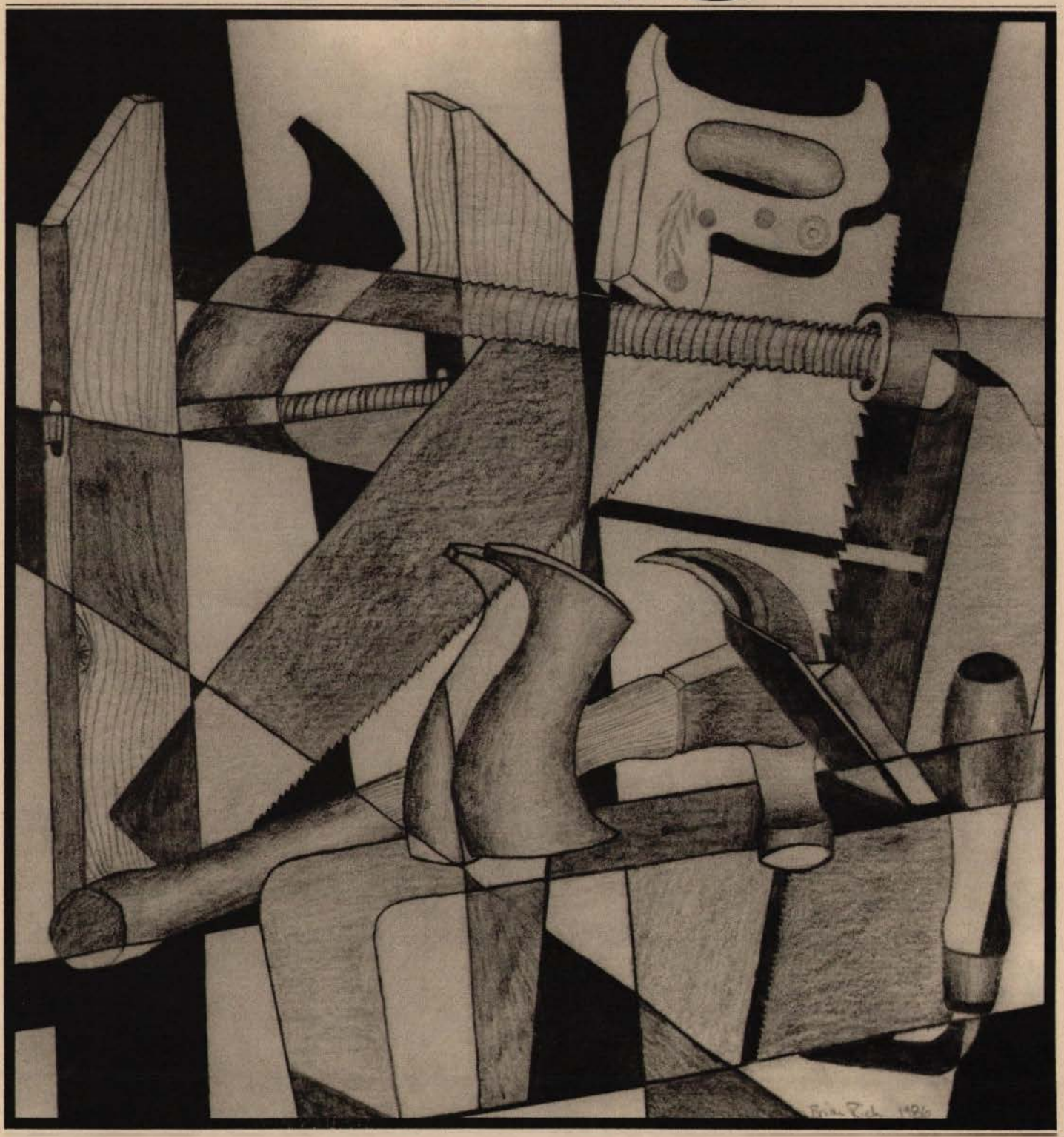
Washington State Bar News
Vol. 41, No. 11, November 1987



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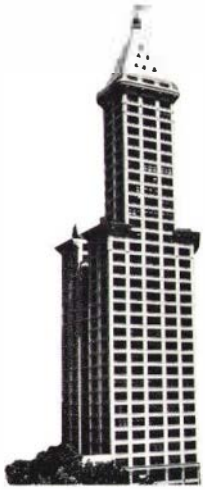
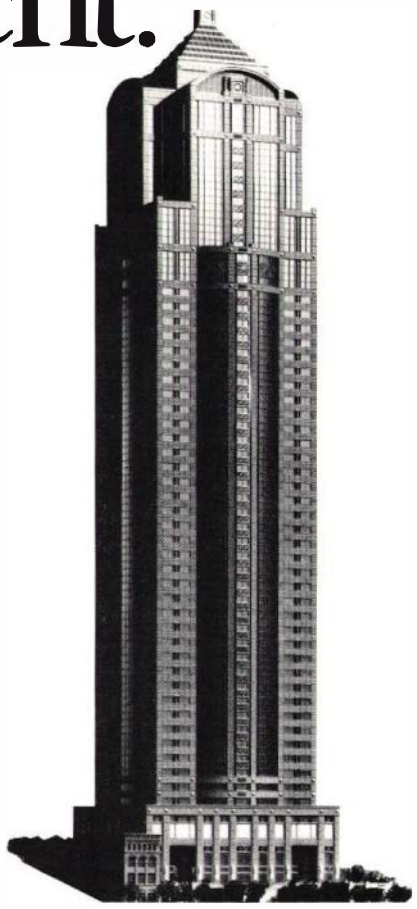
Every 25 years or so Seattle makes a statement.



Smith Tower. For years, the only landmark in Seattle.

Space Needle. It put Seattle's skyline on the map.



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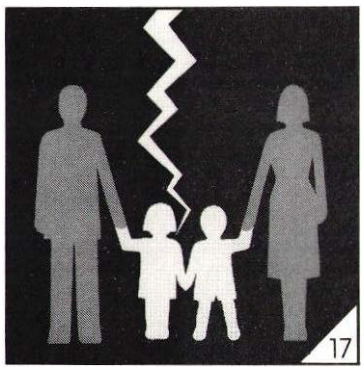
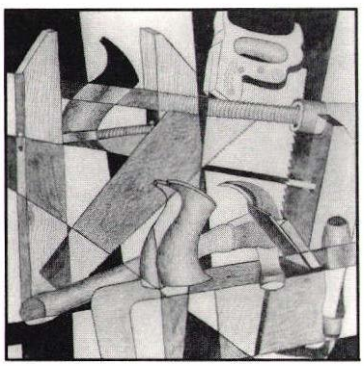
Washington State Bar News
Vol. 41, No. 11, November 1987

FEATURES





DEPARTMENTS

ANNOUNCEMENT

The *Bar News* is now accepting applications for the position of editor. Applicants must be practicing attorneys in good standing with the WSBA. Submit resumé and writing samples, if available, to *Bar News* Editor Search, WSBA, 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599. Applications must be received no later than December 1, 1987.

ART CREDITS

Brian D. Rich, a freshman at the University of Notre Dame, made this graphite drawing while a student at Charles Wright Academy in Tacoma. His mother, **Kate Lane Rich**, is a paralegal with the Law Offices of Michael E. Nelson and Steven P. Krafchick, Seattle.

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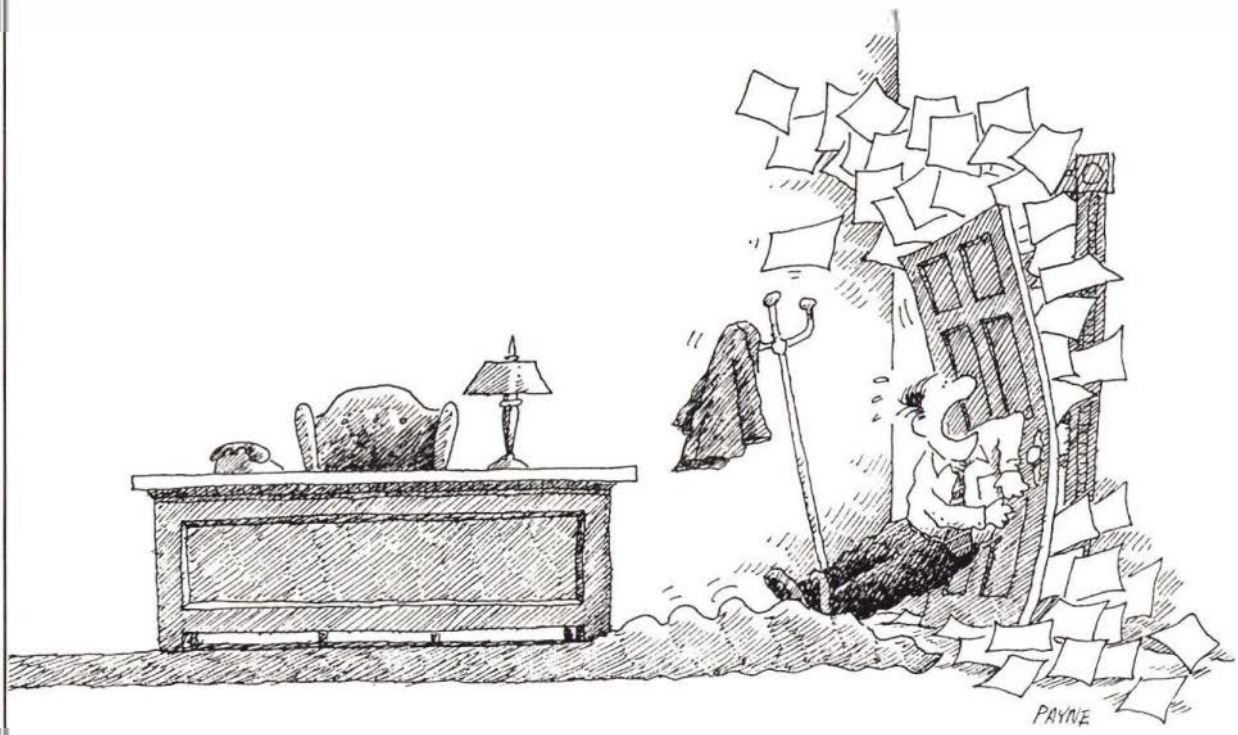
Paper weight



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

A Dog Case

Editor:

As we come to have more and more lawyers in this state and in other states, advertising will become more prevalent. In southern California there is aggressive competition for clients. I was unprepared, however, for the TV ad of the nattily dressed and, obviously, fit young man boasting that his attorney had got him so large a settlement on an injury case that he would never have to work again.

I was also unprepared to see an ad in the *Orange County Register* (near Disneyland, obviously) advertising for dog bite cases. This last ad is so astounding that I had to tear it out and send it to you, so you could put it in the *Bar News*. I pray that no member in our Association will be so desperate as to be forced to advertise in such manner.

JAY NUXOLL
Bellevue

The Unauthorized Practice of Law

Editor:

Today I found out just how worthless my membership in the Washington State Bar Association is. During my twenty-two years of practice in this state I was under the impression that only lawyers had the competency to draft the incorporation papers for clients. So after informing a client that it would take me twenty-four hours to prepare his incorporation papers and being told that he was going to his insurance agent who promised to have the incorporation papers completed today, I called the Bar Association office to make a complaint of unauthorized practice of law. After all, Admission to Practice Rule 1(a) requires that, except where otherwise provided by the rules, those who practice law in this state must be admitted to practice in this state.

I was quickly informed that the Washington State Bar Association no longer pursues unauthorized practice of law complaints. I was informed that this was given up about five years ago. I asked how I had missed the publicity on this change of policy. I was told that the policy change had been effected through inaction, or as I now interpret it, benign neglect, and therefore there was no publicity.

I was further informed that if I wanted to make a complaint I could either take it to the King County Prosecuter, presumably under unauthorized practice statutes, or the Attorney General under consumer protection laws (so much for the Bar or the courts protecting the practice of law). I was further informed that the

King County Prosecutor was not pursuing such complaints.

Well, if that is the case, what are we doing wasting money and time disciplining members of the Bar? How can one justify discipline when one will not pursue unauthorized practice? What are we doing wasting time on *mandatory* Continuing Legal Education? Why are we paying dues money to hire large staffs and pay the expenses of members of the Board of Governors? What is the remaining justification for maintaining the Washington State Bar Association existence other than as a purely voluntary association of interested professionals?

I suggest that this should be the central question to come before the Bar Association at its Annual Meeting and that all other questions pale in significance before it. To that end, I am sending a copy of this letter to the Board of Governors and I think the matters herein mentioned should also be considered by the Washington State Supreme Court.

There are at least a couple of constitutional questions that should be addressed under the U.S. Constitution (Art. 1 §10 titled privilege exclusion and 1st amendment freedom of speech) in determining whether any group of professionals can be granted any exclusive rights by any state to give counsel. That goes as well for physicians in the area of health as it does for lawyers in the practice of law. Perhaps the practice of law must be conducted without the regulation of the Bar Association. Perhaps the courts can only discipline the attorneys for actions taken before those specific courts. But so long as the Washington State Bar Association is held out as a mandatory obligation, I believe that association has no choice: It must protect the public and the lawyers from unauthorized practice of law and pursue complaints of unauthorized practice.

EDWARD D. CAMPBELL
Seattle

Editor's note: Mr. Campbell's concerns will be addressed in the December Bar News *in the Corner Office department column by WSBA Executive Director John Michalik.*

EDITOR'S PAGE

Due Care

A confession. Because I didn't write up the September Board's Work, the October *Bar News* carried a compilation of the official minutes and the Executive Report. I'm therefore using this space to editorialize some.

Bar staff proposes and the Board disposes . . . as it should. The Governors, our elected representatives, are ultimately responsible for the affairs of the Bar Association. And this includes the manner in which our dues are spent.

So I'm glad that the Governors in August and September reasserted themselves as the scrutinizers of the fiscal year. Their close attention to detail and dollar was an improvement over the rubber stamping of the budget at the August '85 and August '86 meetings.

Interrogatories

This time, the Governors asked some necessary questions: Which programs are cost effective? How do we measure them? "Do we get a bang for our buck?" in the words of Seattle's Steve Reisler.

This long, hard look at the Almighty Dollar. How did it come about? Here are two possible explanations: The Governor's newly consecrated Bar purposes, which provide clear guidance about permissible (and impermissible) activities. And the Annual Meeting resolution slated for debate September 11, which would have frozen Bar dues for two years. (By the way, it failed 2:1.)

Request for Production

On September 8, the Governors voted 7-3 to cut $25,000 from the proposed Public Affairs budget. Their vote showed their unwillingness to commit our dues without sufficient information. The cut, said sponsor Frank Hayes Johnson of Spokane, "will not cripple the department . . . We stand in better shape if we make reasonable scrutiny of the budget."

In the future, the Governors want the Public Affairs director to be present to discuss programs several months before formal consideration of the budget . . . "So next year we don't have as little information as this year," noted Mike Carlson of Everett. He termed the $25,000 cut not an "isolationist" view. "It more means we didn't have enough information."

The Fiscal Law of Action and Reaction?

In the August 1986 *Bar News*, I criticized the Bar's descent into the "black hole" of institutional advertising. The Governors had approved $29,000 for fiscal '87 to underwrite two public TV shows: "The MacNeil/Lehrer Report" and "Frontline."

For fiscal '88, WSBA Executive Director John Michalik told the Governors, there had been a "staff decision to drop" Bar sponsorship "after comments by the Board."

If only the Governors had defunded the program with the same fanfare with which it started! Action and reaction. But at least they saw that institutional advertising wasn't the highest and best use of our Bar bucks.

Discovery and information are to the law what food is to the body. The Governors' request for information showed diligence and due care, the same qualities which are expected in the competent practice of law.

Carole Grayson

CASELAW CAPSULES

Notes From the Academy

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

Civil procedure. Plaintiff sued for personal injuries to neck and shoulder. Shortly before trial, plaintiff discovered, and claimed defendant was liable for, injuries to wrist. Plaintiff's counsel agreed to supplement answers to interrogatories with information about wrist injuries and to inform defense counsel of intended treatment of such injuries. Without informing defendants, plaintiff had surgery on wrist. Therefore, defendant could not conduct presurgery examination of wrist. Trial judge therefore excluded evidence of wrist injuries. Court of appeals affirmed judge's ruling as being within judicial discretion. ***Hampson v. Ramer,*** 47 Wn. App. 806, 737 P.2d 298 (5/26/87).
K. B. Tegland
(former U. of W. faculty)

Evidence. In criminal trial in which defendant testified, judge allowed state to impeach defendant by evidence of three prior convictions for theft. Judge's theory was that prior convictions impeached defendant because theft was crime of dishonesty. Two prior convictions were for theft by fraudulent scheme, but details of third prior theft conviction were unknown. *Held,* theft is not per se crime of dishonesty; it may or may not be. Therefore, it was not error to admit evidence of conviction for two thefts by fraudulent scheme, but it was error to admit evidence of conviction for third theft of unknown nature. *State v. Brown,* 47 Wn. App. 565, 736 P.2d 693 (5/4/87).
K. B. Tegland
(former U. of W. faculty)

NOTICE TO ATTORNEYS — 1988 DIRECTORY

Changes in names, including firm names, addresses and telephone numbers of Attorneys in King County for the new 1988 Directory of Attorneys of King County are now being compiled. If you have changed your address and/or telephone number during 1987 and have not yet given the new information to the Customer Service Section in the office of the Superior Court Clerk please stop by the Customer Service Section counter and fill in a new information card. Cards are available there for your convenience. If your information will be the same as your listing in the 1987 Directory it is not necessary to fill in another card.

If you are a new attorney who has started practicing in King County in 1987 please be sure to fill out an information card as mentioned in the Clerk's office.

Below is a print of this information card which you may clip and mail to the Clerk's office as an alternative to coming into the Clerk's office.

Attorneys: For listing changes of your address or telephone number please fill in below. If you have a new practice in King County this year please write in below where indicated. If your firm name is changed or if the firm is entirely new fill in below. Your changes will be published in the Daily Journal of Commerce and the next annual Directory of Attorneys of King County. (Print or Type)

(new practice) ☐

INDIVIDUAL ATTORNEY'S NAME ONLY. Please check in the box if your's is a **new practice** started in King County this year.

Address, zip code: telephone number

(newly started firm) ☐

FIRM NAME CHANGE ONLY. Write in new name. **If entirely new, recently started, check in box.**

Change from — Previous firm name.

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Please return immediately to Customer Service Section of the Clerk of the Superior Court.

Success Story

I am pleased to report a success story and to be able to show the public how we of the Bar are, in part, fulfilling what we have accepted as a duty to the poor and those who are unable to secure adequate civil legal representation.

The Legal Foundation of Washington was created by court rule by the Washington State Supreme Court. It requires that the attorney participate and pool his trust account, in the bank of his choosing, with all similar trust accounts in that institution. These pooled funds then are invested by the financial institution and the interest, net of the usual service charges, goes to the Legal Foundation of Washington.

It's very questionable that even the most devout supporters of the IOLTA program (interest on lawyers' trust accounts) thought that as much money would be raised in the state of Washington by this program as has proven to be the case. Receipts to the Foundation have been averaging more than $200,000 per month so that, in 1987, the net receipts are estimated to be $2,600,000.

At the program's inception the Walla Walla bar took the negative position and argued before the Washington State Supreme Court that a program such as this was not constitutional. They based their argument on the fact that there would a "taking" of the property belonging to clients. The Washington State Supreme Court rejected this argument and unanimously approved the IOLTA rule creating the Legal Foundation of Washington. It was proven that they were correct when, in June of this year, the 11th United States Circuit affirmed a lower court ruling that had dismissed a class action suit brought against the Florida Bar challenging the constitutionality of the IOLTA program.

The Court of Appeals' reasoning was quite simple. They state that had there not been an IOLTA program the complainant would not have received interest on her money in any event, so there was no taking in this instance.

The Washington court rule is restrictive as to what the Legal Foundation is permitted to do with the funds generated. Generally speaking, the funds must be used for providing legal aid to the poor; pro bono and/or private bar representation for the indigent; law-related education programs for lay persons which have a broad positive impact upon legal problems of the poor; alternative dispute resolution; and discretionary funds to be given by the Foundation to meet unexpected needs to enable continuation of law-related educational or charitable services. Approximately 90% of the funds have gone to direct legal aid for the poor, with 80% of that going to the three legal services, Evergreen, Puget Sound and Spokane. As you are aware, the Reagan administration has recommended that the Legal Services Corporation be not only unfunded but abolished. Congress has kept it alive with a minimal appropriation so that the offices are able to stay open. However, the level of service has been cut drastically. With the help of the Legal Foundation of Washington, funds for these cuts have been restored, and much added service has been given to the poor by these direct contributions to the three legal service corporations.

I have encouraged all local bar associations to apply for funds for pro bono programs within their county. I have been assured by the trustees of the Legal Foundation that any viable program will be approved.

Grant applications, except those for emergency funding or small innovative grants, must be submitted by September 30 of each year. The actual funding is on a calendar year basis. The applications for grants which set out the grant criteria may be received by writing to the Legal Foundation of Washington, 600 Central Building, 810 Third Avenue, Seattle, WA 98104-1612. When currently pending grants are approved, the Foundation will have contributed over $5,000,000 to these worthwhile programs.

Finally, it should be recognized that the Legal Foundation of Washington is not a part of the Washington State Bar Association. It was created by Supreme Court rule and is responsible only to the Supreme Court for its conduct, actions and results.

Why it works in Washington.

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Communication

John J. Michalik
WSBA Executive Director

In somewhat of a departure from the normal course of this column I would like to share with you some correspondence that crossed my desk in mid-September.

The letter in question was from the president (we'll call him Mr. Smith) of a local company. He wrote to me not on company business but with regard to certain difficulties in a legal matter involving a settlement in a dissolution action between his mother and his stepfather. Mr. Smith's mother was represented by an attorney we will refer to as Mr. Jones; the stepfather, in turn, was represented by an attorney we will call Mr. Doe. It seems that negotiations had been going on for some time between Mssrs. Jones and Doe but with only modest success because, apparently, of delays by Mr. Doe and his client. Finally, in a telephone conversation on August 13 some progress had been made and Mr. Doe had "promised" Mr. Jones that he would get back to him by August 17.

The next contact in the matter occurred on August 31. This involved a letter from Jones to Doe which contained, as its beginning and ending paragraphs, the following:

> For the last two weeks I have called your office at least once a day, and sometimes more, in an attempt to talk to you concerning the above referenced matter. I have talked with your paralegal on several occasions and have asked her to have you call me. So far, I have not heard a word from you in response to my calls.
>
> It is unfortunate that you cannot extend me the professional courtesy of returning my phone calls. It is this type of tactic which gives the legal profession such a bad name with the public and I am professionally embarrassed by the entire situation.

In sending this all on to me, Mr. Smith made a virtual plea for lawyers to "wake up" with regard to the overall damage they do in such a situation; noting that, "Whereas I would venture to guess that Mr. Doe's actions do not directly raise any ethical questions, they do in fact, as Mr. Jones points out, tarnish the image of the legal profession in the public's eye."

After writing to me, Mr. Smith also called me on the telephone. I found him to be an articulate and concerned member of the community; a person who was quite pleased with his own lawyer (Mr. Jones) and lawyers in general; an individual who, as an experienced and successful businessman, was not operating out of an unfamiliarity with the "real world"; and someone who was genuinely concerned about lawyers "shooting themselves and their profession in the foot" through unnecessary and unprofessional tactics.

The issues, obviously, include professionalism, courtesy and a need to understand that what may seem to be an isolated bit of delay and the "I just can't get to that today" syndrome does affect other people in many ways that can go far beyond the intricacies of the immediate matter at hand. Perhaps Mr. Doe had very good reasons for the lack of communication evident in this scenario. I hope that is the case, but the problem in the scenario is one which is a mixture of reality and perception. Mr. Doe has *at least* given an appearance of delaying, stalling, ignoring, intentionally frustrating or whatever you wish to call it. That has rightly embarrassed another member of the profession and has irritated a pretty sophisticated "client." It also redounds far beyond that little group and that single situation—and should perhaps give us all pause to reflect on how we do what we do as lawyers.

Keep the Scales of Justice balanced-in your favor!

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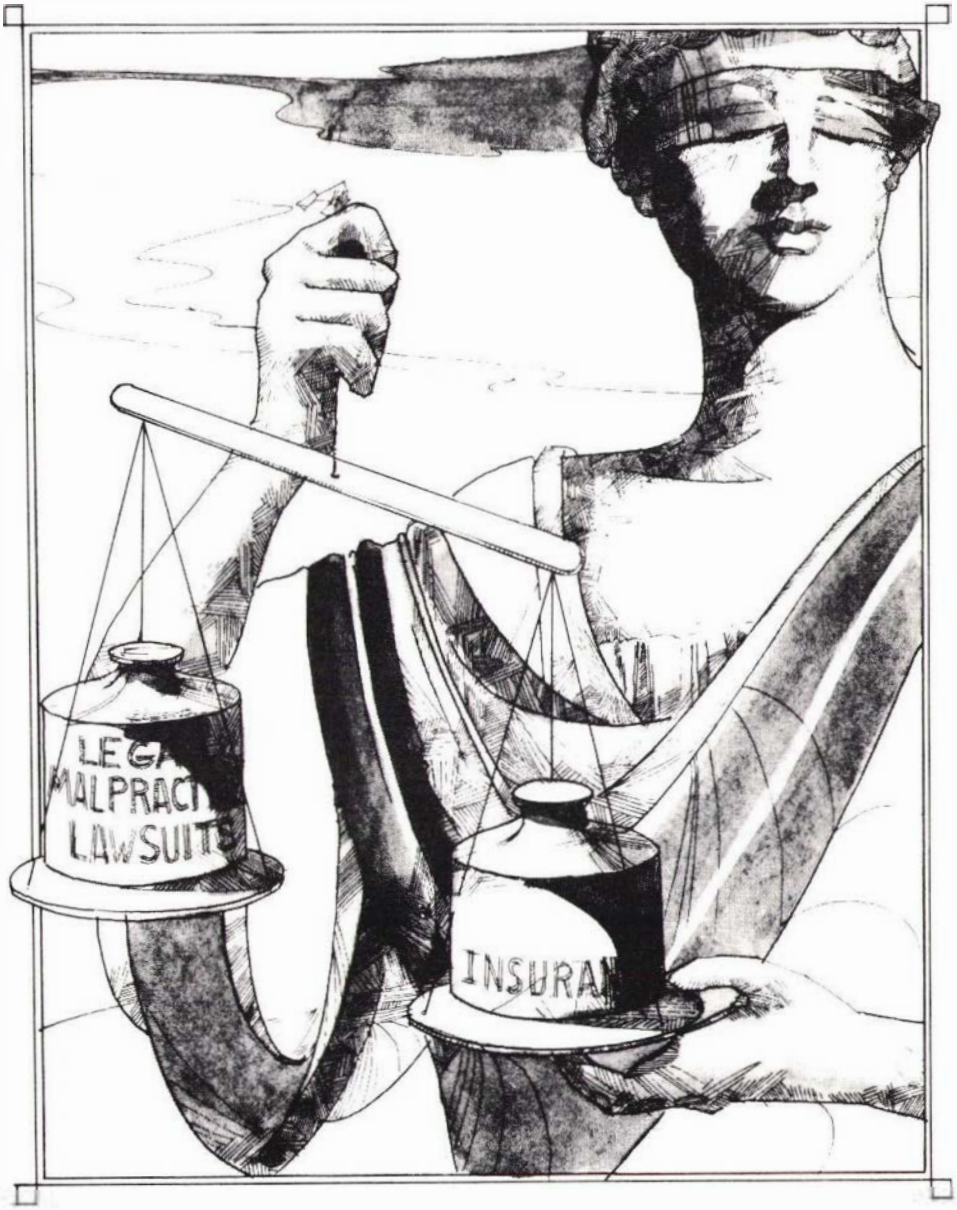

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WASHINGTON STATE BAR **NEWSLINE**

The Board's Work

by Carole Grayson

ANNUAL MEETING SEPTEMBER 11, 1987. VANCOUVER, B.C. HOTEL VANCOUVER

FREEDOM OF INFORMATION — Members passed by acclamation a substitute resolution approved by the Resolutions Committee which "recommends" that the Governors in 1988 adopt a formal policy describing "the terms and conditions under which the books and records of the WSBA shall be made available to members of the Association."

The original motion proposed by Howard K. Todd of Seattle would have made WSBA books and records available for member review under the terms accorded analogous records of state agencies under RCW 42.17, the public record statute.

Former WSBA President F. Lee Campbell of Seattle told the membership that incoming President Jack Dean had authorized him to say that Dean would create a task force in October to look into the matter. "Only once" has a request for financial information not been granted--a request for all checks written by the Bar in the last two years ...some 13,000 checks, said President William Gates. We have "never" looked at the policy, said Gates, but "we assumed members were basically entitled" to the information.

DUES FREEZE — By 81-159, the members rejected a resolution which would have frozen 1987 dues for two years.

LAWYERS' ASSISTANCE PROGRAM — The original resolution sought disapproval of changes recommended by the Governors to amend RLD 1.1(j) and 8.7, now pending before the Washington Supreme Court, which provide that lawyers "may be required to submit to compulsory assessments of physical and mental impairment."

The Resolutions Committee voted 6-1 to recommend an amended resolution disapproving the proposed amendments to RLD 1.1(j) and 8.7 "to the extent they require lawyers to submit to compulsory assessments of physical and mental impairments." The committee amendment considered due process and privacy objections of the Seattle-King County Bar Association, American Civil Liberties Union, National Lawyers Guild, WSBA Young Lawyers Division, etc.

SKCBA trustee, Matt Sayre, moved to refer back the proposed amendment to the WSBA for consideration of due process and privacy concerns. WSBA Young Lawyer Division President Tom Fitzpatrick of Seattle concurred, asking for a statement of principle against mandatory assessments. The Sayre motion passed nearly unanimously.

Jerry Jager of Seattle, of the steering committee of the Lawyers' Assistance Program, agreed with the motion. The function of the program, he said, is "not to hurt but to aid" members.

OCTOBER 16-17, 1987. COEUR D'ALENE RESORT, IDAHO.

PRESENT: President Jack Dean of Spokane; Governors Steve Reisler, Jay White, Julie Weston, all of Seattle; Jim Turner of Bellevue; Paul Stritmatter of Hoquiam; Frank Hayes Johnson of Spokane; Ed Shea of Pasco; Mike Carlson of Everett, and Bill Bergsten of Tacoma.
ABSENT: Steve DeForest of Seattle.
ALSO PRESENT: Mike Pontarolo (WSTLA), J. Ben McInturff (Ct. of App. Judges Assn.), Mary Prevost (Gov. Lawyers), John Riley (WSBA Young Lawyers), Harold Clarke (Superior Ct. Judges Assn.), Kay Frank (SKCBA Young Lawyers), Mary Alice Theiler (SKCBA Trustees), Donald Brockett (Wa. Assn. of Pros. Attys.), John Michalik (WSBA Exec. Dir.).

ANNUAL MEETING RESOLUTIONS The Governors took no formal action on the three resolutions voted on at the September Annual Meeting. (See also report of Annual Meeting above). President Dean appointed Lee Campbell of Seattle, Governor Jim Turner of Bellevue, and a young lawyer to be named later to devise a policy on disclosure of Bar records. The report will be presented in spring 1988.

The resolution which disapproved the proposed Lawyers' Assistance Program and RLD amendments was referred back to the LAP steering committee for what Dean termed "more than fine tuning." The steering committee is expected to report back in early 1988.

WHAT FEES ARE APPROPRIATELY DEDUCTED FROM IOLTA ACCOUNTS? The Governors spent 3 1/2 hours on Friday hearing from interested persons on a proposal by the Legal Foundation of Washington to amend RPC 1.14 to enumerate specific service fees, charges, and transaction costs which may be deducted from interest on lawyer trust accounts (IOLTA). On Saturday, the Governors tabled the matter until their December meeting in Seattle to allow for further input.

President Jack Dean, a former trustee of the Legal Foundation, set the parameters on Friday: "The Governors have no power to interfere with or rule over the Legal Foundation. However, the Legal Foundation has no enforcement powers...Anything the Board does today is advisory only to the Supreme Court."

"The rule itself is ambiguous and unclear" said Margaret McKeown of Seattle, a Legal Foundation trustee. "The problems came out only after the fact ...Different banks handle deducting the fees in different ways...It's a slippery slope if lawyers can deduct any and all charges. Help us to put some parameters to the rule," she asked the Governors.

The issue centers around what constitutes "customary and ordinary fees." Hugh Hawkins and Geoff Revelle of Bellevue, representing the Closing/Escrow Law Section of the Seattle King County Bar Association, spoke against the amend-

ment. They consider special management services (SMS) necessary for their real estate/escrow closing practice. These extensive computerized trust fund accountings, say Legal Foundation statistics, account for 42% ($219,306) of the total bank fees on 1987 IOLTA accounts. Between 14 and 20 firms statewide incur these special management service fees.

Governor Steve Reisler of Seattle asked that the Legal Foundation indicate whether SMS fees are increasing, decreasing, or staying the same. He also wished to know whether IOLTA was threatened by prospectively larger numbers of lawyers using SMS.

LEGISLATIVE NEWSLETTER APPROVED By 9-0, the Governors authorized no more than $8,000 for a legislative newsletter to be mailed to all WSBA members for one year. There will be three issues, a pre-session report and two interim reports.

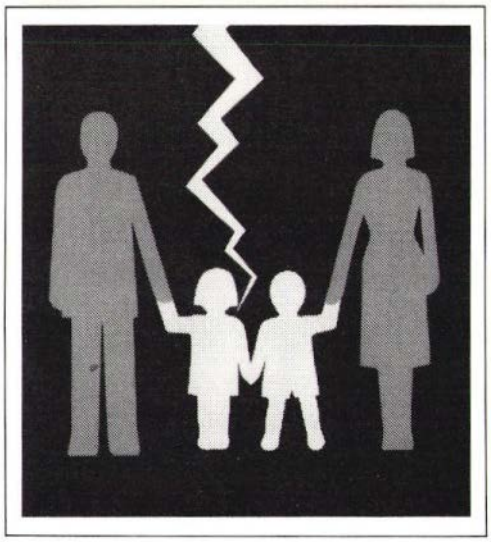
"There is a qualitative difference between this project and the vast majority of those which come before us. This is for the lawyers," said Reisler.

LEAP The Governors took no formal action on a request by the Legalization Education and Advisory Project (LEAP) of the Seattle-King County Bar Association for $4,000 for a mailing to all WSBA members. The statewide pro bono project seeks lawyers to represent aliens whose petitions for legalization have been denied.

Several Governors, including Frank Hayes Johnson of Spokane, Ed Shea of Pasco, Paul Stritmatter of Hoquiam, and Mike Carlson of Everett, opined that a more effective way to solicit lawyers' involvement would be on the local level. They committed themselves to publicizing (in Shea's words) the "do right project" to the lawyers in their district.

LEAP volunteers may attend free half-day CLEs in Seattle on January 14 and Yakima on January 11.

JULY BAR EXAM 530 persons are eligible for admission following success on the July 1987 Bar exam. Overall pass rate was 70.2%. 77.9% passed the essay section. 81.2% passed the ethics section.



Interstate Custody Disputes

by **Robert C. Mussehl**
and
Morris H. Rosenberg

For the general practitioner and family lawyer alike, interstate child custody and visitation disputes can be complex. Before adoption of the Uniform Child Custody and Jurisdiction Act[1] (UCCJA), many courts exercised jurisdiction where the child's contact with the state was minimal. There were no guidelines for jurisdiction, and no formalized procedures for communication between judges existed. The best interest of the child was often overlooked. Because custody decrees are not final, courts freely disregarded decrees from other jurisdictions. Though some courts applied equitable principles, such as the clean hands doctrine, to curb abusive practices, conflicting decrees and repetitive litigation were common. Additionally, the lack of coordination and inconsistency among courts encouraged child-snatching and forum-shopping.

The UCCJA was designed to avoid competition and conflict regarding jurisdiction and to promote cooperation in child custody disputes. The major focus of the statute is to protect the best interests of the child. The state with the most significant contact with the child is the preferred state to exercise jurisdiction. RCW 26.27.010. UCCJA guidelines for determining jurisdiction discourage child-snatching, forum-shopping, and repetitive litigation. The UCCJA has been adopted in some form by all 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands.

Application of the UCCJA

Compliance with the UCCJA is mandated in all "custody proceedings," which by definition includes any proceedings where custody is but one of several issues for resolution. It specifically includes child neglect and dependency proceedings and would also likely include paternity and adoption termination actions.

Under the UCCJA, "custody determination" includes any court decisions, court orders and instructions providing for the custody of the child, including visitation rights. It does *not* include proceedings for child support or other monetary obligation which require personal jurisdiction. RCW 26.27.020(2).

The UCCJA applies to both initial orders and modification decrees, and to temporary, as well as permanent, orders. RCW 26.27.020(4) and (6). It may apply to both Washington decrees and decrees from other states. RCW 26.27.140. But it does not apply where a contestant, without asking for modification, seeks only to enforce an existing Washington decree.[2]

Finally, the UCCJA applies not only to parents, but to any person who claims a right to custody or visitation of a child. RCW 26.27.020(1).

Which State Has Jurisdiction?

Washington has jurisdiction under the UCCJA to make a child custody determination under the UCCJA if any of the following circumstances exist:

Home State.

Washington will exercise jurisdiction if it was the home state when custody proceedings started, or if it had been the home state within six months before proceedings began and if the child was removed from Washington by one parent and the

other parent continues to live in Washington. RCW 26.27.030(1)(a).

"Home state" means the state where the child lived with a parent or parents for at least six consecutive months before the custody proceedings started. The home state of a child younger than six months is the state in which she had lived with her parent or parents since her birth. Periods of temporary absence of either the child or parents are counted as part of the six-month period. RCW 26.27.020(5).

Best Interests of the Child.

Washington may exercise jurisdiction if the child and his parents, or at least one parent, have significant connections here, and if there is substantial evidence available here concerning the child's present or future care, protection, training, and personal relationships. RCW 26.27.030(1)(b).

Emergency/Abandonment.

Washington may exercise jurisdiction if a child is physically present here and has been abandoned, or if emergency protection is required because she has been subjected to, or threatened with, mistreatment or abuse, or is otherwise neglected or dependent. RCW 26.27.030(1)(c).

No Other Court Exercising Jurisdiction.

Washington may exercise jurisdiction if no other court has jurisdiction under the first three conditions *or* upon a determination that it is the most appropriate forum *and* if the best interests of the child would be served by such exercise. RCW 26.27.030(1)(d).

Definition of Terms

The UCCJA provides principles which the courts use to determine jurisdiction. "Home state," "significant connections," and "best interests of the child" are broad guidelines and will be interpreted by the courts in light of the facts of each case. Since the UCCJA's adoption in Washington in 1979, only a few Washington cases construe these terms. *See e.g., In re the Marriage of Steadman, Ellis v. Nickerson, Hudson v. Hudson,* and *In re Thorensen.*[3]

Obtaining Jurisdiction

In *Hudson,* the court abandoned the requirement of *in personam* jurisdiction. The court interpreted the UCCJA to provide jurisdiction in cases where there was a "significant connection" between the child and the forum state and noted that "fair play and substantial justice" are required in order to demonstrate the "minimum contacts" test for due process. In a child custody proceeding, it is the child's status which is being adjudicated, not the personal rights of the defendant. As this is an *in rem* proceeding, it falls under the status exception of *Shaffer v. Heitner,* 433 U.S. 186 (1977).

However, it is important to distinguish adjudication of child custody from adjudication of child support or other monetary issues which involve

personal rights and require *in personam* jurisdiction.[6]

Communication Between Judges

To prevent repetitive litigation and to ensure cooperation between jurisdictions, every party in a Washington custody dispute must complete a special affidavit pursuant to RCW 27.26.090. The parties must set forth the residence of the child or children for the past five years and state whether or not they are participants in any other court proceeding regarding their custody. The parties are under a continuing duty to inform the court of any custody proceeding, in Washington or any other state, in which they may become involved.

A Washington judge who discovers during a custody action that a court proceeding is pending in another state is required to communicate with the other judge to determine which forum is more appropriate. RCW 26.27.060. Communication may be by letter or telephone.

Inconvenient Forum

Even if no proceedings are pending elsewhere, a Washington court may at any stage of the proceeding decline jurisdiction in favor of another, more appropriate state. RCW 26.27.070(1).

The factors to be taken into account in determining whether or not to decline jurisdiction include: (1) whether another state is or recently was a child's home state; (2) whether another state had more significant connections with the child; (3) whether there is more readily-available evidence concerning the child in another state; (4) whether the parties have agreed to another forum no less appropriate; and (5) whether the exercise of jurisdiction by the Washington court could contravene the purposes of the UCCJA. RCW 26.27.070(3).

If Washington is an inconvenient forum and another state's court is more appropriate, the proceedings here may be dismissed or stayed on the condition that a custody proceeding be started or pursued in another state. RCW 26.27.070(5). Despite such action, the Washington court may retain jurisdiction for other purposes. For instance, a judge may retain jurisdiction over dissolution of a marriage, division of property and liabilities, and awards of maintenance, while leaving custody to another court.

The statutory provisions regarding simultaneous proceedings in two states and/or inconvenient forum only apply when the UCCJA itself applies to the proceeding. In other words, if a court finds that a dispute is not governed by the UCCJA, it will not communicate with another jurisdiction to determine which forum is appropriate, nor will it decline jurisdiction or stay proceedings.[7]

Additionally, a determination of inconvenient forum should be made in light of the guidelines for original jurisdiction. In general, if the court in which the action was first commenced has jurisdiction pursuant to RCW 26.27.030, it is likely to retain jurisdiction because of a preference

for the "home town." Washington favors retaining jurisdiction unless the conduct of the Washington contestant is offensive.[8]

Declining Jurisdiction

A Washington court may decline jurisdiction if the party requesting exercise of the court's jurisdiction has engaged in reprehensible conduct such as child snatching or has violated any other provision of another state's custody decree, whether temporary or permanent. RCW 26.27.080.

Washington has traditionally applied the clean hands doctrine so that a party would not benefit from his wrongful acts. Consistent with that, where a party withholds information from the court in order to obtain a decree in conflict with a prior decree, Washington will decline jurisdicton. Such conduct contravenes the spirit and purpose of the UCCJA.[9]

Modification

Washington is required to recognize and enforce any initial or modified decree which was entered by a court pursuant to the UCCJA jurisdictional requirements. RCW 26.27.130. In return, Washington's decrees must also be recognized by other states.

A Washington court may modify another state's custody decree if the state that entered the decree no longer has jurisdiction under the UCCJA, or if that state has declined jurisdiction and Washington otherwise has jurisdiction. RCW 26.27.140.

Our courts may modify another state's decree to the same extent the other state's court may modify their own decree.[10] Where the decreeing court may not have had the opportunity to fully examine the relevant circumstances, as in cases of fraud[11] or default decrees[12], Washington may assume jurisdiction if there is significant evidence available and it is in the best interest of the child.[13]

The UCCJA does not apply to an action seeking enforcement of another state's decree where a modificaton is not sought.[14]

Attorneys' Fees

Several sections of the UCCJA authorize a court to award attorneys' fees and/or costs. Pursuant to RCW 26.27.070(7), a court may order a party to pay attorneys' fees and costs if it can be shown that the party brought a custody action in a clearly inappropriate forum. Attorneys' fees and costs are permitted in proceedings where jurisdiction is declined by reason of bad conduct. RCW 26.27.080(5).

Pursuant to RCW 26.27.150(2), a court is authorized to order a person violating a custody decree of another state to pay attorneys' fees and costs incurred by the party entitled to custody. Also, a court is permitted to apportion cost in connection with hearings and investigations in another state. RCW 26.27.190. However, attorneys' fees for services provided by out-of-state attorneys may not be within the scope of these statutes.[15]

Pointers and Pitfalls

Attorneys should anticipate UCCJA implications in virtually any family law proceeding involving children. For example, at any time during a dissolution proceeding, a parent could move to another state, with or without a child, and claim that the second state should take jurisdiction for custody purposes. To protect the client, the attorney must file the affidavit required by the RCW 26.27.090 for *all* custody proceedings.

To prepare the affidavit, the attorney should gather the following information from a client: (1) how long each parent and child has resided in this state; (2) where each parent and child has resided during the last five years; (3) the significant contacts each parent and child may have within this state, including close family members, child's school attendance, and similar information; and (4) the significant contacts any family member may have with any other state.

It may prove helpful to include a provision in a dissolution decree that the decreeing state retain jurisdiction. While this provision probably adds nothing in the true legal sense, some judges may give weight to this recital in ruling on a request to decline jurisdiction.

A provision restraining either party from moving the residence of the child from the decreeing state without court permission should in all likelihood be honored in a new state's courts under a "clean hands" analysis. Absent such a provision, a new state's courts are more likely to accept jurisdiction, especially if a significant amount of time has gone by, and thus not feel obligated to follow the analysis of *Kumar v. Superior Court*[16] regarding modification jurisdiction.

Joint custody, with all its vagueness, would seem to present unique problems as to the application of the UCCJA. If you are trying to get venue changed between two Washington superior courts, argue the concepts of the UCCJA by analogy.

The Writ of Habeas Corpus is not totally dead in Washington; it is mentioned periodically in appellate decisions. Do not overlook the possible use of the Writ of Habeas Corpus to seek the rapid return of a child who is being held by a parent or nonparent in violation of law.

Be creative! If you need the assumption of jurisdiction, try to convince the court that your facts fall within the emergency provisions of RCW 26.27. If you are on the other side, emphasize that your opposition is asking the court to abuse the concept of emergency jurisdiction.

Footnotes

[1] Adopted by Washington on June 7, 1979, and codified as RCW Chapter 26.27.

[2] *In re Marriage of Corrie*, 32 Wn.App. 592, 648 P.2d 50 (1982).

[3] *In re Marriage of Steadman*, 36 Wn.App. 77, 671 P.2d 808 (1983); *Ellis v. Nickerson*, 24 Wn.App. 901, 604 P.2d 518 (1979); *Hudson v. Hudson*, 35 Wn.App. 822, 670 P.2d 287 (1983); and *In re Thorensen*, 46 Wn.App. 493, _____ P.2d _____ (1987).

[4] *See e.g., In re Marriage of Hall*, 25 Wn.App. 530, 607 P.2d 898 (1980).

[5] RCW 4.28.185 et seq.

[6] *See, Kulko v. Superior Court*, 436 U.S. 84, 98 S.Ct. 1690, 56 L. Ed.2d 132 (1978).

[7] *Corrie, supra.*

[8] *See, In re Marriage of Dunkley*, 89 Wn.2d 777, 575 P.2d 1071 (1978) (a pre UCCJA case).

[9] *Dunkley, supra*, and *In re Nelsen*, 37 Wn.App. 640, 681 P.2d 1302 (1984). *But see, Thorensen, supra.*

[10] *Ellis v. Nickerson, supra.*

[11] *In re Marriage of Verbin*, 92 Wn.2d 171, 595 P.2d 905 (1979).

[12] *In re Rankin*, 76 Wn.2d 533, 458 P.2d 176 (1969).

[13] *Ellis*, supra; *Thorensen, supra.*

[14] *Corrie, supra.*

[15] *Id.*

[16] 32 Cal.3d 689, 186 Cal. Rptr. 772, 652 P.2d 1003 (1982) (holding on similar facts that New York had continuing exclusive jurisdiction to modify its own decree where the husband had continued to reside there and continued to assert and exercise custody/visitation rights.) *Contra, Thorensen, supra.*

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Defending Against Debt Collection

by **David W. Freese**

Bankruptcy lawyers hate and love aggressive collection agencies. The often abusive treatment of account debtors by agencies may motivate clients to seek the assistance of a bankruptcy lawyer. Aside from a bankruptcy petition, or more precisely, often in *addition* to a bankruptcy petition, debtor's counsel should seriously consider non-bankruptcy defenses.

The principal non-bankruptcy defenses to debt collections are found in Title 15, United States Code[1]. There are also numerous state statutes of use. Our analysis will start with the more significant federal statutes[2].

I. The Fair Debt Collection Practices Act

The Fair Debt Collection Practices Act (FDCPA) provides substantial theoretical relief to debtors. It makes illegal any harassment, abuse, false or deceptive or misleading representations. Telephone calls before 8 a.m. or after 9 p.m. are prohibited[3]. Contacting anyone other than the debtor, his attorney, or a credit bureau, *viz.*, an employer, except for obtaining "location information" is also prohibited[4]. Contact with third parties is generally limited to one occurrence[5].

15 U.S.C. Section 1692e[6] prohibits "false or misleading representations," some of which are violated frequently: (a) falsely simulating court or official documents; (b) falsely implying that documents are legal process and; (c) implying that nonpayment will result in seizure, garnishment, attachment, or sale of any property or wages unless the action is lawful and the debt collector or creditor intends to take it. 15 U.S.C. Section 1692f prohibits "unfair practices," such as (a) accepting a check postdated by more than five days (unless certain written notifications are tendered), (b) depositing or threatening to deposit a postdated check before the date on the check.

Prohibited activities are always difficult to prove, given the relative experience of the collection agency in cloaking its activities and the relative inexperience of the alleged account debtor. Attorneys counseling debtors should always instruct them to keep a detailed diary.

The most frequent violations that I see are (a) calls to the debtor's employer for other than location information, and (b) calls to the debtor stating that unless a certain debt is not paid by a specific date "a lien will be filed" or "wages will be garnished," even though suit has not yet been commenced, and (c) persuading a court to construe a debtor's failure to dispute a debt as an admission of liability.

The FDCPA prohibits a debt collector from contacting the debtor once there is attorney representation[7]. As the attorney you should invoke the FDCPA and advise the debt collector by certified mail of representation. Demand that no contact be made either with the debtor or debtor's employer and that, instead, all inquiries be addressed to the attorney.

The attorney also should invoke the Fair Credit Billing Act (FCBA), especially the provisions relating to verification of alleged billing errors[8].

The FDCPA provides the following for breaches of the FDCPA:

(a) Actual damages plus "such additional damages as the court may allow, but not exceeding $1,000.00";

(b) *Mandatory* award of reasonable attorney's fees and costs if the account debtor is successful in the litigation[9].

The scope of the FDCPA is simultaneously limited and expansive.

It is limited in that it only applies to "consumer credit"[10]. It also does not apply nominally to a creditor attempting to collect its own debt. Since many national banks have their own collection division, the Act may exclude a large portion of the debt collection activity that debtor's attorney would face.

However, the Federal Trade Commission (FTC) has issued regulations on debt collection, pursuant to 15 U.S.C. Section 57(a)(1). Much broader than the FDCPA, these "Guides Against Debt Collection Deception" are found at 16 C.F.R. Part 237[11]. Since the FDCPA was enacted *after* these regulations were promulgated, it is not clear how many, if any, of the regulations were preempted by the enactment of the FDCPA.

These regulations are broad enough to encompass almost any collection activity, whether done "in house" or not.

The FDCPA is expansive in scope in that the exception for attorneys has been deleted from the act by Pub. L. 99-361. Attorneys "regularly" collecting consumer debts must comply with the FDCPA—in all of its provisions. Thus, an initial demand letter to the debtor must comply with the notice requirements of the FDCPA[12]; an attorney must take a 30-day hiatus

in prosecution of a lawsuit if a debtor timely invokes his validation rights under the FDCPA[13]. Perhaps most debilitating are the restrictions on third-party communications, which absent consent, specific court order, or exercise of a post-judgment remedy, limit third-party contacts to acquiring location information—and *nothing* more, such as asset location[14].

II. The Fair Credit Billing Act

The Fair Credit Billing Act (FCBA) provides for the resolution of disputed billings.

In addition to items normally considered a billing error, Regulation Section 226.13 provides:

"(a) Definitions of billing error. For purposes of this section, the term "billing error" means: . . . (6) A reflection on a periodic statement of an extension of credit for which *the consumer requests additional clarification, including documentary evidence.*" (emphasis added)

15 U.S.C. Section 166(b) similarly defines what constitutes a billing error.

Thus, asking for a clarification is tantamount to a billing error, and the debt collector must respond according to law. The collector must cease collection efforts during the verification period, verify either the discrepancy or accuracy of the bill within two billing cycles or 90 days[15], and then notify the debtor of the results of the verification activity. Normally the debtor only has 60 days from the first instance of a billing error to notify the creditor of the errors, but in the context of a debt collection agency, the collection agency is a separate and distinct creditor which should restart the clock[16].

Once the FCBA is invoked, the burden of verification shifts to the creditor. The creditor may capitulate or, after investigation, make a partial adjustment or no adjustment. For other than complete acquiescence to the debtor's position, the creditor must conduct a "reasonable investigation" into the alleged error[17], send to the debtor a written explanation setting forth the reasons for no adjustment or partial adjustment, and if the debtor requests, send to the debtor any documentary evidence supporting the creditor's position[18].

Once a billing error has been alleged, and until the verification process is complete, the debtor may withhold payment of the disputed amount; the creditor may not accelerate the total amount due because of the debtor's alleging a billing error or withholding payment, and the creditor may not close the account[19]. Furthermore, the creditor may not report to a credit bureau that the disputed amount is delinquent until the verification process is complete[20]. Even if the verification process is complete and the debtor maintains that there is a billing error, any report by the creditor that the disputed amount is delinquent must also include notification that the amount is *disputed*. The creditor must notify the debtor of the party to whom such reports have been made[21].

The penalties for a creditor violation of the FCBA are:

(a) Forfeiture of the disputed amount, and any interest charges and related charges thereon, with the principal forfeiture amount limited to $50.00 per item[22];

(b) Damages pursuant to Section 1640 of the TILA[23].

III. The Fair Credit Reporting Act

The principal protections afforded by the Fair Credit Reporting Act (FCRA) are (a) the ban on retention of stale information[24] and (b) verification of disputed information[25]. Unlike the FDCPA and the FCBA, the standards for imposing liability under this act are much more favorable to the non-debtor party. Thus, no verification of the alleged information is required if the credit bureau reasonably believes the debtor's allegations to be groundless. Further, the limited case law indicates that a credit bureau's negligent failure to purge inaccurate information is insufficient to establish liability. While a debtor has the right to include in his credit files a statement of what the debtor believes to be inaccurate information, the credit bureau has no duty to inform the debtor of such right[26].

In defending against collection agency activity, I usually invoke the FCBA, not the FCRA; I also notify the debt collector of any potential damages due to erroneous information being included in a credit bureau's file.

IV. The Truth In Lending Act

The Truth in Lending Act (TILA) and Regulation Z contain requirements concerning credit disclosure. Using TILA as a defense dovetails with the FCBA.

The TILA and the other provisions discussed are part of the Federal Consumer Credit Protection Act, which is subchapter I of Chapter 41 of Title 15, United States Code. This subchapter is subdivided into alphabetically enumerated "parts." The Fair Credit Billing Act is part "D" of subchapter I of Chapter 41.

15 U.S.C. Section 1640 provides

Civil Liability

(a) Individual or class action for damages; amount of award; factors determining amount of

award

> Except as otherwise provided in this section, any creditor who fails to comply with any requirements imposed under this part, including any requirement under section 1635 of this title, *or part D* or E of this subchapter with respect to any person is liable to such person in an amount equal to the sum of . . .

Thus a violation of the Fair Credit Billing Act is a *per se* violation of the TILA.

Remedies for violation of the TILA are:

(a) actual damages;
(b) statutory damages of twice the finance charges imposed by the creditor, in the *minimum* of $100.00 and a maximum of $1,000.00; and
(c) reasonable attorney's fees and costs.

A violation of the TILA or Regulation Z, no matter how technical, gives rise to liability under 15 U.S.C. Section 1640[27]. The debtor need not show actual damages to recover damages for violation of either TILA or Regulation Z[28].

Besides making an FCBA violation a *per se* TILA violation, TILA's disclosure requirements may impinge on the right or ability of a debt collector to obtain interest on an open account. RCW 19.52.010 provides for a default rate of interest on open accounts. The annotations reveal no cases discussing whether TILA's disclosure requirements apply to this "silent contract." A debtor's attorney should argue, of course, that it does; *viz.*, that disclosing to a consumer debtor how interest will be computed on past due amounts does not conflict with the state statute setting the rate for interest on such past due amounts. Since a creditor who seeks this interest does so electively, and not by requirement of law, seeking this interest should make the TILA applicable.

V. Non-federal Law Considerations

Collection agencies typically sue on assigned claims on the representation to the claim assignor that the claim assignor is protected from counterclaims. Almost without exception, these lawsuits are prosecuted in our state district courts.

JCR 13(b) provides for the joinder of additional parties. It has been my experience that besides asserting as a setoff pursuant to JCR 13(j) against the claim assignor alleged violations of the Consumer Protection Act, joinder of the original claim assignor is almost always advisable. The joinder pierces the veil of protection which the collection agency promised the claim assignor, and one can then compel attendance of the claim assignors pursuant to JCR 43(f).

Debtor's attorney should also check, with some care, the place of service. Service outside the geographical jurisdiction of the court calls for a notice of special appearance along with a motion to dismiss for lack of personal jurisdiction.

Finally, it often pays for debtor's counsel to investigate the licensing of the claim assignor. In a recent dispute over a professional bill, I discovered that the claim assignor did not have a city business license. Some cities impose hefty penalties for not having a city business license for a business conducted within its boundaries. Information as to licensing is easily obtained and can be of extreme value in obtaining leverage.

VI. Use of Non-bankruptcy Defenses in Bankruptcy/ federal Court

It has been my experience without exception that collection agencies avoid bankruptcy court at any cost. If your client is in a non-liquidation proceeding (Chapters 11, 12 or 13), raising non-bankruptcy defenses as an objection to claim can have a very high "kill ratio." In my correspondence with a credit card issuer over the matter of obtaining an account history at no charge to my client, I set forth with particularity the FCBA provisions requiring the production of the account history, without charge. When this met with the demand for prepayment of $49.00 to the creditor, I billed the creditor for my time expended in research and correspondence on the issue, pursuant to the FDCPA and the TILA. With the battle lines thus drawn, I noted the debtor's objection to claim, citing the FCBA and the TILA and attaching as exhibits the prior correspondence and my bill to the creditor. I also moved for an award of additional attorney's fees if the creditor contested the debtor's objections.

Result? No one appeared for the credit card issuer, and the claim of several thousand dollars was disal-

lowed in whole.

Debtor's counsel should be aggressive in raising objections to claims in non-liquidation proceedings with respect to creditors who are geographically distant. Long-distance litigation is usually an insurmountable handicap for the creditor. Additionally, forum selection rules are favorable to bankruptcy petitioners in that bankruptcy courts lack jurisdiction to change venue from one judicial district to another. A change of venue motion is cognizable only by the U.S. District Court[29]. Non-bankruptcy debtors are protected by the restrictions on venue contained in the FDCPA[30].

Another useful technique is to remove[31] an existing lawsuit either to U.S. Bankruptcy Court[32], or to U.S. District Court. Removal is accomplished by filing with the clerk of the federal court an "Application for Removal" and thereupon filing a "Notice of Removal" with the clerk of the court from which the case was removed. Contrary to what one might presume, *viz.*, that "Application" means there is a hearing in the federal court on whether the case should be removed or not, removal occurs automatically at the instant the "Notice of Removal" is filed in the state court.

While removal to bankruptcy court nominally operates as an automatic modification or relief from the automatic stay[33], there are significant advantages to so doing. In the Western District of Washington, removed cases *are not* automatically brought onto the court calendar for pretrial conferences and trial settings. More than once, lethargic plaintiff's counsel has seen his lawsuit removed, passage of a year, and sua sponte dismissal by the court for lack of prosecution.

More leverage is obtained by removing the case to bankruptcy court and demanding a jury trial, which you have the *constitutional* right to do in almost all civil matters normally triable to a jury[34]. Fortunately, bankruptcy courts are not presently in the business of conducting jury trials[35] because, while there is jurisdiction to *remove*[36] a lawsuit to bankruptcy court, and while there is the right to demand and have a jury trial, the bankruptcy courts appear to be without jurisdiction to *conduct* a jury trial[37]. Thus, a removed case triable to a jury is permanently *immobilized*. After one year passes without plaintiff's counsel being able to provide a jury trial in bankruptcy court, the subject case should be dismissed for lack of prosecution.

Even if the underlying bankruptcy petition is dismissed for some reason, the removed cases are not automatically remanded to state court. Of all of the cases that I have removed, only once has plaintiff's counsel been savvy enough to seek remand of the case to state court.

Removal of a case is mandated if you wish to pursue federal consumer credit legislation as defenses to the claim. Most state district court judges are so numbed from the endless and unchanging presentation of DWI defenses, that the only real opportunity to have a fair hearing on the federal defenses is in a federal court. A debtor in bankruptcy court need

pay no (a) filing fee for removal; (b) bond for removal; or (c) jury demand fee. The debtor need only to have the requisite paperwork prepared, filed and then served, if the lawsuit to be removed meets the jurisdictional requirements of 28 U.S.C. Section 1334. That section requires the lawsuit to "arise in," or "arise under," or be "related to" the pending bankruptcy proceeding. Any prepetition lawsuit naming the debtor as a defendant would almost always so qualify.

Finally, if your client is not eligible or willing to be a bankruptcy petitioner, you should determine whether the lawsuit may be removed to the U.S. DistrictCourt. 15 U.S.C. Section 1692k provides for federal jurisdiction for FDCPA violations without requiring any amount in controversy. There also may be general federal question jurisdiction, or perhaps, diversity jurisdiction.

It is important to note that removal jurisdiction is derivative. Thus, some defect in the state court's jurisdiction, *viz.*, service outside of the geographical jurisdiction of a state district court, will provide the basis for a dismissal motion in the federal forum. I have removed a state court lawsuit and thereafter obtained dismissal of the lawsuit for insufficient service of process. Even though such a dismissal is without prejudice (unless it has been dismissed once before), it usually dampens the enthusiasm of the plaintiff to attempt his lawsuit another time.

VII. Summary

I have appended a chart with common fact situations and the avenues of relief available for each. These techniques are not exhaustive. They have on several occasions derailed either a claim brought by a collection agency or the creditor itself. Other than being paid by the client, nothing compares with the satisfaction of seeing the collection agency's claim evaporate—to the total untoward surprise and dismay of the agency.

[1] While many state laws are mirror images of federal law, reliance on federal law is advantageous because of the supremacy of federal law and because so many (credit card) creditors are out of state.

[2] Federal statutes include:—The Truth in Lending Act ("TILA"), 15 U.S.C. Sections 1601-1115a; the Fair Credit Billing Act ("FCBA"), 15 U.S.C. Sections 1666-1666j; the Consumer Leasing Act of 1976 ("CLA"), 15 U.S.C. Sections 1667-1667e; the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. Sections 1681-1681t; the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. Sections 1692-1692o; Regulations M and Z of the Federal Reserve Board.

Also, one should be cognizant of: the federal restrictions on garnishment, 15 U.S.C. Sections 1671-1677; the defenses available for military personnel pursuant to the Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. Sections 501, et seq.; the Washington Retail Installment Sales Act, RCW 63.14; the Washington Consumer Protection Act, RCW 19.86; the Washington Collection Agencies Act, RCW 19.16, and in particular, RCW 19.16.260; Prohibited Acts for Industrial Loan Companies, RCW 31.04.100; the Washington Consumer Finance Act, RCW 31.08; the Washington usury statutes, RCW 19.52; the contractor registration statute, RCW 18.27.080; the Department of Revenue business registration statutes, (it is a criminal violation to fail to register with the Department of Revenue of the State of Washington when engaged in business in this state), RCW 82.32.290.

[3] 15 U.S.C. Section 1692c(a)(i).

[4] "Location information" means "a consumer's place of abode and his telephone number at such place, or his place of employment," 15 U.S.C. Section 1692a(7).

[5] 15 U.S.C. Section 1692c(b).

[6] The "e" *is not* a subsection number; it is a separate and distinct section from section 1692.

[7] 15 U.S.C. Section 1692c(a)(2).

[8] See discussion of FCBA, post.

[9] 15 U.S.C. Sections 1692k(a)(1) & (3).

[10] 15 U.S.C. Section 1692.

[11] Section 237.0(c) defines a debtor as "one who owes or is alleged to owe a money debt." Section 237.0(d) defines a creditor as "one to whom a money debt is due or is alleged to be due." Section 237.0(a) defines industry member as

> "[A]ny person, firm, partnership, corporation, organization, association and any other legal entity engaged in the practice of collecting or attempting to collect any and all kinds of money debts *for itself or others*; or any person, firm, partnership, corporation, organization, association, or any other legal entity which place in the hands of others through sale or otherwise, or distribute for itself or others, any kind of material used or to be used in connection with collecting or attempting to collect such debts or seeking information concerning debtors, commonly called skip-tracing." [emphasis added]

[12] 15 U.S.C. Section 1692g(a).

[13] 15 U.S.C. Section 1692g(b).

[14] 15 U.S.C. Section 1692h; G. Ray Warner, "Fair Debt Collection Practices Act—Let the Attorney Beware," *Journal of Missouri Bar*, March 1987 at p.87.

[15] 15 U.S.C. Section 1666(a)(3)(b).

[16] 15 U.S.C. Section 1666(a).

[17] 15 U.S.C. Section 1666(a)(3)(B)(ii).

[18] Id.

[19] 12 C.F.R. Sections 226.13(b)-(g).

[20] 12 C.F.R. Sections 226.13(d).

[21] 12 C.F.R. Sections 226.13(g)(4)(i)-(ii).

[22] 15 U.S.C. Section 1666(e).

[23] Discussed, post.

[24] 15 U.S.C. Section 1681c.

[25] 15 U.S.C. Section 1681i.

[26] *Roseman v. Retail Credit*, 428 F. Supp. 643, 646 (E.D. of Pa., 1977).

[27] *Grant v. Imperial Motors*, 539 F.2d 506 (Cir. 9, 1976).

[28] *Hinkle v. Rock Springs Nat'l Bank*, 538 F.2d 295 (Cir. 10, 1976).

[29] *Norton Bankr L & Prac Monograph 1985-No. 1*, at p. 183; 28 U.S.C. Section 1412.

[30] 15 U.S.C. Section 1692i.

[31] 28 U.S.C. Section 1452, Bankruptcy Rule 9027.

[32] For most of the legislation discussed in this article, there is jurisdiction over federal claims in both federal and state courts, 15 U.S.C. Sections 1640 [TILA], 1692k(d) [FDCPA].

[33] 11 U.S.C. Section 362.

[34] See also 28 U.S.C. Section 1411.

[35] While Bankruptcy Rule 9015 provides for jury trials, jury trials were precluded by the emergency rule enacted after *Northern Pipeline Const. Co. v. Marathon Pipeline Co.*, 458 U.S. 50 (1982).

[36] 28 U.S.C. Section 1452(a).

[37] *Norton Bankr L & Prac Monograph 1985-No. 1*, at p. 190.

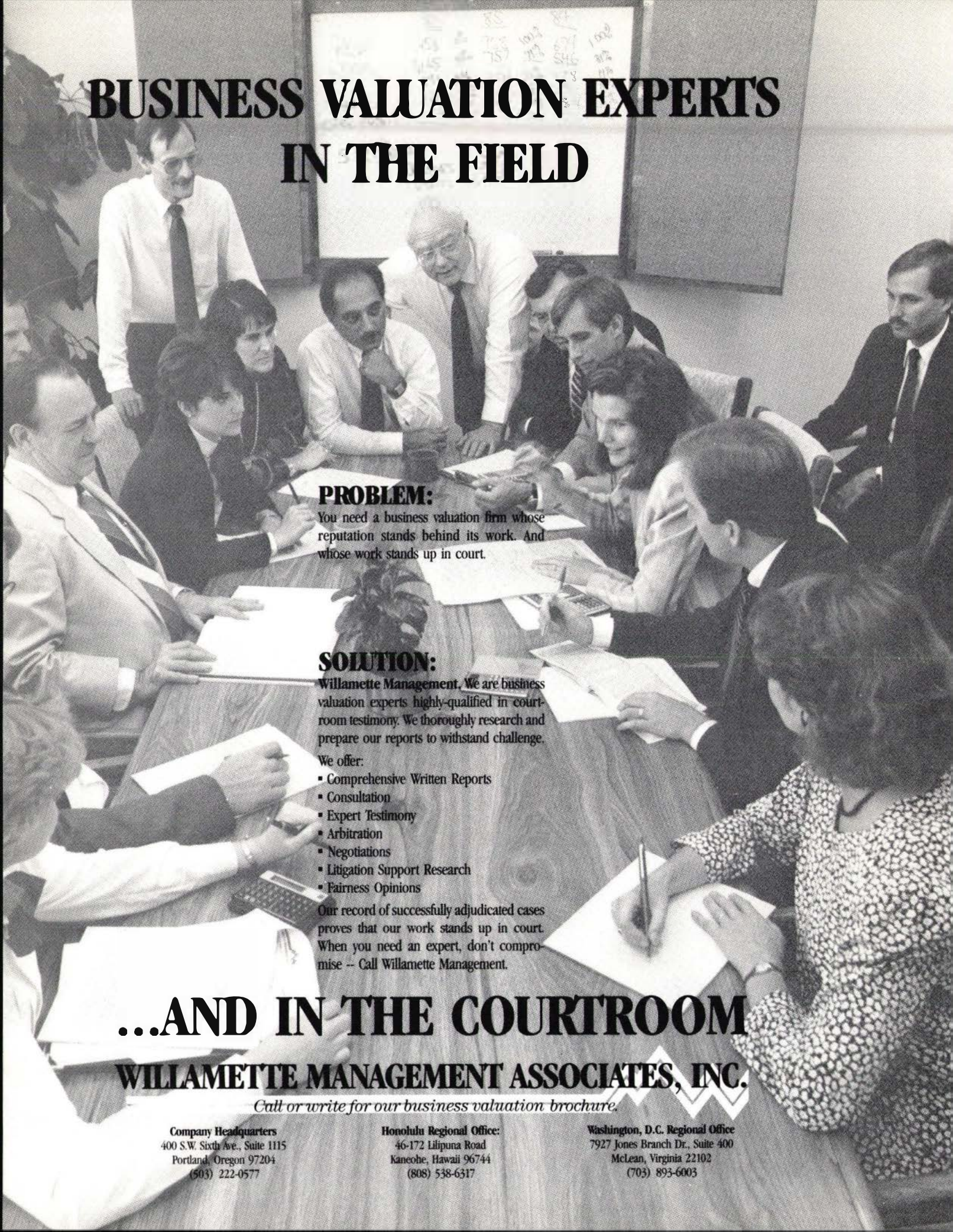
***David W. Freese** is an Edmonds attorney-C.P.A. who has served on the Trustee panel for the U.S. Bankruptcy Court for the Western District of Washington. He has an LL.M. in taxation.*

Common Fact Situations and Avenues of Relief

Situation	Applicable Statute	Relief Available	Action to be Taken
Credit Collection Activity	15 U.S.C. Sections 1692-1692o		
Anticipated contact by credit collector or [Continuing] unwanted contact from credit collector	15 U.S.C. Section 1692c(c)	Instruct client to keep detailed diary of contacts; instruct client to direct creditor to cease contact with client; and	
	15 U.S.C. Section 1692c(a)(2)	Write "buzz off" letter to creditor informing creditor of attorney representation	
Phone calls to place of employment	15 U.S.C. Section 1692c(a)(3)	Inform caller that employer prohibits personal calls	
Collection lawsuit anticipated	15 U.S.C. Section 1692g(a)	Demand name(s) and addresses of claim assignor	
Violation of the FDCPA	15 U.S.C. Section 1692k(d)	Either raise as a defense in the collection lawsuit and/or remove lawsuit to federal court	
	15 U.S.C. Section 1692k	Remedies: *mandatory* attorney fees plus actual damages plus discretionary damages up to $1,000	

Situation	Applicable Statute	Relief Available	Action to be Taken
Disputed Billing Amount	15 U.S.C. Sections 1666-1666j		
Amount disputed	15 U.S.C. Sections 1666a; 1692G(A); 12 C.F.R. 226.3(C)(2)	Demand account verification	
Client w/o any billing statements	15 U.S.C. Section 1666(b)(2); 12 C.F.R. 226.13(a)(b)	Demand complete account history	
Unresolved billing dispute	15 U.S.C. Sections 1666a(b); 1681i(b)	Furnish debtor's statement of dispute to creditor and credit bureau; demand that creditor report the account as disputed	
Violation of the FCBA	15 U.S.C. Section 1666a(e); 1640	Remedies: Forfeiture of up to $50 per disputed item; reasonable attorney's fees	
Interest & Collection Charges	15 U.S.C. Sections 1601, et seq; RCW 19.52.030; RCW 31.04.100		
Usurious interest rate		Raise as a defense to the claim;	
Imposition of interest & related charges		Raise as a defense failure to comply with TILA's disclosure requirements	
Violations of either CPA or TILA	RCW 19.86.090 15 U.S.C. Section 1640	Remedies are: CPA: Twice the usurious interest paid; treble damages up to $10,000; actual attorney's fees; TILA: actual damages plus twice the usurious interest paid, in the minimum of $100, plus reasonable attorney's fees	

Situation	Applicable Statute	Relief Available	Action to be Taken
Regrettable purchase on door to door-sale	RCW 63.14	Invoke recision remedy	
[Non PMSI in real estate]	15 U.S.C. Section 1635; C.F.R. 226.15 & 226.23	[This provision is ineffective for transactions after 04/01/85]	
Suit on assigned claim	RCW 82.32.290; Various city licensing ordinances	Check licensing of assignor, to include tax registration;	
	JCR 13(j)	Assert setoff against claim assignor [to include violations of the WA CPA]	
	JCR 13(b)	Seek joinder of assignor & compel attendance pursuant to JCR 43(f)	
Plaintiff fails to allege and prove status	RCW 19.16.260 [RCW 18.27.080]	Move to dismiss at conclusion of plaintiff's case for failure to allege & prove status	
Plaintiff's attys regulary represent consumer creditors		*Analyze attorney's conduct for violation of the FDCPA*	
Inconvenient Forum		Check place of service for state district court suits	
Suit commenced in state court	28 U.S.C. Sections 1331-1334	Remove to federal court for either diversity or federal law issues	
Defendant is or will be a bankruptcy petitioner	28 U.S.C. Section 1452	Remove to bankruptcy court and demand a jury trial	
Defendant or spouse in the military	50 U.S.C. App. Sections 501, et seq	Invoke the Soldiers' & Sailors' Civil Relief Act	



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I Put Myself Through Detox... and Nearly Died

by a **Puget Sound-area lawyer.**

I started with alcohol when I was in college; it seemed like the thing to do. I had been practicing law for about four years when my romance with drugs began; I started with them because it made me feel I could cope. The first three years of my career had been brilliant, the fourth not so hot. Depression fell over me like a shroud, and there was nothing I could do to shake it. Drinking helped momentarily, but not in the long run.

I discovered my "cure" almost by accident. I was suffering migraine headaches, and a Dr. Feelgood prescribed Percodan, an opiate. The depression seemed to go away. I was alive! I was creative! Within three months I was taking 15 to 20 Percodan a day followed by a fifth of Jack Daniels. I was addicted.

Life deteriorated. My wife knew something was wrong, that I was "on something," but I met her perception with angry denial. Percodan was my only real friend.

A judge I had known for years called me into chambers one day and offered help. He, too, knew that something was wrong, that I wasn't myself. I faced him with angry denial.

I lost a lot of friends. Soon the drug began to cause more depression than it had "cured." My case load dropped; I wasn't getting done what little work I had; I was a financial mess. A physical mess. To put it bluntly, there wasn't much good about my life. And that was when I hit bottom.

I was on my way to Seattle's Central Area for my weekly supply of pills. I had taken our last $500 to buy them and told my wife it was to pay bills. I pulled off the road and cried. I knew I had to get off drugs, but I didn't want my problem to be known. I was convinced I was the only young attorney with a drug problem, and if it came out, I'd be the object of ridicule and scorn.

I decided to detox myself. I've been told that what I did is nearly impossible, and I know why. Withdrawal came on like a tidal wave; I went into violent, wretching convulsions. My wife wanted to take me to the emergency room; she was afraid I was going to die. I refused, claiming it was "the flu." I knew that if I went to the hospital the staff would discover narcotics in my system. My secret *must* not be discovered! For the next month, my mind and body were tortured by withdrawal, but I came out of it. A month later I stopped drinking.

I told my wife. She had known all along, but had suffered not knowing what to do. We found a very good therapist who dealt with my depression and, bit by bit, we built up my desire to be a truly good lawyer again. My therapist and my wife, along with some new-found outdoor activities have prevented relapse, as has the memory of the horrors of addiction and withdrawal.

I hope that those of you out there using drugs turn to the Lawyers' Assistance Program. Don't hide. Don't run. Don't try to do it all yourself. We peer counselors have been where you're at, and we can help you find the way.

What it Means

by **WSBA Lawyers' Assistance Program staff**

This is the third in an ongoing monthly series about how lawyers develop, experience, and recover from physical and mental impairment. The first two accounts described how depression and alcohol led to impaired lives. This one is about depression and drugs.

Here were some of the typical signs of this lawyer's depression and drug abuse:

- He felt alienated, isolated and lonely.
- He felt no interest in his usual activities, hopeless about the future, and worthless.
- He neglected his family and missed work.
- His relationship with clients, staff, friends, and family had deteriorated.
- He was often obsessed about what he had to accomplish.
- He appeared in court and at depositions under polydrug influence.
- He had "blackouts" or "flashbacks."

How many other Washington lawyers suffer from similar depression and drug problems? The results from *Lawyer Ways of Living and Health Questionnaire*, completed by a random 10% sample of Washington lawyers, suggest that approximately 350 Washington lawyers now suffer as the author did.

Don't detox yourself. Too many cases exist of those who became brain-damaged or died during their own efforts at detoxication. You deserve better.

If this fact pattern sounds familiar, or if alcohol, depression, drugs, etc. have become the focus of your life, call us. LAP provides confidential, effective assistance. Pages 9-11 of the August Bar News *introduce LAP. We can assist you or a fellow lawyer. We are at (206) 448-0605.*

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New Center Houses Resources to Promote Citizen Knowledge of Laws and Legal System

by **Cheri L. Brennan**
Asst. Public Affairs Director

In the past 10 years, much has been accomplished in law-related education (LRE). This increased interest in LRE has resulted in a proliferation of projects and publications. Finding out what's available—and where—is a challenge faced by lawyers, educators and the public.

Now, in an effort to help introduce LRE supporters to the ever-growing collection of teaching aids, two organizations have worked together to establish a "Legal Information Resource Center." It will be operated as a nonprofit project of the State Bar's Public Affairs Department and the Washington Center for Law-Related Education.

The Resource Center contains a modest collection of books, videotapes, pamphlets, periodicals, curriculum materials, bibliographies and reports. It includes materials published by the American Bar Association, the Washington State Bar Association, the National Institute for Citizen Education in the Law, West Publishing Company and other local and national sources.

Housed in the State Bar offices, the Resource Center is open to all. Materials are loaned at no charge and may be checked out in person or by mail. [Editor's note: For a copy of the bibliography and user guidelines, send a long (#10 business size) self-addressed envelope with 56¢ postage to: Bibliography, WCLRE/WSBA Resource Center, 500 Westin Building, 2001 Sixth Ave., Seattle, WA 98121-2599.]

Several purposes were identified when establishing the Resource Center. Its primary goal is to help demystify the law. By providing practical legal information, the sponsors believe the center can help non-lawyers develop knowledge and skills necessary for survival in our law-saturated society.

Yet another goal is increased knowledge. More understanding of law, the legal process and the legal system will yield citizens who are more willing and able to effectively participate in the legal and political system.

As expressed in many of the materials, the goal of LRE is not simply to teach facts, but to educate citizens to think clearly, to analyze problems and to consider alternative solutions, thereby enabling them to become "legally literate participants in the democratic process."

Concurrent with the esablishment of the Resource Center, the sponsors are hoping to expand its holdings. Suggestions for new acquisitions are always welcomed. Donations of law-related education materials are also sought. (If you have items to contribute or recommendations for new acquisitions, please contact Cheri Brennan at the State Bar office.)

The Resource Center offers new opportunities to participate in law-related education. Its sponsors invite you to avail yourself of these tools and to join the ongoing efforts to increase citizens' awareness of their legal rights and responsibilities.

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

Julian O. von Kalinowski and Professor Steven C. Salop Headline Conference

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

The Fourth Annual Northwest Antitrust, Consumer Protection and Unfair Business Practices Conference will be held in Seattle at the Westin Hotel on Friday, December 11. It will feature two keynote speakers: **Julian O. von Kalinowski** (Gibson, Dunn and Crutcher, Los Angeles) will discuss the 1986-1987 term of the U.S. Supreme Court and recent legislative initiatives in Congress and the Reagan administration. Professor **Steven C. Salop** (Georgetown University Law Center, Washington D.C.) will discuss emerging economic theories for challenging anticompetitive conduct.

Von Kalinowski, whose primary areas of practice include antitrust law and business litigation, is well known for his 16-volume treatise entitled *Antitrust Laws and Trade Regulation.* He is also the general editor of the *World Law of Competition* treatise and *Antitrust Counseling and Litigation Techniques.*

Salop, Professor of Economics at Georgetown University Law Center, is a recognized expert in antitrust and regulatory economics. His primary research is done in the areas of exclusionary conduct, vertical restraints, and mergers. He has written extensively regarding antitrust law and economic matters and recently co-authored an article with Thomas Krattenmaker entitled "Anticompetitive Exclusion: Raising Rival's Costs to Achieve Power Over Price," 96 *Yale Law Journal* 209 (December 1986).

Co-chairs for the conference are **Hugh F. Bangasser** (Preston, Thorgrimson, Ellis, and Holman, Seattle) and **David J. Burman** (Perkins Coie, Seattle). Additional speakers include: **Thomas L. Boeder** (Perkins Coie, Seattle); **John R. Ellis** (Office of the Attorney General, Seattle); **John C. Guadnola** (Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim, Tacoma); **Donald H. Mullins** (Schweppe, Krug and Tausend, P. S., Seattle); the Honorable **Faith Enyeart** (King County Superior Court, Seattle); and **Richard J. Wallis** (Bogle & Gates, Seattle). For further information regarding this course, please contact Debbie Kirchhauser at the WSBA 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599, or telephone (206) 448-0433.

As we go to press, the Family Law Section is presenting its 1987 Round-Robin Seminars series "Keeping Up With the Changes" at three sites in November. The final presentation will be in Bellingham (Nendel's) on Friday, November 20. These seminars assist family law and general practitioners in understanding selected new legislation and developing office procedures. The seminars include presentations dealing with the new Parenting Act. As a special feature, a superior court judge from each seminar site jurisdiction will share thoughts about the "Parenting Act—A Judicial Perspective" following the luncheon provided as part of the program.

Program chair is **Faye C. Kennedy** (Attorney at Law, Everett). Speakers for the seminar include: Professor **Helen T. Donigan** (Gonzaga University School of Law, Spokane); **Dale B. Sawyer** (Foshaug, McGoran and Sawyer, P.S., Federal Way); **Kimberly D. Prochnau** (Evergreen Legal Services, Seattle); **Robert I. Betts** (Williams, Kastner and Gibbs, Seattle); the Honorable **Mary W. Brucker** (King County Superior Court, Seattle); the Honorable **John A. Schultheis** (Spokane County Superior Court, Spokane); the Honorable **David A. Nichols** (Whatcom County Superior Court, Bellingham); **Jean Irlbeck** (Department of Social and Health Services, Olympia); **W. James Kennedy** (Thorner, Kennedy and Gano, P.S., Yakima); **John A. Holmes** (Graham and Dunn, Seattle); **Jeannette A. Cyphers** (Attorney at Law, Seattle); and **Sue Megaard** (Assistant Professor of Taxation and Accounting, Eastern Washington University, Cheney). For further information about this program, please contact Karla Ellison at the WSBA.

APPROVED COURSES
Washington State Bar Association

How the Small Law Firm Can Compete Effectively
6.50 Credits
NOV 20 Seattle (Westin Hotel)

How to Draft Wills and Other Estate Planning Documents
8.00 Credits
DEC 3 Seattle (Sheraton Hotel)

Scientific Evidence in the Criminal Case
6.25 Credits
DEC 4 Seattle (Stouffer Madison Hotel)

Fourth Annual Northwest Antitrust, Consumer Protection and Unfair Business Practices Conference
7.00 Credits
DEC 11 Seattle (Westin Hotel)

Best of CLE
6.75 Credits
DEC30 Seattle (Westin Hotel)

For further information on the following CLE courses, call or write the listed contacts directly.

FEDERAL BAR ASSOCIATION

Effective Alternatives to Federal Court Trial

What: an afternoon seminar
Where: Stouffer Madison Hotel, Seattle
When: December 2, 1987, 1-5:30 p.m.
Speakers: Richard M. Clinton, John S. Congalton, John W. Wolfe; the Hons. Walter T. McGovern and Barbara J. Rothstein; Bruce Rifkin; J. David Andrews; Philip K. Sweigert and John L. Weinberg; Richard F. Broz; William A. Helsell; Charles E. Peery. Judges panel: the Hons. Barbara J. Rothstein, Jack E. Tanner, John C. Coughenour, Carolyn R. Dimmick and Robert J. Bryan; Fredric C. Tausend, moderator.
Fee: $50
Credits: 4.50
Call or Write: Douglas M. Duncan, (206) 623-5890; Suite 3300, 1001 Fourth Avenue Plaza, Seattle, WA 98154.

PROFESSIONAL EDUCATION SYSTEMS

Washington Enforcing Real Property Security Interests

Dates/Locations: November 19 Spokane; November 20 Seattle
Speakers: Andrew A. Guy, Ned M. Barnes, John M. Riley III and Kimberly W. Osenbaugh
Tuition: $95 per person or $85 per person for two or more preregistering together at the same time.
Credits: 7.00
Attendees: Attorneys and senior lending officers
Manual: One copy of *Washington Enforcing Real Property Security Interests* is included with your seminar tuition.
Call: Professional Education Systems, Inc. at 1-800-826-7155, ext. 31.

Washington Litigating Wrongful Discharge Cases

Date/Location: November 13, Seattle
Speakers: Douglas C. Mooney, Jon H. Rosen, J. David Andrews, Michael Reiss, Judith A. Lonnquist and Stuart A. Greenberg, Ph.D.
Tuition: $115 per person or $95 per person for two or more preregistering together.
Credits: 6.50
Attendees: Attorneys
Manual: One copy of *Washington Litigating Wrongful Discharge Cases* is included with your seminar tuition.
Call: Professional Education Systems, Inc., at 1-800-826-7155, ext. 31.

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

Here in Clark County August is usually a slow month. A time for CCBA members to lie back, do probates and wait for million-dollar PIs to walk in. This year something different was in the air, and I don't mean blue sky.

The usual uneventful CCBA elections took place. With the usual boring results. **Craig Schauermann** assumed the mantel, fireplace and chimney of the presidency. **Steve Tubbs** was grudgingly elected as v.p. as no one else ran. **Don Russo** was elected a secretary due in part to his excellent penmanship. Finally, **Bill Reed**, *infra.* was entrusted with the position of treasurer. The above, giddy with excitement, announced a relaxation of the CCBA dress code but failed for the fifth year to allow **Jerry Wear** to wear mini-skirts or tank tops to future meetings. So much for the new regime.

Injury report:

a) Knee—**Casey "Bionic" Marshall** has been sighted hobbling around the courthouse and other haunts, with an erector set on his knee. The injury, originally caused during a "Limbo" party, was aggravated at a recent donkey-baseball game when a contestant tried to saddle him up. Casey will be out of any type of action for at least 13 months.

b) Gastritis—**Bill "Lardbutt" Reed** suffered said affliction during the first annual CCBA pie-eating contest. Lardie beat out **Bill Thayer** and **Tom Phelan** with his favorite weapons: banana cream and lemon meringue. Protests of bulimia were rejected. In a related news item, Bill will now be joining the offices of Miller & Storz.

c) Pride—**Art Curtis**, injured same by becoming the first and only player to strike out during the sixth annual Lawyers' Slow-Pitch Softball Tournament. Art immediately charged the mound and accused pitcher **Craig Schauermann** of scuffing the ball. X-rays revealed nothing wrong with the ball but plenty with Art's reflexes.

Moves and news:

a) Hamburger Lawyer—**Greg "Gonzo" Gonzales** is being fitted for a full metal straight-jacket following his announcement that he would be enlisting in the U.S. Marine Corps. This comes close on the heels of Gonzo's recent marriage and his attending the Rambo film festival.

b) Call of the Wild Bill—Also departing from the firm of Weber-Baumgartner, is **Bill Baumgartner**. Future destination is still unknown. Also unknown is whether Bill will be able to get a height waiver to the USMC to join Gonzo on the buddy system.

c) Back to the Future—**Denny Hunter** returns to the prosecutor's office. Denny, who started off his career in said position, went thence to Longview, thence to Portland and now to "wince" he came. The prosecutors are presently located in the mobile homes in the courthouse parking lot. Evidently the promise of a fully-enclosed office which he can tow home at night was too good to pass up.

FRANKLIN COUNTY

Tri-Cities attorney **Robert D. Merriman** was elected to the Board of Directors of the Washington State Trial Lawyers Association this summer. Merriman has been secretary-treasurer of the Benton-Franklin County Bar Association, and has chaired the local bar's Law Day program.

GOVERNMENT LAWYERS REPORT
by **MARY C. BARRETT**

Since last you suffered through this monologue, several government lawyers participated in the *pro bono* panel phonathon September 22. As a result of all efforts, a fresh and rejuvenated panel of public and private attorneys have volunteered to give of themselves and their legal skills for

low-income persons whose legal rights would otherwise be neglected or abandoned.

One of our charter members, **Morton M. Tytler**, Assistant Attorney General, received long-deserved accolades for his contribution to the drafting of legislation and regulations pertaining to the prohibition of discrimination in employment, housing, credit and public accommodations. On August 11, by special proclamation, Mort received an award from Governor Gardner for his work since the 1960s with the Washington State Board Against Discrimination which, in 1971, became the Washington State Human Rights Commission. On August 12, Mort was honored by the King County Council and commended as a National Human Rights legal expert. Not an uneventful week!

Upcoming GLBA-sponsored events include an immigration law CLE, December Social and APA update.

Our monthly meetings are held on the last Wednesday of each month. For more information, contact Mary Barrett at (206) 459-6558.

ISLAND COUNTY REPORT
by **JOAN H. McPHERSON**

Newly-elected president **Jessie Valentine**, angered that her ambitions to be nominated to the United States Supreme Court may be hampered by the lack of news about her and the Island County Bar Association in the *Bar News*, demanded that the above member get something about the September meeting in the October issue and make Valentine look good, or face appointment to every committee during Valentine's tenure.

To prove she means business, several new committees were created at the September meeting, their membership heavily weighted with the less senior attorneys.

One committee is to seek funds for a volunteer pro bono program for indigent civil cases, although it was apparent that a number of the members felt their practices are operating on a pro bono basis already, without benefit of a grant to help them along.

Another committee is to investigate the possibility of mandatory arbitration. The members learned that "mandatory," to Valentine, means "serve on my committees," as she arm-twisted hapless members to volunteer.

The only committee that aroused genuine interest was the announcement of an upcoming social event which will feature the court personnel as special guests. Otherwise, most of the membership dozed as usual through the meeting, to awaken only when Judge **Richard Pitt** conducted a CLE on courtroom procedures and protocol. Judge Pitt shared some humorous examples of attorney bumbling he bas observed from the bench. He graciously said that these incidents did not occur in Island County; however, members sitting at the head table thought they saw his fingers crossed behind his back as he spoke.

CLE completed and committees appointed, the noontime meeting was adjourned by a triumphant Valentine as the sun was beginning to set over the beautiful waters of Penn Cove in historical Coupeville, the litigation hub of Island County.

PIERCE COUNTY REPORT
by **ROBERT W. MARSDEN**

On September 17, the Washington State Supreme Court heard a trio of cases at the Norton Clapp Law Center in Tacoma. The high-court session was held in conjunction with an hour-long ceremony honoring the Bicentennial of the U. S. Constitution. Chief Justice **Vernon R. Pearson** and **James Bond**, Dean of the University of Puget Sound School of Law, were featured speakers at the ceremony.

The Tacoma firm of Davies Pearson has announced the hiring of two new associates: **James F. Feutz** joins the firm after 17 years with the San Francisco firm of Landels, Ripley and Diamond; **Andrea M. Kiehl**, formerly a clerk with the Court of Appeals, Division II, is the other new associate.

SEATTLE-KING REPORT
by **JAMES L. VARNELL**

Office Moves. **Paul S. Bishop** and **Susan Thorbrogger** have joined Short, Cressman & Burgess. **Richard G. Sharkey** and **David V. Carlson** have joined Seed and Berry as associates. **Thomas A. Sterken** has become a partner of Betts, Patterson & Mines. Ferguson & Burdell announces that **Richard U. Chapin** has joined the firm as a senior partner and department manager, that **Phillip S. Miller** and **Gregory S. Petrie** have become partners in the firm, and that **Stephen C. Kelley** has joined the firm as of counsel.

Kenneth J. Woolcott has become associated with Christensen O'Connor Johnson & Kindness. **B. Shana Saichek** has joined the Martin E. Segal Company as associate director of research. **Gregory Nelson Bloom** is now associated with Skellenger & Bender. **Michael H. Rorick, Jeffrey M. Sconyers** and **Carol S. Gown** have joined Bennett & Bigelow. **Neal R. Sarles** has relocated his office to 100 South King Street. **George Constable** has relocated his office to the Bank of California Center. **Linda M. Youngs** has joined Jonson & Jonson. McKay & Gaitan announces that **Ellen E. Barton, Linda E. Blohm, Fay Anne Freedman, Barbara Harnisch, James W. Kovack, Lori Molander, Joan L. E. Morgan, Mark H. Sidran** and **David M. Wall** have become associated with the firm.

Bradley D. Grisham has become an associate with Reed, McClure, Moceri & Thonn. Cable, Langenback, Henry, Edmunds & Kinerk has relocated to the Key Tower. **Mark W. Stowe** has opened his office in Woodinville. **Laura Inveen** has assumed a new position as Clyde Hill's first full-time city attorney. **James C. Middlebrooks** is now a partner in Smith, Smart, Hancock, Tabler & Middlebrooks. **Robert L. Olson, Sherman L. Knight** and **Alan S. Donaldson** are now associated with Bryan, Schiffrin & McMonagle. **Alan R. Merkle,** a partner with Stoel, Rives, Boley, Jones & Grey, has relocated to Seattle from the firm's Portland office. Lee,

Smart, Cook, Martin & Patterson announces that: **Phillip B. Grennan, Gary A. Trabolsi, John W. Schedler, John Q. Powers, Linda L. Foreman, Michael J. Bond, Steven J. Jager, Jeffrey P. Downer** and **Nancy C. Elliott** have become shareholders; **Fred T. Smart** has become of counsel; and **Stephan E. Todd, John J. Greaney, Corinne F. Clarke, Amy Thompson-Amis, Rebecca S. Ringer, W. Scott Clement** and **Sherry H. Rogers** are now associated with the firm.

Of Note. **William J. Price,** a partner in Karr, Tuttle has been appointed to a task force to review Washington's risk management program. **Irwin L. Treiger,** chairman of Bogle & Gates, was named chair-elect of the American Bar Association Section of Taxation. **Claire Cordon** has been appointed to a three-year term on the Disciplinary Board of the Washington State Bar Association. **Gregg L. Tinker** became the 21st president of the Washington State Trial Lawyers Association at its annual convention. **Pam** and **Larry Feinstein, Vincent Abbey,** Seattle Municipal Court Judge **Barbara Yanick**, and **Michael Mines** have recently returned from a 15-day seminar and tour of China as invited delegates to the United States/China Joint Session on Trade, Investment and Economic Law. **Kathleen P. Marks** has been promoted to vice president of Rainier Bancorporation.

Vancouver Revisited. Highlights of the Annual Meeting of the Washington State Bar Association in Vancouver, B.C., this year included: **Don Elliott**'s table-hopping at the dinner-dance; strenuous campaigning (*i.e.*, arm-twisting) for Gov. **Michael Dukakis** by **Julia Langley** and **Ron Perry; Pete Preston** playing the last twelve holes at Carnoustie with ripped pants; (**Larry Longfelder** reports that the "foursome" of Preston, Longfelder and **John Weston** each managed to break 100, along with three or four irons and woods.) More successful were the team of Chief Justice **Vern Pearson** and U.S. District Court Judge **Justin Quackenbush** against **Ed Lane** and former Chief Justice **William Williams** with new WSBA President **Jack Dean** serving as their chauffeur. A foursome which included this correspondent, **Pat Comfort** and **Val Honeywell** followed their play in disbelief.

Noticeably absent from this year's festivities were dinner-dance Master of Ceremonies *emeritus*, **T. Noble Foster; Tom Bucknell,** whose luggage arrived in Vancouver this year without him, a reversal of what happened more than a decade ago; the rowdy duo of **David Koopmans** and **John Burgess;** and "Mr. L & I" **Michael J. Welch,** a last-minute cancellation. One highlight of the Thursday evening theme-dinner was the outright gullibleness displayed by **Richard DuBey** and **Kelly Corr** at the hands of the card tricks of the strolling magician.

KITSAP COUNTY

Kitsap County prosecuting attorney **C. Danny Clem** was elected president of the Washington Association of Prosecuting Attorneys at the group's annual meeting in Chelan this summer.

Kevin Moran opened his own law practice in Silverdale in May, the same city where he began to practice law in 1979 after being graduated from the School of Law at Washburn University. In 1984, he opened his own office in Bremerton and shared space with **Roy A. H. Rainey**, recently appointed Bremerton Municipal Court Judge.

SKAGIT COUNTY

Pat McMullen of Sedro Woolley was named Legislator of the Year by the Washington State Trial Lawyers Association this summer. The representative of the 40th District is a former Skagit County prosecutor and assistant attorney general.

SNOHOMISH COUNTY REPORT
by **LEE B. TINNEY**

Members of the Snohomish County Bar Association have been enjoying the excellent, expanded and informative *Newsletter* put out by its current president, **Jim Allendoerfer** (Allendoerfer & Keithley, 21 Avenue A, Snohomish). Thanks to Jim, we finally have an effective clearinghouse for information from the bench, state and local bar, and other organizations involving attorneys. The *Newsletter* also features articles by local attorneys on recent developments in various areas of emphasis, which are helpful to us all. And, of course, there is room for announcements, advertisements, etc. For those of you who thought membership in the Snohomish County Bar Association was nothing more than a chance to go to the annual dinner-dance (sometimes known as "the Prom"), you may wish to consider joining for the modest fee.

The Snohomish County Bar Association golf tournament held in July was declared an unqualified success. About 65 people joined in the fun, including judges from Division I, of the Court of Appeals, the Snohomish County Superior Court and Evergreen District Court. For details on the many winners, consult the August Snohomish County Bar *Newsletter* (see above).

Business News and Moves: **Cindy Bailey**, of Cogdill, Deno, Millikan and Carter in Everett has been appointed as Snohomish County's representative to the new Young Lawyers Network. What's that? Ask her! John M. Haggerty, Inc., P.S., (2918 Colby, Suite 201, Everett) announces that **Mari Arnett-Kremian** has joined the firm as an associate in general practice emphasizing domestic relations, after several years as senior attorney for the Department of Energy and Hearing Examiner in private practice in the state of Maryland. **Shane A. Richardson** announces that he has relocated his offices to 2918 Colby, Suite 201, Everett, and **Rudolf V. Mueller** has relocated to 3209 Rockefeller Avenue, Everett. **Thomas Kruse** and **Steven P. Michael** have also moved, and their new address is 2930 Wetmore Ave., Wall Street Building, Suite 101, Everett. **John T. Dalton** has left the prosecutor's office for the opportunities at the Merrick, Hofstedt & Lindsey firm in Seattle. **Norman S. Besman** is also leaving public practice at the public defender's office to enter a solo practice in Lynnwood at 3400 188th St. S.W., Suite 324.

THURSTON COUNTY REPORT
by **ALAN SWANSON**

On September 22, the Puget Sound Legal Assistance Association, in cooperation with the Thurston County Bar Association and various members of the Government Lawyers Bar Association, conducted a lawyer phonathon at the offices of Swanson, Parr, Cordes, Younglove, Peeples & Wyckoff.

Our bar association has long been one of the leading participators in pro bono legal work, and because of the very successful phonathon, even more attorneys have now offered to help.

Special thanks go to **Mary Jo Diaz, Marla Elliott, Jack Hanemann, Jane Habegger, Walt Schefter, John Gray, Mary Prevost, Frank Edmondson, Herb Fuller, Chris Wickham, Bill Cullen, Gayer Dominick,** and **Don Law.**

Reserved for special honors are **Shawn Newman** and **Bob Lundgaard,** who were the winning recruiting teams. Way to work those phones!

In the movin' and shakin' department, **Tom McPhee** has joined as a partner the firm of Connolly, Holm, Tacon, McPhee and Meserve. **Chuck Szurszewski,** formerly at the prosecutors' offices, has also joined as an associate.

Brent Normoyle has returned to Olympia private practice by the circuitous route of Port Angeles private practice, teaching at Peninsula Community College, and most recently as an administrative law judge for the Department of Revenue. Brent has joined **Craig Hanson** in the firm of Curry, Dionne and Hanson.

Jason McCarty is practicing with **Jack Hayden** and **Mike Rowswell.** And, **Wayne Lieb** has joined up with Aaby, Putnam, Albo and Causey.

Lastly, Sarah **W. Smyth** has joined ranks with Cullen and Hvalsoe.

We hope our next report will contain some *real* news, including some unsubstantiated rumors and "mere allegations."

WASHINGTON CHAPTER OF AMERICAN ASSOCIATION OF ATTORNEYS/CPAs

by **JAMES J. RIGOS**

The 1988 national convention of the American Association of Attorney/CPAs will be held in Seattle. The six-day convention has been timed to coincide with the July 4 festivities. The convention will include at least two days of CLE/CPE programs.

If you wish to help plan the event, please contact **Joe Brotherton** (national liaison) at (206) 325-3537, **Jim Rigos** (CLE program) at (206) 624-0716, **Roger Stouder** (Victoria excursion) at (206) 292-4900, **Fred Rupert** (exhibitor coordinator) at (206) 882-8460, or **Rod Waldbaum** (convention main speaker) at (206) 624-1040. **Randy Roth** will be the lead tax speaker. Come and have a good time.

At our business meeting on June 25, Association secretary Stouder discussed the availability of arbitrator positions for attorney/CPAs in the Seattle office of the American Arbitration Association. According to **Neal Blacker,** AAA local head, mandatory arbitration is written into construction, architect, and many business contracts. Because we may have expertise in certain cases, such as financial statements, attorney/CPAs

would have an advantage in these cases. You receive your standard hourly rate to serve as arbitrator. You must have five years of experience to serve. How about it? It might be a chance for some of us to try something new.

WASHINGTON WOMEN LAWYERS
by **KATHLIN PERSINGER**

Muriel Bach will be returning to stage another grand theatrical performance for WWL's fall fund-raiser. Last fall, Bach entertained a delighted audience with her performance entitled "Freud Never Said It Was Easy." This year, she will be performing "Of All The Nerve," a fascinating portrayal of the lives of risk-taking women including Theda Bara, Maria Montessori, Eleanor of Aquitane, Lydia Pinkham, Gertrude Stein, and Eleanor Roosevelt.

Mark your calendars for a wonderful evening of theatre accompanied by an elegant hors d'oeuvre reception and join us Friday, November 6, at 6:30 p.m. in the Metropole Room of the Four Seasons Olympic Hotel. Tickets are $17.50. For reservations, please send checks to the WWL Office, 1331 Third Avenue, Suite 520, Seattle, WA 98101. Any remaining seats will be available for ticket purchase at the door. Please direct any inquiries to WWL Executive Director, **Kathlin Persinger** at (206) 622-5585.

WHATCOM COUNTY REPORT
by **MICK MOYNIHAN**

Cheryl Boal, the coordinator for our pro bono program has been on cloud nine after learning that our county program was one of only three in the nation to be awarded a grant from the ABA. **Joe Pemberton**, chairman, indicated that strong support from our local bar and "great potential" were cited as reasons for the award.

While we all take an avid interest in our hobbies it should be noted that **John Anderson** is president of the local antique car club, and **Chuck Snyder** is president of the sports car club. Both of these clubs have increased in activity and membership under their leadership.

Not only is the population of the county growing, with **Dave Turner** being a brand new proud papa, but **Patricia Woodall** has recently joined the firm of Shepherd & Abbott; **Mary Summers** has signed on with Herships & Tario (& Tario); and **Michelle Alman** has been seen around the courthouse doing work for the public defender.

And in honor of the Supremes, who have been dispossessed from their temple, the local bar is throwing a gala event in their honor with a substantial turnout expected.

YAKIMA COUNTY REPORT

by **RAYMOND V. GESSEL**
and **MARK KUNKLER**

The Bicentennial of the signing of the Constitution did not go uncelebrated by Yakima County citizens thanks, in part, to Yakima County Bar members. Attorneys teamed up with high schools and local colleges to present a number of programs. Those bar members participating were **J. Adam Moore, Patrick Ballew, Rodney K. Nelson, Walter Dauber, Kevin Kirkevold, Wade Gano, Charles Amstutz,** Judge **George Colby, Guadalupe Gamboa, Ted Roy, Robert Tenney, Bill Murphy, John Maxwell, Don Engle, Roger Garrison** and **John Jay.** In addition, our bar president, **Mark Fortier,** and **Rick Wilson** who also teamed up with local colleges, appeared on the ever-popular (and sometimes controversial) **Rick Webb** radio talk show to discuss the Constitution and questions that radio listeners had.

There were other programs in the community to commemorate the Bicentennial in which local attorneys participated. **Darrell Smart** spoke about the Constitution at the Yakima Mall in a program sponsored by the Yakima National Bicentennial Committee. **Robert J. Reynolds** participated in a pageant at the Capitol Theatre that depicted the founding of the country and the framing of the Constitution. Judge **Heather Van Nuys** spoke at a celebration at the Yakima Goodwill Industries as well as the Selah Middle School. Many other members of the local bar association spoke at the invitation of several other organizations.

Evergreen Legal Services attorney **Moni Trenise Law** wed **Glen David Phipps** July 18. Moni's new spouse is a community resource developer for Evergreen.

Nancy Hovis has been reappointed by Governor **Booth Gardner** to the state Nuclear Waste Advisory Counsel. The 15-member counsel advises the Nuclear Waste Board regarding radioactive waste management.

The Yakima Bar Association regrets having to say goodbye to **Steven Shea** and **Mark Torok.** Steve is buying a practice in Everett while it is rumored that Mark is going to Virginia. We will miss these two attorneys and wish them success in their new pursuits.

Ray Paolella recently had an article published in the Spring 1987 *University of Puget Sound Law Review* entitled "The Legal Rights of Nonsmokers in the Work Place". 10 UPSLR 591. This is one of the few articles on this new "hotbed" of litigation.

G. Thomas Dohn has also become a widely-read author thanks to the printing of his humorous anecdote by the *American Bar Journal* in its September edition. We anxiously await new material from the Yakima Bar Association's newest celebrity.

DISCIPLINE

Censured

Vancouver attorney **Charles H. Buckley, Jr.** (admitted 1979) has been ordered censured by the Disciplinary Board, which on August 21, 1987, approved his stipulation for discipline based on his commingling, for approximately three months, his personal funds with client funds in his client trust account and on his failure to cooperate with the Bar in its investigation of that matter.

Hoquiam attorney **William E. Morgan** (admitted 1971) has been ordered censured pursuant to a stipulation for discipline. The discipline was based upon Morgan's failure to appear or otherwise present his client's objections to proposed findings, conclusions and judgment and his failure to notify his clients of entry of the final judgment within the period for appeal.

IN MEMORIAM

Arthur E. Campbell of Seattle died July 31, 1987 at the age of 94. Campbell received his law degree from the University of Washington in 1912 at the age of 19. In 1923 he founded Arthur E. Campbell-Husted Company, independent adjusters, in which he remained active until about two years ago. He was a past president of the National Association of Independent Insurance Adjusters.

Frank L. Mechem died August 15, 1987 at the age of 86. A native of Centerville, Iowa, and graduate of the University of Chicago Law School, he was a professor of law at the University of Washington from 1928 to 1935 and visiting professor of law at the Universities of Minnesota and Stanford. He later served in the U. S. Treasury and the Internal Revenue Service. He retired from the Seattle firm of Bogle & Gates 16 years ago and lived on Lake Sawyer. Remembrances to St. George's Episcopal Church, 24219 Witte Road S. E., Maple Valley, WA 98038.

"**Parker Williams**, who died at the age of 74 in a sailboarding accident, probably didn't complain to heaven's gatekeeper about the way he departed from the company of mortals," eulogized the *Everett Herald* on August 28, 1987. Williams, who lived on Lake Stevens, died August 22, 1987 in Everett, where he was born in 1913. After earning his law degree in 1936, he joined the law firm started by his father, Clayton, in 1907. Williams and his boyhood pal, Henry Jackson, delivered the *Daily Herald* together and were graduated together from Everett High School. "Later", said the August 28 *Everett Herald*, "he and Scoop vied at the polls for prosecuting attorney, a post which Jackson won. That was Williams' first and last foray into running for office."

Williams' firm, which became the

largest in Snohomish County, was dissolved in 1986, two years after Williams left, when insurance couldn't be obtained because of the firm's relationship with the Snohomish County PUD and the Washington Public Power Supply System.

James Leavy died June 25, 1987 at his home in Pasco at the age of 72. An expert on irrigation and public utility district law, Leavy was born in Newport, the son of Spokane County prosecuter Charles Leavy. When Charles was elected to Congress, James served as his campaign manager and went with him to Washington, D. C., where he enrolled in the Georgetown University Law School. He returned to the Northwest in the early 1940s as the government's attorney in the condemnation of private property which formed the Hanford Nuclear Reservation. He remained in the Tri-Cities and founded Leavy, Schultz and Sweeney in 1948. The attorney for the Franklin County PUD until he retired about three years ago, Leavy helped write the contract in which the Columbia Basin Irrigation Districts took over the Columbia Basin Project from the federal government in 1968. Leavy, who started to go blind ten years ago, continued to practice law while blind.

ET ALIA

Tacoma's Historic Union Station Restoration

The long-awaited plan to develop the former train station at Tacoma, Washington, known as Union Station, for use as a federal court facility has reached an important stage. The now vacant station has a grand copper dome over its high arched roof. The structure is on the National Register of Historic Sites and its preservation was strongly supported by many, including a Tacoma citizens' group, Save Our Station, (SOS). With the approval of the U.S. Congress, the General Services Administration (GSA) has entered negotiations with the city of Tacoma to restore and acquire the facility through a 30-year lease plan. Plans for the facility, as contemplated, will provide capacity to accommodate the U.S. District and Bankruptcy courts for the next 20 years. If negotiations are successful, the courts will have added an historically significant edifice to their housing inventory.

Transferred

Lynnwood attorney **Thomas J. Gianelli** (admitted 1977) has been transferred to inactive status.

Writ Fees: Pierce County

State law authorizes the Clerk of Superior Court to collect a fee of five dollars ($5.00) for each writ issued under the provisions of RCW 36.18.020 (10). Additionally, RCW 36.18.050 authorizes the imposition of like fees for services not specifically provided for when the service required is of a similar nature.

Therefore, effective November 1, a fee of five dollars ($5.00) for the issuance of all writs of restitution and writs of execution shall be imposed by the Pierce County Superior Court Clerk.

Notice of Hearing on Petition for Reinstatement

A petition for reinstatement after disbarment has been filed on behalf of **Ronald G. Fenili,** who was disbarred by order of the Supreme Court on October 10, 1978, based on his conviction on three felony theft charges involving client funds. Fenili practiced law in Battle Ground, Clark County, Washington.

Public hearing on Fenili's petition for reinstatement will be conducted before the Board of Governors on Thursday, December 17, commencing at 9 a.m. at the Westin Hotel in Seattle, Washington. On or before the date of the hearing, anyone wishing to do so may file with the Board of Governors a written statement for or against such reinstatement, addressed to the Washington State Bar Association, 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599. Such statements should set forth factual matters showing that the petitioner does or does not meet the requirements of RLD 9.6(a). Except by its leave, no person other than the petitioner or petitioner's counsel shall be heard by the Board of Governors.

The Holiday Project

Volunteers are needed to go out Christmas Day to hospitals, nursing homes, juvenile facilities and other institutions in the Seattle area to be with those who can't be home on Christmas.

Meet at The Court In The Square, 401 Second Ave. South, Seattle (near the Kingdome) at noon on Christmas Day. Bring six wrapped Christmas gifts, preferably home-made Christmas ornaments. Songsheets and facility assignments will be distributed then. Spend about two hours sharing yourself; you are the gift! For more information call: (206) 467-3068.

The sponsoring organization is The Holiday Project, a nonprofit organization staffed each year in Seattle by new, unpaid volunteers. The project is in its eighth year in Seattle and its fifteenth internationally. Last year 469 Seattle volunteers visited 2,655 people in 26 facilities.

Internationally, more than 200,000 people in hospitals and other institutions in the U.S., Canada, Mexico and Puerto Rico were visited on Christmas Day 1986.

Re: RCW 19.52.020(1) Interest Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in October is **7.33%.** The maximum allowable interest permissible for **November 1987** is thus 12%. (For further details and past rates, please see the October 1987 *Bar News,* page 39.)

NOTICES

Court Rules: Please Comment

The Court Rules and Procedures Committee is scheduled to consider the Civil Rules for Superior Court (CR) and the Justice Court Civil Rules (JCR) as part of its annual, cyclical review this year. Your written comments and suggestions for changes to these rules are invited. They should be received at the Washington State Bar Association offices by December 31. Please direct your comments to the attention of Steven Rosen, c/o the CLE Department, WSBA.

Retirement Banquet

There will be a retirement banquet honoring Court of Appeals Judge and Mrs. Solie Ringold November 20 at Seattle's Washington Athletic Club. Seating is limited. For information and reservations, call Linda Tollefson in Seattle at (206) 464-6047.

NOTICES ADVERTISING

Professional: WSBA members only. $40 per inch. Billed at publication. **Classified:** Members—$25 for 25 words, each add'l 25¢. Non members—$35 for 25 words, each add'l 75¢. Box number service—add'l $6. *Advance payment required.*

Deadline 25th of each month for second issue following. No cancellations after deadline.

Submit double-spaced, typed copy on plain paper (no phone orders) to Attn: Ave Leavy, Classifieds, *Bar News*, 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599.

PROFESSIONAL

Mark Alan Johnson
4900 Columbia Seafirst Center
701 Fifth Avenue
Seattle, Washington 98104
(206) 386-5566

Announces his availability for consultation, association or referral of substantial claims of legal malpractice.

Douglass A. North announces his availability for referral, consultation, or association on appellate arguments and briefs.

Douglass A. North
Hennings, Maltman, Weber & Reed
215 Norton Building
Seattle, Washington 98104
Telephone (206)624-6271

Antonio Salazar, an attorney with ten years active experience in immigration matters, is accepting consultations and referrals in United States Immigration and Nationality matters.

Antonio Salazar
Attorney at Law
Salazar Law Offices
157 Yesler Way
Seattle, WA 98104
Telephone (206) 624-6414

Neil R. Sarles announces his availability for referrals and consultations in the area of guardianships and estate planning for seniors.

The Law Office of
Neil R. Sarles
100 South King St. Suite 330
Seattle, WA 98104
(206) 682-1771

Appeals

Nick Wagner is available for referral or association in state and federal appeals.

Nicholas Wagner
Longfelder, Tinker, Kidman & Flora, Inc., P.S.
400 Westland Building
100 S. King Street
Seattle, Washington 98104
(206) 447-9640

Michael J. Warren announces his availability for referrals and consultations in the area of federal state securities laws compliance, including exemptions and registration.

Michael J. Warren
Warren & Samples, P.S.
83 South King Street, Suite 610
Seattle, Washington 98104
(206) 343-8600

Bernard H. Friedman
of Karr, Tuttle, Koch, Campbell, Mawer, Morrow & Sax, A Professional Service Corporation
1111 Third Avenue, Suite 2500
Seattle, WA 98101
(206) 223-1313

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I can help evaluate the weather aspects of your case, obtain the appropriate weather data, and put you in touch with the best weather experts for trial.

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APPEALS PRACTICE
In State And Federal Courts

Bill Bishin
621-1823

BISHIN, WILLIAM R., b. 1939; J.D. Harvard University, Magna Cum Laude 1963; Harvard Law Review 1961-1963; Member, Washington, California and New York bars, United States Supreme Court, Federal district courts of Central California and Western Washington; Ninth Circuit Court of Appeals; Professor of Law, 1963-1980 (including Appellate Practice, Federal jurisdiction and procedure); author, contributor to law reviews, nationally syndicated newspaper columnist on legal issues; instructor and organizer of seminars on state and federal appellate issues for Supreme Court justices, Court of Appeals judges and attorneys. *Successful appeals* include *Marvin v. Marvin, Short v. Demopolis* and *Seven Gables v. MGM/UA Enterprises.*

William R. Bishin, P.S. 520 Pike Tower, Suite 1501, 520 Pike Street, Seattle, WA 98101

Chemnick & Moen

is available for referral or association in medical-legal matters, including obstetrical malpractice cases. The firm will review medical-legal cases without charge or obligation.

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FOR SALE

Used law books—bought & sold—Washington-related law books our specialty—law library appraisals by qualified expert. John C. Teskey, Law Books/Law Library Services. Call Seattle, (206) 325-1331.

For sale: American Jurisprudence and American Law Reports (including 2d, 3d, 4th). Supplements through June 30, 1986. Call Ron Castleberry at (206) 259-4141.

For sale: CJS; excellent condition; updated through 1979; best offer; call (509) 427-5665.

CPT dedicated word processor. 10mg hard disk; letter quality printer. Forms and diskettes included. $3,000 OBO. Steve Demarest (206) 627-2889.

Books and bookcases: RCWA, Washington Practice, CCH Tax Court Memorandum Decisions, CCH Tax Cases and oak book cases, all in excellent condition. (206) 453-1644.

SPACE AVAILABLE/WANTED

New office space. Entire 32nd floor, 1001 Fourth Avenue Plaza. Close to courts. Furnished/unfurnished suites, short-/long-term leases. Receptionist, word processing, telephone answering, telex/facsimile, Kodak copying, mail service, library, Westlaw, LMI. Contact Lillian Beegle, (206) 624-9188.

Premier, lake view: Downtown Bellevue office space for up to two attorneys and staff, conference room, receptionist, kitchen, free parking. (206) 454-3307.

Hoge Building office space available in Seattle. Includes library, conference room, reception and other amenities. Contact Gina at (206) 623-1590.

Office space, sixth floor, Fisher Business Center, Lynnwood. Two new prestigious suites in five-man office. Library, conference rooms, receptionist, word processing, phones. Price negotiable. Call (206) 775-6601.

Pioneer square, Seattle: 300 to 5,000 square feet available in beautifully restored brick building. Includes receptionist, telephone, copier, conference room, library, coffee service, work-out room. Private office or office sharing. Contact Melinda, (206) 622-7050.

Columbia Center: 57th floor view office available. Prefer attorney with practice complementary to ours. All services available. Reply: Stephanie Hitzroth at Crane, Stamper, Boese, Dunham & Drury, (206) 292-9090.

One Union Square. View office in attractive, four-attorney suite. Superior amenities and lobby exposure. Receptionist, word processing, library/conference room, copier, phones. (206) 623-9051.

Tired of large-firm regimentation? Have a client base but can't face up to initial capitalization of your own office? MHav sole practitioner with extra space is looking for someone who fits that description and wants to get started on his/her own. Inquiries to Box 170, WSBA.

First Interstate Center, Seattle —view offices. One to four offices in professionally designed suite available to share with congenial attorneys. Nonsmokers preferred. Call Sherrie, (206) 624-9400.

First Interstate Center—Two office spaces for sublet on 25th floor. Superior facilities. Special amenities. Call (206) 382-2600.

POSITION WANTED

June admittee seeks entry level position in general litigation. Excellent research and writing skills. Experienced in drafting and pleadings, briefs, and discovery documents. Will consider part-time work. References available. Royce Roberts, (206) 282-5496; 610 Highland Dr., Apt. 14, Seattle, WA 98109.

POSITIONS AVAILABLE

Staff Attorney, Division I, Court Of Appeals. Position available from January 4, 1988, subject to re-evaluation in June 1989. Duties may include assisting judges and/or commissioners on personal restraint petitions, motions, and decisions on the merits. Must be admitted to the Washington Bar. Excellent research and writing abilities and strong academic background required. Beginning salary $32,520. Submit resumé and writing sample to Clerk, Court of Appeals, 600 University Street, Seattle, WA 98101, no later than November 20, 1987.

Attorney Jobs—National and Federal Legal Employment Report: highly regarded monthly detailed listing of hundreds of attorney and law-related jobs with U.S. Government, other public/private employers in Washington, D.C., throughout U.S., and abroad. $30 - 3 months; $50 - 6 months. *Federal Reports,* 1010 Vermont Ave., N.W., #408-WB, Washington, D.C. 20005. (202) 393-3311. Visa/MC.

Attorney: Mid-sized Anchorage law firm is seeking an experienced attorney to work in litigation, commercial and maritime practice. Salary DOE. Contact Ann Stokes, Bradbury, Bliss, & Riordan, Suite 201, 431 West Seventh Avenue, Anchorage, AK; telephone: (907) 278-4511.

Willamette University College of Law invites applications for one or more faculty tenure-track positions beginning with the 1988-1989 academic year. Applications are par-

ticularly encouraged from women and members of minority groups. Please send resumé and letter of application to: Professor Richard B. Hagedorn, Willamette University College of Law, Salem, OR 97301.

Larger Spokane law firm has opening for a full-time associate with a minimum of two years' experience to assume a responsible role involving major corporate litigation. Applicant must possess excellent skills, a superior academic background, and an aggressive attitude. An established client base would be appreciated but is not necessary. Please send resumé in confidence to Box 164, WSBA.

Downtown Portland, Oregon law firm seeking associate with minimum one year's experience. Must be a member of the Washington State Bar and become a member of the Oregon State Bar within one year. Opportunity with a medium-sized firm rated av and involved in civil litigation and work for financial institutions. All inquiries will be kept confidential. Please reply to Box 162, WSBA.

Seattle law firm seeking attorney with a minimum of two years' experience in insurance defense litigation and coverage work. Responses will be kept confidential. Please respond with letter and resumé to Box 163, WSBA.

Established Seattle attorneys forming professional corporation January 1, 1988; would like to discuss participation with experienced attorney(s) having established clientele. Inquiries will be kept in confidence. Please reply to Box 165, WSBA.

A-v rated law firm seeks associate or affiliate interested in family law, business, and mediation. Two years' experience required. Send your resumé to John W. Kydd, 9th Floor Hoge Building, 705 2nd Avenue, Seattle, WA 98104.

Independent legal counsel needed by our law firm to assist with personal injury cases throughout Washington state; compensation at your hourly rate; send firm and personal resumé to Law firm, P.O. Box 16254, Seattle, WA 98116.

Small, well-established tax and business firm seeks to enlarge activities in complementary fields. Initial arrangement will be on space- and cost-sharing basis. All responses and inquiries will be treated as confidential. Michael E. Sterling, Attorney at Law, 12503 N.E. Bellevue-Redmond Road, Suite 101, Bellevue, WA 98005.

Ogden, Ogden, Murphy and Wallace needs two associates for its litigation and municipal practice departments. Experience preferred but not necessary. Superior academic record and writing skills required. Send resumé to Robert G. André, 2001 6th Avenue, Suite 2300, Seattle, WA 98121.

Ogden, Ogden, Murphy and Wallace needs an experienced paralegal for its litigation practice department. Superior academic record, investigation and writing skills required. Send resumé to Robert G. André, 2001 6th Avenue, Suite 2300, Seattle, WA 98121.

Davies, Roberts & Reid is expanding its labor and employee benefit trust practice. Experienced attorneys with labor, litigation or commercial law backgrounds are preferred. Respond to William H. Song, Davies, Roberts & Reid, 201 Elliott Avenue West, Suite 500, Seattle, WA 98119.

Olympia firm seeking attorney with minimum two years' experience in general civil litigation to work in labor and industries and divorce. Send resumé to Post Office Box 7160, Olympia, WA 98507-7160.

Small Seattle law firm is searching for a business attorney with a minimum of four years' experience. Salary negotiable. Resumés should be forwarded to Box 166, WSBA. All applications confidential.

Seattle law firm has need for attorney with minimum of two years' trial experience. Exceptional opportunity. Please send resumé to Box 167, WSBA.

Small, but rapidly growing, Snohomish County firm seeking experienced litigation lawyer with top academic credentials. Client contact required and community involvement expected. Send confidential resumé to Box 168, WSBA.

Small downtown Seattle insurance defense firm seeking associate attorney with at least two years' litigation experience. Reply to Box 169, WSBA.

Financial affairs administrator: Immediate opening for a financial affairs administrator to act as individual advisor for a family group in Seattle.

The successful candidate will have extensive experience in individual tax planning and estate planning. Other requirements include involvement in investment decisions, personal affairs, personal finances and financial planning as well as one year of experience with financial and trust accounting. Also required are: Bachelor's degree, advanced training programs in investments, estate planning and tax. Candidate must possess excellent interpersonal skills and ability to maintain confidentiality, have excellent verbal and written communication skills and be flexible and attentive to detail.

Competitive salary and benefit package. If qualified, send resumé to: Box 171, WSBA. EOE, m/f/h.

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Forensic Psychologist: Board-certified—statewide consultation on mental health issues E.G. NGBRI, competence, diminished capacity. Herbert A. Marra, Ph.D., ABFP; (206) 857-7000.

Trademark searches: federal, state, and expanded common law. Also computerized/manual legal and medical research and information retrieval. Lawyers Research Group, 9307 S.W. Capitol Hwy., Portland, OR 97219. (503) 244-8512.

MISCELLANEOUS

Sunriver/Mount Bachelor: custom Sunriver home 18 miles from ski area. Hot tub and other amenities. Sleeps ten. Daily and package rates. Reserve now for ski season. (206) 322-3370/ (206) 624-0900.

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