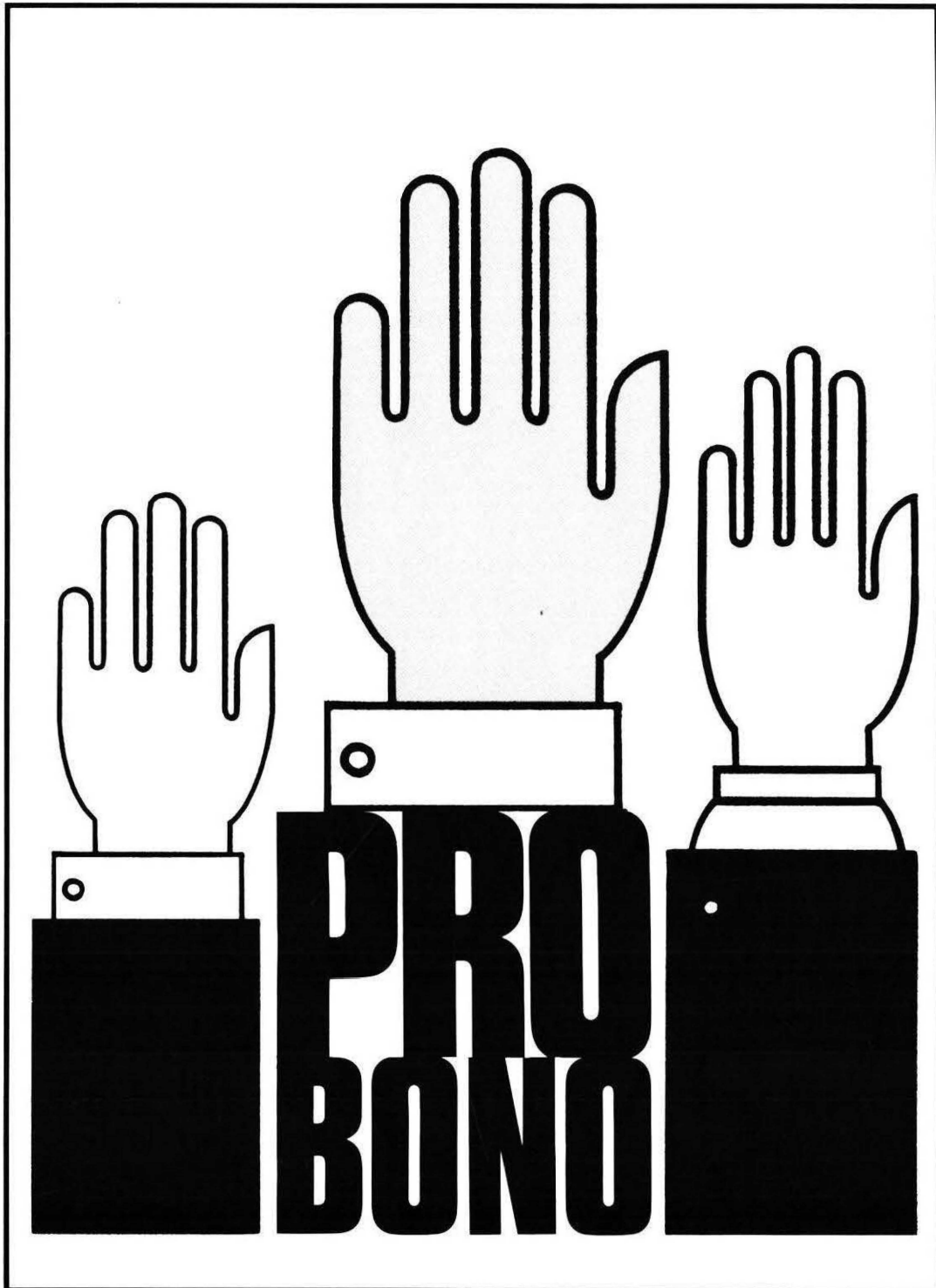


Washington State **Bar**
News

Vol. 45, No. 11, November 1991



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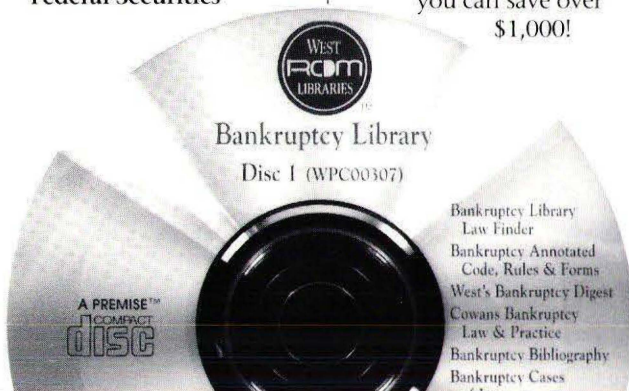
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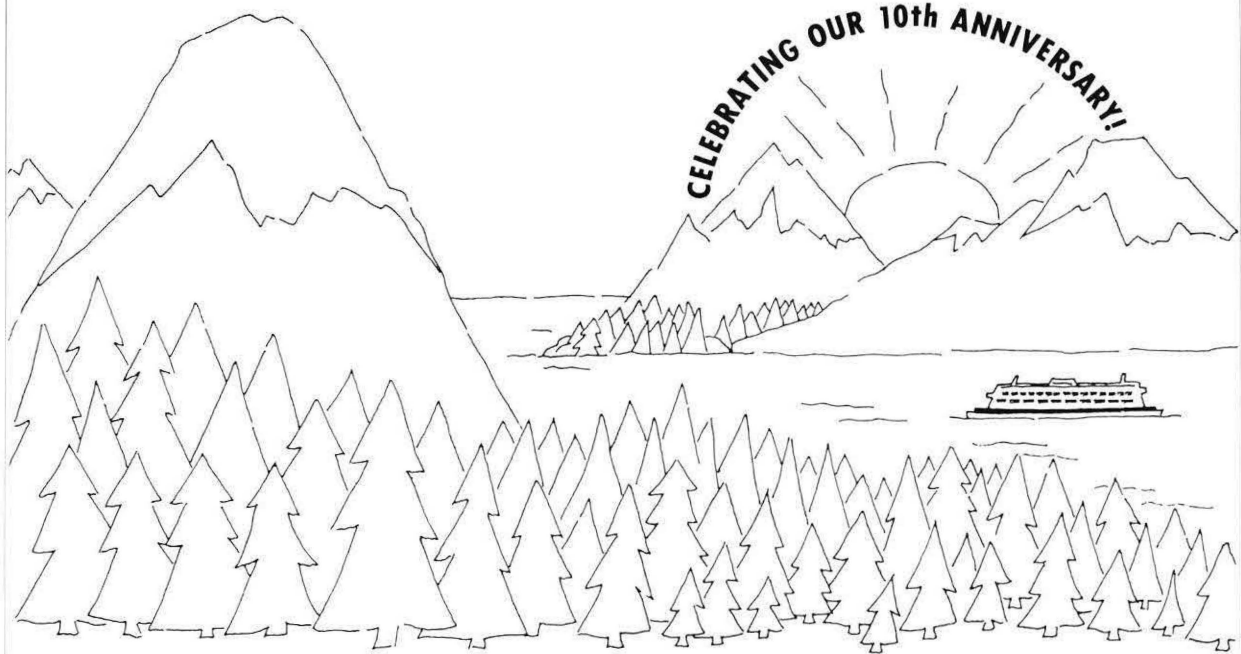
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Nina Harlan, Report Editor

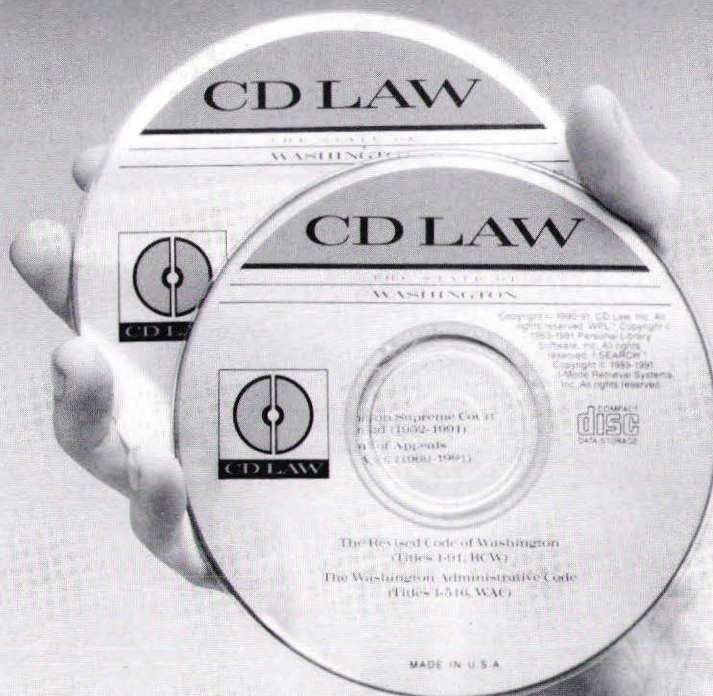
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Letters to the Editor of reasonable length are invited. Such letters should be typed and signed. The Editor reserves the right to select communications or excerpts therefrom for publication, and to edit any letter as may be appropriate.

The Green Office (More on Plastics)

(The following letter was sent to Carol Riddell and Tom Scribner, whose letters complained about the packaging of the July Bar News in a plastic wrapper.)

Dear Ms. Riddell/Mr. Scribner:

Your letter to the *Bar News* editor was forwarded to me. As I am the culprit responsible for packaging the Convention announcement with the *Bar News*, I feel I owe you a reply.

You are, of course, right. Plastic packaging should be avoided. We opted for it at this time because of the challenge of promoting the Bar Convention as inexpensively as possible. While it was an environmental slight, I felt it was excusable given our membership's insistence that the Bar Convention be run in a fiscally responsible fashion. Multiple mailings are a simple and cost-effective means of reaching our members.

Further, it was hoped that this single environmentally insensitive act would pale in comparison with the many efforts the CLE Department (which I head) and the WSBA as a whole have taken in the interest of the environment. For example, this year the entire WSBA staff began recycling *all* paper used in our offices. While this requires employees to empty their own recycling into a central collection bin, everyone has pitched in. Our garbage cans are often empty while the recycling bin is chock full. We've also been recycling aluminum cans and computer paper for a number of years. In addition, the office has recently developed a transportation plan to encourage employees to use car pools, mass transit, bicycles or their own two feet to commute to work. Since last year, the CLE Department has been working to find a steady and reliable supply of 100 percent recycled paper that can handle the machines that do the printing and labeling of brochures. We've adjusted equipment in-

house and worked with our printers and are now sending out all our brochures and catalogues on 100 percent recycled paper. We've also begun investigating the use of soy-based inks. Our printer reports that they are not yet fully reliable, but is keeping an eye on this trend. Finally this year, we have taken steps to dramatically reduce the number of brochures we print by targeting our mailings to interested populations.

In sum, we think we are on the right track, and it is the exception rather than the rule when we step off of this environmental path to serve another, competing goal of our members.

DIANE DE RYSS

Director of Continuing Legal Education

	% of Minorities	% of Women
Law School		
University of Washington (1991)	33	50
Gonzaga University (1990)	7	33
University of Puget Sound	15	56

CHARLES H. SHELDON
Washington State University
Pullman

Law School Enrollments

Editor:

In my article on judicial selection (*Bar News*, July and August, 1991), I had given figures for the enrollment of minorities in the state's three law schools for the Class of 1989. Below are the latest figures available. Gonzaga estimates that there will be a slight increase in the number of women enrolled this year.

County Law Libraries Need Your Help

Editor:

The Washington Association of County Law Libraries (WACL) met May 28, August 2, and October 18 at the State Law Library in Olympia to further discuss their goals and possible remedies for critical funding problems among county law libraries.

WACL conducted a 49-state survey of how county law libraries are funded—compiling, reading and comparing

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statutes, telephoning librarians in other states, and investigating whether funding schemes are adequate. In dozens of states it was found that they are not, and that the worst-off states had funding schemes similar to our own in Washington.

Washington law librarians have strategized how best to tackle their own funding problems and have at least one sponsor for a bill to be introduced in the 1992 Legislature seeking an increase in funding for county law libraries. We are seeking endorsements from attorneys and law-related groups throughout the state. If you are a county law library user or care about good law library collections and staffing, please contact your county law library and say so! Short, written statements are also encouraged. They can be sent to your county law library or any of the following:

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JANET GILDENHARR
Tacoma

No, These Aren't Rock Groups

Editor:

I rise (and write) to protest certain evils I see being committed in divorce cases by lawyers and judges who do not understand the purpose of this process. I call these schemes QUADROMANIA and LIENOPHILIA.

The purpose of divorce (or dissolution) is to divorce people not only in name, but also in their economic relationships. The practice of leaving divorced people tied together by creating liens in favor of one party in property awarded to the other or dividing a pension by Qualified Domestic Relations Orders should not be done, in my opinion, unless there is no other way to achieve a relatively equal or at least equitable division of assets and income per RCW 26.09.080.

I recently had a divorce case in which both parties had pensions with similar benefits and both were many years from retirement. It was suggested during settlement conferences that they "do a QDRO" giving each half of the other's retirement. The potential consequences of this kind of distribution boggle the mind. I see too many lawyers proposing QDROs under similar circumstances on the theory this promotes "equality," and too many judges uncritically accepting such suggestions. I must admit it is a lot easier on the brain to do a QDRO than it is to analyze the value of a pension and determine how to offset it against other property if this can be done, but QDROs are rarely a satisfactory solution unless the person involved is at or close to retirement at the time of divorce.

My other pet peeve, lienophilia, is also badly abused. The idea that the family home awarded to one spouse should be impressed with a lien in favor of the other spouse in order to equalize the bottom line under the "balance sheet" theory of divorce creates more problems than it solves. A little disparity is better than living with the consequences of such liens.

Those who are not convinced should read *Byrne v. Ackerlund*, 108 Wn. 2d 445, 739 P.2d 1138, in which the effort to enforce a \$2,500 lien led to a second trip through almost every court in this state.

We are all aware that the court must dispose of the parties' property and not leave them as co-owners. *Shaffer v. Shaffer*, 43 Wn.2d 629, 262 P.2d 763. Quadromania and lienophilia may not technically leave the parties as co-owners, but they are the next worst thing to it. No doubt lawyers like to have repeat business from their clients, but repeat business in the same divorce case is not a good thing.

Lawyers and judges who handle dissolutions should strive to dissolve not just the marriage, but all economic ties to the extent it can be done, even at the cost of some disparity. The pain of some disparity in division of property will not last as long as the pain of being bound together financially long after the bonds of matrimony are severed.

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Notes on the Insurance Market

Editor:

Thomas D. Kelley's letter in your September 1991 issue commented that it would be helpful if attorneys were advised of those insurance carriers providing coverage in Washington.

As of the close of 1990, the bulk of legal professional malpractice coverage in this state was furnished by five carriers: Home Insurance Company, Continental Casualty Company, National Union Fire Insurance Company of Pennsylvania, St. Paul Fire & Marine Insurance Company and American Home Assurance Company. Another insurer, National Casualty Company, has filed a new program of legal professional malpractice coverage which is currently undergoing review by this agency.

It is worth noting that Washington's loss experience for legal professional malpractice has exceeded the national average for the past five years, a statistic reflected in rates offered to Washington lawyers.

SCOTT JARVIS
Deputy Commissioner
State of Washington
Office of Insurance Commissioner

Onward and Upward...

Editor:

What a relief to read in September's *Bar News*, in "The Board's Work," that new ground is being plowed in the fertile fields of equal rights and affirmative action. In the Board of Governors' minutes, yup, right there bigger than life, we see a microcosm of what happens every single day in the rest of the world.

At the Leavenworth Board of Governors gathering we had Washington Women Lawyers proposing an amendment to RPC 8.4. The amendment would disallow lawyers from engaging in "invidious discrimination," characterized in part as "statements implying that a member of another group is better-qualified for the performance of professional activities, solely based on group membership." This proposal was "well-received by the Board," the concept was approved in principle and referred to the RPC Committee.

However, one need not be familiar with the recent state task force studies which have shown discrimination and harassment to be abundant in the legal system. Just attend a Board of Governors' meeting! Under the subtitle, "Pragmatism in the Service of the Greater Good," the Board considered nominations to the Board for Judicial Administration (BJA). After Governor Ron Gould was appointed to one seat and former WSBA president Jack Dean was nominated for a second seat, Governor Lem Howell suggested introducing some new faces into the process. Governor Jeff Tolman followed Governor Howell's lead by suggesting a woman or minority be nominated. Superior Court Judge Thomas Swayze thought the suggestion a "good idea," BUT not for the BJA. According to Judge Swayze, the BJA is composed of leaders of the court and they prefer dealing with one of their peers from the private bar. A former Governor or president will carry more weight for the bar, Judge Swayze opined. After Governor Alva Long queried Judge Swayze concerning the political expediency of his suggestion, the Board proceeded to nominate Dean for the position.

But GOLLY, yer honor, the Bar DOES have qualified women and minority members. There are even some on the bench! Albeit they don't

seem to wield the power and influence you deem are warranted to serve on the BJA. AND WHY DO YOU SUPPOSE THAT IS? Do you suppose others before have made decisions the same way?

Sure seems to me that Judge Swayze and the Board itself have treated us to a perfect example of a "statement implying that a member of another group is better qualified for the performance of professional activities solely based on group membership." Had the RPC 8.4 amendment been in place at the time of this meeting, it's quite clear the Board would have violated its terms.

"Pragmatism in the Services of the Greater Good"? And what greater good might that be? Maybe that heading should have read, "Board of Governors Pronounced Brain-Dead—Result of Testosterone Poisoning. New Board Sought, Women and Minorities Need Not Apply."

As much as I would like to commend governors Tolman, Howell and Long for introducing the concept of new faces (i.e., women and minorities) being included in the nominating procedure, you let this one slither by. And nary a squeak from Washington Women Lawyers? SHAME ON EVERY ONE OF YOU IN ATTENDANCE AT THAT MEETING! Your silence is deafening.

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EDITH M. RICE
Olympia

(Editor's note: "The Board's Work" is not the official minutes of meetings of the Board of Governors. They keep their own. "The Board's Work" is written by an impertinent, one-man Greek chorus who comments on the action from time to time.)

A Broader Consultation Will Yield Better Judges

Editor:

In response to your article on judicial selection reform, August 1991, I have two concerns. One is that the author, Charles Sheldon, appears to be saying that blacks voting for black judicial candidates just because they are black is desirable. There are a few other qualities necessary for being the best judicial candidate, all of them more important than the color of skin. I'm sure Mr.

Sheldon would not condone whites voting for white candidates just because they are white.

Representation of the population, which Mr. Sheldon seeks, is more appropriate in legislative races, where a successful candidate will be able to make political decisions. The Judiciary is there to protect individual rights as measured by the laws and Constitution, not to set social policy.

Second, Mr. Sheldon misses two major reasons for uncontested judicial races. The judicial philosophy of candidates is usually unknown to voters, so they have little basis on which to choose a judge. If judicial philosophies (not positions on particular political issues) were more publicly available, challenging candidates might have a better chance.

Also, many voters go with whomever the Bar committee selects. The Northwest Legal Foundation will be added to the list of organizations rating judicial candidates in Snohomish and King counties. While various opinions help open up the system, broader access

would be achieved if the Bar Association made it a practice to approve several candidates as worthy, and let the rest of the lawyers and citizens have a choice. The selection of judges is essentially in the hands of a few individuals: the Bar committees. Changes in makeup of these committees and their procedures could open up the judicial selection process to many qualified candidates, including racial minorities.

JEANETTE BURRAGE
Executive Director
Northwest Legal Foundation
Seattle

A Last, Pre-vote Word on Initiative 120

Editor:

Initiative 120, which will be voted upon by Washington's voters this fall, repeals certain sections of Chapter 9.02 of the Revised Code of Washington (Crimes and Punishments) and adds several new sections, the effect of which is to codify the constitutional principles adopted by the U.S. Supreme Court in *Roe v. Wade* relating to the right to privacy and reproductive freedom.

Section 4 of the initiative provides for a good-faith defense "in any proceeding in which violation of this chapter is an issue." Section 3 provides for a \$10,000 civil penalty for any person performing an abortion in violation of this chapter.

James J. Mason of Tacoma (letter to the editor, August 1991 issue), under the heading "Read (Carefully)" claims that Section 4 of Initiative 120 "would create a good-faith defense to malpractice cases against abortionists." Mr. Mason is wrong in his contention. The good-faith defense in this case deals only with violations of this law.

Our courts should have no difficulty limiting the good-faith defense to abortion crimes and punishments. Medical malpractice claims are codified by Chapter 7.70 of the Revised Code of Washington regarding actions for injuries resulting from healthcare.

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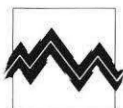
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Conventions

There is some question as to what we could do to increase our attendance to our annual conventions, or whether we should discontinue them altogether.

Article VII of the WSBA bylaws provides:

**ARTICLE VII.
MEETINGS OF THE BAR
ASSOCIATION**

Section 1 ANNUAL MEETING. The time and place for the holding of the annual meeting of the Washington State Bar Association shall be at any place or places within or without the State of Washington determined by the Board of Governors, made at least sixty (60) days prior to the date of such annual meeting.

Section 2 NOTICE AND PROGRAM.

(a) Notice of the annual meeting shall state the time and place for the holding of such meeting and shall be given the members of the Washington State Bar Association at least forty-five (45) days prior to such meeting.

(b) Annual program. The Board of Governors shall provide a suitable program for each annual meeting of the Washington State Bar Association, which shall be available to each member in advance of the meeting.

(c) Report of the president. At the annual meeting, the president shall present his or her report, covering, in substance, the principal activities of the Association since the last preceding annual meeting.

It appears that the bylaws do not provide for annual convention, but provide for an annual meeting. It has been the practice of the WSBA to hold its annual meetings and conventions

jointly with a few exceptions in the past. It would appear that, in the interest of economics, the annual convention and annual meeting should be combined if the association wishes to continue to have annual conventions.

Neither the recent convention in San Diego nor the annual meeting in Seattle was well-attended. Bar members attending the convention totaled approximately 400; those at the annual meeting totaled approximately 100. In either event, less than one percent of our members were in attendance.

The annual convention and annual meeting for 1992 are scheduled for September in Vancouver, B.C.; the following year in Victoria, B.C.; and the year after that in Seattle.

The 1990 annual convention and meeting were held in Spokane. The attendance was 879; in 1989 the attendance at the convention and annual meeting in Whistler, B.C. was 628.

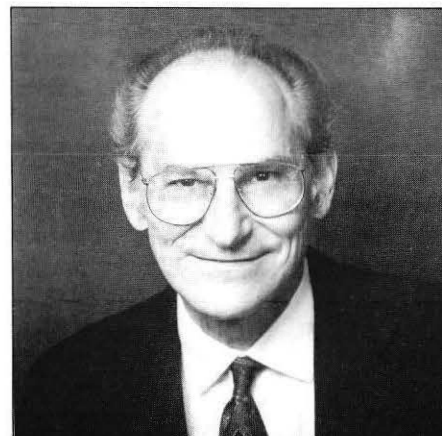
Member attendance has decreased each year, some of which is attributable to distance of travel, expense of travel and accommodations, inconvenience of scheduling dates, pressure to produce billable hours and lack of interest.

As of the date of this article, your president had attended the 1991 annual bar conventions in Arizona, Utah and Idaho. Below are the statistics on those meetings.

The purpose of the convention as a center place for combining CLE accumulations and camaraderie with other members of the legal profession is no longer fulfilled because of poor attendance.

The conventions, however, held in resort areas seem to be more successful than those held in nonresort areas.

Selecting a site involves a commitment at least three to four years in



Joseph P. Delay

advance. The bar must enter into contracts with hotels and make a firm commitment. Final contracts are signed, and a number of rooms and facilities are "locked in"; damages for cancellation are steep and tied to the facilities' ability to replace the meeting with one of similar or greater size. There is also the question whether the cost of this possible cancellation penalty would be greater than that of overruns.

We must decide if the members of our association wish to continue to have, either jointly or separately, the annual convention and the annual meeting. The mid-year section meetings may be combined with the annual meeting. Combining the annual convention and meeting is logical and economical. However, the members may want to continue only with the annual meeting, and omit the convention altogether.

Please let your governors or me know your views. The Bar is committed for the next three years.

STATE	TOTAL MEMSHIP	NUMBER ATTENDING	% MEMSHIP	CONVEN. LOCATION	FEE
Arizona	12,000	2,000	17%	Phoenix	\$200
Utah	5,000	600	12%	Sun Valley	\$175
Idaho	2,500	225	10%	Sun Valley	\$200

Have We Fulfilled our Pro Bono Obligation?

Where does our bar stand on fulfilling its pro bono obligations to our society? Last year, a plethora of us contributed

significantly to pro bono programs offered by the organized bar. No state currently requires attorneys to provide

free legal services to the poor, despite a variety of initiatives mounted by proponents of mandatory pro bono.

These initiatives often have resulted in increased volunteer activity, as mandatory proponents strengthen existing volunteer programs. This movement is necessary to ward off an imposition of a mandatory pro bono requirement. If bar leadership does not maximize volunteer efforts, the Legislature may intervene to enforce a mandatory plan.

The Florida Supreme Court decided in December 1990 that lawyers do have an obligation to provide legal services to the poor if the attorneys are specifically appointed by a court. As a result of this ruling, the Florida Bar submitted to its Supreme Court a voluntary pro bono plan, which establishes a standard of 20 hours of pro bono service per lawyer per year and a buyout option, whereby lawyers can donate \$350 to an approved legal-aid association.

In Texas, an advisory commission recommended that its state bar study the mandatory pro bono issue and report back to the Legislature in 1993. In March 1991, a few Texas lawyers filed a class action suit against the state bar seeking a bar mandatory pro bono system as the remedy. The trial is scheduled for December.

Several law schools have adopted mandatory pro bono service as a condition for graduation. This is an opportunity for a law student to establish contact with a client and to be

exposed to the procedural aspect of the court system.

The WSBA Board of Governors on November 18, 1989 approved a formal resolution reaffirming our commitment to the rendering of pro bono service to the poor; the resolution urges all WSBA members to increase to at least 30 hours each year. The WSBA has dedicated its efforts in encouraging and supporting local bar pro bono programs. Nina Harlan, presently the director of local bar services in the state bar office, was employed at the American Bar Association, where she coordinated a national pro bono program. She offers assistance to local bars in developing new pro bono programs and enhancing ongoing, existing local ones. Her help is available without charge to any local bar. Contact her at (206) 448-0441, (206) 441-0677.

Counties that presently do not have a pro bono program are urged to become involved to conquer the unmet civil legal needs of the poor. There is no better way of increasing our stature as professionals, and the visibility of the legal profession, than to participate in providing such legal services. The satisfaction of assisting a neighbor in need is indeed gratifying and fulfilling.

I encourage each of you to sign and send in the Pro Bono Pledge on page 25 and to volunteer for your local bar pro bono program.

I hope to see you listed in the *Bar News* pro bono honor roll. Please do not fail to send in your Pro Bono Pledge.

Finally, WSBA members should be advised of the extent of two new funds benefiting the public and the profession: Legal Aid for Washington (LAW) and the Revolving Loan Fund (RLF).

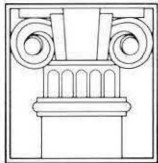
Deserving of Your Consideration

The nonprofit LAW Fund corporation was established in 1990. It will complement the pro bono programs. The LAW Fund's goal is to institutionalize private support for organizations providing a full range of civil legal services to low-income persons within the state. An annual campaign to raise funds from attorneys around the state will emphasize to each of us the responsibility to provide access to justice for the poor. This funding is necessary, as federal funding for legal-service programs fell by 40 percent from 1980 to 1991. IOLTA funds are insufficient to support civil legal services to the poor. The number of legal-service lawyers in Washington has decreased from 140 to 88, while the state's poverty population has increased by 35 percent. Each lawyer can address his or her professional responsibility to provide access to justice for the poor by considering a contribution of at least an hour of gross fee to the LAW Fund. These contributions are tax-deductible. Let your conscience be your guide. As lawyers, we should set the example. Please say, "yes," and mail your contribution today to LAW Fund, 829 Yakima Avenue South, Seattle, WA 98144; (206) 329-4134.

More Service to the Members

An outstanding example of the WSBA's service to its members is the Lawyers' Assistance Program. During its first four years, LAP has provided evaluation, referral or counseling services to five percent of our actively practicing lawyers. No other bar association's assistance program has come close to achieving this result in the same period of time. LAP services to new clients increased by 58 percent

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during the fourth year. Yet LAP's purpose for existence is far from accomplished; a 1987 prevalence study showed that one-third of our bar had serious problems with depression, addiction and other impairments. No indication exists to suggest that these data are inaccurate or overstated.

LAP staff have been struck by how many indigent lawyers need its services. So far the professional staff and 150 volunteer peer counselors have met the needs of most indigent clients, but with the increase in the caseload, LAP needs help.

LAP is turning to our members' strong sense of volunteerism and generosity to create a new program to meet the evaluation and treatment needs of our indigent members: a revolving loan fund (RLF) is being established as a nonprofit corporation. Any member beset by financial hardship and physical or emotional difficulties, substance abuse or other pressures can seek the assistance of the RLF. Loans are to be made to individuals for treatment or other purposes that stop the destructive circumstances from taking their toll.

Unquestionably, it is going to be a popular member service and a critical supplement to LAP services.

LAP already has received and donated to the RLF \$9,600 to be used for the treatment of indigent clients. Turn to the LAP column on page 41; find the detachable envelope, and contribute to this tax-deductible charity. Much more than a few thousand dollars is required to create an endowment for the necessary loans.

How Does the RLF Work?

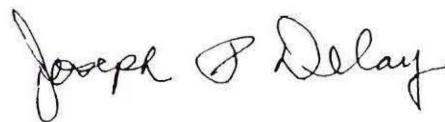
LAP staff or a peer counselor will assist any loan applicant in preparing and submitting a fund request to the RLF board of directors. The current board is composed of Jack E. Hepfer (chair), Katrin E. Frank, Paul C. Gibbs, Jill Higgins Hendrix and Harold F. Vhugen. RLD 12.17 protects all confidences revealed to the board as it determines whether to approve a loan. When a loan is approved, arrangements are to be made with the WSBA Credit Union. If the board decides not to guarantee a loan to the applicant, that decision does not exclude the applicant

from other LAP services. Also, the board may request an applicant to satisfy certain conditions before loan approval. These conditions may be met with the assistance of a peer counselor or LAP staff.

A formal arrangement with the endowment and the WSBA Credit Union protects any loans. This way, large amounts of money eventually can be loaned out by the Credit Union. Over time, an excellent record of loan repayment will widen the endowment-to-loan-fund ratio.

Why create an RLF rather than use cost-free LAP services?

LAP does not intend to enable the dependency of distressed lawyers. Successful treatment includes taking responsibility for its costs. Low-cost loans for treatment make taking responsibility for recovery possible, many of LAP's previous clients would agree.



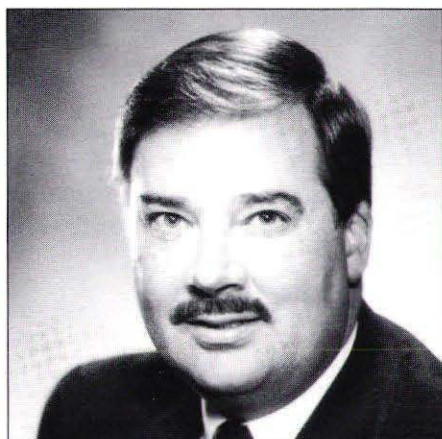
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Dennis P. Harwick

Much attention has been paid lately to "lawyer-bashing." It is an old and frustrating game, usually accompanied by a clamor for better "public relations."

A couple of years ago I had the opportunity to ask a group of bar leaders what they meant by "public relations." I had each of them write his or her answer down on a slip of paper (so there would be no fudging later). The answers ranged from a specific television ad campaign to "inter-galactic goodwill."

Public relations is a high priority of the WSBA. A WSBA member service survey showed that improving the image of the legal profession was one of the most widely requested services. The real question is, what can the WSBA do?

Some bar associations have tried direct television advertising—a very expensive proposition—with unsatisfactory results. Other approaches include law-related education for the public and "media relations," i.e., improving the relationship between the various media (newspapers, periodicals, radio, television) and the WSBA.

As part of its law-related education efforts, the WSBA sponsors the "Legal Lines"—a 30-topic information service that is a part of *The Seattle Times's* "INFOLINE." It also distributes tens of thousands of "Citizen Rights Pamphlets" each year. The WSBA MENTOR and Mid-MENTOR programs reach hundreds of classrooms each year with lawyer-educator partnerships. The WSBA is an active participant in the National Association of Partnerships in Education and recently received an award for its leadership in the National

Public Relations—What Is It?

MENTOR program.

The WSBA has also made a concerted effort in the past two years to strengthen the relationship between the members of the press and the Bar. The most tangible product of that effort is the "Law and Justice Handbook," a 90-page resource manual to assist members of the press in covering legal stories. It includes sections on the judicial system in Washington, lawyer discipline, local bar associations, and a glossary of legal terms. The WSBA's "Law and Justice Handbook" won the 1990 American Society of Association Executive's Gold Circle Award for media relations.

But a handbook, standing alone, won't do the job. George Scott and Pam Love, the director and assistant director, respectively, of the WSBA Public Affairs Department, spend weeks each year touring the state making sure that journalists and reporters have a copy of the "Law and Justice Handbook" and understand that the WSBA is a resource to help them report law-related stories.

The WSBA also sponsors a bench/bar/press seminar each year. This year it is called "Whose News Is It Anyway?" and will be held on November 21, 1991. It will be held in conjunction with the Second Annual Excellence in Legal Journalism Awards Program—our effort to recognize high-quality law-related journalism. Awards are given in the categories of: Daily Newspapers, Weekly Newspapers, Television, Radio, and Award of Merit (individual).

There are other efforts. The WSBA Young Lawyers Division prepares regular newspaper articles on common legal problems, called "Questions of Law," which are circulated to newspapers throughout the state. Press releases on WSBA awards and events are sent out to newspapers, radio stations, and television stations whenever appropriate. The Public Affairs Department fields dozens of phone calls each month from the media and others on various issues.

There is an old saying in the PR business, "When in doubt, people will assume the worst." So it is with the press and the WSBA. I supported the

move at last month's annual business meeting to make most of the bar's records and activities a matter of public record. I have even gone on record as supporting the Oregon model of complete disclosure of disciplinary proceedings. In my experience, the impression that you are protecting something does far more damage than letting the public see what is happening.

But there is a reality to deal with. Lawyers are agents of change and conflict. They have been ridiculed for centuries—usually for the wrong reason—to kill the messenger. But when the chips are down, people rely on lawyers to defend their rights. Being popular isn't part of the job.

During a little vacation time recently, I reread Harper Lee's "To Kill A Mockingbird." I commend it to anyone who needs to recharge his or her batteries. As you may remember, Atticus Finch, the courtly small-town lawyer, is appointed to defend an unpopular defendant—a black man accused of raping a white girl.

At one point, Atticus's social climbing sister, Alexandra, is lamenting the ostracism she and her family are suffering because of her brother's defense of the unpopular defendant. Miss Maudie, the clear-thinking neighbor lady, sums it up as follows: "Have you ever thought of it this way, Alexandra? Whether Maycomb (the town) knows it or not, we're paying the highest tribute we can pay a man. We trust him to do right. It's that simple."

What can the WSBA do? We'll do what we can to educate the public and the media. We'll give the media the tools to report law-related stories more accurately. But can we make lawyers popular? Probably not. Being popular isn't part of the job.

On a personal and professional note—*congratulations to Peggy Nagae Lum, newly installed president of the National Asian Pacific American Bar Association!* NAPABA held its convention November 1-2, 1991, in Seattle.

Debunking the Myths About Access to Justice in Washington

by George J. Zweibel

During three years as a member of the WSBA Legal Aid Committee, I learned a few things about access to justice on the civil side in Washington state. One year ago, I wrote an article that provided an overview for the last "Access to Justice" issue of the *Bar News* (November 1990). This year, I intended to provide an update on related developments during the last 12 months. With my retirement last month from the Legal Aid Committee, however, I decided instead to try to debunk what I see as the four major myths concerning access to justice in Washington. If you are wondering what has happened during the last year, do not be dismayed. I will discuss those developments in conjunction with the fourth myth.

Myth #1: The availability of free civil legal services for low-income people ensures that most of their legal needs are met.

Poverty nationally and in Washington state grew dramatically in the 1980s, and more people continue to slip below the poverty line. More than 800,000 Washington residents, some 15 percent of the total population, now live in poverty. This represents roughly a 33 percent increase in the last ten years or so. A number of factors have contributed to the growing number of poor people: major cuts in federal benefits, changes in family structure, a dwindling supply of housing for low-income renters,¹ unemployment, and lower wages.² In 1991, to qualify for free legal services, a family of four can receive no more than \$16,750 a year.³

Few would argue that such families can afford to pay for the services of a lawyer.

Poor persons have more legal problems than other people. In May 1989, the ABA reported on the first national civil legal need survey of low income people.⁴ About 43 percent of the survey respondents reported having had at least one civil legal problem during the past year, while 18 percent reported three or more such problems.⁵ This suggests that each poor person will need legal assistance at least once every two and a half years. By contrast, it has been estimated that other people need lawyers four or five times in their lifetime. Households headed by female single parents were found to have more legal problems than other poor households.⁶

Low-income people also have more serious legal problems, which frequently involve life's necessities. Being poor often involves dependence on one or more complex government programs for everything from housing and food stamps to health care and a subsistence income. Low-income people often must contend with substandard housing and domestic violence. It is no surprise that their legal problems generally concern the most basic of needs, i.e., food, shelter, heat, medical care, and protection of the family.

Given the large number of legal problems and size of the poor population, one might theorize that many of the legal needs of the poor go unmet. In fact, recent national data confirms that poor people do not receive legal counsel or representation for the vast majority of the legal problems they experience. The ABA's 1989 survey found that low-income people get legal help for only about 20 percent of their

legal problems.⁷ Almost 40 percent of the nationwide sample reported that they had a civil legal problem for which they did not have legal assistance during the past year.⁸ Only 16 percent of the respondents reported having had legal assistance in connection with such a problem.⁹ (This figure includes legal assistance from all sources, i.e., from private attorneys for a fee or on a pro bono basis as well as from legal services organizations.¹⁰) Almost half of those who did not have a lawyer indicated this was because they thought it was too expensive or thought a lawyer could not help. Only 29 percent of all respondents knew free legal services were available in their area.¹¹

It is clear that Washington is no exception. In fact, a severe crisis exists here. In February 1991, there were only 82 poverty lawyers funded to serve the civil legal needs of a poor population of 755,000 people (not including the migrant population).¹² In 1980, there were 133 such attorneys available to serve a poor population of 600,000. Even with the creation of IOLTA and a high level of private attorney pro bono activity, the gap has continued to widen. The unmet legal needs of poor Washingtonians, often involving life's essentials, are legion and growing.

Myth #2: The typical poor person is a young, able-bodied adult who chooses to collect welfare rather than work.

Contemporary mythology can reach dizzying heights when more fortunate people are asked to describe who they think is poor. Many still believe the "typical" poor person is a young single adult who could work but chooses not to. In fact, Washington's poorest residents are typically children, single

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working mothers, people with disabilities, the elderly, persons confined to institutions, the homeless and migrant farmworkers.

A June 1991 report, "Child Poverty in America," released by the Children's Defense Fund in Washington, D.C., sheds some light on this subject.¹³ According to the report, the United States has one of the highest child poverty rates among the industrialized nations. In 1989, some 12.6 million U.S. children—one in five—lived in families with incomes below the poverty level. This includes 2.2 million more poor children than ten years earlier, when one in six children

was poor. These figures represent a 21 percent increase in the number of children living in poverty during a period when the total number of children in the general population rose by only 1 percent. The increase in the number of poor children is attributed in large part to higher unemployment and lower wages.¹⁴ Most poor families with children include at least one person who works, whose income—and not welfare—provides the biggest source of income for the family. Most poor children live outside of large cities.

While the demographic profile of poverty in Washington state resembles that in the rest of the country,

Washington has some unique characteristics. For example, many people live in isolated rural areas where access to essential human services is extremely limited or nonexistent. Washington now has the fourth-largest migrant farmworker population in the nation, and increasing numbers of workers are staying here. Major demographic changes are occurring as a result. Exponential population growth in some areas has placed unprecedented strain on existing social services, bringing them to the breaking point.

Myth #3: Family problems are the greatest unmet civil legal

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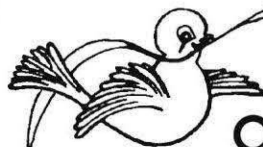
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need of low-income people in Washington.

The 1988 reports of the WSBA Pro Bono Task Force and the Legal Aid Committee concluded that family problems are the most frequently reported unmet civil legal need of the poor in Washington state. Most pro bono program coordinators probably would agree that family problems account for the majority of the requests for legal assistance that they receive. There is growing evidence, however, that family problems are in fact neither the most serious nor most frequently unmet legal need of low-income people.

The 1989 ABA Report concurs.

Consider the following findings: (1)

Most-frequently reported categories / individual civil legal problems addressed in the ABA survey ¹⁵	
Category (out of 10)	%
medical ¹⁶	15
public benefits ¹⁷	13
utility	12
family problems ¹⁸	12
Individual	%
utility turnoff	11
access to physician services	8
need for a divorce	7
unfair job termination	7
employment discrimination ¹⁹	6

(2) Family problems were identified, by a wide margin, as the category in which respondents *most often received legal assistance*.²⁰ Respondents had legal help with 68 percent of the child support disputes, 58 percent of the divorces, and 60 percent of the other family problems they reported.²¹

(3) Respondents with medical access problems most frequently had no legal help (36 percent), followed by public benefits problems (32 percent), utility problems (29 percent) and discrimination problems (29 percent).²² The most frequently reported *individual* legal problems for which respondents did not have legal assistance involved

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utility turn-off, access to physician services, food stamps, government medical benefits, unfair job termination, and employment discrimination.²³ Respondents had legal help with only 7 percent of their utility turn-offs and 8 percent of physician access problems; no respondent received legal assistance for a food stamp problem.²⁴

(4) Low-income persons generally view family and consumer problems as susceptible to legal help, but do not consider the relevance of legal assistance when faced with medical, utility and public benefits problems.²⁵

These findings comport with the conclusions of earlier studies in several states. For example, a 1990 study found that people facing eviction and impending homelessness account for the greatest unmet legal need among the poor in New York state.

Thus, as already discussed, the problem is not simply that many legal problems never receive legal attention. Rather, many of the most urgent legal problems—like those that involve heat and electricity, food, medical care, employment, or subsistence income—are never discussed with lawyers or put before courts. This does not mean that family problems are not important or, at times, urgent. However, focusing exclusively on family problems seriously distorts the overall picture regarding the unmet civil legal needs of the poor.

Many low-income people with the most serious legal problems imaginable fail to seek legal help because they do not recognize that their difficulties involve legal problems or do not know where to seek help. At a minimum, some sort of educational program should be implemented. Of course, success in this regard will increase the already overwhelming demand for no-cost legal representation. It is therefore more important than ever that efforts be

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intensified to obtain additional legal services funding and to increase pro bono activity.

Myth #4: Lawyers are doing all they can to make the justice system accessible to all Washington residents.

Actually, lawyers (and others) are doing a great deal. Many people are working very hard, and progress is being made. But the magnitude of the problem is so great that there is still a long way to go, particularly when government funding for legal services remains abysmally low.

A number of developments during the last 12 months have laid groundwork for moving closer to the goal of access to justice for all in Washington state. The State Bar continued to increase its level of involvement. In March 1991, the Board of Governors approved the issuance of 400 vouchers redeemable for half-price admission to WSBA-sponsored CLE programs for use by local pro bono programs to recruit or reward volunteer attorneys. This will assist program coordinators in their efforts to maximize pro bono activity in their areas. WSBA director of local bar services Nina Harlan continued her efforts to increase and support local pro bono throughout the state. The Legal Aid Committee began plans for a statewide conference for all of the entities that are involved in access to justice for low-income people, including legal services and pro bono programs, the Legal Foundation of Washington, the bar, the courts, various committees and task forces, law schools, and so forth.

In its July 1991 report, the WSBA Long-range Planning Task Force recommended that making the system of justice accessible to every Washingtonian be a primary goal of the State



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Bar in the years ahead and that consideration be given to structural and staff changes within the Bar as well as innovative solutions. The WSBA is urged to assume a central leadership role in connection with access to justice in Washington.

Developments related to critically needed funding have been less positive. This year again saw failure in the Washington State Legislature of a bill that would raise superior court filing fees to help fund civil legal services for the poor, even though strong support for such a bill continues in Olympia and throughout the state. Moreover, for the first time, IOLTA revenue—an important source of civil legal services funding—has begun to decline. On the other hand, this year also witnessed the launching of the Legal Aid for Washington Fund (LAW Fund), which will seek private funding for organizations that provide civil legal services for the poor. LAW Fund's activities will include an annual campaign to raise funds from attorneys. The Legal Foundation of Washington continued its vital support for legal-service organizations and pro bono through its administration of the IOLTA program.

One cannot discuss access to justice without praising the hard work that quietly goes on day after day by the highly dedicated and underpaid people who staff the legal-service and pro bono programs throughout the state as well as by the thousands of lawyers who volunteer to handle pro bono matters. My life has been enriched through working with and getting to know many of these dedicated professionals. Access to justice has been advanced during the last year in part as a result of support from WSBA executive director Dennis Harwick, President Lowell Halverson and "poverty czar" and former governor Paul Stritmatter, as well as the Board of Governors.

Unfortunately, it will be necessary for lawyers throughout Washington to do even more. Each lawyer should spend at least 30 hours a year providing pro bono legal services.²⁶ In addition, contributions to LAW Fund by individual attorneys and law firms will help sustain and expand the programs dedicated to representing poor clients. Participation on the Legal Aid Committee and other state and local bar groups concerned with access to justice is another way to help address the crisis.

Conclusion

Alarming numbers of serious legal problems affecting the poor continue to elude legal attention in Washington. Those who suffer as a result are most often children, working mothers, seniors, the disabled, residents of institutions, and the homeless. Although family problems clearly are the squeaky wheel, they are not necessarily where the oil is needed most.

Awareness of the problem and the need to find solutions have grown considerably. Now it is time to translate this awareness to effective action. Lawyers, as stewards for the justice system in which they operate, represent the best hope for resolving the crisis within that system. Every pro bono case, dollar contributed, and hour spent participating in a group seeking solutions will bring access to justice for all closer to reality in Washington state.

Endnotes

¹It has been reported that in 1985 half of all poor renters in the U.S. had housing costs that exceeded 65 percent of their incomes. *Clearinghouse Review*, May 1990, at 16, citing P. Leonard, C. Dolbeare & E. Lazere, "A Place to Call Home: The Crisis in Housing for the Poor" (1989) and E.

Lazere, P. Leonard & L. Kravetz, "The Other Housing Crisis: Sheltering the Poor in Rural America" (1990), both of which are available from the Center on Budget and Policy Priorities, Washington, D.C.

²See note 16 *infra*.

³This figure represents 125 percent of the Federal Poverty Income Guidelines.

⁴Final Report, "American Bar Association National Civil Legal Needs Survey," May 1989, prepared for the ABA Consortium on Legal Services and the Public by The Spangenberg Group (hereafter "ABA Report"). The survey involved random telephone calls to 500 households with incomes of less than 125 percent of the federal poverty level in all 50 states (except Alaska and Hawaii) and the District of Columbia. ABA Report at i.

⁵ABA Report at i, 20-21. Each of the 25 or so civil legal need studies of the poor conducted in various parts of the country between 1969 and 1989 found an annual average rate of unmet legal problems per household of at least 1.0. ABA Report at 47. The ABA survey is in accord, finding an average of 1.08 problems per poor household during the year it covered. *Id.* at 47, 48.

⁶ABA Report at 22.

⁷ABA Report at ii, 48. A 1991 study in Virginia found that low-income households get legal help in 21 percent of the civil cases in which they need it.

⁸ABA Report at ii, 24-25.

⁹*Id.* at i, 22-23.

¹⁰*Id.* at iii.

¹¹*Id.* at 44-45.

¹²These attorneys work for Washington's three federally funded civil legal service programs: Evergreen Legal Services, Puget Sound Legal Assistance Foundation, and Spokane Legal Services Center.

¹³See *Seattle Post-Intelligencer*, June 3, 1991, at A1.

¹⁴Between 1979 and 1989, the

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proportion of hourly workers who received wages too low to keep a family of three above the poverty level increased by more than 50 percent. *Id.*

¹⁵The ten categories of legal problems addressed by the survey were consumer, utility, housing, employment, school, medical, public benefits, family, discrimination, and "other." ABA Report at i, 6, 26.

¹⁶"Medical problems" include problems getting access to physician, hospital, mental health or other health care services because of inability to pay, as well as problems securing insurance, Medicaid, Medicare or other government benefits to pay medical expenses. ABA Report at 27.

¹⁷"Public benefit problems" include problems involving food stamps, Social Security Disability, Supplemental Security Income, welfare, and other public benefits. ABA Report at 28.

¹⁸ABA Report at 27.

¹⁹*Id.* at 28.

²⁰*Id.* at ii, 29-31, 36-37.

²¹*Id.* at 31, 33.

²²*Id.* at ii, 35-36.

²³*Id.* at 37-38.

²⁴*Id.* at 31-33.

²⁵*Id.* at ii, 37.

²⁶On November 18, 1989, the WSBA Board of Governors approved a resolution urging each attorney to spend at least 30 hours a year providing public interest legal service, pursuant to RPC 6.1. In 1990, the Seattle-King County Bar Association adopted an 80-hour pro bono standard. The ABA recommends 50 hours.

George J. Zweibel, a WSBA Legal Aid Committee member since 1988, just completed his term as its chair. He is director of litigation in the Seattle Regional Office of the Federal Trade Commission. He received a WSBA pro bono award in September.

Why I Am a Pro Bono Lawyer

by John Gray

I am an assistant attorney general who lives and practices in Thurston County. My work for the state consists of representing the Department of Revenue. I am also a pro bono lawyer in the local program jointly run by the Puget Sound Legal Assistance Foundation, the Thurston County Bar Association, and the Government Lawyers Bar Association. The pro bono coordinator, Marla Elliott, is employed by the Puget Sound Legal Assistance Foundation. Marla asked me to write this short statement about my reasons for taking pro bono cases.

I accept pro bono referrals for several reasons. First, it is the right thing to do. The Rules of Professional Conduct encourage lawyers to take pro bono cases. RPC 6.1 says that "[a] lawyer should render public interest legal service." It calls upon all of us to take action. Second, doing the right thing makes me feel good about my profession and about myself. The third and fourth reasons are closely connected to each other and are perhaps peculiar to anyone who limits his or her practice. Pro bono cases are different from the

work I usually do, so I get experience in other areas of law.

The referrals are in the area of family law because of the number of these cases and the need for lawyers to handle them. They are very different from the much drier and far less-emotional tax cases (at least as far as the state is concerned) that I usually handle. The client is a person, not an institution. The problems involved are of a more personal nature than is a dispute over money. It is satisfying to be able to help someone.

Other attorneys might not accept all of these reasons or might have other reasons of their own. The important thing is to take the case.

John Gray is an assistant attorney general with the Department of Revenue in Olympia. He was the first recipient of the WSBA's Angelo Petruss Award for outstanding public service by a government lawyer. He is former chair of the advisory committee of the Thurston-Mason Pro Bono Program, and he currently sits on the Board of Trustees of Puget Sound Legal Assistance Foundation.

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Legal Services for the Homeless

by Joan Andersen

Two women face each other across a small desk in a tiny room.

One wears a lime green linen suit and pumps, the other clean but worn jeans, a shirt and old Nikes with a hole at one toe. They are involved in an intense conversation; the woman in the suit taking copious notes. There are dog-eared papers spread about the desk and once in a while one falls off. The woman producing the papers looks very worried. What is going on?

The woman who looks rather like a lawyer is a lawyer, and the other woman is a resident of a homeless shelter in King County. They are in a room at a homeless shelter and the client is explaining problems she has concerning debts incurred during a failed marriage. The attorney is volunteering to assist her as far as possible in clearing up the problems so that when she finds housing and a job she won't risk garnishment and another bout with homelessness. This volunteer and others like her have come from five Seattle law firms offering services to residents of several homeless shelters in the area.

What's the Homeless Project Like?

In November 1990, the SKCBA ad hoc Homeless Task Force was completing plans to offer services to homeless clients. Today, more than 200 homeless people have been helped. Common legal problems encountered by volunteers are traffic tickets, employment, family law, and debts. Service has been provided at the Downtown Emergency Service Center by Perkins Coie and Davis Wright

Tremaine. The Center is a shelter serving primarily single men and women; 60 percent of the clients stay no longer than eight days. Seattle Emergency Housing Services, a transitional housing agency, is served by Karr, Tuttle, Campbell. SEHS often has families using its services for up to six months. Riddell, Williams, Bullitt and Walkinshaw provides services for Hickman House, a battered women's shelter serving women and their children. At South King County Multi-Service Center, attorneys at Stoel, Rives, Boley, Jones & Grey offer legal assistance. This Kent facility serves women with children and single clients recovering from substance abuse for six to 18 months.

Attorneys participating in the program are enthusiastic about it. Rob Hill, who coordinates the volunteers from Davis Wright Tremaine, thinks that volunteers, many of whom do corporate work, feel a very different sense of accomplishment when they assist someone with so few resources help to reverse the tide of bad luck. One of their clients who needed assistance with a dissolution had a husband who was so violent that he drove his car through the front door of the Morrison Hotel (site of the Downtown Emergency Service Center) in an attempt to reach her. Legal assistance was, needless to say, crucial to her. Attorneys also frequently mention how much they learn from clients about the tenacity of the human spirit. Clients without financial resources sometimes find creative ways to thank their attorneys. One Davis Wright Tremaine client did a tarot reading for the attorney who assisted her. Others just write letters, which—for clients who have literacy problems—is a big thank-you.

Because each shelter is different, firms

have different approaches to their service. Karr, Tuttle, Campbell has added a homey touch at the Seattle Emergency Housing Services site by providing a toy corner where children can play while the parents consult with the attorney. In addition, one volunteer attorney found that her hairdresser would volunteer free haircuts to shelter residents from time to time. Often, assistance of one kind can snowball into something greater.

Sometimes the legal problems also snowball, as Dan Drais of Stoel, Rives, Boley, Jones & Grey discovered. He was assigned a client who had indicated a need to clear backlogged traffic tickets in order to drive to job interviews. It turned out that she also had a parole violation problem to straighten out and a tangled matter involving Native American tribal benefits and adoption. And the surprises aren't always from the clients. Karr, Tuttle, Campbell attorney Barbara Brady, who represented a client in a custody modification matter where the parties had been through dependency procedures, was startled to discover that the opposing party's attorney had moved to have a psychological evaluation of the CPS social worker. It is also not unusual for the volunteer to find that competent legal help is not enough. Scott Schrum of Riddell, Williams, Bullitt & Walkinshaw was representing a grandmother seeking custody of her asthmatic grandson. The case was proceeding well, when the grandmother was evicted from her shelter for "self-medication," a buzzword for using drugs. Scott has not been able to locate the client. Many shelter clients need extensive assistance that an attorney is not trained to provide, and personal problems sometimes override the client's ability to follow the legal process.

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How We Made It Work

Providing services to homeless clients has been successful since early in the project. Additional shelters are requesting services, and a number of attorneys not affiliated with large firms are interested in helping. Creating the project was time-consuming, but the planning that went into it was crucial.

The initial meetings between members of the King County Coalition for the Homeless, Evergreen Legal Services, and representatives of several SKCBA committees (Volunteer Legal Services, YLD Neighborhood Legal Clinics and YLD Community Involvement) were held in late 1989. The ad hoc task force was then created and chaired by Jim Rogers of Riddell, Williams, Bullitt & Walkinshaw. The coalition representatives worked with their shelter members to define the services needed and the structures that would fit best with the shelters. Before the recruitment of volunteers, the SKCBA task force then had to figure out which of the suggested systems would work for volunteer attorneys. After the interested firms were committed to the project, Evergreen Legal Services worked with Todd Maybrown of the task force to create training materials for the attorneys. The materials were made into a manual and two seminars were held in firm conference rooms. Additional training sessions will be given this year, including one for shelter counselors to assist them in recognizing the legal problems of their clients.

We anticipate a good deal of growth in this project over the next year, although finding the resources to fully serve the more than 50 homeless shelters in King County may be a big challenge.

Attorney Joan Anderson is the Community Legal Services director at the Seattle-King County Bar Association.

Pro Bono Attorneys Do It For Free

by Mark E. Allen

We've all heard them, often several times in one day, especially at social gatherings. You know what I'm talking about: lawyer jokes. You clench your teeth and lie, "No, Fred, I haven't heard that one. It's a killer!" You chuckle for the appropriate length of time, then change the subject. Some of us may deserve these barbs, but I have grown weary trying to defend this profession of ours to cynical minds.

So, what does this have to do with pro bono work? Pro bono work is the vaccine which renders me immune to lawyer jokes. It is the salve—the healing ointment—to be applied to the wounds and sores opened by those inane jokes. Pro bono work allows all of us the opportunity to counteract the negative, distorted image thrust upon our profession via such tasteless "humor."

Actually, counteracting lawyer jokes is the least of the benefits derived from pro bono work. By lending our help to those in need, we can, in a very small yet important way, make it a little better world to live in.

Do not mistake me for a self-flagellating altruist. I confess, I got into pro bono work to save my own hide. Several years ago, I was down on my CLE credits—actually, I was about to appear in the *Bar News* under the Freshly Departed column. It just so happened that the pro bono program in my town was offering a free CLE class. The catch was you had to commit to pro bono work for one year. I swallowed hard and signed up. I knew I would get out of it somehow.

I certainly had excuses for not wanting to do pro bono work. Like time. I just didn't have it to give. But I

discovered that no matter how little time you can spare, the program will match you with cases that fit into your calendar. I actually began to schedule pro bono work, instead of working on other cases of mine that were supposed to be fee-paying, but turned out to be pro bono. Now, I actually enjoy doing pro bono work for pro bono's sake.

Then there's the lack of confidence I had in doing these cases. For the most part they involve domestic relations, which definitely is not my strong suit. Sure, I do uncontested divorces for family and friends (often gleefully), but for the most part I avoid these types of cases. Domestic relations has really become an area of some expertise, and one should not venture into these waters without some degree of experience or assistance. Once again, the pro bono program had a solution for this problem. Most pro bono programs offer a mentor system where you get all the assistance you need from seasoned, experienced attorneys. You don't get a Cuisinart or ginsu carving knife in signing up for pro bono work, but you do get the opportunity to learn and work in a vitally important area of the law (one that affects almost all other areas of the law) with the help of devoted, consulting attorneys. And I have found all of the attorneys working in the program to be an absolute delight. Pro bono attorneys come in all shapes, sizes and colors. They drive Volkswagens, Pontiacs and beaters. They wear wingtips, leather pumps, Tony Llamas and Birkenstocks. They're marathoners, pub crawlers and twelve-steppers. Some wear hats (I particularly like them), and some don't. We're talking men and women of every religious, political and sexual persuasion. I guarantee that you'll fit right in.

Have I talked about the clients yet?

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That's not easy to do without unlimited space. On the whole, I've never represented a group of people more grateful for my services than my pro bono clients. I'll be honest, not all of them cover themselves with glory in showing their gratitude, but by and far most do. Some have given me small gifts such as a card or an apple pie to express it. One, in particular, gave me a most memorable hug. It's so

memorable because she squeezed me REEEAL hard and long. I was left gasping and limp when she released me. She looked at me with tears running down her cheeks and asked how she could ever repay me. I knew she already had.

Don't mistake my sentiment here for misplaced guilt about being a high roller with some extra time on my hands and a law clerk that does all the

work. I don't generate or take home enough money to feel guilty, and I'd give my right arm if my three-attorney firm could afford a law clerk. Simply put, these people genuinely need help, and I enjoy lending a hand, especially when I can deal one-on-one with an individual. The idea of helping isn't so abstract then.

There are other ways to give back to the community you live in. You can always send money. I've always felt somewhat removed from all the organizations and good causes I have sent money to. And I've never gotten a hug like the one I described from sending money. The program asks for something much more precious than money. It asks for your time and skills. It asks that you take an interest in someone's life, not change the world. It asks that you act like an attorney and go do attorney things for no other reason than to help someone in need. I have found the rewards small, but very gratifying indeed.

Which brings me back to the lawyer jokes. I think we should begin a relentless campaign of tasteless jokes about insurance salesmen, car mechanics or plumbers. Perhaps then they would be shamed into starting pro bono programs to counteract the jokes. Can you imagine someone saying, "Joe, we need a little pro bono plumbing over here; can you give a little?"

Hey, do you know the difference between a dead skunk and a dead plumber in the middle of the road...?

Mark E. Allen is a partner in the Olympia firm of Buzzard, Darkenwald & Allen. He has been a member of the Thurston-Mason Pro Bono Program since 1985.


1992 Resources Membership Directory

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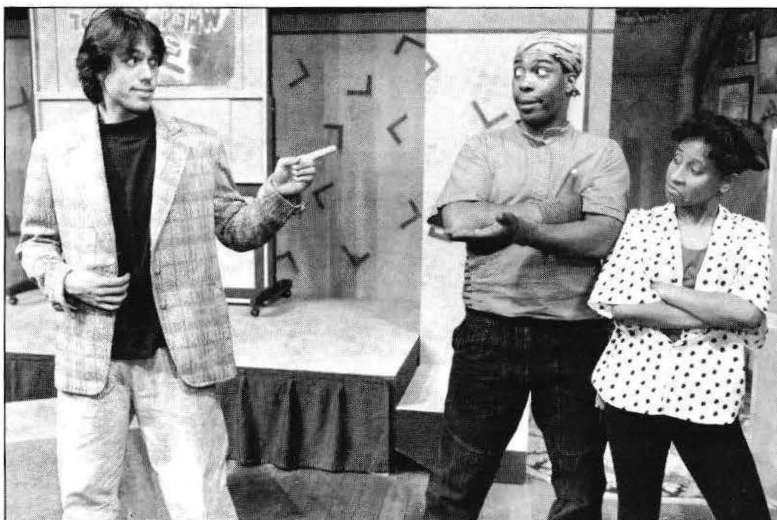
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Small Grants for Good Ideas



"Whadda 'Bout My Legal Rights?," the rap scene: high school students learn there is more to a car purchase than what kind of tunes it puts out.

by **Barbara C. Clark**
Executive Director
Legal Foundation of Washington

Ever had a great idea, and all you needed was a small amount of money to get it off the ground? The Small Innovative Grants program was created by the Legal Foundation of Washington in 1986 to do just that. Small Innovative Grants—or SIGs as they are called—were the brainchild of Lowell Halverson, the Foundation's first president, and more recently president of the Washington State Bar.

SIGs provide seed money—up to \$2,000—to accomplish any number of purposes including, but not limited to, developing a model, researching an idea, publishing a pamphlet, furnishing training, or... What's your proposal? Your great idea must fit within the Foundation's mission to aid equal access to the justice system for the indigent. Funds must be used for a law-related educational or charitable tax-exempt purpose that will provide civil legal services, law-related education or alternative dispute resolution services for the poor.

Since the SIG program was initiated in 1986, the trustees have awarded 25 grants. The range of ideas presented to the trustees has been broad. Training programs have been by far the biggest takers under the program—ten of the 25 were for training sessions, including partial support of the first statewide conference for alternative dispute resolution programs. Publishing pamphlets is another popular SIG request. We were proud to make possible a Spanish translation of "Family Law in Washington State" written by members of the Northwest Women's Law Center, for distribution without cost to low-income people in the central valley.

One of the most creative returns on a SIG investment was received from Washington attorney Lauren Marshall. The grant even had a financial pay-off to the Foundation. Marshall co-wrote the lyrics and produced a law-related musical for teenagers—"Whadda 'Bout My Legal Rights"—with partial support of a Foundation SIG grant. The play toured state high schools under the auspices of the Empty Space Theater and has been subsequently licensed for publishing by Samuel French. In addition to helping

high school students reach a greater understanding about their legal rights and responsibilities, the Foundation received a licensing fee.

The beauty of the SIG small investment is the large payoff to Washington citizens. A good example is instructional video tapes. A model project, "The Parenting Act of 1987," was produced this year by the Benton-Franklin Legal Aid Society. The tape trains nonattorney volunteers to assist with what was a major stumbling block for indigent pro se clients: the completion of parenting plans. Now members of the Retired Senior Volunteer Program, with the aid of the video, can assist a poor person in completing the plan. Two other programs are replicating this project.

The Foundation's Small Innovative Grant Program can fund approximately ten programs each year. Grant applications are simple to complete and are available from the Foundation's office at 945 Logan Building, 500 Union Street, Seattle, WA 98101.

We look forward to reviewing your great idea, and seeing if we can help get it off the ground.

★ PRO BONO HONOR ROLL ★ PRO BONO HONOR ROLL ★ PRO BONO HONOR ROLL ★

PIERCE COUNTY PRO BONO PROGRAM: William Abbott, Gregory Abel, John Abolofia, Mark Adams, Darrel Addington, Dan Albertson, Douglas Alling, Donald Anderson, J. Arvid Anderson, Mark J. Anderson, Murray Anderson, Stephanie Arend, Stephanie A. Arend, Jaquelyn Auferderheide, Lloyd Baker, Ralph Baldwin, Dennis Ball, John Barline, Robert Beale, Richard Benedetti, Joseph Betzendorfer, Patrick Biggs, Moe Birnbaum, Margaret Bond, Kevin Boyle, Philip Brandt, Charles Brocato, Steven Brown, Ricardo Buenavenatura, Jim Burdue, Steve Burnham, James Bush, Gretchen Erhart Bush, Terri Lynn Caditz, Scott Candoo, Thomas Cena, Mark Christianson, George Christnacht, William Coats, Ronald Coleman, Patrick C. Comfort, David

"Equal Justice Under the Law"

by Daniel A. Raas

Chair, Whatcom County Volunteer Lawyer Program
1991 WSBA Pro Bono Award Recipient

The legend on the portal of the United States Supreme Court reads: "Equal Justice Under the Law," reflecting our country's commitment to a government of laws where a person's religion, national origin, gender, or ethnic background is irrelevant to the determination of his or her legal problem. But the *New Yorker* cartoon asking Mr. Jones, "Just how much justice can you afford?" remains all too true. There has always been a sizeable portion of the populace for whom the answer to this question is, "None."

As attorneys we are ethically and morally bound to render legal services to those who cannot afford them. The legal problems of the poor are often challenging: just dealing with the local, state and federal bureaucracies for the essentials of life is often a full-time job. The increasing feminization of poverty—a greater and greater percentage of the poor are women and children—leads (especially male) pro bono attorneys onto legal paths we would otherwise not travel.

We all recognize our obligations to provide pro bono services. Many of us—over 4,000 lawyers listed in the November 1990 *Bar News*—actively participate in organized pro bono programs in every part of the state. Yet there are over 16,000 active members of the WSBA. Where are the other 12,000?

None of the attorneys with whom I've spoken repudiate their pro bono obligation. Instead, they cite various roadblocks to their participation. None of these are insurmountable.

The 20 organized pro bono programs have overcome concerns about eligibility: prospective clients are screened for income/asset and case type priority before the matter is offered to the pro bono attorney. The income/asset and case priorities are uniform throughout the program. They are locally set: if an attorney has a disagreement with them, a local board of her or his peers is available to take the complaint. The organized pro bono programs use staff and nonattorney volunteers to minimize the attorney time

needed in administrative matters.

The legal problems of the poor are substantively different from those of other clients. Help for the attorney in the substantive areas of the law is available through the pro bono program's mentors. Domestic relations matters are often central to the legal difficulties of pro bono clients. Those of us working in, for example, real estate or commercial law have little contact with domestic relations. Most, if not all, pro bono programs will pair a lawyer inexperienced in the substantive law area with a local attorney with some expertise in that legal field.

Even though a pro bono case may involve an unfamiliar area of the law, the average Whatcom County pro bono case took about ten hours of attorney time. This average includes the rare child custody cases that needed between one and 250 hours. If two average cases are taken each year, then fewer than two hours per month will be devoted to pro bono. The benefit to the client who has nowhere else to turn far outweighs the time taken.

Government attorneys are no longer prohibited from participating in pro bono activities, *see, e.g.,* RCW 36.27.060(3)(b) [Prosecuting Attorneys and their deputies], RCW 43.10.130 [Assistant Attorneys General]. Where a government lawyer is uncomfortable in individual representation, or does not have the facilities to undertake individual representation, there are pro bono alternatives available. In Whatcom County, the Volunteer Lawyer Program runs a pro se dissolution clinic helping clients do their own dissolutions, operates an advice and referral clinic, involves lawyers in community education fora, has an active fundraising arm, and trains lawyers and paralegals in the use of the computer for legal research and form-drafting. Other pro bono programs have equally inventive ways to involve attorneys in pro bono that do not require direct representation. The innovative housing assistance program for which the Spokane firm of Lukins and Annis received a WSBA 1991 Pro Bono Award, and the

unflagging devotion to institutional and legislative solutions to legal problems of the poor which led to the same award for George Zweibel, are other examples of pro bono participation that does not depend on individual representation.

While the satisfaction of successful completion of a pro bono matter carries its own reward—one prominent attorney likens pro bono work to recharging his batteries—there are professional rewards as well. Often exposure to a new or barely remembered area of the law sparks an idea that is useful in the lawyer's regular practice. The direct involvement in pro bono broadens the participant's view of our society and its problems. It is even possible that new friendships in the bar might arise. Not the least benefit is the favorable publicity received by the bar through our pro bono participation.

Three federally funded legal-service organizations serve Washington (Evergreen Legal Services, Spokane Legal Services, and Puget Sound Legal Assistance). Twenty-eight locally sponsored pro bono programs exist. Most counties in the state are covered, one way or another. Please complete the Pro Bono Pledge on the facing page, and Nina Harlan of the WSBA office will find a pro bono niche for you.

Pro bono in the '90s does not consist of making a virtue of the necessity of writing off otherwise uncollectible bills. It does not include the public service that we give as board members of our church, synagogue, school board, home-owner's association, symphony, or the time we put in assisting our own or our children's athletic organizations.

Pro bono is making real the promise of "equal justice under the law."

Daniel A. Raas is a member of Raas, Johnsen, Garrett & Stuen, P.S., in Bellingham. He is a recipient of one of the 1991 WSBA Pro Bono Awards, and is current chair and a founding director of the Whatcom County Volunteer Lawyer Program. He was a VISTA attorney with Seattle Legal Services and a Root-Tilden Scholar at NYU School of Law.

PRO BONO PLEDGE

Volunteer to Participate in Your Local Pro Bono Program

"The hallmark of a true profession - that which elevates it to a higher calling- is service to the public good."

Throughout this special "Access to Justice" issue of the Bar News you have read about the need for pro bono service as well as the benefits that accrue to lawyers who provide this service. The pledge form below presents an opportunity for you to make a difference in your own community by volunteering to participate in your local pro bono program.

Over 800,000 Washingtonians are living in poverty. Federally funded legal services programs in this state served over 30,000 clients last year, but that left thousands unserved. While nearly 15% of our state's population is poor, the civil legal services attorneys who serve them make up less than 1% of the bar. Pro Bono programs have been organized in most counties in Washington to expand the opportunities for private lawyers to provide legal assistance in civil cases to indigent clients.

Pro bono lawyers say that providing this public service gives them a sense of personal satisfaction, helps them fulfill their professional/ethical obligation and gives them experience in a variety of areas of the law. It also allows the individual attorney and his or her firm to develop a strong reputation for leadership and service to the community. Most importantly, pro bono service provides access to justice to those without the means to hire a lawyer.

Please pledge to take one pro bono case this year by filling out the Pro Bono Pledge and returning it to the Washington State Bar Association. We will forward your pledge to your local pro bono program and a pro bono coordinator from your area will contact you.

Name _____

Firm _____

Address _____

City _____ County _____

State _____ Zip _____ Phone _____

My area of practice is: _____

My case preferences are: _____

I am willing to handle cases in the following areas if I receive training: _____

Please return to: Nina Harlan
Director of Local Bar Services
Washington State Bar Association
500 Westin Building, 2001 Sixth Avenue
Seattle, Washington 98121-2599



Five Years Ago, *Washington State Bar News*, November 1986:

WSBA executive director John Michalik announced the Bar Association offices would relocate from the College Club to the Westin Building.

Ten Years Ago, *Washington State Bar News*, November 1981:

William S. Bailey of Seattle's article, "Bar Polls and Judicial Performance—A Look at Washington and the National Experience," concluded that "even in its present imperfect state, bar polling has been shown to be a vital step in improving the quality of the judiciary... Washington lawyers have every reason to feel proud of the beginning steps which have been taken to bring bar polling to this state."

WSBA executive director G. Edward Friar announced he would retire at the end of 1981 after eleven years' service. The Board of Governors also took up the question of endorsing a federal constitutional convention to pass a balanced budget amendment. The Board considered it in July and voted 5-4 to take no position. Seattle lawyer Lem Howell led a move to "overrule" the Board's decision at the annual meeting in September. It passed, but "did not have the force of a resolution because it

was not presented in accordance with the bylaws," *Bar News* editor Steven Reisler reported. The Board talked about it some more in October, then, in November, noting that three new governors had joined the Board, deferred the matter to give the freshmen time to look into the matter.

The Professional Liability Insurance committee asked the Board to endorse a mandatory malpractice insurance program for Washington lawyers and create a captive insurance company to offer it. A statewide poll of lawyers showed 55% favored such a plan. "The Board gave its endorsement by an 8-1 vote and directed the Committee to come up with a 'captive company' plan which could be considered by the Board at a later date."

Fifteen Years Ago:

Washington State Bar News, November 1976:

Acting *Bar News* editor Steven E. DeForest announced the selection of Seattle lawyer Jay V. White as editor of the *Bar News*, succeeding Ed Huneke, who resigned in July.

WSBA president Richard Riddell reported in "The President's Corner" that Affiliated FM Insurance Company, the WSBA-sponsored malpractice provider, had announced they were getting out of the business in 1977. "The 'occurrence'

form of coverage—as we now have with Affiliated FM—is as extinct as the dinosaur. Liability carriers now are only writing on the 'claims made' form, which is obviously less desirable from our standpoint.... Depending on the options selected, the cost [of new coverage] will probably be in the range of 2 1/2 to 3 times our existing annual rate of \$170 per lawyer under the Affiliated FM policy. The halcyon days are gone!"

505 of 711 people passed the summer bar exam.

Twenty Years Ago:

Washington State Bar News, November 1971:

Reacting to the "Young Lawyers' Revolt" at the annual meeting in September, where a number of "reform" resolutions were passed, WSBA President Fred Velikanje wrote that at the 1971 California Bar convention, "what seemed most surprising was the similarity of the resolutions offered to those offered by the Washington Young Lawyers at our convention. In checking with the offices of the Oregon Bar, I find the same to be true there.

"The conclusion that I reach is that these are not the product of Washington Young Lawyers, necessary for the betterment of the Washington State Bar, but are the canned product of a national scheme, for whose benefit I do not know...." He wondered why young lawyers needed to be labeled as such, and not just lawyers, and closed with a paragraph from an article in the September 1971, *Fortune* magazine: "The activist lawyers are on dangerous ground. They are assaulting many of the basic customs and institutions of our society. Their efforts may have a good deal of reason, justice and popular support behind them, but the legal system alone cannot bring about the reform of inflexible institutions. It is being asked to do too much. If the activists keep pressing and the institutions of government and society still fail to respond, the law will soon be seen to be powerless and ineffective. At that point, law will neither merit nor receive respect or adherence, and the foundation stone of civilized society will have crumbled."

247 people passed the summer bar exam.

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The LAW Fund Challenge

by Jack R. Dean

A Personal Note: During the past several years, I have had a unique opportunity to examine the bar's role in providing access to justice in Washington. As WSBA president, I was encouraged by a marked increase in organized pro bono efforts. Prior to that, I presided over the distribution of IOLTA funding as president of the Legal Foundation of Washington, and I saw new support for pro bono.

During the same period, however, financial support for staffed civil legal-service programs has continued to fall behind. Even with the Legal Foundation's efforts to make up for declining federal funding, our legal-service programs—the core of our system for providing representation for low-income people—have been forced to lay off experienced attorneys year after year. It became clear to me that the bar must support civil legal-service programs as well as pro bono efforts.

It is with this background that I have decided to do whatever I can to support Legal Aid for Washington Fund. LAW Fund was established to provide private funding necessary for civil legal-service programs to meet the critical legal needs of low-income Washingtonians. As you read about our efforts to develop this organization, I hope you will consider how you can contribute in the coming months.

The Need for Access to Justice

Over three-quarters of a million Washingtonians, more than ever before in our state's history, are living in poverty. These 800,000 women, men and children face a daily struggle in obtaining what is necessary for their families to survive—food, housing, clothing and medical care. Over the past decade, more and more members of the so-called "working poor" have joined the ranks of the impoverished despite their best efforts to support their families and retain self-sufficiency.

For thousands of people who are poor, elderly or disabled, legal representation is often the only means to deal with complex laws and

regulations affecting their ability to obtain healthcare, housing, food stamps and other basic necessities. Without the help of a legal-service attorney, a low-income mother may be unable to fend off homelessness for her family or protect her children from abuse. Access to legal assistance makes a crucial difference for tenants illegally locked out of their apartments, households fighting improper utility shut-offs in the winter, and families facing a wrongful denial of medical assistance or food stamps.

A recent letter from a legal-service client exemplifies the situation of many in need of legal representation:

I want to thank you for the help in my case. The Judge reversed the Department's decision and made me eligible for [general assistance]

benefits. I haven't gotten anything yet, but I would be unthankful if I did not express my appreciation for the help you gave me, that was the lifeline much needed when everyone else was just standing as I kept going under screaming for help and no one cared. I still find it hard to believe that things like this can happen in the USA, but I've never in 58 years and born in Washington State needed help before.

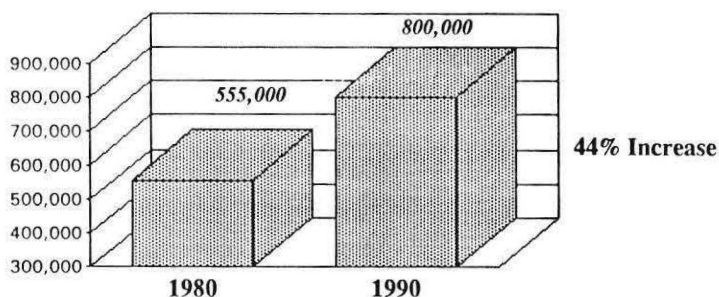
Another client wrote:

"I came in very down, your staff paralegal really was my advocate and presented herself so from the start. It was the first ray of hope in a very dark time for me."

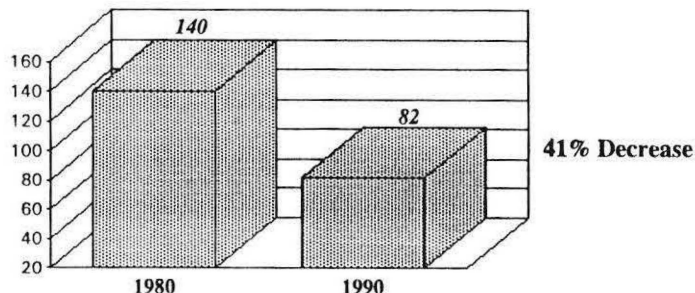
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Condon, Andrea Conklin, Jack Connelly, Charles Counsell, Larry Couture, J.M.B. Crawford, Gregory Curwen, James Cushing, Elizabeth Day, Richard DeJean, James Degel, Robert Deutscher, Steve Downing, Patrick Duffy, John Durkin, George Edwards, Merton Elliott, John Ennis, Faubion Thomas, Steven Fisher, Frederick Fleming, Shawn Ann Flood, Dean Floyd, Michael Flynn, Preston L. Foskey, Clifford Foster, Albert Germano, Bradford Gierke, Charles Gleiser, Gene Godderis, David Gordon, Joe Gordon, Kenneth Gormly, John Graffe, Howard Graham, H. Edward Haarmann, Henry Haas, James Halstead, Robert Hamilton, A. Eugene Hammermaster, Daniel Hannula, Mark Harbaugh, Harold Hartinger, Frederick Hayes, James Healy, Joseph

The Current Crisis

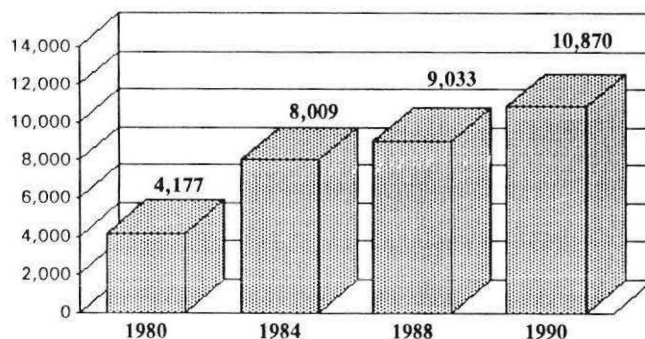
Washington's Low-income Population



Washington's Legal-service Attorneys



Eligible Poor Persons per Legal-service Attorney in Washington



In 1988, the WSBA Legal Aid Committee released its *Report on the Need for Civil Legal Services for Poor Persons in the State of Washington*. The report found:

- From 1980 to 1988, the poverty population of Washington increased 35 percent while the number of legal-service lawyers decreased 38 percent.

- The poor have extensive unmet legal needs, many of which involve basic survival—food, shelter, health care, subsistence income, and protection of the family.

- Drastic reductions in federal funding have made the viability of Washington's legal-service programs dependent on local assistance for survival.

Federal funding for Legal Services Corporation-funded staff programs was cut by 35% in 1982. *This resulted in the closure of half the legal-service offices around the state, and the lay-off of half the staff attorneys serving low-income people.* The Washington Supreme Court responded to this crisis by instituting the IOLTA program. While IOLTA temporarily replenished some

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Heitman, Robert Helland, Stephen Hemmen, Ronald Heslop, William Hess, Anna Hibbard, E. Hank Hibbard, Michael Hiitt, Vickie Hogan, Betsey Hollingsworth, Everett Holum, James Horne, Charles Hostnik, Bruce Hovey, Christopher Huss, Tom Jacobs, Laura Jaeger, Richard Jessup, Ivan Johnson, Randall Johnson, Clint Johnson, Charles Johnston, Meg Jones, Ann Kaiyala, Douglas Kauk, Donald Kelley, George Kelley, Nancy Kellogg, Kenneth Kessler, Diane Lynn Kiesel, Sandra J. Kindig, Stanley King, Robyn Koppe, John Kouklis, John Kramer, Thomas Krilich, Roy Kussman, Frank Ladenburg, Ronald Lamb, Steve Larson, Patrick Leahy, Richard Levandowski, Raven Lidman, Edward Lindstrom, Richard Lockner, James Lopez,

legal-service staffing, it has not generated sufficient revenue to keep pace with the needs of the growing poverty population or increasing costs. And because of the recession and a general decline in interest rates, IOLTA revenues are now decreasing.

While funding has stagnated or declined, the costs of providing legal services have escalated. For example, in 1980, the highest starting salary for legal-service attorneys in Washington was \$13,500 a year; by 1991 that salary has increased 78 percent to \$24,000. Even with the increases over the past ten years, legal-service salaries have not kept pace with other public sector compensation. These salaries pose difficult problems in recruiting staff, especially when job applicants are burdened with large law school debts and have more lucrative offers.

As a result of these resource problems, less than one percent of the 12,500 attorneys actively practicing in our state provide full-time legal services to the 15 percent of Washingtonians who live in poverty. This enormous disparity is worsened by the fact that poverty is likely to increase the frequency of the need for legal assistance as well as the urgency of the problem. The American Bar Association reports that each year about 20 percent of low-income Americans need legal help, as opposed to the average person who needs a lawyer only 4.8 times in a lifetime. The ABA also reinforced the WSBA Legal Aid Committee's finding that many of the legal needs of the poor concern basic survival.

While the civil legal-service programs in Washington serve over 30,000 low-income people each year, thousands more go unserved. The ABA estimates that, nationally, legal services and pro bono efforts are able to serve only one

out of five poor persons in need of basic legal assistance. Eighty percent of low-income people go without the legal help they need.

The Bar's Special Role

From the earliest days it has been a fundamental tenet of our profession that the legal system should be made available to every person regardless of their ability to pay. Our commitment to make understanding of the law and access to justice a reasonable expectation for everyone is part of what distinguishes us as a profession.

—WSBA Long-range Planning Report:
July 1991

Today the legal profession is awash in a debate over the loss of "professionalism"—that which distinguishes the practice of law from "just another business." The hallmark of a true profession—that which elevates it to a higher calling—is service to the public good. LAW Fund will serve as an essential vehicle for Washington attorneys to address their special responsibility to make the legal system available to those unable to pay. Through contributions to LAW Fund, attorneys can help legal-service programs bridge the growing chasm between unmet need and access to justice.

Rule of Professional Conduct 6.1: Pro Bono Publico Service

A lawyer should render public interest legal service. A lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to persons

of limited means. . . and by financial support for organizations that provide legal services to persons of limited means.

Pro bono representation by volunteer attorneys fulfills an essential role in providing access to justice for the poor in our state. Our bar can look to numerous examples of invaluable contributions through the efforts and expertise of pro bono lawyers. These efforts are part of a comprehensive system for delivering legal services to low-income people. Many of the volunteer attorney programs work closely with the legal-service program serving the area. It is clear, however, that volunteer efforts cannot substitute for well-staffed legal-service programs. The number of volunteer attorneys is finite, and the number of cases that each of these attorneys can take is limited. With additional funding, legal-service programs can hire more staff for direct representation, as well as coordination with pro bono programs.

Washington's legal-service programs specialize in providing a full range of representation to low-income people. Numerous legal-service attorneys throughout Washington have ten to twenty years of experience in meeting the unique legal needs of the homeless, poor parents and children, persons with disabilities, migrant workers, Native Americans and institutionalized persons. Members of the legal profession have a special responsibility to support the complementary efforts made by legal-service organizations and volunteer attorneys.

Recognizing the crisis before them, lawyers in other states have mounted successful campaigns to provide financial support. This year, Oregon began its statewide Campaign for Equal

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Beverley Losey, Edward Loughrey, Timothy Lowenberg, Lynn William, Stephen Maddox, Kerry Mann, Norman Margullis, Robert Marsden, James Marshall, Roy Mattern, Bradley Maxa, John McCarthy, Terrance McCarthy, Perry McCormick, Keith McGoffin, Kevin McGoffin, Michael McKasy, L.B. McNerthney, Anne Meath, Brian Meikle, Richard Milham, John Miller, Lydia Mori, Sal Mungia, John Murphy, Kathryn Nelson, Michael Noble, Sharon Nyland, John O'Connell, John O'Connor, John O'Melveny, Marvin Olsen, John Orlandini, James Orlando, Louise Paris, Mike Pate, Mark Patterson, Elizabeth Pauli, Claude Pearson, Sam Pemberton, Eileen Peterson, William Phillips, Donald Powell, Gregory Pratt, Theresa Pybon, H. Eugene Quinn,

Justice, and has commitments of at least \$130,000 from attorneys, as well as matching funds from the Meyer Trust Foundation. In Atlanta, where the private bar campaign began in 1983, attorneys raised over \$350,000 last year from the metropolitan area alone. Given the Washington State Bar's tradition of support for access to justice, we expect LAW Fund to surpass these efforts.

LAW Fund's Approach

LAW Fund was established in 1990

by private attorneys in cooperation with the directors of the three civil legal-service programs in Washington—Evergreen Legal Services, Puget Sound Legal Assistance Foundation and Spokane Legal Services Center. The founding directors are James Bamberger, Jack Dean, Mark Hutcheson, John Purbaugh, Ada Shen-Jaffe, and Paul Stritmatter. LAW Fund's statewide effort will combine resources and avoid duplication in fundraising efforts directed at attorneys and the general public.

LAW Fund's goal—unique in our state—is to institutionalize private support for the programs that provide a

full range of civil legal services to low-income Washingtonians. LAW Fund has obtained six start-up grants from foundations and corporations in our state. This seed money will be invested in an annual campaign to raise funds from attorneys throughout Washington. The first Annual Campaign is expected to begin in the spring of 1992.

The tax-deductible contributions to LAW Fund will be distributed to the legal-service programs on the basis of client need, that is, based on the number of poor people to be served as determined by the census. This formula, also used to distribute both federal and IOLTA funds, is the most equitable basis for distribution, and it strengthens the goal of a comprehensive, adequately funded statewide delivery system. Funds will be used to maintain and expand existing services. LAW Fund's Board of Directors is developing a strategic plan that will outline specific dollar goals for the next five years.

Donations made to LAW Fund will have a tremendous impact. For example, \$500,000 would enable legal-service programs in Washington state to serve nearly 2,000 additional clients; many more will be helped by community legal education efforts, and representation which corrects practices or enforces protections which affect large numbers of poor people. This help will be invaluable to the low-income families and individuals who would otherwise not get the legal help they need to avert hunger, homelessness, domestic violence and deteriorating health.

In the next several months, we will be approaching our colleagues in the bar to ask for your input and support. I hope you can contribute to this vital effort. Our profession can and will make a difference.

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Yakima, October 18-19, 1991

Present: The president and the Board of Governors. Also present: Walt Dauber (WSTLA); Sheryl Garland (Washington Women Lawyers); Dennis P. Harwick (WSBA executive director); Grant Johnson (WYLD); Donna McNamara (SKCBA/YLD); Judge Ray Munson (Court of Appeals); Judge Yancey Reser (Superior Court Judges Assn.); Scott Smith (SKCBA); Jeff Sullivan (Prosecuting Attorneys' Assn.); Lindsay Thompson (*Bar News* editor); Morton Tytler (Government Lawyers Assn.); and Robert Welden (WSBA general counsel).

8:35 Won't Do Any More: The Board convened in executive session to consider matters from the Character & Fitness Committee, the disciplinary proceedings docket, personnel matters and a reprimand of an attorney. Then the president gavelled the meeting to order and gave his report. Since taking office September 6 he has attended twelve events.

The president then recommended the reappointment of Phil Hubbard to the Public Relations Committee to fill a vacancy. The Board agreed.

Coming Soon To A Mailbox Near You—It's Omniform! Dennis Harwick told the Board that WSBA staff have been consolidating forms, so that in 1992 we'll all get one multipart whopper consolidating what used to be separate forms for CLE, trust account and dues matters.

Day of the Locusts, Autumn Edition: 850 worthies from 116 schools took the summer bar exam; 77.9% passed.

Are You A Speed Reader? Governor Joe Nappi told the Board a wave of resignations has hit the Committee of Law Examiners. They need 16 new ones. The Governors will be looking for volunteers.

Traffic—Not the Band, Not the Boring PBS Series: The BOG took up proposed amendments to the Justice Court Traffic Infraction Rules, first considered a couple of months ago and shelved after Governor Alva Long called for more time to consider them. The changes would delete "traffic" from the rules and, with a few other adjustments, expand their use to all sorts of infractions now handled in varying manners by district and municipal courts. They would also allow contested speeding ticket cases to be handled in writing: the defendant could send in a response, the court would consider it along with the officer's affidavit, and then render a decision by mail.

Governor Lem Howell moved to approve the rules.

The Millennium Bureau of Planning and Ideas: The Chief Justice has appointed a new commission on the Washington courts to pick up where the old Commission on the Washington Courts, chaired by Bill Gates, left off. The name's been jazzed up—now it's Washington Courts 2000—but the chair is the same: Bill Gates. The Board named Governor Wayne Blair to act as their liaison to the group.

Advance of the Alvanistas: The Board took up the resolutions passed by the Annual Meeting in September (*Bar News*, October 1991 at 28-29), considering their incorporation into the Association bylaws. Dennis Harwick presented a redraft of Article VII and a new Article XIII. In Article VII there'd be a new section 1 which would require WSBA meetings to be held in a manner consistent with the Open Public Meetings Act.

There was general agreement with the amendment, but Wayne Blair wondered if every meeting of the WSBA, unto the lowliest committees, would have to publish notice in advance. Governor John Slater thought only the BOG would have to do so, as the governing body of the Association. Blair pointed out the resolution goes beyond the governing body to include all standing committees and task forces, special committees and sections. Governor Tom Chambers suggested the Board itemize who'd have to publish and who wouldn't. Alva Long dismissed the concerns as "too technical."

Across the table and ideological spectrum, Governor John Schultz agreed. "The membership passed these resolutions, and we shouldn't be re-writing them. I think the annual meeting wanted committees and all the rest included here."

Governor Steve Tubbs was not impressed. "I didn't think it was possible to be more cynical after a year on the Board, but I have to say it won't matter how much you publish notice of meetings. This is not *Field of Dreams*—hold a meeting, and they will come. Jay White wanted to do what Tom [Chambers] has suggested, and Alva told the Annual Meeting they'd revised the resolution to allow for the spirit of the law to govern, not the technicalities."

After a little more discussion, Governor Joe Nappi called the question, and the new Article VII, section 1 was unanimously approved. After moving through a number of items, Governor John Slater moved to reconsider adoption of the Open Public Meetings Act. He was concerned about burdensome notice requirements hanging around the necks of every WSBA group. The Board adopted an amendment to the new Article VII, section 1 to delete the notice requirements of the Open Public Meetings Act, 9-0-1, Long present but not voting.

Those Pesky Personnel Files: The Board next turned to a new Article XIII, requiring WSBA records to be available

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for inspection and copying in accordance with the Public Disclosure Act. To a list of exceptions Governor Nappi proposed adding proceedings and records of the Committee of Law Examiners, lest someone call up and demand to know who is drafting upcoming exam questions and demand to see the questions. The amendment was unanimously adopted.

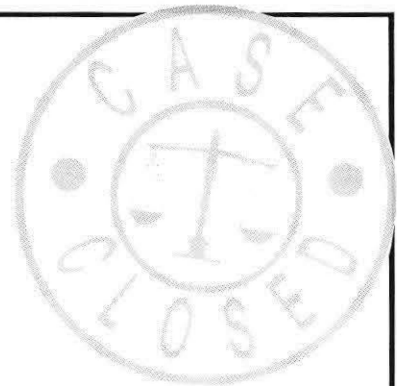
A lengthy discussion followed on whether to include personnel records. The debate focused on whether specific bar employee salaries should be public. Dennis Harwick said he thought his should be, but didn't see why every employee's compensation should be subject to publication. The debate then veered into whether the Public Disclosure Act exempted such records, as resolution proponent Howard Todd had claimed at the Annual Meeting. Government Lawyers Association representative Morton Tytler and WSBA general counsel Robert Welden agreed it did not. Back to personnel records: Monte Hester thought that for people who work for a

membership organization disclosure of their pay should go with the territory. In state government, several people pointed out, salaries are listed by class of employee, and if you ask who holds those classes of posts in an agency you can usually link up names and pay, but the two are never published together outside those of senior managers and elected officers. A suggestion evolved—to make classes of salaries available, but not other personnel or compensation information.

Alva Long said every member has the right to see where every dollar is spent by the WSBA. "What is the purpose of secrecy?" Tubbs thought the Board was creating a solution without evidence of a problem. After some further discussion the Board passed the new Article XIII as amended, 8-2, Governors Long and Schultz opposed.

How Many Votes Are Enough? The Board turned to adoption of the "voting rights" resolution, which would

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become a new section 9 in Article VII. The central point of contention was whether the number of members needed to call for a referendum, raised from 250 to 500 in the resolution, was still low enough that a motivated group could break the Association financially by presenting repeated referenda at \$15,000 a pop. The debate tracked the arguments made at the annual meeting closely enough to exempt it from retelling here. Lem Howell thought the matter needed more study and moved to table until November. The motion passed, 7-3, Long, Schultz and Tubbs opposed.

Well, Yes, But Only Up To A Point: The Openness Movement ground to a momentary halt at the president's proposal to amend RLD 5.5(B) to eliminate the requirement that disciplinary reprimands be administered by the BOG "in private." Few who counted liked the idea. Lem Howell thought reprimands demeaning enough to administer

in private. "Of all the things I do, it's the most demeaning," Schultz noted that the press could come in, though he didn't necessarily disagree with that. Nappi said Washington Supreme Court Justice Dolliver thought it was a bad idea, and that was good enough for him. Alva Long thought the whole ceremony of the reprimand, private or public, pointless, and said the notices should just be mailed out. Chambers saw the question as an openness issue, but Hester, noting an evolving consensus, wondered if it does any good to even publish reprimands in the *Bar News*.

Howell, warming to the media circus potential of public reprimands, thought the publicity would effectively make the punishment exceed suspension. Tubbs was comfortable with the existing rule. Bob Welden said the same sorts of arguments had been advanced when the disciplinary hearing process was opened up, and it hadn't happened. Donna McNamara, Sheryl Garland and Grant Johnson thought public

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1991 Pro Bono Award recipients (from left), **Eugene Annis**, representing Lukins & Annis; **Donna McNamara**, representing SKCBA YLD Neighborhood Legal Clinics; **George Zweibel**, Seattle attorney; and **Dan Raas**, Bellingham attorney, receive plaques from WSBA president **Lowell Halverson** (right).

reprimands a bad idea. *Bar News* editor Lindsay Thompson thought them a necessary consequence of the Board's endorsements of more openness to the public. The topic died without a motion, up or down.

Looks As If We Maybe Should've Foamed the Runway: Aircraft landings have been the analogy of choice as the Board has watched the 1990-1991 fiscal year come to a close. Would the budget come down on target, expenses and revenues all strapped safely into their seats? Saturday Dennis Harwick gave the Board a fiscal year-end report suggesting the landing overshot the runway and cleared out a neighboring subdivision. Revenues were up 1.3 percent, but were 3.6 percent under budgeted amounts. Expenses were 1.5 percent under budget but the revenue shortfall created a deficit Harwick estimates will end up around \$150,000.

The biggest revenue shortfalls were in interest income—declining rates clipped 24 percent from this item—and CLE income, off almost 15 percent as self-study begins to kick in and a tight economy reins in firm expenses.

On the other side of the ledger, there were a number of unique expenditures. A policy allowing departing employees to convert accumulated sick leave, coupled with accumulated vacation, into compensation cost almost \$57,000 when top

executives left in 1990. Harwick said that the paid-sick-leave-on-termination policy has been ended, as has a past Christmas bonus policy. In the latter's phase-out, half of what would normally have been paid in December 1991 was paid in July, and the other half was phased into salaries for the rest of 1991, moving most of what would have been a '91-'92 cost into '91.

The search for a new executive director cost \$7,200. Legal fees, mainly in disciplinary matters, cost some \$20,000, the Long-range Task Force nearly \$10,000, and a miscellany of committee and task force requests and contributions to good works topped up the balance. A few bills remain outstanding; the final, final results should be out in a month.

ABAgate? After a stricken silence, the Board began querying where the trouble came from. In addition to the foregoing items, listed by Harwick in a written report, there was the loss on the San Diego convention (largely caused by poor attendance triggering penalty clauses for not using enough of the booked hotel rooms; Harwick said in future they'll be booking very few rooms and those who register early will get them). The American Bar Association delegation from Washington had been projected to cost less, since the ABA midyear meeting was in Seattle, but they managed to spend lots of money getting to Atlanta.

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YAKIMA COUNTY VOLUNTEER ATTORNEY PROGRAM: Rolando M. Adame, James K. Adams, Jerome R. Aiken, Charles H. Amstutz, Matthew J. Anderton, Dennis J. Ashworth, Richard H. Bartheld, G. Scott Beyer, Robert M. Boggs, Donald H. Bond, Thomas Bothwell, Scott A. Bruns, Donald D. Bundy, Neil C. Buren, Alan D. Campbell, Jay J. Carroll, William C. Coates, Leonard M. Cockrill, Patrick R. Cockrill, K. Denny Colvin, Blaine T. Connaughton, Myrna Contreras-Trejo, Homer A. Crollard, Deborah A. Culpepper, Van Noy Culpepper, Louis v. Delorie, Frank Devine, John C. Ditzler, Lauren W. Dobbs, G. Thomas Dohn, Ryan M. Edgley, Paul M. Edmondson, Kevin G. Eilmes, David A. Elofson, Howard W. Elofson, Donald W. Engel,

The president, noting that his round-trip ticket to Atlanta cost \$246, was not amused. Tom Chambers called for stricter review of expense claims: "We can't just pay whatever is submitted." Harwick said he'd found a "culture of entitlement" in some of the WSBA committees and boards, manifest in year-end dinners and the like, and asked for a directive from the Board that this should change. Unhappy campers all, the Board continued the matter to November to gather more information on it, especially, the president said, on the ABA budget.

Wrap-up in Yakima: In other action, the Board elected Governor Lem Howell WSBA treasurer and approved banking resolutions. They nominated Yakima county prosecutor Jeff Sullivan, Vancouver public defender Joyce Brekke, and lawyers Douglas Tuffley and Mary Ann Ottinger to the State Judicial Council and Kay Frank to the Lawyers' Assistance Program Steering Committee. Dan Jaech was appointed a lay member of the Client Security Program Board.

The Board heard a report from George Scott and Pam Love of the WSBA Public Affairs Department on their news media relations work; clarified policy to preclude applicants for the bar exam from taking it until any Character & Fitness Committee issues are resolved; appointed a committee of Governors Chambers, Nappi and Tubbs to deal with the WSBA convention/annual meeting problem; referred some unauthorized practice of law complaints to the Consumer Protection Committee; debated potential legislation to license paralegals in the limited practice of law; and endorsed the Lawyers' Campaign for Hunger Relief by creating an unfunded steering committee.

Next meeting: November 22-23, 1991 in Seattle.

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Notices of Interest to Association Members

WSBA Disciplinary Notices

Censured: Edmonds attorney **Allen Lane Carr** (admitted 1958) has been ordered to receive two Letters of Censure. One Letter of Censure is based upon his failure to diligently pursue the representation of his clients and his failure to abide by the clients' decisions with respect to a personal injury matter. A second Letter of Censure is based upon his failure to diligently pursue and to keep his client reasonably informed about the status of another personal injury matter. Carr will be placed on probation for two years on a number of conditions.

Suspended: Bellevue attorney **Jack A. Ginsberg** (admitted 1973) has been ordered suspended for a two-year period effective May 10, 1990, by the Washington Supreme Court on August 23, 1991 for neglect of client cases, failing to perform services he had agreed to perform and delay.

Suspended: Spokane attorney **H. Michael Martinson** (admitted 1973) has been ordered suspended for two years by order of the Supreme Court approving stipulation to discipline based on his failure to supervise his office staff such that client funds were converted. Reinstatement is conditioned on restitution to the injured parties and is to be followed by a two-year period of probation.

Commission on Judicial Conduct Notices

Admonition: Former Clallam County District Court judge pro tem **Brian P. Coughenour** was admonished by the Commission on Judicial Conduct September 6, 1991.

On a stipulation of facts, the Commission found that on October 17, 1990, Coughenour was charged with driving his automobile in Port Angeles, Washington while under the influence of intoxicating liquor and/or drugs, and unlawful possession of marijuana under 40 grams. The charge was filed in Clallam County District Court, Department One, a court on which respondent served as judge pro tem. On October 30, 1990, an order of deferred prosecution was entered in the matter. All of the foregoing events received wide public attention. The stipulated facts constitute a violation of Canon 2(A) of the Code of Judicial Conduct.

Stipulation, Agreement and Order of Closure: By Stipulation and Agreement dated August 21, 1991 and Order of Closure dated August 26, 1991, the Commission on Judicial Conduct determined that **Mark H. Adams**, former Commissioner for the Court of Appeals, Division II, while serving as a Commissioner in Tacoma, did commit acts of judicial misconduct contrary to Canons 1 and 2 of the Code of Judicial Conduct. In 1982 Respondent was charged with a misdemeanor trespass involving charges that he looked through a neighbor's window. The Commission has received other allegations regarding his behavior while employed as a Court Commissioner involving putting his hand in his pants pocket in the presence of female employees which they perceived as inappropriately touching his genitals, asking female court personnel to arrange dates for him, discussion with female court personnel of his out-of-office dating activities, keeping a personal diary which included references to his

personal sexual experiences, and other behavior which, if true, would evidence a pattern of behavior consistent with a medical/psychological condition relating to the prior criminal charge, making it inappropriate for him to hold judicial office. The Commission investigation found no evidence that the aforementioned conduct affected any decision rendered by Respondent while he served as Court Commissioner.

Respondent admits keeping a confidential personal diary at the suggestion of a counselor. Respondent otherwise denies these allegations, points out that the criminal charge has been dismissed after complying with required counseling and that he has subsequently undergone additional therapy in the past several years for grief and emotional stress relating to the breakup of his marriage and the death of his daughter. Respondent denies the Commission's determinations and denies that his judicial duties were impaired in the past. Although Respondent denies the allegations, he does not contest the determination.

Respondent agreed that he will not serve in an judicial office in the state and will not seek any judicial office in the state of Washington without applying for and receiving a favorable recommendation from the Commission. Based upon the stipulation and agreement of Adams, the Commission ordered closure of the complaint, having determined that the conduct violates Canons 1 and 2 of the Code of Judicial Conduct.

Withdrawal of Ethics Opinions

The Board of Governors, acting upon

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Martin, Richard L. Mathieu, John A Maxwell, Jr., John E. Maxwell, Russell J. Mazzola, Gary G. McGlothlen, Michael A. Mears, Bradley A. Mellotte, J. Tappan Menard, John Moore, Thomas D. Nagle, Norman R. Nashem, Randall L. Ommen, Reed C. Pell, James A. Perkins, Douglas D. Peters, Daniel R. Peterson, David H. Putney, Robert R. Redman, Ramon P. Reid, Robert J. Reynolds, Walter J. Robinson, Roy L. Ross, Kevin M. Roy, Robert B. Royal, Kenneth P. Schmidt, Howard N. Schwartz, Gregory L. Scott, Charles O. Shoemaker, Morris G. Shore, Darrell K. Smart, Craig L. Smith, Richard A. Smith, Jerry D. Talbott, Blaine L. Tamaki, Robert C. Tenney, Maxwell J. Vincent, Glen P. Warren, Jeffrey B. West, Stephen R. Winfree.

a report from the Rules of Professional Conduct Committee, has withdrawn Formal Opinions 8 and 112 for the reason that they are outdated and not consistent with current law.

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 October 1991 is 5.30%. The maximum allowable interest permissible for **November 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 1984-1985; on page 51 in June 1990 for 1985-1990 and on page 55 in June 1991 for 1985-1991.

State Law Library

Books Recently Cataloged

Listed below are some of the new titles recently acquired by the State Law Library, and available for loan by phone from (206) 357-2136, or by mail from Washington State Law Library, Temple of Justice, AV-02, Olympia, WA 98504-0502. A quarterly *Books Recently Cataloged* list, generally containing 150-200 new titles, is also available. Copies may be obtained by mail from the above address.

On January 7, 1991, the State Law Library began circulating the video collection of the Office of the Administrator for the Courts (OAC), which has more than 150 titles and over 175 videos. A catalog of titles is available from OAC; call Judicial Education at (206) 753-3365, ext. 3248, for a copy.

When requesting materials, please include the author, title, and call number.

Administrative Law

Washington administrative law practice manual. Seattle, WA: Butterworth Legal Publishers, 1991-. 1vol. (loose-leaf).

KF54502.W2 1991

Attorney and Client

Jandt, Fred Edmund. *Effective interviewing and a profitable practice.* Cincinnati, OH: Anderson Pub., 1990. Pp. 299. **KF311.J36 1990**

Condominium Associations

Rutledge, Marilyn Z. et al. *Guide to homeowners' associations and other common interest realty associations.* 1st ed. Fort Worth, TX: Practitioners Pub. Co., 1990. 2vol. **HF5686.R3G8 1990**

Disability Evaluation

Balsam, Alan and Albert P. Zabin. *Disability handbook.* Colorado Springs, CO: Shepard's\McGraw-Hill, c1990. Pp.1028. **KF3649.B35 1990**

Divorce Mediation

Marlow, Lenard and S. Richard Sauber. *The handbook of divorce mediation.* New York: Plenum, c1990. Pp. 527. **HQ834.M32 1990**

Handicapped-employment

The Americans with Disabilities Act questions and answers. Washington,

DC: U.S. Dept. of Justice, Civil Rights Div., Office on the Americans with Disabilities Act, 1991. Pp.18. **KF3469.A89 1991**

Justice, Administration of

Legal breakdown: 40 ways to fix our legal system. Berkeley, CA: Nolo Press, 1990. Pp. 80. **KF8700.L38 1990**

Law-language

Language in the judicial process. Edited by Judith N. Levi and Anne Graffam Walker. New York: Plenum Press, c1990. Pp. 402. **K213.L36 1990**

Sex Role

Gender differences: their impact on public policy. Edited by Mary Lou Kendrigan. New York: Greenwood Press, 1991. Pp. 255. **HQ1075.5.U6G46 1991**



The **Tacoma-Pierce County Bar Association** is accepting applications for the full-time position of coordinator of Pierce County Voluntary Legal Services (pro bono) Program. Starting date is January 1, 1992. Preferred experience is program administration and general legal experience, particularly in family law. Salary range is \$18,000-\$20,000 annually, plus medical benefits. Submit resumé *by November 15* to: Tacoma-Pierce County Bar Association, 930 Tacoma Avenue South, Tacoma, WA 98402.

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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 American Bar Association. *For information:* Emilia Castillo, Sharon Sakamoto or Mai Nguyen, (206) 682-9932.

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

1-2 National Asian Pacific American 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) 753-23365.

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

5 Managerial Techniques for Secretaries and Administrative Assistants, Seattle. Also November 6 in Spokane, November 7 in Portland, and November 8 in Eugene. *Sponsored by:* Dun & Bradstreet Business Education Services. *For information:* (212) 312-6880, fax (212) 227-3428.

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

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

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

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

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 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:* Jude Kryderman, (206) 753-3365.

15 Alternative Dispute Resolution Section Council meeting, Seattle. *For information:* Diane Fitz-Gerald, (206) 624-7141.

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

16 Effective Courtroom Techniques: Making & Meeting Objections, Seattle. *Sponsored by:* UW School of Law CLE. *For information:* (206) 543-0059.

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.

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

22-23 WSBA Board of Governors meeting, Seattle. *For information:* (206) 448-0433 or contact your local governor.

December

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

4 Advance Will Drafting, Seattle. *Sponsored by:* SKCBA. *For information:* Monique Gill, (206) 624-9365.

5 Bankruptcy Basics, Seattle. *Sponsored by:* SKCBA. *For information:* Monique Gill, (206) 624-9365.

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

6 Alternative Dispute Resolution Section Executive Committee and Long-range Planning Task Force meeting, Seattle. *For information:* Diane Fitz-Gerald, (206) 624-7141.

6 Collection of Judgments, Spokane. Also 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.

10-11 Practical Applications in Employment Law Today, Seattle. *Sponsored by:* Council on Educational

Management. *For information:* (415) 934-8333.

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 The Uses and Abuses of Civil Rule 11, Seattle. *Sponsored by:* National Lawyers' Guild. *For information:* Fred Diamondstone, (206) 622-1266.

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

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

15 *Bar News* deadline, February 1992 issue.

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

18 How to Draft Wills (and Other Estate Planning Documents), Spokane. Also December 20 in Seattle. *Sponsored by:* WSBA CLE/Young Lawyers Division. *For information:* (206) 448-0433.

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.

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

23 120-90-60-30 Finals 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.

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.

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

15 *Bar News* deadline, March 1992 issue.

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.

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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-Aug 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.



Lawyers Facing Dead Ends

Imagine that you are a lawyer who has had a reasonably successful general practice. You have a normal marriage. Your spouse is not employed outside the home but is devoted to caring for three children.

During a downturn in your practice and diminished income, you took out a second mortgage on your already fairly heavily mortgaged home. The local real estate market has fallen rather sharply, so the home offers no solution for cash flow problems which have developed gradually.

You have used up all of your savings and have no slack on your bank card. You increase your alcohol consumption to help relieve all of these pressures and drink more and more.

As you cast about for solutions, you find yourself in the WSBA Lawyers' Assistance Program. After a careful review of your problems and your drinking, you conclude that you are an alcoholic and that probably many of your problems stem from your illness.

You are agreeable to going into a treatment program, and your spouse agrees that this would be an excellent idea. But you have no medical insurance to cover the estimated \$3,000 to \$6,000 expense at an established treatment center.

You would also need some cost of living expenses for your spouse and kids while you are undergoing the 30-day program. If you plan to return to your practice, you would need funds for rent and related expenses.

You are advised that it is probably crucial to your recovery that you do receive treatment. Otherwise, the odds are that you will continue on your downward route, including financial disaster, loss of marriage and children

and, not unlikely, ultimately disbarment. Hardly a pretty picture. Everyone loses.

The foregoing is typical of many lawyers knocking at the doors of the Lawyers' Assistance Program over the past four years. While the majority have access to paid or partially paid medical insurance which covers alcoholism and other physical addictions or affective disorders (e.g., depression), there are some who do not have coverage.

However, there are very real financial needs beyond the cost of treatment. Right now, there are no funds for loans to such financially distressed lawyers.

The LAP staff and a few others agreed that there should be a way to fill such needs. In far-off New York state, in the Erie County Foundation was formed in 1987 "to provide relief, aid and assistance to all members and former members of the legal profession in Erie County...who may be ill, incapacitated, indigent, superannuated or otherwise in need of aid." In 1990 the capital fund drive contributions were \$152,152.

With similar goals in mind, the WSBA LAP has established a nonprofit corporation to build a revolving loan fund. There is presently available approximately \$9,500, seed money from donations. This is too little to meet the pressing needs of lawyers requiring treatment but having no financial resources.

Is there any reason why we can't match what the lawyers of Erie County have so generously donated?

In this *Bar News* issue, the "President's Corner" discusses other aspects of this intriguing plan (see p. 10).

Nota Bene

New AA Group in Tacoma for lawyers only:

There is an attorneys-only AA meeting now available in Tacoma each Thursday at 6 p.m. Those interested in attending may contact the Lawyers' Assistance Program at (206) 448-0605.

Career services

Ongoing Events

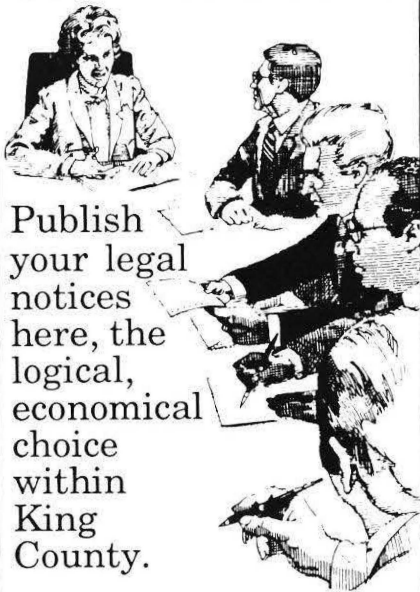
Tuesdays, 12:00 noon. "Weekly Job Hunters' Support Group" for WSBA members who are actively involved in the search for a new position. This will be a drop-in group focusing on the exchange of ideas and job-finding discussions. It is open to all WSBA members at no charge and will meet in the Presidents Room, WSBA (Westin Building, 4th floor).

Career Service events at the Seattle Public Library, main auditorium on the fourth floor, no charge.

Tuesday, November 26 (date has been changed). "How to Finance a Job or Career Transition." Karen Ramsey, a fee-only certified financial planner, will repeat her well-received June program for those of you who received your *Bar News* too late to attend. She'll have you examine how you currently spend your money; what expenses you need to plan for in your job search; additional sources of income you might want to consider; and what to do when all apparent sources of income run dry. As added inspiration, Karen will reveal real life stories of her clients to prove that it truly can be done!

The Lawyers' Assistance Program provides free professional assessment and referral for problems related to substance abuse and mental health. For this service, contact the Lawyers' Assistance Program at (206) 448-0605.

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Learn Something Through Pro Bono

*The WSBA Creates a Program
 For Reduced-Price Admission to CLE
 for Pro Bono Attorneys*

by Stewart A. Estes and Marla Elliott

In March of this year the WSBA Board of Governors established a program that allows pro bono attorneys to attend bar-sponsored CLE seminars at half price. The Board, acting on the recommendation of the Legal Aid Committee, funded the first year of the program. The WSBA will issue 400 vouchers, good for reduced-price admission, to local pro bono program coordinators for distribution. The most deserving pro bono attorneys will be selected for recognition this year. And, if all goes well, the program will be renewed and expanded in the coming years.

The following is an account of the background and events leading up to the creation of the program and the likely course it will follow. Both authors are members of the Legal Aid Committee who assisted in placing the recommendation before the Board; one of them is also a pro bono coordinator.

We begin with the fact that the poor of this state have great unmet civil legal needs. Poor people require the assistance of an attorney more frequently than does the general population, and their legal needs often involve life's basic essentials: housing, food, subsistence income and protection of the family. The 1980s bore witness to two distinct trends which led to this growing problem. First, the poor population of Washington increased by 35 percent—from 556,000 to 750,000. The number of families in poverty grew four times faster than the general population. Second, in 1981 federal funding for local legal-service programs was cut almost in half. Present funding levels have stagnated, leaving Washington's legal-service attorneys with a client base which is (per attorney) more than twice what it was in 1980. The end result of these trends is that many in poverty go without life's basic needs every day because they are unable to pay an

attorney to assist them with increasingly complex legal problems.

Into this gulf between growing need and dwindling resources have rushed attorneys handling cases pro bono. Washington has a commendable level of participation by bar members in pro bono work. However, it is becoming apparent that our current efforts are not enough. Just as the medical profession struggles with its inability to provide healthcare services to all those in need, so must the bar grapple with its historical and ethical commitment to provide legal services to those unable to pay.

While pro bono will never be the complete answer to this problem, its significance cannot be gainsaid. The WSBA is dedicated to encouraging and promoting increased pro bono representation. In 1989 the Board of Governors adopted a resolution urging each bar member to spend at least 30 hours per year providing public-interest legal services, particularly free legal representation to low-income people. The CLE/Pro Bono program is but another example of the WSBA's commitment to improving access to justice in this state.

The idea of reduced-cost CLE in exchange for pro bono work is not a new one. In the recent past, the Washington State Pro Bono Network, the WSBA Pro Bono Task Force and the WSBA Legal Aid Committee each had separately recommended that the Bar Association use CLE to improve pro bono participation. The common thread running through these recommendations was that CLE could be a useful tool to both encourage and reward pro bono work, especially if made available through the state's 24 local pro bono programs.

Other state, county, and city bar associations throughout the country employ CLE to promote pro bono work. The Arizona, South Carolina,

Wisconsin, Colorado, Kansas, Minnesota, Nebraska, Maine, Nassau County, Maricopa County and Philadelphia bar associations all have programs. Although there are many variations, the programs follow one of three general models.

The first model uses a system through which attorneys providing pro bono representation receive vouchers redeemable for CLE courses or materials. Generally, the attorney receives a voucher after (s)he completes a case referred by a pro bono program. The second is a "courses for cases" model. Usually, in exchange for free or reduced-cost admission to a CLE course that relates to legal representation of poor clients, an attorney agrees to accept one or more pro bono case referrals or to work a specified number of hours. The third model makes "poverty law" seminars available to all interested attorneys at nominal or no charge, without requiring past pro bono participation or a prospective commitment.

The proposal of the Legal Aid Committee drew from all three models described above. Its goal was to increase pro bono activity throughout Washington by helping local pro bono programs recruit, train and reward volunteer lawyers. The incentives of education and recognition found in the proposal work to accomplish this goal.

After receiving favorable input from the Bar's CLE Committee, the Legal Aid Committee advanced its proposal to the Board of Governors with the invaluable assistance of WSBA executive director Dennis Harwick. The Committee recommended that the WSBA (1) create a voucher system for reduced-cost admission to WSBA-sponsored CLE courses; (2) make the WSBA *Family Law Deskbook* more widely available to pro bono attorneys; (3) encourage other major CLE providers to voluntarily make the CLE courses and materials available for pro bono use; and (4) make new poverty law CLE courses available to interested attorneys for a nominal charge.

In March of 1991 the Board of Governors approved the Committee's recommendation. Already 400 vouchers good for half-price admission to any WSBA-sponsored one-day CLE have

begun to be distributed to the pro bono programs throughout the state. Each program coordinator is responsible for distribution of the allotted vouchers to the most deserving attorneys based upon criteria most befitting the circumstances and needs of their program.

If the CLE/Pro Bono Program goes as well as hoped, funding will be renewed in 1992 and the years following. The number of vouchers and the scope of the program may be increased; we hope *Family Law Deskbooks* will be distributed to the 24 pro bono programs for use by attorneys handling pro bono cases. Members of the Legal Aid Committee and the CLE Committee are making preparations for the first poverty law CLE. This seminar will provide potential and present pro bono attorneys the knowledge they need to handle those cases with legal issues specific to the poor.

Speaking for the 24 coordinators of Washington's local pro bono programs, we are overjoyed to be able to distribute these vouchers as incentives for the recruitment and retention of volunteers. In the past the only rewards a pro bono coordinator could offer to a truly dedicated volunteer were largely symbolic: one's name in the newsletter, a thank-you note, a plaque. Now, with these vouchers, an honored volunteer has not only the acclaim of the local program and community, but also the material support of the WSBA.

The vouchers are being distributed to each of the 24 local pro bono programs proportionately by number of its volunteer lawyers. Right now, each program has received just five vouchers: calculations are pending that will determine the distribution of the remainder.

You may be asking yourself, "How can I get one of these?" Criteria for distributing vouchers will be set individually by each local pro bono program. At the last statewide pro bono conference, program coordinators discussed at some length whether statewide uniform criteria should, or indeed could, be set. This subject provoked the most heated discussion ever seen among the Pro Bono Network members, normally a group that is collegial in the extreme. It was concluded that the pro bono programs

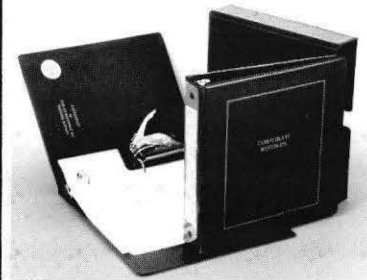
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represented in the Network have such widely differing structures, services, needs, and types of awards that no single set of criteria would be appropriate.

Some programs will use these vouchers as an incentive to obtain new volunteers, or to reward and retain long-standing participants. Others will use them to allow a valued volunteer to attend a specific seminar or to grant recipients discretion to attend any seminar they chose.

My program, the Thurston-Mason Pro Bono Program, will use four of its first five vouchers to reward volunteers who have truly gone above and beyond the call of duty. In Mason County, vouchers will be awarded to the Pro Bono Attorney of the Year, and in celebration of the tenth anniversary of the program, to the Pro Bono Attorney

of the Decade. Robert Brungardt, winner of the former title, currently has six open contested custody cases through the pro bono program. Balloting is not yet complete for Attorney of the Decade; both major contenders have donated hours well into three figures.

In Thurston County, vouchers go to two truly outstanding volunteers, Jerry Buzzard and John Hoglund. Each has represented a pro bono client in literally weeks of litigation this year. John Hoglund represented an indigent tort defendant through four weeks of trial. Jerry Buzzard has been through two weeks of trial, with another week scheduled for this October in a difficult visitation case. Jerry Buzzard's pro bono case is also our most successful example of co-counseling between a

legal-service staff attorney and a volunteer attorney from the pro bono program.

If you think you deserve one of these vouchers, be sure your local pro bono program's board and staff know what a good job you're doing; send in closing memos; report your hours. Better yet, volunteer for your pro bono program's governing board or committee. You can then participate in setting criteria for the distribution of the CLE vouchers, as well as help devise creative growth strategies for your program.

In issuing these vouchers, the WSBA gives support not only to individual lawyers providing pro bono legal services, but to the concept of institutional, rather than private, pro bono. We know that most private lawyers will give of themselves to a needy person with a meritorious case who just happens to walk through the door. That kind of charity, thank goodness, will never die: it is part of the core of the larger social contract and one of the finest attributes of the members of this profession. However, it is also a flawed basis for an efficient system of access to justice.

Organized pro bono programs, working in harmony with legal-service programs, need a wide base of support in their communities. This prevents clients from having to search out individual lawyers' consciences and allows objective decision-making on how to provide service and what services to provide. In issuing these vouchers for distribution by local pro bono programs, the WSBA provides support to lawyers who have chosen to meet their pro bono obligation by participating in these organized programs. It is another step in the right direction.

Stewart A. Estes is a member of the WSBA Legal Aid Committee, and an Assistant Attorney General with the State of Washington.

Marla Elliott is employed by Puget Sound Legal Assistance Foundation. She has been the coordinator of the Thurston-Mason Pro Bono Program since 1983. She serves on the Legal Aid Committee and was a member of the Domestic Relations Task Force.

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SPONSORED BY THE LAW OFFICE ECONOMICS AND MANAGEMENT SECTION

Preserving Client Confidences OR Do You Know Who is Paying Your Janitor?

by Greg Morrison

As we should all be well aware, the Rules of Professional Conduct require us to "not reveal confidences or secrets relating to representation of a client." Our clients have every reason to believe that their lawyer will maintain an inviolate degree of integrity when it comes to preserving and protecting client confidences. And our clients are probably correct: We won't reveal their secrets. But can we really make that guarantee with regards to everyone else that may have access to our files? Probably not. Therein lies the problem. Don't be misled by the title of this article. I am using the trusted janitorial profession only as an obvious example of who may be perusing your files while you are away. Actually, it can be somewhat sobering when you really stop to think of all the people who can accidentally or deliberately review part or all of your files.

Now that I've got the snowball rolling, I want you to think of one more thing (family law attorneys pay particular attention here): What if a key piece of client information, not otherwise expected to be discovered, but extraordinarily damaging to your client's case nonetheless, fell into the wrong hands? Wouldn't that be like a month of Mondays?!

Here are a few rules to help you avoid this chilling scenario:

1) Know who is coming in and out of your office. That means conducting thorough background checks on all of your employees (yes, even the janitor).

2) Train your employees. Always stress the importance of maintaining client confidences. Never let a slip-up

go unnoticed. I've also heard of firms that require their employees to sign a "confidentiality contract" that provides for immediate termination in the event of a breach.

3) Keep desks clean. This extends to every employee and every work area. Avoid leaving files open and spread about, particularly in high-traffic locations such as libraries or reception areas. And always put files away at the end of the day.

4) Put locks on doors and file cabinets. After the files have been put away, lock the file cabinet. If it is impractical to put a large file away, then close and lock your office door; you can always leave your wastebasket outside your door.

5) Do not discuss your clients' matters in public. You never know who might happen to overhear your discussion. It's just a good idea to keep private matters private.

6) Secure your computer. Software is available that will allow you to program your computer to respond only to your personal user code. This is also useful for preserving the confidentiality of other sensitive information that may be stored in your computer.

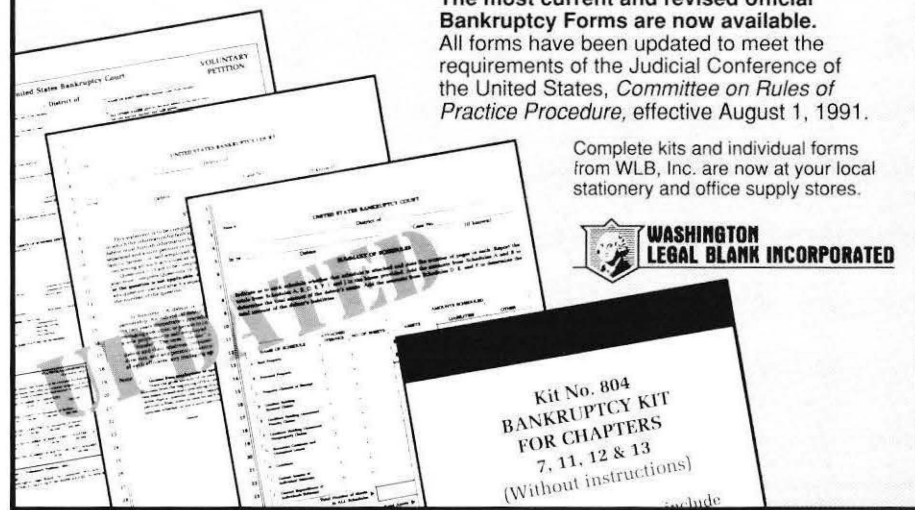
Absolute confidentiality with regard to all client matters is a tough assignment for which there is very little margin for error. However, if you and your staff regularly follow these rules, client confidentiality will be substantially easier to ensure.

The Right Forms!

The most current and revised official Bankruptcy Forms are now available. All forms have been updated to meet the requirements of the Judicial Conference of the United States, *Committee on Rules of Practice Procedure*, effective August 1, 1991.

Complete kits and individual forms from WLB, Inc. are now at your local stationery and office supply stores.

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The Legal-service Programs of Washington State

by Ada Shen-Jaffee, Director
Evergreen Legal Services

By providing a means to protect the legal rights of our poorest citizens, Washington's civil legal service programs promote client independence and dignity and strengthen our system of justice. The three programs that work together to provide civil legal services for the poor throughout Washington State are Spokane Legal Services Center (serving five counties in northeast Washington), Puget Sound Legal Assistance Foundation (serving three counties in the South Puget Sound Area), and Evergreen Legal Services (serving the remaining 31 of Washington's 39 counties). These programs provide formal representation before federal and state courts and administrative bodies, as well as advice, referral, legislative advocacy and community legal education. In addition, the programs work closely with private bar pro bono efforts which expand representation to the low-income community.

Local communities are not constitutionally required to provide civil legal defense for the poor as they are in criminal cases.

Evergreen Legal Services

Since 1976, Evergreen has been the primary source of legal services to the low-income residents of 31 of Washington's 39 counties. The poverty population of these counties exceeds 447,000. Through special statewide projects, Evergreen also serves a migrant farmworker population estimated at 185,000, about 80,000 Native Americans, and 68,000 persons who reside in institutions. Each year, Evergreen provides help to approximately 25,000 low-income people.

Puget Sound Legal Assistance Foundation

Founded in 1967, PSLAF provides legal services to low-income residents of Pierce, Thurston and Mason counties from offices in Tacoma and Olympia. PSLAF serves a poverty population of

about 103,000 and represents over 2,500 low-income persons each year.

Spokane Legal Services Center

SLSC serves a poverty population of about 80,000 in five northeastern Washington counties. Established in 1967, SLSC provides direct legal assistance to more than 2,000 individuals annually.

Who Qualifies for Civil Legal Services?

To qualify as *low-income* under federal rules, a family of four can receive no more than \$16,750 annually. Clients served are low-income:

- parents and children
- people with disabilities
- elderly
- homeless people
- unemployed individuals
- Native Americans
- migrant farmworkers
- persons confined to institutions

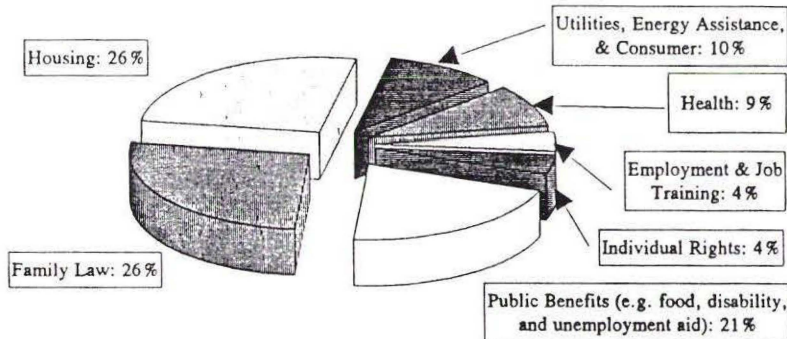
These clients often have a crucial need

for legal assistance. Because of their economic status, they are sometimes forced to rely on government agencies for emergent needs such as food, shelter, healthcare and subsistence income. Poor people also suffer from high rates of domestic violence, loss of housing, and lack of healthcare. Legal assistance is often necessary to deal with complex laws and regulations which affect poor people.

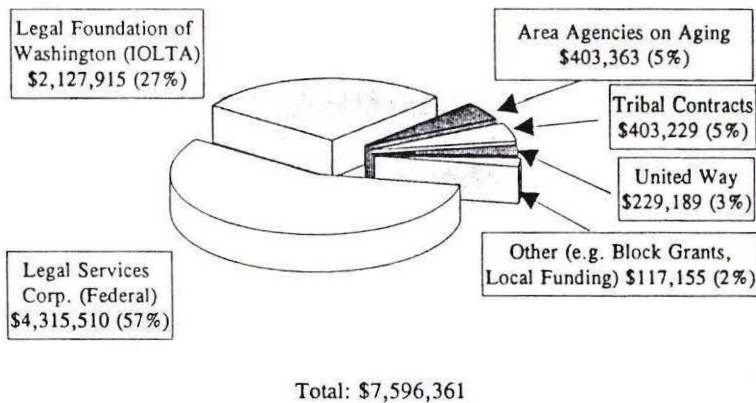
Legal-service professionals also provide representation for special vulnerable populations with unique needs. For example, Native Americans need representation in treaty rights, protection of natural resources and self-government, child welfare-related matters, and the protection of other rights that flow from their unique status under federal law. Migrant farmworkers require assistance with recruitment abuses, recovery of wages, pesticide exposures and other employment problems. Those who are poor and confined in state institutions need help not only with the usual range of legal problems but also with securing adequate treatment and rehabilitation



Types of Cases Handled by Washington's Legal-service Programs in 1990



1990 Funding Sources for Washington's Legal-service Programs



1990 Funding Sources for Washington's Legal-service Programs

More Washingtonians than ever before, over 800,000 people, live in poverty. While almost 15 percent of the women, men and children in our state are poor, the civil legal-service attorneys who serve them comprise less than one percent of the state bar. While the federally funded legal-service programs in Washington State served over 30,000 clients last year, thousands went unserved. Funding for these programs is woefully inadequate. Nationally, legal service and pro bono efforts are able to serve only one in five

poor persons in need of basic legal assistance. The three Washington state legal service programs have embarked upon joint efforts to secure additional funding with the help of the Legal Foundation of Washington, the WSBA Legal Aid Committee, the WSBA and numerous local bar organizations, senior organizations and community organizations to address the increasing unmet needs of Washington's poverty population and to ensure that access to justice for all remains an underpinning of our society.

services and with addressing the conditions of their confinement.

Legal-service Advocacy Recent Advocacy Examples

Family Law:

A few examples of the 4,400 individual service family law cases handled by legal service programs last year follow.

- A mother of four young children had been physically, sexually and psychologically abused by their father. As a result of legal help, the woman obtained a permanent parenting plan denying the father any residential time with the children and providing for protection and extensive psychological counseling for the abused children.
- Timely legal help resulted in protection for an eight-year-old from unsupervised contact with her stepfather, who had been criminally charged with multiple counts of first degree rape against her.
- Legal-service lawyers have provided help to low-income clients who have lost their children due to inappropriate ex parte intervention. Advocacy efforts focus on prevention of the unwarranted use of ex parte restraining orders and ex parte custody orders in domestic relations actions.

Seniors:

- An elderly widow in very poor health suffered duress and fraud at the hands of a physically intimidating relative. She signed title of her home over to him as a result. Legal intervention secured the return of the client's title and home to her and ended the mistreatment.
- Terminally ill elderly patients whose condition would otherwise allow them to be cared for in a hospice setting were denied attendant care services by federal regulations, forcing them to remain hospitalized or in a nursing home. Legal-service programs demonstrated in federal court litigation that these regulations violated the statute, and that such patients could receive both hospice care and attendant care as alternatives to institutionalization.

Health:

- Legal assistance for poor people has

meant: a badly needed wheelchair for a client who is disabled, physical therapy services for a client with muscular dystrophy, a hydraulic lift stander for a client who has multiple sclerosis and is wheelchair-bound, as well as countless other kinds of help for poor people who are denied medical assistance.

- A client suffering from AIDS sought psychological treatment to help him with the emotional and physical complications of the disease. The Department of Social and Health Services denied his request for coverage. Legal-service advocates obtained a court order requiring the state to cover the psychological treatment services.

Housing:

- Homeless families with children face terrible day-to-day problems, including the threat of losing their children to foster care because there is no family home. Legal-service programs have filed litigation on behalf of homeless families to enforce state and federal child welfare laws that require DSHS to provide child welfare services, including housing assistance, to homeless children.

- Legal-service lawyers helped homeless individuals and qualifying homeless shelter providers to establish and assert the right of homeless individuals and families to public assistance grants. As a consequence of the settlement entered in this case, homeless clients have been provided with a greater economic ability to break out of the desperation of their situations and to acquire permanent shelter.

- A laid-off timberworker's family faced foreclosure on their home. Analysis by legal-service attorneys revealed that the bank, when refinancing several consumer debts into the home mortgage, failed to comply with lending disclosure requirements. A negotiated refinancing on more favorable terms avoided the foreclosure.

- Because of an extremely tight rental housing market in many parts of our state, rents have skyrocketed, properties have been allowed to deteriorate to the point where they are unfit for habitation, and landlords have become increasingly selective—often illegally so—with respect to persons to whom they are willing to rent. Consequently,

legal-service lawyers are defending increasing numbers of clients in unlawful detainer actions, habitability matters, lock-outs and housing discrimination cases.

- Neighborhood groups have been represented in the establishment of nonprofit housing development corporations, to expand the stock of affordable decent housing for poor families through new construction, relocation and rehabilitation of units, and other innovative approaches to community housing needs.

Public Entitlements:

- Thousands of poor people who have been denied or terminated from state disability benefits, despite medical evaluations which attest to severe disability, seek help from legal-service advocates. Over 90 percent of the cases in which programs enter an appearance are successfully resolved, and disability benefits are approved or restored.

- Low-income Family Independence Program (FIP) recipients represented by legal-service programs have filed a class action challenging how the federal Department of Health and Human Services shares in funding for FIP. The outcome of this \$35-40 million dispute between the state and federal governments will determine whether or not this innovative and highly successful program can continue. The Secretary of Washington State's Department of Social and Health Services has joined the case. The successful settlement negotiations will ensure that FIP will continue through its full five-year pilot period.

Farmworker:

- Several hundred migrant asparagus cutters sought legal help when their employer and his farm labor contractor paid them as little as \$1 per hour for their work and made deductions for food and housing. As a result, the workers received little or ended up "owing" money to the contractor. The food provided by the employer consisted of insufficient amounts of rice and beans, for which the workers were overcharged. The housing was a potato warehouse unfit for human habitation. The workers' case was successful.

Institutions:

- Legal-service attorneys represented juveniles challenging the unsafe and overcrowded conditions at the King County Juvenile Detention Facility. In May, 1991, they filed a motion for an injunction to remove conditions that prompted sexual and physical assaults and injuries at the detention facility. The King County Superior Court issued an injunction prohibiting the practice of housing more than two youth in cells designed to hold only two persons. The judge found that the crowding was inherently dangerous and resulted in an increased risk of harm, including sexual assault.

Native American:

- Legal-service programs provide representation for low-income tribes and individuals on a wide range of issues. Recent advocacy has focused on hunting and fishing rights, water rights, Indian child welfare issues and access to social and health services.

- In one case, legal-service advocates represented two Indian tribes and a class of 18,000 individual reservation Indians in an action to force the Bureau of Indian Affairs to operate its general-assistance program in the state of Washington. This program provides subsistence cash assistance to low-income reservation Indians who are unemployed and are ineligible for state or federal assistance. Following entry of a permanent mandatory injunction directing the BIA to institute the program, the plaintiffs entered into a settlement which included retroactive damages totalling nearly \$8 million.

Private-bar Involvement

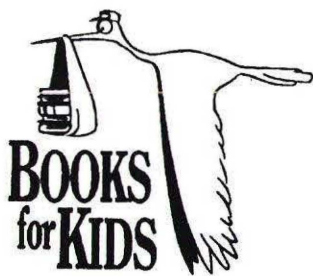
Each of the state's legal-service programs is committed to expanding the availability of civil legal services for the poor through the creative employment of private attorney resources. Evergreen has established private bar panels and private law firm contracts to meet the needs of clients in some of the areas where budget reductions forced the closure of staffed offices. Evergreen also provides support for several local pro bono entities and has augmented pro bono services through partnerships with law firms such as Preston, Thorgrimson, Shidler, Gates & Ellis,



Lane Powell Spears & Lubersky, and Jeffers, Danielson, Sonn & Alyward, under which firms represent income-eligible clients in certain areas.

The Puget Sound Legal Assistance Foundation operates pro bono programs out of both its Tacoma and Olympia offices. As a consequence of extended joint efforts with the Pierce County Bar Association, changes are in the works which will facilitate greater private attorney involvement in the pro bono program for clients residing in Pierce County. In addition to pro bono coordination, the program has developed pro se dissolution clinics and has assisted with the implementation of neighborhood legal clinics in Tacoma.

In addition to its support of local pro bono and pro se programs, the Spokane Legal Services Center also operates a private attorney referral program under which attorneys are paid a reduced fee to represent low-income clients on priority cases. In late 1990, the program was successful in obtaining a \$100,000-commitment from the law firm of Lukins & Annis to provide assistance to qualifying nonprofit organizations on matters relating to the development of low-income housing.



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

Civil procedure. In personal injury suit, plaintiff filed one day before expiration of statute of limitations and attempted service of process at defendants' home. Defendants were out of state at the time, and process server left documents with their adult daughter who was caring for their home while they were away. Trial court dismissed for insufficient service, but supreme court reversed, saying service was proper under RCW 4.28.080(14), allowing documents to be left at defendants' home with person of suitable age and discretion "then resident therein." Court rejected defendants' argument that daughter was not resident as term is used in statute. *Wichert v. Cardwell*, 117 Wn.2d 148, 812 P.2d 858 (7/11/91).

—K. B. Tegland

Community property. (Case 1.) Ninth Circuit holds that ERISA preempts state community property law as to an ERISA-qualified profit-sharing plan. Therefore, a non-employee spouse who predeceases employee spouse may not leave community half of plan by will. ERISA requires joint and survivor annuity in order to protect non-employee spouse who survives employee spouse. But there is no comparable protection for employee spouse who survives. Anti-alienation provision of ERISA preempts state community property law. *Ablamis v. Roper*, 937 F.2d 1450 (9th Cir. 7/3/91).

(Case 2.) Unmarried couple who lived together for over 10 years in "long-term, stable, pseudomarital relationship" were required to have their property divided justly and equitably under the principles contained in RCW 26.09.080. Trial court was not required to divide property solely on title or to give weight to man's claim that couple intended to own all property as tenants in common. *Foster v. Thilges*, 61 Wn.App. 880, 812 P.2d 523 (Div. 1, 7/15/91).

—T. R. Andrews

Negotiable instruments. A check endorsed (or payable) to "A/B" is

payable to either A or B and may be negotiated by either of them. The slash or virgule symbol means "or," not "and." *Mumma v. Rainier Nat'l Bank*, 60 Wn.App. 937, 808 P.2d 767 (Div. 1, 4/22/91).

—L. S. Hume

Real property security. Mechanic's lien claimant, having duly recorded claim of lien, commenced foreclosure proceedings, but did not record notice of lis pendens. During pendency of foreclosure action, third person purchased land covered by lien. *Held*, despite lack of notice of lis pendens, third person's title was subject to foreclosure action. Recording of lien claim was constructive notice that prevented third person from being bona fide purchaser. *John Morgan Constr. Co. v. McDowell*, 62 Wn.App. 79, 813 P.2d 138 (Div. 1, 7/29/91).

—W. B. Stoebuck

Sales. Uniform Commercial Code, Article 6, covers only the bulk sales of mercantile businesses and of the service businesses specifically listed in the definitions in RCW 62A.6-102. Therefore, it does not cover the sale of a nursing home. *Kimberly Quality Care v. Eastern Star Nursing Home*, ___ Wn.App. ___, 813 P.2d 163 (Div. 1, 7/29/91).

—L. S. Hume

Wills. Testator's will originally gave his entire estate to his sons, "Michael and Edward . . . in equal shares, share and share alike." Later, testator struck out words "Edward" and "in equal shares, share and share alike." *Held*, testator's attempt to revoke Edward's share failed because it would have enlarged Michael's share, a result not permitted under *In re Estate of Appleton*, 163 Wash. 632, 2 P.2d 71 (1931). Therefore, doctrine of dependent relative revocation applied, so that will remained in effect as originally written. *In re Estate of Eastman*, 61 Wn.App. 907, 812 P.2d 521 (Div. 2, 7/15/91).

—T. R. Andrews

The National Perspective— Developments on the Pro Bono Program Front

by Margaret O'Donnell

There has never been a better time for organized pro bono programs nationwide. State and local bar association interest in pro bono is high, funding is improved, pro bono action plans call upon all segments of the legal community to recruit for local programs, and pro bono coordinators themselves are better trained and more knowledgeable than they were at the dawn of "modern" pro bono programs ten years ago.

The last four years, especially, have been a time of growth and change for many pro bono programs. Specifically, successful pro bono programs have:

- become more institutionalized within state and local bar associations, attracting active support in the form of publicity, recruitment of volunteers, and guidance from bar committees;
- begun to offer a greater range of volunteer opportunities to attorneys, including clinics and hotline advice service;
- learned how to market their programs to better attract pro bono volunteers;

• and begun to develop a corps of loyal volunteers who take on more cases.

In 1988 and 1990 the American Bar Association Center for Pro Bono surveyed the nation's pro bono programs: we compared data from both surveys to learn how programs had changed in two years—two years in which the climate for pro bono significantly improved.

This is what we found when we examined the information from programs which answered our surveys in both 1988 and 1990. The total number of volunteers on pro bono panels increased. In addition, two-thirds of the programs reported that the percentage of volunteers on their panels increased in comparison to the total pool of volunteers available in their areas. In 1988, 63 percent of all programs reported that half of their volunteers handled one or more cases in the past twelve months, while in 1990, only 53 percent of programs so reported. However, the number of total cases handled by volunteers nationwide slightly increased, and the number of cases closed per attorney increased.

Our conclusion: More lawyers are volunteering to be on pro bono program panels, so that the panels themselves are larger, but the corps of *active* volunteers, while they are handling more cases, may not be growing. The active volunteers are working harder, and the number of inactive volunteers is growing larger.

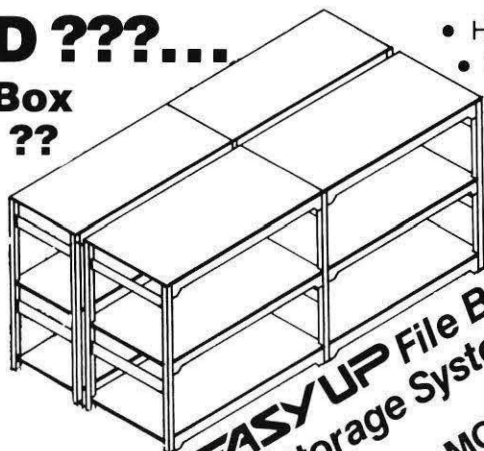
What lessons can pro bono programs draw from this? Perhaps that the time has come to re-examine how pro bono programs recruit and use the services of volunteer lawyers. Since the ABA began gathering statistics on the number of volunteer lawyers in 1983, the number of lawyers licensed to practice law in the country has increased by 27 percent, while the number of volunteers in bar association-sponsored pro bono programs has increased by 99.8 percent. The number of volunteers on pro bono panels has *doubled* in six years, while the number of licensed lawyers has only grown by 27 percent. Pro bono programs have been doing an outstanding job recruiting volunteers. It may be time to take some of the resources programs pour into recruiting and use them to better train and support the volunteers already on their panels.

Let's examine this further. Recruitment is a time-honored, and by now formulaic, pro bono program function. Over the past ten years, innovative and creative program staff and boards of directors have developed a number of variations on the winning strategy of personal contact as the best recruitment tool. And programs know by now that recruitment must be a continuing process in order to keep current and well-known in the legal community. Yet with all the boost that pro bono program recruitment has had in the last four years from state and local bar associations, only 16 percent of this nation's lawyers have joined bar association-sponsored pro bono panels.

We are not suggesting that programs stop recruiting, or that there aren't programs that need to do a better job of it or which need more volunteers. But we do suggest that programs examine their own data and consider whether they

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may have already recruited more volunteers than they are using effectively, and whether they have already recruited most of the volunteers who are interested in their program.

The fact that in almost half of pro bono programs not even 50 percent of panel members take one case a year is troubling. It demonstrates that volunteers may not be trained or otherwise encouraged to take cases that are priorities for the program, or that lawyers' expectations about the program are not met, or that volunteers are not called upon at all or in a manner they find persuasive to take cases.

For most of the last decade, pro bono programs recruited from the legal community as if it were a homogeneous whole, interested in the same kinds of volunteer experience, in handling the same kinds of cases, and needing the same (generally low) level of training and support. Vastly underused panels are the direct result of that practice, as volunteers were recruited without a clear idea on anyone's part about what they were volunteering to do. Successful programs are now targeting the kinds of volunteers they need for the kinds of service clients need, and eschewing all-out general recruitment drives for the most part.

But what to do with all those unused volunteers? A number of programs solve this problem by calling those lawyers and finding out what they are interested in doing and what they can be persuaded to be interested in; by re-examining case priorities to determine if it meets clients' needs to add new case types that are of interest to these volunteers; offering training and mentors; and providing support in the form of adequate case preparation before referral and help during the course of representation.

If more resources are poured into pro bono programs, if programs offer more specialized projects to refer cases that appeal to more volunteers, if programs develop a variety of ways for lawyers to serve in addition to direct client representation, participation will increase. And this is what programs are successfully doing to increase panel usage and panel membership. But program boards of directors and the staff who direct pro bono programs need not

feel defeated, especially outside of rural areas and small cities where participation levels are generally high, when the majority of the bar still does not participate in the program.

Why? Because one program can't be everything to everyone and shouldn't try to be. Because lawyers can and do find valid pro bono opportunities outside of the general-service, bar-sponsored pro bono programs (although they are much better at doing so after referring to state or local pro bono opportunity directories). Because client needs must drive pro bono program case priorities, not only volunteer interests.

With an average of 84 percent of the bar so far resisting the charms of panel membership, maybe it's true that general-service programs are not going to appeal to every lawyer (as we really believed was possible in the early to mid-1980s, when we wrote articles urging programs to go for 100 percent participation).

Instead, pro bono programs must determine how many volunteers they need to deliver high quality legal services to the number of the poor that they can effectively serve. This should be the measure of success used, not what percentage of the available pool of attorneys in the area are members of the panel.

And the future for pro bono

programs? It's getting brighter every month, with every new state bar pro bono committee, every new bar president who takes on pro bono as his or her issue, and each time another grant is won. Pro bono is now recognized as an integral component of legal services to the poor in the legal-need studies that more and more states are doing. Entering its second decade, the organized bar/legal services partnership that produced today's 700 pro bono programs is proud of its accomplishments.

Pro bono programs, however, are in real danger of losing the legal-community interest that has been so long in coming and so important. If the issue before the bar is perennially that the program needs more and more volunteers, without a showing of the results of years of volunteer effort, the message gets stale and the bar gets fatalistic. Especially when the threat of mandatory pro bono looms less largely, and bar associations slack their paces in improving voluntary participation, pro bono programs need to pay more attention to providing high-quality service experiences in order to retain the interest of their volunteers.

Margaret O'Donnell is the former pro bono consultant for the American Bar Association in Chicago. She now lives in Seattle.

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NEWS FROM HOME

Two Washington lawyers have been elected to high positions in the American Judicature Society:

Washington Supreme Court Justice **Robert F. Utter** was elected president of the 20,000-member organization at their annual meeting in Atlanta. Utter, a noted author and teacher, was chief justice of Washington in 1979-80.

Gonzaga University School of Law Dean **John E. Clute** was reelected to the AJS Board of Directors. A former general counsel to Boise Cascade Corporation, Clute assumed the deanship earlier this year.

Judge **Terrence A. Carroll** of the

King County Superior Court is a member of the State Judges' Asbestos Litigation Committee, a recently organized organization funded by the State Justice Institute and staffed by the National Center for State Courts. The committee is working with U.S. District Judge **Charles R. Weiner** of New York to devise strategies for dealing with the spectacular volume of asbestos-related litigation filed in the last two decades. Weiner has been designated transferee judge for all asbestos-related cases in the federal courts, and will coordinate all pretrial activities. About one-third of all asbestos cases are pending in federal court; the rest are state cases.

More than 32,000 pounds of food—some sixteen tons—has been assembled by employees of 57 Seattle law and accounting firms participating in the second annual Food Frenzy. The program benefits Food Lifeline, a western Washington aid agency.

6,847 participating employees donated 143,124 items. Winner of the per capita contribution was the law firm of

Aiken, St. Louis & Siljeg with 162 items per employee. Runners-up were the law firms Cozen & O'Connor, Ogden Murphy Wallace, and Ellis & Li. Davis Wright Tremaine, a program organizer, donated the most items numerically—some 18,000. Food Line serves 194 food banks and 33 meal programs in western Washington.

Nancy Monson of Bellevue has been named Legal Secretary of the Year by the National Association of Legal Secretaries at their 1991 annual meeting in Chicago.

Monson, a professional legal secretary (PLS), works in the areas of commercial leasing and trademark law for Bogle & Gates in Bellevue. She is national director for the Washington chapter of NALS.

Northwest law firm Schwabe Williamson & Wyatt has announced plans to become the anchor tenant in the Morrison Tower, a 32-story office building to be built in Portland by July 1994. Designed by Kohn Pedersen Fox, designer of the 1201 Third Avenue Building in Seattle, the Morrison Tower

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will feature a sloped, lighted rooftop from which a spire will extend into the local skyline. The firm will lease nearly five floors in the project.

King County Superior Court Judge **James A. Noe** has been named Washington Jurist of the Year at the state Judicial Conference. Noe was cited by Chief Justice **Fred Dore** for his heavy involvement in activities to improve the operation and administration of justice and the judicial system.

The American Arbitration Association has announced the relocation of its office to Puget Sound Plaza, 1325 Fourth Avenue, Suite 1414, Seattle 98101-2511, (206) 622-6435, fax (206) 343-5679.

The National Court-appointed Special Advocate Association (CASA) has been named an "Exemplary Delinquency Prevention Program" by the Office of Juvenile Justice and Delinquency Prevention of the U.S. Department of Justice. CASA was founded in 1977 by Seattle lawyer and former Superior Court Judge **David W. Soukup**, who serves as president of the organization. It uses trained community volunteers to speak up for the interests of abused and neglected children in juvenile and family court.

William H. Clarke, professor at the Gonzaga University School of Law, has been named associate dean of the law school. He succeeds **Vern Davidson**, who has returned to full-time teaching after 15 years in the post.

Clarke joined the faculty in 1975 and is a three-time winner of the school's Distinguished Professor Award. On leave in 1981-1982, Clarke was legislative assistant to Senator **Slade Gorton**.

Paul Luvera of Mount Vernon has been voted president-elect of the Inner Circle of Advocates, the nation's most elite lawyers group.

"Paul is one of the brightest, most sharing and most interesting lawyers I've ever met. He's well-rounded, and he's got one of the quickest minds I've ever seen," said **Richard Grand**, the Tucson, Arizona personal-injury lawyer who founded the plaintiff-attorneys organization in 1972.

The Wall Street Journal, *Forbes*, "60 Minutes," *The New York Times*, *The*



Paul Luvera in Pierce County Superior Court.

Washington Post and *People* are among those that have reported on the group, whose 100 members share case information and trial tips at an annual meeting and through a computer network database. A prospective member must have tried at least 50 personal-injury cases to a verdict and have won at least one verdict of \$1 million, not including punitive damages.

"Most people have never heard of the Inner Circle of Advocates, yet it is the single most-respected trial lawyers organization in the United States," Luvera said. "Its members fight for the rights of millions of Americans."

In recent years, Luvera has won a \$4.1 million settlement in a forceps malpractice case and verdicts of \$3.5 million against a bank that mishandled a

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client's trust fund, \$2.4 million against a Whatcom County physician in a malpractice case and \$2.2 million against the state over a bridge accident.

As a June 1987 profile in *American Lawyer* noted, what makes Luvera's success all the more striking is that Washington bars punitive damages—which can significantly increase a jury award for actual losses.

Luvera, 56, becomes the youngest member of the board of directors to lead the Inner Circle. He was voted presi-

dent-elect at the group's recent annual meeting in Santa Fe, New Mexico; in two years he will succeed newly installed president Dan Cathcart of Los Angeles.

At the time of the group's founding, only 25 U.S. attorneys had million-dollar verdicts; today there are several hundred, Grand says, and the Inner Circle has a waiting list. No new members are admitted unless someone dies or resigns.

CLARK COUNTY REPORT

by JOHN F. NICHOLS

Rumor Control

It happens every fall:

Late summer/early fall ushers in the annual lawyer migration. These wildebeests of the urban plains commence their mooing and jostling in August. By October, their search for greener pastures and yellow-page positioning has reached stampede proportions. Some will fall by the wayside, but the fit and wily will survive, thus perpetuating the species for another year. These strong few will then settle down for the winter's reprieve, occasionally butting heads in friendly contest of custody disputes, phone tag or similar diversions...until the call of the migration tugs at their wallets again next August.

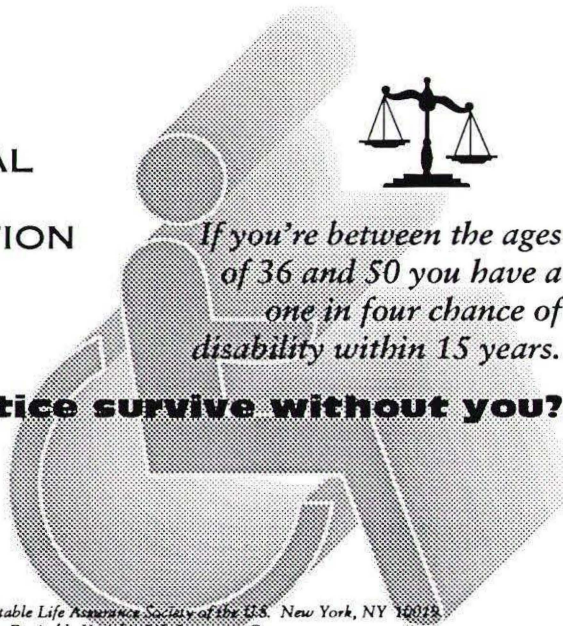
Among those making the trek this year are the following: **Karen Feulner:** Karen vacated the friendly confines of John Stichman, *infra*, for the joys of solo practice. Thereby becoming the latest member of the ever-increasing Stichman alumni. **Kristi Blazer:** Formerly of Horenstein and Duggan, Kristi has gone to Montana to find peace, serenity and hopefully a place on a letterhead. Her departure has nothing to do with Portland nor with her name change to **Kristi Piston**. **Jim Grey:** From Lee, Mitchelson & Yoseph, *infra*, to Marsh, Higgins & Foster. No reason, no name change, just future considerations. **John Stichman:** From himself to Marsh, Higgins & Foster, they said it couldn't be done. It was. They say it will not last. It won't. The first order of business is to get matching pictures of each holding a phone to his ear talking to each other. It could be short conversations at those rates. **Darrell Lee:** Merger with Portland Meadows Race Track. Darrell has added horseracing to his stable of card rooms in his attempt to take chance out of the practice of law. Don't bet on it. No, **Pete Rose** was not hired as an associate. **Bill Reed & Chuck Cusack:** As a result of misplaced reliances on the defense, "the check was in the mail" in an unlawful detainer action; Bill and Chuck will be relocating their office closer to the hospital. Parking for "Emergency Vehicles only" will be available 24 hours a day.

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EAST KING COUNTY REPORT

by RANDOLPH I. GORDON

Students of philosophy have noted that the leading Stoics of the Roman Empire were **Marcus Aurelius**, emperor, and **Epictetus**, slave, and that in his youth the emperor was student to the slave. Stoicism teaches independence from the pains and pleasures of life, founded as they are on the illusory and trivial, and an aspiration to a detachment based on a broader perspective and personal serenity. Its tenets ought to be taught in law school and every lawyer and client administered a healthy dose of the *Meditations* of Marcus Aurelius. At the least, it would dramatically lighten the motions calendar.

Aurelius, the last of the "good" Antonine emperors, reigning from 161 through 180 A.D., lived a relatively spartan existence in camp fighting the barbarians on the Danube frontier. He was buried not far from camp at a site now known as Vienna. Living at the height of the Roman Empire, which stretched from Britain to Northern Iran and Egypt to Morocco, the tone of his *Meditations* almost seems a presentiment of the long imperial decline and ultimate collapse of the Western empire. The modern successors to the barbaric kingdoms which followed are only now, nearly two millennia later, on the verge of restoring the lost European community.

The circumstances of his birth, rank, and times shaped his thoughts. His aspiration for serenity is one shared by many thinking people, some lawyers, and nearly all litigants. Amid the tumult, clash, and trumpet of the courthouse, there is always that quiet voice calling for peace. Sometimes, to the discredit of our profession, the voice is drowned out by posturing professionals and undue deference by the parties affected. Listen to his words like balm:

Every moment think steadily as a Roman and as a [hu]man to do what you have in hand with perfect and simple dignity, and kindness, and freedom, and justice.

If you work at that which is before you, following right reason seriously, vigorously, calmly, without allowing anything else to distract you, but keeping your divine part pure, as if you were

bound to give it back immediately; if you hold to this, expecting nothing, but satisfied to live now according to nature, speaking heroic truth in every word which you utter, you will live happy. And there is no [one] able to prevent this.

In our turbulent times, and his, is there any better advice?

Which, of course, brings us to the serenity associated with discovering the

true felicity: associating with one's friends and colleagues at the EKCBA Annual Party to be held on Thursday, December 19, 1991 at the Bellevue Hyatt Regency following the CLE Seminar scheduled for that date. Among those likely to be in attendance, new EKCBA Trustee and Family Law Section chair **Thomas Hamerlinck** of the eastside office of Riddell, Williams. Hamerlinck succeeds **Steve Marshall** on the board of trustees. Is there any family law client who would

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not benefit from a dose of stoicism?

Robert Sebris, Jr., a partner in the Bellevue office of Davis Wright Tremaine has been elected chair of the Seattle-King County Bar Association's Labor Law Section. He is an author in the field of human resource management and law and has been working in the field for about two decades.

Douglas J. Luetgen has joined Preston, Thorgrimson, Shidler, Gates & Ellis as an associate in the firm's Bellevue office and has a general

business practice.

Law and engineering are practical arts. They reflect the pragmatism of the Romans from which we have inherited so much in both fields. Marcus Aurelius, thanking Providence for the knowledge he gained from others, takes time to express his gratitude to Severus, his "brother," stating, "from him I received the idea of a state in which there is the same law for all, a state administered with regard to equal rights and equal freedom of speech, and the idea

of a kingly government which respects most of all the freedom of the governed." We would do well to share his aspirations.

GOVERNMENT LAWYERS BAR ASSOCIATION

by EVELYN A. FIELDING

Congratulations to government lawyers **David J. DeLaittre** and **Mary C. Barrett!** DeLaittre, an administrative law judge recently of the Office of Administrative Hearings in Seattle (now a federal ALJ), is the winner of the WSBA Courageous Award. Barrett, an assistant attorney general in the Social and Health Services Division in Olympia, is this year's winner of the WSBA Angelo Petrus Award.

Congratulations also to GLBA nominees **Steve Lundin**, senior counsel for the House Office of Program Research in Olympia, and to **Pauline Corthell**, deputy chief administrative law judge at OAH in Olympia. Both of them deserve recognition for their leadership in the community and within the profession.

Perhaps you are wondering what ALJs, legislative counsels and AAGs have in common? Well, all are attorneys, and all are employed by the state. That is the essence of the Government Lawyers Bar (potentially the largest statewide "local" bar association). If you fit these criteria, and you think that an organization that will champion the interests of the public-sector lawyer sounds intriguing, give us a call. Questions can be directed to **Mary Gallagher Dilley** at (206) 464-7095, (SCAN) 576-7095.

PIERCE COUNTY REPORT

by GEORGE S. KELLEY

The official results of the golf tournament are out and, as earlier reported, **Mike Smith** won with a one under par 70. At the end of 18 holes, he was tied with **Steve Hemmen** and sank a 32-foot birdie putt on the fourth extra hole for the win. Last year, there was no provision for a playoff, and Smith had to share top honors with three other golfers.

Hemmen salvaged the afternoon by taking home the handicapped division honors with a net score of 61. **Jeff**

EXPERT WITNESS ON ECONOMICS

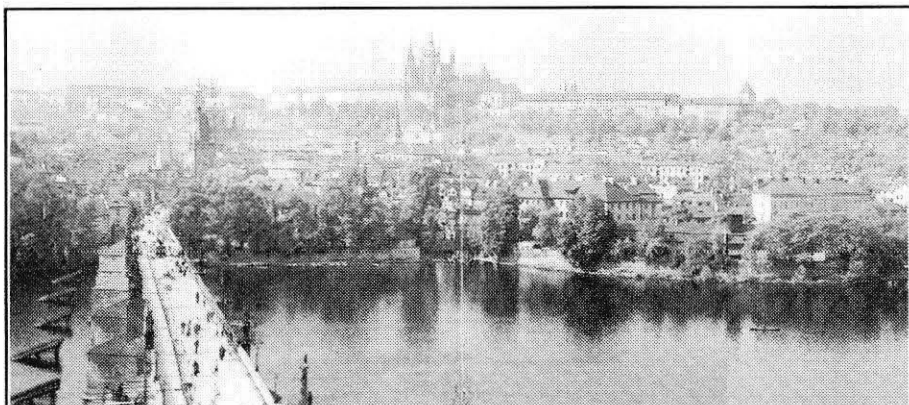
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Gross won the Calloway Division with a score of 72.

In the women's division, **Corrinne Dixon** was the winner with a net score of 75.4, followed by **Peggy Fraychineaud-Gross** with a 75.6 and **Jeanne Betzendorfer** with a 75.8. Why the women's division is scored in tenths is unknown, but it may be an attempt to avoid ties, sudden-death playoffs, and results in the women getting to the post-tournament festivities and award ceremony early.

Jack Hill was named as an arbitrator in a case where **Jim Caraher** was representing his mother in a claim against an insolvent pro se contractor. Jack checked into the hospital after the first day of hearings and underwent a heart bypass operation. At last report, he is out and recovering nicely. There is no word on the outcome of the arbitration.

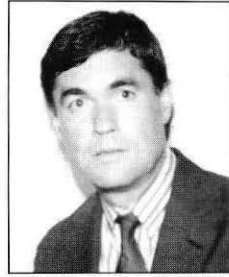
Ken Burrows suffered a stroke and has been hospitalized for sometime. He is receiving visitors and has recovered sufficiently to place bets on Seahawks games.

Gordon, Thomas, et al. reports that **David Cantu** has joined the firm. He apparently has expertise in the construction law area, and according to the firm's news release, is a partner in a 500-unit apartment complex in Beijing, China. If you have a problem regarding unlawful detainer actions in China, Dave might be a resource for you.

James R. Cushing has joined the firm of Girolami, Wood, Meyers and Meikle as a partner, and **Marcia G. Stickler** has become an associate. **Mark Wood** and **Joni R. Kerr** are new associates at Vandenberg and Johnson. **Steve Hansen** is now a partner in Schweinler, Lowenberg & Lopez and has been since the first of the year—they didn't get around to announcing it until just recently. **James J. Mason** has joined the Tacoma office of Preston, Thorgrimson.

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

Of Note. **Linda D. Walton** has been appointed to the President's Commission on Interest on Lawyers' Trust Accounts (IOLTA) of the American Bar Association. **James Savitt** was recently elected to the board of directors of the Delta Society, a



Christopher Kane

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being by promoting beneficial contacts among people, animals and nature.

Christopher Kane has embarked on a four-month exchange to work in the offices of the Brick Court Chambers concentrating on European community law. **James A. Oliver** (who learned everything he knows about law office management from **David A. "Par Shooter" Koopmans**) has been elected managing partner of Short Cressman & Burgess.

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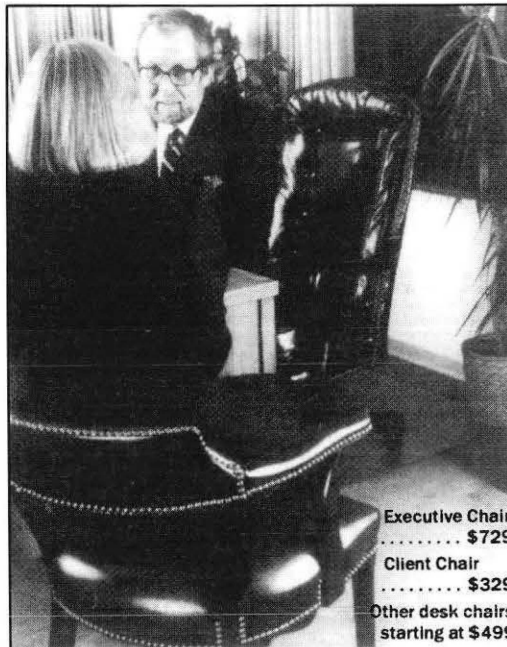
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Lowell Halverson recently hosted a "three-nation" government conference at his Mercer Island office. Guests included **Wang Wang Jheng**, president of the Shanghai Bar Association and vice-president of the All China Bar Association, **Edward Thomas**, chair of the Tlingit-Haida Tribe and **Doug Luna**, tribal judge. (Halverson is a delegate to the Tlingit-Haida Tribe.) The gathering included exchanges of gifts, including the "key" to the Shanghai Bar Association presented to Halverson.

Office Moves. **Ned Y. Sato** has joined Le Sourd & Patten as an associate. **Mark B. Kantor** has joined Reed McClure. **John V. Helmick** and **Renée E. Stein** are now associated with Graham & Dunn. **Mark A. Hood** and **Joni R. Kerr** have joined Vandeberg & Johnson as associates. **Ann T. Wilson** (not with the band Heart) is a new associate at Short Cressman & Burgess. **David Peters** has been named a partner with Stanislaw, Ashbaugh, Chism, Jacobson & Riper. **Arabella C. Campbell**

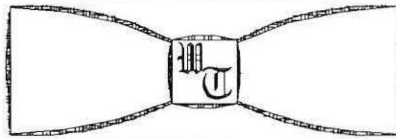
has joined Krutch, Lindell, Housh, Bingham & Keller as an associate. **Susan L. Preston**, formerly counsel with Univar Corporation and the Weyerhaeuser Company, has joined Sweet-Edwards/EMCON, Inc. as a supervising environmental scientist.

SPOKANE COUNTY REPORT

BY DON CURRAN

Sidney Wurzburg is experimenting with retirement for from six to twelve months. Could be permanent....**Robert Henderson** returns from a grueling Ninth Circuit conference on Maui sporting a designer Kapalua golf shirt....**Kate and David Gumaer** are one of Spokane's better-known sister-brother attorney pairs. Kate is with DSHS's Support Enforcement Unit, and David is in private practice....**Alan P. O'Kelly**, a contented retiree, takes his appetite for pressure to the golf links and comes away invigorated....**Tom Roberts** wins a \$30,000 BMW with a hole-in-one in competition....**Robert H. Thompson, Jr.**, the writer's partner, has connections with a travel agency. Exhausting fact-finding excursions to the Caribbean, South America and Europe keep him a well-informed guru, packs 'em into free seminars on how to avoid probate....**Clark H. Richards** survived the Coeur d'Alene triathlon, uttering a yogism: "I want to thank everybody who made this day necessary."

John J. Schiffner, still auburn-haired and energized, relishes retirement....**Buddy Paul** becomes a name partner at Huppin, Ewing, Anderson & Paul....**Brian Gosline** enters private practice in tax and estate planning....**Judge Dale M. Green** (Division III) has a warm retirement party....**Bob Corlett's** solo practice is going well. He's in his own walk-in building in Cheney, where spouse **Pam** keeps things humming....The ever-youthful **William E. Hennessey** continues a thriving full-time solo practice....**Dana C. Madsen** leaves the Maxey Law Firm to go out on his own....**Barry W. Davidson** and **Craig A. Gordon** have teamed up with emphasis in business law....**Scott N. Steele** joins Turner, Stoeve, Gagliardi & Goss.



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WASHINGTON STATE LAWYERS' CAMPAIGN AGAINST HUNGER

The Campaign is making good strides in its efforts to alleviate hunger in Washington state and, to a lesser extent, around the world. We have been contacting leading law firms to take the lead as charter sponsors. As of September 25, we have received pledges from a number of Seattle area law firms and contributions from a long list of individual lawyers. Betts, Patterson and Mines in Seattle has played a major and most welcome role in providing both staffing and financial support toward reaching every lawyer in the state with our appeal.

The first year of this effort, we are targeting what we believe to be the five worthiest, most-effective hunger relief programs. They concentrate on the needs of children—critical to breaking the cycle of poverty. Contributions will be equally divided among the following five areas of need: 1) the foodbank system throughout the state: Food Lifeline, Spokane Food Bank and Northwest Harvest; 2) the statewide public outreach campaigns for children eligible for the Women, Infants and Children [WIC] Feeding Program, statewide School Child Nutrition Programs, and a statewide awareness campaign through the Campaign to End Hunger; 3) the federally funded (in part) or city-sponsored Summer Sack Lunch Program; 4) the "Red Barrel" Program, which will reach the hungry across the state by encouraging shoppers at participating supermarkets to purchase pre-packaged bags of groceries for local foodbanks; 5) the international emergency relief feeding programs through CARE.

We continue to meet each Wednesday noon at the Seattle offices of Mussehl and Rosenberg, 1111 3d, suite 1010. We also are meeting for several hours each first Saturday morning for breakfast at Ernie's in the Edgewater. Our next meeting there will be on December 7 at 9:30. We would like to continue to extend invitations to anyone (lawyer or not) who would like to join us. We intend continue along the same lines in 1992, but we also plan to step up efforts to encourage lawyers from the

remaining 47 states to take up this work in their own jurisdictions. We also plan to encourage both local and national legislation which makes food a fundamental right for each one of us.

Greg Paley of Seattle, **Randy Sue Simon** of Foster, Pepper [Seattle], and **Deborah Youngblood** of Bullivant, Houser [Seattle] have now joined our committee. **Christopher J. Barry** of Bogle & Gates has also joined our Advisory Board. With all the help that we are finally realizing, we anticipate a very successful result in terms of meeting our first year's goal of \$250,000. Please be sure to send in your individual contribution when you receive our Hunger Relief Campaign insert in the December issue of the Bar News. If we work together, we can prevail over hunger, insuring that our world really will be "kinder and gentler."

WASHINGTON STATE TRIAL LAWYERS ASSOCIATION REPORT

by **LETHA J. OWENS**

It's time again to celebrate the holidays with WSTLA. This year there will be two holiday fêtes: the traditional Holly Ball in Seattle on December 6 and the Second Annual Holly Ball-East in Spokane on December 20.

2nd Annual Holly Ball-East - December 20, 1991.

This year's event is all set to outdo last year's party. Held at Cavanaugh's Inn at the Park in Spokane, the festivities will open with a No Host Reception from 6 to 7 p.m.; then something is planned for dinner which will outshine even last year's Baron of Beef. Following dinner will be some light entertainment orchestrated by Master of Ceremonies Judge **John Schultheis**. Once the live music begins, expect lots of empty chairs and a crowded dance floor, as the band, Temple Monks, rocks the ballroom with danceable hits from the '50s, '60s, '70s, '80s and '90s.

The cost for the evening is a modest \$30 per person. WSTLA members are encouraged to bring their staff and guests to make this the best holiday party ever. An excellent and informative seminar on medicine for lawyers is scheduled to precede the festivities for those out-of-towners who like to kill two birds with one stone. (CLE credit is pending.)

For more information and reservations, please call **Mary Springer** at the WSTLA Spokane office, (509) 326-6660.

WSTLA Annual Holly Ball - December 6, 1991.

Once again the Holly Ball will be held in the Grand Ballroom of the

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Westin Hotel in Seattle. The celebration will begin with a champagne reception at 7 p.m., to be followed by dinner and dancing until the wee hours to a band especially organized for this occasion. WSTLA member **Paul Gillingham** is working with members of some of the best local bands to put on a show which is not to be missed.

As a change from past years, there will be a silent auction to benefit WSTLA's many worthwhile causes during the reception and dinner. Included among the donations to be auctioned are: a whitewater rafting trip under the expert eye of **Doug North**, a Seattle member who is published on the topic of rafting; an original piece of artwork offered by **Truman Castle**, our artist in residence; a day for four at Long Acres; a weekend at the Salish Lodge; a weekend at Ocean Shores; and, the item expected to encourage the hottest bidding of the night, **Tom Chambers** will accept a pie in the face from the highest bidder.

As always, WSTLA will conduct its popular demonstration of a Trial CLE seminar the day of the Holly Ball. Mark your calendar to attend both events. Contact the WSTLA office for ticket reservations and CLE registration. (206) 464-1011, or toll free (800) 732-9251.

New Membership Benefit in the Works:

Watch your mail for an upcoming flier about WSTLA's new Index of Seminar Materials. Much like WSTLA's Brief Bank, the 20-page index will organize all of the WSTLA seminars of the past five years by topic, speaker, date and number of pages. Anyone interested in a topic can then contact WSTLA's office to request copies of needed articles, or visit the CLE library at WSTLA's main office and look at the articles in person.

* * *

Congratulations are in order to WSTLA president **James S. Rogers**, who is editor-in-chief of *The Anatomy of a Personal Injury Lawsuit*, 3rd Edition, recently published by the Association of Trial Lawyers of America. This elegant, hard-cover volume is a compilation of chapters by some of the most notable trial attorneys in the nation, including **Jerry Spence**, **Philip Corboy** and **Paul Luvera**.

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IN MEMORIAM

Marianna Cooke Cornelius, 48, died August 11, 1991. A graduate of the University of Idaho School of Law, she was admitted to practice in Washington in 1975. She worked as assistant corporation counsel for the City of Seattle from 1976 to 1978; from 1980 to 1981 she was an attorney for the U.S. Small Business Administration, dealing with claims arising from the eruption of Mount St. Helens. She later left the practice of law to raise a family. Survivors include her husband, Seattle city prosecutor Myron Cornelius, and a son. Writing in the *Seattle/King County Bar Bulletin*, Jorgen Bader wrote that Cornelius had a "keen analytical mind, superb at deciphering forms and perplexing rules, and a proofreader's eye for correcting

error—talents that let her identify who did it in murder mystery novels well before the final chapter and vanquish opponents in Scrabble."

Ronald J. Millheiser, 36, died July 25, 1991. A Des Moines attorney, he was noted for his involvement in a variety of civic and community groups. The *Des Moines News* noted Millheiser was a founder of the Des Moines Senior Center; chaired the Civic/Senior Center Committee of the Seattle/King County Division on Aging; founded the Greater Des Moines Senior—a nonprofit fundraising group for seniors—and gave monthly lectures at the senior center. He was a past president of the Des Moines Chamber of Commerce and a member of the Des Moines Rotary Club. With several friends he started the Friends Forum, a mentor program to get area business involved with the school district to improve programs. Another of his projects was the creation of a data bank of area residents in business who would offer advice to students interested in their lines of work.

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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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Mr. Pothoven was formerly with Essenburg, Staton
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Established, small Vancouver, Washington law firm with diverse client base is seeking an associate for assistance in the areas of domestic relations, litigation and general practice. Prefer *strong* academic credentials. Recent graduates or attorneys with *excellent* skills in research, writing and communication are encouraged to send a cover letter, resumé and two self-edited writing samples to Box 340, WSBA. Salary negotiable depending upon experience and qualifications. All responses will be treated confidentially.

University of Montana School of Law invites applications for tenure-track position in environmental/natural resources law. A potential need also exists for a faculty member specializing in commercial law. Significant practice and/or teaching experience preferred. Application deadline is December 1, 1991. The University of Montana is an equal opportunity/

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Environmental consulting and engineering services available to assist your firm. Will provide technical assistance in CERCLA- and RCRA-related matters: RI/FS support; technical document review; regulatory

compliance support; natural-resource damage assessments; and PRP searches. Ridolfi Engineers and Associates, Inc., 1001 Fourth Avenue, Suite 3200, Seattle, WA; (206) 684-9352.

WILL SEARCH

Clarence Elton Troth of Lakebay/Home, Washington, deceased on 15 October 1990 in Tacoma. Anyone with knowledge of a will executed by Clarence Elton Troth, contact Ernest Troth, Embassy Nicosia, PSC 815, FPO — AE 09836.

MISCELLANEOUS

Kona, Hawaii: Top floor condo in lovely Keauhou area. Two bedrooms plus loft, two baths. Sleeps six. Beautifully furnished. Complete kitchen and laundry. Three tennis courts and large pool. \$750 per week plus taxes. (206) 464-4052, days.

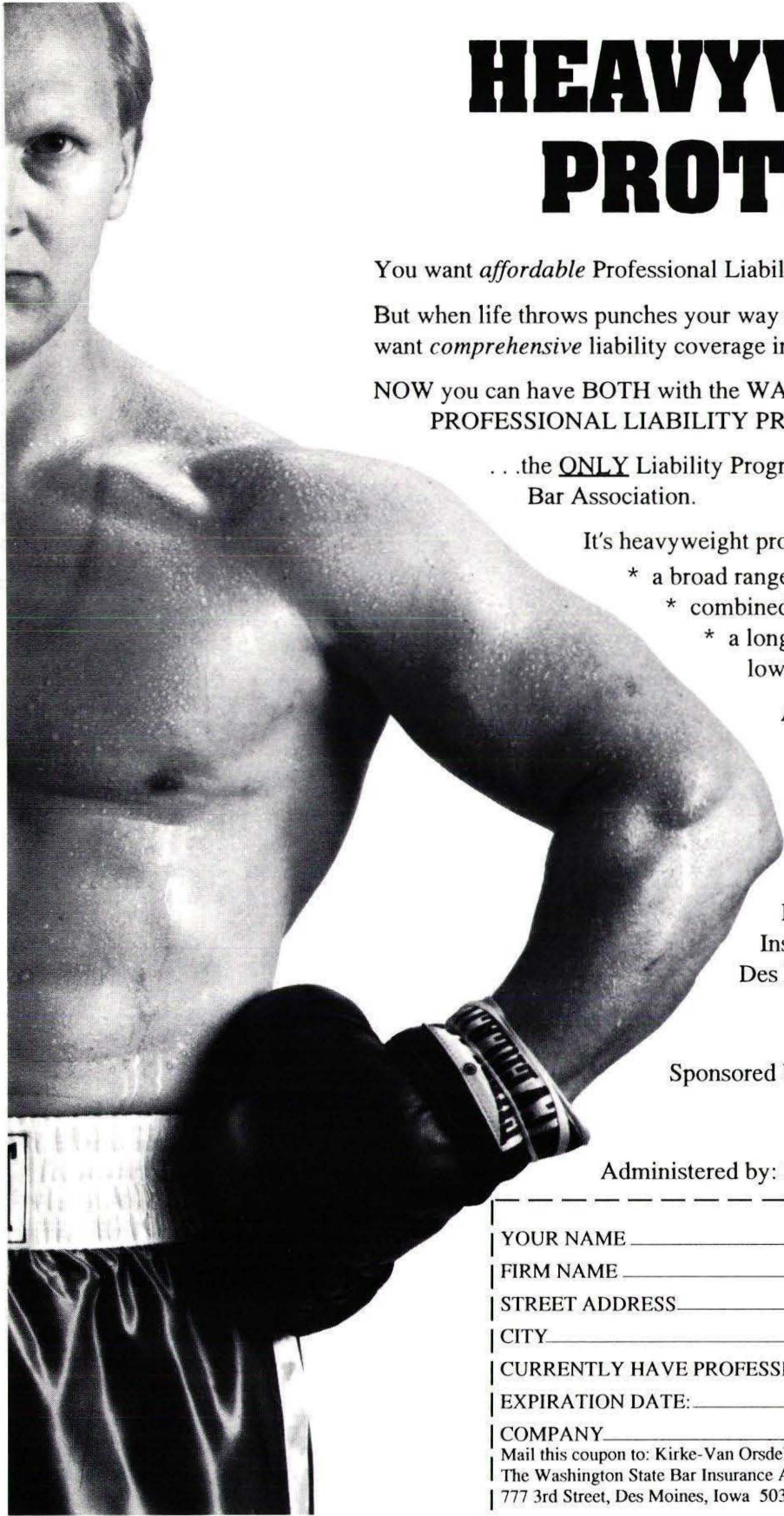
Sunriver, Oregon: Lovely, custom-built and furnished executive home. Three-bedroom, two-bath, sleeps ten. Large sundecks, BBQ, bicycles, microwave, washer/dryer, all amenities. Rental includes health/racquet club privileges. (206) 588-4876.

Puerto Vallarta — Vallarta-style three-bedroom villa on the beach at Bucerias. Large, private palapa terraces overlook Banderas Bay. Miles of white sand beach. Minutes from Puerto Vallarta. Brochure/reservations: 6306 108th Avenue N.E., Kirkland, WA 98033; (206) 827-3938.

Sun Valley/Elkhorn: Three-bedroom/three-bath condominium; recently renovated; nonsmokers; Elkhorn Resort privileges. Call Anne and Brian Lawler at (206) 824-2313 evenings and weekends.

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