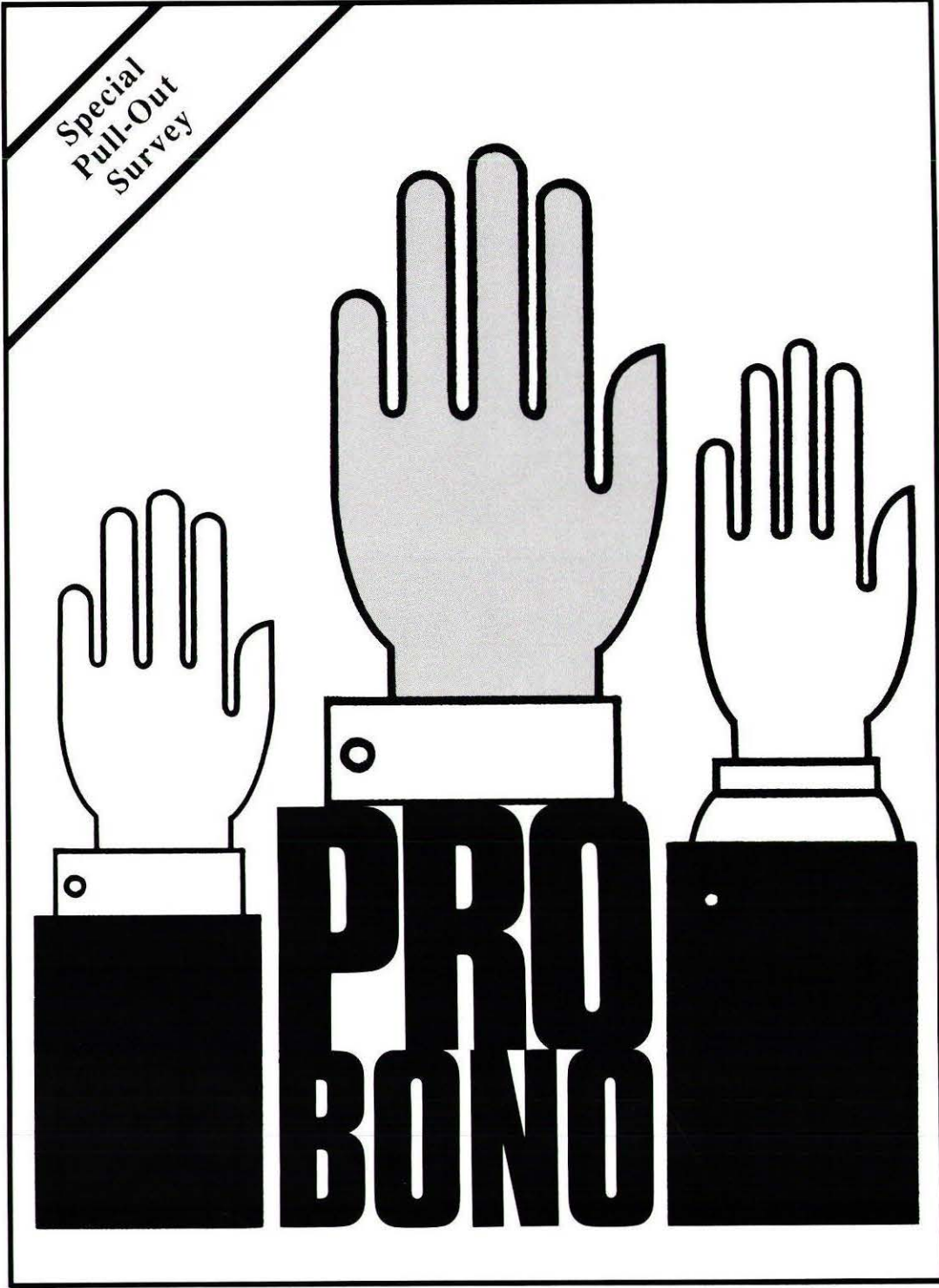
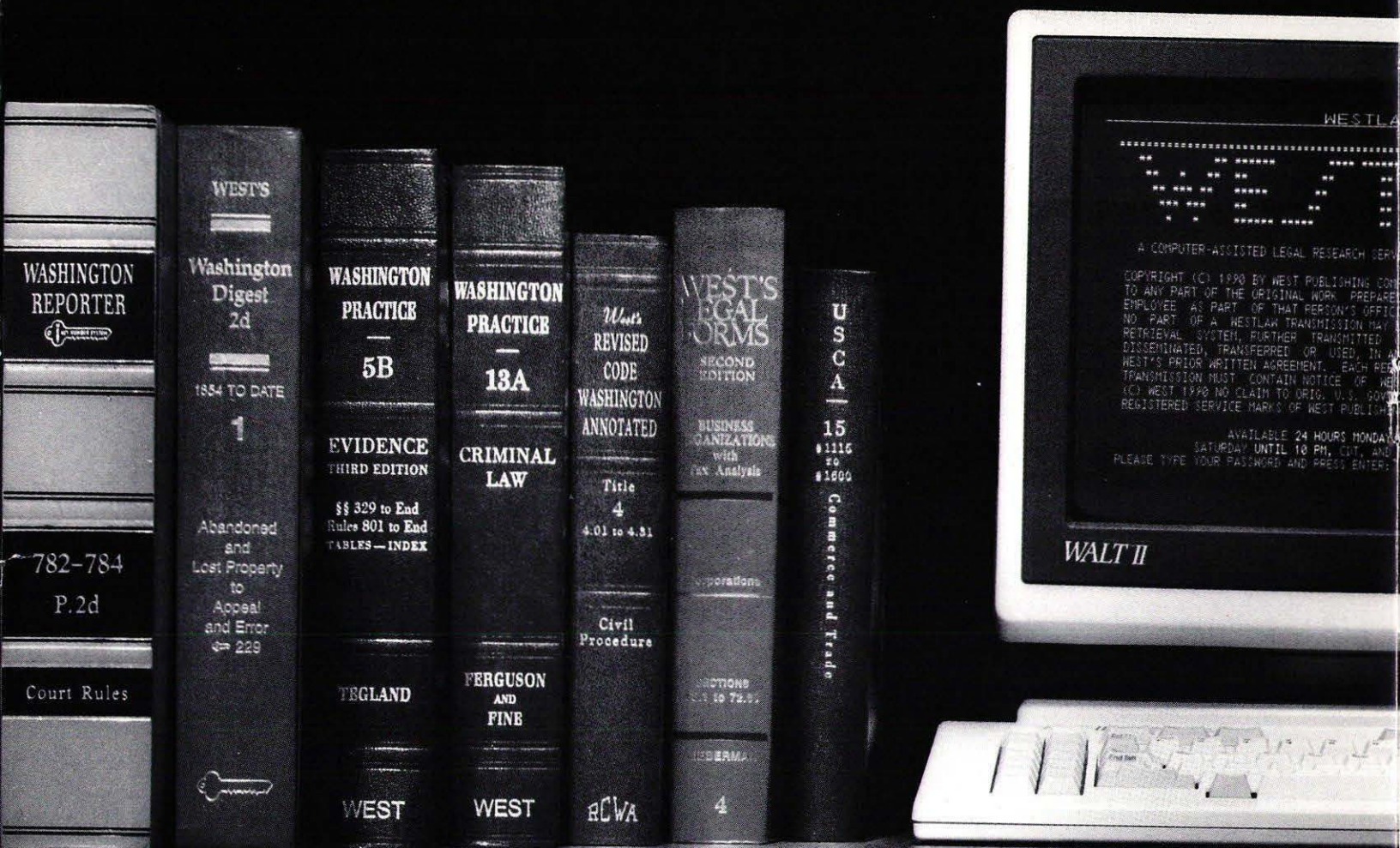


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News

Vol. 44, No. 11, November 1990



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Washington State Bar News

Vol. 44, No. 11, November 1990

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AIDS, Miscegenation and S&Ls

Editor:

My colleagues in the Bar, Jim Spurgetis and Robert J. Carpenter, wrote that my article "AIDS and Families" ("Letters," *Bar News*, March 1990) contained the hidden agenda of the "anti-family agenda of the homosexual lobby," that "homosexuals gave us AIDS in the first place" and that my "real goal" in advocating safe-sex education was "to teach homosexual acts to young people."

Apparently my colleagues are aware of different facts than I. I have written each gentleman asking for a chance to learn from them. I have received no response from either. Lacking their response, I would note the following:

1) Despite the recent surge in federal funding for research to *cure* AIDS, there continues to be a strong sentiment against the frank, safe-sex and clean-needle education that is necessary to *prevent* the spread of AIDS. Such education that is routinely provided in Britain and Sweden since 1983. Their success in reducing the spread of AIDS is vastly greater than ours. We continue our sad penchant for blaming the people with AIDS for causing it. Spurgetis is not alone.

In contrast, the industrialized nations that have made significant progress in limiting the spread of AIDS viewed it simply as a deadly disease rather than an alleged by-product of promiscuity and deviance. Now, after a Vietnamful of deaths, AIDS is striking college kids (1 in 300) and others who are far beyond our society's immensely regrettable capacity to stigmatize. Tests of military recruits indicate AIDS is well-seeded in adolescent populations.

2) There were perhaps 40 documented AIDS cases in July of 1981. In July of 1990 there were 143,286 documented cases and an estimated 1,500,000 who carry the virus. The Centers for Disease Control estimate 40,000 new cases of

HIV per year (*JAMA* Vol. 264/4/p. 431). The estimated lost work and medical costs to date are \$50 billion. Eighty-seven thousand, six hundred forty-four Americans have died. One hundred billion dollars is not far away. As U.S. life and medical insurance companies work hard to limit their responsibilities and the federal government fails to bite the bullet to provide federal health care and frank sex education, the burden of their expense will fall squarely on the states and, thereby, you and me. This is a viral S&L crisis that can be avoided.

3) As we criminalize, we stigmatize and thereby encourage the furtive, high-risk sexual behavior key to spreading AIDS in the United States. So long as we retain our twenty-first-century version of miscegenation, we discourage the monogamous relationships that are a key part of preventing the spread of AIDS.

As lawyers we play a role in this crisis. The legal rationale for miscegenation closely parallels our refusal to allow gay people the protection of marriage. In *Pace v. Alabama*, 106 U.S. 583 (1883), the court rejected the equal protection challenge that the miscegenation statutes discriminated on the basis of race as follows:

The section prohibiting interracial sex prescribes punishment for

an offense which can only be committed where the two sexes are of different races. There is in either section no discrimination in the punishment prescribed as directed against the offense designated against the person of any particular color or race.

The miscegenation laws stood until *McLaughlin v. Florida* in 1964.

The above rationale is chillingly similar to the court's anti-homosexual ruling in *Bowers v. Hardwick*, 478 U.S. 186 (1986), where the state of Georgia successfully argued to retain the sodomy statute both in its brief and oral arguments on the ground that it "prohibits homosexual activity." The same rationale used to prevent the plague of miscegenation is now being used to prevent the plague of homosexuality. Miscegenation proponents forecast a "corruption of blood," "a mongrel breed of citizens" and "the obliteration of racial pride." *Loving v. Virginia*, 388 U.S. 1 at 7.

4) Anti-sodomy laws have the same legitimacy as miscegenation laws. All Biblical scholars that I have consulted agree that God's wrath in the story of Sodom and Gomorrah had nothing to do with homosexual acts. Further, there was no sodomy law in existence at the time of Christ in either Greece or Rome. Lastly, the term homosexual is

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not found in Greek, Latin, Hebrew, Aramaic or any other language in existence at the time of the Old or New Testament.

5. As lawyers, we need to push insurance companies to:

a) provide life insurance benefits before death to the terminally ill (as they do in Canada), and

b) push for health care benefits for unmarried cohabitants.

As lawyers, we need to repeal the baseless legal embarrassment of sodomy laws and stop denying the protection of marriage to nonheterosexuals. We also need to push for clean-needle programs and for frank safe-sex education.

6) Carpenter's decision to declare me part of the "anti-family homosexual lobby" seems similar to the pro-family miscegenation lobby of only 30 years ago. One wonders what sort of "family" we are protecting, when such protection demands the sacrifice of human life.

JOHN W. KYDD
Seattle

A Compliment a Day Does Wonders—Even Every Once in a While

Editor:

For those who want maximum entertainment combined with useful information from the *Bar News*, I highly recommend the section called "The Board's Work." You can't miss it since it's located in the middle of each issue and is printed on gray paper. I

was forced to read this section one desperate lunch hour when the choice was finish the entire *Bar News* issue or go back to work. Now I never miss it.

If you've ever wondered what really goes on at those meetings, and if those governors actually DO anything, you'll find it all here in a section more entertaining than the opening staff meeting on "L.A. Law."

RUTH A. NELSON
Seattle

P.S. For anyone who thinks this letter was ghost-written by Lindsay Thompson, who is currently campaigning for new editorial perks in the form of personal stationery ("The Board's Work," *Bar News*, September 1990, p. 31), I hasten to assure you I have never met this person. In fact, I do not even know if it is a boy or a girl.

A New Version of Murphy's Law: Anything That Can Be Reported Wrong About Murphy, Will

Editor:

Thank you for your note about me in the September 1990 ("Around the State," p. 40) edition.

While not in the Mark Twain category, a correction is in order.

I retired as city attorney of Toppenish in 1973; I did not retire from the active practice of law until 1988.

I would appreciate the correction—I have been getting some strange looks

from colleagues with whom I butted heads for 15 years from 1973 to 1988.

Best regards.

JOSEPH C. MURPHY
Toppenish

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I keep a plaque with that quotation hidden on my desk, away from the eyes of clients who might not understand. The quote serves to remind me just how tenuous this business of dealing in the commodity of justice can be. Every time I start to find an excuse to turn away a telephone call from SKCBA's Volunteer Lawyer Program, that quote stares me in the eye. Whenever I spot yet another bag lady sleeping in her blanket of newspapers under the viaduct, I am reminded that justice is not affordable by everyone.

The hidden plaque also reminds me that we lawyers, by virtue of special enfranchisements, hold a monopoly on the "business of justice." If you don't agree with me, consider that every judge in this state is a lawyer, every prosecutor is a lawyer, every defense

counsel is a lawyer. There are an extraordinary number of minority persons in prison. Chances are lawyers played no small role in putting them there. And probably lawyers will get them out. We have even told the citizens of this state that, at least in criminal proceedings, it is unconstitutional to not have a lawyer involved in the process. And citizens, beware! We have a law that makes it a gross misdemeanor to do what we do without a license issued by us.

With this virtual lock on the business of justice, it should be no surprise that in its administration the citizens might expect more of us than, say, plumbers or electricians or even doctors. I believe the public expects us to plow some of the profits from our work in the fields of the law into future harvests of justice for all. No business (or profession, or calling, or whatever you choose to call our efforts as lawyers) is as affected with a public interest as lawyering. By that I mean the citizens and an increasing number of us lawyers believe that the price for autonomy includes the duty to



Lowell K. Halverson

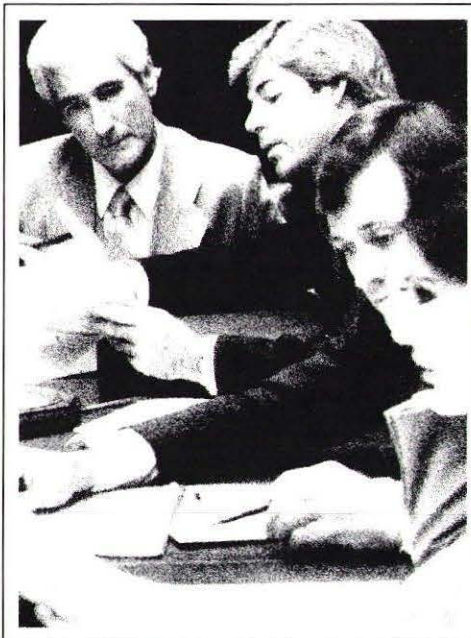
ensure that at least part of our individual labors should be in the vineyard of the public good.

To our credit, we do plenty of "public good." Take 20 minutes to read this issue of the *Bar News*, and be prepared to feel proud to be a lawyer. At least 4,000 of us in this state contributed significantly to pro bono programs offered by the organized bar last year.

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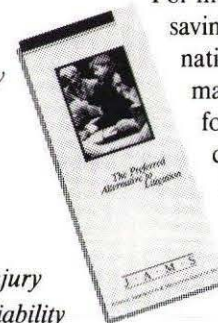


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Unfortunately, random acts of goodness are not nearly as newsworthy as random acts of violence. So do not expect to get a pat on the back from your neighbor, at least not this year. We are trying to get the word out about our good works. This "Access to Justice" issue is one small step. Meanwhile, keep up the good work and, on behalf of that public you so ably served this past year, thank you.



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Introduction

In May 1989 the *Bar News* cover story was a special report on access to justice in Washington. In it we took a look at some programs around the state run in service for the less-fortunate, prompted by the then-recent issuance of two major reports on the subject by WSBA task forces and committees.

This issue of the *Bar News* revisits the topic. This time, virtually the entire issue is devoted to how we help those for whom access to the courts is impossible, or at best, incredibly difficult and costly. The reminder is useful. Those of us who practice in nonlitigation areas of the law, or who litigate but don't handle family law or general practice issues, or work in government or business may tend to forget just how many of those we swore to help we don't. WSBA staff member Nina Harlan, who coordinates statewide volunteer lawyer programs, is editor of this year's special report and deserves credit for its breadth and depth.

Coverage is divided into three parts. "Issues" considers some policy questions broader than the day-to-day questions of providing legal services. "Programs" picks up at that point with a look at a variety of ways lawyers help the public in Washington, from a women's law center to a law firm foundation. "Around the State," usually a light-hearted collection of reports from the counties and other bar groups, looks at what's going on around the state in volunteer lawyer programs.

Finally, across the bottom of each page of the first half of this issue are the names of lawyers who've given their time and effort to helping the indigent and unrepresented in Washington. It is not a complete list—just one provided by various volunteer lawyer groups. But there are a lot of lawyers on it, and they are a symbol of thousands more who also serve. The *Bar News*, and the Bar—we salute you all.

★ PRO BONO HONOR ROLL ★ PRO BONO HONOR ROLL ★

Benton Franklin County Legal Aid Attorneys: Edwin F. Alden, Tim Anderson, Jan Armstrong, Lowell Barber, Charles Barr, Greg Beeler, Crane Bergdahl, Arthur Bieker, Terry Bloor, Allen Brecke, Wayne Campbell, Patricia Chvatal, Benton Clark, William Connor, David Corkrum, Thomas Cowan, John Daly, William Davis, Greg Dow, James Egan, Joseph Erickson, J.D. Evans, Harvey Faurholt, George Fearing, Pete Felsted, Lynn Fielding, William J. Flynn, Francois Forgette, Thomas Gess, Wayne Gladstone, Alan Gunter, Dwight Halstead, William Hanes, David Hevel, Thomas Heye, Holly Hollenbeck, Gary Hugill, Dan Hultgrenn, Brian Iller, Floyd Ivey, C. Harlan Johnson, Mike Johnston, Daryl Jonson, Leland Kerr, Nathan Kirk, Arthur Klym, Kenneth Knox, Michael

Access to Justice in Washington Revisited

by George J. Zweibel

If the American system of justice stands above its counterparts elsewhere in the world, the foundation on which it rests is the promise that its doors are open to all. This includes people who cannot afford to pay lawyers. Each year, however, access to justice slips further beyond the reach of low-income people in Washington state. During the 1980s, the number of poor people in this state increased dramatically, while funding for the programs that provide civil legal services to the poor stagnated. Also, as every private practitioner knows too well, the cost of providing legal services has steadily risen. Even the growing level of pro bono activity has not appreciably stemmed the tide.

This overview briefly describes the problem and discusses the three major approaches that are being taken to help address the unmet civil legal needs of the poor. It provides a context for the other articles in this issue, which more specifically discuss various aspects of these larger approaches. In particular, we hope this issue of the *Bar News* will provide a starting point for bar members who are not yet involved but would like to help address the serious problem that afflicts our justice system and community.

Background

In November 1988, after surveying community service agencies and legal service providers around the state, the WSBA Legal Aid Committee ("LAC")¹ finalized a report which concluded that low-income people have extensive unmet civil legal needs due to inadequate funding for organizations that provide civil legal services for the poor. The availability of legal representation and

counsel often determines whether poor people will have adequate food, shelter, health care, or other life essentials.

The LAC found that civil legal services for low-income people are most effectively and efficiently provided by programs dedicated to that task alone. (Indeed, the existing legal service delivery system, which rests on the existence of such programs, has proven its effectiveness for the last 25 years.) The LAC also found that pro bono representation by other lawyers plays an important complementary role, even though it cannot take the place of adequately staffed legal service programs. In part, this is because volunteer lawyers cannot be expected to possess or acquire expertise in every area of poverty law, many of which are complex legal arenas unto themselves.

Since completing its 1988 report, the LAC has obtained additional information that underscores the urgency of the situation:

o Between 1981 and 1989, Washington's poor population² increased by 35%, from 556,000 to 750,000³, *not including* poor institutionalized persons or temporary state residents.

o During the same period, the number of lawyers working for the three major Washington providers of indigent civil legal services⁴—who together cover all 39 counties—dropped from 133 to 83.⁵

o Thus, at the end of 1988 there were about 9,000 potential clients for each legal service attorney in Washington state. Eight years earlier, there were 4,200 eligible poor persons for each such attorney.

Without additional funding, the situation will inevitably continue to

deteriorate, as the number of poor people and costs of providing legal services continue to increase.

Grim as they are, the numbers only begin to tell the story. The realities of being poor—for example, having to live in substandard housing or to depend on complex government programs and bureaucracies for survival—increase the likelihood that a poor person will need a lawyer. The American Bar Association has estimated that 20% of the poor need some kind of legal assistance each year. Other surveys suggest this figure is far too low. By comparison, other people need a lawyer four to five times in their lives. The legal needs of the poor typically concern life's most basic essentials: subsistence income, food, housing, medical care, and protection of the family unit. Washington's poorest residents are typically children, single working mothers, the elderly, and the homeless, and they are often physically or mentally disabled.

Low-income people with serious legal problems are being turned away every day all around the state. They include everyone from battered spouses and victims of illegal utility cutoffs to parents trying to recover children taken in violation of custody orders. For a person or family living in poverty, the smallest deprivation may be enough to disrupt the delicate balance between just getting by and disaster. For example, an improper denial of food stamps may mean choosing between not paying the rent or starving.

The LAC report, as well as the July 1988 report of the WSBA Pro Bono Task Force, includes a number of recommendations concerning ways to improve access to justice by the poor in Washington. The most important ones concern ways to: (1) increase funding

★ PRO BONO HONOR ROLL

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for civil legal service programs, (2) increase the level of voluntary pro bono activity, and (3) better address unmet legal needs that relate to family law. During the two years since the reports were released, a number of important steps have been taken; others are being considered. The remainder of this article discusses these developments and possibilities, as they relate to funding, pro bono activity, and family law.

Funding for Civil Legal Services

It has long been recognized, here and around the country, that no amount of pro bono representation can satisfy the unmet need for indigent civil legal services. The primary providers of these services must be well-staffed programs that render only such services. The LAC therefore views obtaining additional funding for such organizations as the highest priority.

As a first step, the LAC recommended, and the WSBA Board of Governors unanimously approved, on March 17, 1989, two formal resolutions. The first asks Congress and the Legal Services Corporation to restore federal funding for civil legal service programs to at least the 1981 level, with adjustments for subsequent inflation and growth in the poor population. The second strongly urges the Washington State Legislature and others to make additional state and other nonfederal funds available for civil legal services for low-income people. The resolution specifically endorses passage of legislation that would increase superior court filing fees to help fund qualified legal-aid programs. The Board of Governors has long opposed using filing fees to raise funds for special purposes, but it made an exception here because the need is so urgent and compelling. During 1989, seven local bar associations in various parts of the state adopted similar resolutions.⁶

During its last two sessions, the

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Washington State Legislature considered Substitute House Bill No. 1237, which would raise the superior court filing fee by \$22 to help fund civil legal services for the poor. The bill was passed by the House of Representatives and reached the full Senate, but a vote did not take place before the deadline for considering legislation during the short regular session had lapsed.

Using court filing-fee revenue to help fund civil legal services for the poor is not a novel idea. Six other states, including Oregon, use money received from filing fees this way. Support for filing fee legislation in Washington state has come from many quarters.⁷ Many believe this arrangement would help apportion costs equitably, since "users" of the courts would help make the system of justice available to those who would otherwise be shut out.⁸ At this time, filing-fee legislation appears to offer the best current prospect for substantially increasing the availability of civil legal services here in Washington.

Pro Bono Activity

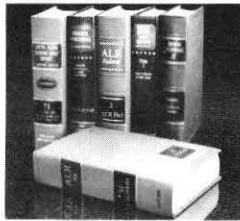
Legal services provided by lawyers on a pro bono basis have always played and will continue to play a very important role in serving the legal needs of low-income people. Both the LAC and the Pro Bono Task Force reports underscore the importance of this. The WSBA 1989 Task Force on Professionalism recommendations and 1989 member survey results lend support to this notion. Accordingly, the State Bar and others have done a number of things to increase the level of voluntary pro bono activity throughout the state. New initiatives continue to be developed and implemented as you read this article.

Acting on a package of pro bono recommendations from the LAC, the WSBA Board of Governors, on November 18, 1989, approved a formal resolution reiterating the State Bar's commitment to the rendering of public

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interest legal service¹⁰—consistent with Section 6.1 of the Rules of Professional Conduct—and noting that pro bono legal services are important in serving the legal needs of the poor. The resolution urges all WSBA members to increase their pro bono participation by spending at least 30 hours each year providing such service.¹¹ It adds that, because the extent of unmet civil legal needs of low income people is so great, members are especially encouraged to provide professional services at no fee to them, particularly in cases that involve family law.¹²

The State Bar has steadily increased its role in encouraging and supporting local pro bono efforts. It created a new staff position, the Director of Local Bar Services, primarily for this purpose. The current incumbent, Nina Harlan, was recruited from the American Bar Association, where she managed a national pro bono project. Her efforts here have done much to increase the scope and impact of the State Bar's pro bono program. She offers assistance to local bars developing new pro bono programs from the earliest stages and visits bar associations to meet with committees, boards and others in the community to discuss how to start a program, how to assess the legal needs in the area and how to recruit attorneys. She also coordinates semiannual conferences for pro bono coordinators, legal service publications, such as the *Line to Line* newsletter, and informational materials made available through the WSBA Pro Bono Resource Center. She develops training materials, such as the upcoming Family Law Video designed to prepare pro bono attorneys to take family law cases, and coordinates speaking engagements throughout the state through the Pro Bono Speakers' Bureau. In addition, Harlan provides technical assistance to established pro bono programs. To contact her, call (206) 448-0441.

WSBA publications play an im-

portant part in the State Bar's pro bono program. From time to time, the *Washington State Bar News* dedicates entire issues, like this one, to subjects related to equal access to justice.

New incentives to increase pro bono participation are being considered. For example, as a follow-up to its own report and the recommendations of the Pro Bono Task Force and Washington Pro Bono Network, the LAC is preparing a proposal to the WSBA Board of Governors concerning the use of free CLE courses or materials, or both, to encourage and assist lawyers who do pro bono work. One approach is to give attorneys who have done exemplary pro bono work vouchers entitling them to free CLE courses of their choice. Another is to offer free courses in subject areas that relate to the legal needs of low-income people—such as family, creditor/debtor, employment, or landlord-tenant law—in exchange for an agreement to handle one or two cases in the same type.

Law firms can do much to encourage pro bono work. They can communicate the value the firm attaches to such hands-on experience, make the firm's resources available to support pro bono cases and give positive weight to such work when salary and advancement decisions are made. Some law firms give billable-hour credit or maintain an in-house public-interest unit. These and other approaches are discussed elsewhere in this issue.

A potentially rich, largely untapped source of pro bono resources is comprised by the hundreds of Washington lawyers who work for government or corporations. These lawyers share private practitioners' RPC 6.1 public-interest, legal-service obligation. However, substantial obstacles hinder direct representation of low-income clients by many of them, particularly lawyers employed by state and federal government. Moreover, neither government nor corporate lawyers are likely to

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be covered by malpractice insurance; their reluctance to handle pro bono cases without such protection is understandable. (Of course, even lawyers who are not able to provide direct representation to low-income people can contribute some type of "public-interest legal service" that facilitates direct representation by others.¹³)

The LAC and others are exploring ways to facilitate and encourage greater pro bono activity by lawyers who are not in private practice, *e.g.*, easing government conflict-of-interest rules or providing malpractice coverage for attorneys who need it. In June 1990, the State Bar helped coordinate a corporate pro bono seminar in Seattle, sponsored by the American Bar Association and American Corporate Counsel Association. (See following articles.)

Family Law

The LAC, Pro Bono Task Force and others have cited family law as an area in which the unmet legal needs of low-income people are particularly prevalent. To some degree, this reflects a societal problem. The number of family law problems for all segments of the population is enormous, and being poor increases the likelihood of having them. Family law problems typically require court action for resolution, even when parties are in agreement, and procedural requirements are complex. That the poor are in particular need of legal representation in this area is no surprise.

Unfortunately, lack of resources permits legal service programs to handle only the most urgent family law cases, *e.g.*, those involving domestic violence or noncustodial parent "kidnapping." More "routine" family cases—like dissolution, custody, visitation, and child support—are largely beyond their capacity. Indeed, the programs are not able to meet the existing need related to more urgent nonfamily matters, *e.g.*,

illegal evictions or utility shutoffs and improper termination of Social Security or Medicaid benefits.

Recognizing that even increased pro bono representation will not be enough, the Pro Bono Task Force and LAC recommended that the State Bar form a task force to comprehensively review family law practice and procedure, particularly possible simplification of procedures and forms and establishment of procedures to resolve disputes outside the courtroom. These changes would, it is hoped, make it easier and faster for both pro bono counsel and pro se parties.

In February 1990, the Board of Governors created the WSBA Domestic Relations Task Force, which includes family law practitioners, a judge and others who work in the court system, and representatives of the Legislature, legal service programs, local bar associations, the LAC, and the WSBA Family Law Section. The Task Force was specifically asked to consider: (1) the creation of uniform court forms,¹⁴ (2) establishment of additional dispute resolution procedures, (3) other ways to simplify family law litigation, and (4) other solutions, including possible limited licensure in family law. The Task Force is expected to complete its report in January 1991. This issue includes an article written by Monty Gray, the Task Force chair (*see* page 13).

Conclusion

Despite the best efforts of many legal service and other attorneys, the unmet civil legal needs of poor people in Washington state continue to grow. Too often lawyers are not available to help battered spouses, tenants illegally locked out of apartments, households fighting improper utility shutoffs in winter, parents trying to recover children taken in violation of valid custodial decrees, families wrongfully denied or terminated from food stamp, Social

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The last nine years have amply demonstrated that the federal government is not likely to solve this problem for Washington state. Instead, we must continue to seek solutions within our own borders. Although much has been done already, particularly the creation of IOLTA and increased pro bono efforts, additional funding and other steps are necessary.

Each lawyer can make an important contribution: by representing a low-income client, working for passage of state funding legislation, writing to U.S. senators and representatives to urge increased federal funding, or any number of other possibilities. Doing these things, we will once again demonstrate that lawyers stand alone among the professions in the degree to which we are willing to make personal sacrifices to help address basic human needs in our community. Most important, our legal system will really mean justice for all, and not just those with means. The doors will truly be open to those whose most basic needs may be at stake. □

Footnotes:

¹ The LAC is a WSBA standing committee composed of a cross-section of attorneys, public and private, who practice throughout Washington. Under WSBA bylaws, the committee is concerned with questions about legal aid with respect to: 1) administration of justice as it affects the indigent statewide, 2) remedial measures intended to assist the indigent in the protection of their legal rights; 3) the establishment and efficient maintenance of legal-aid organizations, and 4) cooperation with other agencies, both public and private, interested in these objectives. Art. VIII, Sec. 1(g).

² This refers to people with incomes at or below 125% of the federal poverty level guidelines, which is used to determine financial eligibility for free

civil legal assistance provided by programs that receive federal funding. As of April 1990, for example, a family of four with an income in excess of \$15,875 would not qualify for such services.

³ According to the Department of Community Development, Washington families with incomes below 125% of the federal poverty level grew between 1980 and 1986 at a rate more than *four times* that of either the total population or total households.

⁴ The major civil legal service providers are Evergreen Legal Services, Puget Sound Legal Assistance Foundation and Spokane Legal Services Center.

⁵ Federal funds—the primary source of funding for organizations that provide civil legal services for the poor—were drastically cut in 1981. The 1989 level of federal funding for these programs was 40% less, after adjusting for inflation, than it was in 1981, when they served a much smaller poverty population. As a result, the Washington Supreme Court created the IOLTA program, administered by the Legal Foundation of Washington, which uses previously unpaid interest on private lawyers' client trust accounts, in part, to help sustain these programs. Unfortunately, IOLTA funds, never enough to offset the federal cutbacks, have become static.

⁶ Such resolutions were adopted by the East King County, Seattle-King County, Snohomish County, Spokane County, Stevens County, Tacoma-Pierce County and Whatcom County bar associations.

⁷ See, e.g., "Legal Services for the State's Poor," *The Seattle Times*, at D2 (Feb. 25, 1990).

⁸ SHB No. 1237 included a provision authorizing a court to waive the filing fee where a person can show financial hardship.

⁹ See *Washington State Bar News*, March 1989, at 11; Aug. 1989, at 15.

¹⁰ "Public-interest legal service" includes all uncompensated services

performed by attorneys for the public good.

¹¹ The *Bar News* incorrectly reported that the LAC had originally proposed *requiring* each lawyer to spend 30 hours a year doing pro bono work. See, e.g., *Washington State Bar News*, December 1989, at 30; January 1990, at 35. In fact, the LAC proposed from the outset that the State Bar urge its members to *voluntarily* devote at least 30 hours a year to pro bono activity.

As of November 1989, nine other states had passed resolutions recommending that lawyers spend specified numbers of hours each year on public service, ranging from 15 (Wyoming) to 80 (Oregon) hours.

¹² The resolution gives examples of ways other than direct representation in which lawyers can serve the legal needs of low-income people: 1) helping to raise funds for an organization that provides such legal services, 2) serving on the board of such an organization or of an entity that helps fund such programs, 3) serving in a clinic that helps low-income people handle their own legal problems, e.g., a pro se divorce clinic, 4) providing relevant training to lawyers who will provide legal services at no fee to low-income people, 5) assisting an established legal-service program, e.g., providing research or investigatory services, 6) serving at no fee as a mediator or arbitrator in cases involving low-income people, or 7) serving as legal counsel for an organization that serves low-income people.

¹³ *Id.*

¹⁴ In March 1990, the Legislature passed a law requiring simplified child support schedules and uniform court forms, which must be used in cases filed after January 1, 1992.

George J. Zweibel chairs the WSBA Legal Aid Committee and has been a committee member since 1988. He is director of litigation in the Seattle Regional Office of the Federal Trade Commission.

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Family Law and the Indigent: Where Do the Bar's Obligations End and the Public's Obligations Begin?

by Monty Gray

Family law is unique. No other area of law affects matters so central to people's lives. As a matter of course, parties' homes, income, property and children are in issue; often their personal safety is at stake as well.

For most low-income persons seeking a divorce of any complexity, a privately retained lawyer is not an option. Separation and divorce are inherently impoverishing. Two may be able to live as cheaply as one, but only if they live together. Even among persons of moderate income, few can afford the expense of a contested case without substantial sacrifice and sometimes hardship.

Washington lawyers should be proud of our Bar's efforts to address the needs of indigents in family law cases. In most other jurisdictions, these problems are simply ignored in favor of more glamorous issues affecting the poor. Frequently pro bono and legal-aid programs expressly exclude contested family law matters from their mission; yet in the judgment of most, family law is overwhelmingly the area of greatest need.

Responding to this need, the Washington Legal Foundation, the State Bar Association and many local bar associations have funded programs throughout the state to encourage lawyers to take family law cases pro bono and to help those parties who must proceed pro se. Without any recognition or publicity, many lawyers—particularly family law practitioners—regularly take family law cases with little or no hope of payment. These conscientious efforts are admirable; yet

they fall far short of meeting the need.

Roughly 40,000 marital dissolution actions are filed in the state each year. These figures do not include subsequent proceedings for modification or enforcement of prior decrees. If King County is typical, about half the parties in these cases are not represented by attorneys. Even the exclusion of defaulting parties leaves an estimated 30,000 who actually appear pro se. Although not all of these are indigent, undoubtedly the bulk of them are unable to afford the legal help they need.

Unrepresented parties face a daunting task. Family law and procedure are difficult enough for lawyers unfamiliar with the field; they are practically impossible for parties seeking to represent themselves. In addition, many low-income persons have difficulty understanding and expressing themselves in written English. Without assistance, they can be effectively shut out of the judicial process. (This is especially evident in situations calling for modification or enforcement of decrees.)

As a result, although parties seeking a divorce must use the judicial system, as a practical matter great numbers of the indigent cannot do so effectively without help; yet their poverty often prevents them from getting such help. They can be, and often are, severely wronged as a result.

This is not right. It may not be constitutional.¹ But the Bar cannot meet this need alone.

Family law is increasingly an area which lawyers either concentrate in or avoid. The size of the Family Law Section (1,100 members) gives a rough idea of the number of knowledgeable and experienced family lawyers available. (Not all such lawyers are members of

the section, but not all members of the section devote their full time to family law matters.)

These lawyers cannot annually take on tens of thousands of additional clients who cannot pay. Nor can we expect that lawyers who, for understandable reasons, are reluctant or unwilling to handle family law cases for paying clients will volunteer enthusiastically to accept such cases on an unpaid basis.

Legal Aid can accept only a handful of the most extreme family law cases. During the last decade, support for Legal Aid has been cut back some 40% in constant dollars. There are now only 85 Legal Aid lawyers in the state—clearly an inadequate number to deal with the legal needs of the more than 600,000 persons estimated to be eligible for legal aid.

In the face of these realities, how can we get parties the help they need in family law cases when there are not enough experienced lawyers to go around? Where do the Bar's obligations stop and society's obligations begin? How can we make the best use of the limited resources available? How can we simplify the system and its procedures to reduce the burdens on pro se litigants and inexperienced lawyers?

These issues are being addressed by a task force established by the Board of Governors and containing representatives of many segments of the Bar and the court system. There are no easy answers. The task force is considering a wide range of proposals, some of them controversial. It expects to make its report in January 1991.

Until the task force completes its deliberations, it would be premature to comment on specific proposals and the reasons they may or may not be

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adopted. However, some general observations are in order concerning the role of the Bar:

- We must encourage debate over how to ensure the fair, prompt and inexpensive administration of justice in family law cases; our knowledge and experience can contribute to that debate. We must keep before the public eye the size of the unmet needs in the family law area.

- We must continue to encourage and facilitate volunteer legal services to the extent feasible, but we should vigorously support all other measures reasonably likely to reduce the substantial shortfall between the supply of legal services in this area and the need for them.

The ideals of our profession require no less. □

¹In *Boddie v. Connecticut*, 401 U.S. 371 (1971), the Supreme Court held that when parties cannot obtain a divorce except by going to court, the due-process clause prohibits states from denying access to the courts solely because of inability to pay. *Boddie* involved a mandatory filing fee and is not squarely on point, but the analogy is plain.

Monty Gray is chair of the WSBA Domestic Relations Task Force; he also chaired the 1988 Pro Bono Task Force, whose report led to the appointment of the current group. He is a member of the firm of Davis Wright Tremaine, practicing in Seattle. His only experience with family law matters is in cases he has taken pro bono.

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Legal Education and Pro Bono

by Tari S. Eitzen

In a society where scarcity of legal services for low-income people is a major issue, we cannot afford to dismiss innovative methods of reallocating existing resources to provide necessary services. Like it or not, our legal system, as it exists, has reached a level where it effectively denies meaningful access to those who cannot afford attorneys. If public service is the highest and best use of educated minds, it should alarm each of us, as attorneys, that only 10% of all lawyers nationwide do any pro bono work.

Pro bono legal services provided by law school clinics may be part of the answer. Not only would a critical need be addressed, but educationally we cannot ignore the value of "learning by doing" that occurs when law students engage in actual lawyering under supervision.

Being an innocent in the arena of legal education when I came to Gonzaga School of Law as a supervising attorney in the fall of 1987, I was attracted to the beautiful simplicity of "the concept": That low-income people needed lawyers, and law students needed supervised experience with actual clients seemed pretty common-sense. Two needs, two resources—mirror images. Perfectly fitted, interlocking pieces.

I have grown up since 1987 and, with some angst, come to understand that there exists tremendous and sometimes irrational resistance to that concept. Some legal educators are skeptical of the educational value of clinical legal education and question the actual hands-

on methods of lawyering training. Some also ask what business (obligation?) law schools have providing pro bono legal services. Members of the bar are sometimes, in varying degrees, suspicious of students "practicing on real people." Predictably, the work product and politics of law school clinics are intensely scrutinized by both the educational institution and the bar. Yet legal education has needs which can be met *only* by the educational process actually taking place within the legal community, and the legal community faces a critical shortage of representation for poor people which it has been unable to address.

Much of the dissonance regarding law school clinics is historically explained. The evolution of legal education occurred in such a manner as to foster an actual institutionalized resistance to law schools' taking an active part in the day-to-day "legal life" of their own communities.

Of Socrates and Stuffed Dogs

In the mid 1800s a legal educator named Christopher Columbus Langdell founded the "Socratic method," which has law students read appellate decisions and answer questions in class regarding details of the opinion. But very little to do with the actual practice of law can be found in appellate decisions.

By the 1930s there were murmurings in the halls of legal education—recognition that Langdell's method wasn't working. As Frank Jerome, a

Yale law school professor (and later judge), wrote in 1933, "Students trained by the Langdell method are like dog breeders who only see stuffed dogs."

In the 1960s a number of law schools were testing the "skills training" waters, and many times found they needed to look outside their institutions for clinic instructors. Law school faculty had, in many cases, neither the day-to-day experience nor the inclination to teach lawyering skills, as opposed to theory and legal analysis. The first clinical teachers came from legal services milieus and shared values such as law reform and societal responsibility. The sixties ideals shaped clinical education to a great extent—a sharp contrast to the formal, remote, institutionalized Socratic method. The emphases on a practical and humanistic approach to law and dedication to using the law to help society and "do good works" were suspect to those long committed to the time-honored methods and elitist view of the legal education system. (Picture the long-haired, earth-shoed legal-aid lawyer flashing an ingenuous "peace, brother" smile at Professor Kingston. Do the two of them then sit down over coffee (herbal tea?) and have an open-minded discussion regarding methods of legal education?) Thirty years later clinical education remains suspect in legal academia—a "soft, unanalytical commodity" in the view of (an increasingly smaller number of) law professors who pride themselves on their intellectual rigor.

Each year 40,000 people enter law

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schools in this country. They should be shown that their profession must serve not only the narrow monetary interests of their clients or themselves, but also societal concerns.

UCLA's Dean Susan Prager, a strong advocate of clinical education, believes that "traditional legal education tried to strip out emotion and personal problems from legal problems." To do so is to cheat law students, our legal system and society.

Live client clinical programs sensitize interns and help them understand, even as they learn legal concepts and practical application, that what they are dealing with is not "a case" but a human being.

Beyond the Traditional; Fitting the Pieces Together

Gonzaga law school's clinical program, University Legal Assistance

(ULA), strives to put the humanity back into legal education. Funded by Gonzaga University and a number of grants, ULA serves low-income clients in Spokane County. Since 1988, ULA has been the recipient of a grant from the Washington Legal Foundation to provide legal services to low-income family law clients. Up to twenty third-year law students (Rule 9 Interns) represent clients under the close supervision of five full-time faculty members who are practicing attorneys. Providing ongoing legal services to 173 family law clients and taking 55 new referrals in the first eight months of 1990, the vast majority of these being pro bono program referrals, ULA is the major source for pro bono referrals in Spokane County.

University Legal Assistance, incorporated in 1975 as an independently

organized legal services provider affiliated with Gonzaga University School of Law's on-campus clinical law program, has come to be recognized as an important legal-service provider in Eastern Washington.

ULA serves two parallel purposes: (1) to provide free legal services to low-income persons within the Spokane community and (2) to afford law students the opportunity to integrate clinical learning with conventional legal studies by working with disadvantaged clientele. ULA has served over 9,000 low-income clients since 1975, and it is anticipated that approximately 1,000 clients will be served in 1991. (This number includes cases ULA screens and refers elsewhere and "one contact/advice only" matters.)

The IOLTA-funded ULA Family Law Project takes its referrals almost exclusively from the Spokane Bar Association Pro Bono Program. However, from time to time there are emergency cases which are taken directly, and in such cases the clients are required to complete a Spokane Bar Pro Bono application, and Mary Wardrop (Spokane County Pro Bono Coordinator) is consulted about their eligibility. (Example: domestic violence or custodial interference necessitating emergency court orders to protect either a spouse or child from immediate harm.)

University Legal Assistance has bridged the gap between legal education and the Spokane community by becoming a valuable, contributing member of the community, and members of the local bar and the University have responded generously by contributing their time and expertise to ULA. Many local attorneys and other professionals have contributed significantly:

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Spokane attorney Gary Stenzel of Underwood, Campbell, Brock and Cerutti has volunteered to donate two hours per week to ULA as a mediator in family law cases and has acted pro bono as guardian ad litem or legal consultant in several ULA cases. Local attorneys who have donated their time and expertise to ULA in the form of consultation include Robert Scanlon of Dellwo, Rudolph and Schroeder; Richard White of Evans, Craven and Lackie; James Gillespie; James Connelly of Winston & Cashatt; and Sheila Huber. Superior court commissioners and judges as well as attorneys have been guest speakers at clinic seminars. Dr. Barbara Wood, a professor with Gonzaga's psychology department, has donated dozens of hours to ULA clients by providing psychological evaluations and testing.

Educationally, how do we fare? I'm not sure how you measure that. I do know that student applicants for clinic placement at ULA far exceed capacity. Clinicians as a whole have had a higher bar passage rate than nonclinicians. Almost unanimously clinic alumni/ae claim their clinical time was their most valuable educational experience. Scott DeTro, recent Gonzaga graduate and practicing attorney, wrote not long ago:

The transition from law school to a busy law office can be very stressful and sometimes disheartening to a new lawyer. The experience I gained in Gonzaga's Law Clinic probably was the single most valuable asset of my law school education. This clinical experience has made my transition to a law practice much smoother, as initially I am handling several cases similar to those handled in the clinic. The skills I learned in the clinic in

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communicating with clients, counseling clients on legal problems and actually preparing cases gave me the knowledge and confidence to be able to quickly become an asset to the law office that hired me.

My clinical experience substantially helped me in preparation and passage of the Washington State Bar examination. I received extensive experience in family law matters, community property, civil procedure, criminal law and procedure, wills and probate, bankruptcy, administrative

law and landlord-tenant problems. As you well know, the Washington State Bar is designed primarily by practitioners, and one's responses should be geared toward the practical application of the law to these problems. The experience gained in the clinic is exactly that practical application, and I feel it gave me a tremendous advantage when answering the Bar questions.

In the end, I believe, the answer is that it is reasonable for law school clinics to do pro bono work. Legal educators and pro bono advocates need

each other.

The goals of sound legal education and community service are fulfilled whenever a Rule 9 intern, after preparation with a supervising attorney, sits down in a room with a frightened client and asks, "How can I help you?" □

Tari S. Eitzen is Family Law Project director and staff supervising attorney of Spokane's University Legal Assistance.



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The Government Lawyer and Pro Bono

by Stewart A. Estes

There can be little dispute that the basic legal needs of low-income people in the state of Washington are not fully met.

The decision in the early 1980s by the federal Legal Services Corporation to restrict both the funding and the activities of local legal service programs has had a broad impact. Combined with an indigent population that grows four times more quickly than the general one, these restrictions have prevented Washington's three primary providers of civil legal services from reaching all those who need assistance.

Not coincidentally, the 1980s witnessed a dramatic increase in the number and quality of local bar association pro bono projects. The level of "pro bono publico" activities (a concept almost unique to our profession) has risen in an attempt to satisfy these unmet needs. However, it has become plain that the bar's participation in pro bono, as it specifically relates to serving the civil legal needs of the indigent, must increase. One often-overlooked resource is government lawyers: federal, state, county, city and town attorneys, including those employed by various agencies, legislative bodies and the courts.

Although no specific data exist, it appears that the percentage of government lawyers performing pro bono services is markedly less than that found in the private bar. In Thurston and Mason counties, two-thirds of bar members work in government, yet they make

up only one-third of the local pro bono panel. And this participation level is higher than the norm for government lawyers. It is one of the highest in the nation, and it is greater than the state-wide average participation level of less than 25 percent for all attorneys.

Historically, government lawyers have not participated in pro bono activities because the statute that created their office barred them from the private practice of law. A federal criminal statute prohibits all federal employees from acting as private attorneys in any case which the United States is a party to or has an interest in. 18 U.S.C. § 205. This over-broad statute, designed primarily to deal with corruption and abuses of inside government information, affects over 20,000 attorneys nationwide. For several years, the Federal Bar Association has suggested legislative action to overcome this obstacle.

At the state level, in 1973 the Washington Legislature removed the barrier for the Office of the Attorney General with specific clarifying authority that permits assistant attorneys general (AAGs) to perform "legal services of a charitable nature." The statute governing county prosecuting attorneys was amended in 1989 to mirror this provision. City attorneys have no such statutory bar. Many other attorneys are governed by office policy rather than specific statute.

On the federal level, office policies vary from agency to agency. Some offices encourage pro bono work but prohibit lawyers from performing such work on office time or with office

materials. An agency official must approve the acceptance of each case. The state attorney general has a similar policy; AAGs may not perform pro bono work on state time and are barred from using state office supplies or support staff. Attorneys must draft their own pleadings and letters. Annual leave must be used for court appearances. Several county prosecutor offices employ the same restrictions.

Nationally, similar policies exist for other state attorneys general. Of eleven office policies reviewed, only Maryland's and Minnesota's are at variance. The Maryland attorney general has an in-house pro bono program which provides secretarial support and allows "comp time" (as opposed to annual leave) to be taken for pro bono work. Minnesota, on the other hand, has an "advice only" policy which prohibits direct representation of indigent persons.

Less-restrictive policies, such as Maryland's, exist in some offices in this state, including several city attorney's offices. This type of policy appears to work well and has not been abused. Professional employees compensate any time lost during official duty hours with work performed on evenings or the weekends. The success of these policies indicates that the more-restrictive rules create an unnecessary barrier for government lawyers.

Statutes and policies governing the private practice of law are grounded on the unique status of the government attorney. Accountability and the use of public funds limit the activities in which such offices can participate. Elected officials must be particularly

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sensitive to creating even the appearance that public servants are giving away the public's time and money. However, these concerns are in no way inconsistent with the performance of pro bono work. Indeed, pro bono work by government lawyers may enhance the image of an office in a manner that no other activity can.

Once one's policy requirements are satisfied, other barriers may stand in the way of government lawyers. One barrier is conflict of interest. The aforementioned federal criminal code creates a blanket and presumptive conflict of interest regardless of whether an actual

conflict exists. More than one-fourth of state AAGs who represent the Department of Social and Health Services would be unable to represent pro bono clients who receive public assistance or who have some contact with Child Protective Services. On the county and city levels, conflicts may arise if criminal charges are pending against a person in need of civil legal assistance.

Lack of liability insurance for private-practice activities is a great dissuader. Government-employed lawyers do not have coverage for pro bono work. While state and local solutions to this problem are being explored, some

programs automatically provide malpractice insurance to government lawyers who handle pro bono cases. The Seattle-King County Bar Association's pro bono programs (and several others throughout the state) obtain insurance through the National Legal Aid and Defender Association without charge to pro bono attorneys. Premiums for such policies are at a greatly reduced cost and should be sought by all pro bono programs.

Another significant barrier to government lawyer involvement with pro bono work is one which cuts across the public/private bar spectrum: lack of legal experience with family law, landlord-tenant and public entitlement issues. Discussion of proposed solutions can be found elsewhere in this issue.

In conclusion, although several barriers prevent all government lawyers from representing all pro bono clients, many cases can be undertaken. Some obstacles can be removed, while others are inherent. Remaining statutory barriers should fall. Office policies should be softened to allow for flexibility in handling pro bono cases. And, offices must "encourage" pro bono in word and deed. In-house recruitment and coordination of pro bono efforts would be invaluable. But whatever obstacles must presently be overcome, those in public service share with the private bar the professional obligation to assist the needy. Government lawyers also share with the private bar the need to increase an already commendable level of participation in pro bono.

Stewart A. Estes is a member of the WSBA Legal Aid Committee. He is also an assistant attorney general in the Torts Division and a member of the Thurston-Mason Pro Bono Panel.

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Corporate Counsel and Pro Bono: How and Why to Get Involved

by **Nina Harlan**

The need for increased pro bono activity throughout the bar is widely recognized. In their November 1988 pro bono resolution, the WSBA Governors recommend that each lawyer spend at least 30 hours each year providing public-interest legal service, particularly the direct representation of low-income people. RPC 6.1, cited in the resolution, applies to all lawyers, including those who are employed by businesses as in-house counsel. This article briefly describes recent ABA/WSBA efforts in corporate pro bono, the benefits of being involved in corporate pro bono efforts and the factors that lead to successful corporate pro bono programs.

American Bar Association Hosts Local Pro Bono Seminar for Seattle Corporate Counsel

The American Bar Association and the American Corporate Counsel Association sponsored a seminar on pro bono for corporate counsel at First Interstate Bank in Seattle on June 25. The local corporate sponsors for this event were Microsoft, Inc. and First Interstate Bank, who hosted a reception after the seminar; the WSBA approved the event for free CLE credit and assisted the ABA with local coordination. Attorneys representing 15 corporations, including Boeing, Security Pacific Bank, Safeco, and GTE, were welcomed to the event by William Neukom, vice president and general counsel of Microsoft, Inc. and Joan Robinson of First Interstate Bank, who expressed the hope that the law departments of the corporations represented would increase their pro bono activity.

Sigmund Balka, general counsel of Krasdale Foods and chair of the ABA Corporate Law Department's Pro Bono Project, introduced the panel of speakers and commented, "Pro bono efforts provide an enhanced public image for the corporation while satisfying the interests of corporate counsel for public service. Pro bono opportunities also help to develop skills that in-house lawyers may not otherwise get a chance to use, particularly in litigation and client contact."

Seminar attendees viewed the American Corporate Counsel Association (ACCA) video on pro bono; it stresses that the enthusiastic support of the general counsel and the endorsement of the CEO are keys to a successful corporate pro bono program. ACCA and ABA reference materials, as well as pro bono personnel policies of several major corporations, were made available to the seminar participants.

Karen Gowland, assistant general counsel at Boise Cascade, Inc., described in detail the workings of Boise's very successful pro bono program. Joan Andersen, Community Legal Services Director at the Seattle-King County Bar Association, discussed the legal needs of the poor in King County and how corporate counsel could participate in an established pro bono program to help address those needs. Krista Cossalter, coordinator of the Seattle-King County Bar Association's Neighborhood Legal Clinics, made a presentation on the legal clinics and how corporate counsel could volunteer. All attendees received follow-up materials from the WSBA to assist them in developing their own corporations' pro bono efforts.

If you're interested in starting a pro bono program at your corporation, there are many resources at your disposal. The WSBA Direct Assistance to Pro Bono Programs can provide technical assistance to help you develop your own. Contact Nina Harlan at the Bar office for further information.

Other sources of materials and assistance are listed below:

American Bar Association
Corporate Law Departments Pro Bono Project
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PRO BONO

The Benefits for Corporate Counsel

There are many reasons that corporate lawyers find participating in pro bono efforts rewarding:

Courtroom Skills

Participating in a pro bono program gives corporate counsel as much exposure to the courtroom as they like and an opportunity to develop their litigation skills. Volunteering through a structured program gives attorneys the opportunity to gain new skills with the assistance of other attorneys on the program's pro bono panel.

Change of Pace

It's easy to "get into a rut" in our careers, doing the same things over and over and missing the satisfaction of being challenged in new areas. Doing pro bono work provides attorneys with a different outlook on what they spent so many long hours and such effort earning—their law degree. Volunteering gives lawyers an opportunity to work with clients with a real need for the professional skills attorneys possess.

Learning New Areas of Law

It is exciting, yet daunting, to undertake a new area of law. Doing pro bono provides attorneys with maximum support for learning something new. Volunteers have program coordinators, private practitioners, law manuals and training materials available to help them learn the new areas in which they want to gain knowledge to serve the needs of their clients.

Mentors

In a pro bono program, volunteers are not thrown in to sink or swim. Attorneys can be matched with lawyers in private practice who handle the types of cases they will be taking and can provide assistance on a step-by-step basis.

Bringing the Practice of Law Back to the Original Client

Many corporate attorneys who do pro bono work particularly enjoy having the opportunity to see their clients sitting across the desk from them. Corporate counsel especially appreciate being able to work one-on-one again with the individual client who needs their assistance.

Providing Access to Justice

For the majority, attorneys are the only access they have to the legal system. People need an attorney by their side when they enter a courtroom. Many attorneys, recognizing this, view providing this access—that only they can provide—as a professional obligation.

SIX KEYS

To a Successful Corporate Pro Bono Effort

Here are several features that are the hallmarks of successful corporate pro bono efforts:

The People at the Top Support the Pro Bono Effort

Crucial to any corporate pro bono effort is the support of the corporation's general counsel and, if possible, the CEO.

That Support Is Put in Writing

This means a written policy, concerning such things as: how much time the corporation will permit attorneys to put into pro bono activities, how liability insurance will be handled, the degree of secretarial support and other corporate resources available to assist in pro bono activities, handling of incidental expenses and paperwork.

Training and Back-Up

A successful pro bono effort always includes training and a back-up system to get information. Whether that's a manual, a mentor or other sources, it's important to have ready access to needed information.

An In-House Coordinator

An in-house pro bono coordinator is usually present in successful corporate programs. The coordinator knows who is handling which cases and is also aware of resources such as free trainings at the local bar association for pro bono attorneys. The coordinator, the person a local pro bono program calls to refer cases, is the front line.

Regular Publicity

Regular publicity and reports on the activities of the corporate pro bono volunteers are important. They show that such work is important to the company and encourage others to participate. Items about the pro bono effort can be included in the corporate newsletter.

Link to an Established Program

The local legal-service or bar-sponsored pro bono program can supply a corporate program with enough clients and make sure a corporate program gets the kind of cases it's interested in handling.

Nina Harlan is the WSBA's Director of Local Bar Services. She formerly served as staff administrator of the American Bar Association's Corporate Law Department Pro Bono Project.

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What Washington Law Firms Are Doing*

by Carole L. Hollon

In a legal environment where phrases like "market share," "profits per partner" and "revenue per lawyer" have become increasingly pervasive, the results of a recent informal survey of Washington law firms regarding pro bono services proved surprising. The WSBA Legal Aid Committee undertook the survey, asking firms statewide for information about their policies and programs on pro bono work and whether such work is encouraged. Approximately half the ninety firms responded.

The responses were as varied as the clients needing assistance. Only a minority of firms stated that they neither encourage nor discourage lawyers from taking on pro bono cases. Many firms advised that they "strongly encourage" pro bono services. While most of the responding firms encourage attorneys to get involved in pro bono cases, they differ on the form that encouragement takes.

Many firms give "billable-hour credit" to attorneys working on pro bono cases. The credit ranges from 30- to 100-hour limits yearly, and means time spent on pro bono cases counts toward the attorney's billable-hour calculations. One of Seattle's largest firms, which allows such credit of up to 100 hours, has an in-house coordinator for projects in each of several King County programs: Volunteer Legal Services, Attorneys for People with AIDS, King County Guardian Ad Litem program and the ACLU.

A Yakima firm encourages its attorneys to sign up for one-half-day consultations with low-income people, scheduled at the local legal service office, with appointments each half-hour. That firm also asks its attorneys to handle one pro bono case each year to conclusion and encourages volunteer legal work for charitable organizations.

Another Seattle firm has had a formal "public-interest practice" policy since 1976. Each attorney is encouraged to devote 10% of chargeable hours to public-interest practice so that the firm can meet its goal to devote at least 5% of its total chargeable hours to public-interest work, which includes assisting low-income people with their legal needs. "Public-interest" also includes providing civil-rights law representation, public-rights law representation, charitable-organization representation and activities which improve or further the administration of justice.

One firm requires associates to devote at least 100 hours yearly to public service and encourages them to make services to low-income clients a major part of the program. Associates are also encouraged to volunteer time to local community service organizations.

Though firms which offer traditional pro bono services to low-income clients within a broader public service policy often view the services as part of their marketing strategy, the programs described in survey results include substantial traditional pro bono legal services.

Some firms provide additional incentives: Gift certificates to local restaurants are given to lawyers in one

Seattle firm for exceptional pro bono services. Another firm has initiated a monthly in-firm newsletter featuring and highlighting attorneys doing pro bono work.

Firms differ, too, on how the pro bono aspect of their practice is managed. Over half the firms indicated they have or are in the process of developing a formal pro bono policy. Many of the larger firms in the Seattle area that said they have formal policies regarding public-service work also have standing pro bono committees, which range in function from collecting and distributing pro bono cases to overseeing service delivery.

While firm approaches to pro bono work differ, there is one transcendental truth: The need for lawyer participation in pro bono programs is fast increasing. Referrals to the Spokane County Bar Association pro bono program, for example, have more than doubled since 1986.

There are a lot of people in Washington state who need legal assistance but cannot afford it. Attorneys are needed to play a larger role in providing pro bono services. The demand is especially great in the area of family law.

*For the purposes of this article, the author surveyed 93 "larger" firms in Washington. "Larger" was defined as over 30 lawyers in firms in the Seattle metropolitan area, and over 11 lawyers located in the remainder of the state. A number of the firms requested anonymity, so the author decided not to identify any of them.

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Firms wishing to encourage pro bono services and implement formal pro bono policies should consider the following:

- allowing billable-hour credit to attorneys providing pro bono services,
- implementing a firmwide minimum-hour requirement of pro bono work by individual attorneys,
- establishing a committee or an individual attorney assigned as coordinator to oversee the pro bono services of the firm,
- providing recognition and incentives to attorneys giving pro bono services, and
- selecting a "firm project" that all attorneys can contribute to.

We, as attorneys, are duty-bound by RPC 6.1 to "render public interest legal service." The assistance of the poor through pro bono programs is a fulfilling way of honoring this duty. For more information, call the following offices:

Seattle-King County Bar Association (Volunteer Legal Services), (206) 624-9365.

Tacoma-Pierce County Bar Association, (206) 383-3432,

Spokane County Bar Association, (509) 456-6032,

WSBA, (206) 448-0441. □

Carole L. Hollon is a principal in Randall & Danskin, P.S., in Spokane and a member of the WSBA Legal Aid Committee. She wishes to thank legal intern Bob Buchanan for his help on this article.



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John Shields, Terry Simon, James Soukup, William Stone, William Sullivan, Richard Swanson, David Sweetwood, William Taylor, Henry Templemen, J. Steven Thomas, Mark Tipperman, William Tri, Larry Trivett, Thomas Tuohy, Tracy Waggoner, Grace Wagner, Walter Wagner, Yvette War Bonnet, John Watts, Grant Weed, Robert Welch, Benjamin Westmoreland, George Wilcox, Paul Williams, Robert Willoughby, Frank Willson, Monte Wolff, Annie Wong-Daly. **Spokane County Bar Association Pro Bono Program:** Michael Agostinelli, Richard Algeo, Paul Allison, C. Matt Andersen, Don Anderson, Robert Anderson, Ned Annan, Gene Annis, Joan Antonietti, Fred Aronow, Greg Arpin, Chris Ashenbrenner, Larry Neil Axtell, Steve Backman, Claude Bailey, Bill Baker, Erika Balazs, Brian Balch, Robin Bale, Ned Barnes, Frank Bartoletta, Paul Bastine, Robert Beach, Bob Beaumier, Mayree Beckett, Gary Benjamin, Irving Bennion, Keith Bergman, Walt Berhalter, Michael Beyer, James Black, John Black, Jacke Blair, Gary Bloom, Joseph Blumel, Jack Bockemuehl, Drew Bodker, Andrew C. Bohrsen, Al Bonney, John Bowman, Bruce Boyden, Gary Brajcich, Randy Brandt, Keith Briggs,

Loan Forgiveness Programs: A Step in the Right Direction

by Amanda J. Laveson

Law graduates who pursue public-interest law careers are generally motivated by the desire to serve low-income individuals who quite frequently do not have access to the law. Similarly, graduates who enter legal positions in government agencies are motivated by the highly rewarding opportunities to promote the public welfare.

While the rewards of public-interest and public-sector legal work are plentiful, there is, unfortunately, a critical shortage of law graduates who are entering and staying in these areas. The reason for this shortage is simple: faced with ominous student loans after graduation, too many law graduates simply cannot afford to take legal jobs in these fields. The public good suffers as a result, since the most dedicated, talented lawyers choose private practice.

There are several ways in which the profession has sought to rectify the shortage of talented lawyers willing to practice law in a public-interest firm or a government agency. These include fellowships from large civil firms for those willing to serve low-income

clients. Bar associations are urging lawyers to perform pro bono legal work. And public-interest law firms and government agencies are trying to raise their salaries as high as possible to draw more lawyers and retain those who are already there.

Loan forgiveness programs are an exciting new solution to the problem. A loan forgiveness program incrementally reduces a law graduate's student loans for each year that the graduate practices with a qualified public-sector legal organization. The program is based on the common-sense notion that highly indebted law graduates entering public-interest or public-sector positions are not on an equal footing with those who go into private practice. The program creates a strong incentive for law graduates to pursue these careers.

The Puget Sound Law Foundation is a nonprofit organization of UPS law alumni and students. Founded in 1981 by several UPS law students, it has donated thousands of dollars to traditionally underfunded legal organizations. Over the years, PSLF has made significant contributions to organizations protecting human rights, the

environment and numerous other social issues in the Pacific Northwest.

During the past summer, PSLF commissioned a feasibility study to develop a loan forgiveness program at UPS law school. Under the supervision of 1984 law graduate and King County deputy prosecutor Peter Goldman, second-year law student intern Amanda Laveson has just recently completed the project.

In the months ahead, alumni and student PSLF members will be working hard to make a loan forgiveness plan a reality at UPS law school. We will be seeking funding from the Legal Foundation of Washington, the law school, private law firms and the private sector. Recognizing the important social value of competent and contented public-interest and government lawyers, UPS law school dean Jim Bond pledges his support to PSLF in establishing the program at the law school.

If you would like more information about PSLF or its loan forgiveness project, please write to us at the following address: Loan Forgiveness Program Coordinator, Puget Sound Law Foundation, Box 360, Tacoma, WA 98401. □

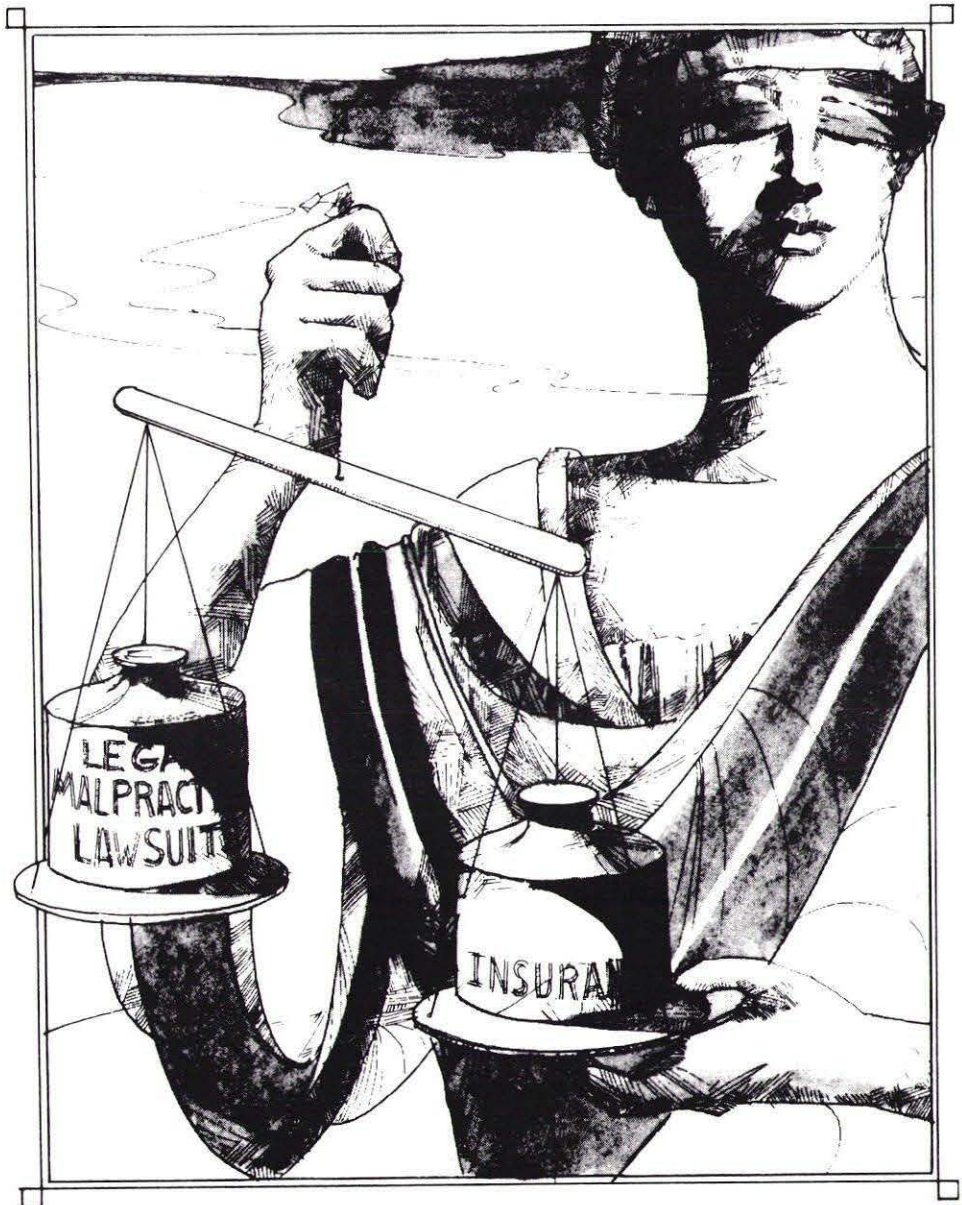
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Critic's Choice: "The Board's Work is Better Than L.A. Law!" (See page 4)

by **Lindsay Thompson**, Bar News Editor

Everett, Washington, October 19-20, 1990

Present: President Halverson and the Governors, save Monte Hester, absent on other business. Also present: Stephen Anderson (WSTLA); Robert Bakemeier (WSBA/YLD); Judge Robert Dixon (Superior Court Judges' Assn.); Frank Edmondson (Government Lawyers); Judith Eiler (SKCBA Trustees); Ed Holm (Legal Foundation of Washington); Donna McNamara (SKCBA/YLD); John J. Michalik (WSBA Executive Director); Judge Robert Schillberg (District Court/Magistrates' Assn.); Karen Stred (Washington Women Lawyers); Lindsay Thompson (*Bar News* Editor/Clark County Trustees); and Robert Welden (WSBA General Counsel).

The Usual Opener: The Board met in executive session for about 45 minutes, dealing with various things various Governors may report on in varying degrees of detail in their newsletters.

Executive Director's Penultimate Report—The Sequel: Executive director John Michalik announced that Dennis Harwick, incumbent executive director of the Idaho State Bar, has been hired to replace Michalik. Owing to the commitments of that post Harwick will not take over fully until December, rather than November as was previously hoped. Michalik will stay on until then.

Michalik said the budget for 1989-1990 is closing out on target and a total of \$180,000 is still the expected contribution to reserves from the year's income. Because of lower-than-hoped-for attendance, the 1990 Bar convention is expected to post a \$15-18,000 loss.

Bolstering the ranks of lawyers to potentially not attend future conventions are 631 people who passed the summer Bar exam. They'll hit the streets in November.

Just Raise the Billing Requirement, That'll Fix It: The president nominated Governor Ron Gould to be treasurer of the Association for 1990-1991, noting that Gould's experience as head of the Board's budget committee made him a natural choice. He was elected unanimously. "Our budget is like the daily receipts at Ron's firm," Governor Jeff Tolman cracked. Gould, who is a partner at Perkins Coie, gave the Board of Governors a delphic smile and said, "I wish."

Instead of Wasting Money on the Convention, Let's Waste It on a Referendum About the Convention: Where to hold the 1995 Bar convention, a

favorite topic of late, came up again after having been put over at the Board's September meeting. The plan: have the convention in Hawaii in '95. The attractions: all the usual, plus 1990 room rates for an event five years off.

Governor Jeff Tolman noted that the last convention in Hawaii, in 1986, had drawn some 1,200 lawyers, many of them younger attorneys in contrast to the older cast of most years. He thought the proposal was good value for money.

Governor Alva Long voiced a variety of objections. He thought it ill-advised to spend member dues on an out-of-state event, especially for flying WSBA staff over there to run the event. He said the 1986 Hawaii convention lost nearly \$60,000, that we were trying to bind the WSBA to an event it might not be able to afford in 1995, and trying to promote a tax-free vacation for lawyers. "It's not cost-effective, and it's not politically wise," he said.

John Michalik responded that things had changed since 1986. For one, the current Board had cut out lots of the expenses that had contributed to bigger deficits on past conventions, deficits which in those days had not engendered much complaint. The package was a good one for members, offering room rates that will likely be \$100 per night lower than the regular projected 1995 rate. Hawaii came up high on the last member survey of convention sites. And he thought it passing strange that the opponents of the Hawaii site—and the 1991 San Diego convention—had argued it was bad to have conventions out of state and had themselves posited two out-of-state alternatives to out-of-state San Diego.

A poll of observers at the meeting, seeking the general feeling of their members, came up solidly in favor of Hawaii in '95. Lem Howell thought there should be more family-oriented events so people who do attend can bring their families along and will be more likely to go than if it's just a business event. Governor Tom Chambers said when he was president of WSTLA he canceled a convention in the Bahamas because there was legislation pending in Olympia of interest to trial lawyers and he thought having the convention would be a PR disaster. He thought Hawaii '95 could be as bad for WSBA. After a lengthy and wandering consideration of the matter, the Board voted 7-2 for the 1995 convention November 7-12 in Maui, Governors Long and Chambers voting no. A motion by Ron Gould to have the convention committee study holding the annual business

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meeting separate from the convention and not in Hawaii passed unanimously.

Small Bills for the Bill of Rights: Responding to a prior Board request, Jo Rosner of the WSBA Public Affairs Office presented a proposal for WSBA participation in some educational programs being developed by the Washington Commission for the Humanities to observe the bicentenary of the federal Bill of Rights. The plan sought \$7,000. Lem Howell, a guardian of the WSBA fisc on the Budget Committee, asked if they could get by with \$3,500. Ron Gould made an eloquent statement on the importance of the Bill of Rights and the vitality of WSBA involvement in observing its 200th anniversary in 1991. He moved to approve up to \$7,000 but asked Rosner to see if they could get by for \$5,000. Howell moved to limit to authorization to \$5,000, telling the Board he thought it unwise to spend over 10% of the contingency fund in the first meeting of the

new fiscal year. Governor John Schultz said he thought this was just rewriting the budget for lunches and travel and would oppose the whole idea. Governor Don Curran thought if the Board could dump \$25,000 into the Bar Association Centennial Videotape we could swing one-fifth of that for the Bill of Rights, and that's what they did, 8-1, Schultz opposed.

Resolutions!: The Board had to decide what to do with the three resolutions presented at the annual meeting in Spokane. The first addressed was one calling for study of supporting legislation to merge the district and superior courts and create a civil and criminal department in the new court. Judges would be elected to serve in one division or the other. The resolution was passed without debate at the annual meeting ("The 101st Annual Meeting," *Bar News*, October 1990, p.29).

Governor Lem Howell moved referring the resolution to

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the Court Congestion and Delay Task Force. Governor Steve Tubbs opposed doing anything with it because it had been passed by the annual meeting without debate and because it was another attempt to force statewide solutions to problems only a few counties have. Ron Gould countered that it was debated at length in the Resolutions Committee, and John Schultz felt the members had passed it, so the Board ought to act on it. Jeff Tolman agreed with Tubbs; Don Curran wondered if the Gates Commission on the Courts had acted on the idea or similar ones and should be asked before the Board acted. But the question was called, and the motion to refer passed 7-2, Tubbs and Tolman opposed.

The resolution to move the 1991 WSBA convention from San Diego to points undetermined ("The Board's Work," *Bar News*, August, 1990, pp. 36-37), defeated at the annual meeting ("The 101st Annual Meeting," *Bar News*, October

1990, p.29), was not in a position for the Board to take any action on, and they unanimously decided not to.

The CLE self-study resolution ("The Board's Work," *Bar News*, August 1990, p.36), got a thorough airing. Seattle lawyer and principal advocate Douglas Shaw Palmer recounted how he'd tried to bring his resolution to the Board in January but got it referred to the miasmic bogs of the CLE Board, who would have none of it, and for all kinds of bad reasons.

That's right, said CLE Board chair Prof. Victor Hanzeli and lawyer-member Gerhardt Morrison, but we buried it for all the right reasons. Those turned out to be variations on the domino effect: if you let one kind of self-study through the gate, there is no logical basis for excluding the others. And besides, they said, if you do this we'll have to rethink all our CLE rules carefully built up over the years and replete, they admitted on cross-questioning, with their own

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share of logically dubious distinctions.

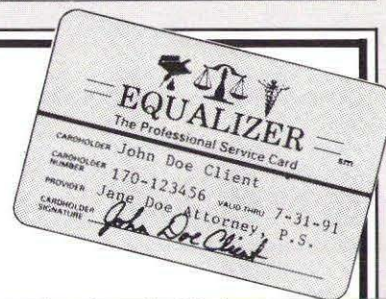
SKCBA Trustee Judith Eiler seconded Palmer, noting that some 20 bar associations had now come out in support of the resolution, which was approved at the annual meeting, and contradicting the notion that endorsing self-study would cause the CLE system to collapse overnight.

In response to questions, Hanzeli and Morrison said other professions have higher CLE requirements than lawyers, some of which can be satisfied by self-study. Maybe we should up our requirement while we're at it, Governor Tom Chambers mused.

Governor Alva Long said by the time he counted time and travel costs he was out \$2,000 a year going to CLEs which were frequently not on subjects of use to him because he couldn't schedule attendance at others he wanted to attend. He thought it made sense to allow people to listen to or watch taped presentations.

Chambers then moved to approve the resolution for action, allowing up to five hours' self-study CLE credit. "The members have spoken," he told the Board. "I listened to the debate and was impressed by it at the annual meeting. And I don't think you can ignore the 20 bar associations endorsing this idea. But we have a good system we should continue to use." After some discussion, and with a motion in mind to raise the CLE requirement, Chambers amended his motion to allow 1/3 of required CLE credits to be gotten by self-study. The motion passed 7-2, Long and Schultz voting no because the Shaw resolution had originally set no limits on self-study credit. A little wrangle ensued over whether the Board should ask the CLE Board to recommend rules to the Supreme Court implementing this change. No way, said Morrison. "Don't send it back to us. We'll table it. Forever."

About that Semicolon...: The Board went through a



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long debate over whether to endorse the professional liability insurance program developed by Kirk-Van Orsdel, Inc. and Scottsdale Insurance Company as a bar association-sponsored plan ("The Board's Work," *Bar News*, October, 1990, pp. 27-28). It was essentially an exercise to see if the company would rewrite different parts of the policy people didn't like. Governor Ron Gould proposed a much-amended motion and spent great time and effort trying to stitch together a consensus that ultimately wasn't there. The Board voted to sponsor the plan, but a 5-2 vote with two abstentions after considerable splitting of votes and dissension.

Just Call Us Division Four: The Board heard another appeal from Seattle attorney Howard Todd, who said he'd been denied various items of information requested under the WSBA's freedom of information act. Todd is looking into what he says was waste and mismanagement of Association finances in the 1980s and wants to document them closely. Executive director John Michalik said he'd turned over everything he had, but some of the information requested had been routinely tossed out years ago. After some testy discussion, Governor Don Curran moved that the executive director ask the various hotels used by bar conventions in years Todd is interested in to provide copies of whatever they have in their files and the Board passed it, 9-0.

You'll Love the Part About Pro Tem Judges: Seattle attorney William Gates came to tell the Board about the preliminary draft of the Commission on Washington Trial Courts he heads, assisted by Seattle attorney Wayne Blair and lawyer/legislator Marlin Applewick. They have a lot of things in mind: the summary of recommendations is eight pages long, and the full report runs to 60. Public-comment hearings are set for November. How to get it out to WSBA members for comment, the president wondered. Send it to section and committee heads, said one; don't forget county bar presidents, said another. The editor of the *Bar News* proposed running the summary in this issue as an extra four-page section. Governor Lem Howell balked at the \$2,000 cost as another ill-advised raid on the contingency fund. Fine, the editor said. Let me run it on spec and see if I can sell enough extra ads to cover it. Nope, said the Board, voting down running it in the *Bar News*. If you want a copy of the report, write or call Ms. Cryderman in the Office of the Administrator of the Courts, 1206 S. Quince Street, MS EZ-11, Olympia, WA 98504, tel. (206) 357-2121.

Swing Voting: Though his memory was much invoked during this meeting ("What would Paul do/think?"), just-retired Governor Paul Stritmatter's long rear-guard action against service by telecopier took it on the chin when new Governor Tom Chambers slipped a motion to reconsider last month's vote not to ask the Court Rules Committee to study fax service and ask the committee to study its use in courts and administrative proceedings. It passed, 5-4.

Wrap-up in Everett: In other action, the Board heard a report by Jeff Tolman on his visit to the most recent Superior Court Judges' Association meeting; adopted the balance of procedural rules changes for the Client's Security Program not addressed last month ("The Board's Work," *Bar News*, October, 1990, p. 28); and discussed whether they ought to get involved in the post-Callow defeat debate on changing the way judges are elected. They also set their meeting schedule for 1990. It's printed below.

Next meetings: 1990: November 16-17, Bremerton; December 14-15, Seattle; **1991:** January 11-12, Olympia; February 15-16, Tacoma; March 22-23, Bellevue; April 19-20, Winthrop; May 17-18, Spokane; June 21-22, Kelso; July 19-20, Blaine; August 23-24, Leavenworth; September 11-14, San Diego (Bar convention).

ANNOUNCEMENT

1991 RESOURCES MEMBERSHIP DIRECTORY

The 1991 directory of attorneys is presently in its compilation stage. Listings for the directory are being compiled from information contained on 1991 dues statements (mailed to all WSBA members in early December). When sending in your dues to the Bar office, please note the instructions on the statement relative to the address and phone number to be used for your listing in the directory. Corrections for directory listings must be received by February 28, 1991—the deadline for dues payment.

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November 1990

- 2 7th Annual Consumer Protection, Anti-trust & Unfair Business Practices Conference, Seattle. *Sponsored by:* WSBA CLE and Consumer Protection, Antitrust & Unfair Business Practices Section. *For information:* (206) 448-0433.
- 2 Ninth Annual Federal Tax Conference, Seattle. *Sponsored by:* UW CLE. *For information:* (206) 543-0059.
- 3 The Changes in the Legal Industry and the Impact on the Legal Secretary, Seattle. *Sponsored by:* Washington Association of Legal Secretaries and FYI Seminars. *For information:* Elizabeth Smith, (206) 223-1313.
- 5 Environmental Law in Oregon and

- Washington, Portland. Also November 12 in Seattle and November 16 in Spokane. *Sponsored by:* The Oxford Group. *For information:* (800) 826-7155 & fax (715) 836-0105.
- 89 Thirty-fifth Estate Planning Seminar, Seattle. *Sponsored by:* WSBA CLE and Estate Planning Council of Seattle. *For information:* (206) 448-0433.
- 89 Third Annual Advanced Conference on Commercial Real Estate Leases, Seattle. *Sponsored by:* CLE International. *For information:* (206) 621-1938.
- 9 Second Annual Professional Responsibility Institute, Seattle. *Sponsored by:* UW CLE. *For information:* (206) 543-0059.

- 9 Damage Strategies That Work, Bellevue. Also November 16 in Yakima. *Sponsored by:* WSBA CLE. *For information:* (206) 448-0433.
- 12 Environmental Law in Oregon and Washington, Seattle. *See* November 5 entry for details.
- 14-18 Divorce and Parenting Mediation Training, Seattle. *Sponsored by:* Conflict Resolution Service. *For information:* (206) 633-4283.
- 16 WSBA Board of Governors meeting, Bremerton. *For information:* (206) 448-0441.
- 16 Environmental Law in Oregon and Washington, Spokane. *See* November 12 entry for details.

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16 Damage Strategies That Work, Yakima. *Sponsored by:* WSBA CLE. *For information:* (206) 448-0433.

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

29 Hazardous Waste in Washington, Seattle. *Sponsored by:* National Business Institute, Inc. *For information:* (715) 835-7909.

29-1 Second Annual Pacific Real Estate Symposium, Seattle. *Sponsored by:* WSBA CLE and Pacific Real Estate Institute. *For information:* (206) 448-0433.

December 1990

1 The Trial of a Criminal Case, Seattle.

Sponsored by: UW CLE and WSBA Criminal Law Section. *For information:* (206) 543-0059.

4 Negotiations and Settlement Advocacy, Olympia. *Sponsored by:* WSBA CLE. *For information:* (206) 448-0433.

4 How to Draft Wills and Other Estate Planning Documents, Spokane. *Sponsored by:* WSBA CLE and YLD. *For information:* (206) 448-0433.

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6 How to Draft Wills and Other Estate Planning Documents, Seattle. *Sponsored by:* WSBA CLE and WYLD. *For information:* (206) 448-0433.

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:* UW CLE. *For information:* (206) 543-0059.

13 How to Foreclose On, and Defend Against, Liens, Seattle. *Sponsored by:* WSBA CLE and Creditor/Debtor Section. *For information:* (206) 448-0433.

14-15 WSBA Board of Governors meeting, Seattle. *For information:* (206) 448-0441.

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

27 Best of CLE 1990, Seattle. *Sponsored by:* WSBA CLE and General Practice Section. *For information:* (206) 448-0433.

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Notices of Interest to Association Members

Judicial Disciplinary Notices

Admonishment: The Commission on Judicial Conduct has admonished Skagit County District Court Judge **Eugene C. Anderson** for violation of Canon 3(A)(5) for failure to render a timely decision as required by CRLJ 58 and failure to respond to counsel's repeated inquiries, by decision dated September 7, 1990.

Censure: Pursuant to a stipulation between the parties, the Commission on Judicial Conduct has censured Franklin County District Court Judge **H.W. Felsted** for violating Canons 1,2, 3(A)(1), 3(A)(4), 3(B)(1) and 5(C)(1) of the Code of Judicial Conduct, RCW 3.34.040 and .110, Chapters 46.63 and 46.64 RCW and the Justice Court Traffic Infraction Rules for allowing "certain selected individuals to make voluntary contributions to law enforcement-related services such as a SWAT team or K-9 Unit in exchange for dismissal of the "Notice of Traffic Infraction" and using his chamber during recesses of the court to discuss private business matters, by order dated September 7, 1990.

Public Notices

Reminder of Court Rule 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

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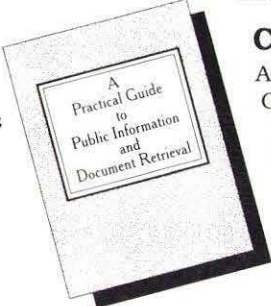
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In re RCW 19.52.120(1): Legal Interest Rates

The average coupon equivalent yield from the first auction of 26-week treasury bills in October 1990 is 7.59%. The maximum allowable interest permissible for **November 1990** is therefore **12.00%**. Compilations of the average coupon equivalent yields from auctions of 26-week treasury bills appear in the following *Bar News* issues: October 1987, page 39 for 1982-1987; June 1989, page 37 for 1984-1989; and June 1990, page 51 for 1985-1990.

Commission on Supreme Court Reports Index:

Attorneys looking for a quick and accurate means for researching recent appellate court decisions in Washington should know that the 1990 edition of the *Cumulative Subject Index to Washington Supreme Court and Court of Appeals Opinions*, as compiled by the Commission on Supreme Court Reports, is now available.

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Snohomish County Court Holidays, 1990-1991:

The following are holidays (noncourt days) remaining in 1990 and 1991 for the Snohomish County Superior Court:

1990

- NOV 12, MON Veteran's Day
- NOV 22, THU Thanksgiving Day
- NOV 23, FRI Day after Thanksgiving
- DEC 25, TUE Christmas Day

1991

- JAN 1, TUE New Year's Day
- JAN 21, MON Martin Luther King's Birthday
- FEB 18, MON President's Day
- MAY 27, MON Memorial Day
- JUL 4, THU Independence Day
- SEP 2, MON Labor Day
- NOV 11, MON Veteran's Day
- NOV 28, THU Thanksgiving Day
- NOV 29, FRI Day after Thanksgiving
- DEC 25, WED Christmas Day

Notice of Hearing on Petition for Reinstatement

A petition for reinstatement after disbarment has been filed on behalf of **Richard W. Hart**, who was disbarred on February 2, 1977, upon stipulation to discipline based upon a federal criminal conviction. At the time of his disbarment, Hart practiced in Bellevue, Washington. He is presently a resident

of Seattle.

Hearing on Hart's petition will be conducted before the Board of Governors on Saturday, November 17, 1990, beginning at 9 a.m. On or before the date of the hearing, anyone wishing to do so may file with the Board of Governors a written statement for or against reinstatement, such statements to set forth factual matters showing that the petitioner does or does not meet the requirements of RLD 9.6(a). Except by its leave, no person other than the petitioner or petitioner's counsel shall be heard orally by the Board of Governors.

This notice is published pursuant to RLD 9.5(a).

Late-Breaking News

- **KING 5 News** will air a three-part series on the crisis in Seattle courts on its 11 p.m. edition Thursday through Saturday, November 15-17.
- **BDO Seidman**, accountants and consultants, is sponsoring the High Technology Breakfast Roundtable Series, 7:30-9:30 a.m. Dec. 5, Jan. 30, Feb. 27 and Mar. 27. For CPA CLE credit, Contact Tracy White at (206) 644-4800; fax (206) 562-8853.
- **The Roscoe Pound Foundation** 1990-1991 Roscoe Hogan Environmental Law Essay Contest topic is "The Toxic Waste Dump: What Are the Remedies in Tort?" Open to law students. Deadline is December 17, 1990. Contact Mary Petersen, Roscoe Hogan Environmental Law Essay Contest, 1050 - 31st St. N.W., Washington D.C. 20007; (202) 965-3500, ext. 380.
- **Ferry County** will receive sealed bids at the Commissioners' Office, Ferry County Courthouse, P.O. Box 498, Republic, WA 99166, for public defender services, until 1:00 p.m. on November 26, 1990. For information call (509) 775-3161, ext. 229.

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NOTES FROM THE ACADEMY

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

Community Property. (*Case 1.*) When court in dissolution action finds that one spouse's military pension is community property and awards other spouse payments out of it: (a) Amount awarded shall be based upon disposable pay, rather than gross pay, as required by federal law. (See *Mansell v. Mansell*, ___U.S.___, 109 S.Ct. 2023 [1989].) (b) Federal law prohibits requiring the paying spouse to pay the receiving spouse's federal income tax liability. Reversed and remanded because trial court violated these principles and also because decree was overly broad in prohibiting changes in deductions from pension, since federal law may require some changes. *In re Marriage of Haugh*, 58 Wn.App. 1, 790 P.2d 1266 (Div. 3, 5/22/90).

(*Case 2.*) Dissolution decree may require a spouse who receives a military pension to pay to the other spouse all the cost-of-living increases in his pension, after deduction of federal taxes thereon. In this case it was an equitable share. Nor did it violate federal law.

Federal law limits to only 50 percent amount that state court may require military to pay directly to an ex-spouse; it does not affect amount that one ex-spouse may be required to pay the other. Decree in question required ex-spouse, not military, to make payments in issue. *In re Marriage of Bocanegra*, 58 Wn.App. 271, 792 P.2d 1263 (Div. 3, 6/18/90).

—T.R. Andrews

Real property security. Three liens on debtor's land, in order of priority, were: deed of trust to Yakima Federal Savings & Loan Association, deed of trust to Washington Mutual Savings Bank, and federal tax lien to Internal Revenue Service (IRS). Yakima Federal foreclosed its trust deed by nonjudicial foreclosure. Washington Mutual purchased at sale for amount of Yakima Federal's debt, to protect its second-trust deed. IRS indicated it wanted to redeem from Washington Mutual and offered only amount Washington Mutual had paid to redeem, *i.e.*, did not offer also to pay amount of Washington Mutual's debt. Federal statute that governs redemptions by IRS, 28 U.S.C. § 2410(d) provides, in effect, that IRS must pay amount of Washington Mutual's debt if Washington Mutual may *not* recover deficiency from debtor after redeeming. *Held*, on certification to United States Court of Appeals for Ninth Circuit: Washington law does *not* allow a junior lienholder who purchases at senior lienholder's nonjudicial sale thereafter to obtain deficiency judgment against debtor. RCW 61.24.100, which forbids deficiency judgments following nonjudicial foreclosures, applies, not only to the foreclosing senior lienholder, but also to a nonforeclosing junior lienholder who purchases at the sale. Thus, if IRS wants to redeem from Washington Mutual, it must pay amount of Washington Mutual's debt, in addition to price Washington Mutual paid to purchase. *Washington Mutual Savings Bank v. United States*, 115 Wn.2d 52, 793 P.2d 969 (En Banc, 7/12/90).

—W.B. Stoebuck

Wills and estates. (*Case 1.*) Where will conferred power of appointment on surviving spouse that

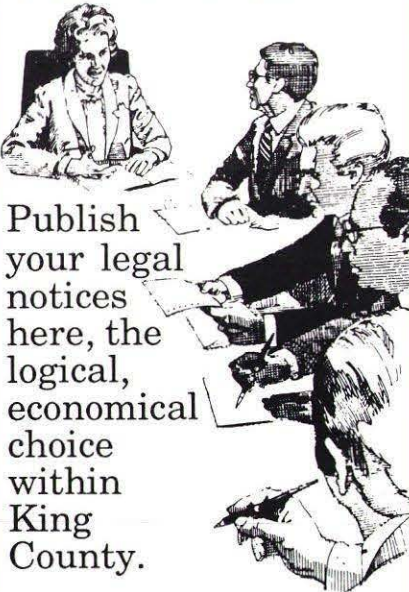
could be exercised only "by specific reference hereto," and statute (former RCW 11.95.060[2]) required identification and date of instrument creating power, power was not effectively exercised by "all powers" residuary clause that attempted to dispose of all property "over which I hold a power of appointment." Inclusion of power-of-appointment provisions in 1984 Trust Act did not violate "one-subject" requirement of state constitution. Nor was it abuse of discretion to award successful beneficiaries their attorneys' fees out of trust estate and to deny unsuccessful would-be appointees attorneys' fees. *In re Boris V. Korry Testamentary Marital Deduction Trust for Wife*, 56 Wn.App. 749, 785 P.2d 484 (Div. 1, 1/29/90).

(*Case 2.*) Testator bequeathed testamentary option to purchase farmland to nephew A, and if he failed to exercise option, then to alternative optionees. Nephew A predeceased testator, survived by six children. *Held*: Option goes to A's six children under anti-lapse statute, rather than to alternative optionees. Otherwise, children of A would be disinherited. *In re Estate of Niehenke*, 58 Wn.App. 149, 791 P.2d 562 (Div. 3, 5/31/90).

(*Case 3.*) Testator devised land, valued at \$83,500, to daughter, but gave his surviving spouse option to purchase it for \$40,000. There was \$39,900 mortgage against land. Spouse offered only the \$100 difference between her \$40,000 purchase price and the \$39,900 mortgage, *i.e.*, she wanted to deduct the balance on the mortgage from her option price. *Held*: Spouse must pay full \$40,000 option price to exercise option. Will was ambiguous, but testator's intent may be determined as matter of law when will was read in conjunction with RCW 11.12.070, which says that a specific devisee takes property subject to mortgage unless will provides otherwise. Here, that meant spouse received option to purchase for \$40,000 subject to mortgage. Court also rejects daughter's arguments that option was invalid as restraint on alienation or as violating rule against perpetuities. *McDonald v. Moore*, 57 Wn.App. 778, 790 P.2d 213 (Div. 1, 6/7/90).

—T.R. Andrews

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Northwest Women's Law Center Advances Legal Rights for Women

by Amy Stephenson

This year marks the twelfth anniversary of the Northwest Women's Law Center. One of only eight legal organizations in the country that focus exclusively on women's rights, the Law Center simply would not exist without the thousands of hours of pro bono work donated by attorneys throughout the state. In fiscal year 1989 alone, attorneys donated over \$338,000 worth of professional services to Law Center programs.

The Law Center addresses a broad range of substantive issues: reproductive rights, economic justice, family law, employment rights, violence against women, and others. The Law Center employs a wide variety of tools: impact litigation, legislative advocacy, education and the provision of free telephone information and referrals. Working with a staff of only four, Law Center volunteers accomplish all of this through hard work and a strong commitment to social justice.

The following is a brief summary of some of the work Law Center pro bono attorneys have done over the last two years.

Reproductive Rights

More than 20 lawyers worked on *Aradia Women's Health Center v. Operation Rescue*, a major federal suit begun in November 1988 against local participants in a nationwide campaign to close down abortion clinics. Representing medical clinics, physicians, a



Three of the lead cooperating attorneys in the Northwest Women's Law Center's *Aradia Women's Health Center v. Operation Rescue* suit. L to R: Mark Ryan, Lisa Stone and Jill Bowman.

patient and numerous pro-choice organizations, Law Center attorneys in April 1990 obtained a statewide permanent injunction that prohibits the protesters from trespassing at or blockading medical clinics that provide abortions. The case is now on appeal to the Ninth Circuit.

In other actions, the Law Center submitted a legal memorandum to Washington's attorney general regarding the impact on Washington's abortion statute of the U.S. Supreme Court's 1989 decision in *Webster v. Reproductive Health Services*. In his eventual opinion, the attorney general agreed with the Law Center that the case did not revive the unconstitutional provisions of the abortion statute.

Other reproductive rights work handled by Law Center volunteers includes: investigation into discrimination against abortion providers by malpractice insurers, establishment of a speakers' bureau on reproductive rights issues, and preparation of an *amicus curiae* brief in a Sixth Circuit Court of

Appeals challenge to a Kentucky statute requiring written parental consent for a minor to obtain an abortion.

Employment

The Law Center is also working on many fronts in the employment area. Recently, the Law Center coauthored with the national NAACP a Ninth Circuit *amicus* brief in support of King County's Women and Minority Business Enterprise contract ordinance. The brief was filed on behalf of numerous local women's and minority organizations.

Another current focus is on issues surrounding work and the family. The Law Center has worked actively on state family-leave legislation that would give employees leave to care for newborn, newly adopted or seriously ill children and to care for seriously ill elderly parents. A bill passed in 1989 incorporated some of these protections, and leave advocates plan to return to the Legislature this session to expand the

bill further. At the local level, Law Center volunteers have worked to obtain passage of domestic-partnership laws and to protect those that have been enacted.

Finally, the Law Center has an active sexual-harassment seminar program in which volunteer attorneys present workshops for businesses, unions and other organizations.

Family Law

Like other public-interest law organizations across the state and country, the Law Center has increasingly been addressing problems in the area of family law. Particular attention has been given to the economic consequences of divorce, custody problems and the financial inability of many women to obtain adequate legal representation in domestic-relations cases.

In the legislative arena, the Law Center has worked extensively on child support and custody issues, both of which have been the subject of much legislative action in the last few years. In addition, the Law Center has participated on and worked with the Washington State Task Force on Gender and Justice in the Courts.

The Law Center also addresses family law problems in its telephone Legal Information and Referral program.

Staffed primarily by volunteers, this program helps thousands of women each year, giving them legal information and referrals to attorneys and community resources. Complementing this service is the Law Center's family law workshop program in which volunteer attorneys give workshops throughout the community to low-income women.

Violence Against Women

In each of its programs, the Law Center works on issues surrounding violence against women and children. During the last year domestic violence litigation has been particularly emphasized. In *State v. Hanson*, the Law Center is representing on appeal a battered woman who was convicted of murdering her partner. The issue involves admissibility of evidence of the battered women's syndrome.

The law Center is preparing an *amicus* brief in *Roy v. City of Everett*, a suit arising out of a shooting attack against the plaintiff by her former lover. This attack was the culmination of a long period of escalating violence, during which time the plaintiff repeatedly sought police protection, with little effect. The plaintiff seeks damages for the Everett police's failure to perform their duties under the law to protect her. At issue is a provision of

the Domestic Violence Act that confers immunity on authorities for omissions to act.

Last year, the Law Center also submitted an *amicus* brief in support of the plaintiffs in *Jordan v. Gardner*. In this suit, women prison inmates successfully challenged a policy that permitted cross-gender pat searches by male guards.

Participation Encouraged

Through the efforts of its volunteer attorneys, the Northwest Women's Law Center has made a real difference in the lives of women in our region. The Law Center welcomes more volunteers, both women and men, to work on cases, legislative issues, educational projects and in the Information and Referral program. Anyone interested in volunteering or finding out more should call Amy Stephenson, legal coordinator, at (206) 682-9552. In addition, any attorneys who know of cases that the Law Center may wish to litigate should contact Amy to explore that possibility.

Amy Stephenson is an attorney and legal coordinator for the Northwest Women's Law Center.

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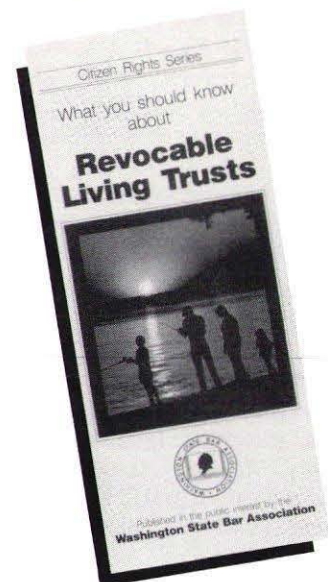
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Access to Justice is the Mission of the Legal Foundation of Washington

by Barbara Clark, Legal Foundation Executive Director

The Legal Foundation of Washington awarded almost \$3.2 million in 1990. This money, which came from the interest earned on lawyers' trust accounts, went to 53 law-related charitable and educational programs.

Examples of the work supported by the Legal Foundation are:

* The Education Law Project, whose goal is to ensure that students with special educational needs receive the educational and related services to which they are entitled by law. Law-related education is offered to families regarding the rights of their children. Legal advice and representation are available for income-eligible families. The project can be reached at (800) 547-0200.

One example of the project's efforts involved a boys' ranch in Thurston County. Employees grew discouraged when their charges—wards of the state—were kicked out of school for behavior problems. Staff looked to the public schools to provide the appropriate educational program, but did not have the knowledge or resources to advocate individually on behalf of each of the boys.

Edward C. was 13 years of age and needed special education. He had been the victim of extreme emotional abuse and probable physical abuse as a young child. Adopted at age six, he was unable to fit into a home environment. He suffered from severe anxiety, argumentative attitude and depression, and he was diagnosed as severely behaviorally disabled. The basis for his termination from school was the very disability for which he needed assistance. Edward C. needed a parent who would go to bat for him.

Although Edward had no caring parent to act on his behalf, the law provides for surrogate parents—to be trained and appointed by the schools—to act on behalf of children like Edward. The Education Law Project, after a year of discussion with the Office of the Superintendent of Public Instruction, brought suit requesting that the state education agency appoint a trained surrogate parent who would act as

school advocate for Edward C. and for all other children who are wards of the state or whose parents or guardians are unknown or are unavailable and who need special education. A consent decree was subsequently entered which required the state education agency to establish a system for training surrogate parents, locating all children who need them, and for monitoring the appointment of surrogates throughout the state. A booklet outlining children's rights to special education is available from the project.

•The Tenants Union provides information to anyone calling its statewide toll-free hotline, (800) 752-9993, which is funded by the Legal Foundation. The Tenants Union focus is on the provision of information about the landlord/tenant laws and the rights and responsibilities of tenants. In 1989 the Union answered 25,000 calls; the most frequently cited problems included evictions, repairs, deposit and rental and lease agreement issues. Informational brochures concerning tenants' rights and responsibilities and the proper process for obtaining repairs of a rental property are available from the Tenants Union.

•The Northwest Women's Law Center is a nonprofit, public-interest law center whose purpose is to protect and advance the legal rights of women. The Foundation provides support of the Law Center's Information and Referral service, which in 1989 provided options and referrals to almost 4,000 callers, mostly single, low-income women with children. The Foundation's grant also helps finance family law educational workshops for low-income women.

Any person calling (206) 621-7691 receives assistance, as did a caller from King County. She had initiated dissolution proceedings and received a temporary order for support and visitation two years prior. The father had been ordered into therapy for sexual deviancy. No final decree had been issued and no support received for over a year. She wanted a court order denying visitation by the dad unless he was in treatment. The Center was able to provide information about the Office of Support Enforcement and a referral to a

local attorney who would provide further legal advice and representation if needed.

The information line relies on volunteer attorneys and paralegals to provide the service, and new volunteers are always welcome. The Center recently completed translation of its 78-page booklet, *Family Law in Washington State*, into Spanish. This project was also funded by a Foundation grant. The booklet is available from the Law Center.

* The Washington Center for Law-Related Education (WCLRE) received Legal Foundation support to create a directory to serve as a central source of law-related education ("LRE") materials, events and resources. The WCLRE goal "was to increase the amount and improve the quality of teaching about the law to nonlawyer adults and youth in Washington." The Center turned to the University of Puget Sound Institute for Citizen Education in the Law to create *Teaching About the Law: A Law-Related Directory for Washington State*. This is a compendium of currently available LRE materials. It is available from the UPS Institute for Citizen Education in the Law.

The Legal Foundation makes every effort to support only successful, efficient organizations that provide critically needed services. Its resources are limited; the total amount requested by the 53 programs funded in 1990 was twice the amount awarded. Many of these programs have been hurt by the dramatic decrease in federal funds over the past ten years. All find themselves competing with other worthwhile human resource programs for additional monies.

Here are some things you can do to help increase the Legal Foundation's ability to support these programs:

- 1) Make sure your bank pays a competitive interest rate on your trust accounts.

- 2) Check periodically to be sure the fees charged are also competitive.

- 3) Volunteer your time and money to one of the IOLTA-funded programs in your community. Feel free to contact the Foundation for further information: (206) 624-2536. □



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Thanking Your Referral Sources

by Gregory S. Morrison

Every marketing professional will tell you that the best form of advertising is by word of mouth. Needless to say, this statement assumes that the words being said about you are favorable. Capitalizing on favorable word-of-

mouth advertising is easy and profitable if you take the following steps.

When dealing with new clients, always identify how they came to call you or your office. I guarantee you will be surprised at some of the unlikely sources for your referrals. Nonetheless, a good referral is a good referral

regardless of where it came from.

Always, always, always acknowledge your appreciation to the person making the referral. I personally favor a handwritten thank-you note for a couple of reasons. First, this gives your thank-you a warm, personal touch. Second, and perhaps most important, you then have some degree of assurance that your thank-yous will actually be received and acknowledged. While merely calling and leaving a message of thanks is better than no thanks at all, your message is less likely to be actually received.

The referral of a particularly good case may warrant taking the time to make sure you speak directly with your referral source. Personal calls give you the opportunity to both convey your thanks and obtain additional, appropriate information about your new client from your referral source.

You should then keep a tally of your referral sources. At least annually, you may wish to compare your referral tally with your billing records. You may be surprised at how much business your referral sources are sending you.

For those referral sources who have contributed substantially to your prosperity over the past year, you may wish to extend an extra-special thank-you. Acknowledging significant referral sources is particularly appropriate during the Christmas season. Your thank-you may consist of a holiday gift box, a luncheon invitation or perhaps a gift certificate at a nice restaurant. However, if you are uncomfortable with the notion of giving gifts, then at least send a greeting card on an annual basis.

Regardless of how you choose to communicate your appreciation for a referral, a mere "thank-you" is not enough. Accepting a referral should also motivate you to do very good work for a fair price. In so doing, you will protect the credibility of your referral source and promote further referrals.

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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Perkins Coie Community Service Foundation Fellowship

by Richard L. Baum

History

The Perkins Coie Community Service Fellowship program was established in November 1987 as a gift to the community, in celebration of Perkins Coie's 75th Anniversary. Its purpose is to allow firm lawyers to devote their time and talents on a full-time basis in support of worthwhile community organizations and projects that might not otherwise be able to afford such legal assistance. The Fellowship program officially began in June of 1988, and is administered by a board consisting of Perkins Coie attorneys and prominent members of the community including John Ellis, president of Puget Sound Power & Light Co.; Douglas P. Beighle, senior vice president and secretary of The Boeing Company; the Honorable Jane Noland, Seattle City Council member, and Anne Farrell, president of the Seattle Foundation.

Fellowship projects are the result of proposals created either by the board, interested organizations, or Perkins Coie lawyers themselves. Since the fellowship's creation, seven Perkins Coie attorneys have participated in the program, two on behalf of Common Ground, a Seattle nonprofit organization which assists with the development of low-income housing, three with the Seattle Goodwill Games Organizing Committee, one with the Northwest Renewable Resources Center, an environmental group which mediates multiparty disputes and one with the International Rescue Committee, a non-sectarian group which assists refugees

escaping political, religious and racial persecution. Through these seven fellowships, Perkins Coie has contributed over \$350,000 in legal services to these organizations to date.

Common Ground Fellowships

In June of 1988, Loretta B. Kepler and Lis Wiehl were the first Perkins Coie lawyers named fellows, to work with Common Ground on the development and implementation of a concept for pooling private funds to finance low-income housing. For almost a year, Kepler and Wiehl were involved in providing legal services for Common Ground, both through the fellowship program and thereafter as part of Perkins Coie's regular pro bono program.

Their work on behalf of Common Ground included:

1. analysis of the use of limited partnerships versus pooled-income funds to finance low-income housing and the preparation of a matrix that compared the two financing vehicles and a summary of structural options;

2. participation in the Mitchell/Danforth Low-Income Housing Task Force of the United States Congress, including the preparation of an outline summarizing pooled-income funds and assistance with an amendment to the Internal Revenue Code;

3. preparation of the Articles of Incorporation, Bylaws, and Organizational Meeting Minutes for a new nonprofit corporation, the Common Housing Alliance, which will act as the public charity remainderman for a pooled-income fund, as well as advice regarding obtaining tax-exempt status;

4. preparation of a pooled-income fund trust document and instruments of transfer;

5. preparation of an initial draft of a private-letter-ruling request regarding several tax issues including pass through of low-income housing credit to contributors;

6. preparation of two written articles explaining and promoting the pooled-income fund concept as a means to generate and fund low-income housing; and

7. preparation of a private letter ruling request to be submitted to the Internal Revenue Service, followed by possible conferences with the Internal Revenue Service.

In terms of time spent, Kepler contributed 278 hours, and Wiehl 325 hours, to Common Ground through the fellowship as well as additional time in the regular Perkins Coie pro bono program. In addition, more than 100 hours have been added by other attorneys and legal assistants working with Kepler and Wiehl.

Seattle Organizing Committee/Goodwill Games Fellowships

The second group of fellowships was granted to three attorneys, Craig E. Shank, Bart J. Freedman and Timothy J. O'Connell, to provide legal services to the Seattle Goodwill Games Organizing Committee ("SOC"). Beginning in February of 1989, Shank worked with the SOC in preparing form sponsor agreements, form supplier and patron agreements, the supplier agreement administration program and the Games graphic manual. He also was involved in negotiations with representatives of several different Indian tribes and the Bureau of Indian Affairs regarding American Indian participation in the

Games and associated events.

Shank also drafted contracts and/or negotiations with 14 companies regarding ticket sales, trademark use, facilities, sponsorship, equipment and hosting of Soviet visitors, and agreements with miscellaneous contractors regarding mailing list exchanges, mailing services, confidentiality, and cash and services exchanged for

corporate patron benefits.

Finally, he worked with the SOC's general counsel in trademark and copyright protection for the SOC's intellectual property, and in several corporate areas including preparation for corporate dissolution following the Games, issues regarding the SOC's contract authorization policy and the SOC's ongoing relation with Turner

Broadcasting System.

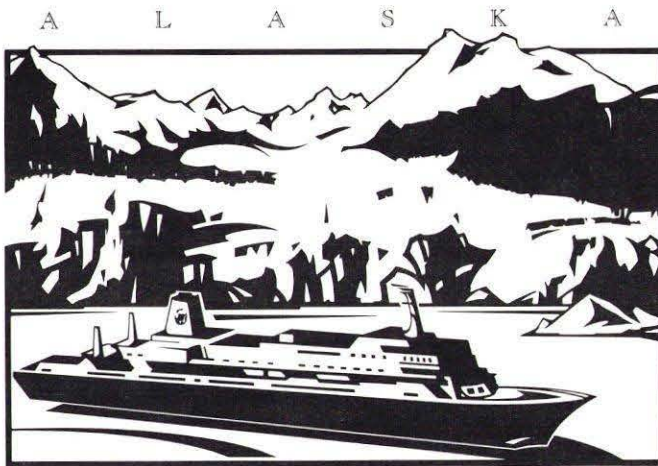
Bart Freedman worked with the SOC Operations Group in negotiating and drafting agreements with the Job Corps program of the United States Department of Labor, as well as with Seattle University, Gonzaga University and the Highline School District. The Job Corps agreement allowed the SOC to use Job Corps members to construct facilities for the Games. The remaining agreements related to the use of the institutions' facilities for various events during the Games.

Freedman also worked with the Marketing Group drafting letters of intent and follow-up agreements with many sponsors and suppliers to the SOC, including Alaska Airlines, Frederick & Nelson and Chateau Ste. Michelle. He assisted the SOC staff and board of directors in resolving matters relating to conflict-of-interest issues, negotiated and prepared agreements with various consultants to the SOC, and dealt with a variety of issues such as negotiations with Rotary International to host Soviet visitors to the United States.

The third fellow, Timothy O'Connell, was involved in a wide range of activities for the SOC. He drafted and assisted in the negotiation of several commercial contracts, including contracts for track improvements at Husky Stadium, the operation of postal facilities at Goodwill Games venues, and contracts with various suppliers of athletic equipment who were providing their products as sponsors.

Following up on a project initiated by Freedman, O'Connell coordinated the review of potential conflicts of interest for SOC employees, culminating in a meeting with the SOC Board of Directors to review those policies.

In the area of employment, O'Connell assisted with a wide range of issues raised by the SOC's plans to recruit 10,000 volunteers for the Games. These included worker's compensation coverage, minimum age regulation, releases, waivers and benefit questions. Also, he counseled the SOC on a variety of discrimination issues and helped it devise an Affirmative Action Plan, as required by federal law. In addition, he counseled the SOC on two employment-related litigation threats.



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Finally, O'Connell was able to develop an employment plan to assess potential employment issues from the date of first hire (such as revising the SOC's employment manual) to the winding down of the Games (including planning for the unemployment compensation impact).

During the six months of their combined fellowship, these fellows contributed more than 1000 hours.

Northwest Renewable Resources Fellowship

In October of 1989, Thomas A. Newlon received the third Perkins Coie community service fellowship to provide legal services to the Northwest Renewable Resources Center. Some of the projects on which Newlon worked were:

1. assistance to the Center with respect to the 1986 "Timber/Fish/Wild-life" ("T/F/W") Agreement between tribes, industry, environmentalists and Washington state, which resulted in a unique form of regulation that allows these various interests to cooperate in the regulation of forest practices on state and private lands in Washington. Newlon was involved particularly with various legal issues that have arisen in the implementation of the T/F/W Agreement. Of particular note is the work he did with a subcommittee that was formed to address issues that arose due to a Forest Practices Appeals Board (FPAB) ruling striking down portions of the state regulations implementing the Agreement. He helped in the development of alternative solutions to the problem and assisted in meetings where a unified submission to the FPB was developed;

2. participation with the Mount Baker-Snoqualmie National Forest ("MBSNF") Advisory Board, a board created to provide input from environmentalists, industry and other interested parties concerning which timber sales should be allowed to go forward during 1990. The Center received a contract to mediate the deliberations of the board that was formed for the MBSNF. Newlon's role with the MBSNF Advisory Board

project was to assist at board meetings, review documents, strategize with Center project staff and assist in drafting reports to the board members;

3. assistance to Shirley Solomon, one of the Center's project directors, and chair of the Washington Bald Eagle Oversight Committee, with the development of various project proposals for the implementation of innovative bald eagle habitat protection regulations;

4. assistance in the planning and drafting of numerous grant proposals, including proposals to the Ford and Northwest Area foundations for the "Tribes and Local Counties Intergovernmental Coordination Project," the Environmental Protection Agency for a \$60,000 grant for work on the implementation of EPA's solid waste disposal regulations on Indian reservations throughout the Northwest, and Patagonia Corporation for an unrestricted grant to the Center;

5. preparation of a letter to the editor of the *Northwest Environmental Journal* in response to the views of Michael Fraidenberg, a Washington Fisheries Department employee and graduate student at the Evergreen State College, who had authored an article in the *Journal* attacking the Center for its role in the development of environmental policy in Washington state; and

6. assistance to the Center in developing new articles and bylaws that more closely matched the operation of the Center.

During the course of Newlon's six-month fellowship with the Northwest Renewable Resources Center, he contributed 917 hours.

International Rescue Committee Fellowship

The seventh Perkins Coie Community Service Fellow, Barbara J. Kramer, is working with the International Rescue Committee ("IRC"), a nonsectarian agency assisting refugees escaping political, religious and racial persecution. In addition to assistance in providing representation for refugees seeking asylum in the United States, Kramer will help develop a structure within Perkins Coie to provide the needed representation on a

continuing basis.

For several years, Perkins Coie has been assisting the IRC on an ad hoc basis in responding to applications for private attorney assistance in various refugee matters, including landlord-tenant disputes, personal injury claims, and asylum applications for Indochinese refugees and Eastern European "shipjumpers." In November of 1988, IRC Regional Director Bob Johnson first applied to Perkins Coie for fellowship assistance in organizing and formalizing a refugee asylum project. The potential for an increasing number of asylum applicants during the summer Goodwill Games made the fellowship especially timely. Kramer began her four-month assignment with the IRC on June 1, 1990. □

Richard L. Baum is pro bono and professional coordinator for Perkins Coie in Seattle. A partner in the firm, he is active in its commercial litigation activities.

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Whatcom County's "Lawyer of the Day" Program

by Cheryl L. Boal

Lawyer of the Day is not to be mistaken for that popular afternoon television show of the 1950s, "Queen For A Day." There are no crown, no long-stemmed roses, and no fabulous prizes. There is the satisfaction that in one afternoon a lawyer may have saved a family from homelessness, helped an elderly gentleman obtain a hearing aid and referred an abused wife to an attorney to obtain a restraining order.

Lawyer of the Day was developed because many low-income people were not able to receive the legal information, assistance and advocacy they needed to resolve their legal problems. After two and a half years of operating other successful programs, the Whatcom County Volunteer Lawyer Program (VLP) decided to try something a little different.

The concept is simple. Lawyers agree to volunteer their time to work in the VLP office for an afternoon. The lawyer gives the client advice or assistance in resolving a problem by calling and discussing it with the opposing party, writing a letter, or connecting the client with other resources in the community. The client will often have his/her problem resolved that same afternoon.

Lawyer of the Day is patterned much like the traditional advice and consultation clinic model except that here the lawyer is responsible for referring cases eligible for direct representation to a fellow lawyer on the VLP pro bono panel. Lawyers referring cases to other lawyers works on an old and enduring principle: the art of personal contact and gentle persuasion among one's peers. The system relies on lawyers knowing other lawyers. These same principles have been used successfully over the years in pro bono recruitment efforts. Lawyers are more apt to take phone calls from another lawyer; and when they find out why that colleague is calling, it is sometimes more difficult to say no. Bellingham attorney John Erickson agrees:

While I was acting as Lawyer of



Wendy Bohlke, section chief of the Bellingham Regional Office of the State Attorney General, is one of the volunteers for Whatcom County Bar's "Lawyer of the Day" program.

the Day, a client came in who needed direct representation in a custody dispute. I called an attorney on the panel who had turned down cases before. The attorney was unavailable, so I left my name for him to call me back. This attorney did call me back, at which time I gave him my brief analysis of the case and cajoled him into taking the case. I truly don't feel that the lawyer would have accepted this case if he hadn't been persuaded by another lawyer in private practice who was volunteering his time with the program.

The lawyer of the day is scheduled at least one month in advance. Clients have already been screened for financial eligibility and type of legal problem, and up to eight appointments are scheduled for the afternoon. Each case has an intake sheet which identifies the client, the opposing party and any other

relevant information that may help identify a conflict of interest for the lawyer. The lawyer receives a quick briefing on each case before meeting with the client. Program administration is best described by one lawyer's experience:

The attorney's time was used quite efficiently. I dealt with six different clients and was able to resolve [each] particular problem totally or at least get it on the right track toward resolution. It was very helpful to have the preliminary interview work done to make sure that the clients were qualified for the program. Further, when the client came in to see me, the client was prepared to handle the matter directly and efficiently, recognizing that I was a pro bono lawyer who had a number of items to handle that afternoon. That doesn't mean that I gave each client's problem a "quick and dirty" overview. It

simply means that we got down to business to work toward a resolution of the problems. The structured approach taken in the program helped me in that regard.

Lawyer of the Day provides two types of "days" in which to volunteer. Topic Day is designed for those lawyers who concentrate on or have particular knowledge in an area of law that low-income clients are most likely to encounter. Such areas that become "topics of the day" are: family law, landlord/tenant or debtor/creditor problems. Lawyers who participate in Topic Day are most likely family law practitioners who want to take a break from direct representation or Evergreen Legal Services lawyers who usually practice in such areas.

Miscellaneous Day (come at your own risk) is designed for those lawyers who, because of their unfamiliarity with the areas of law most low-income people encounter, can handle the client's legal situation in a way that (s)he feels most comfortable with. Clients come to their appointments with a variety of problems. If the lawyer feels uncomfortable about giving advice, (s)he may call on a colleague or one of a panel of lawyers who have agreed to be consultants in a particular area of the law.

Some lawyers of the day work for the government. Statute provides for

attorneys working in the attorney general's or prosecuting attorney's office to perform legal services for themselves and their immediate families or services of a charitable nature. Government lawyers who work in the VLP office are covered under the program's malpractice insurance, receive cases that are carefully screened for conflicts, and are able to utilize VLP resources such as phones, stationery and secretarial support. Lawyer of the Day was designed with the government attorney in mind. Wendy Bohlke, section chief of the Bellingham Regional Office of the Attorney General, agrees:

The Lawyer of the Day Program is an excellent means of providing legal services and legal information to low-income people by government attorneys without placing the attorneys in the constant position of having to decline providing services for reason of conflict of interest. I believe there are many areas of law for which attorneys could provide legal information without running into a conflict on particular cases. Clearly, there is a need for this program to exist, and I strongly encourage my staff to participate.

An advantage to lawyers who participate in Lawyer of the Day is the experience they get handling a variety of

cases. Patent attorney Bob Hughes states:

Lawyers themselves benefit personally in this type of program. I am a patent specialist, and my law practice gets channeled into certain types of situations where the legal problems are more of a technical nature. I think it is good for an attorney to get exposed to a broad spectrum of legal problems outside of that lawyer's [area of emphasis]. It tends to make the lawyer less of a stick-in-the-mud.

Attorney John Kutscher agrees:

In my experience with Lawyer of the Day I found the afternoon to be an eye-opening experience where I was exposed to an unexpected mix of cases, including political asylum, landlord/tenant, personal injury, real estate and consumer protection. You really can't get that kind of broad array of legal cases anywhere. I think this kind of experience can benefit all lawyers.

Each lawyer brings something unique to the Lawyer of the Day Program, whether it be a particular interviewing technique, a special skill in connecting the client with the appropriate resource or simply the ability to exhibit patience and sensitivity to another's needs.

Lawyer of the Day allows lawyers to become actively engaged in VLP program operation, and the VLP office is no longer a remote office to them when they leave. Lawyers can assist VLP staff with case review or connect with social service advocates in the community, such as public health nurses, mental health professionals and senior service caseworkers. Many of these advocates accompany their clients to the appointment, often working as teammates with the lawyers and clients to resolve legal problems. One social service advocate notes: "After receiving this special service, my clients walk away feeling good about themselves and feeling good about a legal system that is trying to advocate for them rather than fighting against them." □

Cheryl L. Boal is the coordinator of the Whatcom County Volunteer Lawyer Program.

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BENTON-FRANKLIN COUNTY REPORT

by MARGE JOHNSON

The Big Demand: Domestic Law

The newest project of the Benton-Franklin Legal Aid Society in 1990 has been the Divorce Clinic, conducted the first Wednesday of each month (unless the Wednesday falls on a holiday).

The clinic uses the Seattle-King County video presentation, "I Did It Myself—The Five Basic Steps," as an introduction. Instruction follows for the preparation of the petition, the joinder, the summons and the filing of the *informa pauperis* form.

An attorney answers participants' questions. Several paralegal volunteers from the Columbia Basin College's paralegal courses assist to ensure that participants are keeping up with the instruction. The video that King County produced answers many questions about the parenting plan.

The Parenting Plan/RSVP project continues to assist divorcing parents with the preparation of the parenting plan. Volunteers from the Retired Senior Volunteer Program receive training via a video prepared by a local attorney. They then sit down one-to-one with the parent(s) and help them formulate a plan. This benefits those attending the divorce clinic, since one portion of the many segments of a divorce has been completed before the clinic. And participants are still able to receive answers from an attorney concerning the parenting plan.

This project has been in operation since March 1989, and the divorce clinic since March 1990.

The demand for assistance through the Legal Aid Society continues at an unprecedented pace, especially for matters dealing with divorce, custody, support and visitation. The clinic and parenting-plan project have done much to alleviate the burden formerly placed on attorneys; however, the need for attorneys when a divorce becomes contested is nearly beyond the capability of this panel of pro bono attorneys. The assistance of the judiciary is essential to ensure that pro se litigants

are given as much consideration as is possible.

Marge Johnson works with the Benton-Franklin Legal Aid Society and the Volunteer Center in Kennewick.

CLARK COUNTY REPORT

by ARLENE SLIVE

Protective Payee Program Begins in Clark County

The Clark County Volunteer Lawyers Program launched the Clark County Protective Payee Program in August. The program is using the model structure of the Legal Counsel for the Elderly through the American Association of Retired Persons.

For some years, social service agencies in Clark County have felt the need for a resource to serve the estimated 60 persons who, at any given time, are unable to manage their funds in order to provide themselves with the goods and services necessary to maintain an acceptable quality of life: food, shelter, utilities, clothing and medical care. These persons may be physically frail, emotionally disturbed, mentally ill, alcoholic, brain-damaged, demented or some combination of these.

Volunteers are recruited, trained and supervised to act as payees for one or two persons who, without this service, would be at risk of homelessness or institutionalization. The volunteers deposit checks, pay bills and otherwise help clients to manage their funds. Six persons have already been trained as protective payees in a preliminary effort and AARP is expected to begin a large recruitment effort among its members for training before the end of the year.

The volunteers are assisted in their tasks by an advisory council which encompasses broad community representation in such areas as medicine, pharmacology, social services, property management and accounting.

More information about Protective Payee programs may be obtained from the Legal Counsel for the Elderly Program at AARP. The director of the Clark County Volunteer Lawyers Program, Maureen Witters, can provide

further information about the local project. The phone number is (206) 695-5313.

Arlene Slive is a program planner for the Southwest Washington Area Agency on Aging.

KING COUNTY REPORTS

Fifteenth Anniversary of Seattle-King County's Neighborhood Legal Clinics

by KAREN E. BOXX

This month marks the fifteenth anniversary of the opening of a volunteer legal clinic at the Country Doctor Medical Clinic on Capitol Hill in Seattle. That clinic, started by three young lawyers concerned about access to the legal system regardless of a person's ability to pay, was the first in a program that has gained national recognition and has now grown to ten clinics located throughout King County. The program is currently run by the Neighborhood Legal Information and Referral Clinics Committee of the Seattle-King County Bar Association (SKCBA) Young Lawyers Division. Over 300 lawyers and over 75 nonlawyers volunteer free consultations, legal advice, information and referrals to King County residents.

The initial idea for the clinics came from Seattle lawyer Joseph Gaffney's experiences in New York City in 1974. While he was attending New York University's post-graduate tax program, he participated in a volunteer legal clinic. The simplicity of the program appealed to him: The purpose was to provide one-time advice, not ongoing representation.

When he returned to Seattle, he and two other local attorneys, Phil Cutler and Joseph Murphy, decided that the concept could fill a need in the Seattle community. They started with a clinic in the Country Doctor Medical Clinic because the facilities were available to them in the evening, and there were other services there—primarily medical and counseling—to which clients could be referred. The three attorneys correctly assumed that many of the clients would have problems other than simple legal

issues that could be resolved in a short appointment, and they were therefore interested in providing readily available referrals. The sponsors for the first clinic were SKCBA's Lawyer Referral Service and a Capitol Hill coalition of religious institutions called CHOICE (Capitol Hill Churches Organized in Common Effort).

The second clinic was opened primarily through the efforts of Seattle attorney Kenneth Lawson, who lived in the Fremont area of Seattle and decided to bring the concept to his neighborhood. He worked with the Fremont Public Association at the location and recruited volunteers from the law firm where he was working, now Davis Wright Tremaine. The Fremont clinic opened in October of 1977.

Once two clinics were operating, the program began to get attention. Michael Killeen, a Seattle lawyer who chaired SKCBA's Delivery of Legal Services Committee, worked with Anita Lammert, who was executive director of the Fremont Public Association and a lay member of the SKCBA Young

Lawyers board of trustees, to obtain grant money from the ABA to expand the program. In the following two years, clinics were opened in Lake City, the Central Area and South Seattle. Additional ABA money funded the establishment of an Eastside clinic in 1985 and a South King County clinic in 1986. In 1988, a bilingual clinic for Spanish-speaking clients and a downtown clinic were started. In February of this year, a West Seattle clinic was added, and plans are being made for a clinic on Vashon Island.

A client at one of the clinics meets with a volunteer attorney for a half-hour to discuss his or her problem. The types of legal questions addressed range from family law, child support and custody matters to landlord/tenant, bankruptcy, employment disputes and auto accidents. Often, the problem is simple and can be resolved in the half-hour, such as questions regarding how to sue in small claims court, how to fill out documents or whether the client is entitled to receive a damage deposit back from a landlord. If the problem is

straightforward and the client seems capable, the volunteer tries to suggest self-help strategies, negotiation techniques and other ways that the client can solve the problem on his or her own. Sometimes the client just needs to know whether (s)he has a legal problem, or whether it would be worthwhile hiring an attorney to pursue a claim. When a client has a more serious problem, the role of the volunteer is to try to refer the client to the appropriate resource in the community to get the needed help. The volunteers are provided information on available services, both legal and social, so that they can make effective referrals. There is no financial eligibility requirement for clinic services, primarily because it would be too cumbersome. Although the overwhelming majority of clients at the clinics cannot afford an attorney, the clinics also serve as a way for middle-class people to acquaint themselves with the legal system before hiring an attorney.

The clinics are held in the evenings, except for the downtown one, which is

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open during the day. Generally, they are open one night a week and are held in locations made available by the City of Seattle and other civic organizations; funding comes primarily from SKCBA Young Lawyers Division, the City of Seattle, the ABA and the Legal Foundation of Washington.

The volunteers generally work one evening every six to eight weeks. Because it is difficult for volunteers to keep up with all the areas of law that they may be asked about at the clinics, lunchtime training seminars are offered free of charge to the volunteers throughout the year. The benefits obtained by attorney volunteers from their participation in the program include gaining experience in dealing directly with clients and keeping familiar with "real people" law, such as car repair laws, small-claims court and requirements for a health club membership contract.

Anyone interested in learning more about the legal clinic program or volunteering should contact Krista Cossalter at (206) 624-9365.

Moving Ahead With Self Help Plus

by PAM FEINSTEIN

The Self Help Plus Program of SKCBA's Family Law Clinic has been a major resource for King County's low-income population since 1982. When the program first began, it provided classes on how clients could handle their own uncontested dissolutions. The weekly classes were and still are taught by an attorney also available for advice prior to the filing of a case. For an additional low fee, class participants are able to have all of their paperwork prepared by a local firm. In 1984, the program added monthly classes dealing only with child support modification actions. Again, financially eligible clients attend a class which covers the availability of modification procedures, how to file for support modification and the necessary forms to use. Since then, over 4,000

clients have participated in the two programs, which continue to grow and find additional ways to assist the low-income population. In the coming year, SHP will embark upon two new projects.

The first is to conduct SHP classes in other areas of King County, particularly south and east. They are already underway in east King County with help from the Eastside Legal Assistance Program. In addition, the preparation of pleadings will be brought in-house, so that all aspects of client cases will be handled by SKCBA staff and volunteers.

The second project is the production of a video and materials on temporary orders, being done in conjunction with Snohomish County Legal Services. The video will explain how clients can get their own temporary orders and will cover three different situations: emergency ex parte orders, regular temporary orders and responses. Once the video and materials are completed, it is hoped they will be used in pro se clinics around the state.



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Legal Services for the Homeless

by JIM ROGERS

This fall King County attorneys will begin to offer pro bono legal services to the homeless at local shelters through a joint SKCBA-YLD project. It was organized by a task force made up of members from the Volunteer Legal Services Committee, Neighborhood Legal Clinic Committee and representatives of the Coalition for the Homeless. In order to provide these legal services, the project plans to train volunteer attorneys, set up clinics in four shelters in the Seattle area and provide basic training to the staff there in client screening and attorney-client liaison.

Thus far, the law firms of Karr Tuttle Campbell, Mundt McGregor, Davis Wright Tremaine, Perkins Coie and Stoel Rives Boley Jones & Grey have committed volunteer attorneys for the clinics. The volunteers will give on-site legal advice to clients, much like the Neighborhood Legal Clinics, but they will also provide follow-up legal help when it is needed. It is expected that each volunteer attorney will assist several clients every three months on a rotating basis.

The volunteer attorneys will attend a seminar covering substantive law in areas with which the volunteer may not be familiar, such as public entitlements and the practical skills involved in working with the homeless. The volunteer will receive written materials as well. Counselors and shelter staff will take an active role in this training, enabling the volunteers to become acquainted with the kinds of situations which they may encounter.

On advice from the Coalition for the Homeless, a countywide coalition of shelters, the project chose four shelters to participate in the initial stages. These shelters represent a wide spectrum of clients, including battered women, homeless in-tact families, and individuals who may have substance abuse problems. They are Hickman House, Downtown Emergency Service Center, Seattle Emergency Housing Service and South King County Multi-Service Center. The staff in all four shelters are

enthusiastic about the project.

For further information about the project, call Jim Rogers or Judy Andrews at Riddell, Williams, Bullitt & Walkinshaw, (206) 624-3600, or Joan Andersen at SKCBA, (206) 624-4772.

Karen E. Boxx practices with Bogle and Gates in Seattle.

Pam Feinstein is Family Law Clinic Manager for the Seattle-King County Bar Association.

Jim Rogers is an attorney with Riddell, Williams, Bullitt & Walkinshaw in Seattle.

KITSAP COUNTY REPORT

by RUSSELL W. HARTMAN

The Kitsap YWCA and Kitsap County Bar Association opened their Pro Bono Legal Referral Service April 1, 1989. Kitsap's program is similar to many others around the state. Prospective clients are screened for financial eligibility by our program coordinator and then referred to volunteer panel attorneys. Funding is predominantly from IOLTA grants. There are approximately 150 attorneys in private practice in Kitsap County. Ninety-seven of them have agreed to serve on the pro bono panel. During the service's first year of operation, 111 cases were placed, and a pro se dissolution clinic was held.

Pro bono legal referral services do three very useful things for attorneys in addition to helping meet our ethical duty to provide public service. First, they provide a central place to refer people who are in need of service. Second, they help ensure an efficient and coordinated use of available resources, between members of the local bar, Evergreen Legal Services and other available providers. Finally, pro bono referral systems help the community to recognize attorney commitment to public service. It has been very gratifying to watch the birth and growth of the pro bono legal referral service here in Kitsap County. I expect the referral service to be part of our legal community for many years to come.

Russell W. Hartman practices in

Silverdale and chairs the Kitsap County Pro Bono Advisory Board.

PIERCE COUNTY REPORT

by ELIZABETH C. MCNAGNY

Pro Bono Into the '90s

A renewed spirit of volunteerism thrives in the Tacoma-Pierce County Bar Association. Under the strong leadership (and strict deadlines) of Pro Bono Committee chair Henry Haas, the committee developed a Pro Se Dissolution Clinic and a Neighborhood Legal Clinic. Promotions and training for the clinics increased public awareness of the entire pro bono program and helped in our attorney recruiting efforts. Two hundred fifty attorneys and 14 legal assistants/secretaries currently volunteer their services.

The Pro Se Dissolution Clinic opened in July 1989 to address the needs of low-income people seeking dissolutions. It is a joint project of the Pro Bono Committee and Puget Sound Legal Assistance Foundation (PSLAF), which developed a manual, *Getting Your Own Divorce in Pierce County*, now in its second printing. Each month PSLAF mails and screens approximately 70 clinic applications. The clinic relies on volunteer attorneys to help an average of 15 clients per month through the morass of the dissolution process. To lend reality, the clinic operates in courtroom 100 of the courthouse—the main forum for dissolutions.

Buoyed by the success of the Pro Se Dissolution Clinic, the committee opened the first Pierce County Neighborhood Legal Clinic in May 1990. It is a community project; there are seven cosponsoring organizations. The clinic currently operates two evenings per month and serves 12 clients per clinic. Volunteer attorneys at the clinic provide legal advice and referral.

The pro bono panel remains the foundation of pro bono work in Pierce County. Cases are screened and referred

to pro bono attorneys by PSLAF. The committee recognizes an "Attorney of the Month" in the local bar news and with a "Pro Bono Attorneys Do Make a Difference" T-shirt in neon colors. Every year the committee and PSLAF sponsor a CLE on legal issues affecting low-income people. The CLE is free to all pro bono panel attorneys. The December 1989 CLE explored "Benefits Affecting Families in Transition." Plans are underway for a December 1990 CLE, to be followed by a reception honoring the pro bono attorney and firm of the year and all of our active Pierce County pro bono attorneys.

Elizabeth C. McNagly is with the Puget Sound Legal Foundation in Tacoma.

SNOHOMISH COUNTY REPORT

by PHYLLIS N. SELINKER

Program Update: Snohomish County Legal Services

Snohomish County Legal Services celebrated its seventh anniversary in July. Founded in 1983 by a small but dedicated group of attorneys, the program was honored in 1989 by the WSBA for

its growth and development.

Staff and board members are continually seeking ways to serve the needs of more than 40,000 income-eligible persons in the county. The basic program components continue: pro bono representation in civil matters; three neighborhood legal clinics on Tuesday evenings, offering a variety of client services; and the Pro Se Dissolution Clinic, which provides instruction and follow-up review of paperwork for all class participants.

In 1990 two new programs were added, thanks to funding from a Community Services Block Grant. The Pro Se Forms Project consists of approximately 30 forms which assist individuals in responding to actions for dissolutions of marriage, legal separation, or paternity, including show cause hearings; or in petitioning for modification of child support or parenting plans. Instruction in the use of the forms is provided at the neighborhood legal clinics or at the central office. The Temporary Orders Project was added as an adjunct to the Pro Se Dissolution Class. It provides basic instruction and forms for securing temporary orders on the motion calendar.

Pro bono representation remains the hallmark of the program. Steve Peiffle, S.C.L.S. attorney from Arlington,

received the WSBA Young Lawyers Division 1990 Pro Bono Service Award for his outstanding efforts in contested family law cases. Other Snohomish County attorneys continue to amaze the staff by their willingness to donate 50 or more hours of their time per year on pro bono cases. Gone are the days when a single pro bono award could be presented by this program. Ten were presented for 1989 service, and more are likely for this year.

Phyllis N. Selinker is executive director of Snohomish County Legal Services.

SPOKANE COUNTY REPORTS

Spokane Students Seek to Serve

by MARY WALDROP

This spring the Spokane County Bar Association Pro Bono Program had an offer of assistance from students at Gonzaga law school. Mike McMahon, liaison with the Young Lawyers Division, spearheaded the group along with the Gonzaga Public Interest Law Project (GPILP). They wanted to assist the Pro Bono Program and/or attorneys that take cases through the Pro Bono Program. A committee decided that immediate help was needed to interview applicants for the SCBA-Pro Bono Program as to their eligibility, priority and, in general, for more in-depth information-gathering.

The results are just now coming in and being processed, but personally, I think it's a terrific idea. Heaven knows, I need the assistance, and it is really appreciated.

McEvans Firm "Takes a Large Bite Out of Crime"

by JUDY J. FOSTER

During the late fall and early winter of 1989, Spokane attorney Jerry Cartwright felt a growing concern about the ongoing media coverage of expanding drug problems being encountered in eastern Washington. There were reports

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of increased drug-related violence and community concern with the potential of escalation. The concern was magnified by a shortage of funding for prosecutors to deal with the tremendous backlog of drug-related cases. Simply stated, there were too few prosecutors and too many cases.

Since Cartwright's firm, Evans, Craven & Lackie, P.S.(ECL), had been selected Pro Bono Firm of the Year by the Spokane Bar Association in 1986, and he personally had taken five cases from the bar's pro bono program, Cartwright was keenly aware of how private firms could ease economic limits to justice. He decided to give pro bono practice a twist: make it work for the general public as well as individuals.

Cartwright met with the other members of his firm, and they decided to approach the Spokane County Prosecutor's office with a plan to prosecute gratuitously some of the drug-related cases. In a meeting with county prosecutor Donald Brockett, ECL attorneys proposed they be trained and eventually deputized so they could help relieve the increasing number of drug-related cases, which exceeded the Spokane County prosecutor's staff limits.

Meetings and training sessions were held with prosecutors, drug enforcement officials, police and sheriff personnel, and in February of 1990 the plan went into effect.

Eleven attorneys from ECL participate in this co-op, and since the program's inception, approximately a dozen cases have been handled by ECL attorneys. Kevin P. Mahoney of ECL chalked up the first win with a conviction. Members of ECL were definitely "taking a bite out of crime."

Since the program has been implemented, the number of drug-related cases in eastern Washington has slacked off. There is no quantitative evidence of what triggered this, yet. What is known is that ECL attorneys—Hugh O. Evans, James S. Craven, Terrence Lackie, Jarold P. Cartwright, Richard B. White, Michael F. Connelly, John C. Perry, Timothy P. Malarchick, Thomas M. Roberts, Philip J. Van de Veer and Kevin P. Mahoney—have donated over four hundred hours since February of 1990 to assist in combating drug problems in Spokane County.

Surely this has given the county leverage in dealing with individuals charged with drug-related crimes.

Mary Waldrop is pro bono coordinator for the Spokane County Bar Association.

Judy J. Foster is past Spokane County Bar Association executive director and former WSBA pro bono

coordinator. She is now with Etter & McMahon in Spokane.



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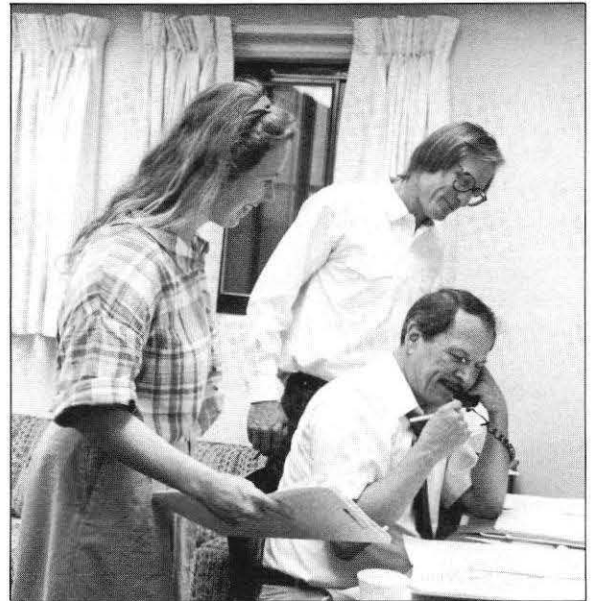
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← L to R:
Intern **Richard League** and supervising attorney **Tari Eitzen** explain documents to a client.



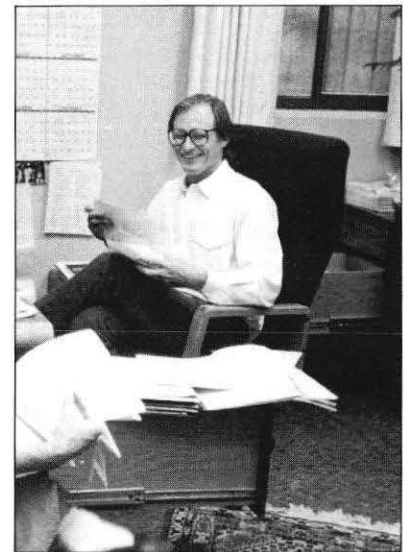
L to R:→
Intern **Suzanne Brenner**, ULA director and professor **Mark Wilson**, supervising attorney **Al McNeil**.

University Legal Assistance



← L to R:
Supervising attorney **Larry Weiser**, Seniors Project director **Paulette Pettis**, Family Law secretary/paralegal **Vicki Tuntland**.

↓ Supervising attorney **Al McNeil**.



← L to R:
Interns **Lynda Eaton**, **Richard League** and **Ron Herman** review a case plan with supervising attorney **Larry Weiser**.



BONO IN ACTION



Honorable Mention,
R. Bryan Geissler.



L to R: Honorable Mention, **Richard C. Dullanty, Jr.**; Pro Bono Committee chair **Pam DeRusha**; emcee, The Honorable **John J. Schultheis.**



L to R: Honorable Mention, **F. Dana Kelley**, Pro Bono Committee chair, **Pam DeRusha**; emcee, The Honorable **John J. Schultheis.**



Honorable Mention,
W. Tom Mableson.

Annual Pro Bono Awards



Honorable Mention,
Frank Malone.



Attorney of the Year (for 1989), **Dale Raugust.**



Attorney of the Year (for 1989), **David Smith.**



L to R: Attorney of the Year (for 1989) **Guillermo Romero**, Pro Bono Committee chair, **Pam DeRusha**; emcee, The Honorable **John J. Schultheis.**



Attorney of the Year (for 1989) **Lew Schrawye.**

More →



Firm of the Year (for 1989): HUPPIN EWING & ANDERSON. L to R: Al Rubens, Larry Mundahl, Judy Corbin; Pro Bono Committee chair Pam DeRusha; emcee, The Honorable John J. Schultheis; Eugene Huppin; David Eash, Howard Anderson, Suzanne Manning.



Firm of the Year (for 1989): LUKINS & ANNIS. L to R: Pro Bono Committee chair Pam DeRusha; emcee The Honorable John J. Schultheis; Pat Shine, Eugene Annis, Ned Annan, Jody Hamilton, Dennis McLaughlin.

THURSTON COUNTY REPORT

by MARLA B. ELLIOTT

"Mentoring" Works! Try It; You'll Like It

A volunteer lawyer must sometimes learn a new area of the law in order to take a pro bono case. Here in Thurston County, we have been able to make that easier through the use of mentors.

Our program has successfully recruited several private attorneys who are available as mentors and advisors for any pro bono lawyers who feel the need for help: A few are new admittees; most are experienced attorneys who do not normally practice in the area their pro bono cases involve.


Mentors have been especially important in Olympia, where a third of the pro bono panel is composed of government attorneys, many of whom have little or no experience in private practice. Most of the mentors are family law attorneys, since domestic cases comprise about two-thirds of the pro bono program caseload.

Many new volunteers accept family law cases only with fear and trembling; our mentors report that the actual process usually involves much less pain and risk of malpractice than the volunteers fear. Mentors often act as colleagues as much as teachers: They discuss the case and the law and offer suggestions and feedback. One of the most valuable things a mentor can do is to steer a new lawyer through not only the specifics of local rules but also the customs of local practice.

A new volunteer calling a mentor for help for the first time often feels completely out of his or her depth. (S)he fears that the questions are too simplistic and seems to harbor the anxiety that (s)he should somehow already know this stuff. After an initial consultation with the mentor, most begin to see their way and check back only occasionally.

Often a novice pro bono volunteer feels (s)he needs very close supervision. Although the mentors in our program are willing to do that, in practice it has rarely been needed.

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mentors is Patricia Morgan. Pat practices family law in Olympia and has been advising volunteers for this program since 1981. She reports that there are five or six volunteers she hears from regularly, and many others she has spoken to only once or twice.

Pat Morgan's favorite mentoring motto is "There are no stupid questions!" and she claims no one's asked one yet. She emphasizes that the volunteers she is advising are often experts in areas of law completely foreign to her; despite her years of experience, she would feel just as lost as they if the shoe were on the other foot. Though it's easy for volunteers to feel ignorant when entering new fields, mentors can help with the reminder that they are plenty smart enough to learn what they need to.

"Mentees" in our program report that the mentors are very generous with their time and extremely helpful. The mentors report that they take pleasure in doing this work and that it has never been a burden. In short, it's a classic "win-win" situation.

The use of mentors is an excellent way for a pro bono program to improve and maintain both the quality and quantity of the services it provides. Especially when combined with specialized training sessions for volunteers, the availability of mentors ensures that any lawyer willing to take a pro bono case can handle it competently. The Thurston-Mason Pro Bono Program takes great pride in the long-term success of its mentor program.

Marla B. Elliott works in the Olympia office of the Puget Sound Legal Assistance Foundation. She has been the coordinator of the Thurston-Mason Pro Bono Program since 1983.

WHATCOM COUNTY REPORT

by CHERYL L. BOAL

The Whatcom County Volunteer Lawyer Program (VLP) began operation in 1987 with a grant from the Legal Foundation of Washington. The VLP is organized in cooperation with the Whatcom County Bar Association,

the Opportunity Council and the Northwest Regional Office of Evergreen Legal Services.

Twelve members of our bar association incorporated as a nonprofit organization and are responsible for setting the legal policies and procedures for the program.

Evergreen Legal Services assists the VLP with screening and referring conflict cases, case review, training and legal service attorneys participating on the VLP panel. In addition, a grant application has been submitted to Evergreen to expand the representation presently available in family law cases in Whatcom County.

The VLP is located at the Opportunity Council, a community action agency which administers the VLP grant funds and oversees all personnel and administrative policies.

All three organizations work together to develop programs, conduct activities and coordinate resources and services in the community to encourage and organize attorneys to provide direct civil legal assistance without charge to low-income Whatcom County residents. Cheryl L. Boal coordinates the intake, screening and referral of clients and directs the VLP's three programs: direct representation, the Pro Se Dissolution Clinic and Lawyer of the Day.

Seventy-four attorneys are on the

VLP panel and provide direct representation to low-income clients in the areas of family law, landlord/tenant, bankruptcy, debt collection, foreclosure, consumer protection, guardianship, wills for the disabled or terminally ill, tort defense, contracts and license revocations.

Attorneys also volunteer for the Pro Se Dissolution Clinic and help develop written materials, teach classes and review clients' dissolution papers. The Lawyer of the Day program provides clients with advice and consultation or a referral to a lawyer, if necessary.

The VLP also has a nonattorney volunteer panel of professionals in the community who provide direct services for VLP cases as well as legal assistant interns who provide administrative assistance in the VLP office.

Special VLP projects this past year included a fundraising drive asking bar association members to contribute financially to the program; a recruitment drive aimed at recruiting both government and private-practice attorneys; and a family law CLE sponsored in cooperation with the Whatcom County Bar Association.

Cheryl L. Boal is program coordinator for the Whatcom County Volunteer Lawyer Program.



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American Federal Savings v. McCaffery, 107 Wn.2d 181 (1986) Affirmance of trial court's determination of upset price in mortgage foreclosure.

In Re Marriage of Landry, 103 Wn.2d 807 (1985) Affirmance of trial court's division of military retirement pension.

In Re Dombrowski, 41 Wn.App. 753 (1985) Reversal of trial court's dismissal of non-parent's petition for custody.

Jensen v. Beard, 40 Wn.App. 1 (1985) Modification of computation of set-off for settlement with one defendant.

In Re Marriage of Lindsey, 101 Wn.2d 299 (1984) Reversal of trial court's refusal to divide property acquired by couple while living together before marriage.

Gammon v. Clark Equipment Co., 38 Wn. App. 274 (1984) Reversal of defense verdict in personal injury case because of defendant's violation of discovery orders.

Campbell v. A.H. Robins, 32 Wn.App. 98 (1982) Reversal of trial court's order refusing to compel attendance at trial of out-of-state officers of defendant corporation.

In Re Health Estate, 30 Wn.App. 115 (1981) Reversal of trial court's award to bank which mis-handled stop payment order.

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