

Washington State **Bar**
News

Vol. 46, No. 12, December 1992



Tales for Our Times

- ❖ John Rupp on Legal History ❖ Jeff Tolman on a Holiday ❖
- ❖ Russell Austin on Judges He Recalls ❖
- ❖ Tom Tyner on Correspondence ❖

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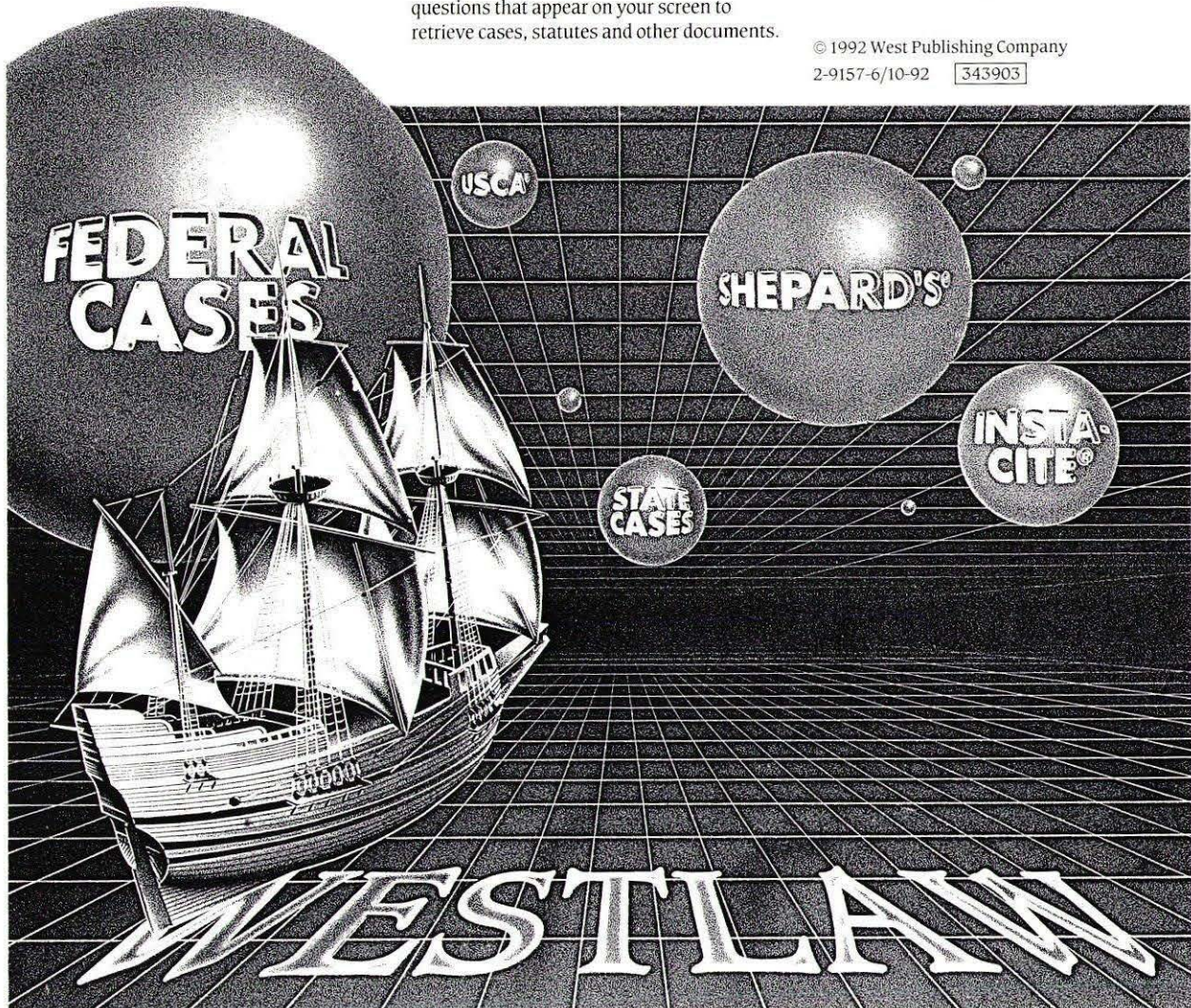
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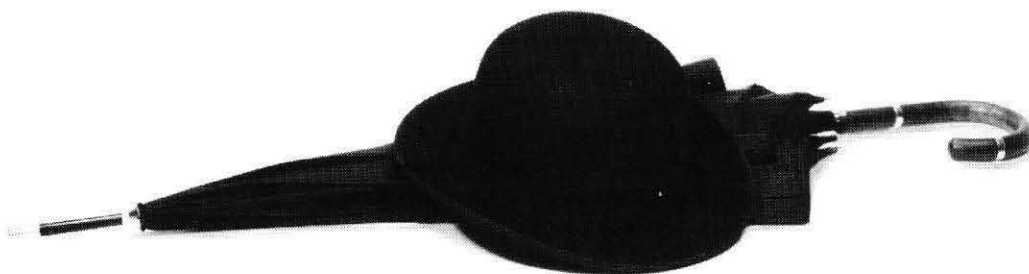
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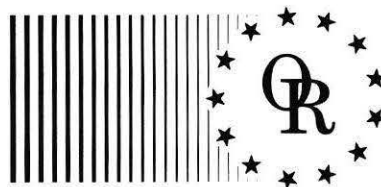
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Vol. 46, No. 12, December 1992

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Snow reflects holiday lights in Leavenworth. Photo courtesy of Leavenworth Chamber of Commerce.

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People say—and write—the damndest things. Be warned: Claudia Palmer saves them.



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

Overseas Reports: Patent Trade Protections in China

Editor:

When I last wrote, there seemed to be a coming change in the intellectual property environment in Beijing. This was reflected by legislation recently enacted by the Standing Committee of the People's Congress. Most recently, a new joint venture has opened a software manufacturing operation in Beijing—the cooperative efforts of Beijing Stone Corporation and Digital Research of the United States.

Digital Research seems confident that the joint venture will be profitable and has the potential to develop China's computer business in inquiry services and markets.

It seems that the legal environment of protecting software has so radically improved that the Chinese government is planning to enhance the registration for the management of software so as to further guarantee the copyright of software works.

The Director of the Chinese Ministry of Machinery and Electronics' Computer Research Center has also established a registration system, which will also serve as the basis for legal actions in the field.

But the investment of digital research is not the only new clue to a change in the prevailing wind. It is also interesting to note the rapid technological investments being made in the city of Tianjin. Motorola Electronics, Ltd. is constructing a new factory in Tianjin which will cover an area of 106,000 square meters and will develop, manufacture and market integrated circuits, mobile telephones, and other electronic products. It will also develop and produce computer software and offer consulting services.

Realistically, Motorola would not be increasing its already sizeable invest-

ment in China if it was uncertain of the intellectual property and patent protections which the government could offer. Another large U.S. corporation has recently praised the Tianjin City Administration for Industry and Commerce in their efforts to protect intellectual property rights. Levi Strauss & Co. and the Tianjin Administration successfully halted production of counterfeit versions of their blue jeans and prosecuted the illegal operators aggressively.

So, the big question for Washington State lawyers is whether the new Boeing Aircraft project in Yanliang City will also be given the same protection by the local Administration as those businesses located in more developed cities, such as Tianjin, Beijing, and Shenzhen. Yanliang is known as "China's Seattle" for its airplane parts and production.

PAO LIN BALL
Beijing

(A member of the WSBA, Pao Lin Ball teaches at the Beijing Language Institute and acts as a consultant for Chinese companies—Editor)

A Leftist Speaks Up

Editor:

I could not help but note the number of organizations with representation at a recent meeting of the Board of Governors. I think I counted thirteen, plus several individuals who were there just representing themselves. One group, "young lawyers," had two representatives, one for King County and the other, I guess, for the state at large. We have become a society of special interest groups. Is it any wonder that the common good is seldom addressed or served? In protest I am announcing the formation of a new group called the Left-Handed Lawyers Association. The public often confuses left-handed lawyers with underhanded lawyers, which is grossly unfair. I believe that there are more right-handed underhanded lawyers than left-handed underhanded lawyers because there are more right-handed lawyers than left-handed lawyers. Still, we remain the objects of suspicion.

There will be no membership dues. A prospective member, however, must sol-

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emly affirm that he or she is left-handed or, at least, occasionally jots notes left-handed on legal pads. I am placing the Board of Governors on notice that when we get big enough, they may expect our left-handed representative at their meetings.

WILLIAM G. INGALLS
Bellevue

Clients and Money

Editor:

I am writing about two IOLTA matters, one trivial and one puzzling and perhaps of interest.

In your October 1992 issue, under "The Board's Work," there is mention of the Client Security Program, "...which considers awarding funds to persons who lose money at the hands of their lawyers."

While it is tacky to quibble over words, I was under the impression that the Program worked to provide restitution to clients who lost money because of lawyer dishonesty. If losing money "at the hands of their lawyers" is the test, perhaps we should have a form letter to send to all our clients suggesting that they apply to the Program.

When the IOLTA rules were passed and the Legal Foundation of Washington established, it was the understanding of

many of us that there were to be no fees charged to the account, but that any service charges would be deducted from the interest paid to the Foundation.

I learned, to my chagrin last spring, that at least one depository bank- Key Bank of Puget Sound- assessed a relatively hefty \$9.00-per-deposit charge for wire transfers into the account and charged that *against trust funds on deposit*. I learned from three-cornered correspondence with the Bar Association and Key Bank that this practice has Bar Association approval.

I have since learned that, apparently beginning in November 1992, Key Bank intends to begin assessing service charges *against trust funds on deposit* each month.

I do not know whether Key Bank is the only depository having adopted such a policy, and I would appreciate comments from others regarding this policy.

CHARLES L. SMITH
Seattle

Playing Strait Man for the Readers, It Seems

Editor:

I was delighted to read, in your October issue, the survey of Washington law on judges and party politics by Georges H.G. Yates, a student and law review editor at my alma mater, UPS. I was less delighted, however, to see "straitjacket"

spelled with a "gh." Was the person who let this slip past the one who is described on your Letters page as "the Editor of reasonable length"?

ROBERT C. CUMBOW
Bellevue

(Though little recognized outside legal journalism circles, the Editor of Reasonable Length is the equivalent of the Reasonable Man or Woman in tort cases—Editor)

Credit Where Credit is Due

Editor:

This short letter is to clarify some confusion regarding credit for the pro bono work recently recognized by the Board of Governors. In the November issue of the *Bar News* it is stated that "Spokane Legal Services has assembled over five hundred lawyers to assist in its programs, which helped 1,170 people last year."

Spokane Legal Services Center would be happy to take credit for the tremendous efforts of the Spokane County Bar Association and its membership. But the truth is otherwise. It is the Spokane County Bar Association and its participating individual members which, in the exercise of extraordinary vision, commitment and creativity, have achieved the high level of service being made available to low-income residents of Spokane county. While Spokane Legal Services supports these efforts and works closely with this program, our true honor was to have been able to recommend the Spokane County Bar Association's selection for the 1992 WSBA Pro Bono Award.

Thank you for allowing me to clarify the record.

JAMES A. BAMBERGER
Executive Director
Spokane Legal Services Center

(Please see page 26 for a picture of the Spokane County Bar pro bono coordinator accepting rightful award and praise. The Bar News apologizes for the misattribution.—Editor)



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Let's Take Credit

by Stephen DeForest
WSBA President

The lead time between writing this column and its publication (about six weeks) creates an obvious exposure to embarrassment by subsequent events. (By the time you read this, the dues rollback referendum effort will be history. Whatever the outcome, it would have been topical to comment on the next step.) One event that is unlikely to happen in the interim is an article in the press praising lawyers for the good work they do, their dedication to making the justice system work, and their selfless contributions in providing legal representation to indigents. Good news is seldom newsworthy. We are a frequent

target. For example, in recent months the public has been admonished that skyrocketing medical costs are the result of frivolous lawsuits, or the threat thereof, which have caused wasteful and redundant tests and burdensome medical malpractice premiums which are ultimately borne by consumers. The barrage of criticism directed toward lawyers can have an insidious effect on our self-esteem. It may not be fashionable to pat ourselves on the back, but I would like to do it anyway.

The current honor roll would include the following, among many, who are deserving of commendation.

1. The Spokane County Bar Association and the East King County Bar Association, both of which were recipients of the WSBA Pro Bono Awards at the Annual Convention in Vancouver. The East King County Bar Association organized the Eastside Legal Assistance Program (ELAP) in May 1989. ELAP now operates six legal clinics in the Bellevue, Kirkland, Redmond, Mercer Island and Bothell areas. One of the clinics handles domestic violence cases, and another handles general family law matters. ELAP offers a lecture series on legal issues affecting senior citizens given by volunteer lawyers at senior centers.

NOTICE TO WSBA MEMBERS

The WSBA is seeking applications and nominations for president of the Association.

The custom and practice has been that the Board of Governors selects a president on a geographical-rotation basis. This year the Board will receive nominations and applications from western Washington outside of King County.

Nominations and applications must be received by December 18, 1992; interviews will be conducted on Saturday, January 9, 1993.

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Eighty-two of the 460 members of the East King County Bar Association volunteer at the clinics on a rotational basis. The Spokane County Bar Association has 502 pro bono attorneys providing free legal assistance to low-income residents. During the past year, this assistance has included legal representation for 633 clients, instructional advice to 298 participants in the Do-It-Yourself Divorce Seminar Project, and limited assistance to 235 clients through a new joint project of the Pro Bono Project and Spokane Legal Services Center. As a result of a restructuring and prioritization of its cases, the Pro Bono Program was able to increase the number of clients served by 40 percent over a 12-month period. These recipients are illustrative of the efforts of lawyers throughout this state who regularly provide free legal representation to those who cannot afford to pay.

2. Lawyers who volunteer as mediators for the Rule 39.1 program have not been recognized either for the time

they have donated or for the assistance they have given in reducing, through settlement of pending cases, the pressure on the federal district courts. Annual statistics are not maintained. However, a study of civil mediation in the Western District of Washington was conducted for the Judicial Conference for the Ninth Circuit, and a report issued in September 1987. It reported that in 1986, of the 1,693 cases deemed appropriate (out of a total of 3,496 cases disposed of during the one year period), 26.5 percent were assigned to mediation, and of those, the disposition rate was 74 percent. The median time expended per mediator was 3.3 hours for preparation, 4.2 hours in holding the mediation conference, and 0.8 hours as a follow-up to the conference. This translates into approximately \$750,000 in legal services donated in 1986 by mediators under Rule 39.1. An equivalent amount, or greater, has been contributed in succeeding years by seasoned, skilled trial lawyers who have not hesitated to help whenever called upon.

3. The Settlement Now program has significantly aided the reduction of the civil-case backlog in the superior courts of King, Kitsap, Pierce and Snohomish Counties. Settlement Now has expanded steadily, since its inception in 1988, to over 343 volunteer attorneys who practice in this four-county area. Volunteer attorneys are trained in mediation techniques to conduct informal hearings with the parties and assist them in resolving their disputes. As of June 15, 1992, 1,315 cases had been mediated, and of these 872, or 66.31 percent, had settled, and \$35,507,471.49 had changed hands. The administrator for the program estimates that each case requires 4.5 attorney hours on the part of the mediator. The value of donated services exceeds \$1 million to date. Settlement Now has been extended to the appellate level. Effective September 1, 1992, Division I of the Court of Appeals established a pilot program, in which Settlement Now mediators became available for assisting parties in settling their

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cases.

4. Mandatory arbitration in the superior courts has been very successful in taking civil cases off the trial calendar. It continues to be dependent on the willingness of lawyers to serve as arbitrators at a reduced hourly rate. In King County, in 1989, total hours reported by arbitrators were 12,840 for 1,953 cases; for 1990 the figures were 13,163 hours for 1,998 cases; and in 1991 15,850 hours for 2,305 cases. The hourly reimbursement rate was increased on September 4, 1989 from \$42.62 to \$44.68, on September 3, 1990 to \$46, and on September 3, 1991 to \$51.48. Assuming that the rate paid was 50 percent of the arbitrator's normal billing rate (which is a very conservative assumption), attorney arbitrators have donated the equivalent of \$600,000-\$700,000 per year in King County alone. While statewide statistics have not been kept, it is reasonable to assume that at least an equal number of reduced-rate hours have been reported in the other counties. No other profession, to my knowledge, provides free or reduced-rate professional services pursuant to an ongoing and organized system of delivery. Certainly there are individuals in our society who have given of themselves in aid of those less fortunate, but not in a collective effort of their profession. I think we should take pride in what we in the legal profession have contributed. This is not a time to be complacent about what we have accomplished. There is more that can and must be done. Our record to date, I submit, entitles us to bragging rights.

Again this year the Lawyers' Campaign for Hunger Relief is asking for contributions in an amount equal to one billable hour. The money raised is directed toward reaching the hungry children of this state. It is a project, led by volunteer lawyers, which is deserving of support, and I encourage you to join with other lawyers in addressing this need.

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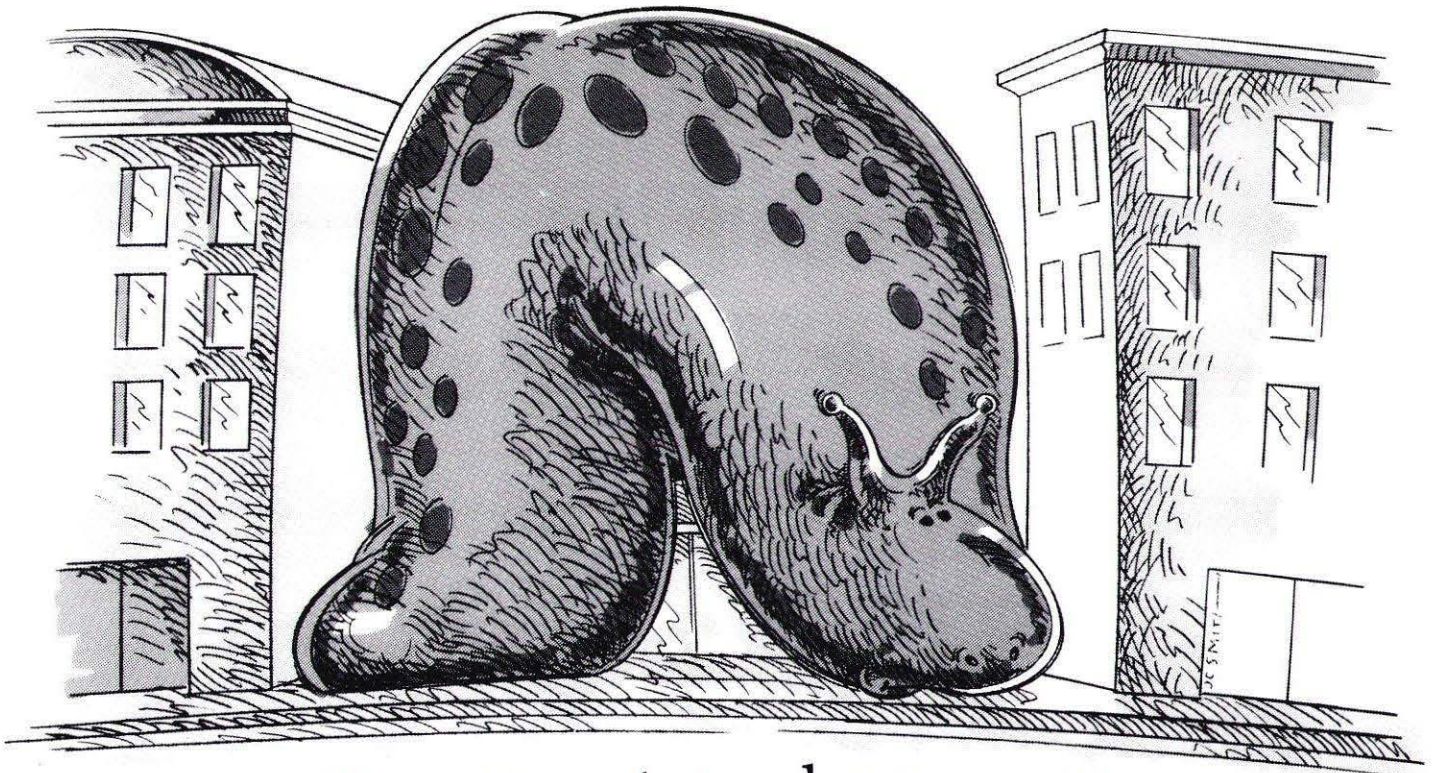
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Organized Abandonment? ... or Into the Sunset?

I know that the title of this column sounds like a bad parody of the closing lines of a Rocky and Bullwinkle episode, but other metaphors about sunsets have been much better handled by Lindsay Thompson in the gray pages. (See Lindsay's wicked parody of either bad Ernest Hemingway or good George Bush under the caption, The Sunset Committee Also Rises, in "The Board's Work.")

Just as a move to a new home prompts an individual to sort through the attic, a fiscal crisis prompts an institution to sort through its programs. The Board of Governors—through its Budget and Audit Committee—has formalized a *sunset review process for all discretionary WSBA programs*. The Board's intent is to conduct an ongoing review of all nonmandatory WSBA programs to see if they should be continued as is, modified, or eliminated.

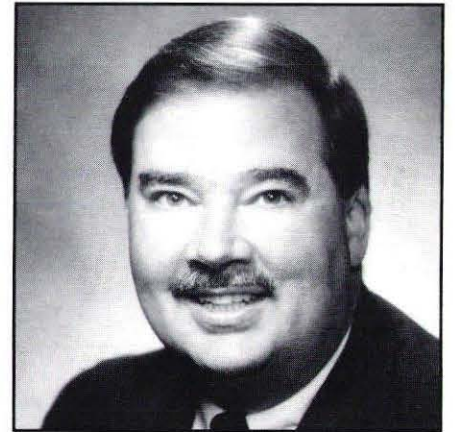
One concern of the Budget and Audit Committee was that all programs receive equal treatment and screening. The Committee has devised a set of questions that will be asked of each program:

- what was the reason the program was established?
- does that reason still apply?
- what other benefits have evolved?

- who benefits from the program?
- what is the breadth and/or depth of the benefit?
- are there any other providers of the benefit?
- if the program was dropped, what would the consequences be?

The Committee will seek a broad range of input in conducting its review, i.e., from program volunteers, outsiders, staff, etc. The Committee will hold *public hearings* to take testimony about the programs.

A public drawing was held at the October Board of Governors' meeting to determine the order in which programs would be reviewed. Though somewhat hokey, the drawing was held to avoid any inference that programs were being prejudged by the order in which they were reviewed. Names of all the discretionary programs were placed in an envelope and president DeForest drew them out. The first two names out of the envelope were the Lawyers' Assistance Program and the Client's Security Program. It is important to note that CLE programming and the convention are already undergoing similar review processes about their respective roles as part of the WSBA, if any.



Dennis P. Harwick

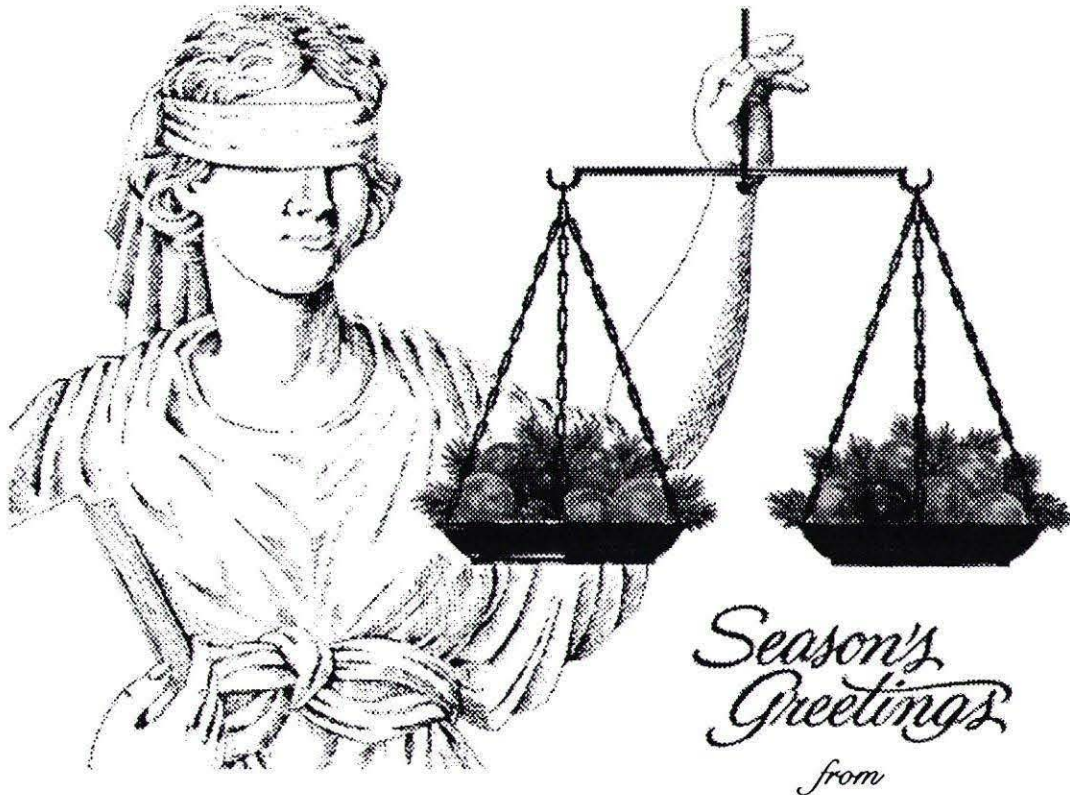
The Budget and Audit Committee has scheduled public hearings for the first two programs (see below, left.)

Why have sunset reviews? Other than the obvious possibility that some programs have outlived their usefulness and should be revitalized or eliminated, it is important that an organization have an ongoing plan for *organized abandonment*. There is no program without a constituency—a constituency who will think that that program is the most important thing that the WSBA does. And that's probably true for them. If we are going to abandon that program, these people deserve the privilege of being heard—and of hearing the voices of those who would eliminate it.

If you want to be heard on the issue of continuing, modifying, or abandoning the Lawyers' Assistance Program or the Client's Security Program, submit your comments or appear at the public hearing. We will be developing forms to receive comments. Just let my office know if you want a form to provide your comments.

Sunset Review of WSBA Programs Public Hearings

WHAT	WHEN	WHERE
Lawyers' Assistance Program	January 28, 1993 3 p.m.	WSBA Office
Client's Security Program	March 18, 1993 2:30 p.m.	WSBA Office



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Legal History: Incidents of the Birth of R.C.W.

by John N. Rupp

The other day I wrote a short piece about editing, and it made me think to tell you about an incident in the legal history of Washington, which incident illustrates the mischief that can easily be caused by bad editing. Most editing is useful, and good writers readily acknowledge the great help they get from good editors. But a bad one can be a disaster.

This odd horror story goes back about 45 years. Being dissatisfied with Pierce's *Code* and Remington's *Revised Statutes*, the Legislature created a code commission to recodify the whole body of the state's statutes by arranging it into titles, chapters and sections. The task was to codify the laws as they were in the Session Laws and not to change the language of the statutes. The commissioners were the Secretary of the Judicial Council (A. J. Schweppe), the Law Librarian of the University of Washington (Marian G. Gallagher) and the State Law Librarian (Mark H. Wight). The commissioners went to work and devised the framework of the new code. It was a good job and the titles, chapters and sections were very close to what we now have in the Revised Code of Washington (R.C.W.). Then came the large task of studying all the statutes and arranging them in the new framework. This was to be done in Olympia and, since Mark Wight was on the ground there, he was put in charge of that phase of the work. Mark hired a group of lawyers who

worked diligently and finally completed drafts of the titles and chapters. The commission reviewed the drafts and ordered them to be submitted to the Legislature and to interested organizations and individuals.

Since the commissioners thought it well understood that the codifiers were not to change the text of the statutes, they looked at the codification only and not to all the detail of the submitted text. It turned out, however, that the codifiers had not followed orders. The codification was all right but the text had been altered in many cases.

I suppose that when you read statutes day after day you see many places where the language can be improved. Or you find what appear to be plain errors. Perhaps the grammar and punctuation need correcting. Or maybe something else needs attention. Well, you say to yourself, we're supposed to be preparing a new code and we should take the opportunity to make it a good one. So that's what they tried to do!

Nothing happened for a while, and then the whistles started to blow. One of the first whistle-blowers was W. Vaughn Tanner, the founder of the law firm now called Foster Pepper & Shefelman.

Vaughn Tanner was a very able and distinguished Seattle lawyer. When quite young, he had been the State Attorney General. I knew and liked Mr. Tanner but his personality was hardly gracious and winsome. My mother said he was the

rudest man in the whole state. I am reminded of a tale reported about Winston Churchill. He had dismissed a servant and then rehired him the next day. Churchill said, "You were rude to me." "But, Sir," was the reply, "you were rude to me first." Churchill reflected for a moment and then said "Yes, I suppose I was. But I am a Great Man!"

Mr. Tanner had been the architect of the state's statutes on mutual savings banks and for many years was counsel for Washington Mutual Savings Bank. He knew that law backward and forward and he also knew that much of it had been taken from the laws of New York and that there was a considerable body of case law about it. So naturally he was interested to see the codification and he read it carefully. And, just as naturally, he then went right through the overhead. "What the hell have those hackers done? Look here, and here, and here. They have changed the text and screwed up the whole thing!"

Mr. Tanner made his discovery and his views known with great vigor and particularity and he and others proceeded to examine what the "hackers" had done with other statutes. They found the same thing. One of my favorites involved a section of the 1909 criminal law code in which the Legislature had undertaken to make a list of the "deadly weapons." Included in the list was a "slung shot," a weapon made by sewing a large lead bullet in the end of a leather sleeve. The

device is otherwise known as a "sap" and it surely can be deadly. But the "editors" in Olympia were not familiar with the term, decided it must be a typographical error, and changed it to "sling shot." Now, I suppose that there are some modern store-bought slingshots that can be deadly, but most slingshots in common use are made by nine-year-old boys with access to a forked tree branch, a big rubber band and some pebbles. They can make a dog or another kid jump and holler, but no one would call them deadly weapons. They have, by the way, no relation to or connection with the type of sling that David used to dispose of Goliath.

Interestingly enough, if my memory is correct, there was surprisingly little public criticism of the commissioners for spending time and public money to bring forth a useless product. I suppose it was apparent that they had made their orders clear and that, short of working right along with the "editors," they couldn't know of the foul-up until the job was done. There were some comments that Mark Wight should have more closely supervised his people. All was not lost, however, for the framework of the new code was intact and all that needed to be done was to "restore the language of the Session Laws."

Restoration, then, was the mission of the new Statute Law Committee created by the Legislature and headed by Ben C. Grosscup of Seattle. Ben was a fine man and a good lawyer and he really went to work on the project. It seemed to me that he worked nearly full-time for many months. I asked him about that and he said, "Well, unlike some of you fellows, I have never done much work for the community or the Bar, and I just figured I should do the very best job I can even if I don't do much else for a while."

For the work on specific titles and chapters, he enlisted lawyers he believed to be familiar with the subject and sensible enough not to commit the errors of what he called "the sling-shot boys in Olympia." For Title 80, the Public Service Commission Law, he appointed Frank P. Hayes, an eminent Assistant Attorney General, and me. We took our assigned task very seriously. To show you how seriously, for instance, take RCW 80.16.020, a section of the "Affiliated Interest Law." It lists the services which might be performed by one affiliated interest for another thus:

... furnishing of management, supervisory construction, engineering, accounting, legal, financial or similar services.

Frank and I had discussed this language several times in the long course of our legal joustings and were firmly of the view that the omission of a comma between "supervisory" and "construction" was an obvious clerical error. How the hell can construction be supervisory? There couldn't be such a thing. And now here was a chance to correct that old mistake. Ah, we were sorely tempted. But we said, "Get thee behind me, Satan! Leave them Session Laws be."

I suppose that the Affiliated Interest Law doesn't receive enough attention nowadays to warrant a revision by the Legislature and that hence the goofy concept of "supervisory construction" services will forever remain in RCW 80.16.020, much like those ancient flies caught in Baltic pitch eons ago and now beautifully embalmed in amber.

In her book on the work of an historian, "Practicing History," Barbara Tuchman says that you must not rely on the work of other historians because that will simply perpetuate any errors they may have made. You must, she says, go to the sources: the originals and the archives. And that is what was done in the production of the Revised Code of Washington. You could use the codes then in existence, notably Rem. Rev. Stat., for guidance and cross-reference and dates of repeals and the like, but then you went to the Session Laws for the correct text. And that could be a long and laborious task, for laws get amended and repealed and rewritten—all sorts of things happen to laws. It was Bismarck, was it not Mr. Chairman, who advised a young friend not to learn about the making of either laws or sausages.

One of the amusing enacted statutes was one of the Uniform Laws. When the Commissioners on Uniform Laws issue a recommended statute, they design it for use in each of the several states, and hence they may have to leave some blanks to be filled in with words appropriate to a particular State. In our case somehow the fill got out of committee with a "Do Pass" recommendation. Only no one had done anything about the blanks. Evidently no one else noticed either, so the law duly got into the Session Laws with

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various brackets in the text such as: [here insert title of appropriate recording official] or [here insert your period of limitation of actions]. I can't remember the particular Uniform Law nor the Session Laws in which it appears, and I'm too indolent to look it up; but I remember the incident all right. Anyway, at the next legislative session the proper changes were made. I think this one occurred after RCW was finally tidied up and enacted, and I mention it only because it was so odd that so many scrutinizers didn't scrutinize.

And that brings me to an end for this paper. The Statute Law Committee finished its job in about 1959 and reported to the Legislature. As I recall, the Revised Code of Washington was enacted in the 1961 session and now it reposes on our library shelves and is "The one that gets used." The Statute Law Committee continues to function, for all the new laws and the amended laws must be placed properly in the framework of the code; and the Legislature follows the admonition of Ecclesiastes: "of the making of many books there is no end."

John N. Rupp, founding editor of the Bar News, is still a valued contributor.

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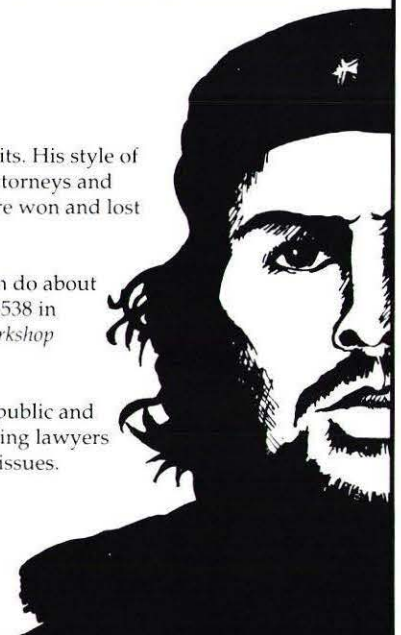
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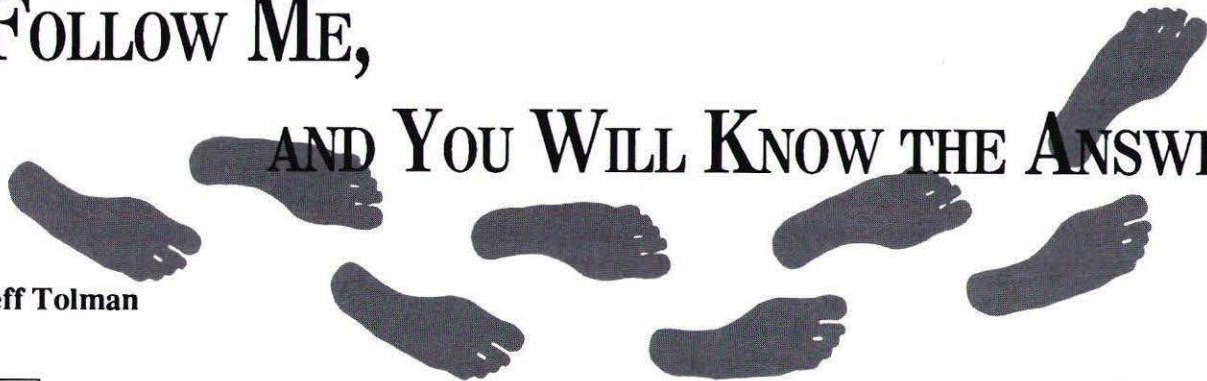


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FOLLOW ME, AND YOU WILL KNOW THE ANSWER



by Jeff Tolman

The snow was falling outside his law office. Everyone's wish for a white Christmas was coming to pass.

He didn't notice. As always, Christmas Eve had been hectic. The holiday visitation disputes had kept him on the show cause calendar late.

His secretary had been gone when he returned to the office. Only the Christmas card she left reminded him tomorrow was a holiday.

Tired, but determined to shorten the pile of "needs to be done pronto" files on his desk, he began dictating orders from that day's show cause hearings, demand letters and drafts of leases that were needed as soon as possible.

The street outside was quiet, abandoned. Snow was gently falling. Inside, oblivious, he continued to work alone.

"FOLLOW ME, AND YOU WILL KNOW THE ANSWER," a voice from nowhere suddenly said.

"What!?" he blurted.

"FOLLOW ME, AND YOU WILL KNOW THE ANSWER."

"Bull . . ." He muttered and continued his dictation.

Finally, fatigue and concern about the continuing snow took their toll. He carried the completed files and dictation tapes to his secretary's desk, swore when he realized she wouldn't be at work the next morning, then shut the office up and walked briskly to the only car in the lot.

While he was waiting for the car to warm up the voice again said, "FOLLOW ME, AND YOU WILL KNOW THE ANSWER."

Now, though, he noticed a strange light in the night sky, incongruous with the snow.

"Why not?" he asked, and he pointed his car toward the odd light.

In minutes, he had driven the empty roads and discovered the light's end—the beautiful home he had worked so hard to buy on the politically correct street.

He parked his car next to his wife's in the garage and wandered into the dark, quiet house. Even the dog, who was used to his late hours (2,100 billables don't come by working daylight alone) didn't waken as he entered. The Christmas tree lights were off. Two "Merry Christmas, Dad" notes lay on the kitchen counter. Gift wrapping from the one present each child was allowed to open on Christmas Eve lay on the rec room floor.

"FOLLOW ME, AND YOU WILL KNOW THE ANSWER," the voice again said, and the tired man realized that the light was shining from below.

Taking off his coat and tie, he trekked downstairs, searching for the light, wondering what the voice was talking about.

Suddenly he saw it.

For reasons only a seven- and a ten-year-old could invent, his two sons were out of their beds, asleep on the floor together, covered by the blankets each had had since infancy. The light through the frosty window showed the beautiful faces he had look at too seldom recently. Clients, overhead, bills, trials and hearings, and community service work had him spending more time on others' problems than on his own.

Now he knew he'd been misguided.

He pulled a quilt from the closet and laid it over the boys. Then he went into the bedroom and gently woke his wife.

"Come with me, please," he asked.

"Are you OK?" she responded, still half asleep.

"Yes, I'm great. Please just come with me—and bring your pillow."

Together they walked into the room where the boys were sleeping and gently lay by them beneath the quilt. For the first time in too long, they looked at their kids and held hands. Instead of the usual ritual of the kids talking quietly like conspirators before they fell asleep, tonight it was the parents who did.

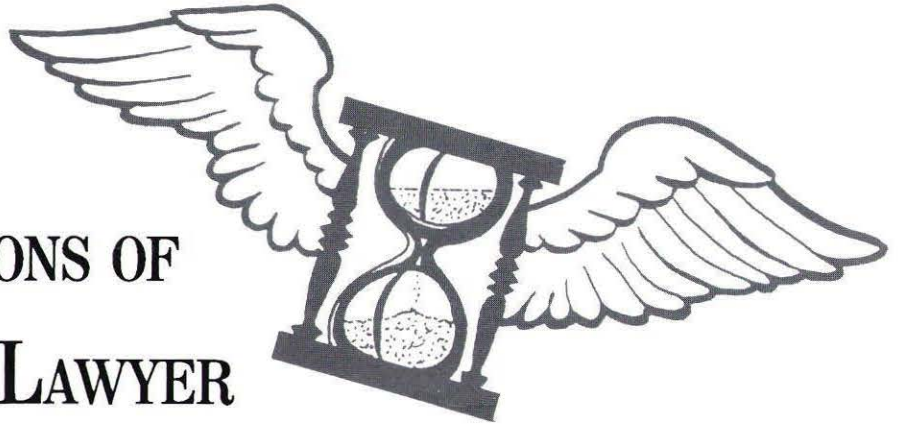
Later, as he listened to the three people he loved most snoring peacefully, he called softly to the voice, "You were right. Everything I need to know is here. Love. Patience. Spontaneity. Innocence. Honesty. Dedication. Perspective. They are all under this quilt. This is the answer. Thank you. Merry Christmas."

And as the snow fell and the world began rising to celebrate a great birth, a small birth had also taken place. Not one that would change the world; one that would change a family. Not one that would be scorned by those in power; one that would be envied by those chained to their work.

The answer was always there in the sleeping children's faces. For him. For each of us. If we just take time to see it.

FOLLOW THE VOICE TO YOUR HOME AND YOU, TOO, WILL FIND THE ANSWER. Happy Holidays.

RECOLLECTIONS OF A NOT-SO-OLD LAWYER



by Russell A. Austin, Jr.
a/k/a #459

It is hard to say how many years of trial practice makes one an "old-timer." Let's just say it's around 30 years. Now and then when us old-timers sit down for an after-work libation, the topic of conversation may well turn to the King County bench. My usual observation is, "They don't make 'em like they used to." That usually gets a reaction, sometimes of indignation, from the younger generation. They ask me what I mean, and I tell them.

First of all, the ability to resolve cases. Sure, we have mandatory arbitration, and voluntary mediation, and all that garbage. But in the old days, if your case was assigned to Judge James Miflin, there was another case settlement technique. Before trial, the good judge would call counsel into his chambers. He'd start out invariably with the words: "Counsel, what have you done to try to settle this case?" There would be the usual amount of hemming and hawing and Judge Miflin might tell the parties to take a few minutes in the jury room or, if it looked like nothing was going to happen, he'd stand up and say: "Okay, let's go out and try it." But that usually wasn't the end. I recall one particular trial where along about the third day the Judge called counsel into his chambers again. He allowed as how he thought he had a pretty good idea about the case

now (although I was still putting on the plaintiff's case), "Austin," he said to me, "I think your client's case is worth about \$5,000." And this was a number not unheard of, although I had the case pegged a little higher, and my client had it pegged a lot higher. I tried to respectfully suggest to the judge that my client felt the case was worth more, and he in turn recommended that I go make such an inquiry right then and there. I did, and I had correctly calculated the client's mood, but I also made the mistake of allowing as how I thought the judge was a little low. So we tried the case for another four days, at the end of which the judge rendered a one-sentence opinion: "I find for the plaintiffs in the amount of \$5,000."

Lesson learned? You bet. Anytime thereafter when Judge Miflin told me what he thought my case was worth, that's where we settled. And I obviously wasn't the only attorney in town to learn that lesson, sometimes the hard way. The fact is, it certainly made for a quicker and less expensive trial and, in all candor, the Judge was usually pretty close. *****

We also had those judges who had a wonderful facility for cutting through the "B.S." and getting to the heart of things. It was usually a pleasure to have them on the motion calendar (at least for one of the parties) because they were

hip-shooters, and their brand of common sense equity was hard to beat. On one of my early appearances before Judge George Stuntz on the motion calendar (back when the same judge handled both civil motions and summary judgments, the calendar could run all day), I found that even though I was the moving party he wanted to hear first from my opponent. I figured I was probably in trouble. When the opposition finished, I stood up to approach the bar. The judge looked me in the eye and said: "Where are you going, Mr. Austin?"

"I'm going to argue," I replied. "Better not," said Judge Stuntz.

"I'm going to rule for you, and if you say anything I could change my mind."

Judge Stuntz was known on occasion to get both calendars done by 11:00 a.m.!

He was an irascible old tiger, but he enjoyed the universal affection of the bar. Orthodox he wasn't. I recall an occasion where I was cross-examining a witness and out of the blue the judge held up his hand and said: "Barbara,¹ take a letter to so-and-so. You have the address. Dear so-and so . . ."; whereupon he dictated a letter to his bailiff-secretary and then said, "Okay counsel, carry on."

Not to belabor Judge Stuntz, but on another occasion before a full house on the motion calendar, he interrupted counsel then arguing and said: "Barbara, have you got that latest *Advance Sheet*?"

When she indicated she had, he asked, "Did you update my average?" And when she again answered in the affirmative he said: "What is it now?" And she replied something like: ".867."

The good judge then looked at the assembly of counsel waiting their turn on his calendar and announced, "If I were a baseball player, I'd be famous. The Supreme Court affirmed me twice this month." Assembled counsel all got

the point.

I remember the first time I ever saw Henry Clay Agnew. I had just finished the bar exam and in a supreme display of confidence, I decided to find out where the courthouse was. Upon succeeding in that venture, I decided to learn how to try a case, so I picked a courtroom at random and wandered into the presence of The Honorable Henry Clay Agnew. I didn't

know it at the time, but Judge Agnew had been one of the great members of the criminal bar before ascending to the bench. All I knew that first day was when I looked where I understood the judge to sit, I saw only a black robe out of which extended a solid dome of shiny flesh. No eyes, no ears, no nothing. Just a dome. I then realized the Judge was sleeping—a bald man with his eyes closed. I thought that the attorney arguing to him would have been well-advised to clear his throat or cause some small commotion that would return the judge totally to the courtroom. That wasn't necessary. As I watched, two glinting eyes popped open and a stentorian voice said: "Now counsel, you know that isn't the law!" And a sheepish counsel allowed as how he might have stretched the point a bit. I found that Henry Clay Agnew, unlike several other judges, didn't sleep on the bench. He just listened better with his eyes closed.

Toward the end of his many years on the bench, The Honorable Henry Cramer developed a reputation for being irascible and a touch arbitrary. The fact was that the judge had a rather serious hearing problem which he either didn't recognize or wouldn't admit. As a result, the apparent absence of anything going on in court tended to cause him to doze off periodically, particularly after lunch. Counsel who knew he was a good judge had no problem with it. Various systems worked, but the best was to stack not less than three copies of the *Washington Reports* on the edge of counsel table. When it was perceived that the judge had slipped off during anything worthy of being heard, counsel would simply knock the books onto the floor with a crash, followed by abject apologies to the court, and the trial would resume with the judge in full attendance.

Have you ever noticed that some judges just look like judges? Or perhaps they look like what we think judges should look like. Perhaps tall and slender with snow-white hair, a snow-white mustache, and genteel bearing. If you add to that a very high degree of courtesy to partici-

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pants and counsel alike, and an aura of friendliness, you could be describing either judges Ward Rony or Jim Hodson. Each in their time earned the title among the local bar as "the last of the grand old men of the bench."

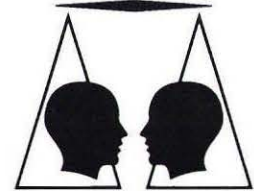
While Wally McGovern has just recently stepped down from active status on the federal bench, and while many remember he was a Supreme Court Justice before that, it was quite a spell ago that he sat on the superior court bench and even before that on the district court bench. Judge McGovern was another one of those charming judges and but for being 30 years too young, lacking white hair or a mustache, he probably also would have been regarded as "one of the grand old men." Wally managed to convey a sense of camaraderie with counsel (he probably knew every one of the lawyers in Seattle by his or her first name), and he ran his court with a degree of formal informality. Most of the litigants and counsel left his courtroom feeling they had had a fair shake, and certainly everyone regarded him as a fine fellow. With his four decades on the various benches not yet completed, it would probably not be amiss to observe that he still retains and deserves that respect.

Another and later experience with Henry Clay Agnew was unusual enough to at least warrant brief mention. Not so long ago,² the appeal from a justice court decision was *de novo*. A case that maybe took a couple of hours to try in justice court would oftentimes result in a real quickie for a superior court judge. I recall one decision of a rather notorious JP that I was obliged to appeal. It was as a result of a defense verdict in the 1960s finding the Washington Small Loan Act to be usurious and invalid, even though it had been tested by the Supreme Court and found quite adequate in the 1930s. The cases to the contrary didn't seem to faze this JP so the case went up and was assigned to Judge Agnew. I put on my one—and only—witness, sat down and rested. Before defense counsel could even stand up, Judge Agnew began, "Well, this is a very interesting case, but

I'm going to find for the plaintiff . . ." at which point defense counsel bounced up protesting: "But Your Honor, I haven't even put on my case yet." Judge Agnew looked him in the eye and said: "Well okay, go ahead. But I don't think you're going to change my mind." Defense counsel did, and the judge didn't.

Judge Donald Gaines was the son of a rather prominent land surveyor, and worked with his father during the summers and other school breaks. In private practice in the early 1930s, he had occasion to probate an estate which he had assisted his father to survey even earlier. When a boundary dispute arose in the late 1960s over property purchased from the estate, Judge Gaines was an indispensable witness and was subpoenaed to appear at trial in Mason County. When he was summoned to the stand, he approached the bar, raised his right hand, and asked himself: "Do you swear that the testimony you are about to give . . ." and then he looked sheepishly up at Judge Wright on the bench and said: "I guess I

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was." Whereupon Judge Wright administered the oath.

It may well be that today we have a smarter bench in King County. It sure is bigger. But you know, trying cases just doesn't seem to be as much fun anymore.³

Footnotes

¹ Having in mind the frailties of age, I may have his bailiff's name wrong.

² Translate that to mean "a long time ago."

³ I felt that at least three footnotes were necessary to qualify as "legal writing," so I just stuck this one in.

Russ Austin is qualified to write these scholarly legal articles by virtue of graduation from the University of Washington School of Law, where he was Law Review, Order of the Coif, Carkeek Prize, and so on. He has practiced in Seattle with Kargianis & Austin and its progeny, since 1963. An unabashed conservative, Austin yearns for the good old days.

Reminder:

The attorney roster portion of the 1993 *Resources* membership directory and deskbook is based on name and address information collected during the 1993 licensing process.

Check to be sure the information on your fee statement is accurate.

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

Evidence.

In prosecution for driving with revoked license, prosecution was properly allowed to prove defendant's earlier revocation by introducing facsimile machine (fax) copy of defendant's driving record, sent by Department of Licensing (DOL) in Olympia. Court rejected defense argument that FAX copy was inadmissible because it did not bear original seal affixed by custodian of DOL's records, as required by public-records statute. Court said statute does not require seal to be original impression and that, in any event, seal was original because DOL intended it to be such. Court said that fax copy of seal also qualified as duplicate, admissible under ER 1003. *State v. Smith*, ___ Wn.App. ___, 832 P.2d 1366 (Div. 1, 8/3/92).

—K. B. Tegland

Planning and zoning.

(Item 1.) Clarification.

In the September 1992 *Bar News*, pages 67-70, this column reported on several recent regulatory taking cases, including

Sintra, Inc. v. City of Seattle, 119 Wn.2d 1, 829 P.2d 765 (5/14/92), and *Robinson v. City of Seattle*, 119 Wn.2d 34, 830 P.2d 318 (5/14/92). In discussion on page 69, a statement appeared that was ambiguous on whether the City of Seattle persisted in enforcing its Housing Preservation Ordinance after the state Supreme Court had twice struck down the ordinance or only after the King County Superior Court had struck it down in cases later appealed to the supreme court. A letter from the office of the Seattle city attorney points out that this occurred only after the superior court decisions, not after the supreme court decisions. The city is, of course, correct in this.

(Item 2.) Landowner's complaint alleged county floodplain regulations deprived him of all economically viable use of land, which he claimed caused unconstitutional taking and denial of due process. Trial court dismissed complaint on summary judgment. Landowner contends that land use regulations are not

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“insulated” from causing takings if they destroy all economically viable use. In the first Washington appellate case to consider effect of *Lucas v. South Carolina Coastal Council*, ___ U.S. ___, 112 S.Ct. 2886 (6/29/92), on Washington law, appellate court agrees that *Lucas* has modified Washington “insulation” doctrine, so that regulation that destroys all economically viable use cannot be “insulated.” Since landowner’s complaint alleged such harm, case was remanded for further proceedings. *Powers v. Skagit County*, ___ Wn.App. ___, 835 P.2d 230 (Div. 1, 8/24/92).

(Item 3.) Land subdividers brought action for refund of impact mitigation fees imposed upon them as condition of plat approval. Defendant city contends that action is barred because plaintiffs failed to bring action within 30-day statute of limitations for actions to review approval or disapproval of plats. Plaintiffs contend that three-year statute of limitations on actions on unwritten contracts applies. *Held*, 30-day statute applies; therefore, trial court should have dismissed action. *Henderson Homes, Inc. v. City of Bothell*, ___ Wn.App. ___, 834 P.2d 1071 (Div. 1, 8/24/92).

—W. B. Stoebuck

Lap’s Annual Report: Fifth Year 1991-1992

New Empirical Data

Last year, empirical support was widely published about the prevalence of lawyer depression and dissatisfaction; they replicate earlier WSBA prevalence statistics gathered in 1987. A Johns Hopkins group of epidemiologists established that lawyers, compared with all other occupational groups within the United States, were 3.6 times more likely to suffer from depression. Occupational groups with high levels of depression tended to lack control over their work demands, faced great social isolation, and felt intense pressure to produce.

In a separate study, the American Bar Association released the results of a nationwide random sampling of lawyers to determine the state of the profession. Whether lawyers were working in private practice, corporate legal departments or within government practices, a statistically significant number of them (followed from 1984 to 1990) felt dissatis-

fied with their practice. In 1984, 40 percent of the lawyers surveyed were very satisfied, but this number dropped to 29 percent in 1990. These statistics are compelling because in the first testing, greater dissatisfaction arose among associates or line staff lawyers; the 1990 study results showed that the individuals reporting increased dissatisfaction were more likely to be partners or managing lawyers, and were earning more money.

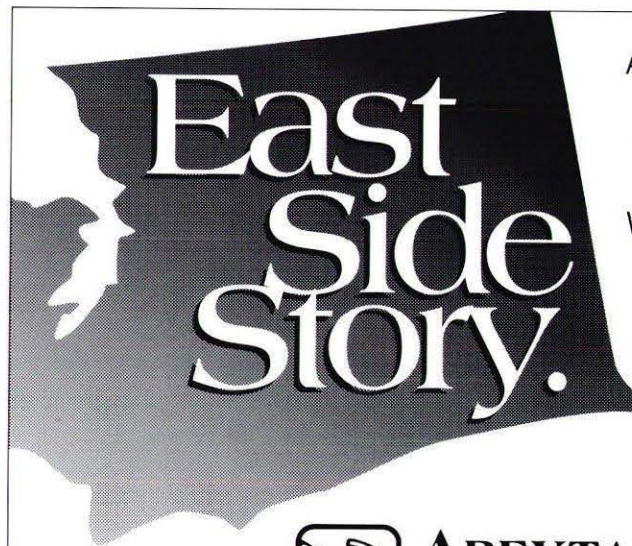
There appear to be two major contributors to the increased levels of dissatisfaction.

First, lawyers’ perceptions of their work environment affected whether they felt dissatisfied. In particular, negative work environment factors such as interpersonal coldness in the work atmosphere, lack of respect by superiors, political intrigue and backbiting, advancement based on subjective factors rather than on the quality of work, have all increased during the last six years. Posi-

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tive work factors such as adequate clerical and paralegal assistance, magnitude of financial reward, and opportunity for advancement have all decreased. Job dissatisfaction and subsequent transitions appear to be part of practicing law, and lawyers tend to move regularly until they find a comfortable niche.

Second, dissatisfaction was also linked to the deteriorating work environment causing increased levels of mental and physical distress (e.g. depression, anxiety, stress-induced physical illness, interpersonal problems, and obsessive/compulsive behavior) and decreased abilities to cope with it (e.g. social support, relaxation, exercise, expression of humor, etc.). The increased levels of distress and decreased coping abilities significantly affected the lawyers' families, the quality of their work and productivity, their firms, their clients, and lawyer satisfaction with the profession.

Our Program

In recognition of the these data, our

LAP focused some of its services on providing assistance to lawyers as they moved through the transitions from one job to the next so that such relocations were launched in ways that minimized distress and increased coping abilities. During this fiscal year 43 percent of the new cases were for career services. Evaluation, referral, and treatment services for alcohol, drug and mental health (ADM) problems were delivered to 191 new clients (see the attached summary table). All told, 88 percent (298) of our new clients (338) were self-referred this year (an eight percent increase from last year).

LAP now has provided services to seven percent of the bar association members (1,183 cases). A three-person-equivalent professional staff directly serves approximately 326 members who are being treated or followed until they extend their recovery for a year after treatment (treatment outcome research demonstrated that such aftercare assists clients in dramatically reducing the probability of relapse into another round of

an ADM illness).

Support

At the current rate of new cases, another two percent of the bar will seek LAP's service during the sixth year of operation. LAP believes the high rate of new clients is due to word of mouth as members continue to learn that confidences will be protected, that peer counseling is constructive, and that professional referral resources who work effectively with lawyers have been identified.

Our Future

LAP has cut its expenses for travel significantly during the WSBA budget crisis. As a result, LAP staff conducted far fewer prevention presentations. As the fiscal crises passes, LAP will return to a more frequent presentation schedule. Please call (206) 727-8267 if you would like us to make a presentation to your law firm or lawyers' meetings.

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Nota Bene

Tuesdays, 12 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.

Confused, disappointed, unsure about your career path? Join others facing the same issues for exploration, discussion and support.

Mondays 4-5:30 p.m. Beginning January 11, 1993. The weekly support group, Women in Law, will provide a drop-in forum for discussion about issues of particular interest to women lawyers. It will meet at the WSBA, 4th Floor of the Westin Building. Call (206) 727-8269 if you would like more information.

New Cases:		Self-referred	Third-party	Total	%
Opened not in treatment*	year 4	0	34	34	11%
	year 5	0	24	24	7%
Opened & In Treatment *	year 4	172	27	199	65%
	year 5	151	16	167	49%
Subtotal	year 4	172	61	233	
	year 5	151	40	191	
Opened, Career Services	year 4	72		72	24%
	year 5	147		147	43%
TOTAL CASES	year 4	244	61	305	100%
	year 5	298	40	338	100%
Case Diagnoses:		Year 4	%	Year 5	%
Mental problems (depression, old-age-related problems, relational, etc.)		174	57%	160	47%
Alcohol		56	18%	26	8%
Drugs		3	1%	5	1%
Subtotal		233		191	
Career Services		72	24%	147	43%
TOTAL		305	100%	338	100%
Types of Consultation or Treatment:		Year 4	%	Year 5	%
Client Treatment*		1,606	53%	1,715	49%
Client Attendance at Group Treatment**		718	23%	978	28%
Peer Counselor Consultation		302	10%	320	9%
Third-party Consultation		98	3%	82	2%
Professional Consultation		334	11%	381	11%
Total contacts with clients or those involved with cases		3,058	100%	3,478	100%
Disposition of Cases:					
cases served and closed during last five years of operations		857			
cases to whom services are still provided		326			
Total cases served since LAP's Inception		1,183			
*Treatment or being treated includes either: evaluation, ongoing peer counseling/staff treatment, and follow-up; or evaluation, referral and follow-up.					
**Professional staff ran five weekly support/psychotherapy groups with a maximum number of eight participants for each group.					

SPOKANE COUNTY BAR ASSOCIATION WINS 1992 PRO BONO AWARD

In last month's *Bar News*, one of the WSBA pro bono awards was erroneously attributed to Spokane Legal Services rather than to the Spokane County Bar Association. Please see the gracious letter from attorney Jim Bamburger, page 8 of this issue. The *Bar News* regrets the error.

The Spokane County Bar Association's Pro Bono Program had 502 attorneys providing free legal assistance to 1,170 low-income residents of the county. This assistance included free legal representation for 633 clients, instruction advice to 298 participants in the Do-It-Yourself Divorce Seminar Project and limited as-



Spokane County Pro Bono Coordinator **Mary Wardrop**

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assistance to 235 clients through a new joint project with Spokane Legal Services in family law. In addition, the program has screened and referred over 100 clients to University Legal Assistance on the cooperative agreement that simplifies the process by which low-income people apply for free legal assistance.

To meet the overwhelming need, the Pro Bono Committee has dramatically restructured its family services to reserve free legal representation for clients with the greatest needs and to provide assistance to enable pro se litigants to understand their legal options and successfully navigate the legal system. By prioritizing their cases for free legal representation and developing new programs to assist those with lower-priority cases, the program was able to serve more than 700 family clients during the period from May 1, 1991 through April 30, 1992, an increase of 40 percent over the 500 clients served in the previous 12 months. The Pro Bono Committee is currently developing a family law mentor program through which a novice attorney handles a pro bono family law case under the tutelage of an experienced attorney.



The Well-Connected Practice

by Kevin Hoult

Many attorneys agree, good connections are essential elements of success. Practices invest in computers, fax machines, multiple phone lines, and a variety of information brokers and research services, all in an effort to improve "connections." In many ways, things have never been better. Compared to the exchange of information in the practice of law as little as ten years ago, our present-day connections are truly remarkable.

In spite of this progress, good connections still sometimes seem elusive. Faxes still need to be retyped. It's often difficult to find the forms, guidelines or boilerplate you need. There still isn't time to meet with colleagues to discuss issues or exchange questions. Even with the modern research services available, information seems harder to get because there is now so much of it. More and more federal, state and local information is available, and government data bases—in particular—are providing more and better information, all of it valuable to your practice. How can you get to it?

Perhaps worst of all, searching the WAC and RCW seems to get more difficult with every session of the legislature. If only it didn't take so long to find the volumes you need. If only you had more time to spend on detailed research.

Fortunately, the WSBA offers a way to improve your connections. Through Legal Access of Washington Bulletin Board System (L.A.W. BBS), your Bar Association's on-line information service, you can get connected to a wide variety of important sources of information.

Through L.A.W. BBS, you can instantly review the entire RCW or WAC

on-line, asking to be notified of all appearances of the phrase "dog bite," or "Landlord-Tenant Act," or "obligation of good faith." After your on-line search, you will be able to reach for just the right volumes in the law library, so you can spend more of your time researching in detail. In addition, local rules, corporation information, and a great deal of other pertinent data is available at the press of a key. If you need forms, guidelines, model agreements, or boilerplate, L.A.W. BBS offers hundreds of on-line files you can use immediately. With L.A.W. BBS, you can learn how to access the same data information brokers use, and you can exchange this information with other users on-line.

Some users think the best features of L.A.W. BBS are the conferences and electronic mail (E-mail) services. In conferences, you can discuss issues, ques-

tions, and concerns with other users in general, or in a private conference in your specialty. The Washington Association of Criminal Defense Lawyers, for example, offers a special on-line conference on L.A.W. BBS for its members only. The E-mail service gives you the ability to exchange information person to person, or to send a single message to a group of users. You can even vote on WSBA issues through your L.A.W. BBS connection.

If the benefits of L.A.W. BBS sound appealing, you'll really like the cost. Forty minutes of on-line access is available each day absolutely free—a significant benefit of WSBA membership.

Kevin Hoult is a L.A.W. BBS volunteer.



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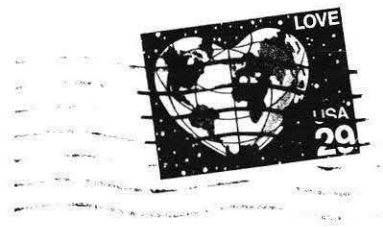
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Tomorrow Is Another Day

by Tom Tyner

ADAMS EVERGREEN & WOLFF
215 6th Avenue N.W.
Seattle, Washington

July 2, 1991

The Manager
Pacific Bank of Seattle
525 Pike Street
Seattle, Washington

Dear Sir or Madam:

We represent Simon & Sons Importing, a Seattle-based importer of teas and spices. Simon & Sons is and has been a customer of your bank since 1961. They have asked us to write to you in the hope of clearing up a small but troubling matter. We are confident that you will be able to resolve our client's concerns immediately once we explain the problem to you.

On Friday, June 12, our client deposited a check in the amount of \$2,000 into their checking account with your bank. The check was drawn on a Hong Kong bank by one of my client's customers. On Wednesday, June 17, having heard nothing from you about the check, our client withdrew the \$2,000 and used it to purchase additional supplies for their business. On Monday, June 29, our client received a telephone call from a Mrs. Simpson of your bank informing our client that its checking account was overdrawn by \$2,000, the check deposited on the 12th having been returned unpaid by the Hong Kong bank it was drawn on.

We have absolutely no idea why the check was not paid, nor do we know why there was a 17-day delay in the return of the check. But, we are confident that the return of the check after so long a delay is your problem rather than our client's problem.

Having now brought this small but annoying matter to your attention, we trust you will advise your Mrs. Simpson that our client has no further responsibility for the check, and that we would be most appreciative if you would reverse the \$2,000 overdraft on our client's account immediately, including any penalties or other charges.

Thanking you for your prompt attention to this matter, we remain,

Very truly yours,
Jefferson Adams

Tom Tyner practiced law for 11 years in California and just passed the Washington bar exam. He has been on sabbatical, writing and throwing pizza for a restaurant owned by a friend.

TOWNES TIPTON AND MACCAULEY
Attorneys at Law
200 West Third Street
Seattle, Washington

July 10, 1991

Jefferson Adams, Esq.
Adams Evergreen & Wolff
215 6th Avenue N.W.
Seattle, Washington

Dear Mr. Adams:

We represent Pacific Bank of Seattle. Your July 2 letter to the manager of our office on Pike Street has been referred to us for reply.

Although your summary of the facts relating to your client's deposit of a check for \$2,000 is basically accurate, your conclusion as to responsibility for the check is entirely incorrect. The controlling law here is Section 307 of the Washington Banking Code which quite clearly states that a depositor is responsible for the validity of any check deposited to the depositor's account. That being the case, it legally and logically follows that since your client deposited the check and the check turned out to be no good, your client now owes Pacific Bank of Seattle the \$2,000 they received in exchange for their worthless check.

Now that we have more precisely explained the legal and factual basis for our client's demand for the \$2,000, we hereby renew that demand. We anticipate receiving your client's check for \$2,000 by return mail so that we can all consider this unfortunate matter closed and move on to more pleasant and profitable business.

Sincerely yours,
Homer Townes

* * * * *

ADAMS EVERGREEN & WOLFF
215 6th Avenue N.W.
Seattle, Washington

July 20, 1991

Homer Townes
Townes Tipton & MacCauley
200 West Third Street
Seattle, Washington

Dear Mr. Townes:

Thank you for your letter of July 10, which included your fascinating analysis of applicable law on this subject. Your reference to Section 307 of the Banking Code is both interesting and creative. We also find it a bit puzzling since it has absolutely nothing whatsoever to do with the case at hand. A cursory glance at the leading case in this area (Bank of Commerce v. Alpha Manufacturing) shows the error of your analysis. In the future, you may wish to do your own research rather than allowing a law clerk to do it for you, as must certainly be the case here. The Bank of Commerce case clearly holds that when a deposited check is returned after an unrea-

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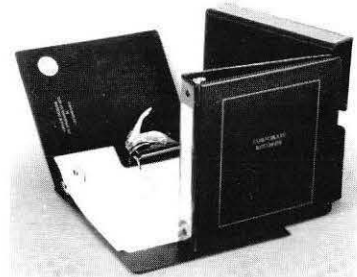
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sonably long time, as was clearly the case here, then Section 309 of the Banking Code applies rather than Section 307. Under Section 309 of the Banking Code, it is clear that a bank accepting a deposited check is responsible for any loss to the depositor of the check caused by the delay in the processing of the check for payment.

Applying the correct law to the facts in this case leads to the irrefutable conclusion that your client, through its unreasonably lengthy delay in processing the check, became responsible for the check and is therefore responsible for the \$2,000.

Now that we have pointed out the correct law and walked you through the appropriate legal analysis of the case, we assume you will advise your client accordingly, and that our client will no longer be pestered by your client's Mrs. Simpson who continues to call our client and ask for the \$2,000.

Thanking you in advance, we remain,

Very truly yours

Jefferson Adams

* * * * *

TOWNES TIPTON AND MACCAULEY

Attorneys at Law

200 West Third Street

Seattle, Washington

July 29, 1991

Jefferson Adams
Adams Evergreen & Wolff
215 6th Avenue N.W.
Seattle, Washington

Dear Mr. Adams:

We received your latest letter dated July 20, which we read with equal degrees of amusement and dismay. We were amused by your pathetic attempt to be sarcastic in your remarks about our legal research, and we were dismayed to see evidenced in your letter proof of the general decline in legal scholarship that has infected our profession.

Your assertion that Section 309 of the Banking Code is the controlling law in this matter is laughable. The patent error of your analysis hardly deserves serious comment. Nevertheless, on behalf of our client we feel compelled to at least point out to you the more glaring errors in your argument.

First of all, Section 309 of the Banking Code that you seem so inordinately fond of refers only to delays in the processing of checks actually caused by acts or omissions on the part of the bank taking the check for deposit. In this case, Pacific Bank of Seattle processed the check in question on the very same day it received it. Any delay in processing the check for payment would have occurred in Hong Kong by the Hong Kong bank the check was drawn on. Thus, your Section 309 does not apply here.

Secondly, the Alpha Manufacturing case in which you appear to place so much faith has been roundly criticized and discredited by virtually every serious commentator on banking law. Only a handful of unenlight-

ened buffoons still consider the Alpha Manufacturing case to be good law. We did not cite the case in our previous letter to you because we value our reputation as a quality law firm far too much to jeopardize it by making specious arguments about inapplicable statutes supported by discredited precedents. Your firm, on the other hand, seems to have no such qualms about protecting its reputation, but then again, how could you be concerned about protecting that which you do not possess in the first place?

Let us again clearly and emphatically state for the record that Section 307 of the Banking Law is the controlling law in this case, and that under Section 307 your client deposited the bad check and is therefore clearly and unequivocally responsible for it, and therefore owes our client \$2,000.

This matter has dragged on unnecessarily for many weeks now. We are sorry it has taken so long for your firm to see the light in this case and admit your errors in analysis, but we trust that you do now in fact see the error of your ways and agree that your client owes our client the \$2,000. We do not see the need for further correspondence in this case notwithstanding the amusement your previous letters have provided to us. We now consider the matter closed, and will expect to receive your client's check by return mail.

Very truly yours,
Homer Townes

* * * * *

ADAMS EVERGREEN & WOLFF
215 6th Avenue N.W.
Seattle, Washington

August 7, 1991

Homer Townes
Townes Tipton & MacCauley
200 West Third Street
Seattle, Washington

Dear Mr. Townes:

Received your latest of July 29. The only light we see is the one shining through your ears when you turn sideways. Had I not read it myself, I would have never believed that a firm of your caliber would seriously advance the ludicrous arguments set forth in your letter. I am almost inclined to believe that the nonsense spilling out of your letter is a deliberate attempt by your firm to use gibberish as a defense tactic. I fear you may be too feeble-brained to actually make a serious legal argument. No other explanation can account for the incoherent ramblings you are attempting to pass off as reasoned analysis. I can assure you that we take no pride or pleasure in seeing a firm of your former reputation stooping so low.

In the hope that you may yet have the wherewithal to see the error of your ways and finally grasp the clear truth that has been staring into your apparently blank faces all along, I will once again attempt to educate you on the law in this area so that you do not make the same mistake and further humiliate yourself in the future.

Section 307 of the Banking Code does not apply here because 307 applies only when a disputed check is deposited into a customer's account

APPELLATE LITIGATION



Doug North is available for consultation, association or referral on your next appeal. Winner of a 1991 Washington Law

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John H. Meyer

Marriage of Vander Veen,
62 Wn. App. 861 (1991)

Allen D. Brecke

Romjue v. Fairchild,
60 Wn. App. 278 (1991)

Kenneth B. Shellan

Tissell v. Liberty Mutual,
115 Wn.2d 107 (1990)

Michael D. McKay

Hoffer v. State, 110 Wn.2d 415 (1988)

Joseph A. Albo

Dennis v. Dept. of Labor and Ind.,
109 Wn.2d 467 (1987)

Kevin P. Casey

American Federal Savings v. McCaffery,
107 Wn.2d 181 (1986)

Peter P. Strand

Jensen v. Beaird, 40 Wn. App. 1 (1985)

James D. Burns

Gammon v. Clark Equipment Co.,
38 Wn. App. 274 (1984)

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and then handled promptly by all concerned. When there is an unreasonable delay in the processing of the check by any bank involved in the process, the customer depositing the check is absolved from any further responsibility for it. Any loss that subsequently occurs because the check is ultimately dishonored is a matter to be resolved among the different banks involved. There was an unreasonable delay in the processing of this check by someone, and that is enough to release my client from any further involvement in this sordid mess. That is exactly the situation addressed by Section 309 of the Banking Law, which anyone with an IQ approaching their hat size can plainly see.

The so-called legal scholars that you suggest have discredited the Alpha Manufacturing case include just about every flake and crackpot the academic community has to offer. Thank God those clowns don't actually practice law or try cases. The Alpha Manufacturing case is still seen as good law by those people whose votes count—the Justices of the Washington State Supreme Court who decided the case, and whom, I might add, will be interested to have been identified by the esteemed barrister Homer Townes as a bunch of "unenlightened buffoons."

I assume that you include Professor Blanding of the Central State Law School faculty as one of your "experts" who has criticized the Alpha Manufacturing case. I read his rambling and unfocused article on the case in a supermarket tabloid right next to an article about a Missouri woman who was kidnapped by space aliens who are holding Elvis hostage. Evidently you do not share the nearly universally held belief that Professor Blandings is a harmless lunatic who is always ready to interpret a jingle to a beer commercial as a message from a higher form of life. Suffice it to say that we do not consider Professor Blanding's criticism of the Alpha Manufacturing case to carry a great deal of weight. To the contrary, any case that attracts the good professor's wrath must be rightly decided.

Our client has grown weary of your client's relentless attempts to extort \$2,000 from them, and we have grown weary of your lame attempts to provide a legal justification for their unjustifiable actions. I do not intend to listen to your ceaseless drivel about Section 307 forever, and I can no longer indulge myself in my attempt to enlighten you on the law in this area. We consider the matter closed. Please do not trouble my client about the \$2,000 again.

Very truly yours,
Jefferson Adams

* * * * *

TOWNES TIPTON AND MACCAULEY
Attorneys at Law
200 West Third Street
Seattle, Washington

August 13, 1991

Jefferson Adams
Adams Evergreen & Wolff
215 6th Avenue N.W.
Seattle, Washington

Dear Mr. Adams:

I have read your incredible letter dated August 7. Several of my colleagues have urged me to forward it to the State Bar so that they can immediately commence disbarment proceedings. I myself am more inclined to forward it to a reputable psychiatrist so that you may begin receiving the medical treatment you so obviously require. It is frightening

to see the kinds of things that can be brought on by stress. Since you appear to be too young to be senile, I must assume you are delusional. Your slander of the eminent scholar Professor Blandings was inexplicable to me until I looked you up in the latest Martindale-Hubbell attorney directory and discovered that you claim to have graduated from Northern State School of Law. That explains a lot. Northern State is long known for its disdain of traditional legal education and its belief that logic, common sense and intellectual honesty all stand in the way of earning a quick buck. Consequently the legal curriculum at Northern State centers around the "Belt, Briefcase and Shoe Color Coordination" seminar and the "Client Coin Extraction" workshop. I'm sure your legal education at Northern State (and I use the term education advisedly here) included such powerhouse courses as "Insect Law" and "The Rights of Inanimate Objects," but obviously failed to include even the most rudimentary of classes in statutory analysis and interpretation. It is no wonder that your so-called arguments on your client's behalf up to this point have been so uniformly bizarre and pathetic.

I'm sure even your atrophied conscience prevents you from billing your client for the "services" you have rendered to this point. The wholly specious and ludicrous arguments you have unthinkingly thrown up in a desperate attempt to hide your own incompetence as lawyers represents everything that is shoddy and despicable about our profession. Even if we felt that there was a grain of a shred of an iota of support for your client's position in this matter (which I can assure you is not the case), we would be loathe to drop our client's demand for the \$2,000 for fear that by doing so we might be rewarding your firm for doing everything except practicing law in a desperate, and ultimately unsuccessful, attempt to hide your own ignorance.

We must, therefore renew our client's demand for the \$2,000. Since we expect you to ignore this demand just as you have ignored everything else in this case up to this point, including reality and ethical obligations, I must also inform you that we will soon stop our diligent efforts to lift the fogs of ignorance that appear to have settled over you in this matter and will instead seek to have a higher authority show you the errors of your ways. In other words, if you do not immediately come to your senses and admit that we are right, our client has authorized us to file a lawsuit in Superior Court to recover the \$2,000, together with lost interest on the \$2,000, plus attorney fees, court costs, and, because they are so richly deserved by your scorched earth approach to this case, punitive damages in the amount of \$1,000,000. Were it within our power to do so, we would also seek to have your entire firm disbarred so that you could no longer indulge your ignorance at the expense of unsuspecting clients.

I do not wish to prolong this exercise in irrationality any further, but nevertheless feel compelled to add a final personal note. By a strange twist of fate, I realized recently that your son and my son play on the same youth soccer team. My son tells me that your Brian is an excellent athlete and is well-liked by all the boys on the team. I am thankful that the loss of mental faculties that seems to be plaguing you does not seem to have been passed on to your son.

If we do not receive our money very soon, you can expect to receive our summons and complaint forthwith. Govern your conduct accordingly.

Very truly yours,
Homer Townes

* * * * *

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ADAMS EVERGREEN & WOLFF
215 6th Avenue N.W.
Seattle, Washington

August 20, 1991

Homer Townes
Townes Tipton and MacCauley
200 West Third Street
Seattle, Washington

Dear Mr. Townes:

Just what exactly are you people smoking over there?

You have obviously abandoned any attempt to argue the law, and instead seem bent on flinging around slanderous statements like the confetti that you have for brains. You are wrong about the law this case, but worse yet, you are too stupid to even know you are wrong. I won't waste my client's money or my own time to respond to your absurd charges. All I will say is that I'd hate to be your malpractice carrier if you follow through on your ridiculous threat to file suit against my client.

In response to your personal note, it is true that our sons appear to be friends. Brian tells me that your son John is also a fine athlete, and has also been kind enough to help Brian catch up on some homework that Brian missed due to a recent prolonged absence from school. It is good that you have not infected your son with the utter lack of common sense and and basic human intelligence that you s so clearly suffer from.

Please feel free to sue our client immediately. Given your firm's obvious shortcomings in other areas, it might be amusing to see what damage you could do to a simple complaint once you put your mind to it (and I use the term mind advisedly here).

Very truly yours,
Jefferson Adams

* * * * *

TOWNES TIPTON AND MACCAULEY
Attorneys at Law
200 West Third Street
Seattle, Washington

August 25, 1991

Jefferson Adams
Adams Evergreen & Wolff
215 6th Avenue N.W.
Seattle, Washington

Dear Mr. Adams:

We received your most recent letter and were, to say the least, disappointed. We have begun to prepare the necessary papers to commence our lawsuit and will be filing and serving them shortly. The purpose of this letter is to let you know of our intentions and to give you one final opportunity to avoid the humiliation of being crushed in court.

We have been instructed by our client to wait one week, until Wednesday, September 1, before we actually file our complaint. This will give you one final opportunity to come to your senses and admit your mistakes before they are exposed to the world in open court. I look forward to hearing from you before the 1st of September.

On one final note, I am told that your son Brian failed to show up for soccer practice this past week. I should have known that when the going

got tough, an Adams would find a way to let his team down. Can we expect him to put in an appearance at the first playoff game this weekend, or will you ask him to put in some additional time studying at home so that at least one member of your family can claim to be at least modestly educated?

Very truly yours,
Homer Townes

* * * * *

TOWNES TIPTON AND MACCAULEY
Attorneys at Law
200 West Third Street
Seattle, Washington

September 2, 1991

Jefferson Adams
Adams Evergreen & Wolff
215 6th Avenue N.W.
Seattle, Washington

Dear Mr. Adams:

Having received no response to my letter to you dated August 25, I felt obligated to contact you one last time in the hope that your silence was an indication that you might actually be reconsidering your previous position. If that is the case, can I then assume that my client can expect to be shortly receiving their check for \$2,000? I will wait an additional three days before filing our lawsuit in anticipation of your positive and long overdue response.

While it is apparently of no particular concern to you or your son, you may be interested to know that our sons's soccer team won the first round of playoff games this past weekend and now moves on to the semifinals this week. As you know, your son let the whole team down by not bothering to show up for practice or the game. Perhaps you needed him around the house to remind you where your kitchen was so you wouldn't starve to death.

May we please have a response from you no later than noon on the 5th?

Very truly yours,
Homer Townes

* * * * *

TOWNES TIPTON AND MACCAULEY
Attorneys at Law
200 West Third Street
Seattle, Washington

September 6, 1991

Jefferson Adams
Adams Evergreen & Wolff
215 6th Avenue N.W.
Seattle, Washington

Dear Mr. Adams:

We still have not heard from you in response to our letters to you dated

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August 25 and September 2. We hope this silence on your part is not a lame attempt to hide your head in the sand in the futile hope that this problem will go away quietly. We can assure you that it will not go away!

I called your office today to speak to you directly about this matter and was told that you were temporarily "away from the office" and would not be available by telephone until an unspecified date in the future. This cryptic news, coupled with your son's continued absence from the soccer team, leads me to conclude that you have taken this opportunity to go on some sort of an extended vacation! I am stunned that a member of the bar would have the audacity to leave a case like this hanging while he took his family on a romp and frolic at some pricey Caribbean resort or stuffy European health spa! Enough is enough! We will file our action forthwith and we will see you in court, assuming you have the guts to show up.

And, by the way, due in no small part to the absence of your son Brian, the soccer team was forced to go into overtime yesterday to win its soccer game. Had Brian been there, my son is convinced that the team would have won the game handily. I don't presume to speak for the team, but I do not expect them to welcome Brian back with open arms when you all return from whatever little trip it is you are on that couldn't wait for the end of the soccer season. The rest of the boys will be playing for the championship this Friday afternoon. I only wish my schedule were not so full so that I could be there to see the game. You obviously have more important things to do with your time.

Very truly yours,
Homer Townes

ADAMS EVERGREEN & WOLFF
215 6th Avenue N.W.
Seattle, Washington

September 10, 1991

Homer Townes
Townes Tipton and MacCauley
200 West Third Street
Seattle, Washington

Dear Mr. Townes:

I apologize for not responding to your letters of August 25, September 2, and September 6. I have been unexpectedly out of the office since August 26 due to my son's sudden illness. Brian passed away on August 30 after a long and difficult battle with leukemia. I thought that I had asked a colleague to follow this matter in my absence, but it apparently fell between the cracks. Under the circumstances, I would be most appreciative if you would defer filing your complaint for a couple of days while I discuss your most recent letters with my client.

Sincerely,
Jefferson Adams

TOWNES TIPTON AND MACCAULEY

Attorneys at Law
200 West Third Street
Seattle, Washington

August 25, 1991

Jefferson Adams
Adams Evergreen & Wolff
215 6th Avenue N.W.
Seattle, Washington

Dear Mr. Adams:

I received your letter of September 10. Words cannot express the shock and sadness I felt when I learned of your son's tragic death. My son was devastated when I told him. Neither he nor any of the boys on the team knew of Brian's leukemia. It is so hard to accept the fact that someone as young and strong and vital as Brian could be gone. Brian must have been a very strong and brave boy to have carried on his fight with the disease without ever letting on to his teammates how he was suffering.

In looking back at my recent letters to you, I realize that I have said some unforgivable things about both you and Brian. I am ashamed of my unprofessional and unkind behavior. I hope you can find it in your heart to forgive me. I wish there was a way for us to rewind the tape of our lives and erase some of the cruel and insensitive things we occasionally say to each other. Unfortunately, there isn't, and we must all live with the things we say to each other. I hope my ill-considered words have not added to your family's grief. Please accept my most heartfelt apology, and my most sincere condolences on your loss.

I am also happy to be able to inform you that, after considering the matter carefully, my client has authorized us to drop the lawsuit referred to in my previous letters. Instead, in light of the long and mutually supportive relationship between my client and Simon & Sons, my clients have asked me to explore the possibility of resolving this unfortunate matter by proposing that we agree to split the loss equally between our respective clients without regard to fault or legal responsibility.

Please let me know if this offer would be acceptable to your client.

I apologize again for all the awful things I said in my ignorance, and I hope that you can find a way to forgive me.

Very truly yours,
Homer Townes

* * * * *

ADAMS EVERGREEN & WOLFF
215 6th Avenue N.W.
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September 18, 1991

Homer Townes
Townes Tipton and MacCauley
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Seattle, Washington

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Dear Homer:

Thank you for your kind letter of September 14. I took no offense at your previous letters. There was no way for you to know what we were going through. I can't tell you how much I miss Brian. It's so true that we take things for granted until they're gone. I was always too busy to go to Brian's soccer games. I thought that I'd always be able to make it up to him by going to his next game, but I was always busy when the next game came. Now, Brian is gone and there is no next game. My work doesn't seem as important to me now as it did then, and I'd trade everything I have just to have attended one of his games. I don't intend to make the same mistake again when Brian's little brother David is ready for soccer in a couple of years.

Brian was very brave about his illness. He didn't want anyone to know he was sick because he was afraid that the other boys would feel sorry for him or treat him as an invalid. He wanted to live out his remaining days as a normal 10-year-old. I'm only sorry he didn't have a chance to say goodbye to his teammates. He was very fond of all of them, particularly your son John. I am glad that you and John were able to attend the services for Brian last night. I noticed the rest of the team appeared to be there too. I'm sure this whole thing has been very hard on all of them too.

With regard to your client's settlement offer, I am happy to report that after much deliberation, my client has decided that it will pursue the matter directly with its customer in Hong Kong. Enclosed therefore, is my client's check for \$2,000 to cover the overdraft on their checking account. My client was very happy to see the spirit of compromise and cooperation evidenced by the bank's settlement offer, and felt that it was only fair that the true culprit in this matter be made to make it right.

It was a pleasure working with you in this matter, and I'm glad we were finally able to meet, although I'm sorry it had to be under such unpleasant circumstances.

Very truly yours
Jefferson Adams

* * * * *

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TOWNES TIPTON AND MACCAULEY

Attorneys at Law
200 West Third Street
Seattle, Washington

September, 25 1991

Jefferson Adams
Adams Evergreen & Wolff
215 6th Avenue N.W.
Seattle, Washington

Dear Jefferson:

Thank you for your September 18 letter. My client has asked me to provide you with the enclosed information about the check that should prove useful in seeking to recover from your client's Hong Kong customer. I am also pleased to be able to tell you that my client has made a \$2,000 donation to the American Cancer Society in honor of the memory of Brian Adams. In addition, our firm is likewise making a similar donation in Brian's memory.

If your schedule permits, I'd like to invite you and your son David over to our house this Friday. We are hosting a party for the soccer team in recognition of their winning the district championship last week. A map is enclosed. I hope you can make it.

Very truly yours,
Homer Townes

* * * * *

TOWNES AND ADAMS
226 Madison Street N.W.
Seattle, Washington

November 15, 1991

The Manager
Pacific Bank of Seattle
525 Pike Street
Seattle, Washington

Dear Don:

It is my pleasure to inform you that I have left the firm of Townes Tipton and MacCauley and have started a new, smaller firm with my friend and colleague Jefferson Adams, formerly with the prominent firm of Adams, Evergreen & Wolff. We will continue to specialize in banking law, and trust that we can continue to serve the legal needs of Pacific Bank of Seattle. I must point out, however, that our office will work reduced hours on Tuesday and Friday afternoons, and will not be available Saturday mornings during youth soccer season. Mr. Adams and I have a prior commitment as the new coaches of the defending district champion Tigers youth soccer team.

We wish you a joyful Thanksgiving with your wife and family, and look forward to a long and satisfying relationship with you.

Very truly yours,
Homer Townes for
Townes and Adams

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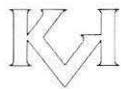
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by Lindsay Thompson

Pasco, October 30, 1992

Present:

The president and Board of Governors, save Steve Tubbs—absent on business—and Alva Long, absent because of illness. Also present: Joseph Erickson (General Practice Section); Victor Flatt (Lesbian & Gay Legal Society of Puget Sound); Jim Kaufman (Washington Association of Prosecuting Attorneys); Judge Craig Mathison (District & Municipal Judges' Assn.); Linda Moran (Washington Women Lawyers); William R. Phillips (Washington Defense Trial Lawyers); Judge Yancey Reser (Superior Court Judges' Assn.); Larry B. Shannon (Washington Trial Lawyers' Assn.); Johnette Sullivan (Administrative Law Judges' Assn.); Judge Dennis J. Sweeney (Court of Appeals); Lindsay Thompson (*Bar News* Editor); Morton M. Tytler (Government Lawyers' Assn.); Mary Wechsler (SKCBA Trustees); Robert D. Welden (WSBA General Counsel).

Preliminaries:

The Board met in executive session for an hour.

President's Report:

The president told the Board he had recently written to all the county bar association presidents and WSBA committee chairs to apprise them of the state of the Association and invite their input. He attended the Northwest Minority Job Fair; met with leaders of state Asian and African-American bar groups to discuss ways to realize further involvement by their members in

WSBA activities; and spoke to the Island County Bar Association. He also appeared, with Governor Alva Long, on a KIRO radio call-in show about the law.

Executive Director's Report:

Dennis Harwick told the Board 869 people took the summer bar exam. 663 passed. The overall pass rate was 76 percent, an average of 80 percent on the substantive portion and 90 percent on the ethics component.

It's a four-way race to be the WSBA governor for the newly created Ninth Congressional District seat. Andrea Darvas of Seattle, James Handmacher of Federal Way, Meredith Wright Morton of Olympia and Jerald Weidenkopf of Tacoma are on the ballot; a fifth candidate was disqualified for failing to obtain the required number of signatures of lawyers from the new district on his nominating petition. The ballot went out October 29 and is due back November 23. If there's a runoff, as seems likely, the ballot for it will go out November 30 with a return date of December 18.

Efforts to improve relations with the WSBA sections and committees were significantly advanced at an October 23 meeting, Harwick said. He, a number of governors, and WSBA senior staff were all there, trying to demystify how the Association works.

A request has been formally sent to the American Bar Association for a team of evaluators to come out and review the WSBA disciplinary system. Their report should be out in the late spring.

NOTICE TO
WSBA MEMBERS

The WSBA is seeking applications and nominations for president of the Association.

The custom and practice has been that the Board of Governors selects a president on a geographical-rotation basis. This year the Board will receive nominations and applications from western Washington outside of King County.

Nominations and applications must be received by December 18, 1992; interviews will be conducted on Saturday, January 9, 1993

Nominations and applications should be sent to: WSBA Presidential Selection Committee, 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599.

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Harwick told the Board a search is underway for a new director of public affairs, to succeed George Scott.

Do Not Pasco, Do Not Collect \$260:

Harwick also reported that enough WSBA member signatures had been collected, and presented earlier in the week, to require a referendum on the increase in dues approved by the Board in July. The Board approved a schedule under which the ballot will go out by November 13, with a return date 21 days later as required by the bylaws. That'll put it in the December 4-13 range. The direct cost of the referendum, not counting staff time, is estimated at \$12,500.

Remember Us? Mary Wechsler reported on the work of the Domestic Relations Implementation Committee. An ad hoc outfit, it was created by the Board in 1991 to assist in implementing recommendations of a previous Domestic Relations Task Force. Wechsler said the Committee had concentrated its efforts on advancing the proposal that there be "courthouse facilitators" put in each county to help pro se family law litigants with filling out forms and the like. A pilot program was funded by the Legislature this year, and money was allocated for programs in seven counties. Wechsler told the Board the program is being run through the statewide legal-service providers, and that her committee is helping in an advisory capacity.

The principal discussion following Wechsler's report was whether the courthouse facilitators should be lawyers or not. The Board had recommended that they be lawyers, since it's inevitable that the occupants of these new posts will have to give legal advice. Given low funding for the program and the idea that a newly admitted lawyer- the most likely candidate for such jobs- isn't necessarily the best person to advise on the complexities of the Washington family law statutes, the program slots are not being required to be filled with lawyers. After some discussion, the Board decided jobs for lawyers are jobs for lawyers (see bar exam results, above) and approved sending a letter to

the pilot program counties urging them to hire lawyers for the facilitator positions.

Is a Court Rule a Legislative Matter?

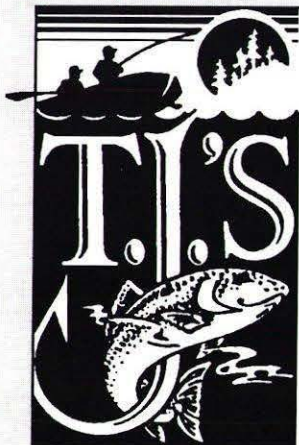
The Board passed a policy some time ago requiring WSBA sections to approve any policy statements or positions presented to the Legislature by a super-majority and let the Board and/or the Legislative Committee know they intended taking independent action. This was to make sure the Association was speaking with one voice on matters.

The Court Rules Committee wanted to comment on the amendments to the Civil Rules recently approved by the Board. Did the legislative policy apply to them? Governor Wayne Blair thought not, and he didn't think it should. Governor Monte Hester took the opposite view, saying they should be allowed to comment directly after their work has been passed through the Board. Governor Tom Chambers thought the legislative policy should be applied, and after some discussion, his motion to do just that passed unanimously. Then he moved to have the Court Rules Committee jump through the super-majority hoop and advise the Board of their intentions before commenting on the rules changes. That passed 7-1, Blair opposed. "It's bad policy, and lousy politics," he said.

There's A Sales Tax in Your Future:

That's what Governor Tom Chambers told the Board. He said Governor-elect Mike Lowry had expressed an intention to request extension of the sales tax to professional-service fees to help reduce the coming budget deficit. In addition, the Health Care Commission, which recently published a report calling for extension of health insurance benefits to Washington residents, wants to pay for their program with a sales tax on professional-service fees.

Chambers concluded that the Board needed to begin mobilizing opposition immediately, noting that the emergence of the healthcare report was a bigger wedge than had been available to proponents of past professional-service sales tax plans. After



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some discussion, the Board set up a committee to begin making plans for the coming legislative session.

Client Security Program Blues:

Recent publicity over escalating requests that the Client Security Program make gifts of reimbursement for some of clients' losses from theft by their lawyers prompted the Washington Association of Prosecuting Attorneys to pass a resolution asking the Board of Governors for more information on the Program's rules, the amount of the claims pending, and to consider establishing a committee to look for ways to hold down such claims. Whitman County Prosecuting Attorney Jim Kaufman, WAPA's representative to the Board, said the talk of a mandatory, Supreme Court-ordered levy against all Washington lawyers to help fund the program (whose account is bare because of claims already approved and the parlous finances of the Association) didn't sit well with government lawyers. They don't like the idea of bailing out the bad acts of lawyers in private practice. They are also concerned that if the dues increase is not approved in the coming referendum, the Client Security Program will not be funded at all in the coming year. The resulting bad publicity could fuel renewed legislative interest in having the bar regulated by a state agency.

Kaufman said information provided by Dennis Harwick since the October 7 resolution was forwarded to the WSBA had reassured the prosecutors' leadership some. The Board then took up the question of making the program's operations more open, the better to avoid future anxiety—like WAPA's—based on a want of information. Harwick said he favored making public both how much is approved in each claim and the name of the lawyer whose actions gave rise to the claim. Wayne Blair suggested referring the program's rules to the bylaws review committee for amendment along those lines. Governor Joe Nappi thought the names of claimants should be made public, too. The referral for rewriting the program's rules was unanimously approved.

Blair then wondered if there weren't things that could be

done to the trust account rules to make it harder for lawyers to have complete, unfettered control of client trust funds. Where there are countersignatures required by firms, or other safeguards in place, he said, you can't steal clients' money.

Joe Nappi agreed something like that was a good idea, but he didn't want the matter sent back to the Client Security Program Committee: "They're too wedded to the idea of a mandatory assessment against lawyers," he said.

Governor Tom Chambers then floated the idea of a single, WSBA-run trust fund into which all WSBA members' client trust funds would go. He saw both control and pro bono advantages. He figured the average balance of all Washington lawyers' trust accounts was \$100 million. If that were pooled in one account, with a good money manager, banks could be leaned on to give better rates than the rock-bottom deposit interest they are paying now. That would generate more for legal services to the poor.

It's a radical idea, Chambers said; maybe if you offer something that big and complicated lawyers will decide the assessment idea isn't so bad after all.

Observer reaction was one of cautious interest, though several said it sounded complicated and expensive to set up.

Governor Monte Hester questioned the value of having a client security program at all. It doesn't help our image with the public, and does little to help it with our members, he declared.

WSBA counsel Bob Welden reminded the Board that the Client Security Program Committee had studied a number of alternatives already, including some of those floated in discussion. Governor Vickie Norris wondered if the Committee was the right place to go for ideas, since a really thorough, back-to-square-one analysis would certainly include the possibility of the Committee's—and program's—demise. Wayne Blair agreed, and said at the next meeting he'd move to create a new, more broadly based body to sort out how to handle client security claims.

Tom Chambers wrapped up the discussion on a somber

Advisory Election for Ninth District Seat on the BOG:

Of the four original candidates for Ninth District representative, no one received a majority. There will, therefore, be a runoff election between Andrea A. Darvas and James V. Handmacher. Ballots must be received at the WSBA office by 5 p.m., Friday, December 18.

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note. "We've gone to a million dollars in theft claims a year. If we don't do something, Jim Kaufman is right—we'll be taken over by the state."

The Budget: Back in the Black, but Barely:

Dennis Harwick gave the Board a run-through of the preliminary final statements for the WSBA 1991-1992 fiscal year. There are still bills outstanding that we know are coming in, Harwick told the Board, so a precise, bottom-line number isn't possible yet. But it is reasonable to expect the final reports will show the Association ended the fiscal year between \$50,000 and \$100,000 in the black.

Cash flow is holding up well enough to manage without borrowing so far, Harwick said. But the dues referendum will hold up the preparation of dues statements, which go out in December. If dues don't start coming in 'til well after the new year begins, there could be problems, since the Association has no other big income source to look to until then.

Harwick said revenues for '91-'92 were up \$179,000 over the previous year, while expenses were down \$290,000. The swing from the originally expected deficit to the projected surplus is more than \$400,000.

The 1992 WSBA convention finished in the black as well, based on direct costs. "Direct" costs are the actual expenses of any Association program. The bottom line on each program—take the convention, for example—is derived by adding to direct income (if any) and expenses a percentage of the total WSBA overhead: office costs, insurance, postage, phones, etc. The percentage is calculated from the time sheets the WSBA staff keep, and adjusted each year (The *Bar News*' share of overhead was increased from 3 percent in 1991-92 to 4.2

percent in 1992-1993). The convention showed a surplus of \$26,000 before overhead was figured in; with overhead there was a \$13,000 loss on paper. The much-maligned CLE seminar operation showed a direct revenues-over-expenses surplus of just over \$275,000, and publications of \$72,000. Both showed paper losses with overhead figured in: \$232,000 for seminars, \$11,000 for publications.

Harwick praised the WSBA staff in the highest terms for doing what it took to bring the budget into line with declining revenues; the Board praised Harwick for providing the leadership to identify and effect the necessary steps.

The Sunset Committee Also Rises:

As Hemingway might have put it, Mike Larson spoke. He is a Board member. We have a committee, he said. It's going to look at programs. WSBA programs. Some will live. Others will die. We'll start reviewing them soon. We'll look at one in January. We'll look at another in March.

Harwick pulled out an envelope. He gave it to the president. The president put it to his forehead. "Wrong gag," someone said. "This is bad Hemingway, not Karnak the Magnificent."

The president tore open the envelope anyway. He pulled out a slip of paper. It looked like the fortune from a Chinese restaurant cookie. In a way, it was.

"Why all this trouble?" Someone wanted to know, so he asked.

"So no one will think the first programs reviewed were a fix," Harwick said. The president read the first slip: "The Lawyers' Assistance Program."

"It's a fix," said Joe Nappi. He is a governor, too.

The next slip said, "Client Security Program." That's what

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the president read.

Draw some more, someone said. It was like lions hunting in the Serengeti. There was blood in the air. They wanted more, more programs to review.

The president pulled out more slips. The convention. Fee arbitration. *Resources*. The bulletin board system on computer. Local bar association support. The public affairs department. Law-related education. The pro bono coordinator. The WSBA lobbyist. In that order. It is a process that will never end. Programs will be reviewed again. And again. Programs are like antelopes. They can outrun the lions once. Or twice. But eventually they get old. It is the law of the African plains.

Sated, the Board adjourned. The Moveable Feast resumes in Bellevue. The dates are December 4-5.

Wrap-up in Pasco:

In other action, the Board approved the president's appointments to Board committees; named Governor Steve Tubbs WSBA treasurer for 1992-1993; considered some vacancies and other appointments to WSBA and other committees and groups; considered recommendations for WSBA action in the coming year culled from reports filed by 1991-1992 standing committee chairs; heard a report on the operations of the *Bar News* from its editor; postponed action on a proposed amendment to the bylaws, pending clarification of its meaning, of the Creditor-Debtor Section; heard a report from Governor Tom Chambers on the work of the Access to Justice Committee in creating a new, central, coordinating body to bring more order and efficiency—and less competition for scarce funds—to the myriad of groups providing legal services for the poor in Washington; and decided to make no change in the current

practice of the Character & Fitness Committee, resolving questions about the admission of an applicant before (rather than after) letting him or her take the bar exam.

* * * * *

The WSBA is seeking applications and nominations for president of the Association.

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Nominations and applications should be sent to: WSBA Presidential Selection Committee, 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599.

* * * * *

As the *Bar News* is being printed, the Board of Governors is meeting to discuss the 1992-1993 budget in light of the results from the dues referendum. Both the December 4-5 and the December 12 Board meetings will be reported in "The Board's Work" of the January issue of the *Bar News*.

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Notices of Interest to WSBA Members

WSBA Disciplinary Notices

Censured: On September 24, 1992, Seattle attorney **Henry J. Liebman** (WSBA #11103, admitted 1980), was

ordered to receive a censure, pursuant to a stipulation for discipline, based upon his conflict of interest in serving as the trustee in a trustee's sale and also serving as the attorney representing the beneficiary of that deed of trust in negotiations regarding foreclosure and the Trustee's Sale under that Deed of Trust. [October 28, 1992]

Reprimanded: Chehalis lawyer

Stephen T. Carmick (WSBA #11365, admitted 1980) has been ordered reprimanded pursuant to a stipulation for discipline, based upon his releasing portions of a deposition transcript containing his former client's secrets without obtaining his former client's authorization. [October 26, 1992]

WSBA Nondisciplinary Notices

Membership Transferred: Effective September 24, 1992, Tacoma attorney **Alexander J. McLaren** (WSBA #12048, admitted 1982), became an inactive member of the Washington State Bar Association.

Note: This is not a disciplinary notice. [October 5, 1992]

Interim Suspension: Tacoma lawyer **John S. Glassman** (WSBA #12482, admitted 1982) was ordered suspended from the practice of law pending the outcome of disciplinary proceedings by Supreme Court order entered October 8, 1992.

Interim suspension is pursuant to RLD Title 3 and is not a disciplinary sanction. [October 13, 1992]

Commission on Judicial Conduct Notices

Order of Admonishment: In *In re the Matter of Hon. Andrew L. Monson*, North District Court, the Commission on Judicial Conduct and Hon. **Andrew L. Monson** stipulated that on January 23, 1992, Monson presided over a small claims case in Pacific County North District Court. The plaintiff appeared; the defendant did not. Monson heard plaintiff's evidence, then concluded the hearing, took the matter under advisement and continued other business. Later that day, the defendant in the small claims case arrived. Defendant presented legal defenses, and Monson took the matter under advisement. At hearings on February 18 and 20, 1992, Monson took further testimony from the parties in the same matter. At the close of the proceed-

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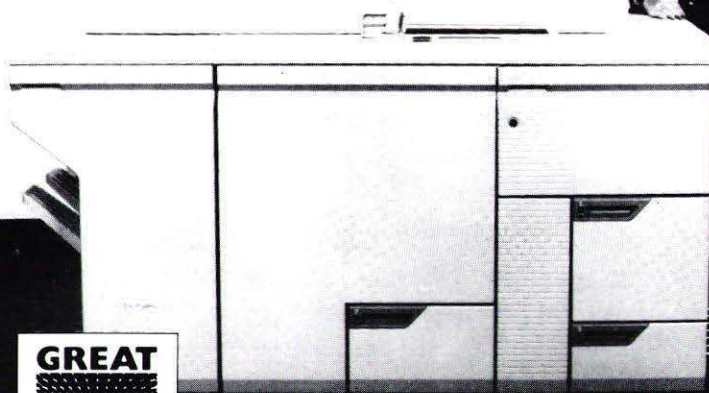
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ing, Monson stated that he would get a decision out within a week. Respondent reached his decision on April 23, 1992, which date is more than 15 days from the end of the hearing.

The Commission and Monson stipulated that he failed to make a timely decision in the case as is required by Civil Rules for Courts of Limited Jurisdiction (CRLJ) Rule 58, which states, "if the trial is by the judge, judgment shall be entered immediately after the close of the trial, unless he reserves his decision, in which event the trial shall be continued to a day certain, but no longer than 15 days." It was further stipulated that Monson's conduct in failing to enter timely decisions as required by CRLJ 58 is in violation of Canon 3(A)(5) of the Code of Judicial Conduct, which states, "Judges should dispose promptly of the business of the court." Monson agreed to accept an admonishment by the Commission, that his described conduct constitutes a violation of the Code of Judicial Conduct, and that he will not repeat the violation in the future. The Commission ordered that he follow a corrective course of action by reviewing CRLJ 58 and govern his conduct in accordance therewith.

The Commission was represented by Commission Counsel David Akana. Monson represented himself. [Case No. 92-1238-F-36, filed October 2, 1992]

Order of Censure: In *In Re the Matter of Hon. Ralph G. Turco, Tacoma Municipal Court*, the Commission on Judicial Conduct and Judge **Ralph G. Turco** stipulated that on March 9, 1992 he presided over a speeding case in Tacoma Municipal Court, at which the defendant appeared to contest the charges. The police officer who signed the infraction notice was not present in court. When the case was called, the defendant came forward and stated he was disputing the speeding charge. The sworn statement of the officer stated the defendant was speeding. Turco asked the defendant if he had a coin. When he stated he did not, one was produced by a third party. Turco instructed the third party to toss the coin,

which was done. Turco instructed the defendant to call the coin toss, which he did. Turco then indicated the defendant had lost the call. Turco then entered a finding that the defendant had committed the infraction, and imposed a fine of \$20. Turco stipulated that while serving in his capacity as a municipal court judge for the City of Tacoma he committed acts of judicial misconduct contrary to Canons 1, 2(A), 3(A)(1), 3(A)(2), 3(A)(3), and 3(A)(4) of the Code of Judicial Conduct. He accepted a censure by the Commission and agreed not to intentionally repeat the violation in the future. The Commission found such conduct detrimentally affects the integrity of the judiciary and undermines public confidence in the administration of justice. Turco was ordered to follow a corrective course of action by reviewing the provisions of the Code of Judicial Conduct and the District Court Traffic Infraction Rules, and govern his future conduct in accordance therewith.

The Commission was represented by Mary Alice Theiler of Theiler Douglas Drachler & McKee. Turco was represented by Kurt M. Bulmer. [Case No. 92-1259-F-30, filed October 2, 1992]

Order of Admonishment: In *In Re the Matter of Judge Pro Tem John Feutz*,

Pierce County District Court No. 1, the Commission on Judicial Conduct and Judge **John Feutz** stipulated that on December 6, 1991 Judge Feutz presided over a nonjury trial, after the completion of which he took the matter under advisement. He entered a judgment in the matter on March 9, 1992. On December 19, 1991 he presided over a nonjury trial. Counsel for plaintiff filed a memorandum of law on January 8, 1992 and counsel for defendant filed a response to the memorandum on January 14, 1992. Feutz wrote a letter to both counsel on March 6, 1992 stating findings of fact and order of judgment to be submitted for signature. A stipulation and order of dismissal was signed and entered March 24, 1992. On September 3, 1992 Feutz presided over a nonjury trial. Counsel for plaintiff filed correspondence with the court on November 1, 1991. Feutz was notified by court personnel about the need for a decision in this matter. Respondent wrote letters to both counsel on March 9, 1992 requesting that counsel for plaintiff prepare and submit findings and a judgment. Counsel responded and filed the presentment of findings and judgment on June 30, 1992. A final judgment was entered on August 3, 1992.

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On February 7 Feutz presided over a small claims matter. After trial he took the matter under advisement, and on March 6, 1992 directed a letter to both parties advising them of his decision. Also on February 7, 1992 he presided over a matter of a vehicle impound. He determined that the towing was proper but the fees were excessive. However, on March 6, 1992 he found the original

towing amount proper. He entered that decision on March 6, 1992 and sent a letter to the plaintiff.

The Commission and Feutz stipulated that he failed to make timely decisions in the described cases as is required by Civil Rules for Courts of Limited Jurisdiction (CRLJ) Rule 58, which states, "if the trial is by the judge, judgment shall be entered immediately after the close of

the trial, unless he reserves his decision, in which event the trial shall be continued to a day certain, but no longer than 15 days." It was further stipulated that Feutz' conduct in failing to enter timely decisions as required by CRLJ 58 is in violation of Canon 3(A)(5) of the Code of Judicial Conduct, which states, Judges should dispose promptly of the business of the court. The Commission noted that his delay in rendering a decision on each of the described cases was caused, in part, by a involuntary, temporary, disabling condition. Although knowing of his condition, Feutz nevertheless accepted and attempted to perform his duties when it was incumbent upon him to temporarily withdraw from assuming additional judicial duties. Feutz agreed to accept an admonishment by the Commission, that his described conduct constitutes a violation of the Code of Judicial Conduct, and that he will not repeat the violation in the future. The Commission ordered that he follow a corrective course of action by reviewing CRLJ 58 and govern his conduct in accordance therewith.

The Commission was represented by Commission Counsel David Akana. Feutz represented himself. [Case No. 92-1248-F-35, filed October 2, 1992]

King County Superior Court Notice to Practitioners, Ex Parte and Probate Departments:

By notice dated September 22, 1992 the following items of interest were announced by Stephen M. Gaddis, Ex Parte/Probate Committee: (1) The GAL Registry has recently acquired a computer; it was anticipated that by publication the computer would be up and running and new GAL lists printed and out. (2) There is some confusion regarding the Form Committee's decision to add an approval line for a judge or court commissioner on the parenting plan form. Proposed parenting plans should not be presented for signature for ex parte approval. They should be submitted and approved upon notice on the Family Law Motions Calendar. Temporary parenting plans will be approved in the Ex Parte Department

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as a part of, and attached to, an agreed temporary order. These will not be independently signed, since they will be incorporated into, and made a part of, the temporary order. Permanent parenting plans will be approved only ex parte as a part of, and attached to, decrees of dissolution. They will not be signed independently as to do so would bifurcate the proceeding. When a permanent parenting plan is attached to a decree, it will not need to be separately signed, as the plan will be part of the decree and incorporated into it by reference.

The Ex Parte Committee has recommended the deletion of the judge's signature line in parenting plans, as it continues to cause confusion.



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 November 1992 is 3.37%. The maximum allowable interest permissible for December 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.

The Charles A. Goldmark Distinguished Service Award

The Goldmark Award was created in 1987 in honor of Charles A. Goldmark, the prominent Seattle attorney who was the president of the Legal Foundation of Washington at the time of his death in January 1986. He played a singularly important role in the creation of the interest on lawyer trust account (IOLTA) program.

Past award winners have been Charles A. Goldmark, 1987 (posthumous); Carl Maxey, 1988; Benton-Franklin Bar Association, 1989; Abraham A. Arditi and Preston Thorgrimson Ellis & Holman, 1990; Peter Greenfield, 1991; and Jack R. Dean, 1992.

The 1993 award will be presented at the Goldmark Award Luncheon (see coupon at right) on January 29.

1993 Goldmark Award Luncheon

January 29, 1993
11:45 a.m. - 1:30 p.m.
Seattle Sheraton Hotel, Cirrus Room
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\$25 per person. For a reservation, enclose your check payable to Legal Foundation of Washington. Please respond by January 22, 1993.

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PROFESSIONAL PRACTICE PROGRAM



Note: Information telephone numbers for regular CLE providers and other groups presenting listed events are listed at the bottom of this column. Contact them for further information on listed events. Where the contact is an individual, contact information is listed in the specific calendar entry.

December 1992

1-2 Legal and Engineering Aspects of Traffic Accident Litigation. *Sponsored by UW Engineering CLE, (206) 543-5539.*

2 Portland: Valuing Closely Held Businesses: Theory, Law and Practice. *Sponsored by Business Advisory Services, Inc.*

3-4 Seattle: WAPA Winter Meeting.

4 Seattle: Trial Basics Taught by the Masters. *Sponsored by WSTLA.*

4 Bellevue: Valuing Closely Held Businesses: Theory, Law and Practice. *Sponsored by Business Advisory Services, Inc.*

4 Spokane: Video replay—Incorporating a Business in Washington. *Sponsored by WSBA CLE.*

4 Seattle: The Art of Persuasion in the Courtroom. *Sponsored by WSBA CLE.*

4-5 Bellevue: WSBA Board of Governors meeting.

5 Seattle: Recent Changes in Evidentiary and Fourth Amendment Law. *Sponsored by WSBA CLE.*

8 Seattle: Recent Developments in Regulatory Takings in Washington. *Sponsored by National Business Institute, Inc.*

9 Seattle: Valuing Closely Held Businesses: Theory, Law and Practice. *Sponsored by Business Advisory Ser-*

vices, Inc.

9 Seattle: Tactics and Technology in Federal Practice. *Sponsored by Federal Bar Association of Western Washington. For information: Richard Tallman, (206) 621-2681.*

10 Bellevue: Protecting, Foreclosing and Defending Against Liens. *Sponsored by WSBA CLE.*

10-11 Seattle: Third Annual Seattle Computer Law Conference. *Sponsored by CLE International.*

11 Southcenter: Valuing Closely Held Businesses: Theory, Law and Practice. *Sponsored by Business Advisory Services, Inc.*

11 Spokane: Preparing an Auto PI Case for Trial or Settlement. *Sponsored by WSTLA.*

11 Seattle: Law, Literature and Film. *Sponsored by UW CLE.*

11-12 Portland: Federal Practice Seminar. *Sponsored by Lewis & Clark Law School.*

15 Deadline for copy for February 1993 *Bar News.*

16 Spokane: Drafting Wills and Other Estate Planning Documents. *Sponsored by WSBA CLE.*

17 Spokane: Protecting, Foreclosing

- Business Advisory Services, Inc. (206) 223-5400
- CLE International (206) 621-1938
- National Business Institute, Inc. (715) 835-7909
- Lewis & Clark Law School (503) 768-6642
- University of Washington School of Law (UW CLE) (206) 543-0059
- Washington Assn of Prosecuting Attorneys (WAPA) (206) 753-2175
- Washington State Bar Association (WSBA CLE) (206) 727-8202
- Washington State Trial Lawyers Assn (WSTLA) (206) 464-1011, (800) 732-9251

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- Statewide seminar/receptions
- Amicus Committee
- Legislative Speaker's Bureau
- Membership dinner meetings
- Annual Convention

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and Defending Against Liens. *Sponsored by WSBA CLE.*

18 Seattle: WSTLA's 1992 Best-Sellers CLE.

18 Seattle: Drafting Wills and Other Estate Planning Documents. *Sponsored by WSBA CLE.*

18 Seattle: High-tech Discovery: Finding and Using Electronic Data. *Sponsored by WSBA CLE.*

18 Seattle: Intellectual Property. *Sponsored by UW CLE.*

22 Seattle: The Best of CLE. *Sponsored by WSBA CLE.*

28 Seattle: Video Replay—Family Law in the '90s, Part I. *Sponsored by WSBA CLE.*

29 Seattle: Video Replay—Family Law in the '90s, Part II. *Sponsored by WSBA CLE.*

30 Distribution Law—Advising the Business Client. *Sponsored by WSBA CLE.*

January 1993

8 Seattle: Persuasive Power: Advocacy Skills for Women. *Sponsored by WSTLA.*

8 Olympia: How to Probate. *Sponsored by WSBA CLE.*

13 Seattle: The Legal Issues of Problem Collections in Washington. *Sponsored by National Business Institute, Inc.*

14 Spokane: The Legal Issues of Problem Collections in Washington. *Sponsored by National Business Institute, Inc.*

14 Seattle: Bankruptcy Pitfalls. *Sponsored by WSBA CLE.*

15 Deadline for copy for March 1993 *Bar News.*

15-16 Olympia: WSBA Board of Governors meeting.

21 Seattle: How to Probate. *Sponsored by WSBA CLE.*

21 Spokane: Bankruptcy Pitfalls. *Sponsored by WSBA CLE.*

21 Spokane: Insurance Law. *Sponsored by WSTLA.*

22 Seattle: Insurance Law. *Sponsored by WSTLA.*

22 Seattle: Law Office Management. *Sponsored by WSBA Law Office*

Economics & Management Section/ Association of Legal Administrators. Note: Registration increases \$25 after January 11, 1993.

28 Eugene, Oregon: Bankruptcy Pitfalls. *Sponsored by WSBA CLE.*

29 Seattle: Construction/Design Law. *Sponsored by WSBA CLE.* February 1992

February 1993

12 Portland: Twenty-Second Annual Estate Planning Seminar. *Sponsored by Lewis & Clark Law School/Estate Planning Council of Portland.*

12-13 Tacoma: WSBA Board of Governors meeting.

14-19 Whistler, B.C.: WSTLA Skimender.

"(The mediator) was very understanding of the highly emotional Plaintiff I represented and convinced her of his impartiality by his concern and willingness to listen...It was a difficult situation which was extremely well handled and facilitated a rational and reasonably fair resolution of the case."

Plaintiff Attorney

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For more details, contact our program office at:

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

15 Deadline for copy for April 1993
Bar News.

March 1993

15 Deadline for copy for May 1993
Bar News.

26-27 La Conner: WSBA Board of
Governors meeting.

29-31 Leavenworth: Support En-
forcement Support Staff Training. *Spon-
sored by WAPA.*

April 1993

15 Deadline for copy for June 1993
Bar News.

19-21 Leavenworth: Support En-
forcement Deputy Training. *Sponsored
by WAPA.*

21-23 Olympia: Spring Training
Program. *Sponsored by WAPA.*

May 1993

7-8 Spokane: WSBA Board of Gov-
ernors meeting.

15 Deadline for copy for July 1993
Bar News.

17-19 Yakima: Support Staff Train-
ing Program. *Sponsored by WAPA.*

June 1993

15 Deadline for copy for August
1993 *Bar News.*

18-19 Leavenworth: WSBA Board
of Governors meeting.

23-25 Chelan: Summer Training
Program. *Sponsored by WAPA.*

July 1993

15 Deadline for copy for September
1993 *Bar News.*

30-31 Winthrop: WSBA Board of
Governors meeting.

August 1993

15 Deadline for copy for October
1993 *Bar News.*

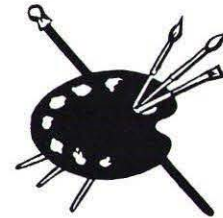
22-24 Leavenworth: Juvenile Train-
ing Program. *Sponsored by WAPA.*

September 1993

7 Victoria, B.C.: WSBA Board of
Governors meeting.

7-11 Victoria, B.C.: WSBA Con-
vention and Annual Meeting.

15 Deadline for copy for November
1993 *Bar News.*



West Publishing's Art and the Law Ex- hibition Opens at University of Puget Sound School of Law

The 17th annual Art and the Law exhibition will show January 11 to March 12, 1993 at the UPS law school. A leading producer of legal materials, West Publishing Company has included 54 artworks by 43 United States artists. Each work is accompanied by a statement from the artist. "In commenting on their work, the artists direct our attention to the content of their efforts. Interpreting the show's law theme with various approaches, they invite us to enter a dialogue of awareness with fresh insights," says Gerard L. Cafesjian of West.

Besides organizing the annual exhibition, West purchases works for its corporate collection; this year's purchase awards total more than \$40,000.

Visit the show in the first-floor lobby of the law school, located at 950 Broadway Plaza in Tacoma. The show is open to the public, free of charge, Monday-Friday, 8 a.m. to 5 pm.



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Mediation is for Sissies ... NOT!

by David L. Ashbaugh

All lawyers know that they must actually try cases. Otherwise, how can they really call themselves trial lawyers?

There are even organizations of trial lawyers whose membership criteria require that they try a number of cases with specific results before admission. The macho question among our brother and sister trial lawyers is, "How many cases have you tried lately?" This attitude has led some lawyers to be unreceptive to mediation.

However, more and more attorneys are responding to their clients' calls for speedier resolution of their cases. As a result, mediation has become more popular in the last few years.

Settlements occur in up to 95 percent of cases mediated, depending upon the effectiveness of the particular mediator involved. Mediation is sold on the basis that it is voluntary and the parties can actively participate in the settlement of their own cases. Even so, not all cases settle during mediation. Therefore, I propose taking mediation to another level. I suggest that a variation to the garden variety mediation be considered.

I propose that parties agree in certain cases, to binding mediation. This is not a contradiction in terms. Under this proposal, the parties would first negotiate in a traditional mediation. If the mediator cannot persuade the parties to settle, then the mediator declares that the parties are hopelessly deadlocked. At that time, instead of declaring the mediation over, the mediator would have the authority to declare the number at which

both parties would have to agree. It is my experience that there are a number of highly qualified and ethical mediator who, after hearing the parties' presentations and after meeting with the parties for the better part of a day, can be trusted to name a number that would be fair to both parties.

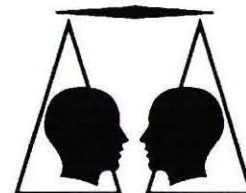
The advantage of this procedure would be to increase the number of settlements in mediations. This proposal would eliminate the waste of time and financial effort that occurs when a mediation is unsuccessful. Mediations that are unsuccessful cause frustration and additional attorneys' fees and time to litigate. Experienced mediators do not need weeks of trial testimony to reach accurate opinions about what would be fair. By the time the matter is submitted to the mediator for a binding decision, he or she knows where the parties stand, how much their financial losses are, and is familiar with the respective legal and factual merits of the parties. This procedure would avoid the unfair results which can occur at trial. It avoids all of the trial preparation, stress and emotion involved in trial.

Binding mediation can work in virtually all types of cases. However, it would be particularly useful in those cases which are not economically feasible to pursue because the costs to proceed outweigh the potential recovery. It not fair for one party to win a case be economic default. Binding mediation can avoid that result. This approach may also appeal to trial lawyers who find it a challenge to persuade triers of fact. This proposal would require a leap of faith by the parties and their attorneys in their cases and in the

mediator. It involves a "bet the farm" commitment if both sides remain unwilling to settle. It would take guts by the participants to agree to this procedure. It would provide an effective alternative to a trial on the one hand, and normal mediation on the other. Give it some thought.

Seattle attorney David Ashbaugh is a founding partner of Stanislaw Ashbaugh Riper Peters & Beal.

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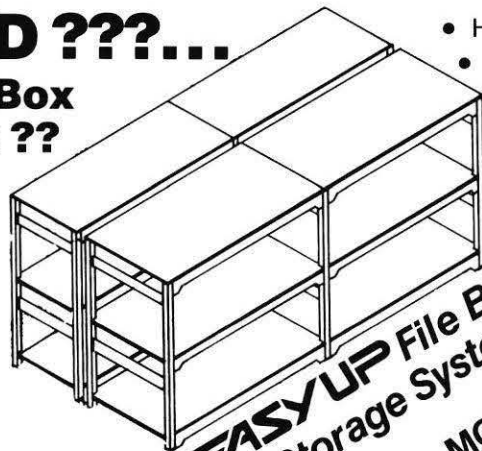


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NEWS FROM HOME

Stephen O. Kenyon has been named managing partner of the Seattle and Bellevue offices of Stoel Rives Boley Jones & Grey. A former land use attorney for the King County Prosecutor and former chair of the Environmental and Land Use Section of the WSBA, Kenyon will continue his practice in land use, environmental law and general municipal and administrative law.

Nancy L. Gallup has joined Bogle & Gates in Seattle as a partner. Gallup practices in the fields of deferred compensation and employee benefits. She is a former partner of Jones, Day, Reavis & Pogue, practicing in their Washington, D.C., Los Angeles and New York offices. She's admitted to practice all over the place.

William M. Meyer, a maritime lawyer in Seattle for ten years, has joined Faulkner, Banfield, Doogan & Holmes, an Anchorage, Alaska firm with offices in Juneau and Seattle.

Carolyn A. Lake, a University of Puget Sound School of Law graduate, was appointed city attorney for Federal Way in October. She served as acting city attorney for the previous year and had been assistant city attorney before that. Lake worked for the cities of Centralia and Kent before coming to Federal Way.

Craig Thayer has joined McGrane & Schuerman in Colville.

Gregory A. Parker and **Marywave Van Deren** have joined Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim, he practicing in business, corporations, tax and securities law; she in family law and civil litigation.

Three new associates joined Karr Tuttle Campbell this fall. **Craig Day**, a UW graduate and *Washington Law Review* editor, is in the firm's business and finance department. **Martin Loesch**, a Notre Dame graduate, will work in the litigation department, as will University of Wisconsin graduate **Denis Stearns**.

Robert V. Jensen, an assistant attorney general of Washington for the past 23 years, has been appointed to the state

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Pollution Control Hearings Board by Governor **Booth Gardner**.

Simpson Investment Co. has announced that **Jennifer B. Schlosstein** has joined the firm as a corporate attorney. Formerly with Bogle & Gates, she will focus on environmental issues for the company, a holding entity for Simpson Timber Co. and Simpson Paper Co.

Shannon G. Carter, Leonard J. Feldman, and **Kim L. Schnuelle** have joined the Seattle office of Heller Ehrman White & McAuliffe. Carter and Schnuelle focus on environmental law; Feldman on general litigation.

Seattle attorneys **Eileen Farley** and **Linda Portnoy** have sent their two-volume work, *Washington Criminal Practice in Courts of Limited Jurisdiction*, to press. Their friends welcome their return from a two-year stint in the UDub Law Library. It's rumored they will be adding a third volume to make this a three-year project and thus allow them to graduate from law school twice—not! Butterworth's will publish the book in March.

Scot J. Johnston, formerly with Davis Polk & Wardwell in New York City, has joined the commercial finance group at Bogle & Gates.

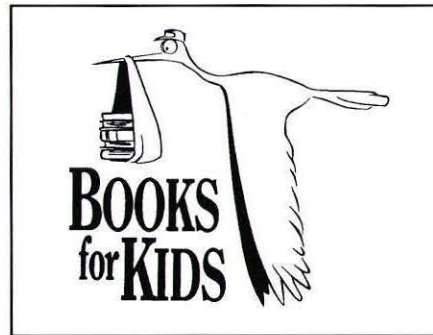
Carol Sue Hunting has become a member of the appellate group at Williams, Kastner & Gibbs in Seattle. She's a former acting assistant professor at the UW School of Law and a former law clerk to Washington Supreme Court Justice **James Dolliver**.

Douglas Peters of Selah is president of the Yakima County Bar Association for the coming year.

Stonemark Corporation, in Seattle, has named **Jeffrey C. Baker** a principal of the firm. Baker is also president of Sound Communications, Inc., developer of private cable television projects. Baker has been involved in cable television regulation and development since the late 1970s; he lives in Redmond.

Diana Carey, head of the bankruptcy practice group at Karr Tuttle Campbell in Seattle, took over as president of Washington Women's Employment and Education at the group's October annual

meeting in Tacoma. Established in 1982, WVEE provides assistance to low-income single heads of households, usually women, to complete their education and enter the workforce.



(206) 461-8345
See page 55, Nov.'92 Bar News

CLARK COUNTY REPORT

by **JOHN F. NICHOLS**

Arbitrations R Us:

Not since the days of Judge **Dean Morgan** (now on the Court of Appeals), has Clark County witnessed such over-indulgence of the judicial process. Claiming a new record for marathon proceedings, **Zack Stoumbos** reports that his recent arbitration concluded at the unlikely hour of 12:30 a.m.! Also partaking in this hearing were **Kathy Morton** and acting as arbitrator, or snooze alarm, was **Charles Schrader**, obviously of Portland, where justice never sleeps. Zac reports that the arbitration originally had six sets of attorneys, but as each pair fell asleep they were eliminated and their cases dismissed. C-Span is toying with the idea of using this format as a winter replacement for their animal control hearings. The only fear is that the arbitrations may be too intense for younger audiences. Besides, the humane society is already protesting the use of attorneys in such test projects.

Games Clerks Play:

Here in Clark County, the local attorneys always seem to be the butt of some incessant teasing. (See above). Some-

times it's Olympia issuing new forms just when you finally got your computer geared up for the old ones. Sometimes it's those darn Portland attorneys, snapping the suspenders of our bibs while sticking "sue me" signs on our backs. But most of the time it's our own zany clerks, those fun-loving county employees to whom you must hand those valuable legal documents before they get to the judge. I recently talked with a group of these judicial servants, and they reveled in the games they play on attorneys. They talked of their old standby, the note passed to counsel stating, "Your fly's open/slip's showing" during jury trials. The statement whispered to paranoid attorneys: "The judge never reads *your* briefs, they're stupid" to the sophisticated scam of telling you, "The judge is hard of hearing, so go right up to his/her chair and yell into his/her ear." How many of us CCBAers have suffered such torment only to hear the snickers of the clerk as we slink out of the courtroom? Okay, how many besides me and **Chuck Cusack**? Well, the screw has turned. At a recent jury trial, just as the clerk (who shall be referred to merely as J.J.), called all to be seated. She vanished from sight, having failed to negotiate her chair (in fact, having failed to place the chair where it should be), she eventually reappeared, ruffled but unharmed, caught by the irrepressible lens of Judge **John Skimas'** video courtroom. Film to be seen on C-Scan's winter replacement.

The Mary and Barry Show:

After an extensive training period, **Mary Arden** at last announced that **Barry Brandenburg** had finally qualified to become a partner.

With the announcement of the firm name, "Arden & Brandenburg," Barry relinquished the duties of coffee maker and turned in the buffer used for waxing Mary's car. When asked why the delay in elevating Brandenburg to partner, Mary responded, "It takes a long time to get a commitment from any man, let alone an attorney."

Well, Ms. Arden, just for your information, I feel very strongly on both sides of that issue.

PIERCE COUNTY REPORT

by **GEORGE S. KELLEY**

The golf tournament committee has decided that this is indeed the year of the woman and commissioned the purchase of a trophy honoring the winner of the women's division in the bar association's annual tournament. For years, the low

gross golfer was awarded the **Edgar Eisenhower** trophy, which was named after the brother of the last president who managed to balance the budget. The low net trophy was named after **S.A. Gagliardi**, who practiced at a time when one could enjoy a leisurely game without counting the lost billable hours. Until now, there was no trophy for the women's division.

The women's trophy will honor **Elizabeth Shackelford**, who probably never played golf but was a credit to the legal profession and the bench where she served on the district court. One might speculate what will happen if a woman ever turns in the low net, or heaven forbid, the low gross score in the tournament. Will the men demand a shot at the Shackelford trophy? Will discrimination suits be filed? Will there be a lot of grumbling in the men's locker room? Elizabeth Shackelford, wherever she is, will probably find this amusing. **Corinne Dixon's** name will be the first inscribed on the trophy.

This year's edition of the yellow pages are out. While they are not as humorous as those in other counties—possibly because it takes so long to read them all—some of them deserve comment.

Many ads are accompanied by a pictograph descriptive of the area of practice being solicited. There are pictures of crashing cars, people on crutches and mad dogs. This last picture might be construed as a solicitation of dog bite cases or a description of the lawyer's personality. One can imagine the furor if, in the physician's section of the yellow pages, proctologists resorted to this same device.

There is a two-color, full-page ad for Messina Duffy, including a picture of the firm's members. **Richard Gustafson** is shown in spite of his retirement. **Pat Duffy** is also pictured, even though he took his half of the firm name and opened an office in Sumner. The firm's new name is Messina, Bufalini and Bulzomi.

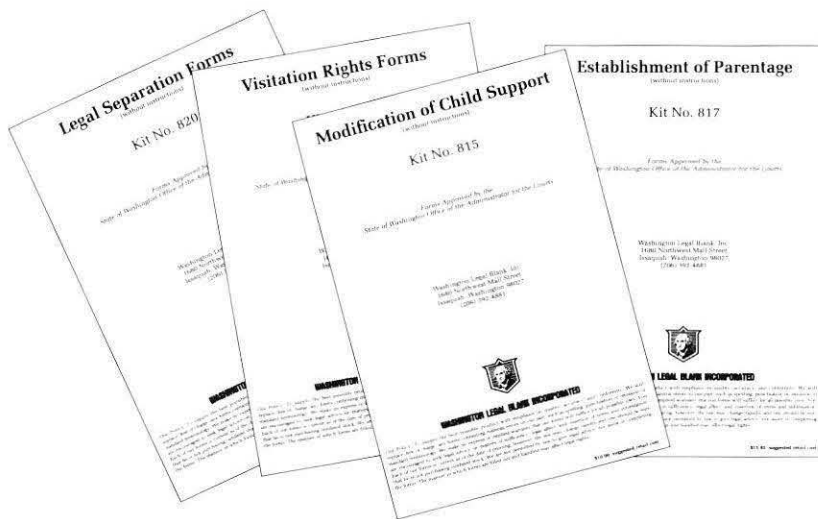
Showing a lack of confidence that he would prevail in his campaign, newly elected superior court judge **Fred Flemming** bought a quarter-page ad complete with the same picture he used on his campaign poster.

Scott Cando, who lives and works in Tacoma, has a full-page glossy colored ad in the Puyallup yellow pages. He explains that the full-page ad is cheaper in Puyallup than a smaller ad in the Tacoma book. One wonders what kind of ad Scott could afford if South Prairie and Wilkeson-Carbonado had their own

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yellow pages. Perhaps he could take a page out of children's books which, when opened, have characters magically pop out at the reader. On the other hand, a trial lawyer suddenly jumping out at you clad in three piece suit and tasseled loafers might be too much for average phone book users—especially when all they were looking for was their proctologist's phone number.

SKAGIT COUNTY REPORT

by KEN EVANS

Bill Bannister and **Bill Wells** were recently honored by the Skagit County Bar Association for fifty-plus years of practice in Skagit County. Both gentlemen are graduates of the University of Washington School of Law and have practiced in this county since 1940.

Stanley K. Bruhn retained his Superior Court judge's position, overcoming the challenge of **Steve Skelton**. **Mike Rickert**, Skagit County Prosecutor, ran unopposed for the Superior Court, as did

George McIntosh. The real challenge is to see how three Superior Court judges practice in only two Superior Court court-rooms. Judge Rickert could be holding court in the hall, since this is his first term.

Bill McCann was recently elected president of the Skagit County Bar Association. **John Meyer** is president-elect and **Kimberly Woodson** is secretary/treasurer.

Rich and **Shari McMenamin** have left the Skagit Valley to set up practice in Forks, Washington. Insiders tell me that this location change follows five consecutive poor years of salmon and steelhead fishing on the Skagit River, with no improvement in site. The Bogachiel and Hoh Rivers hold more promise.

Joe Bowen expanded his practice into new offices in September.

Finally, congratulations, for a job well done, to **John Slater** of Bellingham, for his sterling job of representing this district on the Board of Governors. John is the practicing definition of an attorney of character and dignity.

WASHINGTON DEFENSE TRIAL LAWYERS REPORT

by LAURIE D. KOHLI

The Washington Defense Trial Lawyers honored several of their members at their November 10 dinner meeting, in appreciation for the time and effort these members have devoted to the organization. Among those honored were **Mary Spillane**, editor of *The Defense Press* for the past three years, **Russell Love**, chair of WDTL's Amicus Curiae Committee since 1989, **John Graffe** and **Clarke Johnson**, casenote authors for *The Defense Press*, and **Bob Keolker**, chair of the Membership Committee for the past two years.

Also honored were **Pete Johnson**, Chair of WDTL's Eastern Washington Services Committee, **Terry Hall**, chair of WDTL's Court Rules and Procedures Committee, and **Beth Jensen**, in appreciation of her contributing both her time and artistic talent for the past four WDTL annual conventions.

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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At the dinner meeting the contributions of WDTL's 1991-92 seminar leaders were also recognized: **Tim Blue**, chair of the Medical Seminar and **Doug Yoshida**, co-chair; **Andy Cooley**, chair of the Accident Reconstruction Seminar; **Sheryl Willert**, chair of the Insurance Law Seminar and **Joel Salmi**, co-chair.

A new location has been selected for the WDTL 1993 annual convention, which will be held July 29 - August 1, 1993 at the brand-new Skamania Lodge, which overlooks the Columbia River Gorge in Stevenson. Amenities include an 18 hole golf course, tennis courts, a pool, hot tub and outdoor whirlpool, mountain biking and hiking trails and easy access to ice caves, Multnomah Falls, and the Mt. St. Helens volcanic area. It is expected that the usual Spartan mindframe will prevail.

WASHINGTON STATE TRIAL LAWYERS ASSOCIATION REPORT

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

An answer to the attorney bashers:

The recent attacks on trial lawyers by President Bush and Vice President Quayle

have again brought lawyer bashing into fashion. Such attacks could not go unanswered, and after his multi-media blitz of last month, WSTLA president **Halleck H. Hodgins** answered these attacks in the "President's Column" in the October issue of the *Trial News*. His column answered several of the worst accusations with the facts, something the politicians seem to have overlooked or misplaced. For your own arsenal against anti-lawyer rhetoric, consider Hodgins' answers to the following:

- Vice President Quayle alleges that 70 percent of the world's attorneys are in the United States. The 1990 report of the President's Council on Competitiveness grossly underestimated the number of lawyers in Japan and England, and thus implied that the number of attorneys per capita in the U.S. greatly exceeds other nations. The Council compared the number of litigators in Japan and England, countries in which few attorneys are allowed to appear in court, to the total number of general practice attorneys in the U.S. In fact, the per capita number of practicing attorneys in Japan is nearly identical to the number in the U.S.: one attorney for every 700 people. Many law

school graduates in the U. S. are licensed and are members of a bar association but do not actively practice law.

- Vice President Quayle alleges that our legal system is costing consumers \$300 billion a year. Where does that figure come from? It has been popularized by Vice President Quayle and others, who quoted it from the Agenda for Civil Justice Reform, published by the President's Council for Competitiveness, which borrowed it from an article in *Forbes* magazine, which in turn took it from the liability insurance industry spokesman and author, Peter Huber, who, it is fair to say, made it up. Huber adopted an unsubstantiated estimate of the direct costs of the tort system, multiplied it by an arbitrary multiplier of three and one-half and rounded it up to \$300 billion. This figure is now quoted as fact. In reality, the vice president's cost estimate is not the product of any investigation or analysis by the council he chairs, or by *Forbes*, or by Huber, but is a product of biased speculation. In striking contrast the Rand Institute for Civil Justice analyzed litigation for over a decade (using, in part, studies funded by the U.S. Department of Justice) and estimated the tort system's direct and indirect costs at \$29 billion to \$36 billion per year. These costs are less than what consumers spend each year on cigarettes and half of what they spend on alcohol.

- President Bush suggests that ill-founded lawsuits are driving doctors from practice. A 1990 Harvard study reviewed 30,121 hospital patient discharges from 51 New York state hospitals in 1984. Of these, 280 patients (nearly one percent) suffered an adverse event caused by negligence. It is estimated that 27,177 cases of medical negligence occurred in New York during 1984, resulting in 6,895 deaths and 877 instances of severe permanent disability. Only one in eight injured

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patients filed suit, and only one in 16 received any liability compensation.

There is no lawyer in the bar who should let go unanswered these unfounded attacks against our profession. We must all have the courage of our convictions and, like Hodgins, respond with fact to such hatemongering hyperbole.

On a brighter note:

WSTLA's highly praised People's Law School Program is well on its way to another landmark year. October through November, volunteer attorneys taught the first sessions of a Teacher's Law School at the University of Washington School of Law. With the approval of the Washington Education Association, WSTLA provides teachers with continuing education clock hours towards credit in a class which covers subjects including: health, safety and privacy issues in the schools; student, parent and teacher rights and responsibilities; the Teacher's Code of Professional Conduct; and collective bargaining agreements. WSTLA organized the Teacher's Law School with the help of the Cascade Uniserv Council, reaching teachers in the Seattle, Bellevue, Lake Washington and Northshore districts. WSTLA hopes to continue this special program and expand to all areas of the state.

Other special-focus People's Law Schools are being held throughout the state. Small-business law schools are planned for Spokane, Vancouver, Yakima, and Tacoma, as well as several throughout King County. Programs are also planned with curricula directed toward nurses, seniors and other groups. And let us not forget the ever-expanding number of the original People's Law Schools, which continue to reach the public and give them a picture of a working legal system that is helpful, understandable and accessible to all. For more information and schedules of upcoming classes, contact the WSTLA Seattle office at (206) 464-1011 or (800) 732-9251.

News items:

If you have any items for this column, or any comments, please contact **Letha J. Owens** at (206) 542-3138 or **Lori D. Hansen** at (206) 637-3067.

IN MEMORIAM

Edward Nollmeyer, 72, died September 24, 1992 in Wenatchee. Born in Waterville and raised in Peshastin, Nollmeyer was serving in the Army Air Force when World War II broke out. He flew combat missions in Asia under the command of legendary General Claire Chennault, and earned the Distinguished Flying Cross and the Air Medal for his exploits.

Leaving the Air Force in 1946 as a lieutenant colonel, Nollmeyer entered the University of Washington School of Law in 1946. After graduation in 1948 he went into private practice in Everett. In 1952, at the age of 32, he was elected superior court judge for Snohomish County and served 22 years before retiring in 1974.

Widely regarded as an exceptionally bright lawyer and judge, Nollmeyer was remembered for his no-nonsense, cut-to-the-chase approach to running a courtroom. He also served as president of the Superior Court Judges' Association.

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After retiring, Judge Nollmeyer moved to Chelan. Survivors include his wife and two children.

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WSBA Family Law Deskbook, 1989.
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Russell B. Hale has joined the firm. Mr. Hale will be resident in the Portland office and will continue to practice in Taxation Law, Corporate Law and Real Estate Law.

Dennis Pothoven has joined the firm. Mr. Pothoven will be resident in the Seattle office and will continue to practice Taxation Law, Corporate Law, Partnership Law and Estate Planning Law.

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Chloethiel W. DeWeese
has joined the firm as a senior associate. Ms. DeWeese has been in practice since 1979 and will continue her emphasis on insurance defense, insurance coverage and appellate law.

Stewart A. Estes

has joined the firm as a senior associate. Mr. Estes is a former assistant attorney general for the state of Washington. He practiced most recently in the torts division, representing the state universities and community colleges, the Department of Transportation and the Washington State Patrol in negligence and civil rights actions. Mr. Estes' practice will emphasize defense of tort claims and government liability matters.

Richard P. Roberts

has joined the firm as an associate. Mr. Roberts, a recent graduate of the University of Puget Sound, was formerly a law clerk in the torts division of the Washington State Attorney General's office and judicial assistant to the Honorable James P. Healy of the Pierce County Superior Court. His emphasis will be in government liability and insurance defense.

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WILL SEARCH

Donald J. Granberg. Anyone having information regarding the will of Donald J. Granberg, deceased September 6, 1991, please contact Scott M. Ellerby, Attorney, 1000 2nd Ave., Suite 3000, Seattle, WA 98104. (206) 382-1000.

Beverly J. Walker. Anyone having a

copy or knowledge of a will of Beverly J. Walker of the Ravenna area, Seattle, born 1/28/17, died 9/24/92, contact Leigh Bennett, (206) 776-0139.

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by **Claudia L. Palmer, PLS**

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*Letter from Third Party Section,
Dept. of Labor and Industries*

Unfortunately, this mistake was done in error.

Bancroft-Whitney

The dead officer was then killed when the . . . pistol discharged.

*Walker v. State, 60 Wn. App. 624
(1991)*

We need to get together on these objections—then we can be on the same waive-length.

*Attorneys' colloquy from deposition
transcript*

My wife suffered brain damage as a result of the heart attack. We have suffered a great loss from what I believe was professional arrogance.

*Letter requesting review of medical
negligence matter*

I hope to be able to rap this case up soon.

*Attorney's report on settlement
negotiations*

They mirandaed me when I was arrested, but I was not warrened about the medications.

Claimant's statement

Please return lower portion of this statement for your records.

Legal publishing company billing

My soon-to-be former partner is leaving the firm.

Attorney correspondence

Plaintiff only slapped defendant after he repeatedly used extremely fowl language.

Complaint for Assault

I strongly object to the manor in which this stock transfer was handled.

Stockholder to potential defendant

Our program will make it easy to pinpoint those cases of questionable grammer.

Flyer/ad for computer software

Describe any trust receipt or other assignment of shows in action.

Interrogatories to Plaintiff

Enclosed is a billing for my consolation with the attorney.

Doctor's invoice for meeting

[The panel judges] were formally with the State Court of Appeals.

*Alternative dispute resolution service
flyer*

[The company] is a domestic insurer with its principle office in King County, Washington.

Insurance Company Complaint

Plaintiff prays that judgment be entered against all named defendants, both jointly and severely. . . .

Complaint

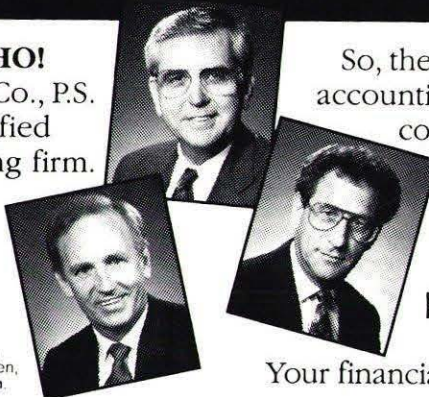
Claudia Palmer is a professional legal secretary with Longfelder, Tinker, Kidman & Flori, Inc., P.S. in Seattle. Her last compilation, "Did I Say That?" appeared in the September 1989 Bar News.

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