

Washington State **Bar**
News

Vol. 44, No. 10, October 1990



Lowell K. Halverson, President

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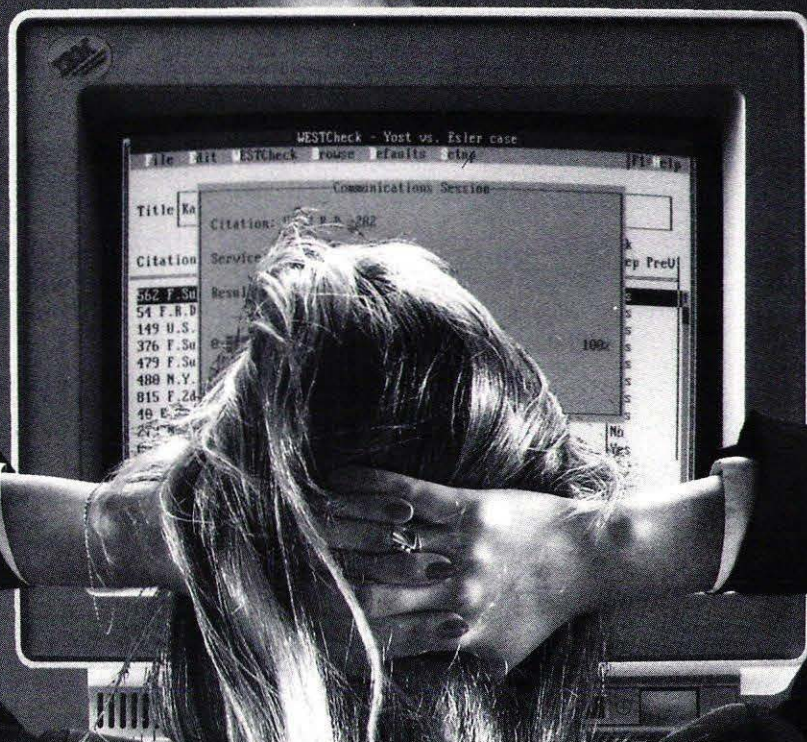
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Formal Opinion #187

Deposit of Escrow Funds by a Lawyer Acting as Agent

The question presented is whether a lawyer who acts as an escrow agent must deposit escrow funds in an interest-bearing "IOLTA" account pursuant to RPC 1.14 or a non-interest-bearing account pursuant to WAC 308-128E-011. We are of the opinion that:

1. Lawyers who hold escrowed funds in the performance of their professional duties as lawyers are subject to RPC 1.14 with respect to all escrowed funds, whether or not the lawyer is a registered escrow agent.

2. A lawyer may establish a business as a registered escrow agent in compliance with the Escrow Agent Registration Act which is separate from and unrelated to the lawyer's law practice. Funds held as a part of an escrow business which is separate from and unrelated to the lawyer's law practice are subject to WAC 308-128E-011 and not to RPC 1.14.

3. A lawyer does not avoid the requirements of RPC 1.14 by registering as an escrow agent where the escrow business is in fact a part of or related to the lawyer's law practice.

RPC 1.14(a) requires that funds of clients paid to a lawyer be deposited in one or more interest-bearing trust accounts. For pooled accounts where deposits are either nominal in amount or expected to be held for a short period of time, RPC 1.14(c)(1) requires that interest (net of certain amounts) be paid to The Legal Foundation of Washington. Most funds escrowed in connection with a closing transaction are expected to be held for a short period of time.

RPC 1.14(d) provides:

Escrow and other funds held by a lawyer incident to the closing of any real estate or personal property transaction are client funds subject to this rule regardless of whether the lawyer, the law firm, or the parties view the funds as belonging to clients or nonclients.

The Rules of Professional Conduct apply to lawyers who are engaged in their professional responsibilities as lawyers. The scope of these activities is broad, and the Rules are intended to reach all aspects of a lawyer's professional life. Accordingly, any lawyer who acts as an escrow agent in a real estate or personal property transaction in connection with the lawyer's profession as a lawyer must comply with RPC 1.14. This is so whether or not the lawyer has registered as an escrow agent under The Escrow Agent Registration Act, Chapter 18.14 RCW, or has established an escrow company which has registered.

We recognize, however, that a lawyer may engage in businesses which are totally independent from and unrelated to a law practice. In such a business, the lawyer is not relying on his or her qualification to practice law either to bring in customers or to discharge the

functions of the unrelated business. While various of the Rules of Professional Conduct may apply to unrelated businesses, such as, for example, RPC 8.4 (prohibiting certain kinds of conduct), we believe the escrow account rules of RPC 1.14 are not intended to apply to funds held by persons engaged in a business unrelated to a law practice merely because the person is also qualified to practice law. For example, a person qualified to practice law may have no law practice whatsoever, but may operate an escrow company which is registered under the Escrow Agent Registration Act and which has Limited Practice Officers qualified under Rule 12 of the Admission to Practice Rules to discharge the escrow functions. RPC 1.14 would not require use of an interest-bearing account in that case.

Similarly, a lawyer with a law practice may also engage in the business of acting as a registered escrow agent, and if there is a separation *in fact* between the two businesses, RPC 1.14 will not apply. The separation must be physical, financial, substantive and practical. For example, the law office and the escrow office must be physically distinct and separate. The businesses must be financially independent of each other. The escrow company cannot be a mere adjunct to the lawyer's law practice, obtaining referrals from, or making referrals to, that law office. The escrow company may not represent to its customers and prospective customers in any way that they will receive the benefits of a lawyer's expertise. A lawyer engaged in an escrow business complying with WAC 308-128E-011 may not hold him- or herself out to be a lawyer in connection with that business's activities.

Where a lawyer is engaged in both a law practice and an escrow business but a true separation and independence of the two businesses is not maintained, then RPC 1.14 will apply to all of the lawyer's trust accounts.

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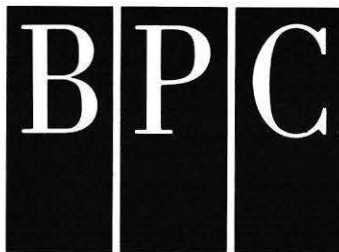
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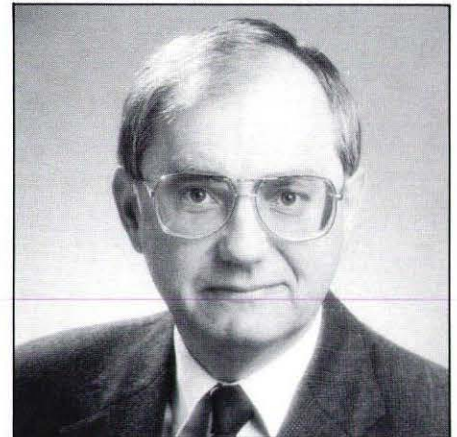
Introducing Lowell K. Halverson

Lowell K. Halverson, 1990-1991 WSBA president, has been a Washington lawyer for over 20 years. His general practice with emphasis on family law and numerous pro bono awards have earned him a listing in *Best Lawyers in America* (1988).

He has been both author and editor-in-chief of CLE deskbooks and practice manuals; further publishing credits include three co-authored books on family law. *Divorce in Washington* was serialized in *The Seattle Times* in 1987. Since the mid-1970s, Halverson has been delivering papers, making videotapes and giving lectures on dissolution, office practice and another abiding interest—legal services for Indians.

An inheritor of Norwegian and Tlingit cultures, he has been a delegate to the Tlingit and Haida Central Council for many years and has served on its finance committee. He is interested in Tlingit art and recently won an award for his sculpture, "Potlatch Dancers."

Lowell Halverson spent the summer of 1963 on fellowship at the University of Oslo and was graduated from Harvard College in 1964. He received his J.D. from the University of Washington in 1968, was licensed to practice in the federal bar in 1968, at the U.S. Supreme Court in 1979, the New York bar in 1981 and the Alaska bar in 1989.



His professional affiliations include the American Bar Association, the American Trial Lawyers Association, the Seattle-King County Bar Association and the American Academy of Matrimonial Lawyers.

Offices and honors in associations have included the: WSBA Award of Merit, 1988; SKCBA Helen M. Geisness Award of Exemplary and Distinguished Service, 1986; the first presidency of the Legal Foundation of Washington, 1989, and membership on its board of directors, 1985-present; Public Defender Association presidency, 1982; American Academy of Matrimonial Lawyers fellowship, 1985-present; WSBA Seventh District governorship, 1977-1980; and SKCBA trusteeship (1975-1977). He has served as a pro tempore judge in the King County Superior Court since 1980.

Halverson's avocations include scuba diving, fiction-writing, painting and sculpture.

The WSBA looks forward to an enriching and rewarding year under his dynamic leadership.



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.

Some Thoughts on Securities Losses

Editor:

The June 1990 *Bar News* article on

securities loss recovery by John Stafford generally covered the area well. However, under mutual funds, he indicates that most fund managers have underperformed the S&P 500 average for many years and implies that this should serve as a measurement standard. There are some funds which are unfairly compared against that standard due to the very nature of them, and, due to

transaction and administrative costs, one should not expect the average fund to do better than the S&P 500 average. It should not do much worse, either. Additionally, under idiotic policies, the Fidelity Magellan Fund is charged with insane management for being fully invested going into the October 1987 crash period. That is unfair for several reasons. First, Peter Lynch, the fund manager then, made it clear that the Fund was so large that it would not be possible to sell off large blocks of securities without depressing their price. Second, he made it clear that this fund would remain close to fully invested during both up and down markets. Third, the fund met its obligations to those who wanted out of the market. Fourth, the fund had been a no-load fund, and individual investors could have switched out of it at any time prior to the crash. Last, the fund regained all of its losses during the subsequent year, affirming the faith of long-term investors. That fund has outperformed the S&P 500 average on a long-term basis.

Another area which was not really covered is that of broker misrepresentation or ignorance of securities risks. The result is that many of their clients lose large sums of money by following their advice or allowing them to trade accounts. Litigation to bring greater competence and honesty into the brokerage business would be welcome. There are many securities which simply do not belong in the portfolios of anyone except those who can afford to take great risks, and there ought to be a burden of proof of appropriateness on brokers before such securities are bought by people of modest means or elderly and handicapped people.

Still another area for litigation relates to the problem of corporate governance and the function of boards of directors. The average shareholder is taken for granted and has frightfully little information about what his or her securities are really worth. (S)he also has no say over important corporate policies which may affect the value of the shares adversely. The bar should develop a corporate bill of rights for shareholders and enforce it with litigation.

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Bar Association Recognition for Singular Achievements

In the May 1990 issue of the *Bar News* I was pleased to use this column as one of but many vehicles designed to solicit nominations for a series of Association awards for service to the profession and the public. Dozens of nominations were received; all reflecting outstanding service and contributions by individuals, law firms and law-related organizations. From these many nominations, and after a careful and difficult screening process, the Board of Governors selected the award recipients for 1990. These awards were all presented at the State Bar Convention in Spokane last month, and I am pleased to present a brief sketch of each award and its recipient.

The Outstanding Judge Award was presented to State Supreme Court Justice **Robert F. Utter**. This award was given to Justice Utter in recognition of his service at various levels in the Washington state court system; his continuing contributions at the national level, particularly through the American Judicature Society; and his many civic activities, especially in the

area of law-related education.

The President's Award--given for special accomplishments or service during the previous year and/or in connection with ongoing projects--was awarded to Seattle lawyer and former Seattle-King County Bar president **M. Wayne Blair**. This award was given in specific recognition of Mr. Blair's efforts in connection with solutions to court congestion and delay problems in King County and on a statewide basis. His leadership in this area has led to many reforms in the King County Superior Court system and has provided the bases for a number of statewide efforts and projects.

In a unique selection, the efforts of a law firm and a county bar association in stepping forward to render assistance to the judicial and legal systems were recognized through presentation of two *Board of Governors' Awards for Professionalism*. One of these awards was presented to the **Yakima County Bar Association**--over 130 of whose members stepped forward at a critical time to represent indigent

criminal defendants and, literally, prevent the collapse of the county's criminal justice system and allow for the total restructuring of the public defender system in Yakima County. The second Professionalism award was presented to a Spokane law firm--**Evans, Craven & Lackie**. Eleven attorneys from that firm stepped forward in early 1990 and were sworn in as volunteer special-deputy prosecuting attorneys to assist in clearing a backlog of drug-related cases in Spokane County. The firm's commitment of attorney time and effort to the Spokane County Prosecutor was but the latest in a string of community service efforts, projects and sponsorships which have involved lawyers and nonlawyer firm personnel.

The Angelo Petrus Award for Lawyers in Public Service was created in 1989 by the Board of Governors in honor of the late Angelo R. Petrus, a Senior Assistant Attorney General who passed away in the midst of a term of service on the Board of Governors. Selection criteria--which



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This edition replaces the 1986 WAC and its 1987 and 1988 supplements and also contains the 5,000 sections filed in 1989 that have not previously been available in codified form.

The price for the 1989 WAC is \$320, and sales tax of 7.8% applies to all sales other than to state agencies and out-of-state subscribers. State law also requires payment in advance of shipment. To order the WAC, send your name and street address (UPS will not deliver to PO Box), along with your check or money order in the amount of **\$344.96** (tax included, no shipping or handling charges in US)

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mirror Angelo's own career—are based upon demonstrated significant contributions by a lawyer in public service to the legal profession, the system of justice and the public. The 1990 recipient of this award is Assistant Attorney General **Lee Ann Miller**. Ms. Miller, who represents the DSHS Division of Children and Family Services, has been a leader in issues surrounding the welfare of children and issues relating to child abuse. A forceful advocate, she has also spearheaded legislative efforts in this area; had a special and ongoing involvement in child abuse cases involving children of American Indian ancestry; and has been a frequent speaker on children's issues before legal and community groups. Interestingly, and reflecting the wide range of her contributions, Ms. Miller was the subject of a half-dozen separate nominations for this award, including by the Government Lawyers Bar Association, DSHS Secretary Richard Thompson, and State Attorney General Ken Eikenberry.

Russell W. Hartman is the recipient of the **1990 Pro Bono Award**. By all accounts—including those of various local agencies, judges, attorneys and the local bar association—Mr. Hartman was the single-handed force in creating and maintaining the Kitsap County Bar Pro Bono Program and bringing it from infancy to reality in service to the citizens of that county. Through his efforts the program was started, motivated and nurtured to the point where it now involves three-fourths of the local bar.

Finally, the State Bar Association's highest award, the **Award of Merit**, was presented to Spokane lawyer, and the current Speaker of the United States House of Representatives, **Thomas S. Foley**. From a number of truly outstanding nominees, the Board of Governors selected Congressman Foley in recognition of truly exceptional service to the legal profession as a lawyer and to the public as the long-time representative of the Fifth Congressional District. Congressman Foley's accomplishments stretch back to the date of his admission to the Washington Bar in 1957 and reflect countless contributions to the profession, the state, and the country, making him a singular and notable recipient of this award.

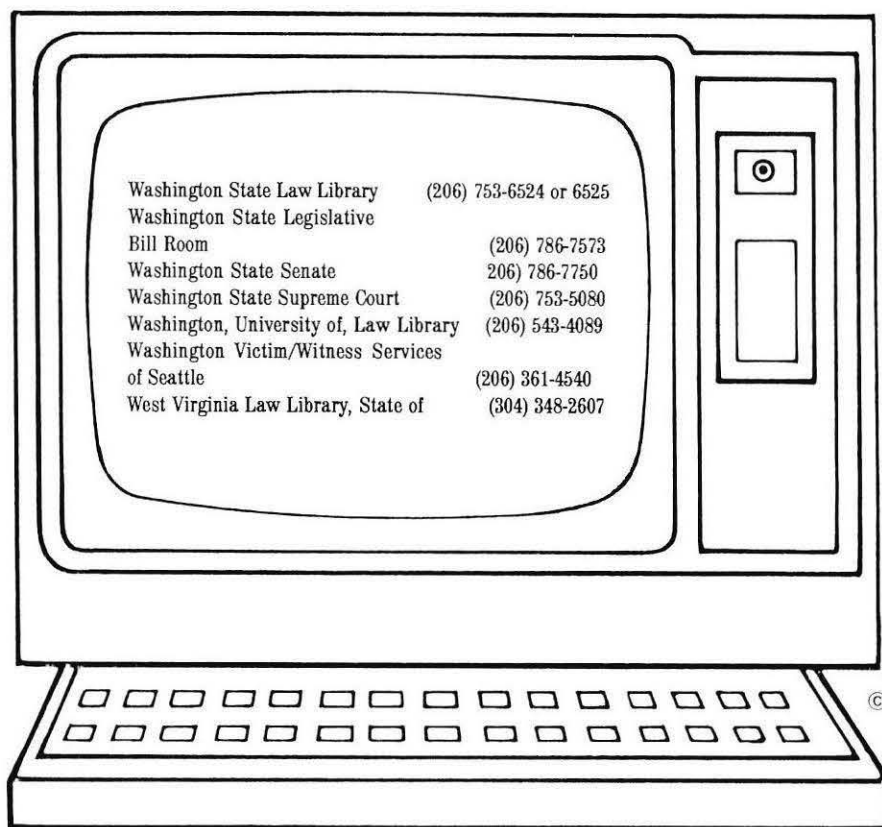
A Guide to Specialized Resources and Methods for Conducting Legal Research in Washington State

by James W. Quinn,
Mark Alan Folmsbee
and James M. Murray

Introduction

The purpose of this article is to help researchers locate specialized secondary legal materials that apply to legal research in the state of Washington. Primary legal materials, *i.e.*, statutes and caselaw, are not discussed here, as these materials are well-known and understood by the legal community. Specific call numbers are given for books in the four largest law libraries in the state: Spokane's Gonzaga University School of Law Library, the Gallagher Law Library at the University of Washington in Seattle, the Washington State Law Library in Olympia, and at Tacoma's University of Puget Sound Law Library.

Holdings were determined through searches of the Western Library Network (WLN) bibliographic database, WLN LaserCat (a CD ROM-based bibliographic catalog for nearly 400 WLN member libraries in six northwestern states), and direct inquiry. The format for bibliographic entries is based upon



that used in WLN LaserCat. Since libraries continually augment their collections, be sure to check with a librarian or library catalog if the library you are using is not listed with a source you would like to use.

General Comments on Conducting Legal Research

Always bear in mind that there is redundancy among sources of legal information. There are usually several sources for any particular piece of information and a number of ways to access each one of them. For example, although it is difficult to locate cases citing specific Washington Administrative Code (WAC) sections without using computer-assisted legal research services such as WESTLAW or LEXIS, a creative researcher will discover that cases citing the Revised Code of Washington (RCW) section which provides the statutory authority for a particular WAC often contain the needed analysis.

Remember, too, that there are many alternatives to original digest or statutory research in the initial stages of a research project. Continuing legal

education deskbooks and practice manuals, appellate briefs, and journal articles are good sources for a general overview of relevant cases and statutes (see our bibliography, *infra*).

Specialized Resources and Approaches for Conducting Research The Library of Congress Classification System

Library users often browse through the shelves in their areas of interest; it saves time and provides them with a more tangible familiarity with the sources than a library catalog or bibliography can provide. The usual method is to obtain call numbers from the catalog for a few specific, relevant references, and then scan the sources in that area of the library.

As an aid to browsing, we have developed the following list of topics and call numbers from the Library of Congress (LC) Classification Schedule for Washington materials.

However, a thorough, cross-referenced search of the library catalog and other bibliographic tools is necessary to create an exhaustive list of sources.

KFW 440-441	ADMINISTRATIVE LAW	KFW 77	LAW OFFICE MANAGEMENT
KFW 184	ADMIRALTY LAW	KFW 430-432	LOCAL GOVERNMENT LAW
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KFW 560.5	ARBITRATION	KFW 325-326	MEDICAL PROFESSION, REGULATION OF
KFW 220-226	BANKRUPTCY	KFW 104	PARENT AND CHILD
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KFW 411	DISCRIMINATION	KFW 418	PUBLIC INTEREST LAW
KFW 100	DISSOLUTION OF MARRIAGE	KFW 112-130	REAL PROPERTY
KFW 94-106	DOMESTIC RELATIONS	KFW 156	SALES TRANSACTIONS
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Washington Form and Deskbooks

Fortunately, the WSBA and other publishers have produced a wide variety of materials to assist lawyers and law students in virtually all areas of practice. There is an impressive series of WSBA deskbooks covering a broad range of topics. The *Washington Lawyer Practice Manual*, published by the Seattle-King County Bar Association Young Lawyers' Division, and West Publishing Company's *Washington Practice* are also invaluable. Professional Education Systems also publishes an excellent series of practice manuals and seminar materials.

The following is a selected list of materials of this nature—and the libraries where they reside—which should be helpful to both experienced and beginning researchers.

Alternate Dispute Resolution Deskbook: Arbitration and Mediation in Washington. Continuing Legal Education, Washington State Bar Association, c1989-
State Law Library
KF9084.A968 1989

Corporations and Business Deskbook: Corporations, Trademarks, Limited Partnerships, Service of Process. State of Washington, Secretary of State, c1986.
State Law Library
KF1418.C67 1986
University of Puget Sound
Reserve KFW205.A82 1986
University of Washington
KFW210.A6W34 1986@Res

Jury Verdicts Northwest, 1984- Gonzaga University
KFW581.A6J83 RES Jan. 1984-
State Law Library
KF9682.A6J8 1984-
University of Puget Sound
Reserve KFW542.A6J8 Jan. 1984-
University of Washington
KFW51.J8@Res Jan. 1984-

O'Bryan's Washington Forms: Forms and Suggestions for Washington Practice, 1954 ed., Book Pub. Co., 1954-73.
Gonzaga University
KFW530.A6502 1954@Res
University of Washington
KFWS8.027 1954@Res

Statutory Time Limitations, Washington State. Butterworth Legal Publishers, c1981-
Gonzaga University
KFW536.L5S73@Res
State Law Library
KF450.L55L3
University of Puget Sound
Reserve KFW536.L5S73
University of Washington
KFW90.T5L38@Res

Washington Motor Vehicle Accident Insurance Deskbook. Continuing Legal Education, Washington State Bar Association, c1989.
University of Puget Sound
Reserve KFW297.8.W375 1989
University of Washington
KFW191.A4W37 1989 @Res

Washington Business Law Deskbook. Corporation, Business and Banking Section of the Washington State Bar Association, 1981-
University of Puget Sound
KFW153.A3 1981
University of Washington
KFW205.A6W42@Res

Washington Civil Procedure Before Trial Deskbook. Continuing Legal Education Committee, Washington State Bar Association, c1981-
Gonzaga University
KFW537.W32@Res
State Law Library
Reserve KFW528.W3
University of Puget Sound
Reserve KFW530.W37
University of Washington
KFW537.W37@Res

Washington Commercial Law Deskbook. Continuing Legal Education Committee, Washington State Bar Association, 1982.
Gonzaga University
KFW152.W37 1982 RES
State Law Library
KF889.W37
University of Puget Sound
Reserve KFW152.W37 1982 @ Fac Lib
University of Washington
KFW152.W37 1982@Res

Washington Community Property Deskbook. Continuing Legal Education Committee, Washington State Bar Association, c1977-
Gonzaga University
KFW97.Z9W3@Res
State Law Library
KF526.W38
University of Puget Sound
Reserve KFW97.W38
University of Washington
KFW97.W38@Res

Washington Family Law Deskbook. Continuing Legal Education, Washington State Bar Association, c1989-
Gonzaga University
KFW94.W35 1989 RES
University of Puget Sound
Reserve KFW94.W35 1989

Washington Lawyer Practice Manual: Manual and Forms. Seattle-King County Bar Association, c1986-
Gonzaga University
KFW80.W27 1986 RES
State Law Library
KF300.S43 1986
University of Puget Sound
Reserve KFW80.W27 1986 @ Fac Lib
University of Washington
KFW80.W27 1986@Res

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Washington Motor Vehicle Accident Deskbook. Continuing Legal Education, Washington State Bar Association, c1988.

Gonzaga University
KF1306.T7W3 1988 Res
State Law Library
KF1306.T7W3 1988
University of Puget Sound
Reserve KFW297.8.W375 1988

University of Washington
KFW196.3.A8W37 @Res

Washington Practice. West Pub. Co. 1956-

Gonzaga University
KFW510.W37 RES
State Law Library
MRR
University of Puget Sound

Reserve KFW80.W32 @ Ref
University of Washington
KFW80.W3@Res RR Fac

Washington Real Property Deskbook. 2nd ed., Continuing Legal Education Committee, Washington State Bar Association, 1986-

Gonzaga University
KFW112.Z9W38 1986 RES
State Law Library
Reserve KFW112.W37 1986
University of Puget Sound
Reserve KFW112.W37 1986 @ Fac Lib
University of Washington
KFW112.W37 1986@Res

Washington State Judges' Benchbook, Civil Procedure. Washington State Superior Court Judges' Association, 1985-

Gonzaga University
KFW538.Z9W37 1985 RES
State Law Library
KF8841.W37 1985
University of Puget Sound
Reserve KFW538.W37 1985
University of Washington
KFW530.W37 1985

Washington State Judges' Benchbook, Civil Procedure. Courts of limited jurisdiction. Office of the Administrator for the Courts, 1988-

Gonzaga University
KFW538.Z9W37 RES
State Law Library
KF8841.W37 1988
University of Puget Sound
Reserve KFW530.W38 1988
University of Washington
KFW530.W374 1988 @Res

Washington State Judges' Benchbook, Criminal Procedure. 3rd ed., Washington State Superior Court Judges' Association, Benchbook Committee, 1985-

Gonzaga University
KFW579.A6W35 1985 RES
State Law Library
KF9619.W3 1985

Washington State Judges' Benchbook, Domestic Relations. Office of the Administrator for the Courts, State of Washington, 1986-
Gonzaga University

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KFW94.W34 1986 RES
State Law Library
KF505.W38 1986
University of Puget Sound
Reserve KFW94.W37 1986
University of Washington
KFW94.W34 1986@Res

Washington State Judges' Benchbook, Juvenile Procedure. Office of the Administrator for the Courts, 1988

Gonzaga University
KF505.W38 1988
State Law Library
KF9810.W38 1988
University of Puget Sound
Reserve KFW596.W37 1988

Washington Court Rules

There are several sources for Washington Court Rules. We recommend that the researcher spend time perusing all of the State Court Rules volumes as well as any pertinent volumes of local rules before embarking upon any extensive rules-related research project. The list below includes state and local court rules, selected sources for local rules of the federal courts and the libraries where they may be found.

Federal Local Court Rules for Civil and Admiralty Proceedings. Callaghan, 1964-

Gonzaga University
KF8820.A2 1972 RES
University of Puget Sound
Reserve KF8816.A2 1964

Heston, Mary Jo, *Bankruptcy Practice and Procedure, Western District of Washington.* c1988-

Gonzaga University
KFW221.H47 1988 RRR
University of Puget Sound
Reserve KFW221.H47 1988

Heston, Mary Jo, *A Local Rules Guide for Washington Western District Bankruptcy Court.* Professional Education Systems, c1988.

University of Puget Sound
Reserve KFW221.H476 1988
University of Washington
KFW221.H48 1988

Local Rules of the Superior Court, Washington State. Butterworth Legal

Publishers, c1981-
Gonzaga University
KFW529.5.S8A2 1981@RES
State Law Library
KF8816.L6
University of Puget Sound
Reserve KFW529.A2 1981
University of Washington
R 347.797 LOCAL R

Miller, Robert D., *A Local Rules Guide for Washington Eastern District Bankruptcy Court.* Professional Education Systems, c1988.

University of Puget Sound
Reserve KFW221.M55 1988
University of Washington
KFW221.A33M54 1988

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Official Rules of Court. State Law Reports Office, 1984-
Gonzaga University
KFW529.A197R82 RES 1984/85-
University of Puget Sound
Reserve KFW529.A197R8 1984-85-

Orland, Lewis H., *Rules Practice.* 3rd ed., West Pub. Co., c1988-
Gonzaga University
KFW510.W37 v. 2A, etc. RES
State Law Library
MRR
University of Puget Sound
Reserve KFW80.W32
University of Washington
KFW80.W3@RES RR Fac

Rules of Court Deskbook. State Law Reports Office, 1983
Gonzaga University
KFW529.A197R8 RRR 1983/84
University of Puget Sound
KFW529.A197R8 1983/84
University of Washington
KFW529.A199@Res 1983/84- latest on Reserve

Rules of the District and Municipal Courts in Washington State: State, Local. Butterworth Legal Publishers, 1987-

Gonzaga University
KFW529.A2 1987 RRR
State Law Library
MRR

University of Puget Sound
Reserve KFW529.A2 1987
University of Washington
KFW529.A2 1987 @Res

Washington Court Rules Annotated: With Forms. Bancroft-Whitney Co., 1977-

Gonzaga University
KFW529.A197 RES
State Law Library
MRR
University of Puget Sound
Reserve KFW529.A2 1977
University of Washington
KFW529.A2 1977@Res, Fac

Washington Court Rules: With Amendments. West Pub. Co. (State and local federal volumes)

Gonzaga University
KFW529.A198 RES
State Law Library
MRR
University of Puget Sound
Reserve KFW529.A317A2
University of Washington
KFW529.A198@Res

Washington Legislative History

Legislative histories help clarify the intent of the Legislature in passing a particular act, and they are usually used in the preparation of cases involving

ambiguous statutory provisions. If an attorney can show, for example, that the first draft of a bill contains language which specifically relates to the facts of the case but was later removed at some stage in the legislative process, then it is likely that the fact pattern was not meant to fall within the particular scope of the statute as finally enacted.

Unlike the extensive resources for federal legislative history, the published sources of legislative history in Washington are often less complete than many researchers would like, though valuable information can be gleaned from the published sources that do exist. Unpublished material is available from the state archives and the legislative staff.

Begin the research by looking in the Revised Code of Washington (RCW) or Revised Code of Washington Annotated (RCWA). At the end of each code section, you will find a chronological historical listing of session laws incorporated in the current text of that section. The list may range from a single recent law to a list of several dating back to the 19th century. These references are abbreviated by year and chapter number as published in the *Session Laws of the State of Washington* (also called *Laws of Washington*).

In the *Laws of Washington*, review each session law listed in the RCW and compare the different versions of the text. The principal intent of the Legislature in amending a section is often evident in the amendment itself. You may also be able to make useful inferences from the arrangement of material within the text of the session laws, since this often differs from the arrangement of sections in the code.

Each session law includes a bill number indicating which legislative bill was finally passed to become that law. Using the bill number and year of the session law, read the *House Journal* and *Senate Journal* (journals) for detailed accounts of the course of the bill through the legislative process. The journals contain tables listing every page number on which a bill is mentioned -- each journal includes tables for both House and Senate bills, and every bill must be traced through both House and Senate volumes.

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The most interesting material in the journals appears in the form of floor remarks, or "points of inquiry." Amendments and other potentially helpful material are also included, but most references consist of inclusions of the bill in long lists of items introduced on a particular day, transmitted to the Governor for approval, and so on. In many cases, especially in older volumes, there is no useful information at all.

The next step is to check the subject indexes in the Journals to locate other bills introduced during that legislative session on similar topics. You may find relevant floor remarks and other material, regardless of whether or not the bills were passed. The fact that one bill was passed, while another with conflicting provisions was not, may be informative.

We recommend that you also review and compare all printed versions of each relevant bill. If your library cannot supply these, they are available from the Washington State Law Library, the Washington State Library, or (for current bills) the Bill Room at the State Legislature.

The *Legislative Digest and History of Bills* and the *Final Legislative Report* provide the Governor's veto messages and other material potentially relevant in the search for legislative history.

Finally, researching past issues of major newspapers and leading magazine articles (published primarily in Olympia, Seattle and Spokane) may elicit relevant and useful information. Such articles have been accepted in the courts as evidence under the doctrine of judicial notice.

For unpublished material, check with the staff at the Washington State Archives, who can direct you to appropriate sources at the State Legislature if they don't have what you need. You must provide the bill number, date and subject of the legislation in question. Sometimes there are fees for copying and research time. Telephone numbers for the State Archives, State Senate, House of Representatives and Legislative Bill Room are included in the list following the bibliographic entries below.

Final Legislative Report.
Washington (State) Legislature.

Gonzaga University
KFW15.A24 RES
University of Puget Sound
RR/1st
University of Washington
KFW15.2 date @Ref

House Journal.

Washington (State) Legislature. House of Representatives.
Gonzaga University
KFW18.W3 RRR
State Law Library
MRR
University of Puget Sound
RR/1st
University of Washington
KFW18.2.W3@Ref

Legislative Digest and History of Bills of the Senate and House of Representatives.

Washington (State). Legislature.
Gonzaga University
KFW15.A22 RRR
State Law Library
MRR
University of Puget Sound
Ref Help KFW421.A29W35
University of Washington
KFW15.A2@Ref

Senate Journal.

Washington (State) Legislature. Senate.
Gonzaga University
KFW18.W32 RRR
State Law Library
MRR

University of Puget Sound
RR/1st
University of Washington
KFW18.2.W32@Ref

Session Laws of the State of Washington.


Washington (State). Statute Law Committee.

Gonzaga University
KFW25.A22 RRR
State Law Library
MRR
University of Puget Sound
RR/1st
University of Washington
KFW25.A22@Ref

Telephone List

The telephone is a powerful research tool. Rarely are all the documents needed for a complex research project in one place, so nearly every library offers an interlibrary loan service. Most law libraries also provide materials directly to law firms for a fee through a document delivery service. This saves time dealing with a third party, and it gives the researcher control over the ordering process.

In the following list, we have included the numbers of several major research libraries and at least one large law library in each state; they usually charge only nominal fees for providing information.



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Alabama Supreme Court and State Law Library	(205) 261-4347	Library of Congress	(202) 707-5000
Alaska Court Libraries	(907) 264-0585	Louisiana Law Library, New Orleans	(504) 568-5705
American Bar Association	(312) 988-5000	Lutheran Social Services of Seattle	(206) 365-2700
Arizona, University of, Law Library	(602) 621-1413	Lutheran Social Services of Tacoma	(206) 272-8433
Arkansas Supreme Court Library	(501) 682-2147	Maine State Law & Legis. Reference Lib.	(207) 289-1600
Board for Trial Court Education	(206) 753-3365	Maryland State Law Library	(301) 947-3395
Bogle & Gates Library	(206) 682-5151	Massachusetts, Social Law Library	(617) 523-0018
California State Law Library	(916) 324-8120	Michigan State Law Library	(517) 373-0472
Central Area Mental Health Center of King County	(206) 723-1980	Minnesota State Law Library	(612) 296-2775
Chelan County Law Library	(509) 664-5213	Mississippi State Law Library	(601) 359-3672
Colorado Supreme Court Library	(303) 861-1111, Ext. 171	Missouri Supreme Court Library	(314) 751-2573
Commerce Clearing House	(312) 583-8500, (509) 624-4453	Montana Bar Association	(406) 442-7660
Commission on Judicial Conduct	(206) 753-4585	Montana State Law Library	(406) 444-3660
Commission on State Law Reports	(206) 753-5100	National Indian Law Library	(303) 447-8760
Connecticut State Library	(203) 566-4601	Nebraska, University of	(402) 472-3548
Consumer Credit Counseling Service/Inland Empire	(509) 455-5568	Nevada Supreme Court Library	(702) 885-5140
Delaware, Widener University, Law Library	(302) 478-3000	New Hampshire State Library Law Division	(603) 271-3777
Document Delivery Service, Gonzaga Law Library	(509) 484-6092	New Jersey State Law Library	(609) 292-6230
Dispute Resolution Center (Spokane)	(509) 326-8029	New Mexico Supreme Court Law Library	(505) 827-4850
Domestic Violence Hotline (Washington only)	(800) 562-6025	New York State Department of Law, Library	(518) 474-3840
Federal Express	(800) 238-5355	New York State Legislative Library	(518) 455-4000
Federal Tax Information	(800) 424-1040	North Carolina Supreme Court Library	(919) 733-3425
Florida Supreme Court Library	(904) 488-8919	North Dakota, University of, Law Library	(701) 777-2204
Georgia State Library	(404) 656-3468	Ohio Law Library, Supreme Court of	(614) 466-2044
Gonzaga University Law Library	(509) 484-6092	Oklahoma, University of, Law Library	(405) 325-4311
Graham & Dunn Law Library	(206) 624-8300	Oregon Bar Association	(503) 620-0222
Harvard Law School Library	(617) 495-3174	Oregon Supreme Court Library	(503) 378-6030
Hawaii Supreme Court Law Library	(808) 548-7434	Pennsylvania, State Library of, Law Section	(717) 787-3273
House Documents Office	(202) 225-3456	Perkins, Coie Library	(206) 682-8770
Idaho Bar Association	(208) 342-8958	Pierce County Child Protective Services	(800) 422-7517
Idaho, Kootenai County Law Library	(208) 769-4400 ext. 211 or 212	Pierce County Children/Youth & Family Services	(206) 593-2600
Idaho State Law Library	(208) 334-3316	Pierce County Family Community Health Services	(206) 591-6500
Illinois, Supreme Court of, Law Library	(217) 782-5287	Pierce County Juvenile Court Services	(206) 756-0606
Illinois, University of, Law Library	(217) 333-2914	Pierce County Law Library	(206) 591-7494
Indiana Supreme Court Law Library	(317) 232-2557	Pierce County District Court	(206) 591-7788
Iowa State Law Library	(515) 281-5124	Pierce County Superior Court	(206) 591-7464
Judicial Council	(206) 753-5100	Pierce County Youth Emergency Service	(206) 593-4281
Judicial Qualifications Committee	(206) 753-4585	Preston, Thorgrimson, Ellis & Holman Library	(206) 623-7580
Kansas Supreme Court Law Library	(913) 296-3257	Puerto Rico, University of, Law Library	(809) 764-0000 Ext.2551
Kentucky State Law Library	(502) 564-4848	Rainier Counseling Services of Tacoma	(206) 565-7887
(Seattle-)King County Bar Association	(206) 624-9365	Rhode Island State Law Library	(401) 277-3275
King County Civil Rights & Compliance	(206) 296-7592	Roberts & Shefelman	(206) 622-1818
King County Courthouse	(206) 296-0100	Salt Lake County Law Library	(801) 535-5818
King County District Court	(206) 296-3617	Scheppe, Doolittle, Krug, Tausend & Beezer Library	(206) 223-1600
King County Family & Youth Services	(206) 386-1001	Seattle Better Business Bureau	(206) 448-8888
King County Family Court Services	(206) 296-9390	Seattle Child Abuse Prevention	(206) 464-6151
King County Juvenile Court & Youth Service	(206) 296-1500	Seattle Child Protective Services (24 hrs.)	(206) 721-4115
King County Law Library	(206) 296-0940	Seattle Children and Family Services	(206) 721-4135
King County Library	(206) 684-9000	Seattle City Attorney	(206) 684-8200
King County North Rehabilitation Facility	(206) 296-7670	Seattle City Clerk	(206) 684-8344
King County Probation Unit	(206) 296-4155	Seattle City Council	(206) 684-8888
King County Public Defender	(206) 296-7662	Seattle Corrections Dept.	(206) 464-7055
King County Public Health Dept.	(206) 296-4600	Seattle Crime Prevention	(206) 684-7555
King County Superior Court	(206) 296-9330	Seattle Family Violence Project	(206) 684-7770
King County Teen & Child Mental Health	(206) 296-4620	Seattle-King County Bar Association	(206) 624-9365
King County Women's Programs	(206) 296-5240	Seattle Law Library	(206) 442-4475
King County Youth Service Bureau Program	(206) 296-5229	Seattle Legal Action Center	(206) 324-6890
Lane Powell Spears Lubersky Library	(206) 223-7139	Seattle Municipal Court	(206) 684-5600
Lewis County Law Library	(206) 748-9121 Ext.173	Seattle Public Library	(206) 386-4636
LEXIS	(800) 543-6862	Seattle Social Services	(206) 721-4071

Seattle Women's Rights Office	(206) 684-0390	Thurston County District Court	(206) 786-5225
Shepard's-McGraw/Hill	(800) 525-2474	Thurston County Superior Court	(206) 786-5431
Snohomish County Law Library	(206) 259-5326	U.S. Bankruptcy Court, E.D. Wash.	(509) 456-3830
South Carolina, University of	(803) 777-9405	U.S. Bankruptcy Court, W.D. Wash.	(206) 442-7545
South Dakota Supreme Court Law Library	(605) 773-4898	U.S. Court of Appeals 9th Cir. (San Francisco)	(415) 556-7340
Spokane City Codes and Ordinances	(509) 456-4350	U.S. Court of Appeals 9th Cir. Library (Seattle)	(206) 442-4475
Spokane City Court	(509) 456-4756	U.S. District Court, E.D. Wash.	(509) 456-3728
Spokane City Hall	(509) 456-4350	U.S. District Court, W.D. Wash.	(206) 593-6313
Spokane County Bar Association	(509) 456-6033	U.S. Supreme Court	(202) 479-3000
Spokane County Bar, Lawyer Referral Service	(509) 456-6032	University of Puget Sound Law Library	(206) 756-3326
Spokane County District Court	(509) 456-2230	University of Washington Law Library	(206) 543-4089
Spokane County Jail	(509) 456-2278	Utah, University of, Law Library	(801) 581-6594
Spokane County Law Library	(509) 456-3680	Vermont Dept. of Libraries	(802) 828-3268
Spokane County Prosecutor	(509) 456-3662	Virginia, University of, Law Library	(804) 924-3384
Spokane County Public Defender	(509) 456-4246	Walla Walla County Law Library	(509) 529-9520
Spokane County Superior Court	(509) 456-5782	Washington State Archives (Legislative History)	(206) 586-1492
Spokane County Superior Court Clerk	(509) 456-2211	Washington State Bar Association	(206) 448-0441
Spokane Juvenile Court Services	(509) 456-4742	Washington State Court of Appeals, Div. I	(206) 464-7750
Spokane Medical Library	(509) 458-6251	Washington State Court of Appeals, Div. II	(206) 593-2970
Spokane Official Gazette	(509) 456-4350	Washington State Court of Appeals, Div. III	(509) 456-3082
Spokane Police Department	(509) 456-6059	Washington State House of Representatives	(206) 786-7750
Spokane Public Library	(509) 838-3361	Washington State Law Library	(206) 753-6524 or 6525
Statute Law Committee, Permanent	(206) 753-1440	Washington State Legislative Bill Room	(206) 786-7573
Tacoma City Clerk	(206) 591-5491	Washington State Senate	(206) 786-7550
Tacoma Emergency Services	(206) 591-5747	Washington State Supreme Court	(206) 753-5080
Tacoma Family Counseling Service	(206) 627-6105	Washington, University of, Law Library	(206) 543-4089
Tacoma Lawyer Referral Service	(206) 383-3432	Washington Victim/Witness Services of Seattle	(206) 361-4540
Tacoma Municipal Court	(206) 591-5834	West Virginia Law Library, State of	(304) 348-2607
Tacoma People's Community Center	(206) 591-5322	WESTLAW	(800) WESTLAW
Tel-Law (Spokane)	(509) 328-0642	Wisconsin, University of, Law Library	(608) 262-1128
Tennessee State Law Library, Jackson	(901) 423-5894	Wyoming, University of, Law Library	(307) 766-2210
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Summary

Good legal research requires not only a thorough, working knowledge of statutes, cases, administrative codes and digests, but also a broad understanding of many specialized secondary resource materials. It includes the use of other nonbook approaches. The telephone, properly used, is an excellent research tool. Abraham Lincoln once said, "A lawyer's time and advice are his stock in trade." We developed this brief summary in the hope of helping legal researchers spend less time doing research, and more time advising their clients. □

James W. Quinn is Reference Librarian and **James M. Murray** is Director at the Gonzaga University School of Law Library. **Mark Alan Folmsbee**, former Gonzaga Law Library Reader Services Librarian, is now Associate Director at the Washburn University School of Law Library in Topeka, Kansas. They dedicate this

article to **Larry Paulsen**, former library research assistant, without whose

capable initial efforts the article would not have been written.

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A Real Killer

Depression can kill.

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Depression is always painful, even when transitory.

My depression was lifelong. That I can refer to it in the past tense shows that depression can be beaten, but it took the Lawyers' Assistance Program and self-effort to get to this point. The wisdom and allegiance of my spouse has been immeasurably important to my recovery.

Years before the LAP was established by the WSBA, I came to realize that I had a problem. But that happened long after I had set my course as an underachiever in school, in law and in my family.

Denial is a strong component of depression (or any other impairment, for that matter). I had been given opportunities for help along the way, but one of the expressions of my denial was to join those who declare psychology to be "a liberal art posing as a science."

I had successes. Like my only brother, I made a comfortable living and enjoyed some of the outward signs of accomplishment. When his marriage failed, I gave no conscious thought to emotional illness. (No one in my family is screwed up.)

When my marriage failed, I received help for a few weeks, almost accidentally, but then rationalized therapy as merely expensive, slow, silly and inconclusive. Besides, I convinced myself, the pain of the pending divorce would pass. I didn't allow myself to see the divorce as a symptom.

When my brother killed himself, I rationalized that the reasons for his death were inconsequential, choosing instead to focus only on the grief of his passing. I knew somehow, again without a conscious ability to realize it, that to go farther into his makeup at that point would necessarily have compelled me to examine myself, which

would simply have made the pain unbearable. (In some ways denial is a self-defense mechanism.)

Later, when I came to learn that I was prone to self-destruction, I saw the family and business wreckage that followed his self-devastation. Nevertheless, I ignored the lessons of his death.

Although suicide is not an inevitable consequence of chronic depression, some sort of destruction usually results. The fatigue, anger, guilt, and confusion of depression frequently result in alcoholism, drug abuse, career and family turmoil. Alcohol and drugs are known, efficient, and inevitable killers. Job loss, career dissatisfaction and physical or financial risk-taking can be symptoms of the illness. The law partner whose billings fall off or who alienates clients by irritability, impatience or procrastination may well be destroying him/herself because of depression. All too often the practice, the firm reputation or the firm itself is the only apparent victim.

I decided something had to be done when I realized that my second marriage was experiencing many of the same problems as my first. I was the only constant in the two unions. And I was drinking too much. I consulted my family physician and took his referral.

Five years later, having gone on to try everything I could find short of faith healing, I was still utterly and pervasively sad, obsessive and anxious. My voice was flat much of the time. People would comment on my declining appearance, in spite of my efforts at grooming. I was in-house counsel at the time, and many of my lay coworkers came to dislike and even despise me. (Ironically, during that same time, lawyers awarded me national recognition for my "professional" accomplishments. Paranoia, obsessiveness, distrust and even irascibility can fuel success in a profession.)

I set a date for my death and made the necessary arrangements for my family. However, the prescription medicines I was taking, as directed, made me so physically ill that I was hospitalized. I was angered, but not surprised, when I was consigned to a mental ward. Six weeks later, I was physically repaired and under a new chemical regimen by the same "prominent" physician who

had prescribed me to death's threshold. My emotional health was no better.

I went to the LAP offices. I was impressed with the pragmatic approach of the staff. Their credentials and the fact of Bar sponsorship gave the program added credibility. The confidentiality was important. The fact that the services were free or at nominal cost was significant because emotional illness or chemical abuse often leaves personal finances in a shambles, and my case was no exception. (Obsessive spending is often a clue to impairment, and any medical treatment is expensive.)

In my case the LAP assisted me in finding physicians who were better qualified, but less expensive and well-marketed than my psychiatrist. Medications were changed and greatly reduced and, although it took me some months to brave admitting that I actually felt better, others saw an almost immediate improvement.

My regimen was supplemented by attendance at a weekly meeting with a group of fellow lawyers who also were impaired with a variety of ailments. It was after one of those discussions that I realized that I was embarrassed and that the cause of my shame was not, unusually, depression. It came from my discovery that I was feeling better than any of the other lawyers in the group and that self-pity had become inappropriate. I then knew that I was fine and that serious, clinical depression was behind me.

With my new self-esteem and health, I was able to extricate myself from a bad job situation and establish myself in private practice. I can now get up in the morning without a struggle and look forward to working with people, two of my biggest difficulties while ill. My finances are falling back into line, and my family is enjoying me. I can now focus, prioritize, and concentrate. I hope to repay part of my debt to the LAP, and the Bar Association, by helping fellow lawyers as a peer counselor. Besides, it's good for me.

For more information on depression or any distress symptoms (eating disorders, chronic procrastination, alcoholism, anxiety attacks, anger problems, etc.) call the Lawyers' Assistance Program at (206) 448-0605. All calls are strictly confidential.



Justice for All (Supreme Court Division)

by Alan L. Gallagher

As the Senate considers a new Supreme Court Justice, a look back at one of the most controversial...

Robert H. Bork, *The Tempting of America: The Political Seduction of the Law*. (New York: The Free Press, 1990), hardcover, 432 pp., \$22.50.



In his 1984 lecture, "Tradition and Morality in Constitutional Law" at the American Enterprise Institute, Judge Robert Bork suggested that there were no standards underlying the Constitution as a whole. He wrote of a "theoretical emptiness" that "at its center makes...constitutional law unstable, a ship with a great deal of sail but a very shallow keel." This "emptiness" makes Bork, an eloquent critic of judicial activism, troublingly vulnerable to other imbalances in our constitutional system.

In 1987, Bork failed to obtain Senate consent to his U.S. Supreme Court nomination by President Ronald Reagan. The campaigns for and against him were couched largely in political terms. Many, supporters and opponents, clearly regarded the Court as a political institution and campaigned for or against the man deemed likely to give the results they favored. Bork was viciously and falsely attacked, accused of saying or doing things he had not. Ironically, had partisans studied the man better, their positions for or against him might well have been reversed.

Last year, at Pacific University, Bork debated historian Arthur Schlesinger Jr. on constitutional interpretation, before a panel led by Oregon Attorney General Dave Frohnmayer. Schlesinger complimented Bork's personal grace and integrity and scathingly criticized the methods of Bork's opponents in the Senatorial battle. Of course, as hagiographer of the Roosevelt and Kennedy eras, Schlesinger did not agree with Bork's views of constitutional interpretation. But he had the grace to

understand and appreciate the man before rejecting his views.

The reader of *The Tempting of America*—Bork's own account of both the battle, and the theories behind the battle, over his confirmation—will find a judge now in exile at the American Enterprise Institute who, though much to be admired for his personal qualities, generates little agreement.

How ironic that a judicial nominee was rejected by the Senate, when his core values include deference to Congress. Bork would have made an ideal appointee by Roosevelt to sustain the New Deal. His principled deference to Congress and legislatures make him sound almost like Oliver Wendell Holmes. Indeed, conservative Edward Crane chastised Bork as having "the soul of a congressman." One would have thought that the Democrats in control of Congress, had they looked past the labels, would have found Bork if not an ideal candidate, at least the best that could be expected from Reagan.

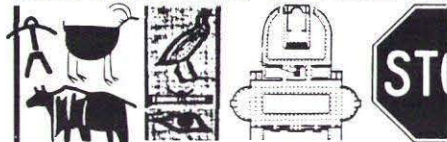
How ironic, too, that such a judge should have been championed by conservatives (though not all), when his deference to legislatures was so "neutral" and Holmsian as to be almost value-free. Bork, before the Senate and in *Tempting*, eschews turning back the clock and expressly attacks activist "conservative" jurists as vigorously as he does activist liberals. In fact, Bork has specially attacked "activist" Justice John Marshall Harlan and his influential successors.

Robert Bork has given us a very well-written account of the history of the Constitution and its interpretations, and of his ordeal before the Senate. It is

adorned with wit, and with pointed observation. Examples include the telling comment that John Marshall's aphorism in *McCullough v. Maryland* does not imply that the interpretation of the Constitution must change from age to age, but rather exactly the opposite, as otherwise a broad initial interpretation would not have been necessary. Bork skewers hypocrisy, as when he notes that Senator Bob Packwood, who asked *his* opponents to judge him not solely on abortion but upon his whole record, told Bork he, Packwood, would judge Bork solely on that issue. He notes the posturings of the American Civil Liberties Union, People for the American Way, and the orchestra of opposition led by Senators Kennedy and Biden, which deliberately spread lies about Bork to win the day. Bork well describes the development and varieties of judicial activism, but less well the theories behind them.

Bork's own philosophy of constitutional interpretation is also set forth. In his criticism of others Bork is best, but his own views, though understandable, also create difficulties. In a nutshell, he believes that jurists are bound by the words of the written Constitution and, where they cannot find justification in the text, should decline to act. His is a narrow, contract view, which focuses on the words themselves. This method has been described by Fred Matthews ("The Attack on 'Historicism': Allan Bloom's Indictment of Contemporary American Historical Scholarship," *The American Historical Review*, April 1990) as derived from the method of Leo Strauss, political philosopher of the University

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of Chicago, who influenced both Bloom and Bork. Straussianism is one of several originalist schools, which agree on the importance of the document itself and but a small penumbra of other documents whose connection is clear. Writers of left and right, from *The Nation* to *The National Review*, have noted the sources and defects of Bork's methods, and that they rule out statements of ethical principle and historical context. Matthews insightfully relates Bork to the University of Chicago movements of the 1930s to 1950s when Strauss, Robert Hutchins, Mortimer Adler and others made it the center of absolutist, antipragmatic and antihistoricist thinking. As Edward Purcell has pointed out (*The Crisis of Democratic Theory: Scientific Naturalism and the Problem of Value*, 1973), that movement was also the spearhead of the attack upon legal realism and pragmatism in the law. (For those who criticize the media, it is worth noting that suggestions of Bork's philosophical roots can be found in *Newsweek* and *The New Republic* as well.)

Bork believes that the courts have been led astray by the temptation to make policy and law, rather than merely apply the words of the Constitution. He believes that in our system, with a written Constitution, "principles never adopted by the people cannot be authoritative" (quoted from Michael McConnell). His criticism begins with the activism of *Dred Scott*, includes the judicial activism of the late 1800s in support of property and free enterprise, and embraces the constitutional revolutions of the New Deal, the Warren Court and its successors. Bork would return to the original understanding and respect for the text as the sole sources for court's authority. He himself argued, prior to his nomination,

...[T]he philosophy of judging according to the intent of the legislature...is neither a conservative nor a liberal philosophy. It just doesn't cut that way. It's a philosophy of judging.

Bork was, and would have been a conservative judge only in the sense that he would not have been a judicial activist. While he would not have

advanced "the liberal agenda," neither would he have reversed it or hindered its achievement if sought through legislation. If he would not have allowed the incremental Constitutional revision practiced in recent decades, neither would he have prevented consolidation of what has already been achieved. In these senses, Bork was correctly perceived by conservatives and liberals as somehow unsatisfactory.

I am personally an admirer of Bork, have met and observed the man, and believe that he should have been approved for the Court. In context, his respect for the written Constitution, his clear perception of the misuses of the Court by activists of all stripes, his intelligence and personal integrity, his experience, wit and sterling professionalism, made him an excellent choice. But in the best of all possible worlds (emphatically not the one we inhabit), Bork would not belong on the Supreme bench.

Those who believe that judges will and must make law, whatever the rhetoric or appearance of their decisions, will never credit that Bork was not the conscious or unconscious actor for the forces of conservatism which nominated him. Such critics would little value the distinction of roles Bork articulated, how one properly behaves, and should be evaluated differently, as law professor, scholar, advocate, government attorney and as judge. Bork correctly noted he was improperly judged, if viewed solely as he performed in nonjudicial positions. He had the distinction, in his tenure on the D.C. Court of Appeals, of never having been reversed and, in spite of his critics, was demonstrably not out of the mainstream as a judge.

But, my having said that, what was the man himself? He served for the late 1980s as the lightning rod in the battle between conservatives and liberals for control of our culture and its institutions, but what was he?

As a critic of others, Bork has been excellent, showing the lack of principled views on the Court in areas ranging from privacy to civil rights. His dissection of the Court's use of economic theory in antitrust cases (*The Antitrust Paradox: A Policy at War with Itself*, 1978) is scathing on the

economic illiteracy of the courts. It is a fascinating pro-consumer analysis of the failures of antitrust policy. It is again ironic that Bork, with his pronounced pro-consumer emphasis, should have been rejected by a purportedly pro-consumer Congress.

During the 1930s and 1940s, a major battle occurred both in the legal profession and in other disciplines. As described by Edward Purcell, legal realists, relativists and pluralists were indicted by natural-law theorists. The crux of the attack was the assertion that relativism led to decay of values and to totalitarian rule. Modern theories, it was asserted, undermined the very possibility, much less desirability, of adhering to the basic values, constitutional and moral, of American democracy. (Allan Bloom's recent *Closing of the American Mind* is a sortie in the same battle.) Bork's pedigree derives from this era, and goes to the roots of how we legitimize our government and culture. But Bork, while embodying this conflict, seems unaware of the wider culture and of his place in it. His peculiar learning seems only in the law and self-contained criticism of it, a position perhaps reflective of or productive of his narrow view of interpretation. As a result, although Bork has been described as "brilliant" by such as George Will and Milton Friedman, the reader here is invited to see him as shallow and insular.

Bork's professional training was at the University of Chicago, the heart of the natural-law reaction of the mid-century and of laissez-faire economics. He was raised in Catholic schools. Like President Bush, he became a man with a biography, a good, decent man: professor of law at Yale, Solicitor General and Acting Attorney General of the United States, private practitioner at one of the country's most distinguished firms, judge on the D.C. Court of Appeals. He joined Richard Morgan, Raoul Berger and Walter Berns as the most articulate opponents of the new constitutionalism bereft of a written constitution.

Bork has written two books. *The Antitrust Paradox*, generally thought of as part of the "law and economics" movement and a typical Chicago

product, is amazingly empty of economics and is more precisely a critique of the Court's use of economic theory. It argues that the antitrust laws have been applied to adversely affect consumers while purporting to aid them, a subject worthy of discussion. Historians and others have written with depth and insight, if widely differing views, on the interaction of laws and actors with ideas, economic and otherwise. From Charles Beard to Gabriel Kolko, from Lawrence Friedman to Forrest McDonald, liberals and conservatives have wrestled with such questions. Study of the constitutional era requires immersion in such disputes. But Judge Bork seems not to have paid attention. His indices list law cases and sources, but they are startlingly empty of economic or historical sources. The book is an exercise in scholastic logic, a *reductio*, rather than a history or an explanation. It is a Socratic law professor examining weaknesses in an opponent's assertions, without presenting a defensible position of his own. One finds the same quality in his *Tempting of America*.

Constitutional scholar Arthur Bestor recently criticized the narrow-intent method of interpretation as a-historical. To say, as Bork does, that in a constitutional republic, there cannot be a successful revisionist theory of constitutional adjudication, to say that every theory not based upon the original understanding is illegitimate, leaves unanswered more questions than it answers. Harry Jaffa, a Bork supporter, nonetheless found in Bork's jurisprudence the defects which were at the heart of the difficulties his nomination suffered, "the endemic defects of present-day conservative jurisprudence" ("Judge Bork's Mistake," *National Review*, 3-4-88). The very heart of that jurisprudence is the doctrine that the Constitution must be interpreted in the light of its "original intent." But, says Jaffa, the mainstream conservative conception of what constitutes original intent is a latter-day invention, a mere analytical tool for deciding cases a certain way. It is *not* an attempt to understand those who framed and who ratified the Constitution as they understood themselves. The efforts of scholars such as Leonard Levy

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or Arthur Bestor, whether or not one agrees with their conclusions, are an effort to find what the founders understood and meant. Bork, because he tries to find the intent of the Constitution solely in the text, has a method which is fundamentally flawed. Bork (echoing Holmes) argues that judges have no mandate to govern in accordance with a particular theory, but he ignores that the historical Constitution is founded upon a particular contractarian theory, founded in Lockean natural rights. Bork's attack on abstractions in the name of "history" goes against the grain of genuine history.

While Bork appears to weigh in on the side of conservatives, absolutists and proponents of fixed moral values, he is himself, proudly, a relativist and moral skeptic, truly in the line of Holmes, who can find no root except in the mere words of the Constitution. His views are fundamentally at odds with the philosophy of the framers, when he rejects rights antecedent to the Constitution. In 1985, Bork stated:

The effort to create individual rights out of a general abstract, moral philosophy is doomed to failure from the beginning because I don't think there is any version of moral philosophy that can claim to be absolutely superior to all others.

In Edward Crane's view,

Such moral scepticism rejects the very philosophy that lends substance and texture to the framers' Constitution. Its crabbed view of rights leads to legal positivism--what's right is what the lawmakers say is right.

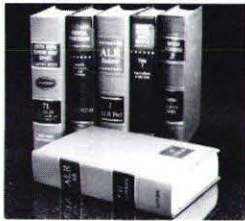
One of Bork's greatest difficulties in the Judiciary Committee hearings was with the question of the constitutional right to privacy, for which Bork could find no basis. Bork considers such landmarks as *Pierce v. Society of Sisters* (in which Justice McReynolds disapproved an Oregon initiative which outlawed private schools and found an anterior right in parents to direct

education of their children as well as a right of contract in which the state could not interfere) to be examples of unwarranted judicial activism. He excoriates equally Justices Douglas and Harlan. But Justice Douglas, in speaking of the relationship of husband and wife, was correct and eloquent in locating its rights anterior to even the Bill of Rights. In choosing a moment in time and the narrow space of the mere words of the Constitution, Bork has isolated himself from those who would employ the past and the present as part of the material of judging. Bork was precisely correct when he argued that his performance in other roles was not relevant. The media, the congressional schedulers and Bork's opponents made him appear to have less support than he did in his hearing. It is regretful that the hearings and the background campaign were conducted with such viciousness and unfairness. It is likely Bork would have been approved in a review conducted with courtesy and fairness. A review of the witnesses on Bork's behalf is impressive (*Report of Committee on the Judiciary*, Oct. 13, 1987). Bork would have made an excellent, honest, insightful Justice. But it is also likely that President Reagan, in the tradition of many of his predecessors, would have lived to regret the Bork appointment, because Bork was not and is not a "conservative." Bork, as a circuit court judge, was so consistent in deferring to legislation that a panel of conservative constitutional law experts (*Benchmark*, May-June 1987) noted that neither the fear nor the enthusiasm for him would prove enduring, as "he had not truly challenged activist precedents."

Ultimately, *Tempting* proves unsatisfactory because of Bork's narrow views, which do not allow him fully either to portray or to credit those who differ from him. The richness and flexibility of views of interpreting the Constitution are not to be found in Bork, who has instead presented a strong brief for his point of view alone.

Alan L. Gallagher is in private practice in Stevenson.

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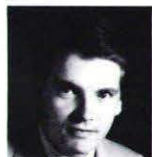
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Use It Carefully

John T. Wood, *The Little Blue Book on Power* (Winslow, Washington: Zen'n' Ink, 1990). Softcover, 135 pp., \$9.95.

by Cheri Brennan and Lindsay Thompson



Power is not what we think it is, according to this new book by a Washington psychotherapist and author.

One hundred definitive statements that capture the essence of personal power and leadership are contained in *The Little Blue Book on Power* by Dr. John T. Wood, a Bainbridge Island resident.

For those raised on Sun Tzu, Machiavelli and Michael Korda, this book is appallingly touchy-feely. But it is intended to educate readers about power and to help them use their power toward more collaborative, loving ends. According to the author, the collection is meant to be dynamic as well as provocative, while considering both personal and professional situations.

"Power is an ever-present reality in our lives," Dr. Wood emphasizes. He believes relationships between individuals and within organizations can be improved through an understanding of the sources and implications of power. The genesis of the book was a three-year consultancy with a furniture

manufacturer to improve motivation, decrease staff turnover and boost employee morale. Wood came to realize that the company's problems had their roots in perceptions--and misperceptions--about the nature, use and possession of power.

"I have tried to give readers a more friendly way of looking at power," Wood says. "Power is defined and discussed in a way that helps the reader to claim more of her or his power without the usual overtones of control or domination that usually color our attitudes."

The aphorisms are presented in a handbook-like format. This arrangement, the author explains, is intended to help managers, teachers, families, therapists and others in leadership positions in selecting and applying the information to various situations.

The Little Blue Book on Power is divided into five sections: power defined and valued, power and the self, power and an other, power denied and power as leadership.

Each aphorism, which appears as an easy-to-read headline, is fully explained by 200 to 500 words of text. This often includes a story which illuminates the statement and aids retention.

Wood is a psychotherapist and consultant to organizations with offices in Seattle and Silverdale. For the past 20 years, he has led seminars, workshops and training for other therapists in Europe, Mexico and this country. He also wrote *How Do You Feel?* and *What Are You Afraid Of?*, as well as two books of poetry.

The Little Blue Book on Power and an audiotape on power are available at local bookstores or by mail from the publisher, Zen 'n' ink, P.O. Box 11714, Winslow, WA 98110. Retail price for the softbound book and cassette tape is \$9.95 (each); for mail orders add \$1.50 postage and handling plus local sales tax.

Former WSBA staffer **Cheri Brennan** is now a public-relations consultant in Redmond.



Framed, Sort Of

Fredrick D. Huebner, *Picture Postcard* (New York: Fawcett Columbine, 1990), 280 pp., hardcover, \$16.95.

by Lindsay Thompson



When the protagonist is a series figure, he is able to grow, to develop from book to book, and provided the author is concerned with life and not pasteboard (as in Fleming's James Bond), age brings exhaustion, boredom, the loss of illusions. In this way, their series figures actually grow as they

diminish for they become more real for becoming less heroic.

—Robin W. Winks, *Modus Operandi: An Excursion Into Detective Fiction* (1982)

Meet Matthew Riordan, Washington State Bar Association member, Seattle

lawyer, detective fiction character. The hero of four novels by WSBA member, Seattle lawyer and detective fiction author Frederick Huebner, Riordan is someone you won't meet at gatherings of the Bar establishment. He probably voted for Alva Long, if he bothered to vote at all.

Born in Montana around 1948, he graduated from Great Falls Cathedral

High in 1965, went to Yale, dropped out, went to Viet Nam and got shot, came home, worked as a Justice Department investigator, finished college and then law school mostly at night, joined a federal crime strike force in Boston, tried corporate law in New York, didn't like it, and moved to Seattle as the '80s got underway. He has family connections in the Northwest: an aunt left him a house on the northwest shore of Lake Union; his maternal grandfather was a World War I era logger in southwest Washington ("As an old man in Montana...he had said that the four hottest places on a Saturday night were Aberdeen, Chehalis, Hoquiam and Hell. In that order.").

You might run into Riordan on the criminal dockets down at the courthouse. He'll be sitting near the back, reading one of the three newspapers he goes through regularly. No gladhander, he is a keep-to-himself sort and at times a bit of a grump ("I dodged a pair of crying children, being mocked by one of the mimes and minded not at all that I had to collide with the mime to miss the children. I

am one of that irascible minority who believes that mimes should be given a choice between honest work and capital punishment."). He has a well-developed disrespect for certain institutions ("when they were gone, I walked around in a daze, neurotically straightening the piled-up copies of the *State Bar Journal* and the other junk people are always sending to lawyers."). He does a fair amount of PI and criminal work, and over the course of four books it is interesting to watch his practice develop.

In *The Joshua Sequence*, set circa 1982, Riordan's hanging out in bars just waiting for Andy Benjamin to invent the Lawyers' Assistance Program. He's a real basket case, prone to bouts of depression and reading grim Russian novels to feel better. He drinks too much, smokes, and pops some speed along the way. At times he'd just as soon throw a punch, it seems, as look at you. From his office in Pioneer Square (neighbors include a secretarial school, a bail bondsman and an escort service), he conducts a straggling practice. By 1986, in *Judgment by Fire*, he's got an office on Lake Union; in *Picture Postcard*, the latest, he's sharing space there with a younger lawyer, using a portable computer, traveling business class to faraway places at the drop of a corpse, and drinking in better bars (some of the time). He's handling better cases, but still has time to put in days on end to solve murders (reality has to stop somewhere).

Picture Postcard is a well-written exploration of a long-buried crime. In his first novel, *The Joshua Sequence*, Huebner tried his hand at this theme in a *Big Chill*-style murder mystery involving '70s radicals who start turning up dead a decade later. This time, he goes back a full half-century to the 1939 death of an art student at a party attended by people who went on to become leaders of the arts, business and law in Seattle. The death turns up as one of a fistful of loose ends arising from the 1977 auto accident death of a prominent Northwest artist. His granddaughter, an art gallery owner, finds her reputation-making retrospective on grandpa's work threatened by works turning up in his style which are clearly forgeries: they must be, after all, he's been dead since

1977.

Riordan, drawn into the affair by his friendship with the granddaughter, sets out to find the forger and finds himself inexorably drawn into the 1939 death of the art student. As he investigates, the ancient event explodes into the present with attempts on his friend's life and principals of that long-past event turning up dead.

Picture Postcard is the most purely "detective" of Huebner's novels. Compared, say, to *Judgment by Fire*, a trial procedural, *Picture Postcard* has almost nothing to do with Riordan the lawyer. His presence is the vehicle propelling the narrative, but much less so than in prior outings. *Picture Postcard's* style is quiet and elegant. It's particularly effective in getting out of Seattle (as are the prior books) and invoking the atmosphere of places in Washington--farms, small towns, and rainy, foggy days on the Peninsula.

Huebner follows the conventions of American detective fiction. Riordan is a classic outsider, a hardboiled loner, whose relationships with women always seem to founder. He has a suitably and usefully varied background, including stints with lowlife types whose lore and connections come in handy. He has recurring characters turning up in supporting roles: a successful gangster, an independently wealthy Seattle police detective, and an old Viet Nam buddy, now a freelance investigator who'd been recruited into the CIA by an old Yalie named Oakes (a sly tip of the hat to William F. Buckley's fictional spy, Blackford Oakes). But Huebner manages, with a deft pen, to avoid the clanking of machinery as the required elements of a detective story plot appear and fall into place. Huebner is also a master of the false ending: just when you think matters are coming to a conclusion, out jumps a submerged subplot you realize was there all along, and leads you on a chilling chase to a new and more alarming ending. This novel, and the other Riordan stories, are a cut above the average--two or three cuts, in fact--and one looks forward to many more.

Lindsay Thompson edits the Bar News from Vancouver, Washington, and once took a college course on the theology and ethics of detective fiction.

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Janet L. Smith, *Sea of Troubles* (Menlo Park, California: Perseverance Press, 1990), 197 pp. softcover, \$8.95.



by Lindsay Thompson

A San Juan Islands resort, on the block as part of an estate transaction, brings Seattle lawyer Annie McPherson into more than a pleasant out-of-town excursion from the office. People disappear; her client is a suspect; and practically every character is a walking exemplar of greed, duplicity or one or more of the Seven Deadly Sins. *Sea of Troubles* is the first outing for Washington lawyer and administrative law judge Janet L. Smith and her heroine, Annie McPherson.

A fan of Agatha Christie, Smith has written *Sea of Troubles* in classic Christie style. It's a bit like *Murder on the Orient Express* translated to the site of *Ten Little Indians*: in the first chapter, as Annie sits in the lobby of the island resort, the cast of characters parades through, revealing enough animosities, conceits and red-herring strips of dialogue to keep Annie and the reader busy for the next two hundred pages. The action shifts back and forth from Annie's involvement in events to teasing bits of talk and action revealing what the bad guys are up to (something bad, but just what you have to get nearly to the end to fully appreciate).

Sea kayakers will enjoy scenes of adventure in icy San Juan Islands waters, and those who know the area will enjoy the atmospherics. Smith has described the islands well, and it's fun to guess what real-life places are used as the bases for places in the novel. The one problem with the "Christie Classic Approach" to detective fiction is that the characters tend toward woodenness, since the main thrust of that style is the puzzle and its resolution. Of course, in the alternative style, the psychological novel, or "entertainment" exemplified by Graham Green and Georges Simeon, the puzzle sometimes suffers at the hands of character development. You

pays your money; you takes your choice.

Sea of Troubles is a good regional detective story. In her decade in Seattle ("born and raised in southern California," her publisher says, "she has applied for naturalization as a Northwest native") she has noticed a lot and put it to good use. We hope she makes a sackful of money on the book so she can turn her hand to writing full time.

Interview with Janet Smith

Q: Why did you write *Sea of Troubles*?

A: I've always wanted to write mysteries, ever since I began reading Agatha Christie as a child. One thing that's always appealed to me is the sense of completion, knowing that all will be revealed at the end, all the loose ends tied up. In real life, the need for finality is frustrated on a daily basis. In the mystery, no matter how chaotic the events, order ultimately prevails. Even if truth and justice aren't served, it all finally makes sense.

Q: Why did you choose the setting of the San Juan Islands in Puget Sound?

A: The setting was an easy choice. I wrote most of the book while working as a trial attorney for a big law firm, a job that redefines the concept of free time. (Weekends are when you put on your jeans, go to the office, and finish all the projects you didn't have time for during the week.) I knew it would be hard enough to find the time to write a novel; extensive research on an unfamiliar topic was a luxury I couldn't afford. By setting it in the San Juans, a favorite hangout, and featuring the legal profession and my own hobby of sea kayaking, I was able to eliminate background research and concentrate on the story itself, checking only details.

Q: Why not write about a law office or courtroom?

A: I wasn't ready to write a book entirely about lawyers, even though, as a

group, they provide great material for a murderous mindset. Practicing law all day, I needed the writing to be an escape, hence the vacation locale and a varied cast of characters. Now that I'm a judge (and can tell other lawyers when to sit down and shut up), my need for escape from the law is much less intense.

Q: Can you describe your job?

A: Since August 1988, I've worked for the State Board of Industrial Insurance Appeals as an administrative law judge. I adjudicate appeals involving claims by injured workers or their employers. This isn't as far-removed from writing mysteries as it may seem. Like the detective interviewing suspects, I spend my day listening to conflicting stories, weeding out fact from fabrication, establishing credibility. Does the witness squirm and avoid eye contact? Is the "expert" a "hired gun" or an unbiased authority? Unlike the detective, however, I never get to assemble all the suspects in the parlor to reveal whodunit. And no one's ever stood up in my courtroom and yelled, "It's true. I did it. I'm the real murderer."

Q: What do you think of mysteries these days?

A: Although more women are writing them, I still feel the market is glutted with tough-guy detectives who drink, fool around, and get out of jams with their fists or guns. I've never met anyone like that, and I doubt most readers have. On the other hand, I do know lots of women like Annie MacPherson--smart, opinionated, able to handle themselves under pressure and joke about it afterwards. She's not a street fighter, but she could think her way out of a tight spot. If she were real, we'd probably be good friends.

Q: What's down the road for Annie?

A: Her next adventure will take place in a large law firm, which may make some of my former colleagues a little nervous!



James Gould Cozzens, *The Just and the Unjust*
(New York: Harcourt, Brace, 1942).

by Philip H. DeTurk

Senator Perkins used to say that when a man said he was seeking justice, what he meant, if he was the plaintiff, was that he aimed to do someone dirt and the court ought to help him; and if he was the defendant, that he already had done someone dirt, and the Court ought to protect him.

It could not be said to have taken many minutes; but when you heard them waste time and waste more time complaining about whether they were wasting time or not, what could you say, except that the law was an ass? They acted as though all eternity were at their disposal. If it did not get through this afternoon, there was always tomorrow, and the next day; and next week, and for that matter, next month, and even next year.

These are just two of the many legal aphorisms contained in James Gould Cozzens' *The Just and the Unjust*, an exploration of a few days during a first-degree murder trial in a small New England town, in 1939. It is an excellent read for lawyers of all ages.

A prolific author, Cozzens went on to win the 1948 Pulitzer Prize for *Guard of Honor*. Later still, he wrote *By Love Possessed*, the best-selling novel of 1957 and, later, a film. It, too, concerned lawyers, with the emphasis on an ethical problem.

While *The Just and the Unjust* is mostly about attorneys' acts and thoughts told through the conversations of a retired judge with his son, the deputy prosecutor in the murder trial, it is more than that. It is a period piece about life and the practice of law half a century ago.

This was a time when one of the two country judges had "a certain scruple about these more or less summary processes...", when a defendant is

sentenced without benefit of counsel the morning after the pornography is discovered; a time when the district attorney believed that unless a man was drunk or insane, the woman was always to blame for what happened to her in sex crimes.

Most of the action takes place in the courtroom, where the experienced defense counsel and his young, court-appointed assistant try to save the lives of individuals involved in a kidnapping, which ultimately resulted in the murder of their victim by another person not being tried.

While Cozzens' writing sometimes drifted to the Faulkneresque, he was generally an accomplished stylist whose work doesn't warrant its current popular neglect.

Among *The Just and the Unjust's* gems are these:

o Nine people out of ten wouldn't know the meaning of that word; but anyone who went to Childerstown High could tell you at once that it meant a race with a torch held in ancient Greece." The word was lampadedromy. (Earlier Cozzens does not define the term prothonotary, which was a type of clerk who functioned in the thirties, or "irrefragable," or "asseverate" or "guerdon," which anyone can look up.)

o "Getting to the bottom of things like that was impossible. You just had to take the practical view that a man always lied on his own behalf, and paid his lawyer, who was an expert, a professional liar, to show him new and better ways of lying."

o "It came to him (Abner, the main character in the book who had met this older lawyer when Abner was a lad), something of a personal accomplishment to have looked with his own eyes at a man who had been named Webster because...Daniel Webster...was a guest in the house that day in 1818 when Webster Binns was born."

o "The jury protects the court. It's a question how long any system of courts could last in a free country if judges found the verdicts...Resentment would build up every time the findings didn't

go with current notions or prejudices...The jury is the public itself. That's why a jury can say when a judge couldn't: 'I don't care what the law is, that isn't right and I won't do it.'"

While Cozzens was no lawyer, and some of his statements may appear to be prejudicial to the profession, the following advice is tantamount to complete success for all who may try a criminal case:

He was troubled by the problem of how to phrase and arrange a few things he could say to give himself every chance, no matter how remote or small, of getting at just one juror, or giving just one man or woman some scruple or sentiment that, catching in the simple or the over-complicated mind, would stay there, resisting the consensus, immune to sense or reason, only hardened in obstinacy by the arguments or expostulations of the others.

From a literary standpoint as well as legal nostalgia, *The Just and the Unjust* should be read again (or anew). It is an American classic by one of our greatest twentieth-century writers. □

Philip H. DeTurk practices in Puyallup and is an aficionado of legal fiction.





by Lindsay Thompson, Bar News Editor

Spokane, Washington, September 12, 1990

Present: President Vander Stoep, President-elect Halverson, the Governors and Governors-elect Tom Chambers, Monte Hester, Alva Long and Steve Tubbs.

Also present: C.C. Bridgewater (Prosecuting Attorneys' Assn.); Harold Clarke (WSBA/YLD); Frank Edmondson (Government Lawyers); Mary Fairhurst (Washington Women Lawyers); John Fattorini (WSBA Legislative Liaison); Judge James McCutcheon (Superior Court Judges' Assn.); John J. Michalik (WSBA Executive Director); Judge Dan Phillips (District Court/Magistrates' Assn.); Geoff Revelle (SKCBA Trustees); Lindsay Thompson (Bar News Editor/Clark County Trustees); Adrian Tollefsen (SKCBA/YLD); Judge Phil Thompson (Court of Appeals); and Robert Welden (WSBA General Counsel).

What Went on in There: The Board met in executive session to do stuff. It is known that among the stuff on the agenda was the sitting for Official Board Photographs. For the rest, consult your local Governor's newsletter.

President's Report: The president said he'd visited the California Bar Association and seen all sorts of interesting things that come with having 120,000 members. He said the Executive Director Search Committee was searching. Forty-five people applied. Half were members of the WSBA, which suggests that Andy Benjamin and the LAP folk should study masochist tendencies among lawyers.

Executive Director's Penultimate Report: John Michalik said this year's convention registration would run around 700: the lowest in years. This year's theme was "Lawyers Proud to Serve Washington." Apparently most were too busy serving to drive to Spokane.

Fingers to the Wind, Part 5: John Michalik reported on his discussions with the Hyatt Regency Maui Hotel for the 1995 convention. Heck of a deal, Michalik said: room rates will equal those being quoted for the 1992 Western States Bar Conference. Extra days can be added on by those wishing to make a vacation of it. Governor John Schultz thought the whole subject ought to be put over a month until "we take the pulse of the membership." Everyone agreed.

Ah, Those Pesky Details: The Attorneys' Professional Liability Insurance Committee put on an epic presentation running for hours and supported by 60 pages of written material. The gist of it was that they'd selected the Kirk-Van Orsdel Company to act as broker for a WSBA-sponsored professional liability program to be placed with Scottsdale Insurance Company, an Arizona firm. It was a great deal, the committee said, but for a couple of items-- There were some coverage questions to be worked out, and the rates quoted were too high. But just approve it, the committee said, and you'll send a strong message to the insurance people (present at the meeting; they, too, said it was a great deal) to make concessions unparalleled since Munich.

"It's not the cheapest, but the best," the committee said of

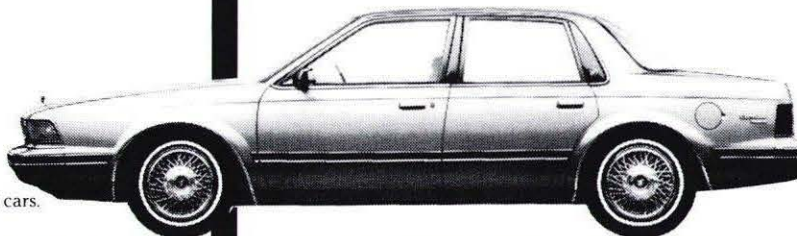
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the plan. But Governor-elect Tom Chambers said he was "appalled" by the contract and wouldn't vote for anything resembling it. After a long, long discussion, the Governors put off deciding finally on the proposal until the concessions come in.

The Domino Effect: The proposal for a Scholar-in-Residence in the Bar Association, to be occupied by Seattle attorney David Swartling, bit it when the Governors put off the insurance plan. Part of the money to fund the S-i-R would have come from the insurance company for liability reduction programs in the Association.

Ron Gould said he greatly respected the proposer but not the proposal, and couldn't see anticipating money that way. Even though the Association had made great financial progress in recent years, it was not time to start spending again.

John Schultz moved to kill the whole idea, but before a vote was taken some more discussion ensued. Paul Stritmatter thought the idea a good one and that the Association should take steps to get the program underway for 1991-1992 and beyond, when the budget projections showed it could be making a profit for the Association. Then Don Curran moved to table the plan. The Governors split, 5-5, Governors Gould, Howell, Schultz, Stritmatter and Turner voting no. The president voted to table, and there it went.

Maybe More People Would Have Applied If They'd Left the Cellular Phones in the Budget: A number of Governors said they were having trouble finding applicants for the Association's new Disaster Response Team (*Bar News*, September 1990, p. 25). Governor Ron Gould said he hadn't tried to fill his allocation because he still doesn't like the program and the liability it might bring onto the WSBA. But they approved eight nominees, and the rest will doubtless follow. Orientation, doubtless including a viewing of "Die Hard II," will take place in October.

Tying One On: The Governors considered some new procedural rules for the Client's Security Program. A discussion developed about what the time limitation should be for making claims. It was a year, John Michalik said, because the Bar Association wanted to protect its subrogation rights. Paul Stritmatter thought it ought to be three years. "We should write the rules to let people make claims rather than protect subrogation rights," he said. On a vote to extend the limitation, the Board again split, 5-5, Governors Howell, Schultz, Slater, Bergsten and Curran voting no. The president voted aye to break the tie. Some other amendments were put off to next month.

No Reservations About the Hotel Contract: Seattle lawyer Howard Todd filed an appeal under the Board's information access policy, objecting to the executive director's decision to release only the nonproprietary portions of the contract with the San Diego Marriott relating to the 1991 WSBA convention (*Bar News*, September 1990, p. 30).

John Michalik told the Board that since last month's meeting the San Diego Marriott had dropped its objections to making the proprietary portions of the contract public--until September 11, when they started getting telephone calls from the AP wire service about the story. Now they preferred that it not be made public. Too bad, said the Board, and made it public.

Pasco lawyer Ed Hiskes, identifying himself as Howard Todd's emissary, praised the Board for its action but noted

that the contract had only been signed in May and a prior contract, signed with the prior owners of the San Diego Marriott, had been "destroyed" by WSBA staff. We need a better record retention policy, Hiskes said, and proceeded to beat on the Bar office staff and the Board at length for their failings in that respect. He also thought the Board should direct staff to get a copy of the prior contract from the hotel and give it to Todd. He also thought it most regrettable that the Bar staff had destroyed contracts for 1986 through 1988.

Not a bit of it, said Michalik. Because of the WSBA's longstanding relationship with the Marriott in Vancouver, those years there was no contract. There was just a letter agreement. Well, you should have saved that, Hiskes said.

"That's not before us now," Ron Gould replied. "State and federal discovery rules do not require us to go to third parties to satisfy requests for production. What you're asking for is outside the scope of what you asked for. If you want us to consider a record retention policy, write us a letter about it. It's not properly before us now." And with that, the president adjourned the meeting.

The 101st Annual Meeting September 14, 1990

The Annual Meeting of the Association convened Friday at 8:30 a.m. Chief Justice Callow gave the annual address on the State of the Judiciary. The changing of the guard on the Board of Governors was noted and the new president, Lowell K. Halverson, introduced. The Award of Merit was presented, in absentia, to WSBA member and U.S. House Speaker Tom Foley, detained by events in Washington. Members of the Association celebrating 50 years in practice were honored.

Resolutions Committee chair Ted Zylstra then presented the three resolutions considered by the committee and passed on to the membership for consideration.

The first was to allow members to obtain some CLE credit by viewing videotapes and listening to audiotapes on an individual basis. SKCBA trustee Judith Eiler spoke in favor, noting that resolutions endorsing the proposal had been passed by the Benton-Franklin, South King, Walla Walla, Seattle-King Young Lawyers, Grant, Kittitas, Lewis, Klickitat-Skamania, Adams, San Juan, Clallam-Wahkiakum, Cowlitz, Whitman and Mason county bar associations. Many had endorsed it, she said, because of the difficulty of getting to CLEs from the more rural and isolated areas of the state.

Where do you draw the line? another speaker wondered. Why not give credit for reading the advance sheets. Former WSBA president Fred Velikanje thought a great value of CLEs is that the collegiality and sharing of information that would be lost if all attorneys did their own CLEs. Wayne Lieb of Olympia said the proposal would degrade the integrity of the CLE program. As it is, around 2 p.m. you can see the crowd diminish, he said. This would just make it worse.

Lawyer Steve Aycok said CLEs aren't for socializing. And if you can have a two-person CLE under the current rules--one a moderator, one a listener--why not a one-person CLE?

Seattle lawyer and former Board member Julie Weston said the proposal would cut into the quality of CLEs in the cities, to which all lawyers can come, and many of which go on the road. "If you're going to adopt this idea, then maybe you should increase the number of required hours to 20, with

five obtainable personally, and two and a half of them on ethics."

John McCluskey said he thought it a grand idea, as he had to come from Boston every year to keep his license current. But Joseph Prather opposed the resolution. "You're taking away a main reason to attend the convention at a time when attendance is already falling."

John Heath said once you start letting CLE all be done by video you'll get people versed in the art of talking to empty rooms, the way congressmen do on C-SPAN.

After some more debate a voice vote was inconclusive. A standing division passed the resolution 128-115.

The next resolution was to move the 1991 WSBA convention from San Diego to a site in the Northwest, or, if it was not possible to get out of the contract with San Diego, to cancel the convention altogether. The Resolutions Committee recommended voting no. To do that, people had to vote yes. And that was just the start of a procedural wrangle too complicated to get into here, but which occupied a half-hour or so. Once the meeting emerged from it, Attorney General Ken Eikenberry moved to table the resolution. Back into the wrangle, as people in the back of the room couldn't hear.

Once out again, the meeting moved to a vote on the amendment offered by Howard Todd to cancel the convention if damages couldn't be avoided by moving it from San Diego. A voice vote was inconclusive; on a standing division, the amendment failed, 103-135.

On the merits, the debate was pretty much the Board of Governors vs. Howard Todd. Ron Gould asked how lawyers in convention could endorse breaching contracts. "What can we tell our clients? How do we explain this to young lawyers?"

Governor Alva Long said Gould was casting the Board as

being "for motherhood and against sin," and the resolution's proponents vice versa. Referring to a suite at the San Diego Marriott supposed to be part of the deal and worth \$1,800 a night, Long said, "I'm aware of some people who'd be worth \$1,800 a night, but none of them are lawyers."

Attorney Jay Sandlin said Washington lawyers should be spending their clients' money in-state. Joe Delay, a member of the Board of Governors when it chose San Diego, said they had done so because a poll of members had been taken and San Diego was listed by them as a favorite choice for a convention. SKCBA president Matt Sayre said his board favored the idea of coming home with the convention but opposed the Todd, et al. resolution for the reasons advanced by Ron Gould.

Howard Todd wondered if members of the Board would have approved going to San Diego if they knew an \$1,800-a-night room was involved. He noted that contracts can be subject to reformation, rescission or cancellation when they are bad. To vote against the proposal to bring the convention home is to endorse ten years of waste and mismanagement, he said.

Former Board member Mike Carlson told the meeting this should have been brought up years before, but making a change now was untimely. Governor Steve DeForest said the Association could incur liability in excess of \$40,000 by moving or canceling. The Association would also lose its bargaining power for future events.

After some additional debate, the proposal to move or cancel the 1991 convention was defeated on a voice vote.

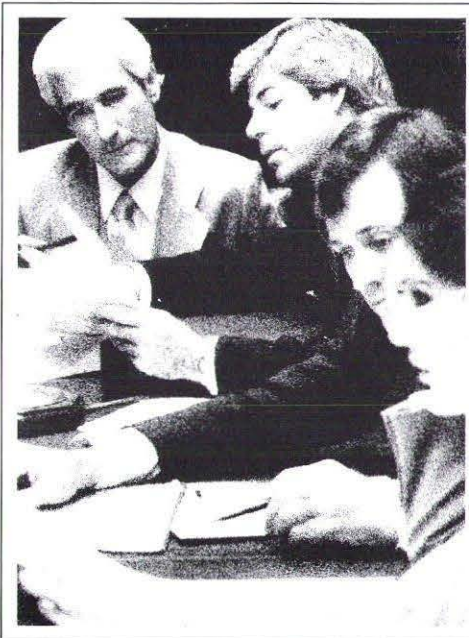
A third resolution, to study consolidating district and superior courts and then breaking them into civil and criminal divisions, was approved, when its proponent said that was fine with him and moved the question.

The meeting was then adjourned.

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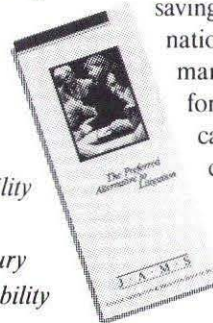


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5 Tort Law Update: What You Don't Know Can Hurt You and Your Client, Sea-Tac. *Sponsored by:* WSTLA. *For information:* (206) 464-1011.

5 Oregon Women Lawyers Bar Breakfast, Portland. *For information:* Diane Rynerson, (503) 235-8716.

6 Incorporating Small Businesses, U of W School of Law, Seattle. *Sponsored by:* U of W CLE. *For information:* (206) 543-0059.

10 Environmental Law for Nonenvironmental Lawyers, Seattle. *Sponsored by:* SKCBA. *For information:* Monique Gill, (206) 624-9365.

11 Oral Advocacy Skills for the Experienced Trial Lawyer, Spokane. (Also presented October 12 in Seattle.) *Sponsored by:* WSBA CLE and Litigation Section. *For information:* (206) 448-0433.

11 Fundamentals of Bankruptcy Law, Seattle. *Sponsored by:* ALI-ABA. *For information:* fax (215) 243-1664.

11-12 Eighth Annual National Fishery Law Symposium, Seattle. *Sponsored by:* U of W CLE. *For information:* (206) 543-0059.

12 Oral Advocacy Skills for the Experienced Trial Lawyer, Seattle. See October 11 entry for details.

17 Trial Tactics in Bankruptcy and Commercial Litigation, Bellevue. *Sponsored by:* WSBA CLE, Creditor/Debtor Section, Commercial Law League of America. *For information:* (206) 448-0433.

18 Washington Women Lawyers Annual Dinner, Seattle. *For information:* Jean Kuharevicz, (206) 564-8400.

18 Regulating Development in Environmentally Sensitive Areas, Seattle. *Sponsored by:* WSBA CLE and Land Use Law Section. *For information:* (206) 448-0433.

18-19 1991 Affirmative Action Briefing, Seattle. *Sponsored by:* National Employment Law Institute. *For information:* (415) 924-3844; fax (415) 924-2908.

19 Edmonds Community College Legal Assistants Program course on Insurance Law begins. *For information:* Anne Kastle, (206) 771-1688.

19 Winning at Sentencing: Beating Guideline Gridlock and Protecting Your Client from Collateral Consequences, Seattle. *Sponsored by:* WACDL. *For information:* (206) 623-1302.

20 The Measurement of Depravity: Forensic Documentation of Sexual Abuse, Seattle. *Sponsored by:* David P. Schmah, Ph.D. *For information:* (503) 246-4743.

23 Medical-Legal Rules of Conduct, Seattle. *Sponsored by:* SKCBA. *For information:* Monique Gill, (206) 624-9365.

23 Workers' Compensation in Washington, Seattle. (Also presented October 24 in Spokane.) *Sponsored by:* National Business Institute.

23-24 Seventh Annual Hazardous Waste Law and Management Conference, Seattle. (Also held in Portland October 25-26.) *Sponsored by:* U of W CLE. *For information:* (206) 543-0059.

25-26 Seventh Annual Hazardous Waste Law and Management Conference, Portland. (Also held in Seattle October 23-24.) *Sponsored by:* U of W CLE. *For information:* (206) 543-0059.

26 Judgment Enforcement, Seattle. *Sponsored by:* SKCBA. *For information:* Monique Gill, (206) 624-9365.

November 1990

2 Ninth Annual Federal Tax Conference, Seattle. *Sponsored by:* U of W CLE. *For information:* (206) 543-0059.

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Notices of Interest to Association Members

Attorney Disciplinary Notices

Resignation with Discipline Pending: Inactive Seattle attorney

Linda Navarro (admitted 1982) has been permitted to resign from the Bar

Association with discipline pending. The Board of Governors accepted her

9 Second Annual Professional Responsibility Institute, Seattle. *Sponsored by:* U of W CLE. *For information:* (206) 543-0059.

9 Edmonds Community College Legal Assistants Program course on Medical/Legal Applications for Legal Assistants begins. *For information:* Anne Kastle, (206) 771-1688.

14-18 Divorce and Parenting Mediation Training, Seattle. *Sponsored by:* Conflict Resolution Service. *For information:* (206) 633-4283.

17 Advocacy in the Appellate Courts Under the New Rules, Seattle. *Sponsored by:* U of W CLE. *For information:* (206) 543-0059.

December 1990

1 The Trial of a Criminal Case, Seattle. *Sponsored by:* U of W CLE. *For information:* (206) 543-0059.

6 Computax Fall Update Tax Seminar, Seattle. *Sponsored by:* Commerce Clearing House. *For information:* (213) 374-4CPE; fax (213) 543-6494.

8 Second Annual Commercial Law Institute, Seattle. *Sponsored by:* U of W CLE. *For information:* (206) 543-0059.

15 Dealing with Experts and Expert Testimony, Seattle. *Sponsored by:* U of W CLE. *For information:* (206) 543-0059.

("Calendar" carries information on events of interest to members of the Association. Please send event notices to Lindsay Thompson, Editor, *Bar News*, 7414 N.E. Hazel Dell Avenue, Suite A, Vancouver, WA 98665. Deadline is the **15th** of each month for the second issue following.)

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resignation effective July 20, 1990.

Censured: Seattle attorney **Antonio Salazar** (admitted 1975) has been ordered censured pursuant to a stipulation for discipline, based upon his failure to complete the work of two separate clients, and his failure to respond to their requests for information.

Disbarred: Pasco attorney **Joseph E. McGough** (admitted 1976) was disbarred by the Washington Supreme Court on June 28, 1990. The order of the court was based on multiple violations including failure to file two criminal appeals, conversion of over \$18,000 from trust funds of ten clients, making misrepresentations to clients to conceal his conversions, failing to account for client funds, neglect of and failure to complete numerous matters including failing to obtain title insurance, and failing to record two real estate transactions, failure to complete a probate, failure to properly file a bankruptcy and failure to cooperate with and respond to inquiries in two disciplinary investigations.

Attorney Nondisciplinary Notices

Seattle attorney **Anthony J. Meyers** (admitted November 10, 1977) was ordered suspended from the practice of law pending the outcome of proceeding by Supreme Court order entered July 2, 1990.

Interim suspension is pursuant to RLD Title 3 and is not a disciplinary sanction.

Public Notices

Reminder of Court Rules Changes: Effective September 1, 1990, CR 10(d) requires all pleadings, motions and other documents to be drawn on 8 1/2 x 11 inch paper.

Also effective September 1, 1990 APR 13 requires attorneys to put their bar number on all papers filed in state courts, and gives lawyers ten days to notify the Washington State Bar Association of personal name or address changes.

In re RCW 19.52.120(1): Legal Interest Rates

The average coupon equivalent yield from the first auction of 26-week treasury bills in September 1990 is 7.75%. The maximum allowable interest permissible for **October 1990** is therefore **12.00%**. Compilations of the average coupon equivalent yields from auctions of 26-week treasury bills appear on page 39 in the October 1987 *Bar News* for 1982-1984, on page 37 of the June 1989 *Bar News* for 1984-1985, and on page 51 of the June 1990 *Bar News* for 1985-1990.



(Items for inclusion in "Digest" should be sent to Lindsay Thompson, Editor, *Bar News*, 7414 N.E. Hazel Dell Avenue, Suite A, Vancouver, WA 98665. Deadline is the **15th** of each month for the second issue following.)



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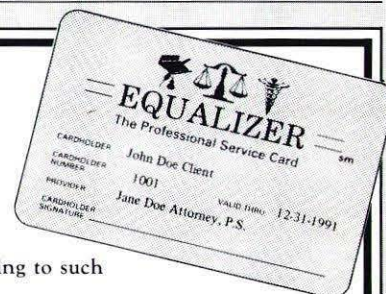
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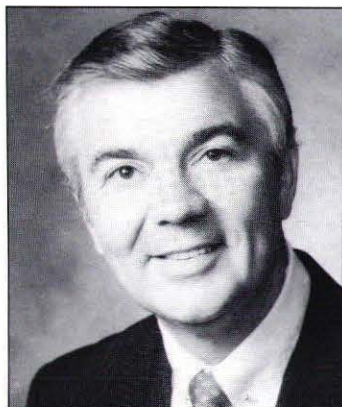
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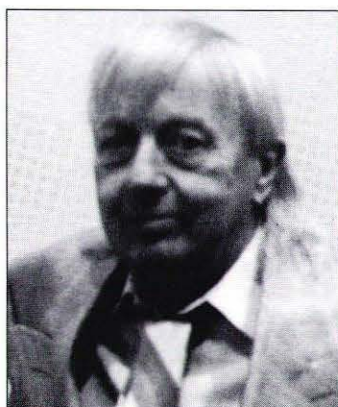
**Chambers [Eighth District], Hester [Sixth District],
Long [King County] and Tubbs [Third District]
Elected to Board of Governors**



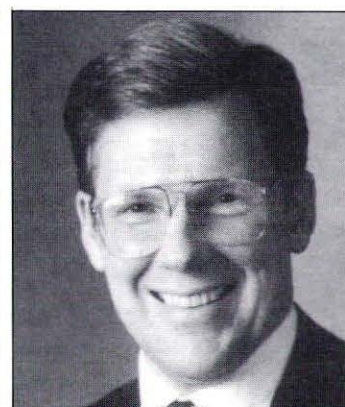
Thomas J. Chambers



Monte E. Hester



Alva C. Long



Steven B. Tubbs

Thomas J. Chambers is a Yakima native. Born in 1943, he received his B.A. in political science from Washington State University in 1966 and his J.D. from the University of Washington in 1969.

He was selected as a Governor's Intern in 1966 and later became a member of the Municipal League and was on the Judicial Evaluation Committee in 1982. He joined SKCBA and served on its Mandatory Arbitration Committee 1981-1990. Very active in the Washington State Trial Lawyers Association since 1975, he chaired its Tort Section 1976-1978, was legislative vice president 1982-1983, vice president 1983-1984, president-elect 1984-1985 and president 1986-1987. He was awarded the WSTLA Trial Lawyer of the Year in 1989 and subsequently served as vice president of judicial relations.

Other memberships and positions include The Association of Trial Lawyers of America (board of governors 1987-1990), *Everyday Law* editorial advisory board, American Board of Trial Advocates, Damage Attorneys Round Table and Trial Lawyers for Public Justice (sustaining founder).

Chambers and his wife, Judy, have three children. His hobbies are flying and motorcycle riding.

He will replace James S. Turner on the Board.

Monte E. Hester has been in

private practice since 1968. In general practice for the first 12 years with an emphasis thereafter on criminal law and personal injury, he has trial experience in most counties of Washington as well as federal courts in Washington, Alaska, Oregon, California and Arizona. He is a former city attorney and judge for the city of Gig Harbor. Professional activities include WSTLA, ABA, Federal Bar (current treasurer), NACDL, WACDL (Board of Governors), Inn of Court, Board of DAC, past president of Tacoma-Pierce County Bar (1986) and elected Fellow to the American College of Trial Lawyers.

Hester is 49 years old; he and his wife, Teddi, have three children.

He will replace William P. Bergsten on the Board.

Alva C. Long, born in Washington 64 years ago, has been a Seattle-area attorney for 35 years. He comes from a family of attorneys, judges, bootleggers and winemakers.

His practice emphasizes criminal law, especially alcohol and drug cases. He has been in recovery from alcoholism and drug addiction for 18 years.

He was graduated from the University of Washington, where he also received his J.D. following a stint in the military.

Long was a professional musician (saxophone and clarinet) on Seattle's

Skid Road and in its Central District. He served as an Air Force Musician during World War II.

He started in law partnership in Auburn and has been in the same location for 30 years. He has always been an anti-war and pro-ecology activist and has demonstrated for Indian rights and Indian fishing issues.

He is unmarried.

He will replace Stephen E. DeForest on the Board.

Steven B. Tubbs received his B.A. from the University of Washington in 1970 and his J.D. from Northwestern School of Law at Lewis and Clark College in 1975. He is licensed in both Washington and Oregon and has represented a broad mix of business and individual clients in the Vancouver area for 14 years.

Tubbs is past president of the Clark County Bar Association and is a member of the Clark College Paralegal Advisory Board. Professional honoraries include the Moot Court Board (1974) and the Corneliu Honor Society (1975). He is past president of the West Side Soccer club and coaches the West Side "Comets." He is the Clark County coordinator of the Chinook Trail Association and serves on the Fort Vancouver Kiwanis Board of Directors.

He and his wife, Linda, have one daughter, Corianne.

He will replace Paul L. Stritmatter on the Board.



Client Comment Cards

by Gregory S. Morrison

After seeing client comment cards in hotels and restaurants for years, I wasn't too surprised to see a client comment card at the service department of an automobile dealership. Seafirst Bank has been sending out customer satisfaction questionnaires for years. Since the legal profession is also a service, and a highly competitive one at that, shouldn't we too be motivated to know what our clients like and dislike about the services we provide them?

Since most people would feel uncomfortable if you asked them point-blank if they were satisfied with your representation, an anonymous client comment card becomes the perfect vehicle to evaluate your attorney-client

relationships. So as not to impose needlessly upon your clients' valuable time, your evaluation should be short and to the point.

A perfect time to solicit a client's comments is immediately after the file is closed. Therefore, a client comment card makes a perfect enclosure with your closing letter. Merely add a postscript to the letter soliciting your clients' anonymous comments regarding their satisfaction with your services. Of course, be sure that the postage for the client comment card is prepaid.

Your comment card should ask these questions:

1. Were you satisfied with the results?
2. Do you feel your matter was

resolved in a timely fashion?

3. Did you feel that your case was important to your lawyer?
4. Were your telephone calls returned?
5. Did you feel that your lawyer kept you reasonably informed?
6. Was your lawyer friendly?
7. Do you feel that the fees that you paid were reasonable?
8. Was our support staff friendly and helpful?
9. How did you hear about us?
10. If you had another legal matter, would you come back to us, and would you feel comfortable referring your friends and relatives to us?
11. Is there anything about our law firm or representation that you think we should change?
12. What did we do that you particularly liked?
13. Any other comments you wish to make?

After you have had several of these comment cards returned, you will be in a better position to analyze your clients' impressions of your practice, thereby allowing you to emphasize the good and strengthen the weak.

When sending out client comment cards, be sure to take this opportunity to remind your clients just how important their thoughts and suggestions are to the overall success of you and your firm. This will also promote a feeling of allegiance between you and your clients. And it is with this spirit of allegiance that your clients will always stay with you.

This column is a clearinghouse for better ways to run the law office. Contributions are solicited from all members of the Bar and should be sent to: Gregory S. Morrison, Tips Editor, The Flour Mill Penthouse, W. 621 Mallon, Spokane, WA 99201.

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edited by Professor William B. Stoebuck
University of Washington School of Law

Evidence. In prosecution for kidnapping: (1) Trial court erred in admitting evidence that defendant assaulted third person shortly after alleged kidnapping. Assault was not part of "res gestae," nor did it show state of mind or intent. (2) Trial court erred in allowing cross-examination of defense witness about defendant's prior misconduct, after witness testified that defendant "would never hurt anyone." Conviction reversed. *State v. Heath*, 58 Wn.App. 320, 792 P.2d 558 (Div. 1, 6/25/90).

—K.B. Tegland

Real property. (Case 1.) Plaintiffs purchased mobile home from defendant, to be placed on plaintiffs' land. Defendant delivered wrong model of mobile home, took quitclaim deed to plaintiffs' land instead of deed of trust as security for purchase price, added unauthorized charges for services it did not perform, and otherwise breached sale agreement. Plaintiffs brought this action for rescission and for violation of Consumer Protection Act, Chapter 19.86 RCW. Trial court granted rescission and found violation of Consumer Protection Act. Issues on appeal are whether, since contract was rescinded, plaintiffs suffered "actual damages" that could be trebled under Act and whether they were entitled to attorneys' fees under Act. *Held*: (1) Even though plaintiffs did not have to perform contract, because it was rescinded, they suffered "actual damages," in form of loss of use of their land, site preparation costs, and incidental expenses. These damages could be trebled under Act. (2) Under Act, plaintiffs were entitled to attorneys' fees if they showed "injury to property," even if they had not shown "actual damages." Plaintiffs' loss of title to their land, caused by defendant's taking quitclaim deed, was "injury to property" for that purpose. *Mason v. Mortgage America, Inc.*, 114 Wn.2d 842, 792 P.2d 142 (6/7/90).

(Case 2.) Reservation of rights to "minerals" in deed did not unam-

biguously include oil and gas. Oil and gas would be included only if evidence showed parties so intended. Such evidence being lacking, deed would be construed against grantor, so as not to include reservation of oil and gas. *Kunkel v. Meridian Oil, Inc.*, 114 Wn.2d 896, 792 P.2d 1254 (6/14/90).

(Case 3.) Original grantor conveyed three adjoining parcels of land to one grantee. Deed purported to create road easement over part of land so conveyed, for benefit of another part. (How could grantee have an easement over his own land? - W.B.S.) Later, grantee conveyed each of the three parcels to three different persons. Owner of servient parcel refused to allow owner of dominant parcel to use easement. *Held*, inter alia, easement existed. Court says it applies rule that an easement appurtenant, described in deed given at a

time when grantee did not own servient tenement, may come into existence when grantee later acquires title to servient tenement. *Beebe v. Swerda*, 58 Wn.App. 375, 793 P.2d 442 (Div. 1, 7/2/90).

—W.B. Stoebuck

Real property security. Beneficiary under Washington statutory deed of trust who accepts deed in lieu of foreclosure and then resells land is barred by RCW 61.24.100 from recovering deficiency from trustor. Beneficiary essentially carried out nonjudicial sale. To allow deficiency after that would defeat purpose of statute. (Comment. Appears to be case of first impression in Washington. Would deficiency have been barred if beneficiary had not resold? - W.B.S.) *Thompson v. Smith*, 58 Wn.App. 361, 793 P.2d 449 (Div. 1, 7/2/90)

—W.B. Stoebuck

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NEWS FROM HOME

W. (Walt) Anton Berhalter has announced his partial retirement from the practice of law and association of counsel with the law firm, O'Coyné and Phillips. He practiced for the last 10 years in Moses Lake, Othello, Grand Coulee and for the last four years, north Spokane.

Berhalter has joined the Spokane office of Mutual of New York (MONY) as a field underwriter. He will be focusing on financial preservation plans including life and disability insurance and annuities. He brings with him added experience as an Enrolled Agent with the IRS, president of his own accounting firm and associate professor of business for City University in Spokane. He can be reached at MONY's offices, 555 Paulsen Building, W. 421 Riverside Ave., Spokane, WA 99201; (509) 838-2036.

Gayle L. Troutwine of Portland, Oregon, was reelected cochair of the L-tryptophan Litigation Group for the

American Trial Lawyers Association at their annual convention in San Diego on June 23, 1990. She also spoke on L-tryptophan at the Melvin Belli Seminar in San Diego on July 21, 1990.

The proposed United States Commemorative Women's Stamp, published on the cover of the June 1988 *Bar News*, is the focal point for discussion of issues critical to women during this period of great social and cultural change. As a demonstration of support, Washington Governor **Booth Gardner** proclaimed July 6 of this year to be "United States Commemorative Women's Stamp Day."

The vision of a U.S. Commemorative Women's Stamp emerged from a painting of a symbolic role model initially commissioned by Washington Women Lawyers for the King County Courthouse in Seattle and created by artist **Linda Hawkin Israel**. In 1985, the painting was unveiled at the United States Supreme Court by Supreme Court Justice **Sandra Day O'Connor**. As a proposed com-

memorative stamp, the image gained such wide support across the entire legal profession that the initiators expanded the idea to include all women—recognizing the commonality of their experience.

Next year, the campaign for the U.S. Commemorative Women's Stamp will be supported through public round tables, discussions and articles by nationally prominent women from different professions and points of view. A campaign of letters and petitions of support from private citizens to the United States Stamp Citizen's Advisory Board continues to gain momentum.

THE JUDICIARY

o Spokane County Superior Court Judge **William G. Luscher**, 72, retired October 16. A 1956 graduate of Gonzaga University School of Law, Luscher taught law at Gonzaga and Whitworth College from 1956 to 1960. He served as county and city prosecutor, practiced in Spokane, and served two years as court commissioner until

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Governor Spellman appointed him to the bench in 1982.

o Court of Appeals Judge **Herbert A. Swanson**, 66, retired September 17 after a quarter century on the bench. A Mt. Vernon native, Swanson practiced in Everett from 1949 until Governor **Dan Evans** appointed him a Snohomish County Superior Court judge. In 1969 Evans appointed Swanson to the Court of Appeals, where he estimated he wrote more than 1,300 opinions.

o The District and Municipal Court Judges' Association elected officers for 1990-1991 at their June meeting at Lake Chelan. Issaquah District Court Judge **Peter Jarvis** was elected president; Skagit County District Court Judge **Larry Moller** was named president-elect; Whitman County District Judge **David Frazier** is vice president; Seattle District Court Judge **Darcy Goodman** is secretary, and Chelan County District Judge **Tom Warren** was elected treasurer.

o **William Thomas McPhee**, 46, has been appointed to the Thurston

County Superior Court by Governor Gardner.

o **William Kamps**, 49, has been named Kitsap County Superior Court judge by Governor Gardner.

o Governor Gardner has also appointed **Robert Alsdorf**, 44, to the King County Superior Court bench.

ASIAN BAR ASSOCIATION OF WASHINGTON

by MICHAEL LEONG

The ABAW will have its annual dinner on Friday, October 26, at the Nippon Kan Theatre. A no-host cocktail hour will begin at 6 p.m. with dinner at 7 p.m. The speakers will be Justice **Charles Z. Smith** and Judge **C. Kimi Kondo**. Entertainment will be by Arnold Mukai, comedian. Anyone interested in attending should contact **Cynthia Kadoshima**, (206) 292-9988.

On August 18, the ABAW hosted the Board of Directors of the National Asian Pacific American Bar Association in

Seattle. The NAPABA will hold its second annual convention November 9-11 in Houston.

The ABAW this year has linked up with a national network of bar organizations addressing the escalation of anti-Asian violence; has passed a resolution endorsing the enactment of a civil rights act of 1990 and a resolution opposing "English-only" legislation; has continued rating judicial candidates; will co-sponsor a community law education program in October; co-sponsored a real estate seminar with the Asian Management and Business Association with **Benson D. Wong** as panelist; is organizing a community seminar on avoiding fraud and con artists/making wise financial and estate-planning decisions directed towards the recipients of federal reparation monies for Japanese-Americans interned during World War II; and has kicked off a law student scholarship fund with a bowlathon in July.

Congratulations to **Daniel D. Woo** on the formation of Misterek & Woo, P.S.



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CLARK COUNTY REPORT
by JOHN F. NICHOLS

The return of the curly shuffle? Reported without comment is the appearance of **Darrell Lee** without his usual head of hair. Mr. Lee's clean-shaven dome is the latest addition to his firm (Lee, Yoseph, Mitchelson, Gray & Langsdorf), already noted for unusual hairstyles. The effect of the new look is a combination of **Telly Savalas** and **Curly Joe** of Three Stooges fame. The reason for the "makeover" has not been ascertained, nor has much effort been exerted to find out. However, the concept of receiving noogies from a guy with a lollipop in his mouth while trying to argue a motion is frightening. In the meantime, "Who loves ya, Darrell?"

No thanks, just looking: Making an appearance at the courthouse snack bar was former CCBAer **Cathy Lewis**. Ms. Lewis reported that she has spent the last four months in Europe looking for a job. Right! Just like the kid that spent four days at Disneyland looking for the exit. What brought her back to little ole Vancouver? Was it the arts center? Was it the cuisine? Was it the shoes? Well, judging by her purchases at the snack bar, it was the Twinkies

and Reeses peanut butter cups. Write when you get work, Cathy.

So, what's your handicap? This is the kind of story one really hates to report. First, this attorney has received too much coverage already and second, it makes light of a CCBA member in an embarrassing situation. Okay, so there's only one reason not to report this. **Richard (Sandman) Saunders** was facing a difficult 5 iron shot requiring him to hook around a tree. Unfortunately, he sliced into the forehead of a player in the opposite fairway rendering same unconscious. Sandman was visibly shaken as he watched the ambulance rush down the course to the stricken player's aid. As a result, Richie not only had to replace his ball, but ended up with a bogey on the hole. Come to think of it, was Darrell playing that day?

EAST KING COUNTY REPORT
by RANDOLPH I. GORDON

Recipe: take equal parts of Angles and Saxons, a pinch of Picts and assorted Celts, shake vigorously with Romans, sprinkle with Danes, infuse Normans to taste, and serve over a bed of

autochthonous Britons after simmering for one to two thousand years. Voila! English. The worldwide adoption of English as everyone's favorite lingua franca is attributable, some believe, not to its richness, concision, beauty, regularity, nor its ease of pronunciation and orthography, but because, although nearly impossible to speak well, it is easy to speak badly (and still be understood). It is also a cruel language. Take any child learning to read. How can any parent going through the simple drill of a-t, at, b-a-t, bat, h-a-t, explain the pronunciation of w-h-a-t (what's wah-hat?) or the spelling of "of" or "enough." Life must not be fair. This, after all, is an easier lesson for my five-year-old to accept than to believe her dad is engaging in some malicious prank.

In a language where "network" is a verb, "word processing" is the means for reducing to writing lengthy legal analyses called "briefs" following intensive "research" (in which one presumably searches, once again, for misplaced source material), how ought we to respond to the latest concatenation of sounds: East King County Law and Justice Center?

Now, I have been blessed during my varied existence with observations of courtrooms, police stations, jails, prisons, and libraries, but a Law and Justice Center...Why, this is new and grand! Whereas communities might react with horror at having a jail in their neighborhood, I am confident that no community could object to having its own Law and Justice Center—or sanitary landfill. After all, you simply cannot have too much justice or sanitation. After much search and research, I have identified the probable meaning of "Center" as either "a point equidistant from the vertices of a regular polygon" or "a place of concentrated activity or influence"—I prefer the influence, thank you.

Pat LePley and **Diane VanDer-Beek**, present and former EKCBA Trustees, respectively, have been monitoring and shepherding the development of the law and justice concept in its incipience, before, you know, it springs, Athena-like, fully formed from the head of the County Council. Their conclusion: this is really going to happen. For Diane, this

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is the culmination of years of work in connection with the Eastside Satellite Superior Court and general enhancement of the judicial resources on the Eastside. Such a facility will include courtrooms, a jail, and, in a just Universe, a library. Despite all the public debate respecting jail site location, it is probable that such a facility will end up in the area behind the Bellevue City Hall where, evidently, there is a convergence of land availability, zoning, necessity, demographics, logic, and, independent of the foregoing, political will. My own surmise: the temporary jail proposed for Redmond will probably never happen. It cannot make sense to the County Council, or any other group of individuals serving at the pleasure of the electorate, to spend that much cash and political capital for an interim solution which necessarily involves ferrying individuals accused of crimes back and forth to courtrooms for trial. (Even an arraignment courtroom cannot actually reduce the need for an entire courthouse actually to try the cases.)

On other matters, please note that **Dick Barbieri** has joined Riddell, Williams, Bullitt & Walkinshaw on the Eastside with a practice emphasizing real estate law. In a situation where life follows art (as in "L.A. Law"), Dick joins his spouse, **Lyn Tangen**, in the partnership, overcoming the firm's historic restriction respecting mixing marital and legal partnerships. We offer Dick and Lyn our best wishes for their continued success in both.

PIERCE COUNTY REPORT
by **GEORGE S. KELLEY**

It is observed that people wearing black robes in the summer's heat often do strange things.

Judge **E. Albert Morrison** received a suspicious package at his home. Wishing to save the bomb squad a trip, he brought the package to the police department in the courthouse. This resulted in the immediate evacuation of part of the building. The package was opened and found to be harmless.

Next, Judge **John Paglia**, of the Gig Harbor District Court, in an apparent attempt to reduce the workload of the prosecutor's office, appointed the

alleged victim in a barroom fight as special prosecutor on the victim's citizen's complaint. It was reported that this "victim" had earlier been charged with assault in the same incident and filed the citizen's complaint as a defense tactic.

In this summer of goodwill we have **Mark Dynan** and **Al Weaver** of Eisenhower, Carlson completing the Goodwill Games Marathon. Giving respect to a senior member of the firm, and in consideration of a rapidly deteriorating knee, Mark allowed Al first-to-finish honors.

With the dog days of summer comes the annual golf tournament which this year was held under threatening skies at the Madrona course in Gig Harbor. Absent was the booze cart, which is usually provided as part of the entry fee. It is not known whether the tournament sponsors were encouraging a more responsible use (abuse) of alcohol or hoped to improve golf scores. It was probably a requirement of the golf course rental agreement, as one entrant, who attempted to sneak a cooler of refreshments onto his cart, was seen being escorted from the links by the management.


Four names will appear on the Edgar Eisenhower low-gross trophy—**Mike Smith**, **Jeff Gross**, **Bill Wilkerson** and **Mark Hanna**—each of whom

shot a 70. The rules apparently make no provision for a playoff. The S.A. Gagliardi low-net trophy was won by **Kurt Salmon** with a score of 57. Kurt is running for **John Paglia's** judgeship, and his claimed handicap may show the voting public that he doesn't spend a great deal of time golfing.

Kathleen Ebert turned in the low-gross score for the women at 113. **Carolyn Mayer** had the high-gross score for women of 135, but she was edged out for overall high-gross honors by **Steve Downing**, who turned in an astounding score of 151.

Prizes were awarded in the various classifications. In an example of affirmative action run amok, there were more prizes than entrants in the women's division. The big prize, which was awarded at random in order to avoid cheating, was a round-trip air fare for two to Orlando, Bahamas or Hawaii. It was won by **Dave Tuell**, who really doesn't need to travel anymore anyway.

Alvin Anderson died peacefully in his sleep. He was an excellent trial lawyer and will be greatly missed.



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SEATTLE-KING REPORT

by JAMES VARNELL

Of Note. **Lindy Cater** has been named executive director of the Northwest Women's Law Center. The Greater Seattle Legal Secretaries Association has named **Asa Glazer**

"Boss of the Year" and **Lynn Grignon** "Member of the Year." **Robert C. Mussehl** has been appointed to serve on the ABA Special Advisory Committee on International Activities for a second term through 1991. **James S. "Jimmy" Rogers**, current president of the Washington State Trial Lawyers Association, was elected chair of the American Trial Lawyers

Association's Motor Vehicle Collisions, Highway, Premises and Governmental Liability Section. A \$1 million gift from **Elisabeth C. Miller** will fund the first endowed chair at the University of Washington School of Law, honoring the late **Pendleton Miller**, a UW law graduate and former partner with Lane Powell Moss & Miller. **David Thorne** has been elected chair of the Washington State Bar Association's Real Property, Probate and Trust Section.

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Triple Crown. For the first time known to league officials, the men's, women's and co-ed softball teams at Bogle & Gates won their respective divisions in the Seattle Law Firm Softball League. Standout performers for the women's team, which was coached by **Ron Barber**, included **Mary Moran, Charlene Yadosich, Kathy ("The Stroke") Keenan, Michelle Carlson, Holli Overson, and Julie Dooris.** Keenan, Carlson, Overson and Dooris also played on the championship co-ed team. The men's team was led by player-coach **Ben Stephens, Kerry Shepherd, Patrick Crumb, Joe "Heat" McIntosh, Ken Karlberg,** and over-the-hill (UW Law 1969) first baseman (where else could he play?) **Bob Kaplan.**

Office Moves. **Steve W. Berman, Martin T. Collier, Bruce D. Erickson** and **Richard S. Ralston** have become principals at Betts, Patterson & Mines; **Mary Beth Barney, James L. Burke, Oscar E. Desper, III, Steven W. Edmiston, Monica J. Fernandez** and **A. Mark Verderveen** are new associates. **John C. McCullough** has joined Heller, Ehrman, White & McAuliffe. **Hollis Ruth Hill** has become of counsel at Frank and Rosen; **Patricia S. Rose** and **Jane Goodman** are new associates; and **Clifford Freed** has become a member of the firm. **Robert M. McCallum** has joined LeSourd & Patten. New associates at Curran, Kleweno & Johnson are **Thomas M. Kalenius** and **Jane C. Rhodes.**

F. Ross Boundy (UW Law 1971), **Ronald M. Anderson,** and **Dennis K. Shelton** have joined Christensen, O'Connor, Johnson, Kindness as

FEDERAL PUBLIC DEFENDER EASTERN DISTRICT OF WASHINGTON

The U.S. Court of Appeals for the 9th Circuit is accepting applications from all qualified persons (including women, members of minority groups, and individuals with non-interfering handicaps) for the newly created position of Federal Public Defender for the Eastern District of Washington. Office is headquartered in Spokane, with a branch office in Yakima. The term of appointment is four years. The current authorized salary is \$81,400. The Federal Public Defender provides federal criminal defense services to individuals unable to afford counsel. An applicant must be/have: (1) admitted to practice before the highest court of at least one state; (2) a member in good standing of every other state Bar of which he/she is a member; (3) a minimum of 5 years criminal practice, preferably with significant federal criminal trial experience; (4) administrative expertise; (5) reputation for integrity; (6) a commitment to the representation of those unable to afford counsel. Application materials can be obtained by writing to:

Office of the Circuit Executive
101 Spear Street - Suite 215
San Francisco, CA 94105
Telephone: (415) 744-6150
FTS (415) 484-6150

Application materials are also available at all federal District Clerk's offices in the 9th Circuit. Completed applications should be mailed to the above address before close of business Friday, November 2, 1990.

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partners; **Marcia S. Kelbon, Lawrence H. Meier** and **Diana V. Blakney** have become associates at the firm. **Randall R. Steichen** has become of counsel at **Stoel, Rives, Boley, Jones & Grey**. **Robert Heller** and **Mark Maghie** have become members of **Riddell, Williams, Bullitt & Walkinshaw**; **Susan Callaghan, Margot Livingston** and **Scott Schrum** have become associated with the firm. **David Trachtenberg** has joined **Oles, Morrison & Rinker** as a partner. **Donald E. Marcy** has joined **Cairncross, Ragen & Hempelmann** as a principal.

SNOHOMISH COUNTY REPORT

by JAMES H. ALLENDOERFER

The censors have finally relented, and a Snohomish County Report will actually appear in print. Certain concessions to the editor have been reluctantly made; there will be no direct reference to **Barry Hammer's** advertising sign or to **Anderson & Hunter's** policy that candidates for attorney positions must first marry a partner in the firm.

Charlie French is the esteemed president of the Snohomish County Bar Association for 1990. His newsletters are worth the price of admission.

Commissioner **Kathryn E. Trumbull** has been appointed by the Governor to a newly created superior court judicial position. As the court's first woman, and as an eminently qualified jurist, Trumbull is a welcome addition to the bench. She is unopposed on the November ballot.

Court administrator **Lester Stewart** has been appointed to replace Trumbull as superior court commissioner; another welcome addition to the county's fine judiciary.

Commissioner **Arden Bedle** has been named Outstanding Family Law Jurist for 1990 by the Washington State Bar Association. Congratulations!

Steve Peiffle has been honored with the 1990 Tom Neville Pro Bono Service Award given by the WSBA Young Lawyers Division.

Superior court judge **John E.**

Rutter, Jr. has announced his retirement effective November 30. Snohomish County has benefited from Rutter's public service, integrity and judicial excellence since 1974. His presence on the bench will be missed.

Local court rules have been amended to require telephone confirmation of all hearings on the criminal motion calendar. Call (206) 388-3383 before noon on the Wednesday immediately preceding each scheduled hearing.

In the only contested judicial election this year, **Roger Fisher** and **Paul Moon** are each seeking to be judge of Everett District Court. The current judge, **Donald Priest**, has announced his retirement after 21 years of service.

SOUTH KING COUNTY REPORT

by BARBARA HEAVEY

The annual installation banquet was held at Longacres this year. Installation may be a bit of a misnomer because elections were never held. Past president **Laird Pisto** claims that heavy persuasion was necessary to get at least one person for each office, so there was no need to waste postage on a vote. The remedy for anyone who complains

about the procedure is the office of his or her choice. The de facto officers for 1990-1991 are **Paula Pridgeon**, president; **Andrew Weiner**, vice president; **Barbara Heavey**, secretary; and **Mike Salazar**, treasurer. Mike is reported to have doubled the treasury by his bet on the South King County Cup race. Other big winners for the night included **Mary Biege**, patron saint of **Phil Biege** and **Mell Kleweno**. Mell's big win came on a horse named **Bimini Long Legs**. He denies the rumor that he thought the name was **Bimbo**. Outgoing president **Laird Pisto** received the obligatory plaque. The detachable gavel should provide an advantage in office discussions.

Movers and Shakers. **Carolyn Mayer** of the Puget Sound Legal Assistant Foundation in Pierce County is relocating to Federal Way to join **Laird Pisto**. If Carolyn's work on organizing the reunion for the Puget Sound Law School class of 1980 is any indication, she should do a good job of keeping Laird in line notwithstanding the aforementioned gavel.

For some time there has been a distinct trend of downtown Seattle law firms moving to east King County. Well, it has finally happened to south King; however, this "downtown firm" is from Tacoma. **Bonneville, Viert,**

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Morton and McGoldrick has merged with Federal Way's own Eiler and Pridgeon. Anyone familiar with **Judy Eiler** and **Paula Pridgeon** know that this wasn't a takeover. Since then, Paula has announced she is "reforming her practice." Don't get your hopes up; it just means that she has decided to go it on her own. Paula will reform when you-know-what freezes over.

The movement north continues with **Jane Rhodes** and **Tom Kalenius** moving from Federal Way to beautiful downtown Kent, where they have joined the firm of Curran, Kleweno and Johnson. All movement stops there. **Gary Faull** reports that the only moves happening in Renton is the movement to letter size paper.

Someone in Renton has been busy. The firm of Warren, Kellogg, Barber, Dean and Fontes was one of the recipients of the 1990 Pro Bono Award from the other "SKCBA," the Seattle-King County Bar Association. The firm was honored for its outstanding pro bono service to the community which includes a willingness to take cases of South King clients on short notice and make house calls to disabled clients.

Jim Handmacher of Bonnevillle, et al. has not only relocated to the Federal Way office, he has also found new hobbies to occupy his time. Jim is one of the first city councilmembers for the

new city of Federal Way. Joining Jim on the council is long-time Federal Way resident **Bob Stead**. Bob says that the hardest part of the new job is listening to all the "lawyer talk" from the city attorneys. "They don't allow you to do any of the good stuff," he reports.

THURSTON COUNTY REPORT

by CHRISTINA A. MESERVE

In June, Governor **Booth Gardner** appointed **Wm. Thomas McPhee** to the newly created sixth judicial position in Thurston County. Commissioner **Richard Hicks** filed against him; results will be in by the time the *Bar News* comes off the press.

"L.A. Law" junkies were able to rub elbows with stars **Jill Eikenberry** and **Michael Tucker** at a fund-raising event held for Congresswoman **Jolene Unsoeld** on August 26. The event was held at the home of **Judith Lynch Weigand**; local attorneys managed to refrain from giving production advice. We understand that a similar fundraiser was held in Seattle, but they're used to such things in the big city.

That same weekend, the Legal Loafers completed a 190-mile relay race from

Mt. Hood to Seaside, Oregon. Members of the Legal Loafers running team included **Ed Younglove**, **John Parr**, **Rick Cordes**, **Chuck Szurszewski**, **Bill Cullen**, **Chris Pomeroy**, and **Sheryl Hayashida**. Non-Loafers (but still legal types) on the team called "It's Only Pain" were **George Darkenwald**, **Paul Meyer** and **Greg Potegal**.

Owens, Davies & Mackie continues its efforts to remain the largest law firm in Thurston County (nine lawyers) and has recently added associates **Jon Cushman** and **Kirk Veis**. Meanwhile, **Susan Kirkpatrick** continues her leave of absence, taking her cue from **Rochelle Wienker** (formerly of Swanson, Parr, et al.), who is also taking a break from the practice of law. **Tracy Mitchell** has joined her husband's firm of Barckley, Kopp & Mitchell.

No doubt, the new telephone book (due soon) will show a dramatic increase in the number of attorneys in town and provide an opportunity to bestow awards (similar to those awarded in Clark County) for legal advertising.

WASHINGTON STATE TRIAL LAWYERS ASSOCIATION

During the annual WSTLA convention, June 27-July 1 in Coeur d'Alene, Idaho, the following individuals were elected to the Board of Governors: **Keith L. Kessler**, Hoquiam, president; **James S. Rogers**, Seattle, president-elect; **Roger Felice**, Spokane, v.p. east; **Judith Proller**, Bellingham, v.p. west; **William S. Bailey**, Seattle, v.p. CLE; **Steven Fury**, Seattle, 2nd v.p. CLE; **Hal Hodgins**, Seattle, v.p. development; **D. E. McKelvey**, Spokane, 2nd v.p., development; **Mary Ann Ottinger**, Bellevue, v.p., finance; **Thomas J. Chambers**, Seattle, v.p., judicial relations; **Ron J. Perey**, Seattle, 2nd v.p., judicial relations; **Eugene M. Moen**, Seattle, v.p. legislative; **Wayne Lieb**, Olympia, 2nd v.p., legislative; **Terrence Abeyta**, Yaki-

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The U.S. Court of Appeals, Ninth Circuit, seeks applications from highly qualified applicants for an anticipated vacancy in Tacoma, contingent on implementation of the scheduled salary increase to \$111,136 in January 1991. Appointment is for a 14-year term. Current annual salary is \$87,872. Full public notice is posted in the offices of the Clerk of Court for the Ninth Circuit and the Clerk of U.S. District Court and Bankruptcy Court for the District of Western Washington. For further information and application forms, contact:

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Seattle attorney **Mike Withey** was named Trial Lawyer of the Year. Withey successfully represented the estate of two anti-Marcos union officials against Imelda and Ferdinand Marcos.

IN MEMORIAM

Howard Hettinger, 68, died July 29, 1990 in Yakima. He received his undergraduate and law degrees from the University of Washington and began practicing in Yakima after his admission to the Bar in 1949. During World War II, Hettinger was a captain in the Marine Corps aviation division, experience he drew upon as chair of the Washington State Aeronautics Commission from 1969 to 1973.

Hettinger was appointed to the Yakima County Superior Court by Governor Dan Evans in 1973 and retired in 1988.



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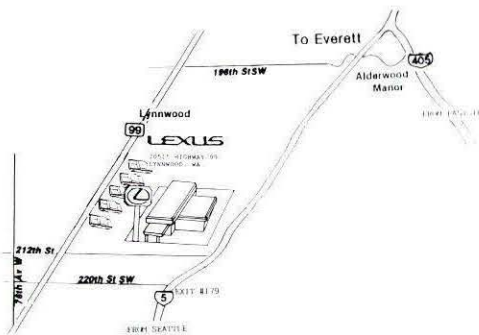
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