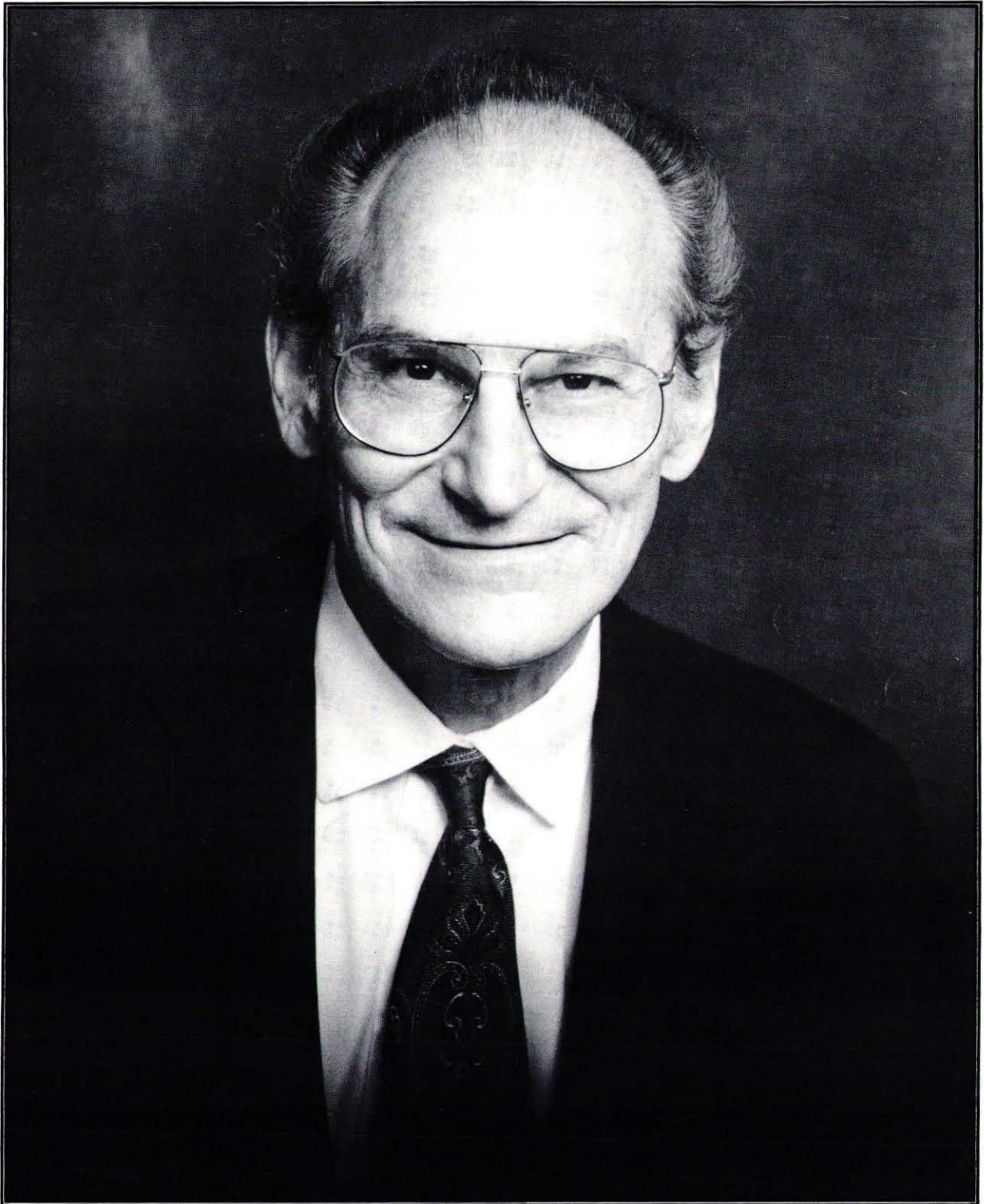
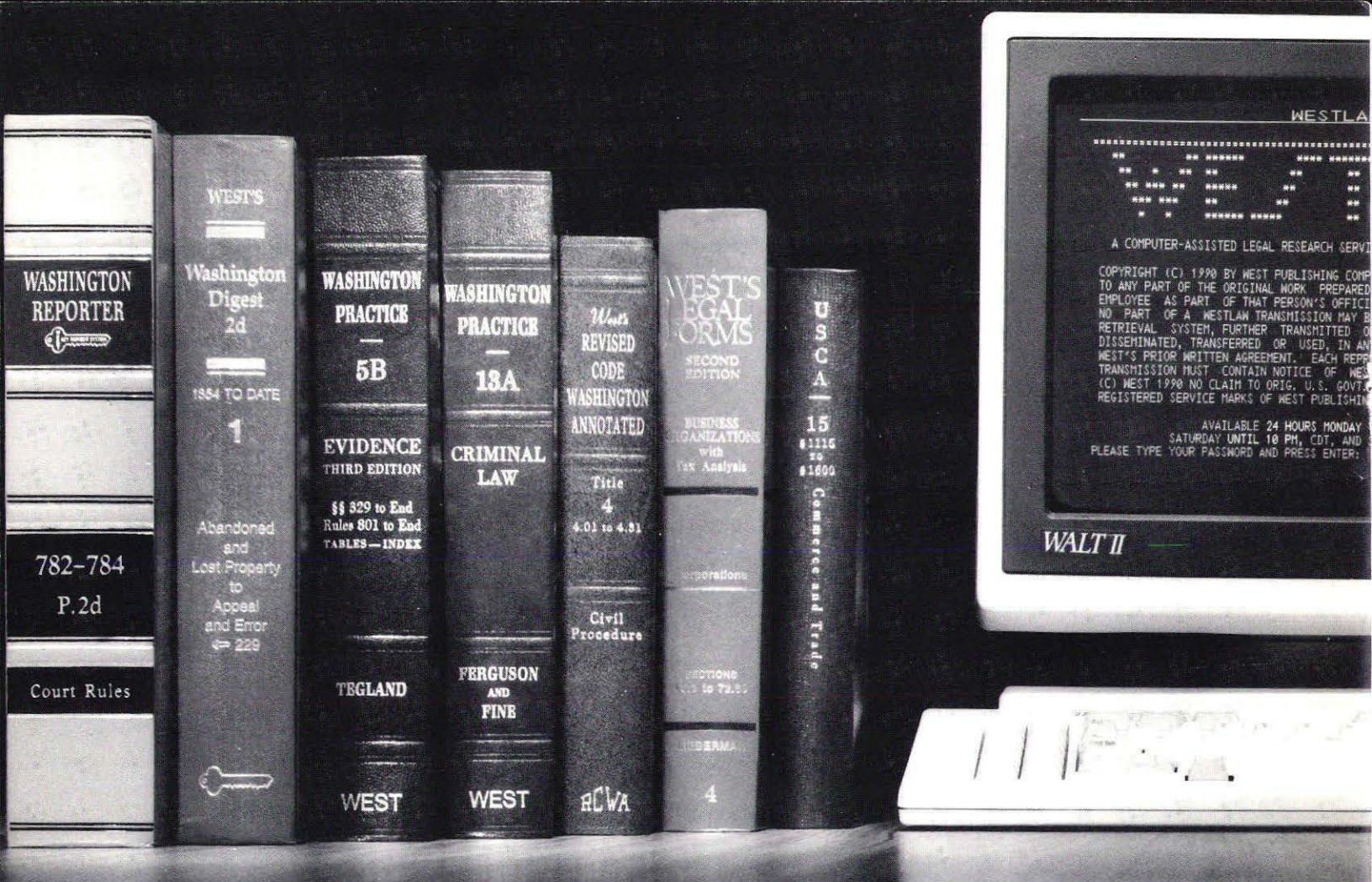


Washington State **Bar**
News

Vol. 45, No. 10, October 1991



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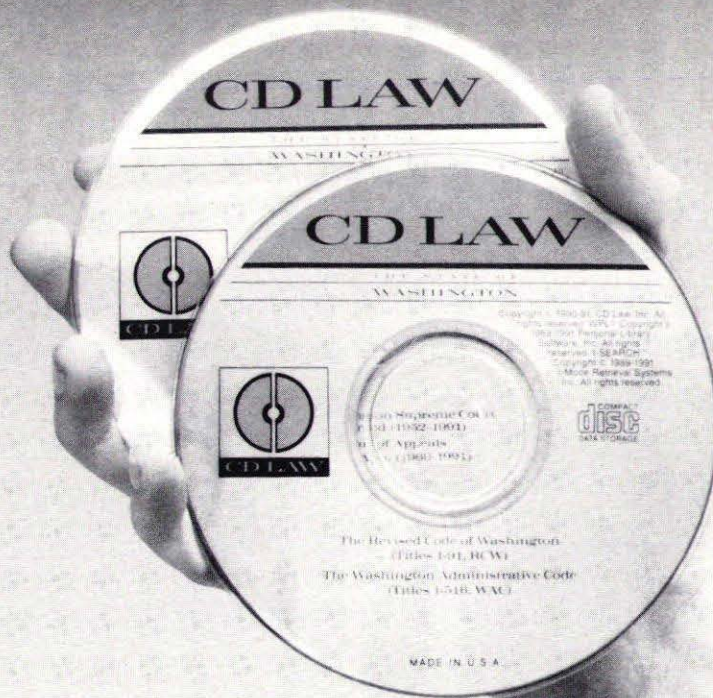
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ANNUAL BOOK REVIEW ISSUE

BRIEFLY NOTED: BOOKS OF INTEREST 13
Western Legal History; The Elements of Legal Style; Security: Adequate or Not?; The Complete Guide to Premises Liability; You and the Law: Piercing the Corporate Veil; Corporate Finance and Securities Laws; Alternative Features for the State Courts of 2020; National Directory of Criminal Lawyers.

A CULT ABOVE THE REST, by Lindsay Thompson 16
 MacIsaac, Clark and Willard, *The Devil of De Courcy Island: The Brother XII*

BOOK 'EM, by Lindsay Thompson 17
 David E. Heilbronner, *Rough Justice: Days and Nights of a Young D.A.*; Jeffrey Toobin, *Opening Arguments: A Young Lawyer's First Case: United States v. Olver North*;
 David Simon, *Homicide: A Year on the Killing Streets.*

THE TUTT STORIES: A REVIEW, by Philip H. DeTurk 19
 Another classic of legal fiction, recalled by Puyallup's literary lawyer.

DEPARTMENTS

Letters: Dave Templeton challenges Poulsbo's pretensions; several readers challenge James Mason's text analysis; several more dislike plastic-encased magazines, and a plea for shorter citation forms, among others. 5

The President's Corner, by Joseph P. Delay: As your newly elected president... 9

Exec's Report, by Dennis Harwick: "A Firm Commitment" 11

Editor's Page, by Lindsay Thompson: Coconut Bookends 12

The Gray Pages

- **Digest:** Two informal ethics opinions, judicial retirement system, Seattle Fire Department changes, and the always-popular usury rate. 23
- **The Board's Work**, by Lindsay Thompson 26
- **Calendar:** Things to do through '92. 30

In the News: Three join the WSBA Board of Governors: M. Wayne Blair, Michael A. Larson and Joseph Nappi, Jr.; Sharon Creed's tall tales; and a new course in computers and one in mortgage banking. 36

Office Practice Tips, by Gregory S. Morrison 39

Notes from the Academy, Edited by William B. Stoebuck 40

In the Lap: Life After the Cocktail Party 41

Around the State: News from home; a new WSTLA scholarship; reports from the counties. 42

Notices/Classified Advertising Information 48

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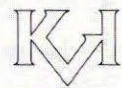
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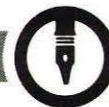
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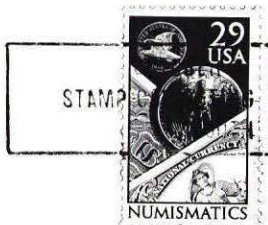
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Letters to the Editor of reasonable length are invited. Such letters should be typed and signed. The Editor reserves the right to select communications or excerpts therefrom for publication, and to edit any letter as may be appropriate.



Letters Can Be Useful

Editor:

I was very pleased to see Mr. Ratcliffe's letter (*Bar News*, June 1991) which mentioned Rob Eichberg, Ph.D and The Experience. As past president of the board of The Experience/Seattle and secretary of the national board, it has been my privilege and pleasure to work with Mr. Eichberg and the many others nationally who produce The Experience workshop.

The Experience is a tremendously positive workshop. The main themes are love, truth and being powerful in life. All too often these are things that many have lost, or misplaced. The Experience is designed to help the participant focus on his or her truths and telling those truths, on loving him or herself and thereby strengthening relationships with others, and finally on reclaiming one's personal power.

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Remember to register for the Northwest AIDS Foundation Walkathon!

ANNE C.S. BERGSTEDT
Seattle

At Last: A Dry Version of Poulsbo

Editor:

Even though sorely tempted during the Thomas Olmstead Letters Period, I did not write you because the issues, while interesting and perhaps halogenic (*see, e.g., Lot's Wife*), seemed not to merit formal response. Your recent publication of an article by Jeff Tolman, a frequent contributor to the *Bar News*, contains such a blatant misrepre-



sentation as to cause me to be both shocked and appalled (states which seem to simultaneously obtain only in trial lawyers). Accordingly, I am obliged to respond.

Attached hereto as Exhibits A and B are notices of the second and third meetings of the Nevada "Coyote Bar" Association, a group of rural practitioners in the Silver State. I am sure both you and Tolman will agree this refutes his gratuitous and inaccurate statement asserting the Poulsbo CLE is "America's *only* celebration of small-town practice." Emphasis added (and now deleted).

As an aside, commenting on this year's program, I might add that I had the pleasure of clerking for Judge Beko and Judge Recanzone when they sat as visiting judges in the Fourth Judicial District of Nevada when I clerked for the Hon. Jos. O. McDaniel. Beko presided over court in Tonopah for many years and has sat by designation on the Nevada Supreme Court bench. Recanzone ascended to the bench after many years of trial work and has that remarkable ability of citing specific ER's when ruling on trial objections. The session this year should be well worth attending for the CLE as well as the

pleasures of Basque dining and trap and skeet shooting.

M. DAVID TEMPLETON
Kirkland

Meanwhile, Back at the Sons of Norway Hall...

Editor:

Thank you for publishing my article on the Poulsbo CLE (July, 1991). As you know, Senator Simpson is unavailable to attend the event, so it has been rescheduled for November 20, 1991. The recipient of our "Small Town Lawyer Made Good Award" will be Judge James R. Browning of the Ninth Circuit Court of Appeals, from Belt, Montana. It should be a good program, and we will be sending brochures out to you and other members of the bar. If you would be kind enough to make a small notice in the *Bar News* I would be appreciative. I apologize to you and the other staff members of the *Bar News* for the inconvenience the change of date may cause, but we are looking forward to our November 20 event.

JEFF TOLMAN
Poulsbo

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Editor:

I would like to make a modest proposal which would eliminate, in my opinion, a niggling yet persistent waste of time. I appreciate that the following proposal may serve to diminish the coffers of West Publishing Company, and I probably run the risk of having my name misspelled any time it is included with a reported case, but I feel it is time for a change.

I would propose that all citations to Pacific 2d (and, probably, Pacific Reporter) for which an equivalent citation exists be eliminated from all legal memoranda or briefs filed with any court of record in this state. Certainly, my proposal would not relate to case citations from other states which are within the scope of the Pacific Reporter. The use of Pacific 2d citations for Washington-reported cases is of limited value and does not relate in any way (that I can see) to the amount of effort that is required to publish that equivalent citation in every memorandum or brief I have ever seen.

MICHAEL HANBEY
Olympia

Plastic's Not Our Bag

Editor:

I wish to express my keen disappointment with those WSBA staff members who decided to encase the July issue of the *Bar News* in plastic to permit inclusion of the promotional materials for the San Diego annual convention. The decision was environmentally irresponsible and was insensitive to the landfill problems of the major metropolitan areas. One might have tolerated such a poor decision had it been made for the inclusion of materials with socially redeeming value.

CAROL A. RIDDELL
Seattle

Editor:

My July 1991 issue of the *Washington State Bar News* came wrapped in clear plastic. I must object. I do not believe it is necessary or advisable to contribute to burgeoning landfills by mailing the *Bar News* in plastic. My previous issues of the *Bar News*, which were mailed without benefit of plastic, arrived on time and in good condition. When I was finished reading I put it in my recycle box. I will continue to do that, but am reluctant to simply to throw away the plastic.

I do not believe it is necessary, or environmentally sound, to send the *Bar News* wrapped in plastic. Please consider this letter my vote that you do not continue that practice.

As for the *Bar News* itself, I suggest that it be printed on recycled (genuinely recycled) paper.

TOM SCRIBNER
Walla Walla

More on Initiative 120

Editor:

Does the rubric "Read (Carefully)" constitute the whole of your editorial comment on James J. Mason's letter in your August, 1991 issue?

I read the letter carefully, and found it to embody the abuse of language typical of anti-choice zealotry. But Mason's simple-minded letter is not the problem. What does infuriate me is your editorial indifference to his outrageous misuse of language in the context of a legal argument.

To wit: Mason compares the common law defense available to "physicians" who negligently injure a "mother" while trying to save the life of her "unborn child" with that available under Initiative 120 to an "abortionist" who "selects" an "assault on the child."

Note how subtext and connotation clumsily substitute for objective analysis. Thus, an unborn child becomes a child, and a physician becomes an abortionist, at Mason's whim. A legal medical procedure becomes a wanton act in which an "abortionist" is "engaged," both a "killing" and an "assault." Note, too, that Mason, apparently unconcerned with attacks on pregnant women, does not consider the patient to be the victim of this "assault." He also appears unaware that a woman does not become a "mother" *until* she gives birth.

Why are people like Mason not called to task for such utter lack of linguistic accuracy? As lawyers, precision of language is our stock in trade. Letters like Mason's do violence to the very concept of rational discourse. Why is such an emotionally manipulative argument treated as if it actually had *reasoned* content?

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discussion of the painful issue of abortion has been foreclosed. When an officer of the court abuses both the language of the law and the analytical process, the very least you can do is take editorial note of that fact.

The First Amendment protects Mason's right to distort, mislead, and obfuscate. Your duty to the profession requires you to condemn that tactic. Your failure to do so implicates you in the [figurative] assault on truth that characterizes anti-choice hysteria.

JEFFREY COWAN
Seattle

Editor:

James J. Mason's letter to the editor in the August 1991 edition of the *Bar News* professes shock that Initiative 120 should recognize a "good faith medical judgment" defense for health care workers where the issue of the viability of the fetus or risk to the woman's life or health is at issue. He contends that this would create a defense to malpractice.

Mr. Mason both omits a critical phrase in the initiative and is apparently unaware that this defense is currently the law. The initiative actually says:

The good faith judgment of a physician as to viability of the fetus or as to the risk to life or health of a woman and the good faith judgment of a health care provider *as to the duration of pregnancy* shall be a defense in any proceeding in which a violation of this chapter is an issue [italicized section omitted in his version].

The good-faith medical judgment defense where a physician could be charged with an unlawful abortion has been the standard recognized by the Supreme Court since 1973. The principle was repeated in *Colautti v. Franklin*, 439 U.S. 379, 397-98, 99 S.Ct. 675, 58 L.Ed. 2d 596, 610 (1979):

"[T]he determination of whether a particular fetus is viable is, and must be, a matter for the judgment of the responsible physician." State regulation that impinges upon this determination, if it is to be constitutional, must allow the

attending physician "the room he needs to make his best medical judgment." (citations omitted)

It is clear from the plain language of the initiative that the good faith medical judgment defense would have no applicability to a malpractice case alleging injury to a woman because of a deficient standard of care. It would apply in a proceeding where an abortion was alleged to be unlawful because the fetus was viable or because the abortion was not required to address a threat to the life or health of the woman, i.e., a criminal proceeding or a medical disciplinary proceeding.

Initiative 120 does not change the law. It codifies federal jurisprudence and existing state practice regarding abortion. Like *Roe v. Wade*, it leaves the critical decision of whether or not to have an abortion with the person who will bear the consequences of such a decision, the woman herself.

JANIS P. BIANCHI
Seattle



Pedigraphiphilia

April's experiment in scholarly claustrophobia ("Homage to Robert Benchley—A Short History of the Footnote") seems to have assumed a life of its own in reprints and requests for copies. It has also brought to the surface a small but devoted band of lawyers whose fondness for the footnote is expressed in the neologism above.

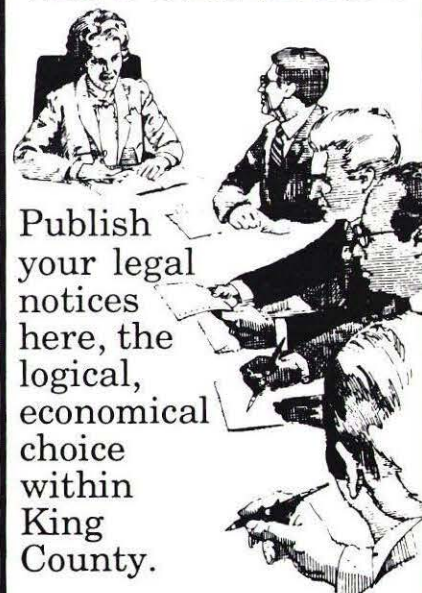
Attorney Daniel Hoyt Smith of Seattle suggested an omission: J.M. Balkin's "The Footnote," 83 *Northwestern Univ. L. Rev.* 275 (1983). Assistant Attorney General Morton Tytler of Olympia shared a brief richly adorned by the footnoter's art. Western State University College of Law (San Diego) professor William R. Slo-manson offered a copy of his own "Footnote Logic in Law Review Writing: Previously Unaddressed in the Criminal Justice System," 9 *Crim. Just. J.* 65 (1986), and from Nova

University's Shepard Broad Law Center, Professor (and WSBA member) Michael Flynn forwarded a reprint of his recent opus, "The Application of Recreational Use Statutes to Beaches: Trap for the Unwary," 40 *DePaul L. Rev.* 743 (1991), from which we learned, *inter alia*, that fifteen million people participate in the leisure time activity of roller skating (fn.78); over one hundred people die in the U.S. each year from lightning strikes (fn.84); how many miles of beach each state has out of miles of shoreline (Washington: 129 out of 170, fn.120); and that if everyone went to the beach at once we'd each have one foot of space to use (fn.122).

And from The Founder, first *Bar News* editor John Rupp of Seattle, came the preface to P.G. Wodehouse's book, *Past Seventy*, in which Wodehouse carries on a hilarious running argument with himself between text and footnote. Which proves, once again, that any time you think you've written something clever, Wodehouse did it better back around 1934.

—Editor

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As your newly elected...

As the newly elected 1991-1992 WSBA president, I would like to take this opportunity to introduce myself. A WSBA member since 1952, I began practicing law as a general sole practitioner, then entered a partnership. I now practice in the firm of Delay, Curran, Thompson & Pontarolo in Spokane. For the last 20 years, my practice has been limited to commercial litigation.

Since my term on the Board of Governors from 1982 to 1985, the WSBA has undergone substantial changes, including the Board's increased conscientiousness regarding the budget. The Board has become determined to strictly adhere to its confines. As a result, WSBA dues have not been raised since 1985; they are among the lowest in the western United States. Due to rising prices, the cost of operating the WSBA has increased since 1985. Although an increase is projected to occur within the next two years, I am hopeful it will not occur this term. The Board of Governors will continue to strictly adhere to budget guidelines and vigorously work to keep expenditures down.

Since becoming your president-elect in February, 1991, I have attended the ABA leadership course in Chicago and the Board of Governors' meetings in Bellevue, Winthrop, Spokane, Kelso, Blaine, and Leavenworth. As your Washington state representative, I have attended the Arizona, Utah, and Idaho state annual bar conventions, as well as the National Conference for Bar Presidents in Atlanta. As WSBA president, my primary function and pledge to you is to serve you to the best of my ability. My goal is that no member of the WSBA should feel that the Association is an adversary. By nature it is a regulatory body governed by the Board. Although it is funded by the license fees of its members, and its purpose is to regulate their conduct, this

duty should not create an adversarial relationship. There should be, and is, a relationship of harmony, consisting of lawyers working together to promote the effectiveness and professionalism of our calling. The less desirable alternative would be to have attorneys regulated by the State Legislature.

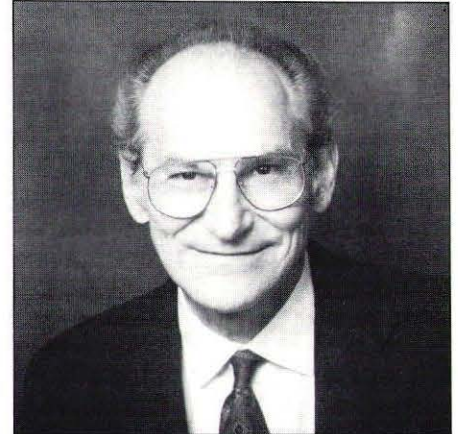
I have four definite goals to achieve during my term as WSBA president.

First, I will devote a great deal of time and effort to increasing the goodwill between the WSBA and its members. The Board of Governors will continue to convene in different cities throughout the state, with the president and governors meeting with their constituents. My schedule of those meetings is: the remainder of 1991—October 18-19, Yakima; and November 22-23, Seattle; in 1992—January 3-4, Olympia; February 14-15, Tacoma; March 27-28, Vancouver, WA; May 8-9, Spokane; June 19-20, Bellingham; July 31-August 1, Oak Harbor; September 16-19, Annual Convention, Vancouver, B.C. We have changed from monthly meetings to nine meetings during my term.

Second, I will continue to stress professionalism. This can be accomplished by including additional courses and requirements in CLE and ethics, initiating a lawyer-sponsored law education program on television, and limited specialization.

Third, I will continue to foster pro bono efforts at the local bar level. More emphasis must be given to the WSBA pro bono program. Perhaps those members who do not wish to participate by rendering services may offer a cash contribution as an alternative.

Fourth, I will continue to improve disciplinary procedures to ensure that even the most complex and serious complaints are fully resolved within two years. The number of complaints filed against attorneys is increasing: There were 2,107 filed in all of 1990, and as



Joseph P. Delay

of August 12, 1991 there were already 1,342 filed with 2,186 projected. Complaints closed as of August 12, 1991 were 1,699. In order to deal with the increasing number of complaints experienced nationwide, the ABA has recommended removing discipline from bar associations and creating separate agencies under the auspices of state supreme courts to deal with disciplinary matters. We must further streamline processing complaints in our association. While considerable progress has been made, if disciplinary matters are not expedited, the public outcry will be for a separate agency to deal with those matters.

To summarize: Within the confines of our limited budget, I hope to accomplish the following four things: establishing goodwill with members, enhancing professionalism, fostering pro bono, and continuing to improve the disciplinary process.

Please do not hesitate to write me or the association to express your thoughts and ideas. I am here to serve you. Correspondence from any of my fellow members concerning any problem will receive a response. Matters submitted to me which a member wishes carried to the Board of Governors will receive prompt attention. It is my pledge to pay special attention to the requests of the membership.

I am looking forward to working with and serving you.

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"A Firm Commitment"

The WSBA recently obtained a copy of a 30-minute video called "A Firm Commitment"—produced by the Bar Association of San Francisco in conjunction with a number of other bar associations—and showed it to the WSBA staff. This video addresses a real problem: the obstacles that impede legal employers from attaining a truly diverse work force, with particular emphasis on the problems of retaining minority lawyers. The title is a double entendre about two aspects of the problem: the tendency of white males to think that someone else will take the lead in addressing this problem and the human resource problem of retaining minority lawyers once recruited.

I took the opportunity to show this video to the WSBA staff for several reasons. First, I wanted them to know of its availability. Second, I wanted them to know about the problem many law firms have in retaining minority lawyers. And third, I wanted them to know of my "firm commitment" to enhancing the opportunities for minorities in both the legal profession and the WSBA office.

The need to create a workplace that fully accommodates minorities is not a remote, idle goal. It is a reality for today's demographics. Consider this fact: *By the year 2000, only 15% of those entering the American work force will be white males.* That's the conclusion of a recent report entitled "Workplace 2000." It is not supposition that the workplace will change. It will. The only real question is our level of preparedness.

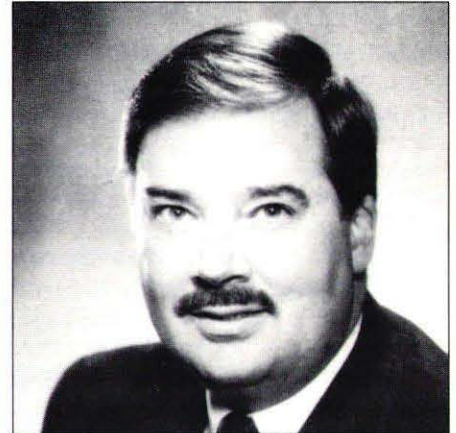
"A Firm Commitment" specifically addresses the problems facing minorities in the workplace. It takes little imagination on my part to know that the vignette about someone reminding two Hispanic members of a staff conversing in Spanish, "English is the official language here," is neither far-fetched nor unlikely.

The video directly takes on negative

stereotypes which have portrayed minority lawyers—and minorities in general—as less smart, less ambitious, less trustworthy and generally less competent than their white counterparts. It underscores the important role that senior white attorneys play in a firm's attempt to be something other than a revolving door for minority lawyers.

We are all products of our environment. I grew up in places where virtually all the faces were white. There were significant minority populations, but they lived at the fringes of my world. On the other hand, there was a large religious majority to which I did not belong. Its influence was pervasive, sometimes subtle, sometimes not. Over time, I realized that I would always be on the outside.

Today's workplace can't have insides and outsides. Today's marketplace is starting to ask questions about the placement and opportunities for minorities. More and more clients are demanding that their legal work be done by lawyers who represent the demo-

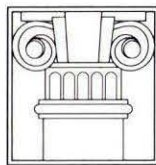


Dennis P. Harwick

graphics of their communities. The Board of Governors has asked the WSBA Corporate Law Section to consider a "minority counsel program" in Washington.

I urge you to borrow "A Firm Commitment" from the WSBA and to use it with your staff. Just contact Pat Dieken, Director of Administration of the WSBA, at (206) 448-0441 to make arrangements to borrow the videotape. There is no charge; just a commitment to return it as soon as possible so that others can use it. If you want your own copy, they are available for \$100 from the Bar Association of San Francisco at 685 Market Street, Suite 700, San Francisco, CA 94105, (415) 764-1600.

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Coconut Bookends

by Lindsay Thompson

In the late '70s a staple of BBC radio was an odd little program called "Desert Island Discs." It was a weekly affair in its fourth decade, hosted by a genial old duffer called Roy Plumley. Desert Island Discs was a music and chat show, in which Roy and his guest, the celebrity of the moment, would talk about—and listen to—the selection of records the celebrity would want at hand if ever stranded on the proverbial desert island.

Asking someone their favorite anything: records, racehorses, television programs, will usually get you one of two responses. The more common—nearly universal, in fact—is The Official Response, designed to make us look weighty and informed. ("My three favorite books? Oh, without doubt, *The Bible*, Plato's *Republic*, and *The Brothers Karamazov*.") Then, from only the most secure of egos, you may get The Real List, the things we come back to again and again because they please us. ("Sorry, I can't limit my list to three. My favorites are the *Garfield* books. All of them.")

The *Bar News*' annual October book

issue has a mixture of motives in its origins: generating more advertising, and taking a moment from weightier topics to consider books that have come out lately, books that are interesting, useful, or fun. Organizing it, I found myself thinking of Desert Island Discs and what books I'd want on a desert island with me. Books are preferable to records, since the former require no power supply, though admittedly, in damp climates books will suffer more.

I fall cheerfully on the side of The Real Listers. My personal favorites are, in the main, a pretty lowbrow lot. Mine would be a small crate to float ashore. Paperbacks are on the top, to avoid crushing. Three Edmund Crispin detective novels, *Holy Disorders* (1945), *The Moving Toyshop* (1946) and *Buried for Pleasure* (1949) are landmarks in the English drawing-room mystery style, with complicated plots, eccentric characters, and a gift for witty dialogue.

No mail comes on desert islands, save the occasional bottled missive, so in go some collections of letters. Lester Cappon's *The Adams-Jefferson Letters* (1959) carry the complete, half-century correspondence between Thomas Jefferson and John and Abigail Adams. Sally Fitzgerald collected the letters of her friend and published them in 1979 as *The Habit of Being: The Letters of Flannery O'Connor*. They show how a semi-invalid spinster from Milledgeville, Georgia could speak to the world, and are a reminder of how impoverished is the age we fill, where no one writes to anyone any more.

Mark Amory edited the correspondence of the stereotypical English curmudgeon in *The Letters of Evelyn Waugh* (1980). This big, copiously annotated volume is as funny a collection of gossip and ill-temper as one will ever see.

Any, if not all, of three books on Samuel Johnson goes in the box, and none of them are *Boswell's Life*. Joseph Wood Krutch (1944), John Wain (1974) and W. Jackson Bate (1975) have all produced magisterial lives of the great 18th century moralist; each is a classic in its own way.

Classics? One must include a few, if only to fend off any Reading Snobs who wash up later. Edith Hamilton's *The Greek Way* (1930) distills a lifetime's

study of a stream of western tradition and learning, and introduced me to the comic genius of Aristophanes. *The Complete Jane Austen* (various editions, though the one-volume Random House version travels best) presents the works of a writer too often assigned in high school; you can't really appreciate Austen's social satire until about age 30. Or maybe I was slow. When I was in high school everyone was reading J.R.R. Tolkien and Hermann Hesse.

A couple of modern classics for the crate would be E.B. White's *Essays* (1977), worth the price of purchase for "A Slight Sound at Evening," White's 1954 appreciation of Henry David Thoreau. Peter Brazeau's collective oral biography, *Parts of A World: Wallace Stevens Remembered* (1980), gathers reminiscences of one of America's greatest poets, a three-piece-suited insurance company bond lawyer who seemed to live his professional and artistic lives in watertight compartments.

Because one probably gets homesick on desert islands, some books about home go into the crate, too. From the 1980s renaissance in Southern writing, three novels: T.R. Pearson's 1985 tragicomedy of life in a small North Carolina town, *A Short History of A Small Place*; Robert Inman's evocation of World War II in the South, *Home Fires Burning* (1987), and Pat Conroy's 1986 epic about the time bomb of family relationships, *The Prince of Tides*.

Finally, some fun. Mark Helprin's 1983 novel *Winter's Tale* is a fabulous concoction of flying horses, people who live a hundred years and a New York City that never was, woven together by some of the most wonderful prose you'll ever read. John Collier is a neglected miniaturist whose collection of short stories—*Fancies and Goodnights* (1931)—weds elegance, irony and the macabre.

No, I can't manage without my books. They are faithful and accommodating companions, gifts which require neither consideration of size nor batteries, and diversions from the daily grind. In this issue some of my fellow readers and I suggest a few interesting books of most recent vintage. What are you reading?

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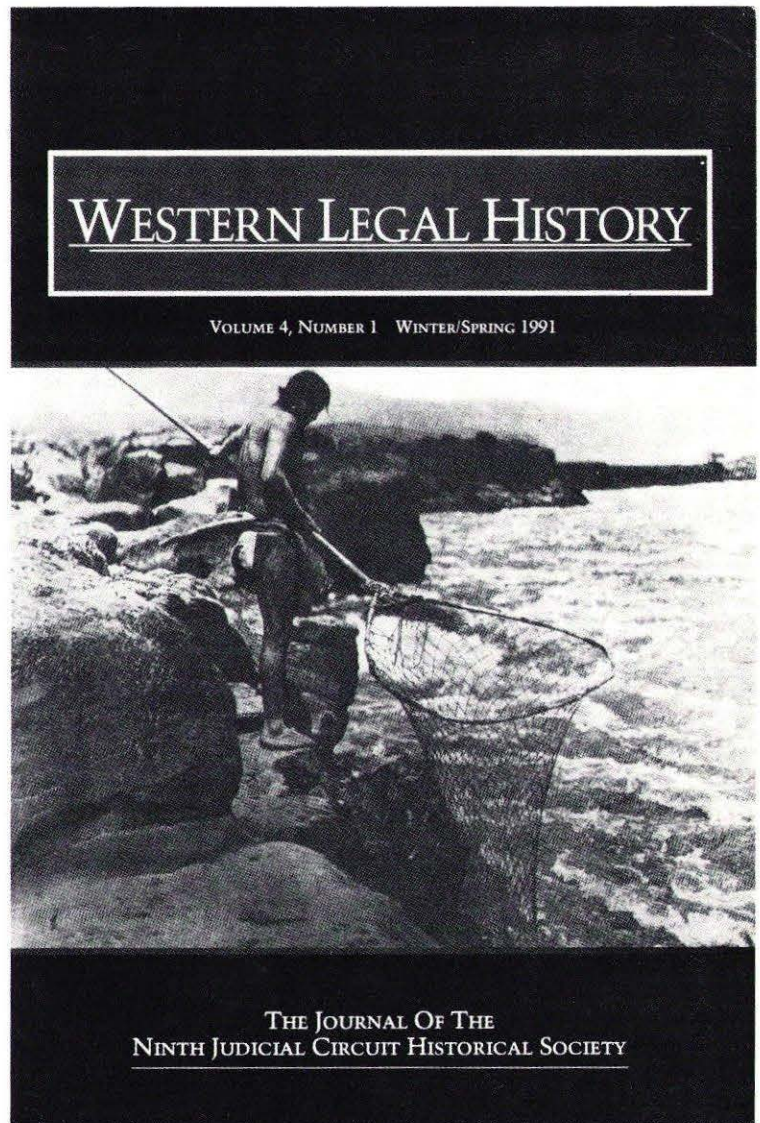
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Briefly Noted

Chet Orloff, editor, *Western Legal History: The Journal of the Ninth Judicial Circuit Historical Society* (620 Main Street, Room 703, Portland, Oregon 97205).

Now in its third year, *Western Legal History* is a significant addition to its field. Prominent authors in history, law, politics and other fields have explored the role and effects of law in the West from precontact times to the present. Subjects have ranged from law and the fur trade, crime and punishment in Mexican California, territorial courts, architecture of western courthouses, minorities and the law, water and land law, and more. Ray August's article, "The Spread of Community Property Law to the Far West" (3 *Western Legal History* 35, 1990), is an example of the interesting and useful material the periodical presents. History is not just the record of the dead here: a 1989 issue carried John T. McGreevy's "The Northern District of California and the Vietnam Draft." Well-edited and elegantly designed, *Western Legal History* is worth making time for amid the reading demands of a lawyer's or judge's day.



Bryan A. Garner, *The Elements of Legal Style* (New York: Oxford University Press, 1991), 236 pp., hardcover, \$19.95.

A sequel of sorts to Garner's widely praised *A Dictionary of Modern Legal Usage* (Oxford, 1987), this book takes William Strunk, Jr.'s and E.B. White's *The Elements of Style* as its inspiration. Like its predecessor, it is clearly and engagingly written, though

its *raison d'être* is pretty depressing. If lawyers, new or old, really need a book with forty-seven pages of examples of "Words and Expressions Confused and Misused," then America may as well admit defeat in the education war and surrender.

One surprise is the introductory chapter, in which Garner, discussing various styles of legal writing, dredges up critiques by one judge after another

to take a piece out of U.S. Supreme Court Justice Benjamin Cardozo's literary hide. His premise is sound: the high baroque style used by Cardozo and drawn from such masters as Johnson and Macaulay can seem a bit overdone in an age when people have the attention spans of gnats, and it is hard to adopt successfully as one's own style. But, conversely, does everything have to read like *USA Today*? When one presidential

candidate can effectively sideline another by running around the country parroting, "Where's the beef? Where's the beef?" in the guise of real discussion of issues, shouldn't lawyers do their bit to elevate the standard of public writing just a bit? Notwithstanding such personal cavils and the book's fussy, cluttered design, *The Elements of Legal Style* is a good book to keep around for moments of compositional doubt.

Chris E. McGoey, *Security: Adequate or Not? The Complete Guide to Premises Liability Litigation* (Aegis books, P.O. Box 3239, Oakland, California 94609-0239, 1990), 288 pp., softcover.

Here is a useful compilation of how to handle cases involving crimes in such ubiquitous locations as convenience stores, parking lots, motels, apartment complexes, and shopping centers.

McGoey, who has developed security programs for such merchandising behemoths as K-Mart, Neiman-Marcus and 7-Eleven, seems to know his stuff. After discussing trends in duty and foreseeability cases, the author offers

information on handling discovery, effective trial presentations, and sample discovery lists, interrogatories and voir dire questions, case references and summaries, and resources for further information.

American Bar Association, *You and the Law* (Publications International, Inc., 7373 N. Cicero Avenue, Lincolnwood, Illinois, 1990), 608 pp., hardcover.

"Instant help for hundreds of common legal problems," the cover proclaims, and that is pretty close to the mark. In fact, this could be a useful book to give to the newly admitted lawyer, especially

the one going solo or entering a small-town practice. It touches on practically everything anyone is liable to bring into the office, and is written in clear, easy-to-follow language. It's a good place to

start when you need to remind yourself of how a certain type of problem is analyzed or handled. For the nonlawyer interested in how the system works, the book is hard to beat.

Stephen B. Presser, *Piercing the Corporate Veil* (New York: Clark Boardman Co., 1991).

This large treatise is divided, like ancient Gaul, into three parts: a thorough historical and analytical overview of the doctrine of piercing the corporate veil, followed by

comprehensive looks at state law on the subject, then, finally, federal law, analyzed by appellate circuit. As American business wallows through the next waves of collapse and consolidation

following the easy credit, megamerger eighties, this customarily obscure subject will doubtless rise in interest as shareholder suits multiply and judgment holders chase evanescent assets.

Charles J. Johnson, Jr., *Corporate Finance and the Securities Laws* (Englewood Cliffs, N.J.: Prentice Hall Law & Business, 1990). 819 pp., hardcover.

When a corporate client you've grown with wants to make the next jump in growth and issue some paper to pay for it, you may begin chewing your nails wondering whether the client will make

the jump to a specialist and never return. This book is a useful contribution to getting up to speed in a complex area. If you're not a corporate finance expert, this book may not make

you one by itself, but it's a good way to get a toe in the water. Clearly written and relatively easy on the eyes, it's a book to look at as a practical alternative to some forty-volume set.

State Justice Institute and American Judicature Society, *Alternative Futures for the State Courts of 2020* (AJS, 25 E. Washington, Suite 1600, Chicago, Illinois 60602, 1991), 200 pp.

This book collects the thoughts of participants at a five-day conference last year. Developing alternative scenarios for trends in society over the next thirty

years, they then drafted possible futures for the American courts. The book also includes accounts of three states—Hawaii, Virginia and Arizona—and their

work with judicial foresight planning. It's the sort of book that will provoke thought now and, perhaps, big yuks in thirty years.

Barry Tarlow, *National Directory of Criminal Lawyers* (9119 Sunset Blvd., Los Angeles, California 90069, 3d ed., 1991).

Invariably, at inopportune times, friends or clients call and need a referral to a good criminal defense lawyer in another part of the country. This book makes the process easier. Covering every state but California, the book carries the results of 14 years' polling of criminal defense bars across America on who the best in their line are. Listings are by state and city, and a biographical sketch of each lawyer is included. Tarlow, profiled in the *National Law Journal* as one of the ten best winning trial lawyers, edits the work and offers a money-back guarantee if the book is returned within thirty days.

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A Cult Above the Rest

Ron MacIsaac, Don Clark and Charles Willard, *The Devil of DeCourcy Island: The Brother XII* (Victoria, B.C: Porcepic Books, 1990), 126 pp. softcover, \$12.95.

by Lindsay Thompson

Mention cults in the Pacific Northwest, and who comes to mind? The Rajneshees in the Oregon desert. The survivalists and Roy Masters' followers fortifying themselves in southern Oregon and northern California. J.Z. Knight and her aged Edgar Bergen, Ramtha, in the fastnesses of Yelm.

Such cults are nothing new, and Victoria lawyer Ron MacIsaac and friends have produced a short but compelling account of a bizarre B.C. cult arising from then-fashionable Theosophy into a truly weird assemblage of "elderly spinsters, aged widows, retired astrologers and at least one half-wit, who paid large sums of money to the Brother XII for the privilege of working, even 'slaving,' for this charismatic, seemingly telepathic leader."

The Brother XII had rather prosaic beginnings in Canada, knocked around British Columbia jobs and sailing gigs for years, then made his way to England in the 1920s to launch his Aquarian

Foundation, a mystic retreat from the debilitated, disillusioned postwar world.

Bankrolled by a handful of adherents, the Brother XII set up his mecca near Nanaimo, and soon the acolytes and their checks came rolling in. He laid out his settlement in zodiacal form, with his retreat in the middle. By 1927 he was big business in B.C.

Fairly soon, the colony's doctrinal base acquired a distinctly Egyptian flavor, perhaps aping—or playing upon—the Egyptology craze that followed Howard Carter's discovery of King Tut's tomb in 1922. Brother XII pronounced himself the god Osiris and took up with a wealthy New York

woman not his wife. She went mad and was discarded after producing a girl instead of Osiris' son and heir, Horus.

Adultery and the bastard non-deity took some of the edge off the Brother XII's charisma, and one follower got him arrested in 1928 for theft of foundation funds. But the accuser disappeared just before trial; witnesses fainted in the courtroom under the Brother XII's spells; and the prosecutor suffered a mid-summation memory lapse that convinced many that old Osiris was in fact on to something in the supernatural realm. In fact, as MacIsaac & Co. show, it was the testimony of a wealthy North Carolina widow that she gave the funds to the Brother XII as a gift that got him off the charge.

The Brother XII then decamped to the more remote DeCourcy Island, where he put the faithful to work clearing land and building structures. He installed a new goddess, Madame Zura, as his celestial sidekick, and he bilked more supporters for more money while subjecting them to physical abuse and deprivation on his island idyll.

By 1932, the Brother XII's supporters were in open, if terrified, revolt. Several sued him to get their money back. Here MacIsaac and his colleagues excel, recreating the 1933 trial, then sifting through the lurid testimony and press accounts to sort out just who the Brother XII was and what he did in his meteoric progress through the woods. The book is a fascinating attempt at detection some 60 years after the fact, and it illuminates a curious time in Northwest legal history.



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Book 'Em

David Heilbroner, *Rough Justice: Days and Nights of A Young D.A.* (New York: Pantheon Books, 1990), 286 pp., hardcover, \$19.95.

Jeffrey Toobin, *Opening Arguments: A Young Lawyer's First Case: United States v. Oliver North* (New York: Viking Press, 1991), 374 pp., hardcover, \$22.95.

David Simon, *Homicide: A Year on the Killing Streets* (New York: Houghton Mifflin, 1991), 599 pp., hardcover, \$24.95.

by Lindsay Thompson

When I decided to leave private practice and become a prosecutor, I cancelled my subscription to *The Wall Street Journal* and looked about for some sources of insight into my new trade. These three works filled the bill.

Heilbroner, after a federal clerkship in Boston, thought it might be interesting to try prosecution in Manhattan. The job intrigued him. "[Prosecutors] had the power to dismiss weak cases, lower the charges for deserving defendants, and lean on the truly heinous. Unlike defense lawyers, who must represent anyone who walks through the door, prosecutors can choose cases they believe are worth fighting for. I recognized that many people who commit crimes are themselves victims of social injustices: racial discrimination, poverty, and inadequate education, to name only a few. But a gunpoint robber's unfortunate past makes no difference to a traumatized or wounded victim. Some sort of punishment must be meted out." In addition, "it promised to be one of the few places where I could satisfy my curiosity about the shadowy dealings of police officers and criminals while doing what I considered 'the right thing.'"

By page 23, Heilbroner has stepped under the waterfall of Manhattan misdemeanors, a 24-hour-a-day torrent of malice and peculiarity. In addition to petty thieves, muggers and minor functionaries in the drug industry, there are such novelties as "stuff 'n suck" cases. In this innovative offense one stuffs a folded piece of paper into a subway token slot. After a patron drops in a token and finds it doesn't go through, he leaves to get another. The artist then runs over and—yep—sucks the token out of the slot for later,



discounted, resale on the street. One frustrated token booth clerk, watching a kid doing it over and over while she waited for the police to arrive, went out and ran a thin line of Krazy Glue around the slot. The kid, trapped to the turnstile, was detached by an emergency crew. The first words to cross his liberated lips were, "Listen, man, I wasn't sucking tokens."

The lower courts our young D.A. finds something to be endured, until enough experience is racked up to move into felony work. The rest of the book follows a familiar road: through trials, special projects like insanity and extradition cases, grand juries, serious criminals, repeaters the system can't seem to address, the progress from idealist to jaded veteran. "To stay on much longer meant maintaining a blundered belief in the rectitude of our work, wanting to punish defendants, believing that our policies were all to

the good: becoming the sort of prosecutor I had always disliked and distrusted. It was time to leave." There's even an epilogue giving Heilbroner's earnest prescriptions for reform. It's all pretty predictable, but entertaining nonetheless. We don't get token suckers in Kelso.

Jeffrey Toobin, by contrast, was fortune's child in 1986. No career angst clouded his horizon. Graduating from Harvard Law School that spring, he took up clerking for an ancient federal appellate judge in New York. In November, he took a call from a former clerk of the judge's, Guy Struve, just hired by Lawrence Walsh to help staff up the fledgling Iran-Contra investigation. Would the ancient judge recommend "some particularly outstanding young lawyers" to him?

"Judge?" Toobin asked when the old geezer got back from the funeral. "Sure," the judge croaked. Toobin interviewed the next day, and got the job the next. He joined Walsh's staff January 31, 1987. After a month on the job he took the New York bar exam.

A bright and observant lad, Toobin took close note of what went on around him. Early on he discovered a key schism among Walsh's staffers. On the one hand there were the private practice lawyers—"professional civil litigators and full-time defense lawyers." On the other was a cadre of present and former prosecutors. The fault line between them was whether to charge Ollie North and his cohorts with violating the Boland Amendment. The litigators wanted to try North et al. over policy disputes, Tobin says; the prosecutors wanted convictions for violation of criminal statutes. The choice they made, and the consequences that followed, are the meat of this fascinating account, which goes through the jury's verdict in the North case.

Toobin is particularly good at character sketches. Larry Shtasel, a lawyer on the Walsh team, had passions ranging from

...international chess competitions to rap music to college basketball (and what he called 'the manly art of winning an NCAA basketball pool'). Not spending money was his hobby. Our daily visits to the candy store usually ended with me drumming my fingers while Shtasel compared the cost per ounce of a Milky Way versus a Peppermint Pattie. He was a bachelor with a storm-tossed personal life: a fear-of-commitment poster child.



Of Oliver North's lawyer, the famous Man-Who-Wasn't-A-Potted-Plant: "At forty-seven, Brendan Sullivan was only a year older than North and Kecker, but Sullivan's haunted pallor made him seem at least a decade their senior. With hair the color of the Capitol dome and skin tone to match, Sullivan lacked the proud defiance of North or the easy grace of Kecker. By the end of the trial Sullivan seemed even to have stopped talking to his colleagues at the defense table. Wordlessly, he declined their daily offers of Life Savers. Sullivan always looked angry—as he did when he took the stand to close." And Toobin

vividly recreates the testimony of key witnesses—North, McFarlane and others—with extended excerpts from their testimony. Though a little wary, in retrospect, of the political zeal of some of his colleagues, Toobin seems to have come out of his time with the Special Prosecutor having learned much.

David Simon isn't a lawyer at all. He's a reporter for the *Baltimore Sun*. He took a year off and spent it with the homicide detectives of the Baltimore Police Department. Homicide is the result of his observations, a truly remarkable book, a group portrait of men who sort out murder cases.

There are murders, and there are murders. There are red-ball murders, "Murders that matter. In this town a detective lives or dies on the holy-shit cases that make it clear who runs the city and what they want from their police department. Majors, colonels and deputy commissioners who never uttered a word when bodies were falling all over Lexington Terrace in the summer drug war of '86 are now leaning over the shoulder of a detective sergeant, checking the fine print. The deputy wants to be briefed. The mayor needs an update. Channel 11 is on line 2. Some asshole from the *Evening Sun* is on hold for Landsman. Who's this guy Pellegrini working the case? Do we trust him? Does he know what he's doing? Do you need more men? More overtime? You do understand that this thing is a priority?"

Then there are cases that don't get solved, or may not get solved for years, such as when a chance encounter turned up a woman who married and killed old men for their small but valuable insurance policies. An exhumation of one of her supposed victims turned up not the offed husband but the father of another murder suspect, buried in the wrong grave. Life. What a business.

By the end of this book, you know the homicide detectives. They're a remarkable bunch, driven by pride, ambition and pressure to keep their cases closed percentage up to the national average. Simon, for his part, is a surpassingly brilliant writer. *Homicide* is one of a kind.

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The Tutt Stories: a Review

by Philip H. DeTurk (who first read most of the Tutt tales in 1956-1958, soon after he finished law school; re-reading them for this review was a delightful experience.)

Trivia Quiz: What famous American law firm has the following members: Bonnie Doon, Minerva Wiggin, Willie Toothaker, Old Scraggs, Miss Sonheim, and Samuel and Ephraim? Hint: It practiced in New York from sometime prior to 1919 until the thirties. Bonus hint: The last name of Sam and Eph was Tutt, but they weren't related.

If you don't know the answer, then you have been missing some of the best legal short stories ever written. Stories which feature the doings of the fictitious law firm of Tutt and Tutt as created by the fertile mind of Arthur Train, a lawyer himself who, during the aforementioned period, wrote almost 100 of the popular Tutt stories.

All of these have been anthologized in at least 11 different books, although many of the original stories ran in the *Saturday Evening Post* during the third decade of this century. Today you can find *Tutt and Mr. Tutt*; *Tut, Tut, Mr. Tutt*; *Mr. Tutt At His Best*; *The Adventures of Ephraim Tutt*; and *Mr. Tutt's Case Book*, to name five of them, at various libraries. This includes that of the University of Washington School of Law, which will send books of this nature to members of the Washington State Bar.

Although a number of the stories concern criminal jury trials in New York City on which never a woman talisman appears, the

...backbone of the establishment was Miss Minerva Wiggin...because the woman in question is the ablest and very likely also the best person in the outfit, and she assumes the control of affairs by a process of natural selection." She was a member of the bar and therefore not only ran the office, but also wrote briefs, drew most of the pleadings, and kept track of everything that was done in the various cases. (See "Samuel and Delilah," in *Tutt and Mr. Tutt*, pp. 109-112.)

In Ephraim Tutt's autobiography he explains how the stories started. (Page 396 of *Yankee Lawyer*, as written in 1943.) According to Ephraim, it all began when he successfully procured the acquittal of a simple-minded Italian in 1919 (as later recounted in "The Human Element"). He told of his achievement, which was brought about due to his nocturnal worshipping at a Catholic church in New York City, to Arthur Train, who immediately realized that this unusual tale should be written and published. Mr. Tutt points out that his character isn't even consistent: "The character changes from story to story—from that of mountebank to philosopher, from shyster to philanthropist, from law-breaker to upholder of the Constitution."

So he told Train to write about the acquittal and put in the whole law firm if he wanted to do so (*supra*, page 400). Then he advises us: "Because the law they set forth is sound, these books—particularly *Mr. Tutt's Case Book*—are frequently used in law schools to illustrate legal principles. Train tells me that he has received letters from numerous candidates for the bar, in widely separated places, who despairing of success and abandoning the idea of going on with their examinations, happened to pick up a copy of one of the Tutt books and acquired sufficient information overnight to pass triumphantly next day," (*supra*, page 401).

This cynosure of the New York bar then further tells us how his salmon-fishing experiences in upstate New York and Canada, which are the substance of at least ten of the Tutt stories, have "...brought millions of dollars into the Province [of New Brunswick]" (*supra*, page 404).

In "Mr. Tutt is a Gentleman," which appears on page 196 of *Mr. Tutt At His Best*, the facts involved whether or not a salmon has been reduced to possession since the fish is a *ferae naturae*. This adventure also involves another attorney named Quelch, who appears in most of those set in Canada and is eternally

trying to take advantage of widows, children and even, much to his everlasting woe, Mr. Tutt.

Mainly these stories are about lawyers, the law firm and the law. We learn many practical pieces of legal information from them:

"We have not only been retained but what is more to the point—we've been paid in advance."

"Does that indicate that we have or have not got any defense," smiled Miss Wiggin as she arranged the cups.

"It looks bad to me," said Bonnie Doon, pulling up a chair. "However, as the first duty of a lawyer is to see that he is properly paid, I was glad to see that Mr. Tutt has not been remiss," (*Tut, Tut, Mr. Tutt*, page 248).

And "Never turn down a case," was Tutt's motto.

"Our duty as sworn officers of the judicial branch of the Government renders it incumbent upon us to perform whatever services our client's exigencies demand, was Mr. Tutt's way of putting it." (See "The Human Element," at page 3 of one of the collections.)

Harold R. Medina, a United States jurist, wrote a seven-page introduction to one of the anthologies in which he tells us:

...[O]ne of the truly interesting characters of legal fiction was born in the person of Ephraim Tutt. He is a tall, inscrutable, "ramshackly, old fellow with a whimsical, deeply wrinkled face, dressed in a funny old frock coat and black string tie." His hair grows long behind his ears, and he wears a pretty well battered old stovepipe hat and congress shoes. He always carries a mahogany, ivory-headed cane. His curious, rat-tailed stogies cost \$2.85 per thousand; and at times he takes a sip of "Malt Extract" in the

office or opens a bottle of "foaming Burgundy" at his home, where he sits by his sea-coal fire in a sway-backed horsehair-covered rocker.

Ephraim himself states the importance of his attire in "Lallapaloosa Limited" (page 281) to his staff:

"Behold," he cried in the deep resonant voice that he used in addressing juries at the climax of a

peroration, "the integuments of my personality—the ancient habiliments of an honorable profession—the panoply of the legal warrior. "Here, my corslet"—he touched his dingy waistcoat with his left hand; "my greaves"—he brushed the baggy legs of his pantaloons; "my halberd"—he raised his old mahogany cane with its knot of yellow ivory; "my

casque"—he indicated his ruffled stovepipe. "Arrayed in these I am Mr. Ephraim Tutt, attorney and counselor at law—the senior partner in Tutt and Tutt..."

Judge Medina further explains the importance of Bonnie Doon, who is responsible for investigating the cases, and little Willie, the office boy, who chews gum and is always underfoot, as well as the alcoholic scrivener and one-time lawyer, old Scraggs; and the "aureate-haired lady steno" Miss Sondheim. He tells us that Samuel is always called Tutt but that Ephraim is Mr. Tutt, the hero of these numerous tales.

Then at xii of his important introduction to *Mr. Tutt At His Best*, he recounts an amazing fact:

In the course of time and as a tour de force Arthur Train published in 1943 his *Yankee Lawyer: The Autobiography of Ephraim Tutt*. It was a glorious hoax. The learned law reviews speculated on the subject of whether or not Mr. Tutt was a shyster, as though the world might so forget the substance of things as to disbar a lawyer whose guiding star from first to last was to bring succor to the unfortunate and those buffeted by fate and to prevent miscarriages of justice.

Best of all came the day when the *Yale Law Journal* published a book review of *Yankee Lawyer: The Autobiography of Ephraim Tutt*, written and signed by Arthur Train himself, praising the book to the skies. What a blessing to find a lawyer or a judge with a sense of humor! Imagine the creator of Mr. Tutt having the gall to publish a book review of his own book and lay on the praise and adulation as thick as the icing of a luscious lemon meringue pie, or thicker! I have always thought the Yalies had their full share of wit and humor. I honor them for it. It is to the everlasting credit of the scholarly and hardly-ever-stuffy *Yale Law Journal* that it published the review.

Arthur Train was behind it all, and Mr. Tutt was his hero. He was the pundit

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that revealed to us the following wisdom:

The law might be entirely against him, and so might the facts; but that never disturbed his equanimity so long as there was a jury to be appealed to; and he believed that the chief requirements for the legal career were a good digestion and a stout pair of legs. In a word, he was a practical man...

Like sees like. A smart-Aleck client is apt to engage a smart-Aleck lawyer, much as men are said, out of personal vanity, to marry women who in general resemble them.

Both of these appear in "The Liberty of the Jail," pages 90 and 91.

...[H]e will faithfully uphold the Constitution or the laws is as sacred to him as the Hippocratic oath is to the physician. Mr. Tutt had never consciously violated it—that is, hardly ever. At any rate, when skating on thin legal ice, he always comforted himself with the

argument that if a law was unfair he was justified in doing his best to change it.

(page 350 of "His Honor, the Judge" in *Mr. Tutt At His Best*)

Concerning juries, the author has this to say:

"And look at the jury," cried Mr. Tutt. "Just look at them! Ignorant, stupid, prejudiced—you wouldn't believe such people existed. But, even if they had brains, how on earth can they get at the real facts simply by listening to witnesses?"

"They can't!" ejaculated the elder.

"Now you've said something," agreed Tutt. "How can the jury decide anything? That's the whole point, so far as I'm concerned. There's no way of finding out which witnesses are telling the truth—"

"Even if they're trying to!" grumbled Mr. Tutt. "Which they generally aren't."

In "Contempt of Court," Miss

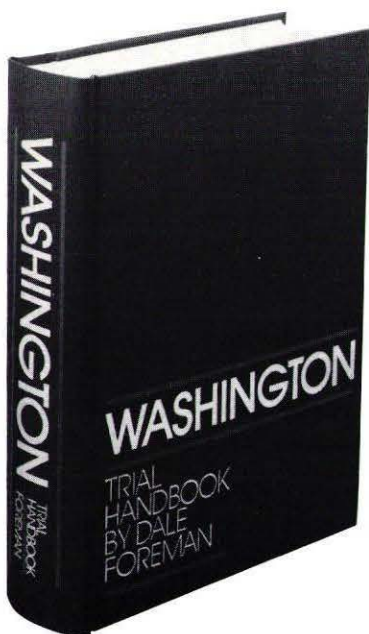
Wiggin has her day and her say, too:

"Of course you can," countered Miss Wiggin. "You can find an authority on any side of any proposition you want to look for. That's why one's own sense of honor is so much more reliable than the law. What is the law, anyhow? It's what some judge says is the law—until he's reversed. Do you suppose I'd surrender my own private ideas of honor to a casual ruling from a judge who very likely hadn't the remotest idea of what I think is honorable?"

"You'll be jailed for contempt before you get through!" Tutt warned her.

Now that you know who the characters are, what they think, and how they came to be treated, what should you read? Some of the aforementioned anthologies are repetitious. Thus the best Tutt stories appear in more than one, so those shouldn't be hard to find. In the *Case Book*, there is also a synopsis of the law—as it applied to the

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particular situation in which Mr. Tutt found himself—appended to each of the 26 stories (and with an introduction by Wigmore).

"Mock Hen and Mock Turtle" deals with the murder of a Chinese by a member of a rival tong who has the perfect alibi. Mr. Tutt uses all of his cunning and manages to convince the jury of his nonguilt. But the Chinese have their own method of justice as is completely detailed in the story's denouement.

In "Witness Whereof," one of a number of stories involving probate and wills, the canny old attorney is asked to draw a new will, for a man he formerly represented, which will disinherit the man's niece. Since Mr. Tutt knew she was at one time the favorite of this soon-to-be-decedent, who has since remarried, he does so. The ultimate results are not what the widow had planned.

"You're Another" is high society as viewed by the luckless Madame Pierpont Pumpelly, whose husband had made his mint in the Midwest. His

wife erroneously believes she is the equal of the old-money types who live in mansions near that of her own, and when snubbed, takes her revenge.

"A Leaf From King John" is about a man who owns beautiful property consisting of a long, tree-lined driveway. He is unfortunately another snob, refusing to allow his daughter to wed the man she loves because of that person's lack of fortune. King John once had removed a tooth a day from one of his debtors until the debt was paid.

"Mr. Tutt, Father-in-law" teaches us about mortmain, which at least in the twenties prevented charities from gaining all of the assets of a decedent; while in "Mr. Tutt Takes a Chance," he takes on Squire Mason, this time in upstate New York, in an effort to defeat another will.

There is a story about a dog that chased and bit anyone that came near it ("The Dog Andrew"); another about a man who has his will made into a movie so that all of his friends can enjoy seeing what he is going to do

with his property ("Where There's a Will"); and one concerning the workings of a jury where the person who testified wasn't a doctor, but was a liar and therefore could have been a doctor, creating a privilege as to the information elicited at the criminal trial against Mr. Tutt's client ("Beyond Reasonable Doubt").

These all are delightful stories. Each of them develops characterization, imparts pithy knowledge, and usually leaves the reader not only laughing at the conclusion, but also sometimes surprised. All of them should be read. In order. There is no reason to exclude one in favor of another.

If, perchance, you were to avoid "Advice of Counsel," you would miss learning about Mr. Magnus, a lawyer laboring for the New York prosecutor, who "like the old dog in Masfield's 'Reynard the Fox,' would work through ditches full of legal slime, nose through thorn thickets of confusion, dash through copses and spinneys of words and phrases, until he snapped close at the heels of intelligibility."

Should you miss "Treasure Trove," you wouldn't know, "An ignorant man is easily susceptible to a threat from a clever and unscrupulous one, particularly if the latter be a lawyer."

Passing by "The House That Tutt Built" would mean that you would not be brought up to date, at least 1920s style, as to the fixture law and the right to gain control of certain paintings that were not purportedly permanently affixed to the wall.

Failing to read "Mr. Tutt Plays It Both Ways" would mean that you would not learn how the astute practitioner was first able to get a defendant acquitted because the crime took place on federal land and not in New York, and then come back later when the matter was retried in the state and use the defense that it had no jurisdiction, since the crime was on federal land.

If you have read this far and aren't convinced that you would enjoy reading about Mr. Tutt, his firm and his many efforts to properly represent his client, than at least you have the benefit of this review for your Mr. Tutt background. These stories are well worth the trouble you will have to take to acquire copies of the books in which they appear.

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Notices of Interest to Bar Association Members

Disciplinary Notices

Disbarred: Mount Vernon attorney **Kent B. Haberly** (admitted May 14, 1976) has been ordered disbarred by the Washington State Supreme Court on July 23, 1991 for misappropriation and mishandling of two clients' funds, for delay and neglect in handling a client's matters, for failing to get his clients' written consent and waiver of a conflict of interest, and for comingling personal funds with client funds in his IOLTA account.

Censured: Mount Vernon attorney **Earl F. Angevine** (admitted March 10, 1967) has been censured for representing a client in a dissolution action despite the conflict of interest that existed in having previously represented the client and the client's wife in various legal matters substantially related to the dissolution.

Reprimanded: Aberdeen attorney **Jack Burtch** (admitted 1955) has been ordered reprimanded pursuant to a stipulation for discipline, based upon his neglect of a personal injury matter, failing to keep the client advised of the status of the matter, and failure to comply with the discovery rules such that the client's matter was dismissed with prejudice. Mr. Burtch will be placed on probation for one year under a variety of conditions.

Informal Opinion 91-1: Confidentiality and Use of Cordless Telephones

The Rules of Professional Conduct Committee recently received an inquiry whether there was a violation of the lawyer's duty to maintain client confidentiality if the lawyer discussed confidential client business over a cordless or cellular telephone. In the course of responding to that inquiry, the Committee discovered information that it felt was important to disseminate to all of the membership of the Washington State Bar Association.

Cordless phones in particular are subject to interception by radio

scanners, other cordless telephones and similar devices such as baby scanners. Recent court decisions have held that users of cordless phones do not have a protectable expectation of privacy. *See, Tyler v. Berodt*, 877 F.2d 705 (8th Cir. 1989), *cert. denied*, 110 S.Ct. 723 (1990). A recent opinion of the Illinois State Bar Association Committee on Professional Ethics, Opinion 90-7, states that if a lawyer is using mobile communications, the lawyer should inform the client of that use and that any such communications cannot be treated as confidential.

At least with respect to cordless phones, the Rules of Professional Conduct Committee believes that RPC 1.6 requires that the lawyer advise the client that the conversation may not be confidential and give the client the option of conducting the discussion at a more secure time and place.

With respect to cellular phones, the Rules of Professional Conduct Committee feels that it does not have enough technical information about how accessible such conversations are to scanning devices to render an opinion about the confidentiality of conversations conducted over cellular phones. The committee does note, however, that, unlike cordless phones, cellular telephones are specifically included for protection under 18 U.S.C.A. §2510 (commonly known as the Electronic Communications and Privacy Act of 1986).

Informal Opinion 91-2: Use of Testimonials and Specific Results in Advertising

Rule 7.1 of the Rules of Professional Conduct provides:

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it:

(b) Is likely to create an unjustified expectation about results the lawyer can achieve . . .

The Rules of Professional Conduct Committee recently had occasion to review an advertisement for a lawyer's services which cited specific jury verdicts and other results the lawyer had obtained in specific cases. The Committee is of the opinion that such an advertisement, even if true, does not comply with RPC 7.1(b).

Rule 7.1 of the Model Rules of Professional Conduct of the American Bar Association is identical to Washington's RPC 7.1. The comments to the model rule, although not formally adopted as a part of Washington's rule, are instructive. They say:

The prohibition in paragraph (b) of statements that may create "unjustified expectations" would ordinarily preclude advertisements about results obtained on behalf of a client, such as the amount of damage award or the lawyer's record in obtaining favorable verdicts, and advertisements containing client endorsements. Such information may create the unjustified expectation that similar results can be obtained for others without reference to the specific factual and legal circumstances.

In the opinion of the Committee, even though a statement in an advertisement may be factual, it may be misleading if it omits all relevant facts and circumstances to permit a potential client to fully understand its significance. The types of statements which concerned the Committee were along the line of "largest jury verdict" and "largest recovery ever obtained." A similar opinion from Alabama (#90-61) gives as examples "landlord negligently maintains common areas, tenants sprain ankles, \$11,500.00"; "Insurance

company wrongfully refuses to pay \$2,000.00 hospital bill, \$30,000.00"; "Negligent operation of automobile, results in torn knee cartilage, \$40,000.00," and "Hospital and physician malpractice resulting in leg amputation, \$300,000.00."

Similarly, the Committee is of the opinion that client testimonials and statements that purport to convey

information but in fact are meaningless fail to comply with RPC 7.1(b). Examples are "Attorneys who get results" and "Over 50 years combined experience" and "Lawyers who work hard." Such statements fail to convey any meaningful information to persons seeking legal services, and may mislead the unwary consumer into believing that they mean more than they do.

The United States Supreme Court's opinions on lawyer advertising, beginning with *Bates v. State Bar of Arizona*, 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed.2d 810 (1977) have made it clear that lawyers have a constitutional right to advertise, but that those advertisements may not be deceptive or misleading. Quoting *Bates*, the Court has said that it "recognized that advertising by professions poses special risks of deception—because the public lacks sophistication concerning legal services, misstatements that might be overlooked or deemed unimportant in other advertising may be found quite inappropriate in legal advertising." *In re R.M.J.*, 455 U.S. 191, 200, 102 S.Ct. 929, 71 L.Ed.2d 64 (1982).

**Informal opinions are published pursuant to authorization granted by the Board of Governors but they have not been individually approved by the Board and do not reflect the official position of the Association. An Informal Opinion is provided for the education of the Bar and reflects the opinion of the Rules of Professional Conduct Committee.*

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Public Notices:

In re RCW 19.52.120(1): Legal Interest Rate ("Usury Rate"):

The average coupon equivalent yield from the first auction of 26-week treasury bills in September 1991 is 5.63%. The maximum allowable interest permissible for October 1991 is therefore 12%. Compilations of the average coupon equivalent yields from auctions of 26-week treasury bills appear in the *Bar News* on page 39 in October 1987 for 1982-1984; on page 37 in June 1989 for 1984-1989; on page 51 in June 1990 for 1985-1990 and on page 55 in June 1991 for 1985-1991.



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1) was a member of the Judicial Retirement System or the Judges Retirement Fund and separated from judicial service prior to July 1, 1988;

2) were not eligible to receive a benefit under RCW Chapter 2.10 or 2.12 at that time; and

3) have not received a sundry claims appropriation from the State Legislature intended as a refund of your contributions to the Judges Retirement Fund or the Judicial Retirement System; you may apply to the Department of Retirement Systems to receive a refund of your or your deceased spouse's, contributions pursuant to Chapter 159, Laws of 1991. Please direct inquiries to Leah Wilson, Department of Retirement Systems, Capital Plaza Building, 1025 East Union Avenue, MS ES-11, Olympia, Washington 98504-2511.

Federal Court Rule Changes: The U.S. District Court is in the process of making significant revisions to the General, Civil, Magistrate and Admiralty Local Rules for the Western District of Washington. The Court wishes to solicit comments on the proposed changes. Although the following is not a complete list of rules subject to amendment, it is a listing of the most significant rules changes. General Rules: 2(f)(4); 4; 6(b); 8(b); Civil Rules: 5(b) and (f); 6(e); 7(b); 10(d); 16 and 16.1; 32(e); 37(g); 39.1; 41(b); 43(g) and (1); 47(a); 51(d); 77; 78; 79; 100; 101(c); Magistrate Rules 1-13; and certain Admiralty Rules. A copy of the complete text is available from the Clerk's Office, U.S. District Court, 308 U.S. Courthouse, Seattle, WA 98104, telephone (206) 553-5598. Deadline for written comments is Friday, November 15, 1991.

New Policy of Seattle Fire Department for Dealing with Subpoenas Received: The Seattle Fire Department, by statement of Chief

Claude Harris dated August 5, 1991, has announced the department will not be considered their employees' managing agent or their place of abode. Therefore,

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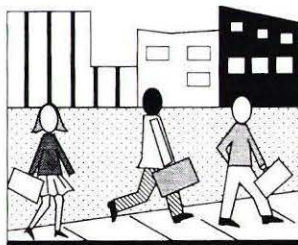
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**WASHINGTON STATE BAR CLE
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by Lindsay Thompson

Seattle,
September 5, 1991

Present: President Halverson and president-elect Delay; the governors and governors-elect. Also present: Robert Bakemeier (WYLD); C.C. Bridgewater, Jr. (Prosecuting Attorneys' Assn.); Judge Joseph Coleman (Court of Appeals); Mary Gallagher Dilley (Administrative Law Judges' Assn.); Frank Edmondson (Government Lawyers' Assn.); Sheryl Garland (Washington Women Lawyers); Dennis P. Harwick (WSBA executive director); Judge Ted Kolbaba (Superior Court Judges' Assn.); Donna McNamara (SKCBA/YLD); Tony Russo (WSTLA); Scott Smith (SKCBA Trustees); Lindsay Thompson (*Bar News* editor); and Robert Welden (WSBA general counsel).

Of the Bylaws, By the Bylaws, For the Bylaws: This was a meeting no one much wanted or needed, coming eleven days after a three-day chatfest in Leavenworth. The bylaws, one governor noticed recently, require that the Board meet the day before the annual meeting of the WSBA. Having previously decided that the annual meeting would be in Seattle the week before the convention in San Diego, the Board were bound by that decision to meet.

Gathering at the WSBA office in Seattle, the Board kicked off with that without which no meeting is complete: an executive session. The president gave his last report and made a pitch for some last-minute ideas: citizen members of the Board of Governors, and an item in future budgets for some of the expenses of the presidency.

It costs a lot, he said. Some of us can pay the freight; others can't. We may be pricing good potential candidates out of the market.

Doug's Rules: The Board turned to the new rules for CLE self-study, published in the last *Bar News*. The result of years of effort spearheaded by Douglas Shaw Palmer of Seattle, the new rules allow study of video and audio tapes and the like on one's own time. Governor Tom Chambers questioned the wording of the affidavit for self-study, which would require the affiant to certify that (s)he had not reproduced any copyrighted material without permission. "It's like the DO NOT REMOVE UNDER PENALTY OF LAW sticker on the bottom of chairs," quipped the president. Chambers wasn't sure most lawyers had sufficient knowledge of copyright to be able to answer the question one way or the other. The Board tinkered with the wording some and came up with a better phrasing. Then they mused for a bit on the proposal by Governor Lem Howell that the CLE on managing trust accounts be put on free around the state as a service to lawyers. CLE director Diane de Ryss reminded the Board that they required her programs to make money to pay for themselves, and putting on CLEs free seemed to be a departure from that philosophy. The matter will be looked into.

San Diego Sans Delegates: Dennis Harwick, who predicted last month that convention registration wouldn't top 350, is getting close to the mark. As of September 4, 348 lawyers had registered for the Ghost Convention in San Diego. That means the Association won't make its room guarantee on the hotel. All that remains is to figure out the loss on the event.

SFD may receive subpoenas for employees and transmit them by mail. However, by receiving subpoenas, the SFD takes the position it is not formally accepting service and will no longer sign affidavits to that effect. The SFD will make a good faith effort to deliver subpoenas as a courtesy but cannot guarantee the appearance of SFD employees.

A party seeking to compel the attendance of a SFD employee must serve a subpoena on the deponent in compliance with CR 45.

The SFD seeks reasonable notice and reserves the right not to receive or transmit subpoenas served less than five working days (exclusive of day of service, Saturdays, Sundays and court holidays) before the requested appearance.

Questions regarding the policy should be directed to Sean Sheehan at the City Attorney's office, (206) 684-8223.

Lesbian/Gay Legal Society of Puget Sound formed: The newly formed Lesbian/Gay Legal Society of Puget Sound held its second informational meeting June 4, 1991. Attorneys, law students and legal workers from a variety of lines of work attended, say organizers. Drawing on the successes of similar groups in other cities, the group will focus on providing opportunities for members to socialize and network, sponsoring educational programs, starting a speakers' bureau, and taking positions on relevant legal issues and policy initiatives.

The Society's next meeting is set for mid-October and will include a debate on HIV testing. Persons interested in LGLS can write to P.O. Box 21521, Seattle, WA 98111-3521, or call Jean Rietschel (206) 325-3772; Laurie Jinkins (206) 543-5243; or Elizabeth Calvin, (206) 547-4307.

Federal Judiciary Award Nominations open: Nominations for the 10th Annual Edward J. Devitt Distinguished Service to Justice Award are open until December 31, 1991. Any interested person may submit a nomination. Entries should be in writing and should set forth the nominee's accomplishments and professional activities which have contributed to the cause of justice.

The award was established to recognize distinguished public service of Article III federal judges. Winners receive an inscribed crystal obelisk and \$15,000 from West Publishing Company. Judges will be Judge Devitt, longtime chief judge of the District of Minnesota; U.S. Supreme Court Justice John Paul Stevens; and Tenth Circuit Chief Judge William J. Holloway, Jr. Nominations should be sent to P.O. Box 64810, St. Paul, MN 55164-0810.

But Here's Some Money We Can Put Toward the Penalties: Harwick then announced there would be no coffee served at the annual meeting. The Washington State Convention Center wanted \$5 a head for it.

Every Time We Turn Around, There's Another One of Those Damned Laws: The Board put off appointing anyone to the State Judicial Council when Governor John Schultz pointed out that the Council is a legislative creation with a statutory appointment procedure the Board wasn't within a mile of. They'll regroup and come at it again next meeting.

Never Mind: The Board voted, unanimously, to withdraw formal ethics opinions 89 (1951) and 112 (1962) governing aspects of lawyer advertising in light of recent U.S. Supreme Court decisions declaring restrictions on it unconstitutional.

And Now, the Sally Field ("They Like Me! They Really Like Me!") Award: Governor Don Curran reviewed the comments of members of the Disciplinary Board in response to a letter he'd sent asking them what they thought about the Board and the disciplinary process. The overall impression the respondents gave was that it all works pretty well, though the lawyer staff in the bar office needs augmenting to do their jobs better and faster. Governor John Schultz picked up a suggestion by Disciplinary Board member Julie Weston that the BOG Disciplinary Subcommittee meet

with the D-Board once a year to talk about stuff of common interest. Great idea, replied the Board, and voted to do it.

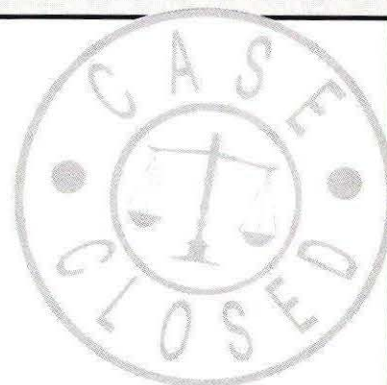
More Appointments: The Board voted to recommend staggering the terms of the Character and Fitness Committee, and adding three lay member places. The Supreme Court has the final say on the composition of the C & F, which reviews the applications of radicals, bomb throwers and various forms of nonconformists to become Washington lawyers. Then the Board approved nominations of Jerry Greenan as chair, and Robert McKissen, Claire Cordon, Nia Cottrell, Paul Stritmatter, Mike Pontarolo, Elaine Houghton, Richard Wiehl, Daniel Zender and Ellen Dial as members of the committee.

A Time-Out: The Board next recessed for a while to go downstairs and let some of their number testify on various of the resolutions being considered by the Resolutions Committee for presentation at the annual meeting. That out of the way, everyone went back upstairs.

Oh, To Be In Freshman Lab Again: Governor Steve Tubbs reported on development in the computerization of law field in Washington. It is going great guns. The maturation of this fledgling field of action is indicated by its committee's evolution from ad hoc groups into entities with acronyms like B2C2 and COLD. Tubbs said state agencies are dragging their feet about converting their records to a common computer

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language to make them accessible to the public, and that legislation will have to force them to do it faster. Tubbs said that the Kitsap County electronic filing project, in which a law firm has been experimenting with filing documents with the court clerk over the wire, has been a failure, mainly by the way it has been run. "It's a classic case of how not to conduct an experiment," he said. "All you end up with is neurotic rats who don't know what the hell's going on."

Tubbs then got the Board to endorse the state's giving all the superior judges computers and the WSBA's putting the Family Law Deskbook on the electronic bulletin board system to see what kind of impact putting all the CLE books on there might have on sales.

You Meet So Many Nice People Asking Someone to Read to You: Seattle lawyer Mark McPherson, who came to the Board in January to ask them to endorse some WSBA activity to advance literacy in Washington and got a grudging \$500 for his pains, came back with some proposals and a request for the creation of a small standing committee to develop ways to implement them. The debate retraced January's almost verbatim. Just reread this department, page 30, column 2, February 1991 *Bar News*, and I'll save some space.

The only new developments were 1) Governor Don Curran announced he had changed his mind after seeing the good work done by McPherson & Co., and now supported it; 2) Governor Tom Chambers chided the Board for trying to hide behind the Keller decision (which allows mandatory bar members to ask for dues rebates for the per capita share spent on political or ideological activity) every time something new or potentially unpopular came up; and 3) a predictable harangue by one of the observers in favor of McPherson's plan lasted longer this time than in January without doing any more good. Voting 7-3, the Board authorized the creation of the committee, directed a report back in six months, and gave it leave to spend up to \$1,500. Governors Schultz, Slater and Tubbs voted no.

Wrap-up in Seattle: In other action, the Board heard reports on how the law-related education programs can be adapted to meet minority students and watched an exceptionally good video called "A Firm Commitment." Developed by the National Association of Law Placement and the San Francisco Bar Association, it deals with how lawyers can be more alert to the needs and sensitivities of minority lawyers without triggering the end of the world. The tape is available for viewing from the Bar office.

The Board also heard a report from Ron Leighton, chair of the Judicial Recommendation Committee, on its work; made some adjustments to the standards for reactivating Washington lawyers, and heard a report from the chair of the Professional Liability Insurance Committee.

Next meeting: October 18-19 in Yakima.

The 102nd Annual Meeting

Seattle, September 6, 1991

The Annual Meeting of the Association convened Friday at 9 a.m. Chief Justice Dore gave an address by

videotape. The president, Lowell K. Halverson, gave a state of the Bar Association address. Certificates honoring 50 years' membership in the Association were presented to those of 37 half-century members who attended. The Award of Merit was presented to John G. Kamb; the President's Award to Wesley A. Nuxoll. Julian C. Dewell received the Board of Governors' Award for Professionalism. Judge Roy Rainey was given the Outstanding Judge Award. The Angelo R. Petrus Award for Lawyers in Public Service was given to Mary C. Barrett. Richard A. Jones received the Affirmative Action Award; David J. DeLaitre was granted the Courageous Award; and Daniel A. Raas, George J. Zweibel, the Seattle-King County Bar Association Young Lawyers Division, and the Spokane firm Lukins & Annis shared the Pro Bono Award. After the awards, the crowd of 125 dwindled to about 80.

Resolutions Committee chair Ted Zylstra then presented the report of his committee. They unanimously recommended approval of an amendment of the bylaws to require WSBA meetings (with a few exceptions) to be open and public in a manner consistent with the Open Meetings Act, RCW chapter 42.30.

Proponent Alva Long said approval would help "reverse what is perceived by the bar and courts as a closed society. We want the bar to be open to the public. We want everything to be on the table."

Jay White of Ballard said he agreed with the intent of the resolution, but thought it a cumbersome idea to put references to statutes in the bylaws. You have to look at pocket parts, and caselaw and Shepardize things. Why not just have the Board of Governors draft bylaw language that will stand on its own?

Funny, said the next speaker, Howard Todd of Seattle, that's what White said in 1987 when he was on the Board of Governors and we asked for an access to records policy. They drafted one, it didn't work, and that's why we are here today.

Don Curran of Spokane supported the resolution, "keeping in mind that the vote is advisory to the Board of Governors." It passed on a voice vote.

Zylstra then presented unanimous committee recommendations to approve resolutions calling on the Association to treat its records, with a few exceptions, as if governed by the Public Disclosure Act, RCW chapter 42.17, and that their care and disposal be as provided by the terms of RCW chapter 40.14.

Alva Long again found no real opposition, and made some remarks extolling the wisdom of adoption by the meeting. Rosemary Daszkiewicz of Seattle then threw some adventure into the brew, proposing an amendment exempting Bar Association personnel records from the resolution. Lem Howell of Seattle seconded the amendment.

Howard Todd, wearing an expression reminiscent of an adult trying to explain something to a small, dull child, told the meeting the personnel records were treated as exempt, more or less, in the Public Disclosure Act. But Howell took issue with him, citing a case he was handling in the Court of Appeals involving supposedly confidential schoolteacher personnel records that got out. He thought the amendment a useful additional safeguard.

Another speaker thought the schoolteacher case an inapt comparison. Jay White said the discussion proved his prior point: when you have to research caselaw to decide what a bylaw means, you've got bad bylaws.

Alva Long opposed the amendment, saying under it the WSBA executive director would be prohibited from giving information on WSBA staff to their nominal chiefs, the Board of Governors. After an inconclusive voice vote, a division was requested. The amendment failed, 33-46. The main motion, to adopt the two resolutions, passed unanimously.

The next resolution would raise the number of signatures required to get a resolution approved for a vote to 500, and it would pass referenda by a majority of those voting. The present bylaw requires 250 signatures and that over 50 percent of WSBA members vote before the result is valid.

Julie Weston of Seattle opposed the simple majority referendum sentence, saying it was "a reasonable quorum requirement. Almost all of us are busy being lawyers and don't want a few people getting us into things we don't want to be a part of."

Jay White recalled that he'd editorialized in favor of such a change in his time as *Bar News* editor, concluding then—as now—"let the lawyers vote—if they will." Steven Tubbs of Vancouver: "Quorums have a purpose—they prevent domination by a willful minority."

Adrienne Tollefsen of Seattle thought people would vote if the issues were properly publicized, and thought the poor turnout at the annual meeting showed the need for alternative methods of polling the membership.

On the other hand, William Gates of Seattle feared the changes would "let a dedicated minority hijack the bar."

Carol Riddell of Seattle thought every member of the Association could easily mark a ballot and mail it back. After that, the question was called, and the resolution carried on a voice vote.

Alva Long's resolution to eliminate "spot audits" of lawyer trust accounts came with a Resolution Committee recommendation (7-1) to reject it. Long said the WSBA had spent a lot of money over the years and had only moved to discipline one lawyer as a result of anything the audits had turned up. It's not cost-effective, Long said. Further, the system makes lawyers fearful: if they call up and say, Bar Association, I'm having trust account problems, the Bar is liable to cry havoc, and let slip the dogs of discipline.

Why not make the Bar office more user-friendly? Long mused. Spend the money on ways to help lawyers keep their trust accounts in better order. Right now, a spot audit inspires the same dread as a visit from the IRS.

Don Curran said his firm had gone through an audit some years ago. While not the most-fun thing they had ever done, it helped them find errors in their methods and correct them, and thereby avoid falling into greater problems. "If we vote today to reject spot audits, it will further tarnish our public image," he concluded.

Paul Gibbs of Seattle agreed. Never mind that the ABA recommends every state do spot audits, he said. Never mind that realtors and other professionals are subject to them. "The public and the press will have a field day if we say, by this vote, 'We'll take your money but you can't audit what we do with it.' It will be a black day for the law."

Howard Todd replied that the real issue behind the resolution was the protection of client confidences, which spot audits put in jeopardy.

The motion to reject the resolution passed on a voice vote.

Five days short of 20 years after the "Young Lawyers' Revolt" at the 1971 annual meeting in Portland passed a resolution calling for the direct election of the president-elect by WSBA members (25 *Bar News* 19 (October 1971)), the 1991 Resolutions Committee report recommended rejection of a resolution calling for the same thing.

Lem Howell, the proponent, gave a long and wide-ranging defense of his resolution and the need for change. Among his points were that the Seventh Congressional District doesn't get enough seats on the WSBA committees, only one WSBA president in the last quarter century wasn't first a member of the Board of Governors, and that Young Lawyers leaders have conferred upon themselves the right to be Division Fellows for life. "We have an in-bar group," he said.

Adrienne Tollefsen supported the resolution, contending it would create more opportunities for the election of women and minorities to the presidency.

Another speaker said the resolution wasn't about committee appointments, and its passage would be fatal to the bar's credibility around the state by ensuring only Seattle-area lawyers would be elected by concentration of numbers.

James Vander Stoep thought the one man, one vote concept was not sound in the context of presidential elections. "What is being proposed is that 50 people at an annual meeting elect the president."

Jeff Tolman of Poulsbo told the meeting that you could assemble all the lawyers in Kitsap County and they'd be outvoted by Perkins Coie's main office. He predicted the resolution would bring costly, Seattlecentric, promise-pandering elections.

Don Raas of Bellingham opposed the resolution. The president has little executive power, he reminded the meeting. The president performs duties which do not require being in close contact with all the members. Numbers preclude that, anyway. "We affect the operation of our bar through our governors, who are more accessible."

Rosemary Daszkiewicz moved to amend the resolution to provide for election of the president by mail ballot; it passed on a voice vote. One of the Bar Association's three Bob Thompsons (Seattle, Spokane or Pasco), John Schultz of Pasco and Julie Weston all opposed the resolution, arguing variations on points made by previous speakers. It was a close voice vote, but on a division by standing the opponents prevailed, and the resolution was not adopted.

A video presentation, "The CLE From Hell," followed. A fairly witty spoof in which some WSBA types frantically sought enlightenment and last-minute CLE credits in a New Year's Eve computer research seminar, proved—if nothing else—that its producer, the Office of the Administrator for the Courts, has too much money.

The president then introduced the new president, Joseph P. Delay of Spokane, who gave a short speech and declared the annual meeting adjourned.



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October

2 Real Estate Exchanges Made Easy, Tacoma. Also presented October 8, Bellevue; October 15, Portland. *Sponsored by:* Asset & Equity Services, Inc. *For information:* (800) 488-4495 or (206) 450-9790.

2 Trying the Automobile Injury Case in Washington, Seattle. Also presented October 11, Spokane. *Sponsored by:* National Business Institute, Inc. *For information:* (715) 835-7909.

2 Charting a Course in the Legal Profession: Career Planning for Young Lawyers. *Sponsored by:* WSBA LAP. *For information:* (206) 448-0605.

2-4 WSACA Fall Conference, Nendel's Inn, Bellingham. *For information:* Dee Denton, (206) 855-0366.

3 Lawyers at Midlife: Planning the Second Half of Your Career, Seattle. *Sponsored by:* WSBA LAP. *For information:* (206) 448-0605.

4 What Can You Do with a Law Degree? A Career Planning Intensive for the Un-, Under-, or Unhappily Employed Lawyer, Seattle. *Sponsored by:* WSBA LAP. *For information:* (206) 448-0605.

4 Family Law Seminar, SeaTac. Also Oct. 16 in Spokane. *Sponsored by:* WSTLA. *For information:* (206) 464-1011.

4 Securities Regulation for the General Practitioner, Seattle. *Sponsored by:* UW School of Law CLE. *For information:* (206) 685-3050.

4 Washington Elder Law: The Basics and Beyond, Vancouver, WA. *Sponsored by:* National Business Institute, Inc. *For information:* (715) 835-7909.

4-5 "Macs and Tax," Gonzaga Law School's 18th Annual Tax Symposium, Hill's Resort, Priest Lake, Idaho. *For information:* John Maurice, (509) 328-4220.

8 Legal Writing Workshop, Seattle. *Sponsored by:* SKCBA. *For information:* Monique Gill, (206) 624-9365.

8 Million-Dollar Closing Arguments, Spokane. Also presented October 11 in Seattle. *Sponsored by:* WSBA CLE/Litigation Section. *For information:* (206) 448-0433.

10 Public Contracting in Washington, Seattle. *Sponsored by:* Federal Publications, Inc. *For information:* J.S. Van Wycks, (202) 337-7000; fax (202) 775-9304.

10-11 Financial Institutions Seminar For Bank and Thrift Institution Counsel and Financial Institution Executives, SeaTac. *Sponsored by:* WSBA CLE/Washington Bankers Assn., Washington Savings League, WSBA Business Law Section. *For information:* (206) 448-0433

10-12 Affirmative Action Briefing, Seattle. *Sponsored by:* National Employment Institute. *For information:* (415) 924-3844.

11 Workers' Compensation, Seattle. *Sponsored by:* SKCBA. *For information:* Monique Gill, (206) 624-9365.

11 Introducing the Washington Growth Management Act, Including the 1991 Amendments, Seattle. *Sponsored by:* UW School of Law CLE. *For information:* (206) 685-3050.

12 Washington Association of Legal Secretaries CLE Workshops, Everett. Also presented October 26 in Olympia. Topics include trial notebooks/discovery techniques; arbitration/mediation/mandatory UIM; support enforcement / guardianships / adoptions; estate planning/elderly care; patents and trademarks; public speaking and making presentations. *For information:* Marlene Raymond, (206) 481-4600 or Helen Terway, (509) 943-8331.

12 Superior Court Judges Association Board of Trustees meeting, Wyndham Hotel, Salon D, Seattle. *For information:* (206) 735-3365.

15 Bar News deadline, December issue.

16 Family Law Seminar, Spokane. Also Oct. 4 in SeaTac. *Sponsored by:* WSTLA. *For information:* (206) 464-1011.

16 Limited Practice Board meeting, Carvery, SeaTac. *For information:* (206) 753-3365.

17 Washington Environmental Law, Seattle. *Sponsored by:* Federal Publications, Inc. *For information:* J.S. Van Wycks, (202) 337-7000; fax (202) 775-9304.

17 Use of Expert Witnesses in Construction Litigation, Seattle.

Sponsored by: SKCBA. For information: Monique Gill, (206) 624-9365.

17-18 36th Annual Estate Planning Seminar, Seattle. Sponsored by: WSBA CLE/Estate Planning Council of Seattle. For information: (206) 448-0433.

18 Second Annual Tort Law Update, Seattle. Sponsored by: WSTLA. For information: (206) 464-1011.

18 Law of Distribution, Seattle. Sponsored by: SKCBA. For information: Monique Gill, (206) 624-9365.

18 Boundary Law in Washington, Vancouver, WA. Sponsored by: National Business Institute, Inc. For information: (715) 835-7909.

18 Court Management Council, SeaTac Marriott Hotel. For information: Jude Kryderman, (206) 753-3365.

18-19 WSBA Board of Governors meeting, Yakima. For information: (206) 448-0441 or contact your local governor.

19 Introduction to Computer-Assisted Legal Research, Seattle. Sponsored by: UW School of Law CLE. For information: (206) 685-3050.

19 Trial Run (8K) and pre-race workshop on women's health and fitness issues, Seattle. Sponsored by: Seattle-King County Chapter of Washington Women Lawyers. For details, see "Around the State" in the September *Bar News*. For information: Betsy Rogers, (206) 386-8691.

19 Board of Directors meeting, Evergreen Legal Services. For information: Bev Miller, (206) 464-5933 or (800) 542-0794.

21 Finding Your Niche in the Legal Profession, Seattle. Sponsored by: WSBA LAP. For information: (206) 448-0605.

22 The Commercial Lease, Seattle. Sponsored by: SKCBA. For information: Monique Gill, (206) 624-9365.

22 Basic Corporate Law in Washington, Seattle. Sponsored by: National Business Institute, Inc. For information: (715) 835-7909.

23 Tax Planning with S Corporations, Seattle. Sponsored by: UW School of Law CLE. For information: (206) 685-3050.

24 Staying Out of Hot Water: Managing Client Trust Accounts, Seattle. Sponsored by: WSBA CLE/Legal Foundation of Washington. For information: (206) 448-0433.

25 James McElhaney/Trial Advocacy, Seattle. Sponsored by: SKCBA. For information: Monique Gill, (206) 624-9365.

25 Washington Construction Law: What Do You Do When..., Vancouver, WA. Sponsored by: National Business Institute, Inc. For information: (715) 835-7909.

26 Washington Association of Legal Secretaries CLE Workshops, Olympia. Topics include trial notebooks/discovery techniques; arbitration/mediation/mandatory UIM; support enforcement / guardianships / adoptions; estate planning/elderly care; patents and trademarks; public speaking and making presentations. For information: Marlene Raymond, (206) 481-4600 or Helen Terway, (509) 943-8331.

25-26 Ethics Committees, Legal Counsel and the Courts: Handling Hard Cases in Health Care (1991 Annual Meeting), Cambridge, MA. Sponsored by: American Society of Law & Medicine. For information: (617) 262-4990.

29 Introduction to the King County Courthouse, Seattle. Sponsored by: SKCBA. For information: Monique Gill, (206) 624-9365.

29 The Legal Issues of Problem Collections in Washington, Vancouver, WA. Sponsored by: National Business Institute, Inc. For information: (715) 835-7909.

29-30 Annual Washington Public Employment Relations Conference, Tacoma. Sponsored by: Conflict Management Institute. For information: (206) 441-1772.

30 Business Valuation/Domestic Relations Law, Seattle. Sponsored by: SKCBA. For information: Monique Gill, (206) 624-9365.

31 Third Annual Commercial Law Institute: Chapter 13 Bankruptcy Cases, with Emphasis on Representing Creditors, Seattle. Sponsored by: UW School of Law CLE. For information: (206) 685-3050.

31 Deadlines for submissions for panels, workshops, papers and other

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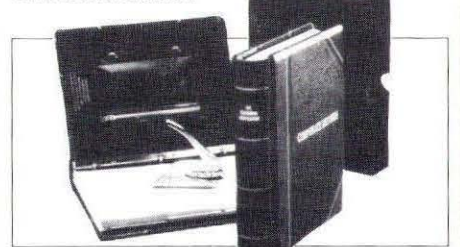
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November

1 Effective Motions Practice, Seattle. *Sponsored by:* WSTLA. *For information:* (206) 464-1011.

1 8th Annual Consumer Protection, Antitrust & Unfair Business

Practices Conference, Seattle. *Sponsored by:* WSBA CLE/Consumer Protection, Antitrust & Unfair Business Practices Section. *For information:* (206) 448-0433.

1 Immigration Law, Seattle. *Sponsored by:* National Asian Pacific Bar Association. *For information:* Emilia Castillo, Sharon Sakamoto or Mai Nguyen, (206) 682-9932.

1-2 National Asian Pacific Bar Association Convention, Seattle. *For information:* Emilia Castillo, Sharon Sakamoto or Mai Nguyen, (206) 682-9932.

2 Superior Court Judges' Association Judicial Education Committee meeting, Seattle. *For information:* (206) 753-3365.

4 Pacific Northwest Corporate Counsel Institute, Bellevue. *Sponsored by:* WSBA CLE/Corporate Law Section. *For information:* (206) 448-0433.

7 Preparation of Opinion Letters, Seattle. *Sponsored by:* SKCBA. *For information:* Monique Gill, (206) 624-9365.

8 Family Law in the '90s, SeaTac. Also presented November 15 in Olympia; November 21 in Spokane. *Sponsored by:* WSBA/Family Law Section. *For information:* (206) Sheri Borgford, (206) 448-0441..

8 Tenth Annual Federal Tax Conference, Seattle. *Sponsored by:* UW School of Law CLE. *For information:* (206) 685-3050.

8 Criminal Law: A View From the Inside, Seattle. *Sponsored by:* SKCBA. *For information:* Monique Gill, (206) 624-9365.

9 Effective Courtroom Techniques: Making and Meeting Objections, Seattle. *Sponsored by:* UW School of Law CLE. *For information:* (206) 685-3050.

14-15 Ninth Annual National Fishery Law Symposium, Seattle. *Sponsored by:* UW School of Law CLE. *For information:* (206) 685-3050.

14-16 Negotiation Workshop, Kirkland. *Sponsored by:* WSBA CLE. *For information:* (206) 448-0433.

15 Inaugural Community Property Symposium honoring Professor Emeritus Joseph Nappi, Gonzaga Law

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School, Spokane. *For information:* John Maurice, (509) 328-4220.

15 Deadline for comments on proposed changes to the general, civil, magistrate and admiralty local rules of the U.S. District Court, Western District of Washington (see "Digest," October, 1991). *Contact:* Clerk's Office, U.S. Courthouse, Seattle, (206) 553-5598.

15 *Bar News* deadline, January, 1992 issue.

15 Court Management Council meeting, SeaTac Marriott Hotel. *For information:* (206) 753-3365.

15 Refugee Law: Issues and Developments, Salem, Oregon. *Sponsored by:* Willamette University College of Law. *For information:* Diana Lohof, (503) 370-6380.

16 Superior Court Judges' Association Board of Trustees meeting, Wyndham Hotel, Salon D, Seattle. *For information:* (206) 753-3365.

18-19 Personnel Law Update 1991, Bellevue. *Sponsored by:* Council on Education in Management. *For information:* (415) 934-8333.

19 Direct and Cross of an Economic Expert, Seattle. *Sponsored by:* SKCBA. *For information:* Monique Gill, (206) 624-9365.

19-22 County Clerks' Fall Conference, Bellevue Hyatt Regency. *For information:* Pat Swartos, (206) 427-9670, ext. 346.

20 Tenth Annual Poulsbo CLE and Dinner, Poulsbo. *For information:* (206) 779-7733.

20 Residential/Landlord Tenant Law, Seattle. *Sponsored by:* SKCBA. *For information:* Monique Gill, (206) 624-9365.

21-23 Third Annual Pacific Real Estate Symposium: Real Estate Foreclosures and Workouts As Seen Through the Prism of the Bankruptcy Code, Seattle. *Sponsored by:* WSBA CLE/Pacific Real Estate Institute. *For information:* (206) 448-0433.

22 Third Annual Professional Responsibility Institute, Seattle. *Sponsored by:* UW School of Law CLE. *For information:* (206) 685-3050.

22 Damages, Seattle. *Sponsored by:* SKCBA. *For information:* Monique Gill, (206) 624-9365.

22-23 WSBA Board of Governors meeting, Seattle. *For information:* (206) 448-0441 or contact your local governor.

December

3 Domestic Relations: An Inside View, Seattle. *Sponsored by:* SKCBA. *For information:* Monique Gill, (206) 624-9365.



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5 Bankruptcy Basics, Seattle.
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6 Noncourt Day in King County Superior Court. For details see "Digest" *Bar News*, September, 1991.

6 Collection of Judgments, Spokane. Also presented December 13 in Seattle. *Sponsored by: WSBA CLE/Creditor-Debtor Section. For information: (206) 448-0433.*

7 Whatever Happened to the Fourth Amendment? Seattle. *Sponsored by: UW School of Law CLE. For information: (206) 685-3050.*

10-12 Eighth Annual National Hazardous Waste Law and Management Conference, Seattle. *Sponsored by: UW School of Law CLE. For information: (206) 685-3050.*

12 A Symposium on Creative Alternatives to the Hourly Billing System, Seattle. *Sponsored by: WSBA CLE. For information: (206) 448-0433.*

13 Advanced Probate, Seattle. *Sponsored by: SKCBA. For information: Monique Gill, (206) 624-9365.*

13 Law of the Elderly, Seattle. *Sponsored by: UW School of Law CLE. For information: (206) 685-3050.*

15 *Bar News* deadline, February 1992 issue.

17 Domestic Relations: Fees, Retainers & Collections, Seattle. *Sponsored by: SKCBA. For information: Monique Gill (206) 624-9365.*

18 How to Draft Wills (and Other Estate Planning Documents), Spokane. Also presented December 20 in Seattle. *Sponsored by: WSBA CLE/Young Lawyers Division. For information: (206) 448-0443.*

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

21 Superior Court Judges' Association Board of Trustees meeting, Westin Hotel, Seattle. *For information: (206) 753-3365.*

January, 1992

2-6 Obstetrics, Gynecology, Perinatal Medicine, Emergency Medicine and the Law, Kauai, Hawaii. *Sponsored by: American Society of Law & Medicine. For information: (206) 262-4990.*

3-4 WSBA Board of Governors meeting, Olympia. *For information: (206) 448-0441 or contact your local governor.*

10 Settlement, Seattle. *Sponsored by: SKCBA. For information: Monique Gill, (206) 624-9365.*

11 Superior Court Judges' Association Board of Trustees meeting, Wyndham Hotel, Salon D, Seattle. *For information: (260) 753-3365.*

15 *Bar News* deadline, March 1992 issue.

16 Anatomy for Lawyers—Session 1, Seattle. *Sponsored by: SKCBA. For information: Monique Gill (206) 624-9365.*

21 The Art of Persuasion with Juries, Seattle. *Sponsored by: SKCBA. For information: Monique Gill, (206) 624-9365.*

23 120-90-60-30 Final Days to Trial, Seattle. *Sponsored by: SKCBA. For information: Monique Gill, (206) 624-9365.*

24 Loan Loss & Lender Liability Avoidance, Seattle. *Sponsored by: SKCBA. For information: Monique Gill, (206) 624-9365.*

28 Dissolution & the Effects of Bankruptcy, Seattle. *Sponsored by: SKCBA. For information: Monique Gill, (206) 624-9365.*

30 Anatomy for Lawyers—Session 2, Seattle. *Sponsored by: SKCBA. For information: Monique Gill, (206) 624-9365.*

31 First Annual Northwest Legal Seminar/Expo, Seattle. *Sponsored by: WSBA/Association of Legal Administrators. For information: (206) 448-0441.*

February, 1992

14-15 WSBA Board of Governors meeting, Tacoma. *For information: (206) 448-0441 or contact your local governor.*

15 *Bar News* deadline, April 1992 issue.

March 1992

15 *Bar News* deadline, May 1992 issue.

27-28 WSBA Board of Governors meeting, Vancouver, Washington. *For information:* (206) 448-0441 or contact your local governor.

April 1992

15 *Bar News* deadline, June 1992 issue.

May 1992

8-9 WSBA Board of Governors meeting, Spokane. *For information:* (206) 448-0441 or contact your local governor.

15 *Bar News* deadline, July 1992 issue.

June, 1992

15 *Bar News* deadline, August 1992 issue.

19-20 WSBA Board of Governors meeting, Bellingham. *For information:* (206) 448-0441 or contact your local governor.

23-27 XVIIIth International Congress, International Academy of

Law and Mental Health, Vancouver, British Columbia. *For information:* Simon Verdun-Jones, (604) 291-3032 or 291-3213; fax (604) 291-4140.

July, 1992

15 *Bar News* deadline, September 1992 issue.

31-1 WSBA Board of Governors meeting, Oak Harbor. *For information:* (206) 448-0441 or contact your local governor.

August, 1992

15 *Bar News* deadline, October 1992 issue.

September, 1992

15 *Bar News* deadline, November 1992 issue

16 WSBA Board of Governors meeting at Annual Meeting and Convention. *For information:* (206) 448-0441 or contact your local governor.

October, 1992

15 *Bar News* deadline, December 1992 issue.

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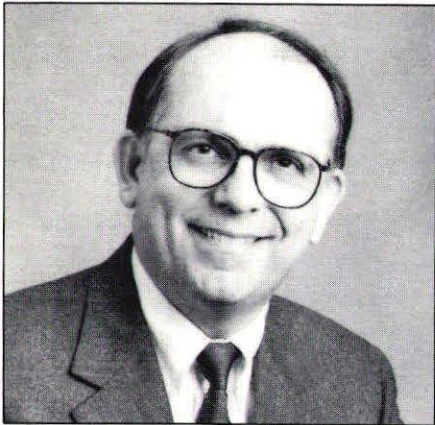
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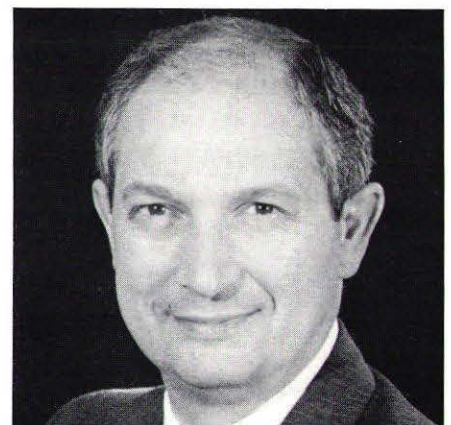
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M. Wayne Blair



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Joseph Nappi, Jr.

WSBA LEADERS

Three Join Board of Governors

Two lawyers from Seattle and one from Spokane joined the Washington State Bar Association's Board of Governors at the Annual Meeting in September. **M. Wayne Blair, Michael A. Larson and Joseph Nappi, Jr.** were elected to three-year terms on the Board by lawyers in their respective districts this past spring.

Blair, a 1965 graduate of the University of Washington and 1968 graduate of the UW School of Law, served as an Air Force Judge Advocate from 1968 to 1972. He joined Montgomery, Purdue, Blankinship & Austin in 1972 and has been there ever since. His practice emphasis is in business, real estate and construction law, with a significant sideline in commercial litigation.

Over the years, Blair has served on numerous state and local bar association committees. Beginning in 1978, he became involved in developing the Washington mandatory arbitration program, drafting its legislation, helping draft state and local rules for it, and serving six years as chair of the King County bench/bar arbitration committee. From there he worked his way through the chairs of the Seattle-King County Bar Association, serving as Trustee (1981-1983), vice president (1985-1987) and president (1987-1988).

At the state bar level, Blair has served as chair of the Lawyer Referral Com-

mittee (1977-1979), Tel Law Task Force (1978), and Court Congestion Committee (1988-1991). He has been a member of the WSBA Legislative Committee (1979-1982); Court Rules Committee (1982-1985), and a hearing officer for the Disciplinary Board (1980-1986). He was co-chair of the King County Superior Court Delay Reduction Task Force in 1988-89, served with the Washington Commission on Trial Courts in 1990, and until his election to the Board was a director of Evergreen Legal Services. A member of the ABA House of Delegates, he has received public service awards from the WSBA and Seattle-King County Bar Association. Blair succeeds Jeff Tolman of Poulsbo representing the First Congressional District.

Larson, also of Seattle, was elected to the King County At-Large seat being vacated by Ronald M. Gould. At 36, he is one of the youngest Governors elected to the Board. Born in Tacoma, he holds degrees from the University of Washington, the University of Oregon and the University of Oregon School of Law. In law school he clerked for Chief Justice Edwin Peterson; since 1984 he has been with the Seattle firm of Casey & Pruzan. His practice concentrates in the areas of real property, construction, commercial transactions, employment and general business law. Active in the community and the bar, he has been a member of the Citizens' Advisory Committee for Seattle Pacific University since 1986, the WSBA Speakers' Bureau since 1987, a trustee of the Seattle-King County Bar's Young Lawyers' Division from 1988 to 1991,

SKCBA/YLD treasurer (1988), vice chair (1989), and chair (1990). He has served on SKCBA and WSBA committees and programs almost without number, prompting the Seattle-King County Bar association to name him its Young Lawyer of the Year in 1988. Perhaps uniquely among the Board members, he knows how to drive a forty-foot combination truck-trailer.

The third new Governor represents the Fifth Congressional District. Spokane lawyer Joseph Nappi, Jr. practices in the firm of Hemovich, Nappi, Oreskovich & Butler, handling business law, probate and estates, and defense of malpractice actions. A 1972 graduate of Gonzaga University School of Law, he is at home in academic settings. Nappi has served on the adjunct faculty of Spokane Community College, Columbia College, Fort Wright College and Gonzaga School of Law. Since 1988, Nappi has been a member of the Gonzaga University Board of Advisors. He has also served as a superior court and AAA arbitrator, and as a mediator in the U.S. District Court for the Eastern District of Washington.

A member of the WSBA Committee of Bar Examiners since 1979, Nappi was vice chair at the time of his election to the Board. He was also a member for the WSBA Insurance Trust Fund from 1985 on and served as its chair. His interest in computers led to his appointment to the JIS Connectivity Committee by Chief Justice Vernon Pearson in 1988 and service on the Office of the Administrator for the Courts' Electronic Filing Committee since 1989.

LEGAL STORYTELLING

Once Upon A Time, Your Honor...

Lawyers may think they make their livings telling gripping stories to judges and juries, but one Washington lawyer has gone a step further.

Seattle lawyer **Sharon Creedon** has made her living as a professional story teller for nearly a decade. The Kansas native, who attended The London



Sharon Creedon

School of Economics as well as Notre Dame and the University of Puget Sound law schools, says she has done a variety of things in life: teaching preschoolers, selling real estate, passing out coupons for dog food, and, in the early '80s, trying criminal cases as a King County prosecuting attorney.

Creedon's first essay in storytelling was for a Christmas party of glassware dealers and their families. "The kids were all sugared up. Christmas was coming. Not a damn one wanted to hear me. I don't do stuff like that any more. I say, 'Hire a clown.'"

Since then, she's found more appreciative audiences, frequently lawyers. She played the UPS Law School Board of Visitors' Dinner this year, as well as the North Dakota Bar Convention, and the Washington Defense Trial Lawyers dinner. She's also entertained Washington Women Lawyers, the 1989 Perkins Coie firm retreat, and a variety of regional arts festivals, from Bumbershoot in Seattle to the National Storytelling Festival. Last spring Creedon was the cover story for the May/June *Tennessee Bar Journal*.

Creedon has a repertoire of about 100 stories, ranging from two minutes to

40. She covers law and justice, women's issues, ghost stories, and regional folklore. A recent cassette tape of some favorites, "Trust A Lawyer to Beat the Devil," includes the intriguing "Three Little Pigs in Legalese."

BUSINESS WORLD BASICS

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Two recent additions to the educational offerings in the Seattle area are of potential use to attorneys and their support staff: Hagen, Kurth, Perman & Co.'s Novell Authorized Education Center and Professional Resource Group's FasTrack mortgage banking course.

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Fax Confidentiality

by Gregory S. Morrison

Over the past five years, fax machines have become standard equipment in even the smallest law offices. The ability to transmit or receive complete documents instantly is a boon to the legal profession. However, all that glitters is not necessarily gold.

Spokane attorney J. Scott Miller of Turner, Stoeve, Gagliardi & Goss, P.S., advises of the case of *Abate v. A. C. & S.* from the Maryland Circuit Court, in which jury selection information that was intended to be circulated only among defense counsel was erroneously faxed to plaintiffs' counsel. Although the jury panel was discharged, there was an indication from the bench that a facsimile cover sheet should contain a statement regarding the confidentiality of the faxed documents.

Consequently, Miller revised that firm's fax cover sheet with the goal of preserving confidentiality. To that end, the following statement was added:

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Obviously, there can be no absolute guarantee of privacy for faxed documents, but the admonishment printed herein is a good place to start.

This column is a clearinghouse for better ways to run the law office. Contributions are solicited from all

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

Criminal law and procedure. (Case 1.) Charging instrument must contain all essential elements of offense, whether statutory or court-imposed. If, however, issue is raised for first time on appeal, error is not fatal to conviction as long as missing element could be fairly inferred from other language of charging instrument. Here, conviction affirmed because intent to steal could be inferred from information charging robbery. *State v. Kjorsvik*, 117 Wn.2d 93, 812 P.2d 93 (6/20/91).

(Case 2.) Defendant was pulled over and found to be driving while his license was suspended. Search of his car incident to traffic offense discovered cocaine. Court of appeals upheld search

and affirmed conviction, holding that *State v. Hehman*, 90 Wn.2d 45, 578 P.2d 527 (1978) (custodial arrest for traffic offense improper), has been superseded by RCW 10.31.100 [3] (expressly authorizing custodial arrest for certain traffic offenses). *But see State v. Stortroen*, 53 Wn.App. 654, 769 P.2d 321 (1989), in which, on identical facts, Division I held that search incident to arrest is improper. *State v. Quintero-Quintero*, 60 Wn.App. 902, 808 P.2d 183 (Div.3, 4/18/91).

(Case 3.) Restitution order upon conviction of robbery cannot include cost of pictures of robber, taken by bank's surveillance camera. Since RCW

9.94A.142 (1), statute allowing restitution as part of a sentence, allows recompense only for "damage for injury to or loss of property," expenses for properly functioning security system cannot validly be charged to defendant for restitution. *State v. Smith*, 61 Wn.App. 277, 809 P.2d 763 (Div. 1, 5/13/91).

(Case 4.) One can commit crime of permitting prostitution, even though no sexual acts occur on defendant's premises. Defendant maintained motel. Police undercover officers played role of prostitute and of customers, but no acts of prostitution took place in motel. Nevertheless, defendant could be convicted under RCW 9A.88.090 (knowledge that one's premises are being used for prostitution and failure to abate), as long as defendant had information from which reasonable person would conclude that prostitution was occurring on premises. (Although opinion does not expressly speak to this issue, presumably defendant must actually have such belief, regardless of whether a reasonable person would have so believed. J. A.) *State v. Johnson*, 61 Wn.App. 235, 809 P.2d 764 (Div. 1, 5/13/91).

—J. Ainsworth

WHOSE NEWS IS IT ANYWAY? The Clash of Law and Journalism

Thursday, November 21, 1991

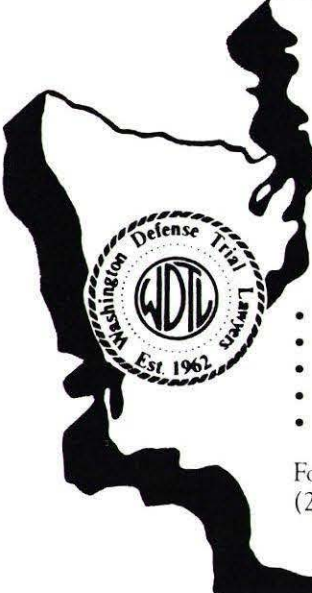
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Professional responsibility. "Although a lawyer cannot engage in formal discovery before a lawsuit, nevertheless it is expected that the lawyer will have a reasonable factual basis with which to begin. Where important facts are easily ascertainable and where telephone calls and correspondence would lead a prudent person to further inquiry before resorting to legal process, the lawyer who simply files suit and waits for the facts to sort themselves out surely will be exposed to CR 11 sanctions if it turns out that no facts support the case." Rule 11 sanctions imposed by trial court against lawyer alone in amount of \$10,996 affirmed, and additional \$8,300 imposed for "frivolous" appeal under RAP 18.9. *Cascade Brigade v. Economic Development Board*, 61 Wn.App. 615, 811 P.2d 697 (Div. 2, 6/13/91).

—T. R. Andrews



Life After the Cocktail Party

This column is one I would have avoided reading five years ago, just like those TV commercials advertising drug and alcohol treatment. If you like drinking, dim lights, well-dressed men and women, crystal glasses and a warm sense of friendship that only those things *together* provide, you should understand what the "market price" on that menu may be. You should know that you don't have to pay the price, but you do have to read my little story.

In 1983, I turned 40. I was a named partner in the largest firm in my town. I had a beautiful wife, two healthy children, a \$100,000 house (almost) and a Mercedes parked in the driveway. I was also director of the local school board, and I loved to drink.

The next three years, as I lost all of it, were the ugliest, most painful experience you can imagine in your worst nightmare. For a lawyer whose practice is largely criminal, that statement can stand by itself. To the very end, I did not believe that I had a problem with alcohol. I was just a very bright fellow with a lot of bad luck.

I worked hard, and it was my opinion that I was entitled to play hard. I considered myself workaholic. I was at least correct about the "holic." My idea of a good time was to work all day and drink most nights. (You notice that family, friends and other interests are not included.) I successfully drank for over 20 years: I never got a DWI, got thrown into jail, or even made an ass of myself at a party. In the end, after I had lost everything, I only became willing to admit that I had a problem when I knew that I wasn't practicing law as well as I could or should. I was an embarrassment to myself. Alcohol had slowly and subtly limited my abilities over time.

I could perform routine matters satisfactorily, but I watched other lawyers around me, and I could see imaginative, creative work. I knew I wasn't doing that quality of work any more. I was heartsick.

A judge and fellow lawyer I didn't even like much called me one day and suggested that I come and see him. He was a Republican to boot! He told me what I already knew—that my performance was impaired and I needed to do something about it. "Maybe if you stop drinking completely you would improve." He saved my life.

My only forms of recreation in those days were alcohol and alcohol-related activities and events, but it hadn't always been that. I wanted to be a good lawyer; if not drinking would get me back on track, I was willing to give it a go. I thought there was no fun left in life. That was okay. At least I could feel good about myself if I was a good lawyer.

I have discovered a wonderful world out there without alcohol. I have renewed old interests and acquired new ones. Colleagues and clients (even the ones I drank with) have renewed confidence in my abilities. It is comforting to know that all of my friends are more tolerant of my inevitable mistakes. I think that is because it is not a result of "the night before."

My son is now stationed at Fort Benning, Georgia, but for four years, he and I learned to ride motorcycles, rode together and terrorized the Northwest. My daughter was the homecoming princess last year and the junior prom queen. She asked me to escort her or be present on both occasions. I have married a delightful lady with five children. She told me the other day her 19-year-old daughter confided in her that if it weren't for the mistakes in the past, I wouldn't be in their lives now. My wife and I just rode our motorcycles to Sturges, South Dakota and back. In the past, I couldn't have appreciated the majesty of riding over the Rockies in a thunderstorm.

Today I am capable of participating in the life of my family, and I believe I have been restored the imagination and creativity it takes to be a really good lawyer.



Every Tuesday at noon in the WSBA Presidents' Room, (4th Floor, Westin Building), LAP sponsors a job hunters' support group for WSBA members who are actively involved in the search for a new position. This is a drop-in support group focusing on the exchange of ideas, job leads and job-finding discussions. It is open to all WSBA members at no charge.

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NEWS FROM HOME

• The American Association of Law Libraries has honored a Washingtonian with an award named for a Washingtonian.

Retired State Law Librarian **Connie E. Bolden** was one of three recent recipients of the 1991 AALL Marian Gould Gallagher Distinguished Award. Bolden was AALL president in 1979-1980 and an executive board member from 1971-1974 and 1980-1981. He edited *Law Library Journal* from 1966 to 1976.

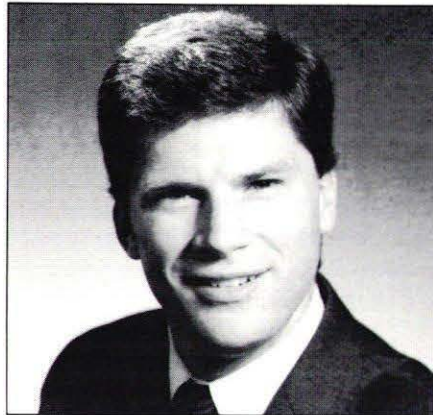
The award, established to recognize extended and sustained service to law librarianship, exemplary service to the Association, or contributions to professional literature, was renamed in 1990 for longtime University of Washington Law Librarian **Marian Gould Gallagher**. The award's two other recipients were **Anthony P. Grech**, former librarian and curator at the Association of the City Bar of New York, and **Morris L. Cohen**, law librarian and professor of law at Yale Law School.

• **Robin Morgan**, noted feminist and editor of *Ms.* magazine, spoke at the Northwest Women's Law Center's Tenth Annual Gala Dinner September 6 in Seattle. The Law Center is a nonprofit public interest organization working to advance and protect legal rights for women through litigation, legislation and education.

• **Michael R. Pickett** of Kennewick has been elected president of the Benton-Franklin County Bar Association for 1991-1992. **Daryl D. Johnson** was named vice president, and **Scott N. Naccarato** will serve as secretary-treasurer.

• **Lou M. Baran** and **Lisa M. Graham** have joined Landerholm, Memovich, Lansverk & Whitesides, Inc., P.S. in Vancouver. Baran, a Vancouver native, and Graham are graduates of Northwestern School of Law of Lewis & Clark College.

• **John McKay**, a partner in Lane Powell Spears Lubersky in Seattle, has joined the Board of Governors of the American Bar Association. McKay is a member-at-large, chosen by the ABA Young Lawyers Division to serve on



John McKay

the 33-member board. A former president of the WSBA Young Lawyers Division, McKay was a White House Fellow in 1989-1990, serving as special assistant to FBI Director **William Sessions**. He was also legislative assistant to former Congressman **Joel Pritchard** in 1978-1979.

CLARK COUNTY REPORT

by **JOHN F. NICHOLS**

Who brought the ants?

'Tis summer, and time for picnics and frivolity among the CCBA members, one of the most prestigious events being the Annual Landerholm Firm Summer Picnic. Firm members, staff and family go all-out in a Gatsbyesque revival of whatever era Gatsby was supposed to be. (I never read the book but remember that **Robert Redford** looked real good in a tux. I don't recall the girl but know that she didn't look as good as Redford. But, then again, who does? And for the record, I never understood "Out of Africa." I mean, the title didn't even make sense. By the time I fell asleep, they were still in Africa. Go figure. But Redford still looked good in both movies, even though he didn't wear a tux in the latter.)

Anyway, at the picnic everyone has a great time. **Greg Dennis** dresses up like Yogi Bear and **Jack Welch** like Boo Boo, and the kids go crazy. To encourage attendance, the firm has a drawing with first prize being a color TV; second a CD player; and third a gift certificate to some ritzy restaurant. The gifts are donated by the family law

section of the firm. The only restriction being "only one entry per family."

At said drawing, **Jeff "Banko" Meehan** garnered third place. Second place was won again by Jeff. The mob turned ugly. Lynching was too good for him. Jeff tried to cop a plea, saying he did it for his daughter, who had a terminal case of poison ivy and whose dying wish was a CD player. Not succeeding in this ploy, he tried to exchange the gift certificate for second place under the theory of election of remedies. Fortunately, the first prize went to a deserving attorney who supplied the above information to this reporter. May you live long and sell bonds.

O.K., But who is on first? Really?

This next item is courtesy of a superior court clerk who witnessed same in her official capacity and verified same by transcript thereof. During a recent jury trial, a deposition was read into the record. The part of the befuddled witness was played by a relatively new attorney, **Carl Hart**, who gave a credible performance with a limited script. We expect fine things in more complex roles from this young man. The part of **Jack LaLonde** was played by Jack LaLonde. Obviously miscast, his makeup was reminiscent of **Richard Nixon** during the Kennedy debates. (For those younger attorneys, it's like **Paul Reubens** before he became Pee Wee Herman.) The interrogation concerns various phone calls:

Q: Was it more than one call? Now, that is subsequent to the call you just described?

A: There may have been two.

Q: Let's talk about the first call. What was said, and who said what?

A: I don't recall.

Q: The second call, please?

A: Which second call? After which time?

Q: After the one you don't recall.

A: Which one don't I recall?

Q: You said, "I don't recall what was said on the first call you say occurred after the call—"

A: The conversation occurred in regard to salary, and he said he would get back to me and let me know for sure, and that's all—that's all I really recall.

Q: Was there another call after that? That's the one you said you don't recall.

A: I don't recall there was another call until he got into town.

Whereupon the judge called a recess to place a call. Whether he had to phone again, thereby resulting in a "recall" is unknown and uncared. One of the rules for cross examination is, "Never ask a question that neither you nor the witness knows the answer or the question."

EAST KING COUNTY REPORT

by RANDOLPH I. GORDON

"Fairy tales can come true; they can happen to you, if you're young at heart." The memory of this Disney song recurs hauntingly. For students of the gender gap, the lessons of childhood are fearsome adversaries, creating social expectations which are fulfilled in adult life. But are these lessons deadly?

We learn in the *New England Journal of Medicine* that women face a treatment gap in heart disease: men are nearly twice as likely as women to receive such major procedures as coronary angiography and coronary bypass surgery; moreover, 39 percent of women suffering heart attacks die within a year, compared with 31 percent of men. In the *Journal of the American Medical Association*, the AMA's Council on Ethical and Judicial Affairs reports that women have less access than men to certain tests and treatments for kidney disease and lung cancer. Research on antidepressant drugs was initially conducted exclusively on men, even though depression is reportedly more prevalent among women. In the medico-legal realm, we often see that permissible threshold values for exposures to toxic chemicals in the workplace are established for women by reference to epidemiological studies conducted only on men.

The American Heart Association reports that, although heart disease strikes men earlier in life than women and men suffer more heart attacks, of the 512,000 annual heart attack deaths in this country, 47 percent are women, and nearly 20 percent of women, as opposed

to 15 percent of men, suffer a second heart attack within four years. Do these statistical differences arise from biology, lifestyles, access to treatment, propensity to seek care, or disparities in clinical assessment? Apparently, once women receive an angiogram, they have a statistically equal chance of angioplasty or surgery. Does this suggest that the physician's clinical

judgment respecting whether an angiogram ought to be performed is influenced by the perception that heart disease is mainly a male malady?

We observe with despair that our judicial system reflects the same gender gap even in our society committed to juridical equality. Professor Edward O. Wilson, in *On Human Nature*, which won the Pulitzer Prize for general

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nonfiction, suggests that there is only a slight biological component affecting division of labor along gender lines. A society, writes Wilson, must make one of the three following choices: (1) condition its members so as to exaggerate sexual differences in behavior; (2) provide equal opportunities and access but take no further action; (3) train its members so as to eliminate all sexual differences in behavior.

The first is the nearly universal pattern which, more often than not, results in domination of women by men and exclusion of women from professions and activities. The second (*laissez-faire*) approach, although providing identical education and access, would nonetheless permit a disproportionate representation in political life, business, and science. Such a divergence has occurred in the great social experiment of the Israeli kibbutzim with the second generation of women kibbutniks rejecting political positions in favor of closer connections with offspring. The third, by recourse to quota and education, might possibly create a society in which men and women, as groups, share equally in all professions and activities, although it would require an amount of regulation which might jeopardize some personal freedoms and prevent some individuals from reaching their full potential. If

this choice is indeed the one we have made, we must ask whether accurate depictions and descriptions of American society as it exists (including gender-based stereotypes) in art, literature and speech must be suppressed for ideological reasons to keep fairy tales from coming true.

And speaking of fairy tales coming true: **Rob McKenna** of Perkins Coie's Bellevue office has been selected by reason of his academic achievements and leadership in the community and profession as one of only 18 Henry Luce Foundation Scholars in the United States for a ten-month internship in Asia. McKenna will serve on the staff of **Koichi Kato**, researching policy issues and writing speeches in English. Kato was Minister of Defense in Prime Minister **Yasuhiro Nakasone's** cabinet and is a member of the Lower House of the Diet, Japan's national parliament. McKenna, nominated by the University of Washington, where he graduated Phi Beta Kappa and *cum laude* with degrees in Economics and International Studies in 1985 and served as student body president in 1984-1985, at this writing is expected to leave for Japan on September 5 to begin his internship. Perkins Coie has granted McKenna a leave of absence and encouraged his pursuit of this opportunity.

KITSAP COUNTY REPORT

by **KATHLEEN M.S. WRIGHT**

Time Out. Winding up the summer, the Kitsap Chapter of Washington Women Lawyers met for a picnic at the Bainbridge Island waterfront home of **Tarrell S. Decker** on August 18. Children were welcome, but not spouses and significant others. This proves what most parents know: it is more difficult to get a sitter than a date. A pickleball tournament was the highlight of the outing. The winning team has modestly requested they not be mentioned, but we can say that the team with a three-person firm name beat a team with a five-person firm name. Pickleball, for the uninitiated, appears to be of Kitsap County origin. It requires a short tennis court, a wiffle ball and rackets resembling large ping pong paddles. It is particularly suited to lawyers as it does not require much athletic ability or practice to be reasonably enjoyable.

What Goes Around Comes Around: Bremerton Municipal Court Judge **Roy Rainey** was chosen the 1991 Outstanding Judge of the Year, as awarded by the State Bar. Rainey was nominated by outgoing Bar Governor and Poulsbo attorney **Jeff Tolman**, who admired Rainey's courage and intestinal fortitude in his stand against the Bremerton City Council this last year. As you may recall from previous columns, Rainey engaged in a power struggle of constitutional magnitude with the Council. The Council attempted to fire the judicial staff and was told that it could not do so because of the separation of power between the legislative and judicial branches. And you thought Con. Law was only for the bar exam.

Woman of the Year: The Kitsap County YWCA gave its annual distinguished woman award to Port Orchard sole practitioner **Susan Daniel**. Daniel was chosen for her work with the dispute resolution center.

About the County: Former King County Deputy Prosecutor **Jeanette M. Dalton** is now associated with Roof, Tolman and Kirk in Poulsbo. **Jack Kindred II** signed on with the firm of Smith, O'Hare, Crane &

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MARITIME PERSONAL INJURIES

Many injured processing vessel employees are paid worker's compensation even though they are entitled to more liberal maritime benefits. Even when the employer has no P & I insurance a processor can often collect maritime benefits from the worker's compensation carrier. Most worker's compensation policies have general employer liability clauses or maritime endorsements covering suits by processors.

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Messenbrink in Silverdale. And just like in the big leagues, attorney raiding comes to Kitsap.

True to Life: The Harrison Ford/Annette Bening movie, "Regarding Henry," is making the theatre rounds, inspiring all of us to spend more time with family and friends and less time being typical attorney workaholics. Deputy Kitsap County Prosecutor **Chris Casad** went through an eerily similar test when he was in an automobile accident in 1980. Given less than a 10 percent chance at survival, he was in a coma for six weeks, and in rehabilitation learning to speak, walk and regain his memory for two more months. He's now back on the job, more than full-time, and credits family and colleague support, especially his wife **Colleen**, with his recovery. And yes, even though he still puts in long hours, he does spend more time with his family and friends.

PIERCE COUNTY REPORT

by **GEORGE S. KELLEY**

Normally we would report the winners and losers of the annual bar association golf tournament. However, this year, the official results have not been announced by the tournament committee in order to avoid embarrassment for themselves or the entrants. **Mike Smith** claims to have won and says that **Jack Emery's** performance was noteworthy. These are only rumors and not hard facts. There were no media reports that any spectators were struck by lightning as is common in professional golf tournaments. This may be due to the fact that there were no spectators, just a mob of people wandering aimlessly about with golf clubs in their hands. An investigative reporter has been dispatched across the Narrows Bridge (assuming the DOT ever gets done working on it) to the Madrona Golf Course to gather more information.

From the world of long-distance running is news from the WSTLA convention of Whistler Mountain, B.C. Our own **Dick Benedetti** captured first-place honors in a fun run held for conventioners. Given the physical fitness level of most trial lawyers, this is hardly surprising. What is

newsworthy is the fact the **Dan Hannula**, who would normally be expected to win, took a wrong turn and finished well out of the money. Dan, in his other life as president of the Tacoma-Pierce County Bar Association, is being sent to San Diego to enter the state bar convention fun run. One hopes that he won't get lost again. A wrong turn in San Diego could find him in the Pacific without a paddle or facing the Mexico border patrol without a green or gold card.

To keep Dan clear-headed, the trustees of the Tacoma-Pierce County Bar Association canceled the traditional convention cocktail party. Actually, the party has not been well-attended in recent years, and the board felt the money could be better spent. Those upset about the cancellation should contact a trustee in San Diego who has been authorized to buy you a beer.

The trustees also reviewed the results of a poll of bar members on how they would like the association to function. In response to the question about the importance of CLE programs, an overwhelming majority indicated a preference for seminars in Tacoma. This may be attributed to the quality of the programs, or that the Seattle CLEs are closed due to I-5 construction.

Richard J. Milham announced the relocation of his office in Gig Harbor.

SEATTLE-KING REPORT

by **JAMES VARNELL**

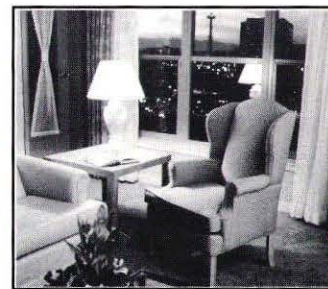
M & A, and Formations. Newly formed law firms include Krutch, Lindell, Housh, Bingham & Keller with offices at Suite 3100 of the Washington Mutual Tower, and Peery, Hiscock, Pierson & Ryder in the College Club Building. Foster Pepper & Shefelman has merged with Hatch & Leslie and will continue to practice under the name of Foster Pepper & Shefelman. **Jerome D. Whalen** and **Bruce M. Firestone** have formed a partnership with offices at Suite 410 of the Galland Building.

Of Note. **Kevin L. Lybeck**, secretary with Contractors' Bonding and Insurance Company, spoke at the annual meeting of the American Bar Association in Atlanta in August on the liability of a performance-bond surety. **Janet McDonald**, an associate with Davis Wright Tremaine, has been chosen by the ABA's International Legal Exchange Program to work as an exchange attorney at a French law firm.

Office Moves. **Charles H. Thulin** has become of counsel at Ekman & Bohrer. **Karen J. Summerville** and **Margaret E. Wetherald** have been

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named principals at Betts, Patterson & Mines. **Richard A. Du Bey** is a new partner and **Scott M. Missall** is a new associate at Stoel Rives Boley Jones & Grey. **Bradley D. Grisham, D. Bradley Hudson, Darrell S. Mitsunaga** and **Charles A. Robinson** have become shareholders at Reed McClure.

New partners at Bogle & Gates are **Keith W. Dearborn** and **Alison Moss**. **Timothy J. Hogan** has been promoted to vice president, legal, of Washington Energy Company. **Kristine A. Chrey** has joined the Seattle office of Gordon, Thomas, Honeywell as a partner. **Bruce A. Stern** is a new associate at Sylvester Rood Petrie & Cruzen. **Andrew H. Salter** has been named a partner at Miller, Nash, Wiener, Hager & Carlsen, and new associates are **Peter S. Holmes, James W. Allen** and **Kate D. Marks**. **Ross D. Jacobson** and **Stanbery Foster, Jr.** are counsel to Ogden Murphy Wallace; new partners are **Charles D. Zimmerman, Carol D. Bernasconi, William F. Joyce** and **Karen Sutherland**, and new associates are **Elizabeth C.Y. Peng** and **Jessica Rickard**.

New associates at Stiltner, Sinclair, Clement & Foster are **Kris Chongyon So** and **Ronald S. Oestreich**. **Oscar E. Desper, III** has joined Magnuson, Johnson & Lowell. **James P. Davis II** has become a partner at Short Cressman & Burgess; **Margaret**

Easton Arms and **William C. Philbrick** have joined as associates. **John V. Helmick** and **Renee E. Stein** are new associates at Graham & Dunn. **Conrad Teitell** and **Philip T. Temple** have joined Perkins Coie as of counsel.

New partners at Preston Thorgrimson Shidler Gates & Ellis are: **Carol S. Arnold, Marc L. Barreca, John C. Bjorkman, Charles R. Bush, William H. Chapman, James K. Doane, Nancy M. Neraas, Clyde W. Summerville** and **Scott R. Vokey**. New associates at Preston Thorgrimson are: **Brian N. Poll, Eric S. Laschever, Cynthia M. Hayward, Kathryn Railsback, Margaret C. Inouye, Madeline J. Kass, Marc C. Levy, James C. Taggart, Grace T. Yuan, Alan Osaki, Adam W. Gravely, Cheri Y. Cornell** and **Kirk A. Lilley**.

SPOKANE COUNTY REPORT

BY DON CURRAN

Septuagenarian and city councilman **Bob Dellwo** spilled on his racing bike, breaking two ribs. Undaunted, three hours later he was at a party for his 50th wedding anniversary. Hero to many, admired by all, his motivating cry: If you are not the lead dog, the view never changes! **Roger A. Coombs**

joins Evans, Craven & Lackie. **Joe Nappi, Sr.** is honored by local bar and Gonzaga Law School upon retirement. Busy with family and intellectual pursuits, Joe's partying short: Retirement is the time when you do all the things you intended to do when you'd have the time!

Cynthia Imbrogno, a bond attorney who was once a law clerk for a federal judge, was selected from a field of five finalists as the U.S. Magistrate at \$115,092 a year. **Karen L. Sayre** is a principal at Underwood, Campbell, Brock & Cerutti, giving life to Socrates' comment: "Once made equal to man, woman becomes his superior." **Robert Milhelm** is the proud parent of a fourth child, **Rachel Anne**. Bob's concern: by the time a man realizes that his father was usually right, he has a child who thinks he is usually wrong.

Major **Harry Levitch** of the Army National Guard is presented an award given annually to one officer in the state displaying the highest professionalism! **Albert Einstein** once said that any man who liked marching had been given his brain for nothing: just the spinal column would have done. **John Clute**, senior v.p. and general counsel for Boise Cascade, resigns to become the new Dean of Gonzaga University School of Law. Remember, John: for every person wishing to teach, there are 30 not wanting to be taught.



Palmer Robinson

WASHINGTON DEFENSE TRIAL LAWYERS

The Washington Defense Trial Lawyers announced the election of **Palmer Robinson** as the first woman president of the organization for the coming year at their annual convention

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in Coeur d'Alene, Idaho, June 20-23. Robinson is a partner in the Seattle law firm of Carney, Stephenson, Badley, Smith and Spellman.

Other elected officers include: **Michael H. Runyan**, vice president; **Jeffrey I. Tilden**, secretary; and **Mary H. Spillane**, treasurer. Trustees are **J. Richard Crockett**, Seattle; **Peter J. Johnson**, Spokane; **William R. Phillips**, Tacoma; **Robert Keolker**, Seattle; **West H. Campbell**, Yakima; **Laurie Kohli**, Seattle and **Barry Johnson**, Seattle.

The Washington Defense Trial Lawyers is a 600-member organization of attorneys who devote substantial time to the defense of persons and companies in civil litigation matters.

WASHINGTON STATE LAWYERS' CAMPAIGN FOR HUNGER RELIEF

The Washington State Lawyers' Campaign for Hunger Relief continues to make steady strides towards our goal of raising a minimum of \$250,000 by contacting and requesting donations from virtually every lawyer in the state.

We recently completed the packet of information about the campaign, which we will be sending to most of the large law firms in the Seattle area, as well as to firms in Tacoma and Spokane. We are also organizing teams of individuals who will be contacting each of these firms to request initial contributions from them. Contributing firms will be recognized as "Charter Sponsors" of the campaign. These firms will become the leaders in our efforts to significantly impact the crisis of hunger both here and abroad.

We are also now in the process of selecting "Building Captains" for each of the major office buildings in our area. Our idea is that the building captains would be responsible for working as liaisons between the campaign and each of the firms in a particular building to help us arrange and follow up with our formal presentations.

To continue the organization of these somewhat ambitious efforts, we will need to rely upon many more volunteers—whether you are lawyers or not—to help with contacting firms, following up, stuffing envelopes, and the hundreds of details that this kind of drive requires. If you feel drawn to

directly assisting the campaign in some way (or if you would simply like to provide your own donation to the Hunger Relief fund), please call or write **Brad Doyle** (206) 621-1113 or **Dave Otto** (206) 292-9988, co-chairs of the

committee, c/o Mussehl & Rosenberg, 10th Floor, 1111 Third Avenue, Seattle, WA 98101.

Please keep your hearts open when you are contacted. Lives may well depend on your generosity.



Past WSTLA president Jan Eric Peterson, scholarship chair, honors Tiffany Ann Bangs as WSTLA's first scholarship recipient.

WASHINGTON STATE TRIAL LAWYERS ASSOCIATION REPORT

by **LETHA J. OWENS**

Tiffany Ann Bangs of Mercer Island, the first recipient of the WSTLA President's Scholarship, was honored recently at a luncheon of past WSTLA presidents. She is the daughter of **Anna Bangs** of Mercer Island and the late **Jerry Bangs**, who was a noted Seattle trial attorney.

In making the presentation, scholarship chairman **Jan Eric Peterson** thanked Bangs for inspiring the formation of the annual scholarship. She maintained a high level of academic achievement in spite of many obstacles in her life. At age five, she watched on TV as her father was killed in a hydroplane accident during the 1977 Seafair race. While helping her mother struggle with degenerative health problems, Tiffany was diagnosed with aplastic anemia, a rare and often fatal

blood disease. Despite long hours of treatment with multiple blood transfusions, she maintained a positive attitude that inspired friends and classmates alike and maintained a highly active lifestyle. However, the burden of medical bills threatened to keep her from her academic goal of ultimately attending Harvard Law School. The WSTLA scholarship enabled her to enroll at Cornell University.

"Tiffany so exemplified both the level of personal achievement and the financial need that we wanted this scholarship to stand for, it only seemed appropriate that she be our first recipient," Peterson said.

In accepting the honor, Bangs commented that, in spite of the current bad publicity about the legal profession, she is proud to be on the academic path toward becoming a lawyer. "I know there are some lawyers who deserve the bad reputation," she said. "But I know lawyers are clearly used as scapegoats and are given a bum rap because of the actions of a few. I'll be proud to be a lawyer."



Bill of Rights Anniversary:

WSTLA president **James S. Rogers** has appointed **Ralph Pittle** of Seattle to head a committee charged with organizing a celebration/program to mark the December 15 two-hundredth anniversary of the Bill of Rights. In particular, WSTLA hopes to emphasize the importance of the seventh amendment and the right to trial by jury. If anyone has any ideas to share, or wishes to participate in the planning and celebration, please contact the WSTLA office at (206) 464-1011 or toll free (800) 732-9251.

Locations to Serve You:

In hopes of being available to the greatest number of members possible, WSTLA has long maintained offices in three locations around the state. In Seattle the main office was recently moved from the old location on South Washington to a new office suite in the Tower Building at 1809 Seventh Avenue. Located on the ninth floor, these offices provide more space for staff as well as more congenial conference rooms for meetings. Stop by for a visit if you have not yet seen the new digs. Office hours are Monday through Friday 8:30 to 5:00.

The Spokane office is presided over by **Mary Springer** and is located at W. 1408 Broadway. Mary coordinates WSTLA's activities in the eastern half of the state and welcomes members to stop by and visit. The Spokane office is open Monday through Friday, 8:00 to 4:30, except for Tuesdays; feel free to call for more information concerning services for eastern Washington members, (509) 326-6660.

The Olympia office coordinates our legislative activities under the capable guidance of **Michele Radosevich** and **Dennis Martin**. The office is located at 123 Fir N.E. in Olympia, (206) 786-9100. Office hours are Monday through Friday 8:30 to 5:00.

Holly Ball just over the horizon: Remember to mark your calendars for WSTLA's 1991 holiday celebrations. This year the Holly Ball will again be held in the Grand Ballroom of the Westin Hotel on December 6. The Second Annual Holly Ball East will be held on December 20 at Cavanaugh's Inn at the Park in Spokane. Watch the *Trial News* and this space for more information.

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Co-author: "Debts," Chapter, *WSBA Family Law Deskbook*, 1989. "Interstate Custody Disputes," *WSBA Bar News*, Vol. 41, No. 11, November 1987.

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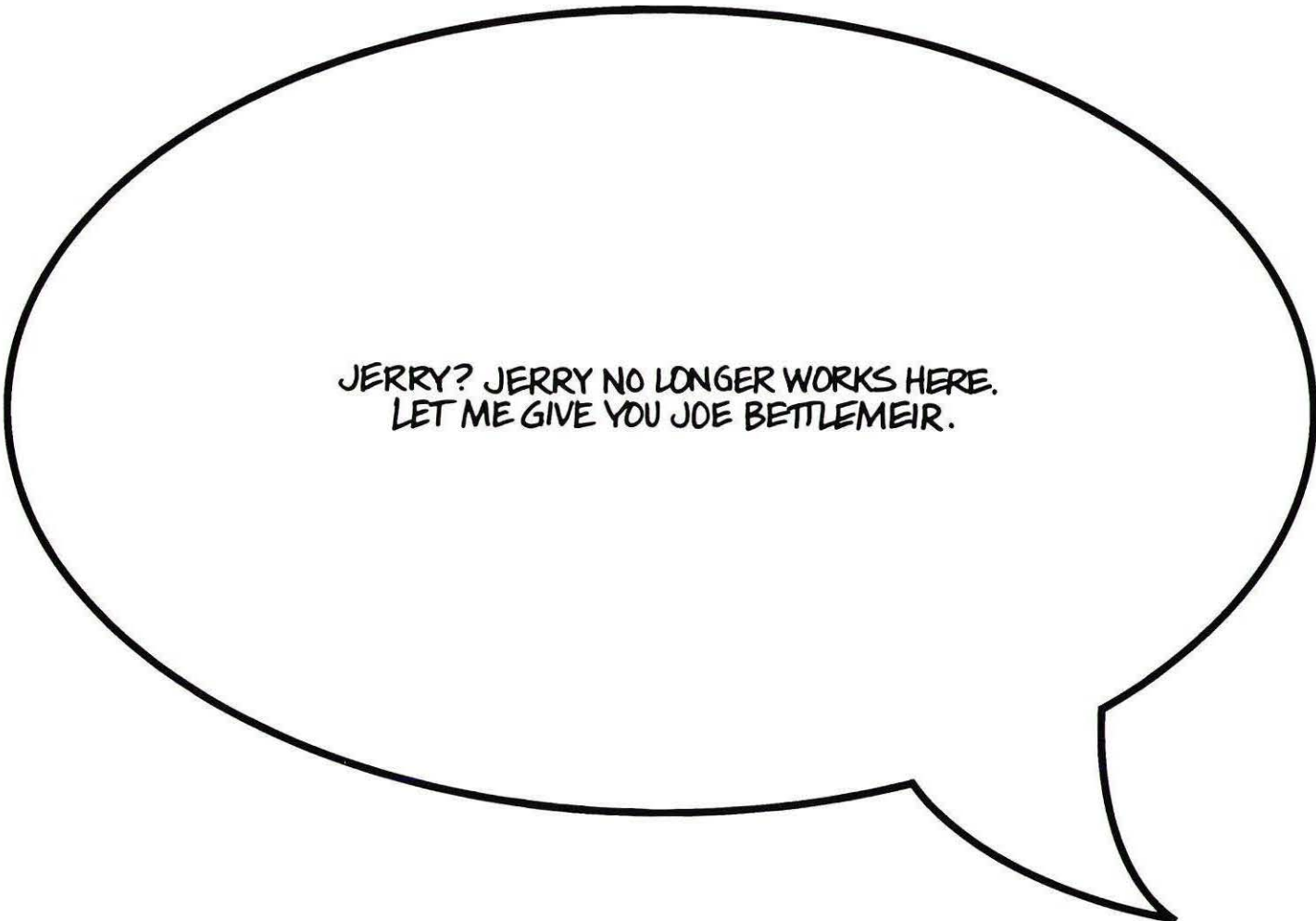
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