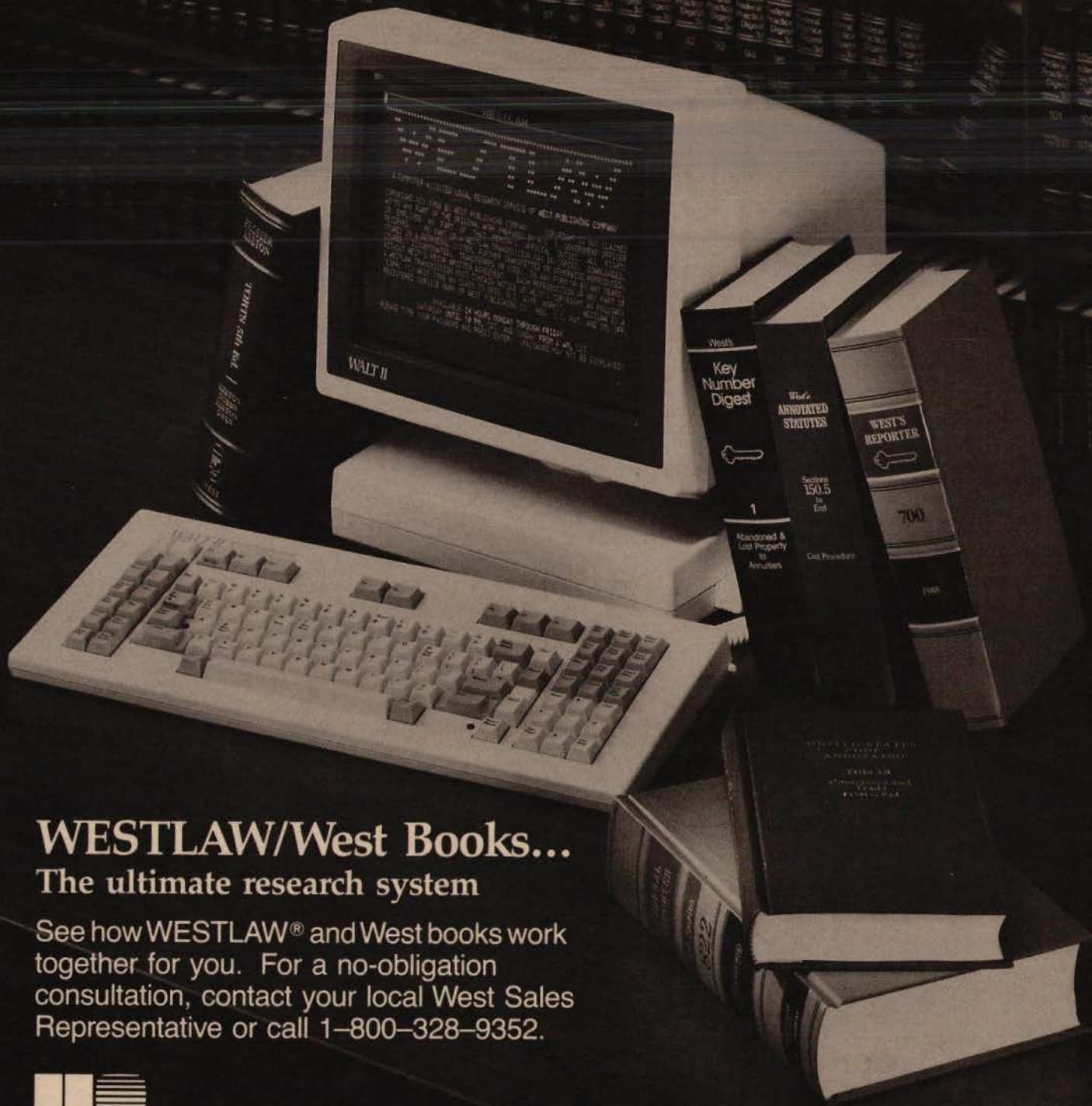


Washington State **Bar**
News

Vol. 42, No. 10, October 1988



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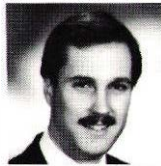
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Letters to the Editor of reasonable length are invited. Such letters should be typed and signed. The Editor reserves the right to select communications or excerpts therefrom for publication, and to edit any letter as may be appropriate.

The Embodiment of Courage

Editor:

It was with much sadness that I read in the August 1988 edition of the *Bar News* of the passing of Ruth Ellen Wagner. We were classmates at the University of Washington School of Law. After graduation I never saw Ruth again; however, she will always have a special place in my memories of those law school years.

Stricken with disease at an early age, Ruth suffered serious physical disabilities. She faced obstacles that would have stopped an ordinary person but her mind and spirit allowed her to excel. Whenever any of us became frustrated or disheartened, we only had to observe Ruth's indomitable spirit in action to place life's problems in proper perspective.

Ruth Ellen Wagner's life was the embodiment of courage. Even though her life has ended, its influence will last as long as the memories of those who knew her.

Daniel J. Berschauer
Judge, Department 3
Thurston County Superior Court
●lympia

Sorry, No Room in the Ad

Editor:

I noted the placement of an advertisement by Richard S. Johnson in the *Washington State Bar News*' July 1988 edition, and want to comment upon whether some of its content was appropriate.

In the ad, Mr. Johnson has prominently placed a cross and the words "Jesus Loves You." I have a hard time understanding why Jesus has anything to do with the practice of law for Mr. Johnson or any other individual before the Bar. Does Mr. Johnson's faith make him a stronger or better

lawyer? Even if that were true, is that type of claim appropriate in advertising under existing rules for professional conduct? Is Mr. Johnson seeking only those whom Jesus loves? If so, what rules does the Bar impose upon those who restrict or express an intent to restrict provision of services to only those who share similar religious affiliation? Is there any suggestion, or implication through the ad that those who believe in Jesus will fare better in court?

I greatly respect one's right to freely practice religion and zealously guard that right as an individual and as a lawyer. However, I fail to see how one's religion should in any part influence the choice of a lawyer. The process of selection should be based upon traditional professional standards, which are not themselves content-neutral, but which are certainly more objective and less objectionable than what appears in the subject advertisement.

If we start identifying ourselves as lawyers by way of religious affiliations, how long will it be before we face the trials and tribulations of countries such as Lebanon and Iran where the legal systems and civilization have failed because of intense bigotry, intolerance and hatred?

Zachary Mosner
Seattle

Editorial Philistinism Rated

Editor:

I liked the photo of David Govedale's bronze sculpture, "The Joy of Running Together" on the cover of the July *Bar News*. I strongly disliked pairing the photo with the heading "Chasing Assets" and with the article on the Uniform Fraudulent Transfer Act.

Yes, there is a superficial pun between the running figures and the "chasing" theme of the article. An ordinary photo of runners could have been fine. But the photo shows an artwork which your photo note says represents "people of all ages and nationalities creating a positive symbol of acknowledging the larger spirit of our community and the world."

Using this artwork to illustrate the idea of pursuing assets in a lawsuit is

cheap. Govedale's runners are pursuing something different and better.

You should have featured this artwork with an appropriate subject, e.g. activities of the World Peace through Law Committee.

Hester C. Mallonée
Des Moines

[As the poet Edward Dahlberg once observed, "Every decision you make is a mistake."—The Editor]

Notice to Readers

The staff and editors of the *Bar News* seek the assistance of members of the Association in several matters:

Articles for coming issues: Themes for 1988-1989 issues of the *Bar News* have been selected. Proposals for articles or finished submissions are invited from members on aspects of these topics: Alcohol/Drug Abuse and Treatment (December 1988); Lawyer Sabbaticals/Career Changes/Non-Legal Careers (January 1989); Probate Law (February 1989); Pro Bono Service (March 1989); International Trade and Law (April 1989); Financial Services (June 1989); Criminal Law (July 1989); Historic Preservation Law (August 1989); Law Office Management (September 1989); Legal Book Reviews (October 1989); and Washington State Bar Centennial (November 1989).

While these theme issues do not preclude non-theme articles, advance consultation with the editor is advised.

Illustrations: The *Bar News* has a continuing need for illustrations and cover art, particularly of people in "legal" settings for use in articles. Finding material that is both non-copyrighted and gender balanced is a challenge. Artwork and black-and-white photography of all sorts by members is sought for review for use in the *Bar News*. Submissions should be sent to Jennifer Klamm, managing editor, at the Association office.



Potpourri

by **John J. Michalik**
WSBA Executive Director

This month's column represents a collection of miscellaneous items, some or all of which may be of interest to you. A couple of these items are of the sort that might lend themselves to a column of their own some day; but for now we'll just note them briefly.

The news in California includes the fact that some 2,242 attorneys joined the ranks of the California legal community in June — representing those who passed that state's winter bar examination. The pass rate on that examination was 46.4 percent and that represented the highest pass rate on the California winter bar examination in three years. The total number of lawyers in California has now passed 114,200.

The Washington State Bar Association's Lawyers' Assistance Program (LAP) continues to receive high marks and attention, including being a

"showcase" on the program at the recent meeting of the National Conference of Bar Presidents. LAP staff members have been and are involved in providing consulting services to the state bar associations in a number of other states where similar programs are being developed. Attempts by the legal profession to deal with the problems of impaired lawyers were included in a recent *New York Times* article, which concluded that "The most promising prototype is in the state of Washington."

A recent American Bar Foundation survey of the legal profession provides quite a different picture of the American lawyer than we sometimes see in the media. Among other things the survey found that large law firms of more than 50 lawyers account for only 11 percent of the practicing bar, and if lawyers in firms of more than 20 are added, less than 18 percent of the practicing bar is accounted for in the figures. Also, according to the survey results, in all but five states solo practitioners account for more than 40 percent of the jurisdiction's private prac-

tioners. It is also estimated that between 42 percent and 46 percent of all licensed lawyers in the United States are general practitioners in private practice, serving not only rural but also urban America. It would also appear that to the great majority of the profession interstate practice is "no big deal," since 97 percent of U.S. law firms have offices in only one community and 99 percent have offices in only one state.

It was noted in the May 1988 "Corner Office" column that a bill in the California Legislature promised to raise California Bar dues from \$276 to \$470 for 1989. As the legislation has progressed it has been determined to phase the increase in over time—so in the bill's current version dues in 1989 would be raised to only \$417, with further increases in 1990 and, possibly, 1991.

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The 1987 Supplement to the Washington Administrative Code, incorporating all changes in state agency rules filed through the end of that year, is now available from the state Code Reviser. The 1987 Supplement consists of 1,600 pages in one volume of the same format as the 1986 edition of the WAC.

The Supplement contains 4,000 sections filed by 91 rule-making state agencies in 1987 that have not previously been available in codified form.

The price of the 1987 WAC Supplement is \$52, and sales tax of 7.8% applies to all sales other than to state agencies. State law also requires payment in advance. To order the Supplement, send your name and mailing address, along with your check or money order in the amount of \$56.06 (tax included, no shipping charged in U.S.) to:

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Elizabeth J. Bracelin Elected WSBA President for 1988-1989 Term

At the September 1988 Annual Meeting, outgoing WSBA president Jack Dean passed the gavel of Bar leadership for the coming year into the capable hands of Elizabeth J. Bracelin, better-known as "Bets." The first woman to preside of the Washington Bar, she is from an Irish family of four children. Her mother still works full time in the real estate business.

Bracelin attended the Holy Names Academy in Seattle for 12 years and then the University of Washington, where she received her B.A. in history and belonged to Phi Alpha Theta, history honorary. She was graduated magna cum laude and elected to Phi Beta Kappa in 1967. She attended the University of Washington School of Law, where she was law review editor and received her J.D. in 1969. She became a WSBA member that same year.

Bracelin was an associate with the Seattle law firm of Horswill, Keller, Rohrback, Waldo & Moren from 1969 to 1973; she then moved to Peterson, Bracelin, Young, Putra, Fletcher & Zeder, where she has worked for the past 15 years. She is a principal in the firm, which has a wide area of practice in personal injury, medical malpractice, employment and business litigation and is active in arbitration and mediation.

The new president has served on numerous committees, including the boards of Public Defenders and Legal Services. She was a member of the Seattle-King County Bar (SKCBA) Judicial Evaluation and Civil Rights committees, chaired the SKCBA

Board of Trustees, Young Lawyers Section, and was a member of the larger SKCBA Board of Trustees. She is a member of the Gender and Justice Task Force for the Washington State Supreme Court. She also served for a year on the Court's Ethics Advisory Commission and for two years on the Court Congestion and Delay Committee. She was one of the founders of Washington Women Lawyers and is currently on the board of advisors for the Northwest Women's Law Center.

Bracelin has a distinguished record of participation in the State Bar Association. In 1983, she was elected to represent the Seventh District on the WSBA Board of Governors. During her tenure on the Board, she served as an alternate member of the Judicial Qualifications Committee (later renamed the Commission on Judicial Conduct). She and two other Board members wrote a report encouraging the establishment of a program involving questions of law and legal rights of children, which the Board unanimously approved and applied in the creation of the pilot project, "Lawyers for Children." She chaired the Bar's Task Force on Judicial Evaluation of Lawyers; their work, in cooperation with the Superior Court Judges' and the District and Municipal Court Judges' associations, resulted in the ongoing program in which a lawyer may arrange for a performance evaluation by the judge of a given trial. She worked on the Task Force for Legal Education and chaired the Young Lawyers Task Force, whose efforts finally led to the formation of the WSBA



Young Lawyers Division, and the Court Congestion and Delay Committee.

From 1985 to 1988, Bracelin was a member of the Damage Attorneys Round Table.

She has been a frequent speaker at WSBA, SKCBA and Washington State Trial Lawyers (WSTLA) seminars in the areas of labor law, employment discrimination, torts and dissolutions. She was a teacher at the Northwest Regional College of Trial Advocacy in 1985.

Bracelin was appointed by Seattle's mayor to the Cable Vision Panel; she is currently a member of the American Society of Law and Medicine and has just returned to her practice from a three-and-a-half month sabbatical leave, which she spent on Hartstene Island in her summer home.

We are fortunate indeed to have a president with such a solid commitment to the Bar and the community at large and with such a breadth of talent and experience to offer us in the year to come.



Judicial Survey Underscores Need to Expand LRE

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

Two-thirds of the state's population either relies or would rely on lawyers as a source of information about Washington courts. Never-the-less, lawyers could improve their credibility as a source of information.

These were among findings revealed in a recent judicial survey, which confirmed public concerns about court delays and costs and indicated a need for more public education about the court system. Knowledge means confidence, the researchers concluded.

GMA Research Corporation conducted the study for the Office of the Administrator for the Courts. Focus groups and a statewide telephone survey were used to gather information.

In its summary report, GMA identified key areas of concern about the court system and outlined 15 recommendations for improving awareness, understanding and confidence in that system.

Representatives from the WSBA, the Seattle-King County Bar, the Washington State Trial Lawyers Association and the Office of the Administrator for the Courts met to review

findings and to explore strategies for implementing recommendations.

Two specific recommendations were discussed and will be the subject of follow-up planning sessions. Both recommendations center on lawyers' roles in shaping public opinion.

The researchers found that professional or personal contact with a lawyer has either a neutral or negative effect on public attitudes toward the court system. This, they acknowledged, may be a result of the negative experiences associated with going to court and needing a lawyer.

Never-the-less, the pollsters said, members of the bar need to be more aware of the public's current attitudes and knowledge gaps. Moreover, lawyers need to be more sensitive to the effect their contact with the client has on attitudes toward the state's court system. Researchers found that those who know a lawyer on a personal basis are more likely to believe that the courts are competent.

A second recommendation addressed the need to increase the public's confidence in the information provided by lawyers. If this level of confidence is raised, lawyers will become a more credible source of information about the judicial system. Respondents currently rate judges, TV documentaries and pamphlets as sources of information more accurate than lawyers.

During follow-up meetings, bench and bar representatives plan to discuss ways to improve public access to existing sources of legal information. Established programs, such as the Citizen Rights series of pamphlets published by the WSBA, WSTLA's "People's Law Schools," speakers' bureaus, tel-law and school-based programs are being reviewed.

Along with exploring ways to improve or expand these popular offerings, the ad hoc group will be brainstorming new ways to deploy public information and education resources to foster more understanding and confidence. Your ideas are welcomed.

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

SOME SURVEY HIGHLIGHTS

- Awareness:** only 26% of adults statewide rate themselves as being familiar with our court system.
- Confidence:** residents generally feel people are treated fairly within the state court system.
- Performance:** about half give the system a favorable rating (but most believe there's room for improvement).
- Attitudes Toward Sentencing:** very few residents are aware of recent changes in the state's sentencing laws.
- Key Concerns:** cost of going to court, delays, responsiveness, treatment of poor vs. wealthy people, protection of society.
- Information Needs:** residents want information on how the court system works, judicial decisions and changes in laws.

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Litigating the Aviation Case

by Kevin C. Baumgardner

Juanita M. Madole, editor, *Litigating the Aviation Case* (Chicago: ABA Tort and Insurance Practice Section, 1987), \$69.95 softcover.

As a civil litigation "generalist" who has been involved in one major air crash litigation, this writer can vouch for the need for good, comprehensive survey works in the aviation law field. The compilation of materials titled *Litigating the Aviation Case*, edited by Juanita M. Madole and published by the American Bar Association's Tort and Insurance Practice Section in 1987, is a good start in that direction. The Introduction to this volume states that the materials therein provide "a unique opportunity for general practitioners, aviation specialists, and attorneys who wish to practice in the field of aviation law to become familiar with the conduct of aviation litigation and trials." While becoming "familiar" with the conduct of aviation trials would probably require sitting in on (or, better yet, participating in) a few, this volume is indeed a useful first reference for the aviation law beginner. What's more, it is one of those rare birds in the legal education aviary: a book that is, for the most part, actually *interesting* to read while providing useful resource material. It accordingly is recommended both for the lawyer who has had an air crash case thrust upon him or her (or who hopes to be so fortunate), and for the litigator who is merely looking for universally applicable discovery and trial tips to put on the bookshelf beside Irving Younger's direct and cross-examination tapes.

Of course, some of the chapters within *Litigating the Aviation Case*—"Airframe Icing," for instance—are not going to be of much interest to the general practitioner. Moreover, the structure of the book is somewhat uneven in that (1) each chapter was submitted by a different contributor, and (2) several important topics are mentioned very little or not at all.

To be sure, several of the chapters are excellent. John J. Kennelly contributes a chapter that sets forth a common-sense checklist of factors that should be read and considered by any aviation-law neophyte who is considering initiating a plaintiff's

case. John W. Norman and Wendy L. Rome provide a useful survey of the different types of available government information on air crashes and investigations of them; Jacques E. Soiret and Tom H. Davis complement that survey with case-specific articles outlining the pitfalls of two of the most vexing aspects (or, depending on which side of the case one falls, saving graces) of the discovery and use of evidence in the air crash case: the applicability of the Freedom of Information Act and access to and use of National Transportation Safety Board (NTSB) evidence. Also, the volume contains several discussions on the use of expert testimony, which is an absolutely critical consideration in most air crash cases.

On the other hand, *Litigating the Aviation Case* hardly mentions the Warsaw Convention, which can significantly alter the liability of a carrier in the crash of an international flight, and gives only sketchy treatment to several other important areas of aviation law and practice, including the application of *res ipsa loquitur* and the peculiar difficulties inherent in defending the actions of a crew who were all killed in the crash, and also including the minimization of damages from the standpoint of the defendant. It is hoped that a second edition of this compilation would "flesh out" the topics covered. (And, frankly, the volume could be a bit fatter considering the \$69.95 asking price.) Nonetheless, as a first effort at a general overview, *Litigating the Aviation Case* is relatively successful.



Photo of the Hindenburg from The National Archives

A praiseworthy aspect of *Litigating the Aviation Case* is its attention to both the plaintiff's and the defendant's sides of air crash litigation. The contributors run the gamut in terms of outlook, experience and prejudices, from the plaintiff's lawyer who avers that "suburbanites who are subjected to propaganda concerning 'high verdicts'" may make poor jurors, to the defense lawyer who warns of the threat of "runaway discovery," to the contributor who, curiously, directs his wrath at PATCO, the now-defunct Air Traffic Controllers' union. Another aspect that deserves mention is the focus, at least within most of its chapters, on the seminal cases dealing with key legal issues. Any lawyer who has been involved in an air crash litigation of any duration can attest to the depth and complexity of the body of specialized aviation case law—a body of law that is largely unknown to the general practitioner.

In sum, *Litigating the Aviation Case* is a good place to start to familiarize oneself with some of the basics of aviation law. The bibliographies provided by each contributor can direct the reader to further, more specialized works. *Litigating the Aviation Case* may be purchased from the Publications Planning & Marketing division of the American Bar Association, 750 N. Lake Shore Drive, Chicago, IL 60611. Members of the Tort & Insurance Practice section are charged \$64.95, five dollars less than non-members.

Kevin C. Baumgardner practices with Bogle & Gates in Seattle.

Ten Decades on the Bench

by Alan L. Gallagher

Charles H. Sheldon.

A Century of Judging: A Political History of the Washington Supreme Court. University of Washington Press. Seattle. 1988. 379 pp.

18th-century bookseller and author



Charles Sheldon, of Washington State University's Political Science Department, is author of three books, editor of another, and author of at least sixteen articles on politics and courts from 1966 to date. These include: *The American Judicial Process: Models and Approaches* (1974), with Judge Frank P. Weaver on the Kitchen Court, *Politicians, Judges and the People: A Study in Citizens' Participation* (1980), with Mullen and Pierce, *The Government and Politics of Washington State*, and *The Supreme Court: Politicians in Robes* (editor). In preparation is a collection of biographies of all of the Washington Supreme Court judges.

A major gap in both historical and legal research is state legal history. In recent decades, an emphasis on federal constitutional litigation and the role of the U.S. Supreme Court distracted attention from the states. More recently, the courts led on by those such as U.S. Supreme Court Justice Brennan and Oregon Supreme Court judge Hans Linde, an increasing emphasis has been placed on state courts' roles in making law. However, just as at the federal level, that process has been accompanied by bad history and bad social science, at the state level there has been for most states an entire lack of historical material.

Sheldon's work is a major step in filling that gap for Washington, and for providing for other states a methodology. It is a fascinating overview of the Court, its members, and how they came to be on (and in some

cases, off) the Court. He knows that selection is inextricably involved in politics. But rather than merely praising or criticizing, he examines the process and lays bare its workings. It is both the strength and weakness of Sheldon's approach that he focuses on the recruitment process. He examines the roles of the Governor, the organized bar, political parties, the media, and the electorate. He focuses on the irresolvable tensions between public accountability and judicial independence and shows how these have contributed to the push and pull: both meritorious, both antithetical.

He finds that the Court has progressed through five stages, each with its characteristic resolution of the independence/accountability conflict. From statehood until 1912 the Republican Party dominated. Over the next 20 years, the Democrats and Republicans shared this role with, and were then replaced by, the Governors. From 1934-1950, bar associations increased their role. From 1950-1970 an unpredictable mix of these actors was at work. From the 1970s 'til today, the same actors fell into fairly predictable patterns in which the bar played a screening role, the Governor selected, and the public's role was largely ratification. This dispersed accountability enhanced judicial independence.

Sheldon nicely notes also that current disputes about the role of judges (liberal-conservative, activist-restraintist) have inhered in the Court since its beginning, but that the mix of these qualities both in in-

dividual judges and the Court as a whole tends to push the courts towards the center, preventing drastic action and maintaining their authority. Judges are often faced with choosing between their values or their role.

For each of the periods, Sheldon examines in detail a two-year representative selection, highlighting the courts of 1903-1904, 1923-1924, 1939-1940, 1952-1953, and 1979-1980. This is a fascinating review of the clashes of personalities, issues, politics and procedure.

Inevitably there are minor errors and gaps of information in this path-breaking study. Because so little work has been done on the Court or its members, significant biographical work is needed to complement Sheldon's beginning. Similarly, an analysis of the content and work of particular courts is needed. Other problems arise from the choice of sample dates. In analysis of the 1923-1924 court, *e.g.*, Sheldon reaches conclusions about the dissent rate of Judge Pemberton without taking into account either the time lag in his decisional participation resulting from his just having been elected to the Court or the effect of his having to campaign for retention in 1924. Missing in the 1924 story is a sense of the effects of the anti-public power bill forces, of the import of the biographical background of Pemberton and opposition to him by the Perkins papers, and of the anti-labor and Republican landslide represented by Roland Hartley and Calvin Coolidge. The bar's role was but one factor. One can, with corrected data and a closer content and process analysis, reach opposite conclusions from Sheldon's about the effectiveness of the judge. (Statistical analyses always suffer from potential flaws related to the choice of parameters and from failure to cross-check conclusions against a historical dimension.) Although Sheldon's is labeled a "political history," it is strong on the political and statistical side, and weaker on the historical side.

Perhaps the strongest criticism that can be made of the work is that it attempts to examine the workings of a court without focusing on what actually was getting decided and the forces that revolved about those conflicts. Lawyers, and other readers, will find they have received a wealth of information, but will feel, just like after the proverbial Chinese meal, that they are still hungry. The missing ingredient is what happened. The strength of the book is to give us the actors, the setting, how they got there. But the book ends as the play begins, and we want additional accounts of what happened once the actors took the stage. Essentially, Sheldon is analyzing from the outside in, using external data to capture the Court. Such an approach needs to be complemented by internal accounts, which capture the politics and maneuverings within the Court.

For such a complementary work the necessary sources may not be available. Sheldon has provided us with a framework in which to do it. For legal historians and the bar, he correctly tells us his study is not meant to put an end of scholarly interest in the Court, but on the contrary to generate such interest.

Regrettably little has been preserved for solid historical analysis of the Court. Those who, like this reviewer, have attempted historical work on Washington Supreme Court judges, have found the search for data both fulfilling and elusive. One hundred years of history—seventy-seven judges—contribute to a complex story. As Sheldon well shows, the territorial and state appellate judges were, in Kermit Hall's words, "seldom . . . hacks and derelicts," but were lawyers of surprising qualifications and culture.

Sheldon's book is a major contribution to state and legal history, worth reading by every lawyer in the state. It is difficult to convey the sense of excitement that comes from such a book, which provides, whatever its defects, the same first sense of synthesis and direction that Lawrence Friedman's *History of American Law* provided to American legal history.

Alan L. Gallagher, A.S., B.A. J.D. M.A., M.A.I.S., is a Ph.D. candidate at the University of Washington. A member of the bars of Washington, Oregon, Pennsylvania and Texas, he lives in Portland, Oregon.

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Is It Affect or Effect?

by Lindsay Thompson

"The trouble with dictionaries is, they tell you more about words than you want to know without answering the questions you have." —Andrew A. Rooney, *And More By Andy Rooney* (1982)

Bryan A. Garner, *A Dictionary of Modern Legal Usage* (New York and Oxford: Oxford University Press, 1987). 587 pages, hardcover, \$35.00.

Bryan Garner, attorney, has eminent qualifications for undertaking this work. As a student at the University of Texas, a law review editor, a clerk for the 5th Circuit Court of Appeals and an attorney for a Dallas law firm, he has seen bad legal writing at its most rarefied levels—academic, judicial and private practice.

From his arduous experiences, Garner has drawn an exceptionally useful work. Grounded in the classics of usage, legal and lay, neither cheerleader for, nor condemnor of, new words and forms, he stresses clear and accurate writing. His *Dictionary* treats proper use of specific words, sometimes with surprising results: "Gift, it may be surprising to learn, has acted as a verb since the sixteenth century." Especially valuable are comparison entries separating oft-confused words: gibe and jibe, flouting and flaunting, bathos and pathos. A third, broader type of entry discusses common flaws in legal writing— clichés, use of doublets and triplets (*able and willing; null and void; deposes and says; ordered, ad-*



Charles Keene (1823-1891) "Lady with a Book," c. 1865, etching, 6 $\frac{3}{8}$ " x 5"

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judged and decreed), sexism ("the best advice that can be given is to minimize in our writing whatever might be deemed sexist by sensitive persons, while not resorting to ugly or awkward linguistic artifices to achieve that affect"), and less familiar plagues. An interesting one is *psittacism*, the parrot-like repetition of words and phrases:

In derogation of is rarely followed by anything other than *the common law*, and so endemic are such phrases as *case of first impression*, *it is well established that*, and notwithstanding that, and *notwithstanding anything here into the contrary* that they finally numb the intellect of both reader and writer. . . . The best legal writers attempt to formulate their thoughts and use; their writing is fresh and original. And it is rare.

Actually, legal writing has always been bad. Its history simply is one of evolving from archaic to newer forms of shabbiness and indirection. *Vogue words* lead the way—"Faddish, trendy ubiquitous words that have something new about them." *Cost-effective*, *dialogue*, *eventuate*, *interface*, *meaningful*, *parameter* and *viable* are among Garner's offenders of recent years. One which eludes him, but is a triumph of illiteracy in Washington, is *parenting*, as in Act.

"Here—and there—words" tackles the tendency to refer to things *herein* and *thereon*, "usually thrown in gratuitously to give legal documents that musty legal smell." "Initials" Garner labels "one of the most irritating types of legal pedantry that have gained a foothold in legal writing," and his examples drawn from the reports, are both funny and telling. He cites Chief Justice Rehnquist complaining of a case that required seven sets of identifying initials that "the terminology required to describe the present controversy suggests that the 'alphabet soup' of the New Deal era was, by comparison, a clear broth." A bracing slice of text is drawn from a 1984 appellate case:

Unlike Hutton's, Merrill's duties sprang from two sources. Like

Hutton, Merrill had the duty of an FCM representing a buyer—REDCO. In addition, however, Merrill had the duty of FCM representing the seller—TOI. It was in its capacity as TOI's FCM that Merrill was required, under Form EFP-1 to certify that TOI owned and had possession of enough oil to cover its EFP obligations.

If Hawthorne were alive today, he'd probably be writing *The Scarlet Alphabet* and handing it out liberally in the courts.

Garner is sound on the vulgar, redundant *irregardless* ("a semiliterate portmanteau word from *irrespective* and *regardless* that should long ago have been stamped out."), and he turns up some nice discoveries for the browser. When you *shepardize* a case in England, you don't just spell it *shepardise*, you call it *noting up* a case. A new word creeping into judicial reports is *saylee*, a refugee applying for asylum. In the 5th Circuit, a case deemed appropriate for review by the entire appellate bench is *enbancworthy*. Really—take a look at 391 F.2d 527, 532 (1968); 463 F.2d 1338, 1339 (1972); or 698 F.2d 726, 736 (1983).

Why does all this matter? Garner sums it up nicely in his introduction: "If ever a prescriptive approach to writing is justified, it is in law, where linguistic precision is often of paramount concern, and where ambiguity and vagueness (except when purposeful) are quite intolerable." Legal writing will, in the main, remain an oxymoron, despite the entry of this good book into the market. But for those who do trouble over the right word or phrase, *A Dictionary of Modern Usage* is a worthy adjunct to Fowler's *Dictionary of Modern English Usage* and Mellinkoff's *The Language of the Law*. One can do a newly-admitted lawyer no greater favor than giving him or her (*see*, sexism, Section A: The Pronominal Problem, pages 491-500) a copy of this distinguished work of scholarship and common sense.

Lindsay Thompson is editor of the Bar News. He practices in Vancouver, Washington.



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Here's a selection of recent books on aspects of law and its practice.

Office Disasters:

An irate husband of a client tosses a Molotov cocktail into your firm's files. A name partner of your firm is permanently disabled. A fire destroys a transformer in your law office basement, causing PCBs to be spread throughout the

building and resulting in total loss of access to your offices for a month. Your chief rainmaker dies suddenly.

Sound impossible? That's what lawyers in the San Francisco area thought until these disasters actually happened to them.

To help lawyers prepare for the worst, the Task Force on Law Office Disaster Planning of the Lawyers' Club of San Francisco incorporated

its members' experience into a guide titled *When Disaster Strikes: How to Handle Law Office Emergencies*.

Published by the American Bar Association Section of Economics of Law Practice, the guide lays out a step-by-step action plan based on the American Red Cross's "San Francisco Corporation Disaster Planning Guide" and the lessons learned from the authors' actual experiences in

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The publication includes an extensive bibliography of source materials and outlines sample safety and security procedures for firms to incorporate in their own law office manuals.

When Disaster Strikes: How to Handle Law Office Emergencies is one publication of the "Practice Management Series" produced by the ABA Section of Economics of Law Practice. Copies are available for \$16.95 plus \$2.50 handling through: ABA Order Fulfillment, Dept. 511, 750 N. Lake Shore Drive, Chicago, IL 60611, or by phone from (312) 988-5555.

Making the Office Work:

A law firm's most valuable asset goes down the office elevators every night. While it may be time-worn, this axiom is directly on point for today's law firm managers, according to a new publication released by the American Bar Association Section of Economics of Law Practice.

"People are a legal organization's major asset. Computers won't work without people, systems won't work without people, and employing people is the greatest single expense in any law office budget," explains Richard C. Reed of Seattle, author of *Managing A Law Practice: The Human Side*.

The 95-page publication is divided into three major sections, which include several topical articles from leading legal publishers:

- *Management*. In the book's first section, Reed discusses why it is unproductive for lawyers to act as law office managers; he recommends that professional managers oversee ad-

ministrative functions. Articles in this section include "The Weakest Link," "The Compleat Lawyer: Reviewing Your Skills" and "Effective Law Practice Management—A Must."

- *Compensation*. Proper compensation is vital to motivating employees, the author writes. Among the articles in the book's second section that look at pay issues are: "The Use

of Permanent Staff Attorneys: An Alternative to 'Up or Out,'" "Is Disability Worse Than Death?" and "How to Have a Compensation System That Promotes Business Development."

- *Facing the Future*. Law firms must recognize changing forces in the business environment and adjust to them—or face extinction, says Reed. Addressing this topic are "Future of the Practice: Survival of the Fittest,"

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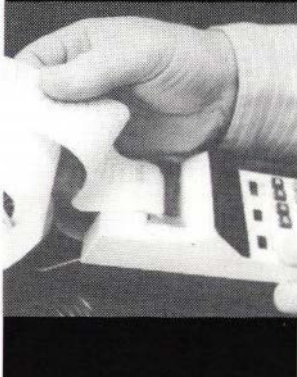
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Managing A Law Practice: The Human Side is available from ABA Order Fulfillment, Dept. 511, 750 N. Lake Shore Drive, Chicago, IL 60611, or by phone at (312) 988-5555. Cost for the publication is \$29.95 for ABA Section of Economics of Law Practice members, \$34.95 for non-members; \$2.50 for postage and han-

dling is also required.

Insurance Claims:

The American Bar Association's Section of Tort and Insurance Practice has published three new monographs to help lawyers handle property and business insurance claims.

Pollution and Contamination: How Will Property Insurers Respond?, written by Thomas W. Mallin, vice president and counsel of the Property

Loss Research Bureau, uses basic scenarios for property loss to explain the various ways liability can be imposed on first-party insurers in cases of pollution and contamination loss and shows how such defenses as limited scope, exclusions and notice of loss can be used to counter such claims. The book also includes detailed reviews of the coverage provisions, exclusions and conditions in the current ISO policies, as well as the 1986 revisions and their impact.

The Standard Mortgage Clause: Protecting All Parties will help lawyers in advising clients who are insuring property, explaining the client's rights and obligations under the standard mortgage clause and alerting the lawyer to those provisions and situations most likely to cause difficulty. In addition to reviewing case law, the publication addresses the use of subrogation, the extent of the mortgagee's insurable interest and possible revisions to the clause.

Business Interruption Coverage: A Basic Primer addresses the three most common problems faced in dealing with a business interruption loss: determining the period of indemnity, calculating revenue loss and determining expenses. It also looks at the differences between the various kinds of insurance coverage that are available, as well as the common threads running throughout.

Each book can be purchased separately for \$29.95 (\$24.95 for Tort and Insurance Practice Section members), or as a set for \$71.95 (\$59.95 for section members), plus \$2.50 per order for handling, from ABA Order Fulfillment 519, 750 N. Lake Shore Dr., Chicago, IL 60611, or by phone at (312) 988-5555.

A new volume from West Publishing, *Insurance Law: A Guide To Fundamental Principles, Legal Doctrines, and Commercial Practices—Practitioner's Edition*, examines these developments with references to the judicial decisions and secondary literature published during this period. The text describes, explains and analyzes fundamental principals and basic legal doctrines that comprise the law of insurance, while including discussions on how these principals are relevant to significant issues or frequent causes of dispute.

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The ABA publication, *Sexual Abuse Allegations in Custody and Visitation Cases*, contains the results of two new major studies on this subject and information to help family court judges and court personnel better handle these difficult cases.

Bruce Nicholson, editor of the book, stresses that, while the issue of false allegations has claimed a large

role in the public discussion of child sexual abuse cases, "the far more fundamental question is how our courts are responding to the large and growing number of victims of abuse."

He says, "The family court, in particular, can take advantage of the quite significant reforms that have taken place in the juvenile and criminal courts, in responding to the special concerns for these victims."

The book addresses the false allegation issue as well as broader issues of the response of the legal system to child sexual abuse, such as the use of psychological expert testimony, issues surrounding interviewing child victims, and the relationship between family and juvenile courts.

In addition to more than a dozen new chapters, the book contains extensive reprints from law review articles, research articles and bibliographies. Nicholson says that it should serve as a useful resource for judges, court personnel and anyone else who wants to learn more about child sexual abuse and the role of the legal system.

The book attempts to bring together state-of-the-art information by leading authorities on topics including dynamics and prevalence of child sexual abuse, offenders, victims, treatment and prevention in one publication, to create a resource for people who are grappling with these cases day-to-day.

Copies of *Sexual Abuse Allegations in Custody and Visitation Cases* are available for \$22.50, plus \$3 postage and handling, from American Bar Association, Order Fulfillment Dept., Publication #549-0067, 750 N. Lake Shore Dr., Chicago, IL 60611.

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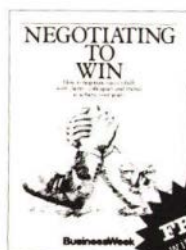
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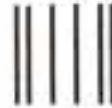
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"Statistically, a new lawyer entering practice today will face an average of three legal malpractice claims before finishing a career," says co-author Mallen, whose earlier editions of *Legal Malpractice* have been cited to as authority over 90 times by state and federal courts. "The frequency and size of legal malpractice claims have risen dramatically in recent years, with claims today averaging over \$80,000."

Both Mallen and new co-author Smith are frequent writers, lecturers, educators, litigation "specialists" and nationally recognized authorities in the field of legal malpractice. Smith also chairs the ABA Standing Committee on Lawyers' Professional Liability. The authors have designed this greatly expanded treatise to meet the ever increasing demands of the general practitioner and "specialist".

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A wealth of information on professional liability insurance explains how to read a policy, what type of coverage is required and how to obtain it. Sections on how to prosecute or defend legal malpractice cases and eleven chapters updating both non-client and client liability as well as fiduciary obligations are provided. A table of cases by state allows for quick and easy local research.

As with past editions of the work, West Publishing will annually supplement *Legal Malpractice, 3rd Edition, Volumes 1 & 2*. For additional information call (800) 328-9352. □

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The Board's Work

by Lindsay Thompson



VANCOUVER, BRITISH COLUMBIA, CANADA:
SEPTEMBER 13, 1988

PRESENT: President Dean and all of the Governors, and President-Elect Elizabeth Bracelin and Governors-Elect Donald Curran of Spokane, Ronald Gould of Seattle, and Jeff Tolman of Poulsbo. ALSO PRESENT: Judge Gerry L. Alexander (Court of Appeals Judges' Assn.); Alece Cox (Washington Women Lawyers); Dan Gottlieb (SKCBA Young Lawyers Division); Judge J. Ben McInturff (Legal Foundation of Washington); John J. Michalik (WSBA Executive Director); Mary Prevost (Government Lawyers' Assn.); Matt Sayre (SKCBA Trustee); John Riley (WSBA Young Lawyers Division); Judge Joel Rindal (Magistrates' Assn.); Judge Thomas A. Swayze, Jr. (Superior Court Judges' Assn.); and Lindsay Thompson (*Bar News* Editor).

CONVENTIONAL WISDOM:

The Governors met in Vancouver the day before the Bar Convention began. John Michalik reported that about 1,000 members had registered for the event, up from last year's attendance but below the all-time high of 2,400 in Vancouver in 1976. Future conventions will be in Whistler, B.C. in 1989; Spokane in 1990; San Diego in 1991; and Vancouver in 1992. Several members of the Board thought having the Convention after school started made it harder for young lawyers to attend; Michalik noted that while young lawyers make up 60% of the Association, they were only 20% of Convention registrants. Governor Paul Stritmatter said he'd gotten the results of an informal Government Lawyers' poll that said they don't attend because a paucity of relevant CLE courses made it hard to justify and obtain reimbursement for attendance. So they stay home. No decision was taken on the matter.

COURT RULES: A DIVISION OF OPINION

A proposal from the Court Rules & Procedures Committee to amend SPR 98.16W came up for a third review by the Board. The amended rule would clarify 98.16W(a) by requiring that persons representing a minor have no conflict of interest with the minor in, for example, approving settlements. Troublesome to the Board were amendments to 98.16W(d) and (e), which would allow creation of trusts to hold settlement funds and thereby avoid the denial of eligibility for public assistance programs that direct receipt of the funds by the minor would trigger.

Governor Mike Carlson of Everett was concerned that judges lacked the time and sometimes the experience to evaluate such trusts when presented them, leaving the minor exposed to potential misuse of funds by the trustee—often a parent. He thought guidelines should be included to direct the terms of operation of such trusts and the duties of trustees, or that only corporate trustees should be allowed to handle them for greater security.

Governor Steve DeForest thought the proposed remedy broader than the perceived problem. Several other Governors felt the matter had been thoroughly considered by the Committee before presentation and ought to be passed, noting a pressing need for such amendments which delay

would prevent being adopted for a year. On the motion of Governor Jay White of Ballard to approve the proposed amendments, the Board divided evenly. President Jack Dean broke the tie in favor of passage. The Board then approved a motion to ask the Committee to prepare the sort of guidelines Governor Carlson had discussed for the appointment of trustees, creation of trusts, and bonding requirements.

WRAP-UP IN VANCOUVER:

In other action, the Board:

- approved an amendment to the Young Lawyers Division bylaws to permit the immediate past president to serve on their Board as an *ex officio* member;
- directed the moribund Task Force on Professionalism to get its act together and present a report by the end of the year;
- heard a report by Seattle attorney Ken LeMaster on the results of Settlement Month, a project in the King County Superior Court to reduce backlogs and encourage arbitration of cases; and
- appointed outgoing Governor Jay White to the Judicial Ethics Advisory Committee, to succeed President-Elect Elizabeth Bracelin.

NEXT MEETING:

October 21-22, 1988 in Snoqualmie at the Salish Lodge.

THE ANNUAL MEETING OF THE ASSOCIATION:

VANCOUVER, BRITISH COLUMBIA, CANADA:
SEPTEMBER 16, 1988.

The meeting was called to order in the Hotel Vancouver by President Jack Dean of Spokane. In his remarks, Dean said that the past year had been one of notable accomplishment. Expansion of pro bono efforts was well under way, thanks to the recently issued blueprint of the Pro Bono Task Force. Similarly, the AIDS Task Force had produced a sweeping set of public information pieces and information for lawyers' use in helping those with the disease. The Lawyers' Assistance Program, in its first year, had helped over 150 troubled members of the Association, and policies on referenda and access to books and records had been recodified.

Chief Justice Vernon Pearson then spoke on the state of the judiciary in Washington.

Presentations and awards followed—of the new President and Governors, of Awards of Merit to Ann Sandstrom and Lowell Halverson for service to the public and the Association, and of certificates to 50-year members of the Association.

Resolutions Committee chair Michael J. Hemovich then presented the Committee's unanimous recommendation that the meeting reject a resolution calling for a rollback of Association dues to \$175 for regular members and a proportionate rollback for new members. None of the resolution's 25 sponsors, nor anyone present, rose to speak in favor of the resolution. Ken Eikenberry of Olympia then moved to table the motion. A voice vote was inconclusive, and a division of the house was ordered. The motion to table passed, 115-63.

The meeting was then adjourned.



WA Supreme Ct.: Depositions • King Co.: Joint Status Reports; Case Delay Reduction • Snohomish Co.: Local Rules • NACM President Wick • CJC Admonition

Notice to Attorneys and Officers Taking Depositions

In re: New Supreme Court Rules Pertaining to Depositions and Other Discovery Materials

The Washington State Supreme Court has made some significant changes to the Civil Court Rules pertaining to the service and filing of deposition transcripts and other discovery materials. These changes are effective September 1, 1988. Persons may reference the following Official Advance Sheets, Washington Reports, 109 Wn 2d i-xix and 110 Wn 2d 1124-1136 respectively. The Department of Judicial Administration specifically brings to your attention the following rules: CR 5(i), CR 30(f), CR 31, and CR 78(d).

The following clerk's procedures will be in place effective September 1, 1988:

Depositions and Discovery Materials:

- a) All discovery materials, i.e., depositions upon oral examinations, depositions upon written questions, interrogatories and re-

sponses thereto, requests for production or inspection and responses thereto, requests for admission and responses thereto, and other discovery requests and responses thereto will be returned to the presenting party *unless* used in a proceeding or trial or accompanied by order of the court.

- b) All discovery materials filed as above will be filed in the case legal file available for public inspection unless otherwise ordered.

King Co. Sup. Ct. Notice to Attorneys

All inquiries regarding Orders To File Joint Status Report should be addressed to the Clerk's Office. Call Lynn Dewese or Luella McLane at (206) 296-7842, or write them at the following address: King County Superior Court Clerk, E-609 King County Courthouse, 516 Third Avenue, Seattle, WA 98104.

Please do not contact the presiding judge.

Case Delay Reduction Measures

King County Superior Court Presiding Judge Gerard M. Shellan announced today that the superior court judges have approved a series of extraordinary measures — ranging from extending the trial day to soliciting help from judges statewide — designed to help King County reduce its backlog of over 70,000 pending cases, many of which were filed over five years ago. These measures were recommended to the bench by the joint Bench/Bar Delay Reduction Task Force in November 1987. This task force, comprised of King County Superior Court judges, Seattle-King County Bar Association attorneys, court administration managers and other county officials, was formed to address the serious problems of overcrowding of court calendars and delays of trial dates in the King County Superior Court system.

Background

During the past several years, the steady increase in civil, criminal and

SUCCESSFUL APPELLATE PRACTICE Begins in the Trial Court

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The pitfalls facing trial counsel are all too well documented. Too often, meritorious appeals are lost due to procedural errors committed at the trial level. The simple act of stating the issue before the Court can be critical to the outcome of an appeal. As a Supreme Court Justice observed, "to state the question often is to decide it. And it may do this by failure to reveal fully what is at stake." *Yakus v. United States*, 321 U.S. 414, 482 (1944).

Similarly, at the appellate level, procedural traps for the unwary practitioner abound. For example: "there must be specific assignments of error before we will go behind the trial

court's findings." *Dave v. Nastos*, 39 Wn. App. 590, 595, 694 P2d 686 (1985).

With our years of appellate experience, we can help you through every stage of the appeal process. James E. Lobsenz and John W. Wolfe are available for referral, consultation or association in state and federal appeals, as well as in trial court matters leading to appeal.

JAMES E. LOBSENZ, former Clerk to Associate Justice Mathew O. Tobriner, California Supreme Court, and Chief Justice Vincent L. McKusick, Supreme Judicial Court of Maine; author of numerous law review articles; successful appeals include *In re Addleman*, *State v. Ryan* (amicus), *State v. Pam*, *State v. Sargent*, *Lang v. Lang*. Federal appeals include *Watkins v. United States*.

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juvenile court filings has exceeded the court's capacity to dispose of these cases in a timely way. In 1983, for example, total filings in King County Superior Court were approximately 46,000. Filings have climbed steadily, and in 1987 they exceeded 57,000. The Department of Judicial Administration estimates that the filings should grow to approximately 70,000 by 1992. In response to this increase in filings, the State Legislature, subject to county approval, authorized seven additional judges for King County in

1986. However, the King County Council to date has approved only three of the seven judges. As a result of the combined growth in filings and the lack of needed judges, the backlog of pending cases has grown from 47,000 in 1983 to over 70,000 today.

The increased backlog has had a substantial adverse impact on the length of time litigants must wait for a trial date after they request a trial date. This waiting period has almost doubled during the past five years. For example, in 1983, a civil jury case

waited 15 months for a trial date. Today, the wait is 28 months. According to standards adopted by the American Bar Association and used in many metropolitan courts, 90 percent of all civil cases should be disposed of within 12 months from initial filing. The judges firmly believe that the delays the court is now experiencing are impermissible, and that they deprive citizens of timely access to justice.

Action Taken

The action taken by the King County Superior Court Bench on August 18, 1988 is designed to substantially reduce the existing backlog of cases within two years by dramatically increasing the court's trial capacity. The specific measures adopted include:

1. Obtaining four additional judges authorized by the State Legislature in 1987 but not yet approved by the King County Council.
2. Soliciting temporary assistance from all superior court judges statewide.
3. Soliciting pro tem judges from among retired judges, judges from other levels of court, and a blue-ribbon attorney panel screened by the Seattle-King County Bar Association.
4. Assigning cases scheduled for longer jury trials to voluntary-lawyer mediation.
5. Extending the court trial day by one hour.
6. Directing counsel to file a joint status report in all undisposed civil cases without a trial date, and dismissing those cases which do not comply or no longer need a trial date.

These changes are the first of many recommendations to be considered by the judges from the Delay Reduction Task Force over the next several months.

The judges hope this crash effort can markedly reduce the number of pending cases within two years. Full implementation will require the King County Executive and Council to approve without delay the necessary funding to secure the additional judicial and staff resources needed to execute the plan. With the cooperation of the three branches of county government, the court hopes to create a more efficient judicial system for the benefit of all the citizens of King County.

A **PPEAL:** *The Ninth Circuit denied our opponent's petition for rehearing, but granted our request to modify the court's earlier decision. The court's decision was based on the response to a judge's question during reargument. This change saved our client from a potential exposure on remand exceeding \$1,000,000.*

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We are pleased to have helped Alvin Anderson secure this result for Globe Machine Manufacturing Company. **J&J Log & Lumber Co. v. Globe Machine Manufacturing Co.**, Ninth Circuit No. 84-3788.

PERSUASIVE RESPONSE to the court's questions is the fruit of careful preparation. Experience in a variety of appeals has honed our ability to prepare for argument. We are available for consultation, association or referral in your next case.

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Snohomish County Superior Court Revised Local Rules (Effective date— November 1, 1988)

The Snohomish County Superior Court has extensively revised its local court rules and applicable forms, the effective date of which will be November 1, 1988. Both Butterworth Legal Publishers and West Publishing Company have confirmed publication of the Snohomish County Superior Court Local Rules in the forthcoming editions of *Local Rules of the Superior Court: Washington State* and *Washington Court Rules*, respectively.

The court will not separately publish or distribute local court rules, and it wishes to notify all attorneys who have previously requested placement of their names on a mailing list and all others who practice in Snohomish County. It is recommended that attorneys obtain copies of Butterworth's *Local Rules of the Superior Court: Washington State* or West's *Washington Court Rules* in advance of the effective date of the new local rules. Butterworth indicates September 1 and West indicates October 15 as expected distribution dates of their respective publications.

Karen Wick of Everett NACM President-elect

Karen Phillips Wick, court administrator of the Evergreen District Court (Snohomish County) in Monroe, Washington, is the new president-elect of the National Association for Court Management (NACM).

Wick, who resides in Everett, has held her current position for more than 17 years. She has served NACM on its board of directors (1985-1986), as secretary-treasurer (1986-1987), and as vice president (1987-1988). She is active in the Washington State Association for Court Administration and has held all offices including president (1981-1982). At the request of the Washington Supreme Court, Wick has served on the Board of Trial Court Education (1979-1985), Washington Pattern Forms Committee (1982-1985), Special Task Force on the Justice Court Criminal Rules (1985-1986),

and the Special Task Force on Court Infraction Rules (1987-1988).

She recently became a Fellow of the Institute for Court Management (ICM) of the National Center for State Courts and received ICM's first-ever Award of Merit. Wick has taught numerous in-state classes for courts of limited jurisdiction, presently serves as an instructor for the Washington Supreme Court (Washington State Jury Standards for Rural Courts), and will have an article published in the September issue of the *Justice System Journal*.

The National Association for Court Management, which represents over 1,350 elected and appointed court managers in the United States and its territories, Canada, and Australia, is dedicated to improving the administration of our nation's state courts by providing educational opportunities for its members. NACM's recent five-day conference featured educational sessions on effective management, strategic planning, rural court issues, employee grievance programs, AIDS, child support issues, and court technology.

The National Center for State Courts, a

nonprofit organization aimed at modernizing court operations at the state and local level, provides secretariat services to NACM in addition to eight other professional court organizations. For further information, contact National Center for State Courts, 300 Newport Avenue, Williamsburg, VA 23187-8798; (804) 253-2000.

Commission on Judicial Conduct Issues Admonition

Judge August F. Hahn of South District Court, Long Beach was found to be in violation of Canon 7 (A) (1) (b) and (4) of the Code of Judicial Conduct by the State Commission on Judicial Conduct for attending and participating in a Republican caucus meeting on March 8, 1988. The canon prohibits a judge from making speeches for a political organization or candidate, or publicly endorsing a nonjudicial candidate for public office. A judge may engage only in political activity which is on behalf of a measure to improve the law, the legal system, or the administration of justice. The code adopted in Washington state follows the model code established by the American Bar Association.

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

Evidence. (Case 1.) Rape victim was hypnotized by police in unsuccessful attempt to aid her memory of attack. Later she identified accused in police lineup. Her identification of accused was held inadmissible as evidence, on ground that "the process of hypnosis itself necessarily affects everything the witness recalls about the incident thereafter." Four judges dissented. *State v. Coe*, 109 Wn.2d 832, 750 P.2d 208 (1988).

(Case 2.) In prosecution for indecent liberties, child's description of incident was within statutory hearsay exception, which required corroboration because child's story was corroborated by fact that defendant had engaged in similar acts with three others. Dissent said statute required corroboration of facts related by child, not merely corroboration of defendant's inclination to engage in activities charged. *State v. Jones*, 50 Wn. App. 709, 750 P.2d 281 (1988).

—K. B. Tegland
(former U. of W. faculty)

Civil procedure. (Case 1.) In case involving claim for uninsured motorist benefits from plaintiff's own insurer, Division One held that claim was subject to 3-year statute of limitations for torts. *In re Estate of Bowers*, 50 Wn. App. 691, 750 P.2d 275 (1988). (Comment: Decision is contrary to Division Three's decision in *Safeco Insurance Co. v. Barcom*, 49 Wn. App. 903, 746 P.2d 1226 [1987], which applied 6-year statute for contracts to such claim. —K.B.T.)

(Case 2.) In tort action against railroad, service of process on receptionist was insufficient because receptionist was not authorized to accept service of process. By time plaintiff attempted to make service again, suit was barred by statute of limitations. *Lockhart v. Burlington Northern R.R.*, 50 Wn. App. 809, 750 P.2d 1299 (1988).

—K. B. Tegland
(former U. of W. faculty)

Planning and zoning. Landowner, who had not applied for or been de-

nied development permission or rezoning, challenged open-space zoning as a taking on its face, alleging that it would be futile to exhaust administrative remedies. Evidence showed some county officials believed land should remain undeveloped but that county might be receptive to proposal for limited development. Trial court entered summary judgment, dismissing owner's complaint. On appeal, owner argued there were factual issues that should have taken case past summary judgment, for jury trial. *Held*, summary judgment affirmed. Question of futility is for court and not, on policy grounds, for jury. To survive motion for summary judgment, landowner must "show by uncontroverted evidence that the pursuit of administrative remedies would be futile." *Estate of Friedman v. Pierce County*, 51 Wn. App. 176, 752 P.2d 936 (4/18/88).

—W. B. Stoebuck

Real property. (Case 1.) Land owned by irrigation district in its "propriet-

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ary capacity" was subject to being lost by adverse possession to another person. Land within district's irrigation ditch right-of-way that district had never put to any use was held in proprietary capacity and was acquired by plaintiffs by adverse possession. **Kesinger v. Logan**, 51 Wn. App. 914, 756 P.2d 752 (Div. 3, 6/30/88).

(Case 2.) Legal description of land in lease could be included by reference to another document, even though document was referred to as Exhibit A but was not attached until after document was executed. There does not seem to be an issue on the form of the attachment, but it was in the form of a plot plan that described a building within a shopping center as outlined on the plot plan. **Knight v. American National Bank**, ___ Wn. App. ___, 756 P.2d 757 (Div. 3, 7/7/88).

—W. B. Stoebuck

(Case 3.) Claimant's nonpermissive use of another's land, though "considerable," was not "exclusive," and so not adverse, when other trespassers also used land frequently. **ITT Rayonier v. Bell**, 51 Wn. App. 124, 752 P.2d 398 (4/12/88).

(Case 4.) Title insurance company liable to insured for loss caused by existence of mortgage that company failed to except from coverage, despite fact that insured knew of mortgage. Only insured's agreement to be subject to mortgage, not mere knowledge of it, would relieve company of liability. **Tumwater State Bank v. Commonwealth Land Title Insurance Co.**, 51 Wn. App. 166, 752 P.2d 930 (4/15/88).

(Case 5.) Vendor not liable to purchaser for failure to disclose known water leaks in apartment building where evidence of leaks was apparent and where purchaser saw such evidence, even though leakage was more extensive and chronic than evidence suggested. In dictum court says vendor may be liable for "constructive fraud by nondisclosure" when vendor knows of defects that materially affect value of land and purchaser is unaware, either because he has no opportunity to inspect or defects are not apparent or reasonably discoverable.

Puget Sound Service Corp. v. Dalarna Management Corp., 51 Wn. App. 209, 752 P.2d 1353 (4/25/88).

(Case 6.) Reference in land description in deed to monument (center of railroad line) controls inconsistent call of a distance when evidence is sufficient to locate where monument was at time of deed. **DD & L, Inc., v. Burgess**, 51 Wn. App. 329, 753 P.2d 561 (5/9/88).

(Case 7.) Landowners' knowledge that adverse possessor was using their land, or even owners' oral grant of what they believed was right to use their land, did not make use permissive. Plaintiff acquired prescriptive easement for water well and water line. Court distinguishes between owner's attempted oral grant, which court says does not prevent hostility, and owner's permission, which court says would prevent hostility. **Crescent Harbor Water Co. v. Lyseng**, 51 Wn. App. 337, 753 P.2d 555 (5/9/88).

—W. B. Stoebuck

Real property security. In nonjudicial foreclosure under deed of trust, inaccurate description of land in trustee's notice of sale did not vitiate sale when debtor was not misled, attended sale, and made no request for continuance or objection to sale. Because nonjudicial foreclosure should

be efficient and cheap and should promote stability of land titles, sales should not be set aside for technical errors that are not prejudicial. **Koegel v. Prudential Mutual Savings Bank**, 51 Wn. App. 108, 752 P.2d 385 (4/11/88).

—W. B. Stoebuck



NALFMA

Beyond the Brochure: An International conference on legal services marketing, for managing partners and marketing administrators of small, medium and large law firms, will be held at the San Francisco Fairmont Hotel on November 17-19. Highlighted are: 25 speakers and panelists, analysis of the personal practice and marketplace, creative growth strategies, client relations programs and market evaluation.

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Attorney's Fees CLE and Effective Family Law Practice Seminar

by John M. Redenbaugh
Associate Director of CLE

Attorney's Fees: Beyond the Dollars (Troubleshooting Problems Regarding Fee Agreements and Fee Awards) will be presented in Spokane on Thursday, November 3 (Cavanaugh's Inn at the Park); in Seattle on Thursday, November 10 (Stouffer Madison Hotel); and in Olympia on Thursday, November 17 (Westwater Inn). Program chair Bryan P. Harnetiaux will make presentations on "The Wonderful and Complicated World of Fee-Shifting Statutes" and "The Novack Commission — What Might the Future Hold?" Richard W. Kuhling (Paine, Hamblen, Coffin, Brooke & Miller, Spokane) will address "A Brief Historical Perspective of Attorney's Fees and a Survey of Current Washington Fee-Shifting Statutes." Dale B. Ramerman (Bogle & Gates, Seattle) and Robert E. Rohde (Bogle & Gates, Seattle) will take turns presenting "Survey of Ethical Rules, Court Decisions, and Ethics Opinions Regarding Attorney's Fees"; Dean James M. Vaché (Gonzaga University School of Law, Spokane) and Professor William H. Clarke (Gonzaga University School of Law, Spokane) will focus on "CR II and Attorney's Fees"; Leland G. Ripley (WSBA Chief Disciplinary Counsel), and Roger Wilson (WSBA Director of Audits and Accounts), will share a presentation on "Practical Tips Regarding Attorney's Fees and the Lawyer's Trust Account"; Judith A. Lonquist (Law Offices of Judith A. Lonquist, P.S., Seattle) and Marilyn J. Endriss (Law Offices of Judith A. Lonquist, P.S., Seattle) will take turns presenting "The Contingent Fee Agreement and Fee-Shifting Statutes — How Do They Interface?"; Kelby D. Fletcher (Peterson, Bracelin, Young, Putra, Fletcher & Zeder, Seattle) will provide "Suggested Contingent Fee Forms With Fee-Shifting Component — Some Proposals"; Dean David Boerner (University of Puget Sound School of Law, Tacoma) will address "Fee-Shifting Statute and

Settlement Negotiations - Ethical Concerns"; and Ellen Conedera Dial (Perkins Coie, Seattle) will comment upon "How to Handle Fee Disagreements." For further information about this course, please contact Program Coordinator Lita Spratt at the WSBA, 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599 or telephone (206) 448-0433.

The Bench and Bar on Effective Family Law Practice will be presented in Spokane on Saturday, November 5 at Cavanaugh's Inn at the Park and in Seattle on Saturday, November 19 at the Four Seasons Olympic Hotel. This half-day program is co-sponsored by the Superior Court Judges' Association and the CLE Committee and WSBA Family Law Section. Topics to be covered include issues regarding "Child Support," "Maintenance," the "Parenting Act" and "Motion Practice."

The program chairs are the Honorable Yancey Reser (Spokane County Superior Court, Spokane); Stephen K. Eugster (Lukins & Annis, Spokane); the Honorable Donald Haley (King County Superior Court, Seattle); and Lynn Pollock (Attorney at Law, Bellevue). Featured speakers for the program at the Spokane site are: The Honorable Fred R. Staples (Benton County Superior Court, Tri-Cities); Stephen K. Eugster (Lukins & Annis, Spokane); Richard B. White (Evans, Craven & Lackie, Spokane); Martin L. Salina (Salina, Sanger & Gauper, Spokane); the Honorable James R. Thomas (Okanogan County Superior Court, Okanogan); Peter J. Karademos (Attorney at Law, Spokane); Royce Moe (Attorney at Law, Spokane); and Commissioner Joseph F. Valente (Spokane County Superior Court, Spokane). Featured speakers for the Seattle presentation include: The Honorable Anthony P. Wartnik (King County Superior Court, Seattle); Eric B. Watness (Attorney at Law, Seattle); Ralph W.

Moldauer (Attorney at Law, Bellevue); Wendy R. Gelbart (Reaugh, Fischnaller, & Oettinger, Seattle); the Honorable James I. Maddock (Kitsap County Superior Court, Port Orchard); Jane B. Hall (Cotter, Wechsler, Hall, Besk & Erickson, Seattle); Mabry C. DeBuys (Shidler, McBroom, Gates & Lucas, Seattle) and Commissioner Carlos Y. Velatagui (King County Superior Court, Seattle). For further information about this program please contact program coordinator Karla Ellison at the WSBA, telephone (206) 448-0433.

APPROVED COURSES
Washington State Bar Association

Voir Dire: Changes in the Wind — Learn To Use It or Lose It

7.00 credits

OCT 19 Spokane (Cavanaugh's Inn at the Park)

OCT 26 Seattle (Sheraton)

33rd Annual Estate Planning Seminar
15.00 credits

OCT 20 Seattle (Westin)
-21

Advising Nonprofit Organizations
6.50 credits

OCT 28 Seattle (Sheraton)

Attorney's Fees: Beyond The Dollars
6.75 credits

NOV 3 Spokane (Cavanaugh's Inn at the Park)

NOV 10 Seattle (Stouffer Madison)

NOV 17 Olympia (Westwater)

What the Washington Practitioner Needs to Know About Basic Real Estate
6.50 credits

NOV 4 Olympia (Westwater)

NOV 11 Spokane (Cavanaugh's Inn at the Park)

NOV 18 Seattle (Stouffer Madison)

Bench and Bar on Effective Family Law Practice
4.00 credits

NOV 5 Spokane (Cavanaugh's Inn at the Park)

NOV 19 Seattle (Four Seasons Olympic)

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

**Business:
Minorities & Women**

Title: Women & Minority Business Enterprises
Place: Sea-Tac Red Lion Inn
Date: Friday, November 18
Time: 8 a.m. to 4 p.m.
Cost: \$95
CLE: Credits TBA
Sponsor: NW Women's Law Center
Contact: (206) 682-9552

**Clear and Persuasive Writing
for Lawyers**

Friday, October 21, 1988—8:30-12:20
Stouffer Madison Hotel, Seattle
8:30: sign-in and late registration (if space available)

9-10:30: work session on brevity (with slides)
20-minute coffee break
10:50-12:20: lecture and exercises on clarity (with slides)
Tuition: \$100
Lawyer's Workbook provided
CLE Credits: 3
Legal assistants welcome

Program presented by author and lawyer, Gary Kinder—for further details and registration, please contact him at (206) 745-6720, or 16000 Bothell Way S.E., Suite 320, Mill Creek, WA 98012.

**Divorce and Parenting
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For those who want to learn to mediate, with an emphasis on divorce law and situations.

8 a.m. to 5 p.m., October 22 - 26, 1988.

Clise Mansion, Marymoor Park, Redmond, WA.

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\$500.
40 CLE credits.

Contact Jacquelyn Branagan at (206) 325-2171.

**Lifetime and Estate Planning
for the Elderly and Disabled**

The Foundation for the Handicapped is presenting a seminar in Seattle entitled "Lifetime and Estate Planning for the Elderly and Disabled Client," on Friday, November 18, 8 a.m. - 4:30 p.m. at Nendel's University Plaza Hotel.

Leading experts will address the issues of guardianship and limited guardianship; third party decision-making; private trustees; corporate-agency guardianships; wills and trusts for people with disabilities; living wills; and the Medicare Catastrophic Coverage Act of 1988. The speakers will include Washington Secretary of State Ralph Munro and experts on estate planning for the disabled.

The cost of the seminar is \$125, which includes all course materials. To register, call the Foundation for the Handicapped at (206) 283-4520 or write 1550 W. Armory Way, Suite 205, Seattle, WA 98119. Deadline for registration is Tuesday, November 1. The seminar has been approved for five Continuing Legal Education Credits by the WSBA.



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AROUND THE STATE

PIERCE COUNTY REPORT by GEORGE S. KELLEY

John Van Buskirk, Mel Ruben, Ronald Hendry, Brian Tollefson and Chris Quinn-Brinthall are running for the superior court position created by the retirement of Judge William Brown. In addition, J.M.B. Crawford is looking to unseat Judge Thomas Sauriol and Joel Feldman wants Judge Nile Aubrey's job. Watch this space for a list of the winners and courageous post-election endorsements.

Jim Leggett, John Messina and Fred Enslow, along with other civic-minded investors, have purchased an interest in the Tacoma Stars, our local professional indoor soccer team. Spokesman for the new owners is Jim Manza, who used to practice law but has moved on to the more lucrative field of selling hamburgers in Fife.

In the recent \$12 million lottery drawing Mike Pate had a ticket with five of the six winning numbers. While Mike did not win enough money to retire, he did take one afternoon off to play golf.

The annual bar association golf tournament was held at the Madrona course in Gig Harbor and drew 118 contestants. Jeff Gross won the Edgar Eisenhower trophy for low

gross with a 71. This was his second win in three years. In the handicap division Marc Christianson, with an 18 handicap, shot a gross score of 76 but placed one stroke behind Carson Eller who claimed a handicap of 28. Possibly Carson should consider the sport of field hockey. He could join Steve Bulzomi who recorded the highest gross score of 127.

For nongolfers the bar association also hosted a cruise for 45 people on Commencement Bay. Cindy Burdue won a raffled door prize, which was a trip for two to Reno on American Airlines. The drawing was held while the boat cruised in Puyallup Tribal waters where such private lotteries are legal.

Other big winners of the month include Frank Stubbs, Washington State Trial Lawyer of the Year, and Cheryl Robbins, who has been selected to teach a workshop on trial practice at Harvard under the sponsorship of ATLA.

Pierce County Superior Court Judge Rosanne Buckner has been named recipient of the WSBA Family Law Section's 1988 outstanding achievement award.

The award noted her work in chairing the Superior Court Judges' Association Family Law Committee; contributions to continuing legal education, and work in developing the Parenting Act passed by the Legislature in 1987.

SEATTLE-KING REPORT by JAMES L. VARNELL

Office Moves. William E. Rosell and Victoria L. Vreeland announce the formation of Rosell and Vreeland; Robert L. Wilson, Bruce G. Rohde and Duane S. Thurman have become associated with the firm. Ryan, Swanson and Cleveland announces that Kandice G. Tezak, Lauren K. Goldenberg and Stephen J. Maag have joined the firm as associates. Donald L. Thoreson has joined Betts, Patterson and Mines as a principal. Mary H. Wechsler, William R. Cotter, Duane A. Erickson, Jane B. Hall and Lawrence R. Besk have formed Cotter, Wechsler, Hall, Besk and Erickson with offices in the Columbia Center. Dennis K. Shelton has become an associate of, and Melvin M. Goldenberg has become of counsel to, Christensen, O'Conner, Johnson, Kindness.

Lasher and Johnson announces that Delney N. Hilten and Robin Williams Phillips have become associates there. Ralph Hurvitz has opened his office at 83 South King Street. Mark D. Schedler and Gary LeMoine have joined Revelle, Ries & Hawkins as associates. Christopher K. Shank has joined Williams, Kastner and Gibbs as an associate. Weiss, DesCamp and Botteri of Portland announces that Christopher Holm Howard has joined as a shareholder, and that Mary K. McIntyre and Mary Jo Newhouse have joined as associates practicing in the firm's Seattle office.

Feinstein and Bull announces that Virginia L. Andrews is now associated there. Gary R. Duvall has joined Stoel, Rives, Boley, Jones and Grey. Michael C. Hallerud has resigned as assistant general counsel of The Boeing Company to become a partner in Pettit and Martin, San Francisco. Robert M. Cohon has become an associate with Taylor and Hintze.

Of Note. Robert A. Free has been elected to the Board of Governors of the American Immigration Lawyers Association. Harry H. Schneider, Jr. has been appointed to the American Bar Association's Standing Commit-

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tee on Lawyers' Professional Liability. **Robert C. Mussehl** has been reappointed to a third term as chair of the American Bar Association Standing Committee on World Order Under Law.

Julia A. Langley returned from the Democratic National Convention in Atlanta with, *inter alia*, **Ron Perey** and **Lem Howell**, to be promptly elected to the Board of Directors of the Washington State Trial Lawyers Association.

Laura C. Inveen has been appointed as judge on the Seattle District Court bench, and deservedly, will be unopposed for election to the remaining two-year term.

This year's championship of the Seattle Law Firms' Softball League went to the King County Prosecuting Attorney's office, ably coached by **Greg Hubbard**. Stellar performers included: "**Bullet Bill**" **Downing**, **Bob Marconi**, **Bill Lipscomb**, **Jesse Franklin** and **Mark "Home Run" Hattate**.

SNOHOMISH COUNTY REPORT by REBECCA CLARK

Joan Sullivan has left the Family Support Unit of the Snohomish County Prosecutor's Office and is working temporarily for the Snohomish County Public Defender. **Lisa Paul** has joined the District Court Unit of the Prosecutor's Office. **Henry Chapman** has left Chapman, Forbes and Pack and has moved to the First National Bank Building. **Terry Simon** has left Riach, Gese in Lynnwood and is practicing in Monroe. **Kim Dupuis** has joined Sullivan, Graafstra, and Twisselman. (Try saying Sullivan, Graafstra, Twisselman and Dupuis three times, quickly.)

Erratum: A wave of protest followed the misnaming of the Cogdill, Deno and Millikan law firm in August's report. As any fool knows, the correct name of the firm is Cogdill, Deno, Millikan, CARTER and DALE.

SPOKANE COUNTY

Judge **J. Ben McInturff** has retired

after 35 years on the benches of Spokane County District Court and the Washington State Court of Appeals, Division III. A dinner in his honor is planned for Saturday evening, October 8, at Cavanaugh's Inn at the Park, W. 303 Northriver Dr., Spokane. No-host cocktails are at 6 p.m. Dinner will be served at 7:30 p.m. The price is \$23 per person. All members of the bar and friends are cordially invited to attend. Reservations, on a space-available basis, must be received by September 26. Please make checks payable to "Judge McInturff Retirement Dinner" and mail, with the names of the persons attending, to Judge McInturff Retirement Dinner, Winston and Cashatt Law Offices, Sea-First Financial Center, Spokane, WA 99201.

In addition, the Board of Trustees of the Spokane Bar Association recently hired **Pamela J. Arnold** as the new Executive Director of the bar association. Arnold was most recently with the law firm of Underwood, Campbell, Brock & Cerutti, P.S.

From Wausau Insurance claims adjuster **Bill Tann** of Spokane comes the confession that he routinely refers out-of-state workers compensation filings to **Ned Annan** of the Lukins and Annis firm for notices of appearance. Annan recently traveled to Lewiston,

Idaho and successfully defended a non-meritous claim brought by an experienced compensation "specialist" on a logger's behalf. The Idaho Industrial Commission had ruled that the obvious disability was not job-related. Thereafter, the empty-pocketed claimant telephoned the insurance company directly to complain that Annan "... had done dirt..." by referring to his leg problem as "flea-bitis" over and over again while his own attorney, "who must be in cahoots," went along with it! The claimant went on to explain that he could not remember being bitten by any bugs and he wanted to know how to bypass all the misunderstanding at his hearing and get his benefits going. So it goes.

SOUTH KING COUNTY REPORT by D. MARK EIDE

Your reporter has been on vacation and out of touch with most of the local goings on in south King County. Upon my return it appears that not much has gone on since most others are on vacation also.

Moves: **Charles F. Bryant II**, is moving his offices from Burien to Federal Way effective September 1 and will be in the same building as Foshaug, McGoran and Sawyer, P.S.

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 - Grievance/arbitration
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Thus, it appears that Foshaug, McGorran and Sawyer and others are moving into the palatial new offices in Federal Way which include a swimming pool. It has been pointed out to your reporter that a typing error was made which accused Hollowell, Pisto, Kalenius and Rhodes and Eiler & Pridgeon of being "small-time lawyers;" while everyone in south King County knows that our former esteemed president, **Judith R. Eiler**, is

less than tall, the above-mentioned are big-time lawyers from the small town.

At the July 22 Trustees meeting the following important matters were addressed:

1. After locating our Articles of Incorporation and Bylaws it has been determined that the So.K.C.B.A. needed two more Trustees; thus, we would like to announce the addition of **David Kontos** from Auburn and

Andy Weiner from Burien to the list of Trustees which includes: **Duncan Bonjorni, Ernie Vogel, Philip Biege, Ernie Crane, Robert West, and Paula Pridgeon.**

2. The Board voted unanimously to support the creation of a satellite superior court courtroom in south King County. The So.K.C.B.A. had been asked for its input about the idea by **P.J. Shellan**. The enthusiastic endorsement was for a satellite court and clerk's facility providing as close to full service as is possible and practical.

Lastly, for all of those who do district court work, another excerpt from the 1985 Minimum Fee Schedule:

Municipal and Justice Court

Trial of civil case or a traffic case not involving possible license suspension —

One-half day or less	\$ 75
Full day	150
Traffic Court case involving possible license suspension	150
Trial held at night or in city other than where you office	add 50



McKay Elected President of Young Lawyers Division


John McKay, an attorney at Lane Powell Moss & Miller in Seattle, has been elected president of the Young Lawyers Division of the WSBA.

McKay, 32, formerly the vice president of the Young Lawyers Division, will be installed in his new position on September 12 at the Association's annual meeting in Vancouver, Washington.

The Seattle resident received his law degree in 1982 from Creighton University in Omaha, Nebraska and his B.S. from the University of Washington in 1978.

In 1982, he joined Lane Powell Moss & Miller where his practice emphasizes commercial litigation.

The Young Lawyers Division of the WSBA is comprised of 8,000 members who are 36 years old or younger or who have practiced law five years or less. The group represents over 50 percent of the members of the Association.



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DISCIPLINE

Reprimanded

Seattle and Eastsound attorney **Anne McAvoy** (admitted 1978) has been ordered reprimanded and placed on probation pursuant to a stipulation to discipline, based upon her neglect of a probate matter and a collection matter and her failure to cooperate with the Bar Association in its investigation of one complaint.



IN MEMORIAM

Howard J. Thompson, 76, died July 7, 1988 in Seattle. Born in Monroe, Thompson was raised in Seattle and distinguished himself as an athlete at Ballard High School, where he was graduated in 1930. At the University of Washington, Thompson played football and was captain of the boxing team.

Upon graduation, Thompson was elected Seattle city constable and worked his way through the UW law school, being graduated in 1936. He opened a law practice with Anne M. Olson, a classmate whom he married in 1941.

Active in Democratic party politics, Thompson was chair of the King County Democratic Central Committee and a delegate to the 1940 Democratic National Convention. During World War II he served in the U.S. Coast Guard. Thompson remained in private practice until 1963, when Governor Albert Rossellini appointed him to the superior court bench. He served in that capacity until his retirement in 1977. Survivors include Thompson's wife, a daughter and two grandchildren.

Ford Smith, 80, died July 18, 1988 at his home in Seattle. A Spokane native, Smith attended Georgetown University and the University of Washington. He received his law degree from Gonzaga University School of Law in 1939, and moved to Seattle a year later.

After marrying a Guatemalan in 1935, Smith began developing contacts with the Central American nation which led to his appointment as honorary consul for that state in 1954. Smith served as vice dean of the Seattle consular corps from 1968 to

1975. A patent and copyright lawyer, Smith practiced with the Seattle firm of Garrison and Stratton until his death. Survivors include his wife, Chata, three children, six grandchildren, a sister and a brother.

DeForest Perkins, 81, died in Seattle in August after a lengthy illness. As a student at the University of Washington in the 1920s, Perkins was active in Beta Theta Pi fraternity, the Oval Club and Fir Tree. He was graduated from the University of Washington School of Law in 1931 and joined Todd, Holman and Sprague, which in due course became known as Perkins, Coie. Perkins was managing partner of the firm from 1966 to 1976. He was a member of the Rainier and Seattle Golf clubs. Survivors include his wife, a daughter and one granddaughter.

Cameron K. Hopkins, 46, died in Yakima July 14, 1988 after a year's illness. A Yakima native, Hopkins was raised in Toppenish and attended high school in Seattle. He was graduated from Central Washington University in 1965 and Willamette University School of Law in 1968. After stints as a stockbroker and deputy prosecutor, Hopkins was appointed Yakima County's first court commissioner in 1973. A decade later he was appointed to the superior court bench. Survivors include his wife and son, and two brothers.

Notice of Hearing on Petition for Reinstatement

A petition for reinstatement after disbarment has been filed on behalf of **Joseph T. Moynihan**, who was disbarred by order of the Supreme Court on April 8, 1982, based on findings of neglect of a legal matter, failure to cooperate, and misappropriation of trust funds. Moynihan practiced law in Adams, Spokane and King counties, Washington.

Public hearing on Moynihan's petition for reinstatement will be conducted before the Board of Governors on Saturday, November 19, 1988, commencing at 9 a.m. at the Pacific Hotel in Everett. 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 WSBA, 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.

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Cost: \$350.00. There is a \$35.00 discount for those registering before November 30. To receive a descriptive brochure, write or call the phone number below and leave your name and address.

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Bar Members Assume ABA Leadership Roles

Three members of the WSBA have been named to leading posts in the American Bar Association (ABA).

King County Superior Court Judge **James A. Noe** today assumed the chair of the ABA's Judicial Administration Division.

The division seeks to improve the administration of justice with respect to judges and judicial administration. It has almost 6,000 members. As chair, Judge Noe will be the division's voice in developing ABA policy in the area. He will serve a one-year term that began at the close of the ABA's 1988 Annual Meeting in Toronto.

Noe has served in various leadership capacities in the ABA: He has been a member of the House of Delegates, representing the National Conference of State Trial Judges. He chaired the Conference in 1981-1982. He is a member of the ABA's Special Committee on Evaluation of Judicial Performance and the Judicial Code Subcommittee.

In 1984-1985, he was President-Judge of the Washington State Superior Court Judges' Association and a member of the Association's

Board of Trustees from 1980-1986. He was a member of the Washington State Board for Trial Court Education from 1978-1983.

Irwin L. Treiger, chair of the Seattle law firm of Bogle & Gates, has become chair of the Association's Section of Taxation.

He will lead the section, which has nearly 28,000 members, for one year, directing its governing council and committee structure in developing policy proposals for consideration by the Association as a whole. Treiger took office as section chair at the close of the ABA's 1988 Annual Meeting in Toronto. The Association has 21 sections representing lawyers interested in particular fields or professional issues.

Treiger has served the section previously as its secretary and as vice chair for professional services, and has chaired or been a member of numerous section committees. He also is a past chair of the Taxation Section of the WSBA.

Treiger also is a member of the Seattle-King County Bar Association, the Seattle Tax Group and the Estate Planning Seminar Group. He is a Fellow of the American College of Tax Lawyers and a former consultant on state income tax to the Washington

State Department of Revenue. He has served as a special assistant attorney general for the state of Washington.

Seattle attorney **Robert C. Mussehl** has been reappointed to a third term as chair of the ABA Standing Committee on World Order Under Law. The committee's stated purposes are to advance the rule of law and justice in the world and to encourage the peaceful settlement of international disputes.

Mussehl, who succeeded former U.S. Congressman Robert F. Drinan, has been a member of the ABA House of Delegates since 1979. He is a former chair of the WSBA World Peace Through Law Section and a former chair of the Washington State Bar Committee on International Law. He is also a Fellow of the American Academy of Matrimonial Lawyers.

RE: RCW 19.52.020(1)

Interest Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in September is 7.79 percent. The maximum allowable interest permissible for **October 1988** is thus **12 percent**. For further details and past rates, see the October 1987 *Bar News*, page 39.

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Rare find in Pioneer Square, Seattle. Walking distance to courthouse. Opportunity to purchase townhome, featuring a spiral staircase, woodburning stove, owned by Mount Vernon attorneys; featured in *The Seattle Times Pacific Magazine*. Offered for sale by Windermere Condominiums, Inc., and Patricia Hicks. (206) 448-6000.

For sale: Labor Relations Reference Manual (LRRM)-Vol. 1 (1935) through Vol. 122 (1986), with indexes, Fair Employment Practices (FEP). \$900/OBO. Contact Lynn at (206) 733-0212.

SPACE AVAILABLE/WANTED

Space for Rent: Pioneer Square professional firm, Seattle, has office space available for 2+ years' lease.

Easy access, parking available, pleasant atmosphere. If desired, space could include receptionist, phone and basic administrative functions. 980 total square feet available; however, partial rental of space acceptable. Contact Brigid for more information at (206) 382-1200.

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

Downtown Vancouver, WA. Private offices in elegant historic renovation. Plush decor, conference facilities, experienced support staff. From \$275 per month. Flexible terms. Call (206) 694-0541 or (503) 228-1605.

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Three-attorney office looking for fourth attorney to share space in very nice, downtown Seattle location. Includes receptionist, telephone, library, conference room. Call Theresa, (206) 682-1771.

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Experienced general practitioner — criminal/civil litigator available for contract work, including investigations, legal research, document preparation, discovery, motions and trial/arbitrations. Fee negotiable. Call (206) 283-4838.

Experienced trial attorney seeks associate position for PI/Med. Mal. firm. Excellent references. Ann J. Durham, 2033 N. 49th St., Seattle, WA 98103. (206) 547-1810.

Alaska attorney — admiralty. Seeks association with Seattle firm/attorney on Alaska cases. Contact Ron West, (907) 248-5588.

Litigation attorney, 17 years' experience, civil and criminal, desires association or contract work in Seattle. Ted Clelland, 1126 N.E. 75th St., Seattle, WA 98115. (206) 526-2869.

Experienced civil litigator in personal injury, product liability, medical malpractice and business-related cases seeks position with Seattle-area firm. Honors graduate; law review. Send replies to Box 227, WSBA.

Position wanted: 10-year attorney, on leave for four years, back practicing full time one year, seeks mid-sized firm who needs family law/probate attorney. Some clientele. Eastside preferred. Respond to Box 225, WSBA.

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Bellingham area: Sole practitioner has good practice available. Great location, excellent facilities, terms available. Reply to Box 228, WSBA.

Washington Supreme Court seeks applicants for the Clerk of Court position. Minimum qualifications: membership in the Washington State Bar Association and five years as a practicing attorney with experience at the appellate level and three years' management experience. Other qualifying experience may be substituted for five years as a practicing attorney. Current salary: \$63,840 annual.

Resumés and inquiries must be directed to the Personnel Manager, 1206 S. Quince St., MS-EZ-11, Olympia, WA 98504. (206) 753-3365. Closing date for applications: October 28, 1988.

We are an Equal Opportunity Employer. Women, racial and ethnic minorities, persons of disability, and persons over 40 years of age are encouraged to apply.

Transactional attorney: The Hillhaven Corporation, a national leader in long-term care, is seeking a transactional attorney with three to six years' experience. Primary responsibilities include structuring, negotiating and documenting real estate, financing, acquisition and development projects. Excellent compensation and benefit package. Send resumé to Personnel Department, Caller Service 2264, Tacoma, WA 98401-2264.

Smith, O'Hare & Crane seeks an attorney to practice family law. Good credentials required. Send resumé to P.O. Box 68, Silverdale, WA 98383.

Buck & Gordon, a Seattle law firm, seeks associate, no experience required, to assist in land use, environmental, and real estate practice. Well-established firm of five attorneys. Excellent working environment for bright, high-energy person. Superior base of sophisticated clients. Opportunity to develop responsibility and make appropriate income as fast as person is capable. Send resumé to: Peter Buck, 1011 Western Avenue, Suite 902, Seattle, WA 98104. All responses held in strict confidence.

Willamette University College of Law invites applications for one or more faculty tenure-track positions beginning with the 1989-1990 academic year. Applications are particularly encouraged from women and members of minority groups. Please send resumé and letter of application to: Professor R. Hagedorn, Willamette University College of Law, Salem, OR 97301.

Attorney referral: Attorneys needed for referral of insurance company subrogation and premium collection cases through a national association. For information call (800) 237-3405, or write I.A.S. Co.s, P.O. Box 769, Willmington, DE 19899.

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Position available: Vancouver-Portland firm, business and real estate law, dual state license preferred. One year's experience required. Salary commensurate with experience. Benefits include incentive program. Reply to Box 226A, WSBA.

Position available: Portland-Vancouver firm — dual state license preferred. Minimum one year's experience; compensation commensurate with experience. Benefits include salary incentive program. Experience in workmen's compensation preferred. Reply to Box 226B, WSBA.

MacDonald, Hoague & Bayless seeks exceptionally experienced litigator with substantial civil experience, especially in the personal injury field. Applicants should have outstanding academic and professional accomplishments, involvement in community and/or public interest work, and strong desire to work in progressive environment. Confidential inquiries welcome. Apply to: David M. (Mac) Shelton, 1500 Hoge Bldg., Seattle, WA 98104; (206) 622-1604.

Everett. Small partnership with individual practices seeking associate. Experience preferred. Respond to: P.O. Box 1544, Everett, WA 98206.

Position available. Firm representing labor organizations and employee benefit trusts seeks attorney for position emphasizing Taft Hartley/ERISA trust enforcement actions. Washington State Bar membership required; litigation experience desirable. Reply: Recruiting Committee, Davies, Roberts & Reid, 101 Elliott Avenue West, Suite 500, Seattle, WA 98119.

Three-attorney Lynnwood law firm seeks associate to concentrate primarily, but not solely, on medical malpractice defense component of firm's practice. Strong academic credentials, litigation and trial skills, and some background in medical malpractice litigation or medical training desired. Send letters of inquiry, together with a resumé and writing sample, to Managing Partner, P.O. Box 2646, Lynnwood, WA 98036-0798. All applications will be treated confidentially.

Industrial Appeals Judges 1, 2 and 3. There are anticipated openings, which require travel, in Olympia with the Board of Industrial Insurance Appeals. Requirements: active membership in the Washington State Bar Association for all levels, and for the 1 level: two years' experience in general trial practice under court rules of evidence or two years of service as a judge of a court of general jurisdiction which observes the rules of evidence. For the 2 level: three years' experience in general trial practice under court rules of evidence, one year of which must involve experience in an industrial insurance case before the Board or the court, or three years' experi-

ence as a judge of a court of general jurisdiction which observes the rules of evidence. For the 3 level: four years' experience in general trial practice under court rules of evidence, two years of which must involve a majority of time in industrial insurance cases before the Board or the courts, or four years' experience as a judge of a court of general jurisdiction which observes the rules of evidence. Salary: \$2,459-\$4,029 plus medical/dental. Contact Shannon Hester, 410 West Fifth Ave., Olympia, WA 98504. (206) 753-6824. EOE. State of Washington.

Prestige office space in Seattle, 42nd floor of the Seafirst Plaza. Panoramic views, large library. Space for contract legal work. Referrals possible. Two years' general practice experience required. Reply to: P.O. Box 16254, Seattle, WA 98116.

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; \$53 - 6 months. *Federal Reports*, 1010 Vermont Ave., N.W., #408-WB, Washington, D.C. 20005. (202) 393-3311. Visa/MC.

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Human Care Services (HCS): HCS combines health, legal and financial services. HCS aids the elderly and disabled in need of all or part of the following: a guardian of the person and/or estate when no appropriate family resource is available; bill-paying; and health care management by social workers and R.N.s. If interested, contact HCS, a private, nonprofit agency, P.O. Box 611, Lynnwood, WA 98036 at (206) 672-0370 or (206) 282-1278.

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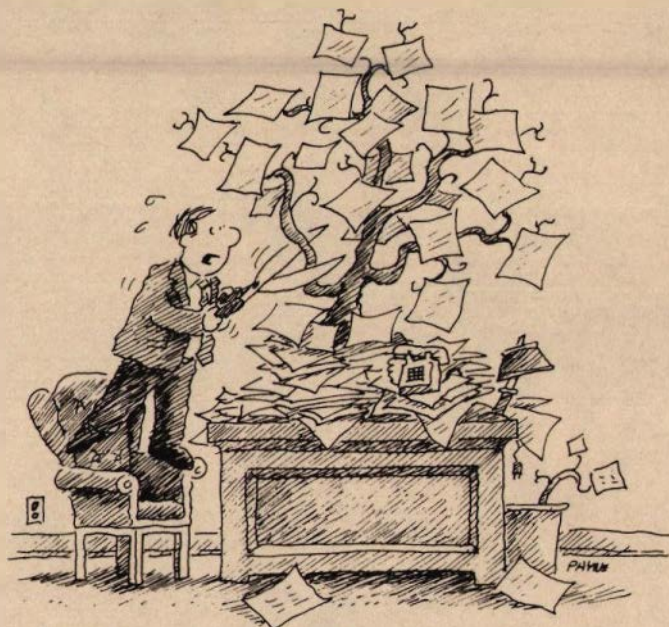
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