H. MARTIN**

On the first Friday after Labor Day, the illustrious Yakima County Bar Association commenced its regular Friday meetings; as is also our usual practice, a new slate of officers began conducting the meetings: Ted Roy, President; Mark Fortier, Vice-President; Nancy Hovis, Secretary; and Blaine Gibson, Treasurer. These chosen few had been selected in the spring, using our renowned free election processes, i.e., nominations are prepared by a shadowy nominating committee, and elections always follow—by acclamation. The system seems to work quite well.

It might be interesting to report on who has moved where, but an ever increasing rate of firm-to-firm movement, especially on the part of the younger attorneys, makes this impossible.

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George W. Colby of Toppenish has been named to the Board of Directors of Heritage College. Colby is the prosecuting attorney for the Yakima Indian Nation.

The Yakima Bar is looking forward to the completion of reconstruction of our Federal Courthouse, The William O. Douglas Building. I am told that the main courtroom is being restored entirely to its original turn-of-the-century appearance, although it will be air-conditioned. In the meantime, the lustrations have been holden in either a superior courtroom or in one of the security courtrooms in the county jail. In many cases, the latter is quite convenient.

By the time this report is published, the members of the Yakima County Bar Association will be looking forward to a legal event of great import: The annual Yakima County Bar Christmas Party. There are many local attorneys who swear that the Christmas Party is the single most important function of the County Bar Association.

## DISCIPLINE Censured

Seattle attorney George J. Fair (admitted 1954) has been ordered censured by the Disciplinary Board, based upon his failure to maintain adequate trust account records. This sanction was ordered because of Fair's failure to keep individual records of each client's funds; his failure to record checks drawn on his trust account; and his failure to record the trust account balance in his check register. The Board also placed Fair on two years' probation with periodic annual examinations of his books and records.

## IN MEMORIAM

Donald G. Holm, 71, died July 2, 1986 after practicing law in King County for 35 years. The Walla Walla native was graduated from Washington State College in 1943 and the University of Washington School of Law in 1947. He was Renton City Police Judge from 1948 to 1951. In 1982, Holm, a past presi-

dent of the South King County Bar Association, retired from the firm of Holm, Glessner, Mogren & Glessner, P.S. Remembrances to Renton Kiwanis Special Olympics or Renton Bible Church.

Hollister T. Sprague died August 7, 1986 in Seattle at the age of 90. The University of Washington graduate practiced law from the end of World War I until 1949. As a partner in Holman & Sprague, the predecessor of the Perkins Coie law firm, his clients included the predecessors of the Boeing Co., ITT Rayonier Inc., and Crown Zellerbach.

Donald L. Holman died September 5, 1986 in Seattle at the age of 59. The native of Murray, Utah was graduated from the University of Washington in 1950 and from its law school the following year. A partner in Preston, Thorgrimson, Ellis & Holman, he was bond counsel for several Washington and Alaska municipalities. Remembrances to the Donald L. Holman Scholarship Fund, University of Washington School of Law.

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### Justice People to People

A delegation from the Ministry of Justice from the Peoples' Republic of China, sponsored by the Citizen Ambassador Program of People to People, arrived in Seattle on September 8 on the first stop of a visit to various U.S. cities.

The delegation was led by Zhang YaoChen, Deputy Director of the Foreign Affairs Department. The

delegation was entertained at the home of Judge Barbara T. Yanick and John Vercimak in appreciation for the hospitality extended to Yanick, Vercimak and Judge Norma Smith as members of a group of judges who visited Beijing in May 1985. Also present were Charles Z. Smith, Dorothy Schroeter and Doug Jewett.



### STATE LAW LIBRARY Recent Acquisitions

Listed below are some titles recently acquired by the State Law Library, and available for loan by calling (206) 753-6525, or mailing your request to: Washington State Law Library, Temple of Justice, AV-02, Olympia, Washington 98504-0502. A bi-monthly *Selected Recent Acquisitions* list, generally containing 150-250 new titles, is also available. To obtain copies, send your request to the Washington State Law Library at the above address.

#### ACID RAIN

*Acid rain and friendly neighbors: the pol-*

*icy dispute between Canada and the United States.* Duke Press Policy Studies. Durham, NC: Duke University Press, 1986. Pp. 320.

#### AIDS

*AIDS: employer rights and responsibilities.* Chicago, IL: Commerce Clearing House, Inc., 1985. Pp. 95.

#### ASBESTOSIS

Castleman, Barry I. *Asbestos: medical and legal aspects.* 2d ed. Clifton, NJ: Law & Business, Inc., 1986. Pp. 711.

#### CIVIL PROCEDURE

*Opening statements and closing arguments.* Berkeley, CA: California Continuing Education of the Bar, 1986. Pp. 123. (Program Material)

#### JURY AND JURORS

*Preparing and presenting successful civil jury instructions.* Berkeley, CA: California Continuing Education of the Bar, 1986. Pp. 199. (Program Material)

#### MEDIATION

Marshall, Tony F. *Alternatives to criminal courts: the potential for non-judicial dispute settlement.* Brookfield, VT: Gower, 1985. Pp. 323.

#### PERSONAL INJURIES

Harley, Robert, Maryann Magee and Frederick Smith. *What's it worth? a guide to current personal injury awards and settlements.* Kluwer Damages Library. New York, NY: Kluwer Law Book Publishers, Inc., 1985. Pp. 748.

#### SETTLEMENTS

Elisofon, Barry. *Structured settlements: a practical guide.* East Setauket, NY: National Attorneys' Publications, Inc., 1985. Pp. 140.

#### SOCIAL WELFARE

Laritz, Kenneth F. *Attorney's guide to social security disability claims.* Regulatory Manual Series. Colorado Springs, CO: Shepard's/McGraw-Hill, 1986. Pp. 475.

### Success

"[C]ertainly one of the most successful prepaid legal services programs I've been at...The interest by people in the afternoon in particular was very good," said Alec M. Schwartz, Executive Director of the American Prepaid Legal Institute. Schwartz, Stuart J. Baron, President of the API Board of Directors, and Washington attorneys spoke at the September 18 Symposium on Group and Prepaid Legal Services sponsored by the WSBA Group and Prepaid Legal Services Committee.

The program was held following a morning CLE co-sponsored by the CLE Committee. Attendees at both programs had the opportunity to view displays and talk to providers of legal services plans from Washington, Hawaii, Oregon, Colorado and Illinois.

Remarking on the innovative use of the display area, Schwartz acknowledged that the September 18 activities could serve as a model

for similar types of events in other parts of the country, in which both attorneys and laypersons could participate.

Following the symposium, Seattle Channel 4 (KOMO) TV put together an independent story on prepaid legal services, mentioning at the end that people with questions could contact the WSBA. Alaska Airlines also mentioned the symposium and WSBA contact person **John Redenbaugh**, (206) 622-6021, in their magazine.

### **Public Notice: Reappointment of Incumbent Magistrates**

The current terms of office of United States Magistrates Walter T. Greenaway, Gilbert H. Kleweno, and Steven J. Mura are due to expire. The United States District Court is required by law to establish a panel of citizens to consider the reappointment of these Magistrates to new four-year terms.

The duties of Magistrate include the following:

(1) Conduct regular calendars involving charges of traffic offenses and violations of park regulations;

(2) Conduct initial appearances in criminal cases.

Magistrate Greenaway serves Olympic National Park, Whidbey Island Naval Air Station, and the Naval Submarine Base, Bangor. Magistrate Kleweno serves Mount St. Helens, the Veteran's Hospital, Gifford Pinchot National Forest, and other facilities in the Vancouver area. Magistrate Mura conducts initial appearances in customs, immigration, drug, and other cases arising at the Canada-U.S. border.

Comments from members of the Bar and the public are invited as to whether the incumbent Magistrates should be recommended by the panel for reappointment by the Court and should be directed to: Mr. Bruce Rifkin, Clerk, U.S. District Court, 308 U.S. Courthouse, Seattle, WA 98104. Comments must be received no later than December 19, 1986.

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Forks, WA 98331  
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## **CLARK COUNTY**

Brighten Center  
306 E. 16th  
Vancouver, WA 98668  
(206) 696-2283

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

Clark County Corrections DWI  
Assessment Service  
Post Office Box 5000  
Vancouver, WA 98668  
(206) 699-2342

Larch Corrections Center  
Social Treatment Opportunity Progs.  
Star Route Box 999  
Yacolt, WA 98675  
(206) 754-3861

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

Starting Point  
604 East 16th Street  
Vancouver, WA 98663  
(206) 696-2010

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

Swarf Inpatient Center Branch  
4901 Columbia View Drive  
Post Office Box 1738  
Vancouver, WA 98668-1738  
(206) 696-1659

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

Turn Around Alcohol Program  
St. Joseph Community Hospital  
Post Office Box 1600  
Vancouver, WA 98668  
(206) 256-2170

Turn Around Alcohol Program, Branch  
116 East 33rd Street  
Post Office Box 1600  
Vancouver, WA 98668  
(206) 256-2170

Veterans Administration Medical Ctr.  
Post Office Box 1035  
Portland, OR 97201  
(206) 696-4061 ext. 501

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

**COWLITZ COUNTY**  
Alcohol/Poly-Drug Program  
Sur Crest (SCOAP)  
Monticello Hotel, Suite 311  
Longview, WA 98632  
(206) 423-1529

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

Evergreen Center  
Branch, Swarf Alcohol/Drug Progs.  
1614 E. Kessler Blvd.  
Longview, WA 98632  
(206) 636-4859

Lower Columbia Council on  
Alcoholism  
1260 Commerce, Suite 213  
Longview, WA 98632  
(206) 577-2216

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

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

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

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

**FRANKLIN COUNTY**  
Benton-Franklin Alcohol/Drug  
Program  
Bldg. 57, Tri-Cities Airport  
Post Office Box 607  
Pasco, WA 99301  
(509) 545-0855

Benton-Franklin Detox. Ctr., Branch  
1020 South 7th Avenue  
Post Office Box 607  
Pasco, WA 99301  
(509) 547-9000

Our Lady of Lourdes Hospital  
520 Fourth Avenue  
Pasco, WA 99302  
(509) 547-7704, ext. 377

**GARFIELD COUNTY**  
Western Consortium for  
Human Svcs.  
856 Main Street  
Post Office Box 758  
Pomeroy, WA 99347  
(509) 843-3791

**GRANT COUNTY**  
Grant County Alcohol & Drug Center  
1038 West Ivy Avenue  
Post Office Box 1217  
Moses Lake, WA 98837  
(509) 765-5402

**GRAYS HARBOR COUNTY**  
Chehalis Res. Confed. Trihes  
Alcohol/Drug Outpatient Trtmt. Prog.  
Post Office Box 536  
Oakville, WA 98568  
(206) 273-5911

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

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

KAIROS Detoxification  
and Recovery House, Branch  
611 Eighth Street  
Aberdeen, WA 98520  
(206) 533-2529

Quinault Indian Nation  
Alcoholism Treatment Program  
Post Office Box 189  
Taholah, WA 98587  
(206) 276-8211

St. Joseph's Hospital Careunit  
1006 North "H" Street  
Aberdeen, WA 98520  
(206) 533-0450

Youth Help of Grays Harbor  
510-1/2 Eighth Street  
Hoquiam, WA 98550  
(206) 533-7500

**ISLAND COUNTY**  
Camano-Whidbey Alcohol Services  
Midway Traders Village #17  
1416 Midway Boulevard  
Oak Harbor, WA 98277  
(206) 679-4525

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

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

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

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

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

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

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

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

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

Bellevue Probation Division  
6.55 - 120th Ave. Northeast  
Post Office Box 98009  
Bellevue, WA 98009-9013  
(206) 455-6956

C & M Counseling &  
Consultant Svcs.  
4331 - 5th Avenue Northeast  
Seattle, WA 98102  
(206) 329-5131

C.A.R. Institute  
607 S.W. Grady Way, Suite 110  
Renton, WA 98055  
(206) 255-7614

CareUnit Hospital of Kirkland  
10322 N.E. 132nd Street  
Post Office Box 480  
Kirkland, WA 98083  
(206) 821-1122

Cairn-Justice Associates  
1207 N. 200th Street, Suite 217  
Seattle, WA 98133  
(206) 542-1136

Case Services, Inc.  
Coleman Bldg., Suite 222  
Post Office Box 4295  
Seattle, WA 98104  
(206) 467-7964

Cedar Hills Treatment Center  
15900 - 227th Avenue Southeast  
Maple Valley, WA 98038  
(206) 392-9159

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

Center for Human Services, Branch  
10501 Meridian Avenue North, Suite F  
Seattle, WA 98133  
(206) 364-3925

Central Area Com. Alc./Subst. Ctr.  
Jefferson Ctr. Prof. Bldg.  
1401 East Jefferson  
Seattle, WA 98122  
(206) 322-2970

Central Area Mental Health Center  
4900 Rainier Avenue South  
Seattle, WA 98118  
(206) 723-1980

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

Chinook Center  
550 Mercer Street West  
Suite 100  
Seattle, WA 98109  
(206) 282-9991

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

Comprehensive Alcohol Services  
23830 Pacific Highway South  
Kent, WA 98032  
(206) 824-5565

Conquest Center—Women's  
Residence  
19204 - 15th Avenue  
Post Office Box 667  
Edmonds, WA 98020

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

Crosby Enterprises, Inc.  
Branch, Crosby Enterprises, Sno. Co.  
12525 Willow Road, Bldg. A, Ste. 130  
Kirkland, WA 98033  
(206) 821-6231

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

Drug Testing Service (a program of)  
Alternative Intervention Resources  
1331 - 3rd Avenue, Suite 410  
Seattle, WA 98101  
(206) 467-0343

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

Eastside Counseling Services  
Atlantic Professional Ctr., Ste. 103  
1220 - 116th Avenue N.E.  
Bellevue, WA 98005  
(206) 453-8276

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

Federal Way Clinic  
34507 Pacific Highway South  
Suite 3  
Federal Way, WA 98003  
(206) 874-2030

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

Federal Way Youth Services  
31101 - 18th Avenue South  
Federal Way, WA 98003  
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First Step - Bellevue  
14400 Bel-Red Road, #204  
Bellevue, WA 98007  
(206) 746-3888

First Step - Seattle  
12063 - 15th Avenue Northeast  
Seattle, WA 98125  
(206) 363-0031

Genesis House  
621 - 34th Avenue  
Seattle, WA 98122  
(206) 328-0881

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

Group Health Co-op Adapt, Branch  
2661 Bel-Red Road  
Bellevue, WA 98005  
(206) 885-9492

Highline Youth Service Bureau  
156th and Des Moines Way South  
Post Office Box 66086

Seattle, WA 98166  
(206) 243-5544

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

Kent Valley Youth Services  
525 North 4th, Kent Commons  
Kent, WA 98031  
(206) 872-3550

King Co. Dist. Ct. Probation  
Services Division  
E-310 King County Courthouse  
Seattle, WA 98104  
(206) 344-3897

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

King County Emergency Service Patrol  
1008 Smith Tower  
Seattle, WA 98104  
(206) 344-7615

King County Extended Care  
Unit at Cedar Hills  
16200 227th Avenue Southeast

Maple Valley, WA 98038  
(206) 392-9467

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

Milam Counseling Center, Angle Lake  
19530 Pacific Highway South  
Suite 201  
Seattle, WA 98188  
(206) 824-9780

Milam Counseling Center, Eastlake  
10422 N.E. 37th Circle, Suite B  
Kirkland, WA 98033  
(206) 822-5095

Milam Counseling Center, Northlake  
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Seattle, WA 98133  
(206) 542-6106

Milam Recovery Centers, Inc.  
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Mt. Baker Youth Service Bureau  
Community Association  
1730 Bradner Place South  
Seattle, WA 98144  
(206) 322-7676

Mun. Ct. of Seattle Probation Svcs.  
Suite 1490  
Dexter Horton Building  
Seattle, WA 98104  
(206) 625-4618

New Dawn Industries, Inc.  
33125 - 15th Avenue South  
Suite G039  
Federal Way, WA 98023  
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North Seattle Youth Services  
9259 - 14th Avenue Northwest  
Seattle, WA 98117  
(206) 874-6496

Northwest Teen Challenge  
1808 - 18th  
Seattle, WA 98122  
(206) 324-3560

Northwest Treatment Center  
9010 - 13th Northwest  
Seattle, WA 98117  
(206) 789-5911

Northwest Treatment Center, Branch  
1029 Market Street, Suite C  
Kirkland, WA 98033  
(206) 789-5911

Pathways  
2405 - 140th Avenue Northwest  
Suite 102  
Bellevue, WA 98005  
(206) 682-3050

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

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

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

Resolve, Branch  
Pioneer Human Svcs. (King Co.)  
9236 Renton Avenue South  
Seattle, WA 98118  
(206) 722-2993

Riverton General Hospital Careunit  
12844 Military Road South  
Seattle, WA 98168  
(206) 248-4790/242-2260

Ryther Child Center  
2400 Northeast 95th Street  
Seattle, WA 98115-2499  
(206) 525-5050

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

Salvation Army Harborlight Center  
416 - 2nd Avenue  
Seattle, WA 98104  
(206) 621-0145

Schick Shadel Hospital  
12101 Ambaum Boulevard Southwest  
Post Office Box 48149  
Seattle, WA 98148  
(206) 244-8100

SEADRUNAR Phase I  
976 South Harney  
Seattle, WA 98108  
(206) 767-0244

SEADRUNAR Phase II  
809 - 15th East  
Seattle, WA 98112  
(206) 324-8500

SEADRUNAR - Queen Anne  
200 West Comstock  
Seattle, WA 98119  
(206) 284-2431

Seattle Indian Alcoholism Program  
2222 - 2nd Avenue  
Post Office Box 3364  
Seattle, WA 98114  
(206) 324-9360, ext. 322

Substance Abuse Recovery Program  
Seattle Mental Health Institute  
1600 East Olive Street  
Seattle, WA 98122  
(206) 281-4300

Shamrock Group, Inc.  
8535 Phinney Avenue North  
Seattle, WA 98103  
(206) 789-4784

Social Treatment Opportunity Programs, Branch  
5602 Auburn Way Southeast  
Auburn, WA 98507  
(206) 735-2718

Southeast Com. Alcohol & Drug Center  
Titus Building, 232 South 2nd  
Post Office Box 1041  
Kent, WA 98032  
(206) 854-6513

Southwest Community Alcohol Center  
15025 - 4th Southwest  
Seattle, WA 98166  
(206) 242-3506

Square One  
1275 - 12th Avenue Northwest  
Post Office Box 1178  
Issaquah, WA 98027  
(206) 392-7815

Square One, Branch  
7811 - 159th Place Northeast  
Redmond, WA 98052  
(206) 881-7084

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

TASC of King County (a program of)  
Alternative Intervention Resources  
1331 - 3rd Avenue, Suite 410  
Seattle, WA 98101  
(206) 467-0338

Therapeutic Health Services, Inc.  
(Center for Addiction Services)  
120 - 23rd East  
Seattle, WA 98112  
(206) 323-0930

Thunderbird Fellowship House  
1531 - 13th Avenue South  
Seattle, WA 98144  
(206) 322-6230/324-9360 ext. 284

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

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

Washington Drug Rehabilitation Ctr.  
421 - 30th Avenue South  
Post Office Box 4036  
Seattle, WA 98144  
(206) 325-4005

Youth Eastside Services  
16150 Northeast 8th Street  
Bellevue, WA 98008  
(206) 747-4YES

**KITSAP COUNTY**  
Alcohol Rehabilitation Service  
(U.S. Navy)  
Navy Hospital  
Bremerton, WA 98314

Awareness Express  
614 Division Street  
Port Orchard, WA 98366  
(206) 876-9430

Bremerton Municipal Court  
Probation Department  
239 - 4th Street  
Bremerton, WA 98310  
(206) 478-5268

Child & Family Unit  
Kitsap Mental Health Services  
3710 Madrona  
Bremerton, WA 98310  
(206) 479-0744

Kitsap County Alcohol and  
Drug Assessment Services  
619 Division  
Port Orchard, WA 98336  
(206) 478-5297

Kitsap County Alcoholism  
Recovery Program (KCARP)  
2051 Pottery Avenue  
Port Orchard, WA 98366  
(206) 876-5577

Kitsap County Council on Alcoholism  
532 - 5th Street  
Post Office Box 512  
Bremerton, WA 98310  
(206) 377-0051/377-0052

Kitsap Co. Council  
on Alcoholism, Branch  
Post Office Box 324  
Poulsbo, WA 98370  
(206) 779-2900

Kitsap County District Court  
Probation Services Department  
614 Division Street  
Port Orchard, WA 98366  
(206) 876-7019

Kitsap Mental Health Services  
500 Union  
Bremerton, WA 98310  
(206) 373-5031

Navy Alcohol Safety Action Program  
Puget Sound Naval Shipyard  
Building 433, Post Office Box 4D PSNS  
Bremerton, WA 98314  
(206) 476-2594

Olalla Guest Lodge  
12851 Olalla Cove Lane Southeast  
Olalla, WA 98359  
(206) 857-6201/857-2026

The O'Leary Clinic, Inc.  
2500 Cherry Avenue  
Bremerton, WA 98310  
(206) 479-1962

#### **KITTITAS COUNTY**

Alcohol and Drug Dependency  
Services  
507 Nanum, Room 106  
Ellensburg, WA 98926  
(509) 925-9821

#### **Klickitat County**

Counseling and Resource Center  
of Klickitat County  
228 West Main Street  
Goldendale, WA 98620  
(509) 773-5801

Counseling and Resource  
Center of Klickitat County  
Post Office Box 420  
White Salmon, WA 98672  
(509) 493-3400

Nuri Institute  
130 East Jewitt  
White Salmon, WA 98672  
(509) 493-3588

#### **LEWIS COUNTY**

Lewis County Mental Health/  
Mental Retardation Program  
Post Office Box 1445  
Chehalis, WA 98532  
(206) 748-6696

Swarf Outpatient Center  
129 Northwest Chehalis  
Chehalis, WA 98532  
(206) 748-9204

#### **LINCOLN COUNTY**

Lincoln County Alcohol Center  
450 Logan  
Post Office Box 152  
Davenport, WA 99122  
(509) 725-2111

Lincoln County Community Services  
Davenport Professional Building  
Post Office Box 278  
Davenport, WA 99122  
(509) 725-3001

#### **MASON COUNTY**

Mason Co. District  
Court Probation Service  
Mason County Courthouse  
Shelton, WA 98584  
(206) 426-2878

#### **OKANOGAN COUNTY**

Colville Indian Alcoholism Program  
Tribal Headquarters  
Post Office Box 150  
Nespelem, WA 99155  
(509) 634-4512

Okanogan County Alcohol Programs  
107 West Apple  
Post Office Box 2027  
Omak, WA 98841  
(509) 826-5600

Okanogan Co. Family Counseling  
& Mental Health Center  
Post Office Box 3208  
Omak, WA 98841  
(509) 826-6191

#### **PACIFIC COUNTY**

Willapa Counseling Center  
819 Cedar Street  
Post Office Box 65  
South Bend, WA 98586  
(206) 875-6541, ext. 394

Willapa Counseling Center, Branch  
12th Street North  
Long Beach, WA 98631  
(509) 642-2929

#### **PEND OREILLE COUNTY**

Pend Oreille Co. Community  
Alcoholism Center  
Post Office Box 5000  
Newport, WA 99156  
(509) 447-3175

#### **PIERCE COUNTY**

Acacia Counseling  
7116 Pioneer Way  
Gig Harbor, WA 98335  
(206) 851-7880

Alc/Drug Abuse Prev/Cont Program  
HQ, 1 Corps/Ft. Lewis  
Attn: AFZH-PAD (ADAPCP)  
Fort Lewis, WA 98433-5000  
(206) 967-5831

Alcoholism Assessment Center  
Tacoma-Pierce Co. Health Dept.  
3629 South "D" Street  
Tacoma, WA 98408  
(206) 591-6402

Allied Counseling Service  
12:22 - 46th Avenue East  
Fife, WA 98424  
(206) 922-6738

Alpha House  
F.O.R.C.E.  
4214 Portland Avenue  
Tacoma, WA 98404  
(206) 472-4418

C.A.R.E.  
1502 Tacoma Avenue South  
Tacoma, WA 98402  
(206) 572-2273

Catholic Community Services,  
Pierce Co.  
14824 South "C" Street  
Tacoma, WA 98444  
(206) 537-8467

Counselor  
9915 - 112th Street East, Suite E-11  
Puyallup, WA 98371  
(206) 848-2242

Crossroads Treatment Center  
5909 Orchard West  
Tacoma, WA 98497  
(206) 473-7474

Detoxification Center, Branch  
Shared Health Svcs. (Pierce Co.)  
721 Fawcett, Suite 111  
Tacoma, WA 98402  
(206) 572-5333

Dotter's Counseling  
205 - 15th Avenue Southwest, Suite C  
Post Office Box 85  
Puyallup, WA 98371  
(206) 841-4284

Gig Harbor Alcohol Counseling Svc.  
Branch, Olalla Guest Lodge  
8803 State Highway 16, Unit E  
Gig Harbor, WA 98335  
(206) 851-2552

Group Health Adapt, Branch  
Group Health Co-op (King Co.)  
2000 Tacoma Mall, Suite 219  
Tacoma, WA 98409  
(206) 472-3200/1-800-228-0407

Lakewood CAC, Branch  
Shared Health Services (Pierce Co.)  
9112 Lakewood Drive Southwest  
Tacoma, WA 98499  
(206) 582-5600

McCord Air Force Base  
Social Action Office  
Building 1155  
Tacoma, WA 98438  
(206) 984-5675

McNeil Island Penitentiary  
Social Treatment Opportunity Progs.  
Post Office Box 900  
Steilacoom, WA 98388  
(206) 754-3861

New Beginnings Adolescent Alcohol  
Unit, Lakewood General Hospital  
5702 - 100th Street Southwest  
Tacoma, WA 98499  
(206) 582-4357

Olympic Counseling Services  
Lutheran Services Bldg.  
223 N. Yakima  
Tacoma, WA 98403  
(206) 272-3454

Pierce County District Court  
Probation Department  
930 Tacoma Avenue, Room 1031  
Tacoma, WA 98402  
(206) 591-7595

Pierce Co. Dist. Court  
Probation Dept., Branch, Rm. 204  
9112 Lakewood Drive Southwest  
Tacoma, WA 98402  
(206) 591-7595

Plaza Hall  
1415 Center Street  
Tacoma, WA 98409  
(206) 272-0906

Puget Sound Alcoholism Center  
Puget Sound Hospital  
South 36th and Pacific Avenue  
Tacoma, WA 98408  
(206) 474-0533

Purdy Treatment Center for Women  
Social Treatment Opportunity Progs.  
Post Office Box 578  
Gig Harbor, WA 98335  
(206) 754-3861

Puyallup Indian Nation  
Alcoholism and Drug Treatment Prog.  
2209 East 32nd Street  
Tacoma, WA 98404-0188  
(206) 597-6217

Puyallup Valley CAC, Branch  
Shared Health Svcs. (Pierce Co.)  
12812 - 101st Ave. Court East, Ste. 103  
Puyallup, WA 98373  
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Small Tribes of Western Washington  
(STOWW) Alcoholism Program  
Post Office Box 578  
Sunner, WA 98390  
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St. Joseph Hospital's Alcohol Prog.  
1718 South "I" Street  
Tacoma, WA 98405  
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Maintenance Program  
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Post Office Box 9474  
Tacoma, WA 98409  
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Veterans Administration Medical Ctr.  
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(206) 582-8440, ext. 6110

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Friday Harbor, WA 98250  
(206) 378-4994

San Juan Community Services  
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Friday Harbor, WA 98250  
(206) 378-4994

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Post Office Box 231  
Sedro Woolley, WA 98284  
(206) 856-3186

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

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1905 Continental Plaza  
Mt. Vernon, WA 98273  
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Branch, Drug Abuse Council  
4526 Federal Avenue  
Everett, WA 98201  
(206) 259-7142

Community Alcoholism Services  
2812 Hoyt Avenue  
Everett, WA 98201  
(206) 258-2662

Community Alcoholism Services,  
Branch  
19920 Highway 99, Suite E  
Lynnwood, WA 98036  
(206) 775-4686

Community Alcoholism Services,  
Branch  
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Arlington, WA 98223  
(206) 435-4463

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3409 Colby  
Everett, WA 98201  
(206) 259-7142

Drug Abuse Council of Snohomish  
Co., Branch  
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Lynnwood, WA 98036  
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222 Ann Street  
Monroe, WA 98272  
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Evergreen Outpatient Services  
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Everett, WA 98201  
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(206) 771-1194

Norcross Clinic, Inc., Branch  
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Suite 230  
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Snohomish Health District  
Snohomish County Courthouse  
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(206) 355-9890

Solberg Recovery Center  
Branch, Valley General Hospital  
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Everett, WA 98201  
(206) 258-2255

South Snohomish District  
Court Probation Department  
20520 - 68th Avenue West  
Lynnwood, WA 98036  
(206) 771-4417

Valley General Hospital  
Alcoholism Treatment Center  
14701 - 179th Southeast  
Monroe, WA 98272  
(206) 794-7497

Walnut Recovery House, Branch,  
Evergreen Alcohol/Substance Abuse  
Progs.  
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Everett, WA 98201  
(206) 258-2407

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

Alcohol Information Network  
Spokane County Health District  
West 1101 College Avenue  
Spokane, WA 99201  
(509) 458-2528

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

Alcoholism Outpatient Services,  
Branch  
11704 East Montgomery Drive  
Suite 5  
Spokane, WA 99202  
(509) 534-3132

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(509) 747-3088

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Spokane, WA 99203  
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Branch, New Horizon House  
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Spokane, WA 99204  
(509) 624-1244

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(509) 624-3226

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Spokane, WA 99202  
(509) 484-7011

Probation Services  
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West 1116 Broadway  
Spokane, WA 99210  
(509) 624-2777

Salvation Army Booth Care Center  
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Spokane, WA 99205  
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SPARC Outpatient Services  
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(509) 624-5228

Spokane Alcoholic  
Rehabilitation Center, Inc. (SPARC)  
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Spokane, WA 99210  
(509) 624-3251

SPARC Intensive Inpatient Services  
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Post Office Box 2198  
Spokane, WA 99210  
(509) 624-3251

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Spokane, WA 99202  
(509) 838-2771

Spokane Urban Indian Health Services  
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Spokane, WA 99202  
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Spokane, WA 99205  
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Tribal Alcoholism Program  
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#### THURSTON COUNTY

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Walla Walla, WA 99362  
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(206) 733-5840

Community Alcohol Center  
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Bellingham, WA 98226  
(206) 733-1400

Contact Counseling  
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Bellingham, WA 98225  
(206) 671-3277

Human Services Associates, Inc.  
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Post Office Box 363  
Bellingham, WA 98225  
(206) 671-9797

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Post Office Box 157  
Deming, WA 98244  
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Olympic Center - Bellingham  
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Bellingham, WA 98225  
(206) 733-9111

Olympic Center, Outpatient Services  
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Bellingham, WA 98225  
(206) 733-9111

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

Whatcom Co. Client Assessment Svc.  
Whatcom Co. Div. of Alcoholism Svcs.  
1000 North Forest  
Bellingham, WA 98225  
(206) 733-1425

Whatcom County District Court  
Probation  
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Bellingham, WA 98225  
(206) 676-6708

## WHITMAN COUNTY

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Pullman, WA 99163  
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## YAKIMA COUNTY

Central Washington Comprehensive  
Mental Health  
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Yakima, WA 98907  
(509) 575-4084

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(509) 865-2000

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Co.)  
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(509) 453-2900

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Sundown M Ranch  
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Selah, WA 98942  
(509) 457-0990

Valley Alcohol Council  
Sunnyside Office  
Post Office Box 921  
Sunnyside, WA 98944  
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Toppenish Office, Branch  
Valley Alcohol Council  
202 South Toppenish  
Toppenish, WA 98948  
(509) 865-3020

Yakima Counseling Services  
Community Alcoholism Center  
Post Office Box 2849  
Yakima, WA 98907  
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Yakima, WA 98901  
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Permit No. 2204  
ID No. 9-437