

Washington State **Bar**
News

Vol. 46, No. 11, November 1992



ANNUAL REVIEW OF BOOKS

- Heather Howard on Washington corporation law •
- George Scott on judicial history • Richard Jensen on exploding litigation •
 - The classics, reviewed by Richard Louks and Philip DeTurk •
- Washington fiction writers • Other recent legal publications surveyed •

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ANNUAL REVIEW OF BOOKS

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WSBA PHONE NUMBERS: MORE

If you have one of those little electronic pocket devices and the patience to punch that tiny keypad over and over, the Bar Association's phone directory is of little interest. But if you are technologically challenged, you can look up everyone who works for you in the January *Bar News*, pp. 11-12, or in *Resources*, p.35.

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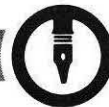
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Letters to the Editor of reasonable length are invited. Such letters should be typed and signed. The Editor reserves the right to select communications or excerpts therefrom for publication, and to edit any letter as may be appropriate.

Fightin' Words

Editor:

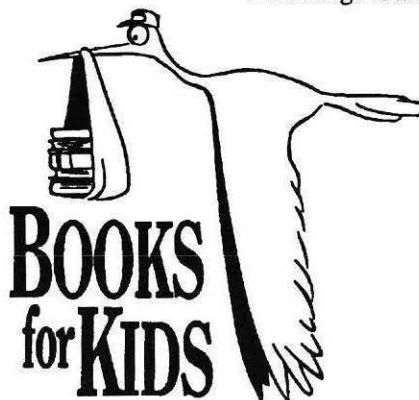
As a native of Georgia and one of the few attorneys admitted to practice and currently paying dues in both Washington and Georgia, I have been most interested in the recent letters comparing the Washington and Georgia Bar Associations. The comparisons being made by your readers are fascinating, especially that by the August author who "[has] little doubt that the general reputation of lawyers in Georgia is substantially lower than in Washington." Such a gratuitous statement requires a response, especially as my experience of practicing and living in both states is entirely the opposite of this supposition.

In Georgia, in both social and professional settings, I heard virtually no lawyer jokes or lawyer bashing, both of which are common here and in New England, where I have also practiced. Nowhere in the South have I ever received a negative comment when introduced as an attorney. With very few exceptions, I found that Georgians, black and white, continue to recognize law as a learned profession entitled to respect. This respect arises from a tradition which values learning and from a history of professional behavior by attorneys. Although the public recognizes that there are many bad apples in the bar barrel, the reaction to that fact is not condemnation of the profession. As one acquaintance remarked: "It's not that there are too many lawyers, it's that there are too many lawyers of the kind that not too many lawyers are."

The historic respect for the profession in Georgia, to some degree, justifies higher fees and more extensive bar activities in Washington. Washington attorneys do not have the advantage of inheriting two hundred years of active bar leadership within an established culture which honors the profession. Washington attorneys must deal with an

expanding and diverse population which demands that the bar earn respect today, not merely retain respect already earned. A decision on how to meet that demand should not be based on gratuitous (and insulting) assumptions about the citizens of other states, but on the needs of this state's citizens, including attorneys.

JAMES W. ALLEN
Bainbridge Island



Books for Kids

Editor:

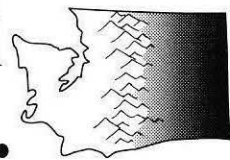
Two lawyers, Rick White of Perkins Coie and Barbara Clark, director of the Legal Foundation of Washington, volunteer with a new group concerned with children's literacy—Books for Kids. The mission of the organization they helped to form is to support

children's early-reading efforts so that they succeed in learning to read. The focus is on needy children who are struggling to learn to read, and whose families cannot afford to provide them with books of their own. The public is asked to contribute books or funds to purchase books which are distributed to organizations that work with these children throughout the greater Puget Sound region.

A generous donation of \$500 was received from the law firm of McDonald and Quackenbush. The funds purchased 143 new hardcover books. They were part of the 9,148 books Books for Kids gave to more than 5,000 children in 1991. The heart of this program is that children, ages birth to nine years, get to select a book of their own, on several different occasions, as an incentive to learn to read.

Books for Kids addresses concerns expressed by Washington judges, who see large numbers of youngsters detained in juvenile facilities who are functionally illiterate. It is our hope that other lawyers will feel challenged to address the problem of illiteracy by the example set by McDonald and Quackenbush and make a donation. Another alternative is an in-firm book fair. Perkins Coie recently held one and collected nearly 600 books. New books were offered for sale at a discount for

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donation to Books for Kids. Perkins was paired with First Place, a school for homeless children. Perkins staff visited First Place and helped children select a book of their own which was then read to them. The kids loved it, and Perkins staff have already asked to go back at Christmas.

Take a step to help a child learn to read. Donate funds or books to Books for Kids. donations or questions may be addressed to Keltie Wright, program manager of Books for Kids, at (206) 461-8345, 2209 Eastlake Avenue East, Seattle, WA 98102.

BARBARA CLARK
Seattle

(See coupon, page 55)

More on Lawyers in the Dark

Editor:

In the fine article on law office disasters ("Lawyers in the Dark: How to Survive a Power Outage," September 1992), Jane Larimer suggests storing computer backup disks or tapes in a fireproof safe. I would suggest that this be only part of the backup routine. In addition, always have a current or near-current backup stored off-site. This is because fireproof safes are rated to keep paper from burning; however, the data

on computer storage tapes and disks will be harmed, if not destroyed, at temperatures that do not affect paper. Thus, a fireproof safe may well not provide sufficient protection

Another reason for keeping a backup stored off-site is to protect against a disgruntled employee deliberately trashing a hard drive.

ROSS E. TAYLER
Tacoma

If Only the Editor Were as Thorough as our CDs . . .

Editor:

I write to register a criticism. I understand from *Bar News* staff that you wrote the September 1992 *Bar News* article "CD Technology: Solving the Chicken/Egg Problem." As the founder of CD Law and a WSBA member, I feel compelled to inform you that CD Law has published Washington law on CD-ROM for almost two years. We think *Bar News* did its readers a disservice by not mentioning that fact in your article.

I was told that you "compiled the article based on press releases," and that since "press releases aren't in CD Law's current repertoire of marketing techniques," it was to be expected that our discs weren't mentioned in your article. This almost makes sense, except for the

fact that two of our four advertisements were placed alongside the text of your article. We have run ads in *Bar News* since January 1991. Someone at *Bar News* obviously knows who we are and what we do. We are mystified why *Bar News* staff didn't enlighten you about CD Law before the article went to press.

Judging from comments I have heard from lawyers that read your article, *Bar News* confused its readers by failing to mention the only CD-ROM legal research product that is being widely used in law offices across Washington state. The article seemed particularly ill-informed, given this notable absence, when it took the space to discuss a proposed, nonexistent (vaporware) CD-ROM product and other CD-ROM titles of marginal utility to Washington lawyers.

Our discs are being used by many of the prosecuting attorneys in Washington, among them the Spokane County PAs (two sites); Yakima County (two sites); Whatcom County; Jefferson County; Skagit County; Thurston County and the Kitsap County PAs. The King County PAs are using our discs on their network; the Clark County PAs have CD Law set up on a 22-user network. The Washington Association of Prosecuting Attorneys (WAPA) Office of Support Enforcement set up our discs on a four-line BBS; in two months, it took over 1,600 calls from OSE attorneys all over the state.

Additionally, our CDs are being used by hundreds of small, mid-sized and large private law firms in Washington, along with numerous corporations, state agencies, schools and libraries. I enclose a representative list of subscribers for your information, along with a few unsolicited letters from our clients.

Leaving the omission of CD Law's Washington CD-ROMs aside, your article contained technical errors that, I fear, may lead to unwise purchasing decisions by members of the Bar. The fastest CD-ROM drives made at this writing are measured at 275, not 325, milliseconds. CD-ROM drive speed (measured as "average seek time"—the time it takes to locate a piece of information on the disc) is extremely important. The relation of CD-ROM seek times is not linear. According to

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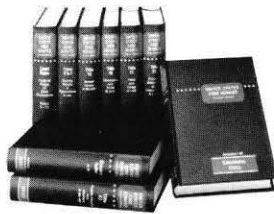
Hitachi, a leading CD-ROM drive manufacturer, a drive with a 450 millisecond average seek time is 10 times faster than one measured at 800 ms. The quip "what you're going to do with those 550 milliseconds waiting for your answer is an open question" is glib and misleading. Given a 900-millisecond drive and a 300-millisecond drive and normal search parameters, the wait for the slower drive could be more like five minutes!

It is also important for your readers to understand that one can improve CD-ROM performance by using a fast computer with a fast hard drive. A few CD-ROM publishers, including CD Law, allow their subscribers to move several of the most frequently used index files from the CD-ROM to the local hard drive. Moving these files to the much-faster magnetic medium dramatically improves performance. By the way, CD-ROM optical drives are relatively slow compared to magnetic media, not in comparison to on-line searches.

We at CD Law spared no expense to produce a high-quality product. The license to distribute our search software alone cost \$40,000. We support both a Windows and an MS-DOS version of our software. We provide our users with the full range of Boolean (AND, OR, NOT) search operators, proximity operators (ADJacent and w/n), single-character and truncation wild-card operators, and a very useful stemming operator that is not available on either Westlaw or Lexis. Our subscribers can also gain access to the data using a table of contents, perform field-specific searches, use "hypertext" to jump to the text of a citation seen on-screen, and "Shepardize" a case or statute by pressing a button. In short, we have produced a full-featured product that compares very favorably with Westlaw or Lexis, that is available now at a fraction of the online cost. Incidentally, the Government Printing Office recently announced that it will publish the U.S. Code on CD-ROM. The GPO will be using the same search software we selected.

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Professionalism

by Stephen DeForest
WSBA president

Over the course of this next year, as I have the opportunity to meet with you around the state, and to share some of my thoughts in these pages on issues of concern, a recurring theme will be professionalism. One facet of professionalism is how professionals treat each other.

The decline in civility has been widely reported and for many of us too frequently experienced or witnessed. Its causes are multiple. Any listing would certainly include the intensified competition among lawyers for clients, client pressures for results, the unrelenting emphasis on increasing billable hours, and the large size of metropolitan bars, which has created an atmosphere of impersonality and weakened the sense of collegiality.

The results of a survey of King County Superior Court judges conducted earlier this year, while not surprising, help to focus our attention on the problems which should have the highest priority. The survey was not intended to be statistically valid, but it did

provide useful information as to the types of conduct that the Judges most frequently encountered. They cited a lack of courtesy/civility to opposing counsel, and personal comments, sarcasm, ridicule and other personal attacks in briefs and other pleadings, as principal offenders. At the other end of the spectrum, inappropriate attire and lack of respect to the Court are not seen as significant issues.

Civility is also a casualty of changes in societal attitudes. The Josephson Institute of Ethics has published a report which concludes that an unprecedented proportion of the 18-30-year-old generation has adopted attitudes and behavior patterns that subordinate the traditional moral principles of honesty, respect for others, personal responsibility, and civic duty to self-centered values stressing personal gratification, materialism, and winning. The magnitude of the problem is underscored by a startling statistic: as reported in *The Wall Street Journal*, a Roper poll for Shearson Lehman Brothers found that 38 percent of young adults believe that corruption and deceit

are vital for getting ahead. It would be a mistake, however, to pass off the lack of civility among lawyers as being caused by young lawyers or societal attitudes in general. Indeed, a case could be made that it is younger lawyers who have given most unselfishly to pro bono programs, and that overzealous tactics in and outside the courtroom are more often displayed by older lawyers. In short, all lawyers share the blame, and, more importantly, all lawyers must share the responsibility in turning the situation around.

The Bar is responding to the problem, which I find encouraging. To mention only a few of the efforts:

- An ad hoc group of Seattle lawyers, which had grown tired of simply listening to the complaints, decided to meet and discuss possible ways in which the collegial climate could be improved. As reported in the May 1992 *Bar News* by Gene B. Brandzel ("Improving Collegial Relationships—A Proposal"), one starting place is a proposed series of commitments which each lawyer in the state would be asked to consider signing on a voluntary basis

1991 SUPPLEMENT

WASHINGTON ADMINISTRATIVE CODE

The 1991 Supplement to the WAC incorporates all changes in state agency rules filed in that year and is now available from the state Code Reviser. The 1991 Supplement consists of 3,000 pages in 3 volumes of the same format as the 1990 edition of the WAC.

To make it easier to find a current rule, and due to the increasing volume of agency rule-making activity, the Code Reviser's office has changed the WAC to a biennial schedule of total republication after even-numbered years, with a supplement published for odd-numbered years.

The Supplement contains about 8,000 sections filed by 176 rule-making state agencies. Half of these sections are new to this publication, and have not previously been available in codified form.

The price of the 1991 WAC Supplement is \$100.00 and 7.9% sales tax applies to all sales other than to state agencies. State law also requires prepayment on all orders.

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each year.

• A subcommittee of the Court Congestion & Improvement Committee, has developed a set of Courtroom Decorum Guidelines. It is being distributed to various lawyer groups, judges, and the law schools for comment and refinement. If nothing else, it should have a significant educational value. The Committee hopes that it will set a statewide standard.

• CLE sponsors have been devoting additional time to professionalism issues. In addition to specific seminars, such as the WSBA sponsored seminar on "Ethics and Professionalism in America—Has the Pendulum Swung Too Far?" and the Washington Women Lawyers' seminar on "Moxie, Manners and Methods: Ethics in the Practice of Law," other providers have allocated a portion of their programming to professionalism, such as the recent WSTLA program "Evaluating a P.I. Case," which had a session on "The Professionalism of the Personal Injury Lawyer."

• Currently at the discussion stage is a proposal that mandatory CLE include a component of ethics and professionalism. This could be a requirement

for all lawyers, or as a part of the skills training for new admittees. Other states have already taken the initiative with such a requirement, including Virginia and Arizona.

• A special committee of the Board of Governors has been looking at ways to implement the professionalism recommendations which the Board adopted in August 1990. Those recommendations included a CLE program targeted to managing partners of law firms, to cover such topics as new technology, personnel issues, and professionalism; development of forms for rating professionalism as a part of associate evaluation; drafting and distributing model fee agreements and client disclosure and/or engagement letters; monitoring of the lawyer-to-lawyer program for new and experienced lawyers (initiated in May 1991); expansion of ADR programs on a statewide basis; extending the meet-and-confer requirement for discovery disputes to all counties (proposed CR 26(i)); and establishment of a mentor program within each WSBA section.

There is much more that is being done. To stem the tide will require a continuing effort by all of us. Rules, guidelines, seminars and voluntary

commitments are all important. Each of us also has an individual responsibility to reflect upon our own performance and to assess whether our behavior and attitudes measure up to what we expect of others. Self-evaluation should be coupled with peer review. Recently I reviewed the associate evaluation forms of four large law firms. Only one of those forms referred to professionalism. I am sure the other firms encourage professionalism, but have overlooked that factor in their review process.

As stated in the preface to the Courtroom Decorum Guidelines, attorneys are privileged to participate in the administration of justice in a unique way, and are responsible to their own consciences, to their clients, to one another, and to the public to conduct themselves in a manner which will facilitate, and never distract from, the administration of justice.

The decline in professionalism has been, in my opinion, a root cause of the widespread dissatisfaction with the practice of law. The wound has been self-inflicted; the cure can only come from within our ranks, and with it greater personal satisfaction in our daily activities.

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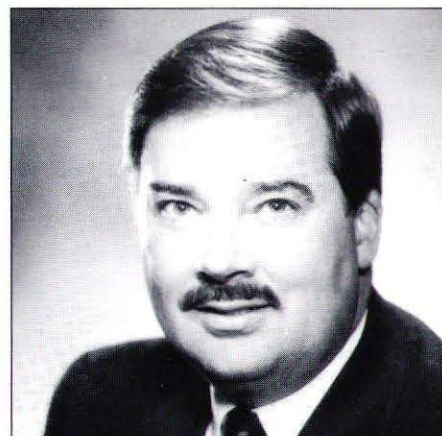
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Musings on a Fee Increase



Dennis P. Harwick

I know that you must tire of hearing: 1) about the fee increase (from \$195 to \$260 per year), and 2) about the awkwardness of writing a column six weeks before its publication date. This is being written on September 25 for publication sometime in November. If there is a referendum to roll-back the fee increase adopted by the Board of Governors, this column will make sense. If not, either stop reading now or indulge me my musings.

One of the old saws I learned in law school was that if a client told you, "It's not the money; it's the principle," watch out. It's the money—especially if you lose. The ramifications of a fee increase have been discussed at two levels—the money *and* the principle.

First, the money. It's hard to argue that it isn't time for a fee increase. There has only been one increase (an 18% increase) since 1981. It has been six years since the last increase. Fee structures, including the proposed increase, have a "useful" life of approximately five years.

It's hard to argue with the comparables. Of the western unified bars, Washington has the lowest fees by a considerable margin and is, as I have described to some, trying to claw its way from last place to next to last place, to-wit:

Washington \$195	Oregon \$290
Idaho \$250	Arizona \$295
New Mexico \$265	Utah \$350
Alaska \$450	California \$478

There are those who argue that some lawyers can't afford a fee increase. At the highest level, the increase is \$5 per month (from \$16.25 per month to \$21.66 per month). I heard someone say that some lawyers were only making as much as teachers. Check out what teachers pay to their state association.

There are those who say that young lawyers can't afford a fee increase. There was *no* increase for those in their first three years of practice. A new category was created for those in their fourth and fifth years of practice (from \$195 to \$225). There have been a number of suggestions about ways to "scale" fees—usually based on income. The obvious problem is logistical, i.e., having every person declare his/her income. With the "years of practice" method, we can computer generate the correct fee calculation. My favorite suggestions include those who think fees should be scaled by the floor of the building you practice in, i.e., the higher the floor, the higher the fee. Yet another has suggested that fees should be based on distance from Seattle (or, more precisely, the distance from the Columbia Center Tower), i.e., start high and decrease the further from Seattle you get.

A couple of people I have talked to have been surprised to find out that the WSBA Bylaws were amended last year to provide an expanded opportunity to move to inactive status (\$37 per year), i.e., there is now a three-year window during which you can go inactive, then return to active status without retaking the bar exam. This is particularly attractive to those taking parenting leave.

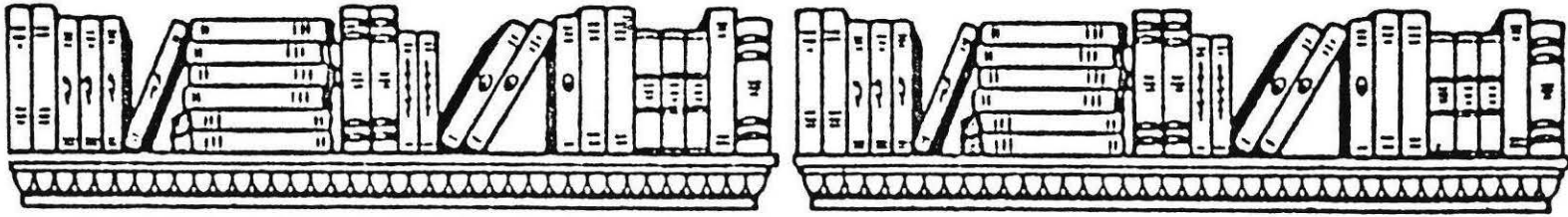
Is it the principle?

To quote Mark Shepherd, president of SKCBA Young Lawyers, he hasn't heard anyone who *wants* higher fees. But then, he hasn't heard anyone who wants *any* fees.

The principle is self-regulation. Only the most naive in our ranks believe that no one will regulate the legal profession. If we don't do it adequately ourselves, there are plenty of parties interested in doing it to us.

There is also the principle of full service bar association vs. a licensing board. Ned Lange put it this way, "If we want to be more than plumbers, we need to act like a profession." (Warning, Ned: Joe Delay managed to offend the pitbull lobby; expect a call from the plumbers' lobby.) Ironically, when I have visited with local bar associations outside the Seattle area, I generally hear calls for more bar activities, not fewer. Without a legislative presence, we couldn't have helped obtain more revenues for local law libraries, judges, and civil legal services for the indigent. If there is a move to create a sales tax on services in the next legislative session, I suspect that the members of the WSBA will want someone to represent them in Olympia.

Ultimately, the privilege of self-governance requires a willingness to pay the price. Either we can try to control our own destinies and protect the sensitive and poorly understood role of lawyers in our society, or let that privilege escheat to someone else. \$5 extra a month isn't very much to pay for that privilege.



ANNUAL REVIEW OF BOOKS

Washington Corporation Law & Practice

by Stewart M. Landefeld, Barry M. Kaplan and Stephen M. Graham (Englewood Cliffs, N.J.: Prentice Hall Law & Business, 1991). National Corporation Law Series, one volume, binder format with annual supplementation, 542 pp, \$110.

reviewed by Heather Howard

This book is billed as giving "Complete Coverage and Analysis of The Washington Business Corporation Act and The Washington Securities Act."

For us corporate law practitioners, it earns that billing: The authors have written a thorough, well-organized, and practical treatise on the statutes, caselaw and national developments affecting Washington state corporations and corporations in Washington state.

The text follows generally the structure of the Washington Business Corporation Act (R.C.W. 23B) but is not a slave to the sequence of code sections. It is organized by subject matter beginning with discussions of the formation of a corporation and its powers, capital structure and shareholders, corporate control and governance and issues regarding directors and officers. It is thorough in covering changes in capital and in governing documents, mergers, sales of assets and dissolution. It gives overviews of corporate litigation issues, securities disclosure standards and taxation of corporations.

The work explains the principal Washington statutes that deal with

corporate and securities matters. It also discusses pertinent aspects of the law, of trusts and of agency. The authors give readers the convenience of having some discussions repeated in different chapters when the subjects (such as shareholder agreements, directors' conflicting interest transactions, and de facto mergers) are significant to different topics.

One of the strengths of the work is that it is a compendium of the practical knowledge and experience of members of the Perkins Coie firm. The authors are current partners at the firm; contributors are one former and several current partners there. The authors not only describe what the law is on a subject, but often contrast it with prior law and refer to enlightening legislative history. Landefeld and Kaplan provide useful insight into underlying purposes or principles of statutory requirements. They explain many sections with helpful comparisons to the Model Business Corporation Act; they relate many subjects to counterparts in the significant Delaware corporate law and efficiently expand the resourcefulness of their work by referring to related discussions in the leading work on Delaware corporate law, *The Delaware Law of Corporations and Business*

Organizations by Frank Balotti and Jesse Finkelstein.

The writing style is consistently straightforward, so the analyses and guidance are clear and accessible. Practitioners will particularly appreciate the practice pointers. The caveats are all diplomatically cast as objective descriptions, such as "The cautious drafter will . . ." (as to preemptive rights); "Counsel will need to . . ." (giving guidance about stock split resolutions); and "Prudence suggests . . ." (regarding notice as to a dissolution).

There are several clarifying charts: one on shareholder vote requirements, a decision matrix on conflict of interest transactions, a timetable for dissenters' rights and a table contrasting different securities registration exemptions. The appendices provide the business statute, its legislative history, and a wide variety of forms with an emphasis on documents to be filed with the state. The forms are all cross-referenced to related sections of the text.

The weakness of the volume is the index, which is adequate but not user-friendly. For instance, there are no individual entries for "appraisal rights," "blank check preferred stock," "business judgment rule," "control of corporation," "corporate veil," "derivative

action," "doing business," or "duty of candor, care, loyalty." And this is just a partial list and only through the Ds! The text has excellent discussions of each of these subjects which should be referenced with direct entries in the index. Improvements in the index in coming supplements would insure that the work is as quick and easy to use as it is valuable to read.

The Landefeld, Kaplan, Graham work is an authoritative volume, a boon for Washington practitioners that will serve well as a reliable reference tool for information, understanding and skill in corporate practice.

Heather Howard is corporate secretary and corporate counsel for The Boeing Company. She holds an undergraduate degree from Duke University, a masters degree from Columbia University, and her law degree from Georgetown University. She was in private practice with Arnold & Porter, then Perkins Coie from 1977 to 1983, when she joined Boeing.

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Since 1957

The Washington High Biographical History Supreme Court,

Charles H. Sheldon. (Pullman: The WSU Press, 1992.

reviewed by George W. Scott

WSU political scientist Charles Sheldon is the preeminent analyst of the state's judicial system. This volume, taken as a companion to his *A Century of Judging: A Political History of the Washington Supreme Court, 1889-1991* (Pullman: The WSU Press, 1988), offers a definitive profile of the institution. Sheldon's premise is that the judges of the high bench have had more of an impact on the Evergreen State than constitutions, statutes and precedents. The first four chapters (60 pages) survey the evolution of judicial review, trace the history of selection to the Washington Supreme Court, outline its "decisional processes," and discuss the "uses of biography."

Justice Ralph Oregon Dunbar, present at the Court's creation in 1889, captured the "restraintist" view of most of the justices during the Court's first 90 years: "... it is not the providence of a court to speculate upon the practicality, practicability of the laws or the good or bad effects which may result from such laws." Washington state courts tended to mimic the U.S. Supreme Court and other state courts until the 1980s, when state activism replaced federal activism. Then, the unique features of the Washington Constitution were applied as well, what Justice Robert Utter and others have characterized as "dual sovereignty."

Sheldon defines an "activist court" as one that "purposely determines policy," then adds: "However, within a democratic system based on majority rule and representative government, policy decisions ought to be made in

legislative halls, not in courtrooms. Courts should respect the views of the people's representatives and accept a restraintist role." When courts go beyond testing the constitutional validity of laws, ordinances, administrative rules or executive orders the "...power of judicial review, then involves a potential for government by the judiciary." The same precedents, he admits, make jurists products of a "confining tradition." In a sense, the courts are also "passive participants in the legal-political realm"; judges must wait for litigants to bring issues to them.

The competing needs of the office are public accountability and independence: democracy demands one, the rule of law the other. In chapter three, Sheldon finds that the "decisional process" fluctuates between collective and individual modes. Citizens cherish the right to "elect" judges, even if we know little of the law and less of their performance. In reality, governors will continue to appoint most justices. The arguments for the "Missouri system" are strong. Those who would be judge do well to come to the aid of their party.

Chapter four is "Judicial Profiles..." Seventy-three percent of the justices have come from out of state; the average age when they took the robe is 52; only 38 percent came from public schools, with the University of Washington producing 88 percent of these. A quarter served in the Legislature, and 70 percent were partisan activists. Just 16 percent of legislators are lawyers now, down by a third in 15 years. The professionals' withdrawal from politics goes far to explain the often bizarre behavior of the parties.

Bench: A of the State 1889-1991.

396 pages. Softcover \$25.)

The most dramatic change came in 1969, when the new court of appeals began to take 95 percent of the cases that had gone to the high court. The Supreme Court's subject matters have narrowed to the death penalty, questions of constitutionality, mandates to state officials and the Legislature, and a "vague category" of issues of statewide importance which require quick and final decisions. The idea, held by many citizens and lawyers, that the high court should be judged on the number of decisions it makes is "too narrow" in Justice Vernon Pearson's view. Its executive responsibilities include regulating the WSBA, legislating procedures governing lower courts, and presenting and administering a budget.

Pearson notes in his biography that only 80 of the more than 20,000 lawyers in the state during last 103 years had the privilege of sitting on the high court. The cameo biographies, from Don Abel to Charles Wright, are 80 percent of the book. They are crisp, though less evaluative than one might hope. They could be written only by a scholar who has devoted 15 years of his professional life to the subject. Sheldon interviewed 24 of the justices, screened their writings, and has tapped a great body of archival materials. The appendix of clerks to the Court since 1937 yields familiar names: John Rupp, Mary Ellen Krug, John Dore, justices James Dolliver and Charles Smith, and present and past WSBA Board of Governors members John Schultz, Lem Howell and Paul Stritmatter. The annotated bibliography is bolstered by name, case, and subject indexes.

Sheldon's *High Court* is must reading for those who would understand the

predilections, procedures and performance of the state's court of last resort.

George W. Scott is a WSBA Director of Public Affairs emeritus. He has a Ph.D. in history and served in the Washington State Senate from 1971 to 1983.

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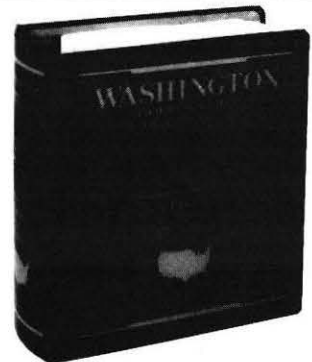
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062

How Washington Lawyers Think

Rand Jack and Dana Crowley Jack, *Moral Vision and Professional Decisions: The Changing Values of Women and Men Lawyers* (Cambridge University Press, 1989) 170 pp. hardcover, \$24.95.

reviewed by Carole A. Grayson

This book, by the Bellingham husband-and-wife team of lawyer Rand Jack and psychologist Dana Crowley Jack, should be required reading in law office staff meetings, follow-up interviews, law school job fairs and classes, and, perhaps, even closing arguments at trial.

In this slim volume, the Jacks' use their 1984 interviews of Whatcom County lawyers (the 18 female attorneys then in practice there and 18 male attorneys with a similar type and length

of practice) as supporting artillery for "truths" as old as Sophocles and as recent as Piaget: most male-dominated, male societies perpetuate a system of "justice" based on *individual* rights. Cultures cited as exceptions—the Zapotec in Mexico, for example—embrace a morality of "care" that essentially conforms to the socialization of most women in our society: the continuity of *relationships* is the important thing.

Got that? Good.

Let me state my bias: I find the adversary legal system to be, well, beside the point. I have talked (mostly unsuccessfully) to opposing attorneys in

the civil and criminal realms about the need to get our clients and witnesses together with a facilitator and express their feelings, lest *everyone* be dissatisfied by the outcome. The adversary system may be good at the ultimate determination of rights and responsibilities, but at what cost? Social relationships become distant, estranged, immobilized.

Got it? Get it.

Carole A. Grayson practices law in Seattle. She was editor of the Bar News from 1985 to 1988, and now edits the Seattle-King County Bar Bulletin.

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Frustrated With the Digest? ... Try the Index

by Truman S. Fuller

Looking for a fast, low-cost, and effective means of researching recent Washington case law? The solution is probably already lying on your library shelf. It's the 1992 edition of the Cumulative Subject Index you receive at no extra charge with your subscription to the Washington Reports Advance Sheets.

The Index compiles alphabetically the boldface index catchwords to the headnotes from the Washington Reports and the Washington Appellate Reports. Essentially, it combines the indexes from the back of each bound volume into a single unified resource for locating Washington law.

The first edition of the Index, published in 1987, was rather modest—it included the headnote catchwords from only 15 volumes of the official reports. But the Index has grown significantly in the last five years. The 1992 edition includes the headnote catchwords for 62-1/2 volumes, dating from 1980 to 1992.

The Index provides a quick and accurate entry into recent Washington case law. For example, you may know a principle of law but you need a citation for your brief. Using the Index puts the most recent citations to the law at your fingertips. Adjacent Index entries provide you with any nuances or applications of that law that you may not have known. As another example, you read a case with a headnote on point for the issue you are researching. Use the catchwords from that headnote to access in the Index other supporting or related authority.

The index contains approximately 26,000 subject matter entries leading directly to every headnote of every published Washington appellate court opinion since 1980. The headnotes then guide you to the precedential law found in the opinions.

The exclusion of pre-1980 cases is not as severe a limitation as it may at first seem. Many of the cases found through the Index cite to pre-1980 cases. And since case law builds upon precedent, the Index leads to much judge-made law that, although first developed before 1980, was repeated and applied in cases in 1980 or later.

The real utility of the Index is its ease

of use. For example, your client is a discharged public school teacher. Within 15 seconds, you turn in the Index to the initial Index heading "Schools" and the subheadings "Teachers" and "Discharge." The Index sets forth in alphabetical order 31 different subtopics of headnotes, a total of 36 citations from 14 cases.

As the publisher of the official reports, the state has the advantage of readily adapting its Index entries to reflect developing law. The indexing system is not bound by legal classifications first created in the Nineteenth Century. In an effort to make the official report indexes representative of contemporary law, during the past 10 years the State has deleted more than 100 initial index headings and added 17 new headings.

If you're not familiar with the index classification system used in the official reports, the back of the Index includes a list of all the initial index entries.

The back of the Index also includes a table of selected cross references to aid the researcher in locating topics. If, for

example, you want to find cases concerning the National Guard, the table informs you to look under the initial index entry "Armed Services."

Attorneys who have discovered and regularly use the Index universally praise it, but for many, it represents a new and largely unknown research tool. Since it is included at no extra cost with an advance sheet subscription, many Indexes apparently languish unused on library shelves somewhere near the advance sheets.

Give the Index a try. It's very useful as a deskbook—the first place to look to research case law quickly. If you don't have a copy at hand, one can be ordered from the Commission on Supreme Court Reports at (206) 357-2155. For a charge of only \$10 plus 79 cents tax, the 1992 Cumulative Subject Index is the most cost-effective means of researching Washington case law available anywhere.

Truman S. Fuller is the Deputy Reporter of Decisions for the Washington Supreme Court.

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reviewed by Richard J. Jensen

The *Litigation Explosion* by Walter K. Olson discusses the changes in law which have encouraged people to sue each other in the United States. It traces the trend developing over a period of time but increasing at a high rate in the late 1960s and 70s. The author refers to the experiment as a disaster.

The Old Legal System

For most of American history, lawmakers and judges recognized litigation as wasteful and invasive of privacy. It was an evil to be used only when necessary and then cautiously. The old legal system employed various means to limit its use and effect. It controlled the legal profession.

The most important limiting factor involved the writing and interpretation of the law by legislators and judges. There were definite lines of responsibility and these were clearly spelled out. In addition, the courts allowed people to make their own agreements to spell out relationships, duties and rights between them. The right to private contract was honored and upheld.

The New View

Olson notes that by the 1970s the law schools had taken a new position. They no longer viewed the lawsuit as a necessary evil. They thought of the lawsuit as a social welfare program which would reward some people and punish others. Procedural barriers were being removed. By 1977 in a 5 to 4 decision, the United States Supreme Court officially recognized the concept that a lawsuit is not an evil.

Advertising and Solicitation

Lawyer advertising is the first issue explored. Olson recognizes that bar associations across America vehemently opposed lawyer advertising and prohibited such solicitation. In 1977 the Burger Court in a 5 to 4 decision struck down the ban of advertising by lawyers. Mr. Olson describes this as the downfall of the old order.

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Litigation Explosion

Contingent Fees and Class Actions

Olson moves from solicitation to contingent fee abuses involving fraudulent claims made upon nonexistent facts. He then discusses the use of the contingent fee in the class action lawsuit. The contingent fee, together with solicitation and the class action suit, allows and promotes solicitation of large numbers of plaintiffs to be represented by lawyers who have no relationship to them whatsoever. The description culminates with a case wherein the court allows the class action to proceed even though the original client is found to have no case at all. He then underscores his point by reference to a writing in the Harvard Law Review which proposes that the named client fiction be eliminated. Lawyers could file class actions without a client.

Uncertainty and Loss of Privacy

Another subject for examination is the change in methods of pleading. Under the old common law, pleadings were formal and required to inform the opponent of precisely the alleged wrong. This precision is compared to the current method of notice pleading and its relationship to summary judgment. The pleadings are broad and easily amended to change the nature of the claim. The summary judgment is not available if any possible factual issue exists. Uncertainty abounds.

There has been a basic change, promoted by legal writers and accepted by judges and legislators, eliminating legal determinacy and predictability. The status of the law is legal uncertainty. Everything is relevant. Nothing is determinative. It is subjective law. What the law means, what is meritorious, and how the court will rule this time is a guess.

The Death of Contract

The courts extended the law of uncertainty to contracts. The author discusses the promotion by law school writers and the eventual adoption of new

Walter K. Olson. Dutton, 1991, 416 pp.
Softcover, \$13; hardcover, \$24.95.

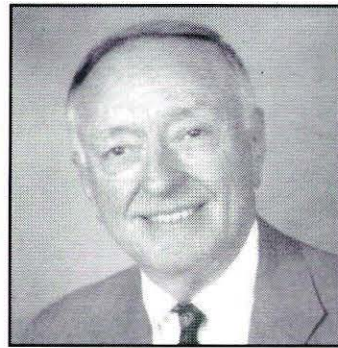
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theories by courts. In essence, the concept of liberty of contract was dismissed as obsolete.

The author contends that the death of contract had a serious impact on the sense of individual responsibility. If the courts did not believe it was important to keep solemn promises, the public felt

no such responsibility. Now, not only decrees of courts and legislatures were vague and indeterminate, but in addition the courts would not honor the more specific agreements between parties. The only way to ever determine the rights and obligations of parties was through litigation.

Lowered Standards

The author further contends relaxed rules of evidence, uncertainty of the law, and almost unlimited discovery combined with new writings on legal ethics to lower the standards of the legal profession and the stature of our courts. He reviews the tactics and lack of civility found in the discovery and motion process.

Private Prosecutors for Profit

Punitive damage law is compared to criminal law. The author explores the protections for criminal defendants. He discusses the rights of the accused including the right to know precisely the nature of the accusation, the right to remain silent, the right to be tried where the crime allegedly was committed, the right to be free from the peril of vague and ambiguous laws, the right to formal evidentiary restrictions to avoid guesswork and prejudice, the right to be free from excessive fines and cruel or unusual punishments, and the right to be prosecuted by a public official accountable to public control sworn to duty and paid a salary rather than a contingent fee. The courts have struck down all attempts to avoid and evade these safeguards for the accused.

Under the old form of civil law, protections were built into the system for a civil defendant also, even though those protections were not as stringent as those provided in the criminal law.

The courts began to allow punitive damages in a variety of matters and eventually in contract cases. The result for defendants was all the risks of criminal prosecution except incarceration, but none of the safeguards of criminal law.

Reform

The author discusses various ideas that have been used in an attempt to slow down the litigation explosion, and concedes there has been some progress, but not much. He concludes with what he believes to be the most important answer to the many changes in American law. He advocates fee shifting. The loser would pay all or part of the actual attorney fees and costs of the winning party.

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Throughout the book, the author examines changes in the law and adverse effects as they combine to produce more and costlier litigation. In this process, he vigorously blames lawyers.

Olson finishes with a final blow to the lawyers he has been battering for hundreds of pages. He suggests that payment of actual attorney fees and costs or a portion thereof to the winner be made by the losing lawyer. He adds that the lawyer could make a contract with the client for reimbursement. He points out that this would prevent lawyers from representing clients who are immune to judgment. He concludes that fee shifting is the most important legal reform that a citizen could attempt to achieve.

Comments

Olson's work is an illuminating account of changes in the American legal system, particularly relating to the period from the 1960s to present. It assembles the many changes and interrelates them to demonstrate the progression and current state of the litigation process. His critical analysis of the adverse effects of indeterminate law, litigation promotion and abuse by lawyers should encourage legal writers, legislators, judges and lawyers to look at their roles in the system and question what reforms are warranted. It should be remembered, however, that the changes of the '60s and '70s were not limited to the law, and the law was not the only thing to become subjective, indeterminate and relative. Liberalization in all areas was a response to the political movement of the time. The question is whether or not that climate has changed. It is appropriate to ask whether the new laws' refusal to honor contractual responsibility caused failure of personal responsibility or was merely a response to society's rejection of responsibility for one's own acts. Did the law first determine that definitive standards were outmoded and impose this philosophy on society or did society demand indeterminate standards?

Olson carefully outlines and comments extensively regarding the powers granted to lawyers by the law. He does not and could not attribute to lawyers the power to enact legislation, decide cases for any court in the land, or

usurp the power of the Federal Trade Commission. He does not point to any law or regulation enacted by a lawyer

and yet he blames lawyers for the results produced by changes in the law. Laws are made by politicians, supposedly in

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response to the political desires of society.

It is not the purpose of this review to determine the current mood of society. There is good reason, however, to believe that society does want a change, as Olson suggests. Voters have shown their dislike for increasing insurance rates, particularly in California, and consumers and writers are condemning the costs of malpractice and product liability. Assuming for purposes of analysis that society wants a change, it should occur in the laws, regulations and rules themselves. It would serve no long-term purpose to charge lawyers with malpractice if they fail to pursue every possible litigation theory, charge them with the cost of any litigation which is unsuccessful, and at the same time continue with vague indefinite law and legal uncertainty. Such action may provide satisfaction to those who dislike lawyers, but it does not provide the public with the reasonable standards necessary to govern relationships and activity. If anything is to be achieved other than lawyer pain, the whole spectrum of problems raised by Mr. Olson should be addressed and resolved by those who made the law and are empowered to change it.

Richard Jensen has practiced law in Tacoma for more than 35 years.

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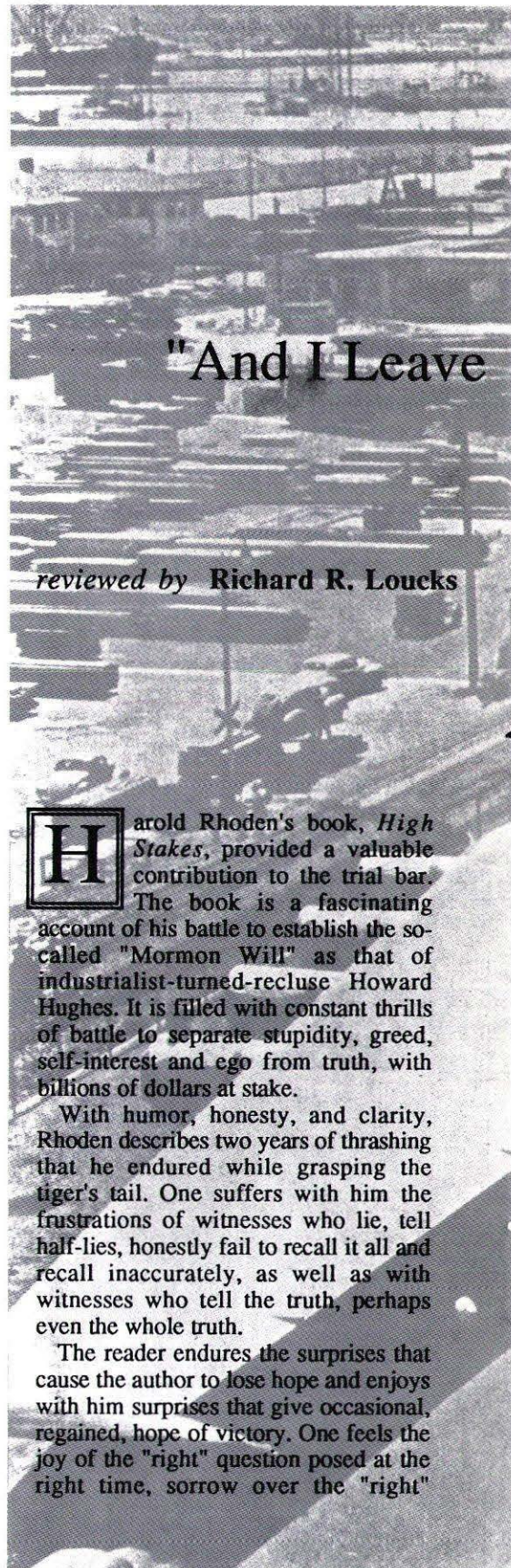
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"And I Leave

reviewed by **Richard R. Loucks**

Harold Rhoden's book, *High Stakes*, provided a valuable contribution to the trial bar. The book is a fascinating account of his battle to establish the so-called "Mormon Will" as that of industrialist-turned-recluse Howard Hughes. It is filled with constant thrills of battle to separate stupidity, greed, self-interest and ego from truth, with billions of dollars at stake.

With humor, honesty, and clarity, Rhoden describes two years of thrashing that he endured while grasping the tiger's tail. One suffers with him the frustrations of witnesses who lie, tell half-lies, honestly fail to recall it all and recall inaccurately, as well as with witnesses who tell the truth, perhaps even the whole truth.

The reader endures the surprises that cause the author to lose hope and enjoys with him surprises that give occasional, regained, hope of victory. One feels the joy of the "right" question posed at the right time, sorrow over the "right"

the Spruce Goose To..."

Harold Rhoden, *High Stakes* (New York: Crown Publishers, Inc., 1980), 404 pp hardbound, \$12.95.

question omitted in investigation, deposition and trial.

The relationship of associated counsel, as well as the relationship with opposing counsel, is well-developed. One winces at the horrendous costs of discovery and production of witnesses to carry on the battle while Rhoden forgoes income from his normal practice.

The book closes with excerpts from the closing arguments in this fascinating fight. The character studies are sharply focused. The young lawyer may experience the pleasure of learning more in reading the book, but the battle-scarred will have the greater empathy for the participants in the Hughes will contest.

Rhoden raised the hope that even if he were unsuccessful in the will litigation he might be able to recover his costs, and, perhaps, some fees, because his claims were in good faith and on behalf of the Hughes estate. Curiosity prompted me to write and ask him if those hopes materialized. Alas, he

replied, no fees or costs were recovered from the estate, but rather, a judgment was entered against him personally, requiring him to pay the costs of the winning contestants: some \$100,000. He stated his book royalties had been almost nonexistent, and even though reviews were uniformly flattering the book bombed in the shops. With his luck, the author—we hope—thereafter avoided petting even apparently friendly dogs and looked very carefully both ways before crossing apparently deserted streets.

This is a very interesting book. I recommend you search it out and read it.

Richard R. Loucks practices law in Pullman. He is a graduate of the University of Washington and its School of Law, and was admitted to practice in 1956.

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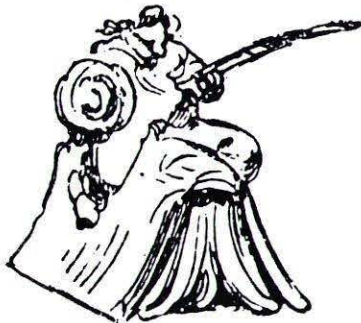
Bilingual Law

West Publishing Company announces the release of West's Spanish-English/English-Spanish Law Dictionary. Alphabetically organized in both Spanish-to-English and English-to-Spanish sections, this dictionary includes the translation and explanation of words and phrases, whose true context has no exact literal translation in the second language.

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by Lindsay T. Thompson

For every specialty, it seems, there is now a book. More likely, several. Where once a specialty was not even considered, one is now the source of a treatise or guide. Here, in summary form, are some of the books we've received or heard about this year.

Dictionaries

West Publishing Co. has brought out two. One is a *Spanish/English-English/Spanish* law dictionary (see box). The other is "the first-of-its-kind": West's *Tax Law Dictionary*, providing the general meaning of some 3,000 tax words and phrases used in American tax law. It includes federal, state and local tax terms from all fifty states, the District of Columbia, and sixty foreign countries.

Set out after each definition are references to applicable Internal Revenue Code and Treasury regulations by section number and title. Extensive cross-references between related terms and code sections are included.

The appendices contain a comprehensive listing, explanation and index of IRS federal tax return forms and instructions by number and title, as well as a complete listing of free federal tax publications.

Treatises

Clark Boardman's Search and Seizure, by John Wesley Hall, has been revised and published in two volumes (788 pp., \$94.50). The new expanded version covers the full range of search and

Survey of Other

seizure law, its publishers say. Research references precede each chapter and include a list of leading cases relating to that chapter's topics. Every case decided by the Supreme Court involving substantive and procedural search and seizure questions is cited and discussed. Expanded treatment is given to the exclusionary rule and its application; hearsay information, abandonment, and search and seizure of vehicles. Of interest to Northwest lawyers are chapters on border searches and Canadian search and seizure law.

West Publishing Company has released updates of two standards in its line of treatises. Rotunda and Nowak's *Constitutional Law: Substance and Procedure 2d* is in four volumes, examining constitutional decisions, hot current issues, and issues the authors think are comers.

In addition to the standard topics, the authors analyze the constitutionality of state statutes, of administrative actions under the dormant commerce clause, and changes in the rules governing inter-governmental tax immunity and procedural due process rules governing state attachment laws. Free speech limitations on the breadth of the copyright power, the new free speech protections for commercial print and broadcast media, and restrictions on cities' rights to restrict free speech are considered.

An old standard of West's has undergone a major revamping. Having been taught out of the 1972 second edition of McCormick's *Handbook on the Law of Evidence*, I was interested to see what changes had occurred in twenty

Recent Legal Publications

years when McCormick 3d came out this spring.

For one thing, there's a lot more of it. McCormick 2d weighed in at just over a thousand pages, including the pocket part. McCormick 3d has been divided into two volumes totaling just under two thousand pages. A one volume law student version is planned.

The basic organization of the book is the same, as is its focus—not to get bogged down into state variations on the federal rules, or give the reader every footnote possible to be included. Despite its massive expansion, McCormick 3d remains an eminently readable treatise, useful for getting one started into a research question, or for considering the ways an argument can be framed, pro and con.

Recognizing the whirlwinds of change that continue to swirl in Fourth Amendment Law, the authors have thrown up their hands and given up trying to cover "the larger questions of defining the constitutional limits on police behavior to be developed elsewhere." The exclusionary rule as an evidence technique remains as Chapter 13.

Figuring the best measure of a book's value is taken by use, I kept McCormick 3d at hand for six months and referred to it when evidentiary questions came up in my work. It serves well.

Environmental Law

To guide businesses that are expanding into foreign countries, Sidley & Austin, the Chicago-based law firm, has produced a new reference work on

environmental laws and regulations worldwide.

The book, *International Environmental Law and Regulation*, covers fifteen commercially important nations, plus the European Community. The text is being published by Butterworth Legal Publishers, and will be expanded and updated annually, to keep up with rapid changes in the field and to include additional countries.

Each chapter was written by counsel experienced in the laws of that state. The book discusses the countries' legal systems, environmental laws and enforcement policies, and provides practical suggestions on dealing with environmental issues.

For example, if a U.S. company decided to export and sell chemicals to a European Community member nation, it would need to know if there are any EC laws regulating such activities. In the EC chapter of the book, a section on "dangerous substances" covers directives on classification, packaging and labeling which are counterparts to the Toxic Substances Control Act in the U.S.

Another Prentice Hall volume in the environmental field is Kenneth S. Abraham's *Environmental Liability Insurance Law: An Analysis of Toxic Tort and Hazardous Waste Insurance Coverage Issues* (1992, 401 pp. hardcover, \$110). Here is a usefully detailed introduction to a field you don't have to be an environmental lawyer to find yourself involved with. Virtually any land transaction is going to involve these issues, at least potentially. Preliminary coverage issues, triggering of coverage, exclusions, excess liability

La Ley Bilingual

West Publishing Company anuncia la publicación del *Diccionario Legal Español-Inglés/Inglés-Español*. Este diccionario está organizado en dos secciones, del Español-al-Inglés y del Inglés-al-Español. Se incluyen traducciones y explicaciones de palabras y frases tanto de uso común como de aquellas que no tienen una traducción literal al segundo idioma.

Esta es una obra práctica que ofrece la traducción de más de doce mil (12,000) conceptos de uso frecuente en ambos idiomas, a la vez que se explican de manera clara y precisa las definiciones de los términos que pudiesen prestarse a interpretaciones ambiguas.

Palabras que tienen una relación indirecta con el lenguaje jurídico pero aplicables a la economía, contabilidad, y otras disciplinas son incluidas para la conveniencia de aquellos (los abogados, asistentes legales, secretarios, estudiantes de derecho, contadores, funcionarios judiciales, empresarios, banqueros, economistas, aseguradores, diplomáticos y tantos más) que diariamente tratan asuntos en los idiomas.

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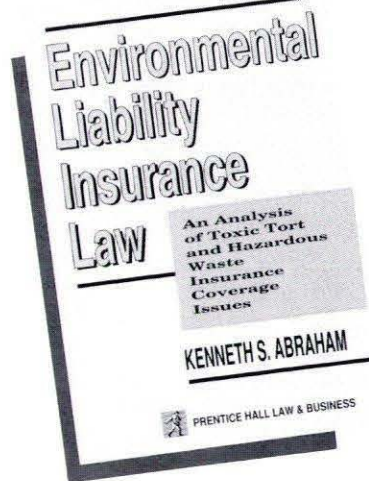
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Practice Aids

Bellingham, Washington's Self-Counsel Press has published *Keeping track: An Organizer for Your Legal, Business and Personal Records*, by Washington attorney Ann Kruse.

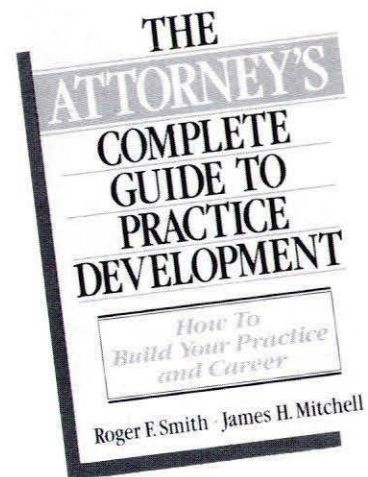
About 70 percent of us neglect basic personal record keeping, says Kruse. But before long, a stockpile of important information and papers—employment records, family history, insurance policies, memberships, warranties—are scattered around the house and office in a dozen different places. "If it takes more than five minutes to retrieve a document, then it's time to seriously look into a record-keeping system," Kruse maintains. The *Keeping Track Pack* (\$24.95) includes not only the book but an accordion file, to hold important papers retrieved under the book's instructions, for those who can always find a reason to put off getting started.

Looking for a job? Biennix Corporation (2490 Black Rock Turnpike, Suite 407, Fairfield, CT 06430) has published *The Legal Job Interview*, by Clifford R. Ennico. It covers, the author says, "in vivid detail" how to go about interviewing for a legal, paralegal or law-related job, and is targeted to lawyers and paralegals with less than five years' experience, and costs \$25.

No takers? The American Bar Association has issued the third edition of *How To Start and Build a Law Practice*, by California lawyer Jay Foonberg.

The book, a best seller for years, contains ten new chapters on marketing, financing the practice, practicing from home, automation, and personal computers and software for the new lawyer, in addition to ethics and professional responsibility.

Foonberg, who addressed a session of the WSBA Convention in Spokane a few years ago, presents practical solutions to specific problems encountered by the new lawyer: choosing a location, selecting equipment, getting clients, setting fees, managing the office, and using outside resources and advice. Published by the ABA Section on Law Practice Management, it's available to section members for \$32.95 and everyone else for \$39.95.



Closer to home, two Northwest authors have combined with Prentice Hall Law & Business to publish a how-to guide. Roger Smith's and James Mitchell's *The Attorney's Complete Guide to Practice Development: How to Build Your Practice and Career* (1991, 363 pp. hardcover, \$40.00).

Smith & Mitchell's focus is a bit narrower than Foonberg's; they concentrate their book on marketing a practice. The book is divided into four parts and carries the reader from planning to implementation of the

marketing process. Sixteen appendices include a lot of useful background information, from sample marketing budgets for the sole practitioner to model agreements. An especially useful element of this book is its explanation of what marketing is and is not, and what it takes to make it work. Too many lawyers decide they need to market themselves, gear up for one effort, then sit back and wait for the tidal wave of work that must surely follow. Marketing is an ongoing process, Smith & Mitchell point out, one that needs fine-tuning along the way and, in essence, has to be an everyday part of firm decision-making. There's even a chapter on "When Practice Development Doesn't Work."

Smith and Mitchell have published widely in the law practice management field and clearly know their stuff. Now that I am a bureaucrat and get paid every two weeks whether I deserve it or not, this book has a sort of academic interest for me. But had it been around when I was floundering through private practice, I would have made good and regular use of it.

So what happens when you open the door? West Publishing Company addresses a slice of that question in *Effective Client Communication: A Lawyer's Handbook for Interviewing and Counseling*. Available in loose-leaf format, the how-to guide covers creating the attorney-client relationship, including how lawyers may cultivate business and effectively initiate the attorney-client relationship. It also suggests how to guide the client towards resolution from a variety of options, and how to handle the hostile witness.

But all that paperwork . . . or the absence of it. Need some legal forms 'til you can save up enough of other people's as they pile up in case files? *Lane Goldstein Litigation Forms* is one contender. Published by Clark Boardman, it's a 1,000-form cornucopia in three loose-leaf volumes and accompanying software disk. Medical malpractice, product liability, personal injury and contracts are among the topics considered. Each stage of litigation is covered.

Directories

When you gotta find someone, you

gotta find them right away. Specialized lawyer directories seem to be one answer, a byproduct of the growing databases publishers are accumulating on computers. Researchers will find easy access to names, addresses, telephones and fax numbers for more than 16,000 state and federal judges and court officials in BNA's *Directory of State & Federal Judges and Clerks*, 4th.

Coverage of the 92 U.S. District Courts, 15 Courts of Appeals, U.S. Tax Court and the U.S. Supreme Court has been added, along with updated geographic-jurisdictional and other information for 2,056 courts of record in the states and territories. Also added to the new edition are listings of state and federal public-access services.

Prentice Hall's new *Directory of Environmental Attorneys* (1992, 1208 pp. hardcover, \$170) might be called the tree-hugger's Martindale-Hubbell. "One of the most challenging tasks in the legal world is to pick an appropriate attorney for an environmental law matter. This area, largely untaught two decades ago, has rocketed to the forefront of legal concern." So much so, it seems, that the Directory identifies 70 different areas of concentration in environmental law.

Washington gets eight pages in the attorney profile section, containing biographical listings for sixty lawyers in Seattle, Spokane, Tacoma and Wenatchee. They come from 27 firms, according to the firm profile section. An areas of concentration index lists attorneys by type of law, state and city. An agency appearance section lists lawyers who have appeared before, worked for, or appeared before and worked for federal, state and local environmental regulatory agencies, by state and agency name. A lawyer index rounds out the book.

Based on the number of listings of Washington lawyers, the book appears to be a subscription project. As a hardcover volume with no space in back for a pocket part, it will apparently require replacement with each updating. Such compilations seem to be the perfect material to put in an online database or a disc retrieval system that can be more readily updated and cheaply maintained. In the meantime, this directory is a start, of sorts.

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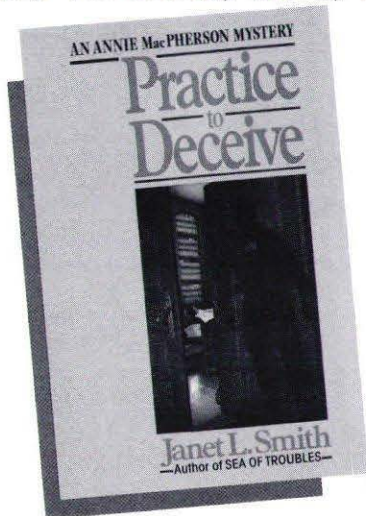
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Thrillers Homicidal and Political

Janet L. Smith, *Practice to Deceive* (New York: Fawcett Columbine Books, 1992), 245 pp. hardcover \$18.00.

John S. Applegate, *The U.N. Peace Imperative* (New York: Vantage Press, 516 W. 34th Street, New York, NY 10001, [(212) 736-1767; fax orders (212) 736-2273]), 1992), 215 pp. hardcover \$16.95.



reviewed by
Lindsay Thompson

In a season in which live politicians argue with fictional television newscasters, it's not really a stretch for a murder mystery to be triggered by a fictional article in the real *Washington State Bar News*. That is what Seattle lawyer Janet Smith has done in bringing back her fictional lawyer-detective, Seattle lawyer Annie MacPherson, in *Practice to Deceive*. A couple of years ago, at the end of *Sea of Troubles*, her first appearance, Annie was contemplating running off to the South Seas to island hop with a fear-of-commitment poster-boy she met while solving murders at a Rosario-like island resort.

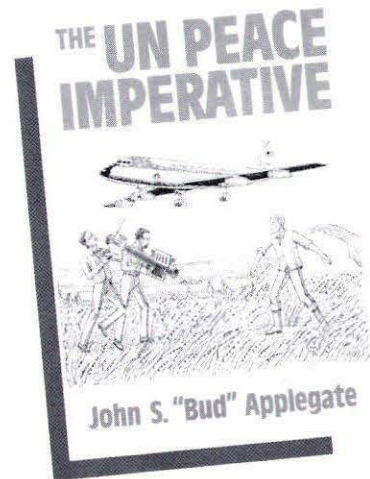
In *Practice to Deceive*, Annie is back in Seattle, practicing with a friend. Her plan to write a biographical article on her late father—George MacPherson, a noted trial attorney and past president of the Washington State Bar Association, who died in 1976—for a UW volume on Washington lawyers, is published in the *Bar News*, and before long strange

things are happening to her. One is a sniper attack that wings her coming out of a Seattle lunch spot. A TV reporter interviews a colleague of Annie's at work (picture the young Joan Crawford in the movie version, breathily intoning), who breathily intones, "We all knew that Annie was working on her father's biography, especially the years he headed the state bar association. It's well known that during that time George MacPherson was *heavily* involved with the state's largest labor unions. I think it should be *obvious* that someone doesn't want that biography published."

The Breathily Intoner is one of the ambitious young things at a downtown Seattle elevator law firm. Way back when, George MacPherson helped start it, but fell out with its now-chief rainmaker, Gordon Barclay. Barclay searched out Annie's tiny firm and made them an offer they couldn't refuse, and off they went, from the genteel shabbiness of Pioneer Square, to the 88th floor of the 106-story Nisqually Tower, "with its steel-blue exterior and shape evocative of a futuristic ray gun," to make the big bucks. A homecoming of sorts, everyone said.

Hardly settled in her new digs, still trying to figure out the suicide of Barclay's secretary and off-hours squeeze, Annie goes to lunch with Barclay, who offers her a place in his new, still-secret firm. There's no future in the old shop, he says: I'm taking all the business with me. On the way out, all the more perplexed, Annie gets winged by a sniper and the controversial biography theory emerges.

But that's just the half of it—up to



page 126. Nothing is what it seems in the second half, as the plot unravels its full pattern of red herrings and apparently unconnected events. "Men are such jerks" seems to be the moral of the story; fathers—and children—who are bastards are all over the place.

Smith's plotting has improved, as has the writing. Both have a harder edge than the cozy, Agatha Christie-like setting and style of *Sea of Troubles*.

Retired Yakima lawyer-turned-author John S. Applegate has produced his second book in as many years, a political thriller set in the near future. *The U.N. Peace Imperative* starts from the premise that the United Nations' current, so-tentative steps toward an internationalized military force have been realized. Written out of genuine concern that the constantly expanding international arms industry fuels current conflicts and sows the seeds of future wars, *The U.N. Peace Imperative* is nevertheless an entertaining read. Applegate calls it "sort of Tom Clancyish"; I found echoes, in plotting, settings and narrative, of Conan Doyle's

American West Sherlock Homes Adventures, as well as of Agatha Christie's 1970 terrorism thriller, *Passenger to Frankfurt*.

The hero is just that: "U.S. Army Colonel John Davin, "intrepid adventurer and master of disguises." Davin chairs the U.N. Security Executive Committee, created to direct the transition to an international peacekeeping force. "The plan required each nation to turn over to the United Nations certain specified portions of its conventional weapons, indeed, all that were unnecessary for its internal security. Thus the United Nations acquired a nonnuclear capability, sea, air, and land, including personnel, stronger conventionally than that of any individual nation. Outside this umbrella, the protection of nuclear nations, one from another, was guaranteed over period of ten years. Deployed nuclear weapons would be reduced annually over this period. Over the same period, the productive capacity for all weapons (including nuclear), except those necessary for internal security, would be eliminated or transferred to UN control. Chemical and biological weapons were outlawed. All stocks were destroyed."

It's a semi-Pax Americana: a universal monetary system was adopted, using the dollar as the medium of exchange. English became the official universal language, the organs of the UN were strengthened, and the jurisdiction of the World Court further defined and accepted by nations.

Muddying this seemingly vision of the future is the discovery of some secreted Israeli cruise missiles, supposed to have been turned over already, and the disappearance of 23 Stinger missiles, destructive little devices delivered to Afghan rebels during their war with the Soviet-backed government. Since the system the UN has created depends on everyone believing in it, missiles in the wrong hands can be used to provoke incidents, and there are villains afoot willing to do just that.

Sometimes officially, sometimes in perfect disguise (another Holmes touch), Davin sets off to laboriously track down the missiles. To the legendary Khyber Pass, to Sicily, to Riyadh, the trail leads on, through the menacing land of Saddam Hussein, (at it again) through

Prague and into Eastern Europe, through the ruins of the Cold War the trail leads, to a tense standoff on a barge full of nuclear warheads. Applegate has a good eye for description of places, and makes the pieces of the plot fall into place at the right times (A wry twist at the end: several of the bad guys are convicted by an international tribunal and "were given terms of various lengths in the same

UN prison near Brussels where Saddam Hussein was serving his sentence"). In a sidebar to this review, Applegate explains how he took as his writing inspiration James Heriot, the English veterinarian. He has learned his lesson well. Like Heriot, he tells a good story. Though he has come to the writing trade relatively late in life, one should hope for more from Yakima's lawyer-author.

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An Author's Explanation from the Hammock

by John S. Applegate

Lindsay says, "I intend to review it in the August issue. Why don't you tell us 'how come' for the November issue?"

The editor was talking about my book, *Thy Kingdom Come, Or Tales of A Small-Town Lawyer*, and he did. See page 40, "How to Feel Less Guilty in the Hammock."

Now, my how-come. Twenty years ago, when I read the Yorkshire veterinarian James Herriot's books, *All Things Bright and Beautiful* and *All Creatures Great and Small*, describing his professional experiences, I found them so enjoyable, so educational about the veterinary medicine of which he was so proud, so beautifully descriptive of his beloved Yorkshire countryside and its people, so fundamentally decent, I said to myself, "Applegate, why don't you try to do the same thing about your profession, your people and the State of Washington you love so much, when you retire?" And so I did, with a book of twelve stories, six based on factual experiences (disguised, even for

participants), and six dreamed up to illustrate different facets of the law. That's the "why."

The how? A journey, regardless of its length, begins with the first step. Seven years ago, when I retired at age 75, I took my first. Easy? Not on your life. I found writing—especially at my age, I suppose—to be all blood, sweat and tears. Doggedly writing and re-writing, re-learning typing on a word processor, I eventually found it fun as I got the hang of it and relaxed. I learned to watch the story and the characters develop, usually as intended, but sometimes not. And it kept me off the streets and out of the pubs, perhaps not shortening my years too much; perhaps even extending them.

Fortunately, not having the financial compulsion that fuels most beginning writers, I took five years to finish *Kingdom*. So I ended up, at age 80, with a completed manuscript: what next? Do I throw it away? After five years? Hah!

Answer—I look for a publisher. Again, not an easy thing, not on your life. Herriot's books, enormously successful, were rejected by twelve publishers before a reluctant acceptance

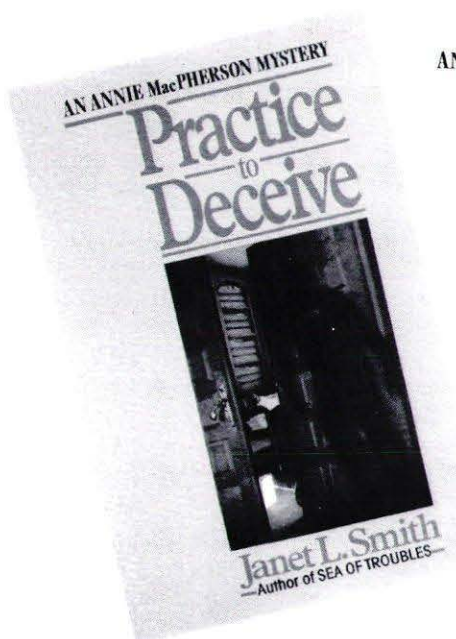
came though. At my age, deciding I had no time for the submission and rejection process, I self-published. This means I selected and paid a "vanity" or "subsidy" publisher to do the job. The cost? Substantial. Am I sorry I published in this manner? Not at all. Time is the decisive factor. Do I have complaints? Sure. A book from Vantage Press, my publisher, is beautiful. But promotion and publicity—though improving with my nudges—has been almost nil. And I have been dismayed at the inability of my friends to purchase a copy through the usual outlets. Book stores and distributors have an aversion to vanity publishers' efforts.

How is it going? I suppose, not badly. Principally due to some good local publicity, *Kingdom* sold out quickly and is now in its second printing. And I have another book, just published, *The U.N. Peace Imperative*, in which I use the United Nations Charter as the basis for something very important to me—the elimination of war.

Why a novel? I thought people who desire this end would be more likely to read a proposal on how to end war if it is in the form of a novel—sort of Tom Clancyish. It took me two years to write *Peace* after I finished *Kingdom*. Both books are available—at an outrageous price, over which the author has no control—*Kingdom* at \$19.95, *Peace* at \$16.95, plus mailing, by calling (800) 882-3273, or by fax order at (212) 736-2273.

What next? I'm still at it when golf and family permit. The subject? Not to be disclosed until completion, if ever. I'm getting over the idea I may be immortal.

Born in Walla Walla, "Bud" Applegate was graduated from Whitman College in 1932 and the University of Washington School of Law in 1941. He is a past president of the Yakima County Bar Association and served on the WSBA Board of Governors from 1962 to 1965. Retired, he divides his time between Yakima and Hawaii.



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Leave Her To Heaven

reviewed by Philip DeTurk

Long before the term "fatal attraction" was in vogue, Ben Ames Williams wrote a book about that very subject. *Leave Her to Heaven* (Sun Dial Press, 1947) is a novel worth reading, not only to trace the development of a female that couldn't let go, first of her father until his death, then her husband, but also for the exciting trial that takes up the last 25 percent of the book. Set in Maine around the late '30s, the book deals with a famous author, watching a beautiful woman fall asleep over his latest work while they were both traveling by train to New Mexico. ". . . to see some stranger engrossed in one of his novels was an experience of which he never tired, and particularly when as in this case the reader was almost extravagantly beautiful." Soon thereafter they meet. The young lady, Ellen, who was portrayed by Gene Tierney in the film version of the novel, left the Northeast for New Mexico in order to spread her father's ashes in the area he had loved so well away from his home. Her mother and sister have accompanied Ellen on this mission, of a last love to someone she passionately served. Then she meets Harland. Soon this older man, who has the obligation of caring for Danny, a 14-year-old brother suffering from polio, is captured by her. When he asks for her hand from her mother, the elder Berent states: "Take her and welcome, Mr. Harland . . . She'll eat

you alive and gnaw on your bones."

The couple enjoys some happy months even though most of them must be shared with Danny. But while he is attempting to do an endurance swim so that he can later show off for his big brother, Ellen realizes: "If Danny drowned, then she could make Richard wholly hers." Danny does, as miles away, her husband is watching the two of them on the lake from his perch near

the cabin where he had stayed to work on his next book. In order to salvage what is left of her marriage, Ellen then announces that she is pregnant. Richard realizes that he can't turn against her for the heinous crime he witnessed when she is going to have his child. He assists in hiding evidence of her intentional failure to save his brother. While her husband awaits fatherhood, Ellen does everything she can to assure

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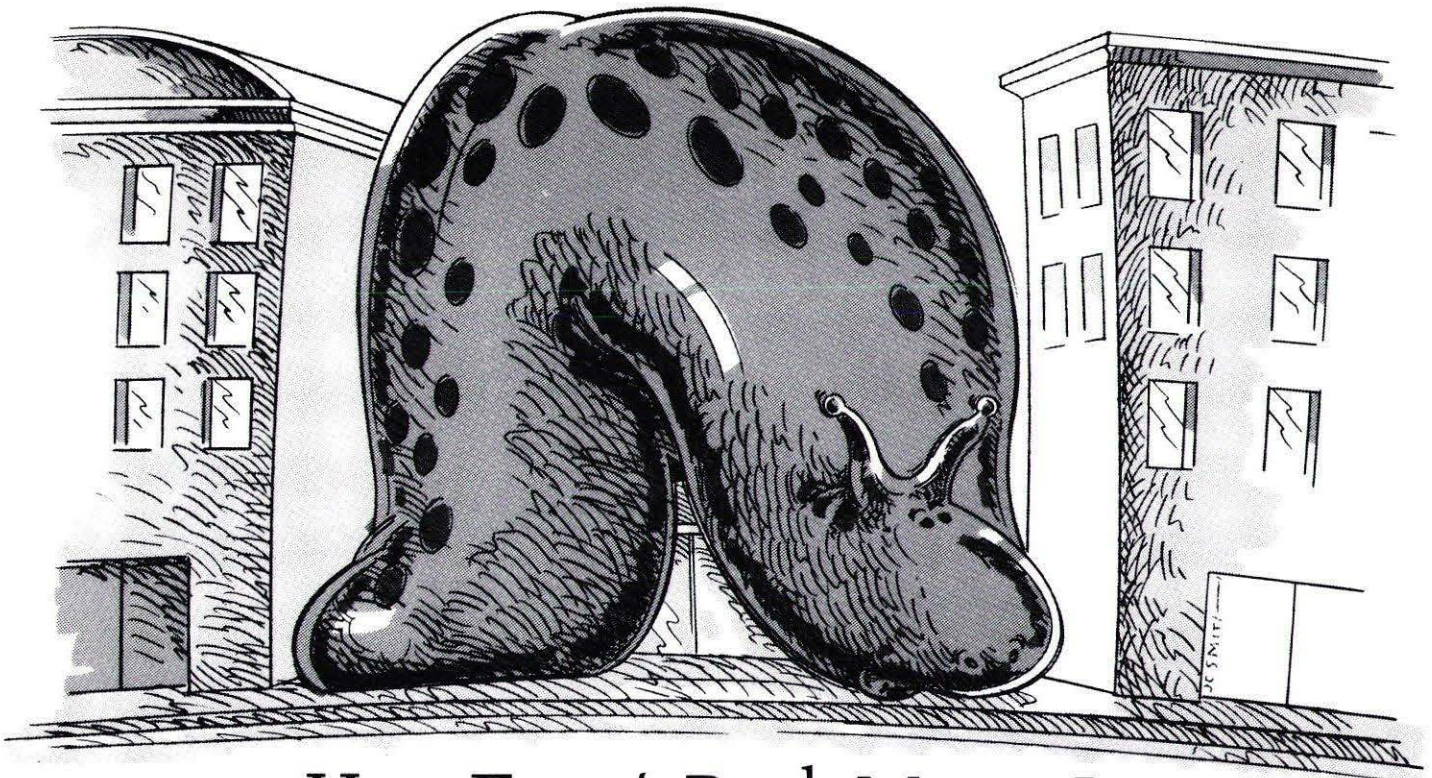
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Puyallup lawyer Philip DeTurk reviews classics for the Bar News.



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that she is, in fact, pregnant. (Ben Ames Williams wrote nice books so no pruriency appears.) Her perfect plan almost works until she realizes that the child will be born after nine months from the date of Danny's death. So Ellen must engage in still another crime. Somehow the growing fetus must be aborted before anyone knows how long she has been pregnant. She accomplishes this by falling down some stairs after first engaging in excessive running, painting, and general over-exertion. Ellen has desperately done everything possible to completely possess Richard. Yet, her plans go awry when he determines he no longer can be a lover to her because of what he knows about Danny's death. Ellen is to lose him after all. She cannot handle that defeat. It is at this point in the novel that Ellen does something few anti-heroines have ever done. She plots the perfect murder, with herself as the victim. The reader is not privy to her thought processes in this regard, only the after-effects. When her widower ultimately marries Ruth, her younger sister, several years after her death, Ellen's plan goes into effect.

The overly possessive ravishing beauty has killed herself in such a way as to put the blame on Ruth. She dies under mysterious circumstances which ultimately prove to be arsenic poisoning. This toxic substance is one with which both sisters had contact due to the nature of the work of their deceased professor father. Ellen's remains are cremated and her ashes spread to the wind, as purportedly was her dying wish. A motive is easily established since Ruth supposedly coveted Harland and inherited Ellen's sizable fortune. That portion of the opus that deals with the backwoods trial is excellent. Roger Pryde, a corporate attorney and friend of Harland and Ruth, has arranged the retention of Nathaniel Pettingill, "... a big heavy-shouldered man who seemed half-asleep; but his mind never slept..." Ruth is charged with Ellen's murder based on the evidence available, and a letter that Ellen posted to a former boyfriend only to be opened upon Ruth's marriage to Harland. Ellen erroneously feared the worst while she was still living, as Harland had no romantic interest in

Ruth then. Ruth thought:

For a while a deep anger at Ellen burned in her; at Ellen whose whole life had served herself and none other, who now in her death had sought to do an irreparable injury. She remembered that Ellen too had suffered, loving Harland as she did, knowing him irrevocably lost to her.

So Ruth would say nothing against her sister, even though she was on trial for her own life. Pettingill realizes this

... and somehow, without leading her into any word of criticism of Ellen, he showed the jury Ellen too, in all her youthful ways, til they knew how she had devoured her father, flouted her mother, subordinated everyone's wishes to her own. Yet he did this so deftly that Ruth seemed always to be defending Ellen...

Contrariwise, the prosecuting attorney, Ellen's intended before she met Harland on the train, loses his poise to

the serene Ruth, his voice becoming shrill and high, bringing the audience to titters. The key to the false accusation takes place when Harland testifies. He is able to paint Ellen with her true colors. In doing so, he must necessarily reveal what took place with Danny; how he helped conceal the evidence of the crime. The reader is given an opportunity to learn about the way criminal law was practiced almost 60 years ago. There were no sentencing guidelines then; no discovery rules that had to be followed; no restraints on testimony preventing the jury from learning about the decedent, or even the accused. Perhaps our present methods are better; but they don't lead to as interesting reading of trials. This book should also be of joy to those who love to hunt and fish, since it is filled with forays into the great outdoors of both Maine and New Mexico, at least as those states existed almost two generations ago. While the volume may be hard to find at your library, Buccaneer Books published an edition in 1981 which currently retails for \$27.95 under #ISBN 0-89966-257-9.



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Elliott Bay Books, in Seattle among other literature purveyors, can procure it for you. (Or you can borrow my copy.) In the movie version, Vincent Price played the part of the main attorney. Other cast members included Jeanne Crain as Ruth and Cornel Wilde as Harland. Chill Wills and Harry Depp also had small parts in the film, which was produced in 1945 by TCF Company, William Bacher, directing. Ben Ames Williams, a Southerner who writes primarily about that area of New England in and around Maine down to Cape Cod, also authored *The Strange Woman*, about another possessive type of lady. In that treatise about life around Maine in the mid 1850s, the author reveals several homespun tales of prior interesting legal happenings:

A good witness can win your case for you, Sam. I was charging a jury the other day and I said: 'Now if the testimony of this witness was so and so, you will decide for the defendant,' and the witness jumped up and yelled: 'Why, Judge, that's

just what I said, to a shaving!' After that, plaintiff didn't have a chance!

With reference to a case in which a couple was charged with criminal conversation, a wise judge solved the matter thusly,

"Mr. Lebbeus, do you propose to show the court that you are married to this woman?" Lebbeus replied in a sardonic tone: "We are married, Your Honor, in the eyes of God and in the light of our own consciousness!" "Do you love this woman well enough to take her for your wife?" "I do." The Judge asked: "Madam, do you love this man enough to take him for your husband?" The young woman said amiably: "Why, I just certainly do, Judge."

Judge Saladine nodded. "Good! Then by the authority vested in me by the laws of Maine, I do pronounce you man and wife! Go and sin no more!"

Notices of

WSBA Disciplinary Notices:

Reprimanded: Seattle lawyer **William L. Hanson** (admitted 1959, WSBA #7546) has been ordered reprimanded pursuant to a stipulation for discipline, based upon his failure to make himself a co-signatory on a guardianship bank account in accordance with a court order. [September 1, 1992]

Disbarred: Based upon his stipulation to disbarment, Kent attorney **John S. Astle** (admitted 1976, WSBA #7170) has been ordered disbarred effective September 4, 1992 by the Supreme Court of the State of Washington. He stipulated to failing to maintain client trust account funds, neglecting client matters, failing to avoid a conflict of interest, failing to maintain adequate trust account records, failing to correct misunderstandings by unrepresented parties as to his role in matters, and failing to cooperate in disciplinary investigations. [September 9, 1992]

Disbarred: Based upon his stipulation to disbarment, Seattle attorney **Richard H. Pierson** (admitted 1981, WSBA #11933) has been ordered disbarred effective September 4, 1992 by the Supreme Court of the State of Washington. He stipulated that based upon his felony conviction in the U.S. District Court for forging and counterfeiting a U.S. bankruptcy judge's signature, a hearing would have resulted in a finding of an act of moral turpitude and dishonesty, and that he could not have shown sufficient mitigation to avoid disbarment.

PLEASE NOTE: This is *not* Seattle attorney **Richard William Pierson**, WSBA #3884. [September 9, 1992]

Commission on Judicial Conduct Notices:

Stipulated Admonishment: By stipulation dated August 19, 1992 and order dated September 4, 1992, the Washington State Commission on Judicial Conduct has admonished Hon.

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Interest to WSBA Members

Steve M. Clough, Judge of the Evergreen District Court, Snohomish County, for a violation of Canon 3(A)(3) of the Code of Judicial Conduct.

The parties stipulated that Clough presided over a case on January 17, 1992, in which a defendant was charged with violations of the mandatory motorcycle helmet law and driving with an expired license. After an exchange between the defendant and the deputy sheriff who had stopped the defendant, the defendant's presentation caused Judge Clough to demonstrate less patience and courtesy towards the defendant, remarking on the record, after the case was closed but before the next case was called, "You don't think Mr. Breckenridge (the defendant) drives around baiting officers, do ya, just hoping to get stopped so he can get a little debate going. What it looks like to me."

Clough accepted the Commission's determination that his described conduct constituted a violation of Canon 3(A)(3) of the Code of Judicial Conduct, and agreed not to engage in such conduct in the future.

Public Notices

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

The average coupon equivalent yield from the first auction of 26-week treasury bills in September 1992 is 2.86%. The maximum allowable interest permissible for November 1992 is therefore 12%.

Compilations of the average coupon equivalent yields from past auctions of 26-week treasury bills, and past maximum interest rates, appear in the *Bar News* on page 39 in October 1987 for 1982-84; page 37 in June 1989 for 1984-85; and on page 47 in June 1992 for 1986-92.

Attorney Alert

We spend a good deal of our time trying to maintain and improve our

skills as attorneys, and as to the management of our practices. We spend virtually no time, however, developing other skills that are actually *more* important to us financially—the skills of managing our money, whether it be directly held or in a retirement plan. The average attorney probably earns more money over his or her lifetime from investing than from practicing law! Most of us would be shocked to learn this, but it is true. The application of a few extremely simple principles can literally make a million dollar difference in your net worth over the course of your practice.

The American Bar Association will be publishing a book on the subject in due course, but in the meantime a ten page article is currently available to offer guidance. It can be obtained by calling (800) 886-6888.

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, P. O. Box 40751, Olympia, WA 98504-0751. 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.

CHILD SUPPORT

Child support reference manual. Prepared by Margaret Campbell Haynes and others; Child Support Project, Center for Children and the Law, American Bar Association, Washington, DC: Office of Child Support Enforcement, U.S. Dept. of Health and Human Services, c1990. 1 Vol. V.p. **XF549.Z9C47 1990**

Jungle fighter Whose side is he on?

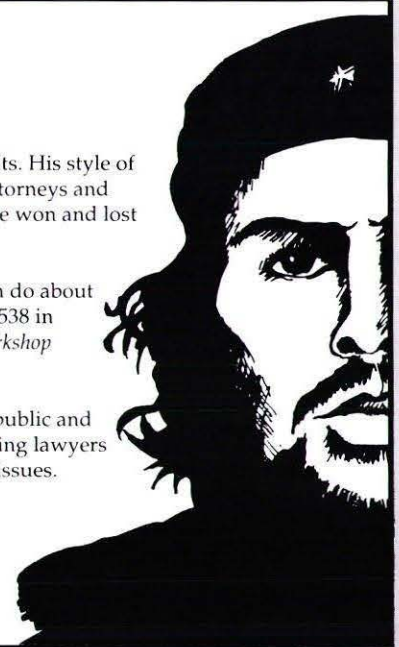
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CONSERVATION OF NATURAL RESOURCES

Wilkinson, Charles F. *The eagle bird: mapping a new West*. 1st ed. New York: Pantheon Books, c1992. Pp. 221. S932.W37W55 1992

FORENSIC GENETICS

DNA technology in forensic science. Committee on DNA Technology in Forensic Science, Board on Biology, Commission on Life Sciences, National Research Council. Washington, DC: National Academy Press, 1992. Pp. 198. RA1057.5.N37 1992

HANDICAPPED

Marx, Gary S. and Gary G. Goldberger. *Disability law compliance manual*. Boston, MA: Warren, Gorham & Lamont, c1991. 1 vol. V.p. KF480.M37 1991

PRACTICE OF LAW

Arron, Deborah L. *What can you do with a law degree?: a lawyer's guide to career alternatives inside, outside & around the law*. Seattle, WA: Niche Press/Deborah Arron, c1992. Pp. 207. XF300.A88 1992

Client alerts:

Two items of general interest appeared on October 5 and 6 of *The Seattle Times*. Attorneys may have clients for whom this information is of use:

1) **Low-income senior and disabled homeowners** are eligible for a property tax break under state law [RCW 84.36.381]. To verify assessments for your clients, contact your county assessor's office.

The December *Bar News* "Digest" will carry a repeat of this notice and further details.

2) **Surviving spouses of military retirees** can be assured of continuing to receive part of the decedent's military retirement benefits only by enrolling in the Survivor Benefit Plan. Enrollment is open until March 31, 1993; it is run by the Department of Defense.

For information, call the numbers listed below and request the telephone number of the closest Retired Affairs Office for your client's branch of service: Army: (317) 542-2901 (call collect); Air Force: (800) 642-6916; Navy: (800) 255-8950; Marines: (800) 336-4649.

November 1992

3 Seattle: Real Estate Tax Deferred Exchanges. *Sponsored by:* Seattle-King County Bar Association. *For information:* Monique Gill, (206) 624-9365.

3 Seattle: Residential Landlord-Tenant Law. *Sponsored by:* Seattle-King County Bar Association. *For information:* Monique Gill, (206) 624-9365.

3 Seattle: Civil Procedure Deskbook. *Sponsored by:* WSBA CLE. *For information:* (206) 727-8202.

5 Seattle: Basic Real Estate Law in Washington. *Sponsored by:* National Business Institute, Inc. *For information:* (715) 835-7909.

5 Seattle: Client Delight CLE. *Sponsored by:* Seattle-King County Bar Association. *For information:* Monique Gill, (206) 624-9365.

5 Seattle: The View From the Bench. *Sponsored by:* WSTLA. *For information:* (206) 464-1011.

5-6 Seattle: Estate Planning. *Sponsored by:* WSBA CLE. *For information:* (206) 727-8202.

5-7 Seattle: Negotiations Institute. *Sponsored by:* WSBA CLE. *For information:* (206) 727-8202.

6 Seattle: Admiralty & Maritime Litigation. *Sponsored by:* Seattle-King County Bar Association. *For information:* Monique Gill, (206) 624-9365.

6 Seattle: Constitutionality of Land Use Regulation. *Sponsored by:* UW CLE. *For information:* (206) 543-0059.

7 Seattle: Washington Legal Research Made Easy. *Sponsored by:* UW CLE. *For information:* (206) 543-0059.

10 Seattle: Current Issues in Banking Law. *Sponsored by:* National Business Institute, Inc. *For information:* (715) 835-7909.

10 Wenatchee: Moderated Video Replay of "Incorporating A Business in Washington State", first presented in Seattle in October. *Sponsored by:* WSBA CLE.

11 Seattle: Criminal Law: The Year in Review. *Sponsored by:* Washington Association of Criminal Defense Lawyers (WACDL). *For*

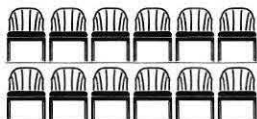
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12 Olympia: Civil Procedure Deskbook. *Sponsored by:* WSBA CLE. *For information:* (206) 727-8202.

12-13 Seattle: Fifth Annual Advanced Conference on Commercial Real Estate Leases. *Sponsored by:* CLE International. *For information:* (206) 621-1938, fax (206) 567-5058.

13 SeaTac: Soft Tissue Injury Cases. *Sponsored by:* WSTLA. *For information:* (206) 464-1011, fax (206) 464-0703.

13 Seattle: Fifth Annual Insurance Law Seminars. *Sponsored by:* Washington Defense Trial Lawyers. *For information:* Nora Tabler, (206) 233-2930.

13 Seattle: Estate Planning and Practical Uses of Life Insurance in Washington. *Sponsored by:* National Business Institute, Inc. *For information:* (715) 835-7909.

13 SeaTac: Civil Procedure. *Sponsored by:* WSTLA. *For information:* (206) 464-1011.

13 Seattle: Dr. Gerald Williams: Negotiations and Settlements in the '90s. *Sponsored by:* Seattle-King County Bar Association. *For information:* Monique Gill, (206) 624-9365.

13 CANCELLED: Seattle: Communications Law. *Sponsored by:* UW CLE. *For information:* (206) 543-0059.

14 Spokane: Annual Joseph Nappi, Sr. Community Property Seminar. *Sponsored by:* Gonzaga School of Law. *For information:* John Maurice (509) 328-4220.

15 Deadline for copy for January, 1993 *Bar News*. Contact Lindsay Thompson, editor, (206) 577-3080.

18 Seattle: Guardianship CLE. *Sponsored by:* Seattle-King County Bar Association. *For information:* Monique Gill, (206) 624-9365.

18 Tukwila (tentative): The Public Trust Doctrine. *Sponsored by:* Washington Department of Ecology. *For*

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by Charles H. Sheldon

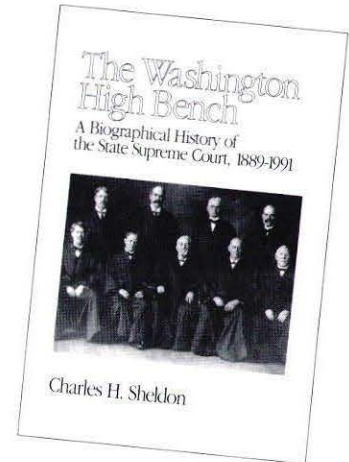
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21 Vancouver, B.C.: Managing

Transboundary Waters in the Pacific Northwest, a regional conference of the American society of International Law. *Sponsored by:* ASIL/Faculty of Law, University of B.C. No information on CLE status, if any. *For information:* Maurice Copithorne or Richard Paisley, (604) 822-8108.

December 1992

3 Seattle: Avoiding Environmental Liability in Washington. *Sponsored by:* National Business Institute, Inc. *For information:* (715) 835-7909.

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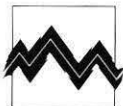
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January 1993

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15-16 Olympia: WSBA Board of Governors meeting. *For information:* (206) 727-8200 or contact your local governor.

February 1993

12-13 Tacoma: WSBA Board of Governors meeting. *For information:* (206) 727-8200 or contact your local governor.

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March 1993

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26-27 La Conner: WSBA Board of Governors meeting. *For information:* (206) 727-8200 or contact your local governor.

April 1993

15 Deadline for copy for June, 1993 *Bar News*. Contact Lindsay Thompson, editor, (206) 577-3080.

May 1993

7-8 Spokane: WSBA Board of Governors meeting. *For information:* (206) 727-8200 or contact your local governor.

15 Deadline for copy for July, 1993 *Bar News*. Contact Lindsay Thompson, editor, (206) 577-3080.

June 1993

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July 1993

15 Deadline for copy for September, 1993 *Bar News*. Contact Lindsay Thompson, editor, (206) 577-3080.

30-31 Winthrop: WSBA Board of Governors meeting. *For information:* (206) 727-8200 or contact your local governor.

August 1993

15 Deadline for copy for October, 1993 *Bar News*. Contact Lindsay Thompson, editor, (206) 577-3080.

September 1993

7 Victoria, B.C.: WSBA Board of Governors meeting. *For information:* (206) 727-8200 or contact your local governor.

7-11 Victoria, B.C.: WSBA Convention and Annual Meeting. *For information:* (206) 727-8200.

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Jim Bamberger,
Spokane Legal Services

Mary Wardrop,
Spokane Co. Bar Assn pro bono coordinator

John Powers, Jr.,
Spokane Co. Bar Assn president



PRO BONO AWARD

Marla Elliott, *Puget Sound Legal Assistance Foundation and Thurston-Mason Co. Bar Assn pro bono coordinator*



PRO BONO AWARD

Ted Barr for *East King County Bar Association*



ANGELO PETRUSS AWARD FOR LAWYERS IN PUBLIC SERVICE

Steve Lundin, *senior counsel, Office of Program Research, Washington State House of Representatives*

THE PROFESSION

WSBA Honors Pro Bono Programs in Award Ceremonies

The Washington State Bar Association honored an individual and two county bar associations for outstanding pro bono activities in awards ceremonies at the 1992 convention in Vancouver, September 15-18.

Marla P. Elliott, pro bono

coordinator for Puget Sound Legal Assistance Foundation since 1982 and coordinator of the Thurston-Mason County Bar Association's pro bono program was honored for her work in increasing legal services available to the poor at a time when legal services budgets were in steep decline. She has also made innovative use of government

lawyers, thought by many to be effectively precluded from pro bono work. **Spokane Legal Services** has assembled over five hundred lawyers to assist in its programs, which helped 1,170 people last year. In 1991-1992 the program increased the number of cases handled by 40 percent. It also serves a coordinating function with

How Much Is Enough?

While the WSBA Board of Governors has grappled with whether to increase its recommendation on how many hours members should devote to pro bono work for the poor each year, developments around the country are framing the issue in terms of increased hours and mandatory participation.

In April, the ABA Standing Committee on Lawyers' Public Service Responsibility started conducting hearings on an amendment to the Model Rules of Professional Conduct to require that 40 of the 50 hours a year recommended by the rule to be devoted to pro bono work be rendered at no cost and provided directly to poor persons or to organizations addressing the needs of the poor. The remaining ten hours could be performed at no cost or reduced fee for community and other organizations not necessarily serving poor persons. Other states are considering raising the recommendation above the ABA level—80 hours is becoming a widely quoted annual benchmark in those discussions.

In Florida, the Supreme Court established a statewide voluntary pro bono program to serve the civil legal needs of the poor. The program calls for lawyers to perform at least 20 hours a year, or contribute \$350. The court stressed that lawyers could meet the 20-hour obligation only with legal services, and not other volunteer services. It also stressed the obligation is personal to individual lawyers; members of law firms cannot collectively meet the standard by delegating an associate to carry the load for them.

Implementing rules will allow chief judges in each of Florida's 20 judicial districts to design and effect plans to help fill needs unique to their areas.

other area legal-service providers, serving "as a model of coordination and collaboration for the rest of the State." After a study found significant unmet needs among lower-income residents of East King County, the **East King County Bar Association** established its legal assistance program in 1989. The program now operates six legal clinics in the East King County area.

WSBA president Joe Delay praised these people and groups—and their work—as an example of the best lawyers can be. They are.

Significant achievement within the legal profession was also honored by the Association. Seattle lawyer and former WSBA president **William H. Gates**



AWARD OF MERIT
Bill Gates

was given the Association's highest honor, the Award of Merit. A lawyer for over forty years, Gates has chaired court, civic and WSBA committees and task forces almost without number, and has been active at the highest levels of the American Bar Association.

The President's Award, given for special accomplishment or service to the Association during the term of the outgoing president each year, was presented to state Rep. **Marlin Appelwick**, a lawyer, and state Sen. **Jeanette Hayner**, in honor of their efforts to obtain passage of a court filing fee increase last year. The filing

As lawyers renew their membership in the Florida bar each year, they will be required to report the number of pro bono hours performed or money contributed. After the program has operated two years the Supreme Court will review its effectiveness and has reserved the right to make it mandatory if lawyers do not participate adequately.

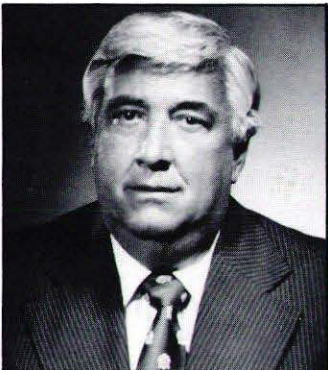
In Tennessee earlier this year, a 1991 study which found Tennessee public defenders were handling more cases per capita than their counterparts anywhere else prompted four Knoxville General Sessions Court (district court) judges to order every lawyer in the city to take on misdemeanor defendants as pro bono clients. "That includes Knoxville Mayor Victor Ashe, who hasn't practiced law for years and has never handled a criminal case," wrote *New York Times* legal correspondent David Margolick.

Margolick reported criminal filings in Seattle doubled between 1983 and 1989; similarly explosive increases are reported in other major American cities. Public defenders in Louisiana were successful in getting the law authorizing them thrown out this year, arguing that their caseloads precluded their meeting their ethical obligations to individual clients.

The Knoxville judges' order directed that every resident lawyer in the county would participate. The only acceptable excuses, the judges said, are physical infirmity, retirement, and death. However, unlike the Florida plan, the order leaves room for big firms to assign their collective share to several associates, a move some have taken, and which has been bitterly criticized by small firm and sole practitioners.



COURAGEOUS AWARD
Ed Hiskes



PRESIDENT'S LIFETIME SERVICE AWARD
Mike Hemovich



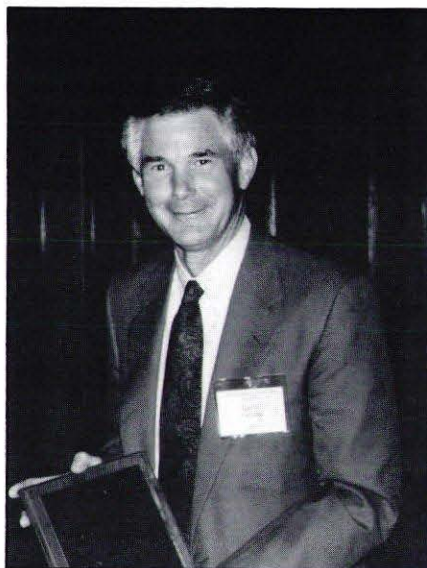
RETIREMENT HONOREE
Hon. Fred Dore (l): presented by WSBA president Joe Delay (r)

fee bill, passed against tremendous fiscal and political odds, provides significant additional funding for legal services for the poor in Washington and for the grossly neglected county law library system.

The Board of Governors Award for



PROFESSIONALISM AWARD
Fred G. Campbell



AFFIRMATIVE ACTION AWARD
David Lycette for Lane Powell Spears Lubersky

Professionalism notes the accomplishments of one who exemplifies the spirit of professionalism in the practice of law. Lincoln County lawyer Fred G. Campbell has devoted over half a century to the legal needs of his county, in all areas of practice. He is one of those rare lawyers who, born and raised in a sparsely populated area of the state, returned there after law school and gave his neighbors the kind of excellence in the practice of law that all too often



OUTSTANDING JUDGE AWARD
Hon. Marshall Forrest, Court of Appeals Division 2 (l); presented by Dennis Harwick, WSBA exec. dir. (r)



PRESIDENT'S AWARD
Rep. Marlin Appelwick (l) & Sen. Jeanette Hayner (not present). Presented by WSBA president Joe Delay (r).

migrates to the big cities.

Steve Lundin, senior counsel in the Office of Program Research of the Washington State House of Representatives, is the recipient of the 1992 Angelo Petrus Award for Lawyers in Public Service. Named for a government lawyer who died while serving on the WSBA Board of Governors, the award honors significant contribution to the

legal profession, the justice system and the public in a public service capacity. Lundin was cited for having become, in 18 years of government service, "the expert in local government," said WSBA President Joe Delay. Lundin has also been active in a variety of community groups assisting those in need.

Court of Appeals Judge **Marshall Forrest** is this year's Outstanding Judge. With sixteen years as a trial judge, three years on the Court of Appeals and twenty as a trial lawyer, Forrest has given a career of outstanding service on the bench, winning praise as a wise and thoughtful analyst of the law.

Pasco lawyer **Edward V. Hiskes** was honored with the WSBA Courageous Award, recognizing his long effort to bring computer-accessible, low-cost legal materials to the lawyers of Washington in the face of a variety of adversities. Hiskes' pioneering work has led to the creation of the WSBA computer bulletin board system as well as ongoing research and development of the presentation of appellate reports and statutes in low-cost-computer-readable forms.

The Northwest law firm of **Lane Powell Spears Lubersky** was given the 1992 Affirmative Action Award to honor its singular support for the Northwest Minority Job Fair. A sponsor of the event since its inception, Lane Powell has provided the time and talents of many of its lawyers and staff. "The job fair has been a major success in exposing private law firms, public agencies and corporations to minority student talent graduating from our law schools," said president Joe Delay in making the award. "The job fair probably would not have existed, or continued to thrive once started, without the guidance, assistance and support of the Lane Powell firm."

The President's Lifetime Service Award was presented posthumously to **Michael J. Hemovich**, who died earlier this year. Forty years in practice, Hemovich was a superb trial lawyer and bar association leader; he served as the Association's president in 1979-80. "He was a colorful, wonderful personality," president Delay recalled, remembering that on Hemovich's tombstone is the inscription, "The Defense Rests."

COMPUTER RESEARCH

At Last, Ignorance Is Bliss

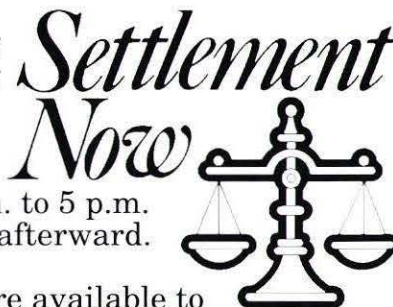
A new method of computer-assisted legal research "frees the user from having to learn computer language," said West Publishing Co. president Dwight D. Opperman in a September

15 New York press conference.

Opperman and other officials of the Minnesota-based legal publishing house unveiled West's WIN (for "Westlaw is Natural") system to about fifty legal publication journalists. WIN is a "natural language system," which allows users of Westlaw, the company's on-line computer research service, to ask research questions in plain English (West is a *Bar News* advertiser and *Bar*

We have designed a day-long professional skills enhancement program that will be both entertaining and intellectually stimulating.

Settlement Now is sponsoring a mediation workshop for our advanced mediators on December 3, 1992, at the Westin Hotel in Seattle. The workshop will run from 8 a.m. to 5 p.m. and there will be a reception afterward.



A limited number of spaces are available to attorneys who are not *Settlement Now* mediators. These will be reserved on a first-come, first-served basis.

The workshop will feature William F. Lincoln and Anthony C. Piazza, two of the most prominent national authorities on alternate Dispute Resolution. The program will include lectures, mock mediations and a presentation by Judge William Baker of the State Court of Appeals Division I.

The cost of the workshop (including lunch) is \$100 and 8 CLE credits are available to participants.

To reserve your space, call *Settlement Now* at 545-5165 and ask for Peter Marchel, Mark Moburg or Ken LeMaster. As seating is limited, early reservations are recommended.

The *Settlement Now Foundation* is a 501(c)(3) non-profit organization.

News editor Lindsay Thompson sits on a West editorial advisory board).

Prior search technology was based on Boolean Logic, a system which required queries to be put in computer language. For example, a search for criminal cases dealing with use of videotaped testimony in court would require one to assemble this query: *to(criminal) /p video-tap! /p eviden! testif! testimony witness*. Under the new system, users can simply use the computer to find cases dealing with the desired topic.

The computer then identifies concepts from the query and makes a statistical comparison of them to the documents in the database being searched. The top-ranked documents are then retrieved. The first-ranked document will be the one that contains the concepts most closely matching those in the query. Within each document, paragraphs are also ranked and can be retrieved by typing "Best." The system also includes an on-line thesaurus of legal terms to aid in forming research queries.

The system was developed by a West team headed by James A. Olson, manager of database programming at West, and Howard R. Turtle, the company's principal research scientist.

"We started looking at this about five years ago," Opperman said, "and put our research team together two or three years ago. Work has been done in this field on an experimental basis, and it had been the subject of lots of scientific literature, but no one knew if it would work on a large body of information, like U.S. case law. The project cost the company \$7 to \$9 million, and is expected to generate a significant increase in Westlaw subscriptions.

"People who told us, 'Come back when all I have to do to use Westlaw is ask a question' should be happy," Opperman told the press conference. The WIN system was made available October 1 to the nation's five hundred largest law firms, and will be phased in to use by other subscribers over the winter, said Thomas McLeod, West's manager of Westlaw accounts and government relations. West field staff will be used for training users in the new system.

West officials said the WIN system works "within seconds" of the time a Boolean search takes, and pulls out more relevant cases than the Boolean method. No increase in on-line fees will accompany introduction of the system.

Computer industry experts said WIN is a revolutionary breakthrough in the application of existing technologies to a new type and field of use. "There is nothing else like it," Opperman concluded. "Our competitors will have a hard time catching up with us for quite a while." But West's principal rival in on-line research, Mead Data Central, told *The National Law Journal* West is offering a system users don't need. "Power users—people who make frequent, sophisticated use of on-line services—know computer language and don't need WIN, and law firms are more interested in pricing flexibility to save money than in this sort of system. "We're not quaking in our boots," a Mead spokesperson told the *Journal*, which noted that West has steadily cut into Mead's one-time near monopoly since 1975.

WASHINGTON LAWYERS A Milestone for Lady Willie

Late summer was a time of celebration among friends and family of pioneering Seattle lawyer Lady Willie Forbus. Having turned one hundred

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CHAIRMAN

years old August 24, Forbus told the *Seattle Post-Intelligencer's* Robert L. Jamieson, Jr. that "I think it's about time that I get out of the profession. I don't know any lawyers who are practicing at 100."

Born on a Mississippi cotton plantation in 1892, Forbus graduated from the University of Mississippi and applied to law school. Columbia, Cornell, Harvard and Yale all said no; the University of Michigan accepted her, though when she graduated the dean wished her well and told her she'd make some lawyer a very good stenographer.

Forbus set her sights on the West, "because it was more up to date, more open and receptive to women." She settled in Seattle, one of the first women to practice in the city. From 1942 to 1946 she served in the Washington State Senate, and held positions in a number of state agencies over the decades of her career. She was featured in the Washington State Bar Association's 1989 videotape history of lawyers in Washington.

Forbus celebrated her 93d birthday with a trip to the Soviet Union, and maintained an office until last year. Ill health prevented her attendance at a reception presented in her honor



Lady Willie Forbus (r) celebrated her 100 birthday August 24 with her daughters, including Dale Hogle (l), family and friends. (Photo by Ellen M. Banner in the Seattle P.I.)

September 4 by Washington Women Lawyers. Dozens of judges and lawyers joined her family to toast her remarkable career. WWL president Sheryl Garland presided and offered a short account of Forbus' life and career. Judge Anne Ellington and retired judges Frank James and John Riley spoke of their

recollections of her career. Forbus' two daughters, Dale Hogle and Alvara Deal, attended, as did other members of Forbus' extended family. And, to make it all official beyond any question, Forbus was saluted for reaching her centenary by NBC television character Willard Scott on the "Today Show."

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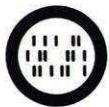
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The Nonengagement Letter and the Disengagement Letter

by Pamela Blake

What is the difference between a non-engagement letter and a disengagement letter? When and why is each used?

The nonengagement letter declines representation whereas the disengagement letter severs a relationship when a firm is no longer able to continue representation or has completed it. Both procedures are important components in the business management of a firm's practice.

The nonengagement letter should be sent immediately after the initial interview and include:

- a brief summary of the matter discussed;
- the advice that no investigation has

been made as to the merits of the matter;

- a nonspecific reason for declining representation;
- an indication that a potential statute of limitations may be applicable. (Do not specify the date or time frame as this places the firm in the position of offering legal advice.);
- the suggestion that the client consult another attorney (Do not recommend a specific attorney or firm, as this opens the firm to a suit for inappropriate recommendation.); and
- the recommendation that the client contact a local lawyer referral service.

The disengagement letter should be mailed as soon as the firm becomes aware that representation must be withdrawn or upon completion of services. For completion of services, the disengagement letter provides a summary of the scope of representation.

Withdrawal of representation should include:

- an explanation of the reason for withdrawal and
- a brief summary of the scope of representation including:
 - services provided to the point of withdrawal;
 - an offer to cooperate with new counsel; and
 - the disposition of funds in any remaining retainer.

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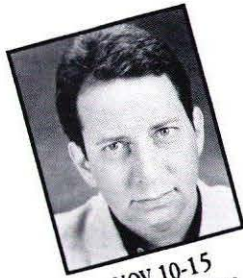
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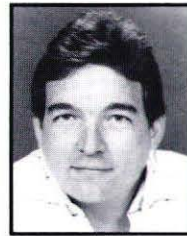
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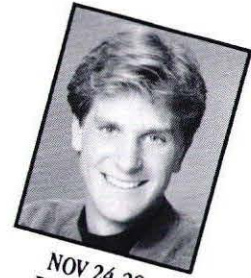
The preceding tip was contributed by Pam Blake, an account executive for a major malpractice insurance company. September's Bar News contained a companion article: "The Engagement Letter"—Gregory S. Morrison, Tips Editor.



NOV 10-15
Steve Mittleman



NOV 17-22
Dan Bradley



NOV 24-28
Ron Pearson



NOV 3-8
Mark Pitta



DEC 1-3
Kermet Apio
& Janice Ungaro

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NOTES FROM THE ACADEMY

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

Creditor-Debtor Law.

In 1983 plaintiffs obtained judgment against defendant that became lien against real property owned by defendant. In 1986, defendant filed homestead declaration on this property. Thereafter, homestead law was amended to require recording of a judgment to perfect a judgment lien against value of

homestead property in excess of homestead exemption. *Held*: Plaintiffs' lien was vested, subject to possible homestead claim, before recording requirement was enacted; enactment did not apply retroactively to divest lien against value in excess of homestead. *Burch v. Monroe*, ___ Wn.App. ___, 834 P.2d 33 (Div. 1, 8/17/92).

—M. D. Rombauer

Evidence.

In prosecution for burglary, fingerprint expert testified that fingerprints at scene matched those of defendant. Expert also testified that his conclusion was verified by a senior technician, whose initials, "K. T.," appeared on written report. On appeal, court held initials were inadmissible hearsay and reversed. Court said initials were meaningless in and of themselves, but in context, they amounted to K. T.'s out-of-court assertion that fingerprints at scene matched those of defendant. Court rejected state's argument that report bearing initials was admissible under hearsay exception for business records. Court said that business records statute allows hearsay evidence of an "act, condition, or event," but not evidence in the form of expert opinion. Therefore, evidence violated both hearsay rule and defendant's sixth-amendment right to confrontation. *State v. Wicker*, ___ Wn.App. ___, 832 P.2d 127 (Div. 1, 7/13/92).

—K. B. Tegland

Land Use Regulations.

County commissioners adopted solid-waste management plan, selecting a landfill site. County's environmental impact statement (EIS) evaluated only two possible sites within county, ignoring several other possible sites inside and outside county. In part this was because commissioners had made policy decision before EIS was begun that landfill method of disposal should be used and that site should be within county. Persons advocating alternative site challenge adequacy of EIS. *Held*, EIS was adequate. An EIS need not consider every possible method of accomplishing a desired result or every possible site, but only a "reasonable" number of alternatives, sufficient "for a reasoned choice." Cost of evaluating large number of alternatives is a factor that may be considered in limiting alternatives. It was also proper for commissioners to make policy decisions limiting disposal method and excluding out-of-county sites before EIS was made. *Solid Waste Alternative Proponents v. Okanogan County*, ___ Wn.App. ___, 832 P.2d 503 (Div. 3, 7/14/92).

—W. B. Stoebuck



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Dry Martinis & Sex

Oh, the joy and anticipation after a hard day's trial of a Fox & Hound's driest of the dry martinis! The Fox & Hounds was a cozy little restaurant and bar in the basement of the Hoge Building and, best of all, only two blocks from the courthouse and my Seattle office. It had a large lawyer clientele. John, the wise-cracking bartender from Brooklyn, must have heard my footsteps because he often had his delicious creation mixed and sitting invitingly on the bar as I sat down. Experienced martini drinkers know it is not considered good form to gulp a martini. It must be sipped. So I would, of course, coolly sip the first one. But for hard-driving trial lawyers, the sipping rule was waived after the first one, and a little serious swigging was o.k.. Then it was time for the tall tales and lies: I told Judge Claghorn that he was full of it, and I'd jolly well have the appeal filed first thing in the morning... And on and on, often until closing time. It was the 1950s, when there was only one floating bridge. I would stagger to my car and point it toward that bridge, often waking up the next morning with no recall of the night before. While I often shuddered about that, by five o'clock the next day, the call to the Hounds was irresistible, and John would see me walking through the door heading for his bar.

There were hundreds of other bars during the twenty-some years of my progressive drinking career. Not all of them were filled with clever, neatly dressed lawyers, either. There were the sweaty, smoky, rough-and-tough taverns, far-removed from gracious venues, where, at least, I wisely avoided lawyer-talk. Many memories of my growing dependence on alcohol endure. My family and some relatives spent a week camping on the banks of the Columbia River. We swam, dug for arrowheads and other Indian artifacts, and enjoyed the sun. Eventually we ran out of beer. (Guess who drank most of it.) As I dreamed thirstily about a bottle of vodka under the seat of my car parked ten miles down river, it suddenly occurred to me that because I had a critical court appearance the next day, I

could leave ahead of the others. And so I did. While vodka which has been sitting in 100-degree temperatures is not the most potable of drinks, it suffices for an alcoholic. Not that I could possibly be an alcoholic, could I?

The Road Back

I can skip over the heartbreak and

disappointment that I caused others—the divorce, the car wrecks, the loss of self-respect—before I discovered the miracle of Alcoholics Anonymous and the road back nearly 30 years ago. Yes, the journey IS the destination, and it need not be burdened with alcohol or other drugs.

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may be hooked on something, or if you know another lawyer you suspect may have a problem, there is help from the Lawyers' Assistance Program (LAP). LAP guarantees confidentiality.

LAP is a free, confidential WSBA resource, which assists lawyers in exploring and clarifying their problems. The lawyer, guided by a qualified counselor, decides which type of service is the most beneficial. LAP can provide some short-term counseling, although

the primary function is to assess problems and make referrals to compatible professionals, treatment facilities, and peer counselors. Services of other professionals or treatment facilities of course, involve the individual's own expense. Most lawyers refer themselves. They call the LAP number—(206) 727-8268 and can discuss their problem with one of the professional staff. An appointment can be made for further consultation. No one

outside of LAP will know about the request. This procedure has worked exceedingly well in hundreds of cases over a five-year period. This trust has never been violated. LAP also works with third parties—judges, law partners, and co-workers—concerned about apparent impairment of a lawyer. LAP can contact the lawyer to offer a possible interview. Anonymity of the third party is protected. Likewise, confidentiality is guaranteed to the lawyer so contacted.

LAP can handle a wide range of problems, including depression. Did someone ask, what about the "sex" mentioned in the title? A little sneaky, eh? But we all know that law isn't sexy. All you need to know is: it is not at all good drunk and may even be impossible! Speaking of sneaky, I have never known a social drinker who would sneak a drink; I have never known a practicing alcoholic who wouldn't. Are you there yet?

Nota Bene

Tuesday, 12:00 noon. The weekly Job Hunters' Support Group for WSBA members who are actively involved in the search for a new position meets in the Presidents' Room, WSBA, 4th Floor. This is a drop-in group focusing on the exchange of ideas and job-finding discussions. It is open to all WSBA members at no charge. As an added feature there will be special speakers representing a variety of law-related occupations.

Speakers' schedule:

Oct. 13—John Hogland, Crisis to Cash Flow, Alternative Strategies to Afford a Perfect Practice.

Oct. 27 & Nov 10—Ted Barr, To be announced.

Nov. 24—Joe Murphy, Struggle With Self, Transition Issues.

Dec. 8—Lauren Goldman Marshall, Beyond Certainty—Beyond Nylons: From Law to Arts.

Dec. 22—Jackie McMurtrie, Practicing Law in the Ivory Towers: Clinical Legal Education.

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NEWS FROM HOME

Michael D. Hoffman, James P. Martin, Stephen R. Rasmussen, Jeffrey R. Street and Robert S. Wagner are among the members of Hoffman, Hart & Wagner, a newly formed Portland law firm. The former partners of Schwabe, Williamson & Wyatt will continue their medical malpractice defense, insurance defense and civil litigation concentration.

Ken Carpenter has been named managing partner for the Ritzville office of Underwood, Campbell, Brock & Cerutti, P.S., which opened August 3.

Carl Forsberg has been named managing partner of Bliss Riordan's Seattle office.

Sylvester Ruud Petrie & Cruzen has added **Gary East** as a partner.

Providence Worley and Laura Kliesle have joined Skellenger Bender Mathias Bender & Gould.

Joseph Whitford has been reappointed as chair of the MIT Enterprise Forum of the Northwest, a nonprofit organization led by entrepreneurs and others committed to fostering growing companies in the Northwest. He's a partner with Foster Pepper & Shefelman. **Katherine Hendricks**, a partner at Hendricks & Lewis, is vice chair.

Preston Thorgrimson Shidler Gates & Ellis has announced **Charles H. Purcell** has joined the firm as a partner. Concentrating in state, federal and international tax issues. Purcell was with Coudert Brothers for ten years before making the move.

Martin Muench has joined the Ephrata law firm of Lemargie & Whitaker. He is immediate past-president of the Washington State Association of Municipal Attorneys.

Retired King County Superior Court Judge **Solie Ringold** will be this year's recipient of the William O. Douglas Award of the ACLU of Washington.

Philip W. Sanford is a recently added associate at Faulkner, Banfield, Doogan & Holmes' Seattle office. He practices in the areas of maritime, admiralty and insurance defense litigation.

Schwabe Williamson & Wyatt has announced the addition of two attorneys in the firm's Washington offices.

Alicia L. Lowe practices in the firm's Vancouver office in the areas of probate law, estate planning, real estate and business transactions. She is incoming president of the WSBA Young Lawyers Division. **Kristine Ann Chrey** practices in the Seattle office, working on commercial real estate, real estate litigation, title insurance defense, secured land transactions, general litigation and

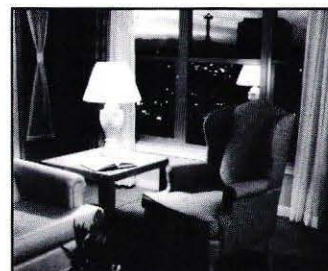
appellate law.

Geoffrey P. Chism, Daniel C. Jacobson and A. Kyle Johnson have announced the opening of their firm, Chism, Jacobson & Johnson, in the Washington Mutual Tower in Seattle.

Skagit County lawyers **Harwood Bannister and W.V. Wells** were honored in August for serving their community as lawyer for over a hundred

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years between them: 1940 graduates of the University of Washington School of Law, they were among 48 lawyers admitted to practice that year. Wells joined his father's firm, founded in Anacortes in 1890. Bannister practiced in Seattle for a number of years before moving to Skagit County and joining a practice that came to include his wife, Nancy, noted trial lawyer Paul

Luvera, and now-superior court judge Stan Bruhn.

CLARK COUNTY REPORT

by JOHN F. NICHOLS

Correction - Errata - Oops!!

Last month in this column it was

reported that Terry Lee was leaving the Landerholm Law Firm, for Marsh, Stichman, Higgins & Foster. True but not entirely. Terry did in fact abscond from the former but did not join the latter. Apparently, no job was offered by Marsh and therefore, not considered by Lee. Both parties have threatened libel suits. Hey, who said reporting was an exact science? In any event, Terry is now firmly ensconced in sole-practice at 610 Esther Street, Suite 208! (Also known as Boetcher, LaLonde South.)

Vancouver Au Lait.

Yes, even good old Vancouver, USA every once in a while gets pulled, kicking and screaming into the '90s. The latest intrusion of modern times is the espresso stand in the courthouse. Now, young "tassel -loafed" attorneys journeying between Portland and Bellevue have a place to stop, relax and pick up a billable hour or two while waiting for their favorite coffee of the week. To us locals in our wing-tipped clodhoppers, this may be the harbinger of more subtle changes. Soon CCBAers will find their belt loops decorated not with the present Stanley door openers, but rather remote car alarms for their Gremlins. Will our courtrooms, N.K.A. "Justice Boutiques" be accessorized in ferns and brass? Will socks be optional? Did this premonition hasten Judge John Skimas' retirement? The answers to these questions plus \$1.75 will get you a cafe latte at the courthouse.

Shopping For Ads.

With the Beagle Award on the horizon, there arises the spectrum of a new category: "mobile ads." No we're not talking magnetic car signs but shopping-cart ads. It seems that the industrious firm of Gregg, Russell & Langsdorf has placed its pleasing portraits on that plastic placard in local Safeway shopping carts. Yes, right where you set your baby's butt or the latest *Inquirer*. More than likely, these attorneys were thinking of the after-market exposure of their ads to the growing homeless who put these carts to more practical uses. Rumors of an express lane (five causes of action or less) at the firm's office have not been substantiated, but as I said, this isn't an exact science.

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EAST KING COUNTY REPORT

by MARIJEAN E. MOSCHETTO

EKCBA is the third-largest bar association in the state and still growing. New member **Pat McGowan** practices in Kirkland in estate planning and business law. Pat cited the philanthropic activities of EKCBA, notably the Eastside Legal Assistance Program, and the opportunity to meet and share information with other lawyers on the Eastside as the reasons he joined. Pat also enjoys the social activities and participated in the last EKCBA Golf Tournament, winning the low net prize. His wife, **Mary Ann Barkshire**, is a Bellevue real estate attorney and also is a member of EKCBA. But from where did we come?

In the 1930s, Bellevue was a strawberry patch, Mercer Island was a big chicken farm, and Kirkland's big industry was a mattress factory. An hourly ferry travelled from North Bend to Seattle, carrying passengers and produce. Five-man law firms were considered big in those days; Bogle, Bogle and Gates, the largest law firm in the area, had 20 lawyers. June 5, 1935, a young Seattle lawyer watched the mattress factory burn from his home in the University District. One week later, **Maury Powell** became the only full-time practicing lawyer on the Eastside.

Over 50 years later, Maury recalled his first days practicing on the Eastside. Kirkland was the big city and, since most people had Seattle lawyers, scratching for clients and cases to support his general practice was important. His first case as an Eastside attorney was for the City of Kirkland, prosecuting a local citizen for violating the Sunday blue laws by doing carpenter work on Sunday. The trial was held in a hall, and 200 local people attended. The publicity helped Maury further establish his law office.

After returning from the war, Maury and his partner continued to do business in Kirkland but opened an office in Bellevue, hoping to attract clientele there. After all, Bellevue had a lumber yard and a service station and a few more residents. However, the office had to close after two months as they couldn't generate enough business to keep it

open.

More lawyers followed Maury to Kirkland, including **Mary** and **Al King** who became the local justices of the peace. Bellevue started to grow, helped along by the land baron rivalry going on between **Bill Boeing** and **Miller Freeman**, and residents began moving over after the first Lake Washington bridge was built. The Eastside lawyers found it difficult,

however, to attend meetings and social events with other members of Seattle bar organizations. In 1963, Maury and eleven other lawyers started the East King County Bar Association. The meetings were held every Tuesday at noon in Bellevue, to talk over cases. One of the first topics of discussion was to set up a mutual fee schedule for various services. Next year will be EKCBA's 30th anniversary.

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In other news, the Eastside salutes **Brian Gain**, former judge of Bellevue District Court, who won his primary election in September to become a superior court judge. **Linda Youngs**, a partner in Hanson, Baker, Ludlow and Drumheller, P.S., has been named vice chair of the Bellevue Chamber of Commerce's Government Relations Council.

The December Holiday Party will take place at the Hyatt Regency Hotel in Bellevue on December 17, starting at 5 p.m. This year's festivities will be highlighted by the selection of the winner of ELAP's Disneyland raffle. The party is a great opportunity to meet other Eastside lawyers and, by the way, getting in a little last-minute Christmas shopping at Bellevue Square.

PIERCE COUNTY REPORT

by **GEORGE S. KELLEY**

As we all know, Superman lives in Metropolis and Batman resides in Gotham City. Now an obscure police blotter item in the Tacoma newspaper has revealed the existence of a new superhero—Yuppiman. The story reported that an unnamed, middle age attorney had assisted in the arrest of a drunk driver. Digging further we found that our hero was none other than mild mannered plaintiff's attorney **Don Kelley**, a.k.a. Yuppiman. As the saga unfolds we find Yuppiman crossing the Narrows Bridge in his BMW 535i when he spots the reckless driver. Employing his trusty cellular phone he dials 911 (a number he once believed to be the secret prefix of the local Porsche dealer) and notifies the police of events as they are unfolding. Following the suspect onto the streets of North Tacoma, Yuppiman observes and reports shots being randomly fired from the car. When police contact the driver, they find a drunk with a gun and he is arrested, all thanks to our superhero. Stay tuned for further adventures of Yuppiman as he ferrets out CR 11 violators and exposes golf cheats.

Judge Nile Aubrey reports that in a divorce trial, where one party was represented by **Herb Gelman** and the other by **Chris Eichhorn**, that Eichhorn was heard by his client to mutter something about Gelman building mountains out of molehills. Since Chris' client was in the printing business, the client had business cards printed for Herb with the title, "Mountains out of Molehills Construction Company," and a company slogan stating, "We can make something out of nothing." It was not reported whether or not the Judge was amused by either the card or the case.

Fred Fleming, **Vicki Hogan** and **Grant Anderson** were elected to open superior court positions in the recent primary election. **Ed Haarmann** was selected by the superior court judges to succeed Commissioner **John Krilich**, who is retiring at the end of the year. Still to be decided in the general election is the contest between **Chris Quinn-Brintnall** and the aforementioned

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Judge Aubrey. By quirk of the election laws we must also wait until November to determine the race between Sergio Armijo and Mike Pate for Tacoma municipal court judge.

The results of the 37th Annual Tacoma-Pierce County Golf Tournament are in. Grant Anderson (not the judge-elect) turned in a low gross score of 69 and won the Edgar Eisenhower trophy. Bob Peterson, turned in the high gross score in the men's division. Fran Chapin won the S.A. Gagliardi trophy for low net with a 59. Corinne Dixon took honors in the women's division. Marilyn Taylor, whose score was unreported, took high gross honors for the field.

Court commissioner Paul Boyle scheduled a vacation in Hawaii in time for a Hurricane Iniki and was seen on a Honolulu beach in 60-knot winds. He might consider staying at home and playing golf with Judge Peterson—for money.

SOUTH KING COUNTY REPORT

by JANE C. RHODES.

The first South King County Bar Dinner was held in September, a week late due to the vacationing president, Rod Stephens. He assured me he came back rested and raring to go. A few pre-dinner observations were made by this cub reporter.

At this point in September, Judith Eiler is still a "judge wannabe." Congratulations are in order to Judge Vicki Seitz who is expecting a new addition to her family in February 1993. Eiler's partner, James Handmacher, is running for the Ninth Congressional District Board of Governors position.

Jay White and William Garling, candidates for the superior court were present, and, as usual for our first meeting, we had the State of the Court Address from Judge Charles Johnson. He commented upon the wonderful recitation of his resumé by Rod Stephens, which he did not know had been released. The state of the Court is

"good" as the Presiding Judge reported that the lawyers are catching on to case management, and it is making his life a lot easier. The I.C. project has worked well, so the 12-judge I.C. Department is here to stay. The case backlog has essentially been cleared up even though our trial rate on criminal cases is 12-13% compared to a national average of 5% of criminal cases going to trial. We

are up to 660 criminal filings per month from 600 the year before, which obviously has a significant impact on the civil side.

The budget news is not good as the King County Council has proposed a budget that is over \$600,000 less than last year.

Art Wallenstein gave us an update on the Regional Justice Center, which we

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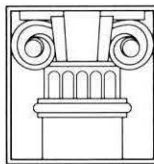
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hope will be a reality by the time this article is in print. Our October 22nd meeting will be a tour and dinner at the King County Jail; it should be interesting.

Welcome to new member **Marjorie Goodale Tedrick** of Auburn, and our new associate at Curran, Kleweno & Johnson, Eric Aaserud.

Our annual Christmas Party will be at the SeaTac Red Lion Inn this year on Friday, December 4. We will be dancing to the tunes of the Blues Brothers Band. Anyone interested in attending who does not receive an invitation should be sure and contact **Mike Salazar**, our vice president, for the necessary information.

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WASHINGTON DEFENSE TRIAL LAWYERS REPORT

by LAURIE D. KOHL

The Washington Defense Trial Lawyers will hold their first Membership Dinner Meeting for the 1992-1993 year on November 12 at the Stouffer-Madison Hotel in Seattle. Cocktails and camaraderie begin at 6, and dinner starts at 7. The program for the evening will honor WDTL members who have been volunteering their time and efforts on the organization's behalf, for whom recognition and thanks are overdue. It should be a fun evening for all concerned.

Supreme Court Justice **Richard P. Guy** and Insurance Commissioner **Dick Marquardt** will be featured speakers at WDTL's Insurance Law Seminar, which will be held on November 12 in Spokane, and on the following day in Seattle. Seminar co-chairs are **Joel Salmi**, **Jim MacPherson** and **Carole Hollon**.

WDTL member **Howard "Terry" Hall**, Seattle, was the featured speaker at the quarterly dinner meeting of the WSBA Corporate Law Department Section on September 10; he spoke concerning controversial court rule changes involving CR 11, 19, 26 and 35 which were considered by the WSBA Board of Governors at its June and September meetings. WDTL treasurer **Bill Phillips**, Tacoma, addressed the WSBA Board on the topic of the rule changes at both the June and September meetings. The Board approved the rule changes by a narrow vote; Bill and Terry will follow the rule change passage through their consideration by the Washington Supreme Court. Lawyers wishing further information about the proposed changes are invited to contact Bill or Terry.

Among significant actions taken by the incoming WDTL Board of Trustees was the decision to reinstitute the June dinner cruise. At that dinner meeting all attending will be entitled to vote in hindsight on the merits of president **Mike Runyan's** decision to require every trustee to head a committee. Depending on how the year goes, Mike may be well advised to bring a towel and a change of clothes.



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**WASHINGTON STATE TRIAL
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REPORT**

by **LETHA J. OWENS**
and **LORI D. HANSEN**

Holly Ball:

Christmas is coming and with it the wonderful opportunity to attend the annual Holly Ball and Holly Ball East. For those of you considering an office Christmas party the Holly Balls are the ideal event to share with your staff. This year's Holly Ball takes place on December 4 and will be held at the Washington State Convention Center. The planned entertainment will be provided by **Duffy Bishop**, and a seminar entitled "WSTLA All-Stars" will precede the evening's events.

Holly Ball East will be held on December 11 at Cavanaugh's Inn at the Park and will include dancing to music from the '50s, '60s and '70s. A seminar on "How to Prepare an Auto Liability Case" will precede the evening's festivities. Don't miss this great opportunity to celebrate the season and share the fun with fellow bar members.

Tom Chambers' Trial Notebook: Washington State Trial Lawyer Association member **Tom Chambers** has published a two-volume "nuts and bolts" guide to trial work that is now available for purchase through the WSTLA office. The set provides a road map through the labyrinth of how to prepare for and conduct a trial in Washington state. The volumes address topics from how to conduct the initial client interview to post-trial motions. The first volume is devoted entirely to preparing for trial, while the second describes each phase of the actual trial, from motions in limine to closing arguments. The set also contains hundreds of forms, all of which have been successfully used by Chambers. Along with the set, you can purchase a companion computer disk containing sample forms, including complaints and jury instructions for cases involving auto accidents, product liability, medical negligence, wrongful death, and more.

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Washington state. Past-president of WSTLA, Trial Lawyer of the Year in 1989, and presently a member of the Washington State Bar Association Board of Governors, Chambers has experience gathered from hundreds of cases tried in Washington state courts over a span of more than two decades.

WASHINGTON WOMEN LAWYERS

Washington Women Lawyers have announced the 1992 Member of the Year awards, honoring WWL members who have made substantial contributions to the organization.

Joanna Allen, in-house counsel at The Boeing Company, was named State Board Member of the Year. A WWL member since 1988, she was a Board member from Spokane from 1988 to 1991 and WWL treasurer in 1991-1992. She is board secretary for 1992-1993.

Laurie Jinkins and **Heidi Horst** were named Pierce County co-winners. Jinkins, an assistant attorney general, has been active with WWL for four years. Her work has included arranging the visit of Russian attorneys and work on the Women's Interdisciplinary Reception in Pierce County. Horst, Tacoma city assistant prosecutor, was Pierce County WWL treasurer in 1990-1991, has served as WWL state vice president for special projects, and has chaired several WWL committees.

Mary Gentry, an Olympia lawyer, was the Capitol Chapter Member of the Year. Chapter treasurer for many years and a WWL member since 1979, she was cited as "a constant inspiration and role model in her support and activities with the chapter, as well as in her contributions to the Olympia community."

Skagit County lawyer **Cindy Tims** was named that county's Member of the Year, for her work in keeping the chapter active over the years, as well as for her service on various committees and as chapter representative to the WWL state board.

Cindy Imbrogno, recently appointed U.S. Magistrate Judge in the U.S. District Court for the Eastern District of Washington, was named Spokane County Member of the Year. A member since 1980, she has remained active even in light of her substantial duties with the federal court.

IN MEMORIAM

Mercer Island lawyer **Jack L. Bridge**, 45, died July 22, 1992.

Born in New York, he graduated from UCLA with a bachelor's degree in psychology. After working as a social worker, Bridge decided to become a lawyer, and graduated from Boston University. After working as a tax lawyer in Boston, he moved to San Francisco and worked with Bank of America. Bridge later served as general counsel for Barclay's Bank of California, and for Community Bank in Pasadena. Bridge moved to Washington in 1990 to become manager of U.S. Bancorp of Washington's legal division.

Active in sports and school activities on Mercer Island, Bridge was a member of the Washington, California and New York bars, and the Washington and California Bankers' Associations. Survivors include his wife, three children, mother and two brothers.

Montgomery Oliver Koelsch, 80, senior judge of the U.S. Court of Appeals for the Ninth Circuit, died September 1, 1992 in Seattle. Koelsch was born in Boise and earned his undergraduate and law degrees from the UW. He joined the Washington bar in 1935, and Idaho's a year later. He practiced in Boise from 1936 to 1950, most of that time with his father; from 1939 to 1945 he served as Ada County, Idaho assistant prosecutor.

In 1951 Koelsch was elected to an Idaho judicial vacancy created by his father's retirement. He sat on the state bench until 1959, when he was appointed to the Court of Appeals by President Eisenhower. Koelsch assumed senior status in 1976, and heard cases

until shortly before his death. Survivors include his wife, three children and two grandchildren.

George R. LaBissoniere, 71, died July 19, 1992 near Seattle. Born in Yakima, he served with the Army Signal Corps in World War II. He was a graduate of the University of Washington and George Washington School of Law. He practiced before the superior and appellate courts of Washington, the Interstate Commerce Commission, and the state Utilities and Transportation Commission during his long career. Survivors include two children and four grandchildren.

The *Bar News* has learned of the death, last summer, of Seattle attorney **Charles J. Law**. A memorial service was held in Law's memory August 6, 1992.

Law was a Seattle native who graduated from Vashon High School in 1940 and later obtained his engineering degree from Seattle College. During World War II, Law served as a Navy engineer in the Pacific; after the war ended he attended the University of Washington School of Law.

Law entered practice in 1949, and practiced with his father on Vashon Island until 1952. In 1953 he formed a partnership in Seattle with R.R. Greive which lasted until 1984, when he went into practice with his son, Timothy Law. Law remained in practice until his death. Survivors include six children and eight grandchildren.

Charles F. Osborn, 74, died August 31, 1992 in Seattle. Born in New York, Osborn graduated from Notre Dame University in 1938 and Harvard Law School in 1941. He joined Bogle & Gates in Seattle in 1941 and became a partner in 1949. His half-century career was the longest of anyone ever associated with the firm; he was at work until two months before his death.

A nationally recognized tax law expert, Osborn created, and served as co-trustee of the Kreielshiemer Foundation, and was able to significantly raise the standing and quality of Seattle-area arts organizations with well-placed grants. Survivors include his wife, three children and five grandchildren.



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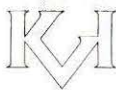


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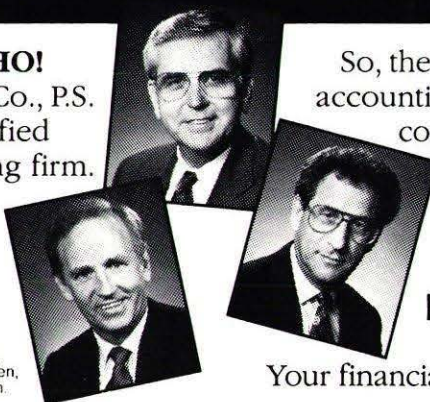
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