Washington State Bar News
Vol. 48, No. 8, August 1994

Special Focus: Minorities in the Legal System

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Washington State Bar News
Vol. 48, No. 8, August 1994
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FEATURES

Special Focus: Minorities in the Legal System

Diane M. Butler, Guest Editor

WSBA REPORTS: THE TASK FORCE ON GOVERNANCE

ART CREDITS

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LINDSAY THOMPSON, *Editor*
JENNIFER KLAMM, *Managing Editor*
JACK YOUNG, *Advertising Director*
DOREE ARMSTRONG, *Editorial Assistant*

DENNIS P. HARWICK
Executive Director
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DEPARTMENTS

SELECTED WSBA TELEPHONE NUMBERS

General Information	(206) 727-8200	Admissions	(206) 727-8209
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Readers are invited to submit letters of reasonable length to the editor. They should be typed on letterhead and signed. The editor reserves the right to select excerpts for publication or edit them as may be appropriate.

On Indigent Legal Defense in Grays Harbor County

Editor:

This is a letter of information to members of the Washington State Bar Association. Hopefully, it will bring forth a response of indignation from fellow members. It is a letter of condemnation of the present criminal justice system in Grays Harbor County.

Grays Harbor County does not have a public defender system in the normal sense of that term. There exists no separate office designated as a public defender's office, staffed by a full-time personnel and attorneys dedicated to that task. My concern is over the method adopted by the Grays Harbor County Commissioners, and implemented and supervised by the two Grays Harbor District Courts.

Contracts are let by the commissioners without soliciting bids for those contracts. Instead, attorneys are invited to apply for the jobs at a fixed annual salary of $24,000. The maximum number of cases to be handled by each attorney is 300 per year. Accordingly, the attorneys will receive $80 per case if they reach the maximum.

That routinely occurs in Grays Harbor District Court No. 1. Once that figure has been reached, the court has the option of asking the attorney to agree to handle additional cases, with additional compensation, or have the county commissioners let another contract with another attorney to handle the excess over 300. The additional compensation in the past has been $1,000 per month without reference to the number of additional cases.

The attorneys granted the contracts are required to represent their clients in accordance with the Rules of Professional Conduct. They are required to dedicate to each client the full time and effort necessary to adequately represent each client, to ensure that each defendant's case is fully investigated, and to see that justice is served in each case. Considering the number of court days in each year, the workload for an attorney in Grays Harbor district courts is more than one new case for each court day. For each case, the attorney must review the police reports (frequently received one working day before the pre-trial conference), meet with the client (often requiring the services of an interpreter), contact potential witnesses, and either attempt to strike a plea bargain with the prosecutor or prepare for trial. The number of cases becomes overwhelming, and there just isn't enough time for an attorney—no matter how competent or dedicated—to provide the client with adequate representation.

The Grays Harbor County system is patently unfair to both the indigent defendant and the attorney representing him or her. Although I have not been a part of this contract system, I have witnessed firsthand the physical and emotional injuries inflicted on attorneys who attempt

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to meet the impossible demands of the system. On numerous occasions, defendants file into the courtroom with little realization of what they are facing and leave with bewilderment etched into their faces from what has transpired. They have received their constitutionally mandated advice often, literally, on the run and, in most cases, have entered pleas to amended complaints in order to just get the matter concluded. The only certainty in the system is that the indigent defendant will be leaving the courthouse a little further into the abyss of poverty.

This shameful process takes place not in the furtherance of justice but in the interest of enriching the county's coffers. It is not unusual to hear the phrase, ". . . and $100 to reimburse the county toward the cost of your attorney" when the contract attorney has received $80 for that case. The *Gideon* case may require that misdemeanor defendants receive representation, but systems like that in place in Grays Harbor County will continue to ensure that it is not adequate representation.

I hope that this information will result in a response by fellow members that will serve as ammunition in a battle to reform a system that refuses (not in Grays Harbor County alone) to adequately defend indigents. I hope it will also cause the WSBA to reconsider its position that 300 cases a year is a reasonable workload for an attorney engaged in indigent criminal defense.

JOHN L. FARRA
Aberdeen

Preserving Families With Minor Children

Editor:

President Stritmatter's comments in "The President's Corner" (*Bar News*, May 1994) emphasized the need for more volunteer legal services in the family law area. He cites a climb in the rate of marriage dissolutions as causing this need.

Mr. Stritmatter does not address the real cause of the problem, nor does he note that many dissolutions result in little or no compensation to the lawyer. The money just isn't there.

More concern should be addressed to the reasons for marriage dissolutions. Today, it is too easy to get married and too easy to dissolve the marriage.

The concept of no-fault divorce has reduced the time and complexity of obtaining a marriage dissolution but it has done a disservice to the public in destroying the marital state. Moreover, the parties' children are the real victims of a dissolution.

We have recently established very exacting and detailed safeguards to protect people from unjustified guardianships, but we do nothing to protect the rights of children to a stable and loving home environment arising out of a secure marriage relationship.

Our marriage dissolution statutes should be changed to mandate counseling and appropriate mediation aimed at preserving families with minor children.

JOSEPH B. HEITMAN
Tacoma

One-for-One Reciprocity at UW Career Services

Editor:

The Career Services Office at the University of Washington School of Law

exists to serve currently matriculated law students and graduates of this law school. While this office and the law school are, in part, taxpayer funded, the services of this office and the law school are not open to all taxpayers. In fact, some Career Services Office programs are supported by private gifts, ***not*** state funds. Non-matriculated taxpayers are not entitled to free legal advice or representation from the law school's clinics.

The policy of this office—and of most other law schools in the nation—is to provide access to graduates of other law schools who have requested and been granted reciprocal privileges. Reciprocity will be accorded to the first person from each ABA-accredited/NALP-member law school to make such a request. Thereafter, reciprocity will be accorded ***only*** when UW law school students or graduates have been granted reciprocal privileges by the requesting institution. Data gathered demonstrates that 30 requests to use this office are received for every three requests by UW law students or alumni/ae to use the career services facilities of other law schools.

The one-for-one reciprocity policy adopted by this law school is not a radical policy but is similar to, and consistent with, those of like-calibre law schools across the country. Most law schools have a one-for-one reciprocity policy; some law schools are more restrictive and extend reciprocal privileges to graduates of law schools of their choosing.

Whether or not one has access to this office under a grant of reciprocity, one may subscribe to *The Green Sheet* ($25/six-month subscription for non-alumni; $15 /six-month subscription for law school alumni). *The Green Sheet* contains all attorney listings received by this office for posting except those with a past or imminent deadline precluding timely response by subscribers. Included listings typically have been in these offices one to four weeks unless employers specifically request that postings be listed in two consecutive editions of *The Green Sheet*.. Published every three weeks and mailed via first class mail, *The Green Sheet* is sent with every effort possible to ensure subscribers receive their copies regularly and timely. ***Moreover, current job postings may be viewed in binders available on reserve at the University of Washington School of Law Library.*** Careful review of the attorney listings received by this office indicate that they are also posted at other area law schools, the WSBA office, other specialty bar publications and general-circulation newspapers.

The mission of the University of Washington School of Law Career Services Office is to provide career guidance and counseling to currently matriculated law students and alumni/ae, not to function as a legal employment service center for the public-at-large.

ANTHONY L. BASTONE, 2D
Director, University of Washington
School of Law Career Services Office
Seattle

Other States are not in Washington

Editor:

I have just finished reading my June

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Bar News. I have noted with interest Dennis Harwick's report on "advertising" and the notices given by attorneys licensed in both California and Washington.

I, too, am licensed in both California and Washington. I have also been certified by the State Bar of California Board of Legal Specialization as a specialist in immigration and nationality law. (I also serve on the Immigration and Nationality Law Advisory Commission of the California Bar, which assists in certifying immigration specialists.)

Please note the disclaimer on my stationery ("Certified Specialist Immigration & Nationality Law The State Bar of California Board of Legal Specialization/ Also admitted in State of Washington . . . .* Washington RPC 7.4(b) disclosure—The California Supreme Court recognizes legal specialization in Immigration and Nationality Law. The Washington State Supreme Court does not. Certification by the California State Bar is not required for law practice in the State of Washington"). Because I chose to list my certification (in accordance with California rules) Washington RPC 7.4(b) requires me to disclose that my ***California*** state certification is not issued by Washington nor is it required for law practice in the State of Washington.

For the protection of the consumer, Washington requires that I make disclaimers to the effect that Washington is not California!

I pose the following question to Mr. Harwick: Why are these disclaimers required only of certified specialists? Would it not make sense that ***all*** lawyers who wish to advertise licensing in other states be required to disclose that other states are not Washington?

STUART I. FOLINSKY
Los Angeles

Are We Scared Yet?

Editor:

This one ought to frighten the daylights out of you.

Let's assume that you, as a lawyer, want to talk to your medical doctor, psychologist, or social worker about a personal medical problem. You, of course, feel safe in making such disclosures and communications because you have a right of medical privacy which protects your statements from disclosure by that treating practitioner to any third person. WRONG!

Here's why.

A medical doctor in the status of a patient seeks in the course and scope of a doctor/patient relationship to obtain treatment for a medical problem from a fellow doctor. The treating doctor, motivated, probably, in this case by animus (but that really makes no difference) writes a letter to hospital authorities disclosing the content of the patient/doctor's statements as well as rendering an opinion about the patient/doctor's inability to practice medicine.

That authority, in turn, sends a letter to the Washington State Medical Disciplinary Board, attaching a copy of the treating doctor's letter.

That board, in turn, orders the patient/doctor to report to an alleged psychiatrist and alleged substance abuse alleged treat-

ment center for alleged diagnosis.

Patient/doctor, in the meantime, is otherwise found free of any such psychiatric or alcohol/substance abuse problem by one of the top psychiatrists in the Seattle area. But, in usual fashion, the alleged treatment center finds a panoply of alleged psychiatric and alleged alcohol/substance abuse problems (mainly for the doctor's truthful denial of a problem) requiring their very allegedly learned professional alleged help (as well as to provide $12,000 to $15,000 for their existence—and I hope, parenthetically, that some court somewhere has the wisdom and courage to declare these alleged treatment centers as consummate frauds, as well as to call a halt to this "alcoholism is a disease" baloney).

Patient/doctor, outraged by all of this, brings action in federal district court, seeking to enjoin further proceedings by the board on the theory of breach of his medical right of privacy in his disclosures to the treating physician under the Ninth and Fourteenth Amendments to the federal constitution.

HELD: Injunction denied. The judge ignored the physician's status as a patient, found him to be a physician under any and all scenarios, and stated then—of course—that the state has a compelling interest in obtaining this medical information. See *Taylor v. Lowry*, U.S.D.C., W.D. Wn., Cause No. C93-1480Z.

The lesson here is clear: you as a lawyer (or any other professional, for that matter) seeking medical treatment had better be very careful—damned careful—who you select to make any such disclosures. For whatever motivation, that treating professional now has a constitutionally protected right to disclose such communication, and, indeed, render a companion opinion as to your inability to practice law, to WSBA disciplinary authorities, prosecutors or whoever else has a "compelling" interest in knowing. You are a lawyer under any and all scenarios and have no protection.

In all candor, if a judge desires to recast the facts to fit a conclusion and under this decision, there is literally no right of medical privacy any longer to any person, except as the treating professional desires to honor it. You should also know that you, as an individual, have little chance of succeeding in the federal court system any longer, unless identified with trendy, grandiose causes.

By the way, be sure to pay your bill to the treating physician! An imaginative new way to visit retribution has succeeded.

Also, to the judges reading this and, especially to those judges who seek to further erode our civil liberties, the warning in this letter also applies to you. It may be very difficult for you to retain judicial office or to obtain appointment to higher judicial office, or other appointment, by the actions of a devious, hostile, and determined treating physician, whether or not that which the treating physician states is accurate. And you, too, could end up being victimized by an alleged treatment center.

J. BYRON HOLCOMB
Seattle

UNITY AND DIVERSITY ARE OUR STRENGTHS

Paul L. Stritmatter

by **Paul L. Stritmatter**
WSBA President

Serving as president of the Washington State Bar Association has been a one-year learning process. I have learned a great deal about this great profession we call the practice of law. I have learned even more about the individual lawyers who make up our association. And I have learned a lot about the role we, as a profession and as individuals, want our association to play in our professional lives.

We are a feisty lot. Many of us were probably born that way; we certainly were all trained that way. As a group we are, therefore, well-suited to be advocates for the causes of our clients and to protect their rights. I like lawyers. I enjoy being around lawyers, interacting with lawyers and socializing with lawyers. Lawyers are an interesting, eclectic group.

We are a diverse group of professionals, and our diversity is growing. This growth may be the greatest strength of our profession. As we begin to better reflect the diversity of the entire population of the state, we are better able to deal with the issues and legal problems of all our state's population. That very diversity, however, raises new issues in both the governance and programming of the Bar Association.

Over the past year, I have taken the opportunity presented by the Board of Governors meeting around the state to bring together groups of eight or ten local attorneys before each board meeting. During a two-hour brown-bag lunch, we discussed issues of interest to our membership. These "focus groups" have been composed of lawyers who have not previously participated in the governance and leadership of the bar. The groups were designed to reflect the diversity of our membership and the concerns of those who have not been directly involved in setting Bar Association policy. These meetings have been instructive, informative, have resulted in good ideas and have, in some instances, answered questions and concerns of members. I have prepared minutes after each such meeting which I have shared with the Board of Governors, the Bar staff and *Bar News* editor Lindsay Thompson. This method of additional communication with the members has been helpful to me in keeping track of the pulse of our membership.

I have learned the importance of a bar association that can speak and act on behalf of all of the profession. Part of the strength of this association is that, after debate and input from all, we can make decisions on important issues that affect us and speak on behalf of the profession as a whole. A unified bar, speaking for the entire profession, acts with greater sensitivity to public concerns than a narrower segment of the bar represented by a voluntary association. The loss of the ability to speak as a unified profession would adversely impact the collective effect that we have on issues.

However, once again a resolution is being proposed for our annual meeting (with the apparent intent to file a referendum to the membership following that meeting) that the activities of the Bar Association be limited to only mandatory functions such as admissions, licensing, discipline, and monitoring compliance with CLE and trust account regulations. This would make the Bar Association simply a regulatory agency. Publicity is being circulated with the argument that "it may well be the law that lawyers have a constitutional right under the first amendment to pay only those mandatory dues allocated to mandatory function (sic)." I have read the *Popejoy*, *Keller* and *Gibson* opinions cited in support of this statement, and they do not create a constitutional right to pay dues for only mandatory functions. More importantly, to cripple the ability to set up discretionary programs of the Bar Association would be shortsighted, destructive for lawyers, and in the long run, would cost each of us much more in dues dollars and much more than money.

As a respected profession, we enjoy the right of self-governance. The adoption of this resolution would so curtail our governance that the vacuum left would invite the Legislature to control the governance of the Bar Association. In California, where the Legislature does control the governance of the Bar Association, the bar dues are currently $495 per year. This resolution would raise the potential for the Legislature here to consider mandatory voluntary legal services by lawyers, bonding requirements for lawyers with trust accounts, mandatory insurance requirements and other measures that the majority of the Bar Association has felt were inappropriate and not implemented because of our right of self-governance. It would affect our input to the Legislature on important issues affecting our practice of law and the administration of justice because we would no longer be speaking as a unified bar on behalf of all lawyers. The Client Security Program, to establish compensation for victims of dishonest acts by lawyers, would be lost. We would lose *Bar News*. We would lose our CLE program and, undoubtedly, be forced to pay more for CLE. We would lose the Lawyers' Assistance Program, which not only greatly benefits those who directly need its services, but would result in the risk of greater improper action by impaired lawyers, which would reflect badly upon all of us. It would result in the abolishment of the Young Lawyers Division and the good works that come from that energetic group.

This issue has been studied before. Our 1991 Long-range Planning Task Force concluded decisively that the WSBA should remain a mandatory membership organization in order to carry out its duties as defined by the Washington Supreme Court. At the 1993 annual meeting, a similar resolution was resoundingly defeated. The current Task Force on Governance also looked at the issue and overwhelmingly rejected the concept.

I am sure that if this resolution were to be passed and implemented, that a voluntary bar association would be created. That voluntary association would attempt to pick up many of these programs that would otherwise be lost.

It would, however, double the administrative needs and costs, increase the costs for these programs, and result in some lawyers not paying their share of the expenses for the programs that benefit us all. This loss of efficiencies would thus cost us more in the long run. Further, mandatory dues provide the financing necessary to carry out the public-service obligation of our profession. If we failed to do so, the Court or the Legislature might well impose other forms of mandatory dues to carry out these obligations.

Professionalism involves consideration of what is in the best interest of the public. Dean Roscoe Pound of Harvard Law School defined professional as a group pursuing a learned art as a common calling in the spirit of public service—no less a public service because it may incidentally be a means of livelihood. We have earned the right of self-governance because we have properly considered the public good in the discretionary programs of our professional association. If we wish to consider our practices of law as merely businesses, then a regulatory agency is all that is necessary, and we can be regulated by the state. We will have forfeited our right to govern ourselves. We will also have forfeited our right to be considered a great profession. If we wish to retain our status as a professional calling, we must preserve and promote those discretionary programs of our bar association that assure the proper protection of the public.

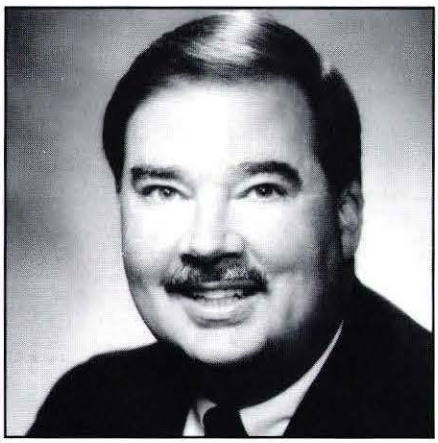
I am personally not opposed to change. I support changes in our governing structure to assure greater inclusion of all of our membership in our form of governance and the decisions that are made on behalf of the Bar Association. This resolution will simply be destructive of important and well-established programs and will not benefit anyone.

During this past year, I have found that the intelligence, talent, energy and commitment among the lawyers of the state is absolutely phenomenal. It is a natural resource that needs to be corralled and directed for the betterment of all of the people of the state of Washington. A unified bar association, with the right of self-governance, can be a powerful vehicle to see that the law preserves and develops a society for the benefit of everyone, and that our legal system results in justice.

Let's focus our attention on how to better the Bar Association for the benefit of our profession and the public. By devoting our energies to these important issues, we can build a better association and a better profession for us all.

DIVERSITY? WHAT'S THE WSBA GOT TO DO WITH IT?

by **Dennis P. Harwick**
WSBA Executive Director



Dennis P. Harwick

As you will soon notice, this issue of *Bar News* is dedicated to addressing issues of diversity. The obvious question is "What's the WSBA got to do with it?" or, perhaps, "What's the WSBA doing about it?"

Demographics: The WSBA membership is approximately 25 percent female and 75 percent male. Since law school enrollments are now closer to 50/50, we expect the WSBA membership to respond accordingly. We also know that the WSBA is approximately 93 percent Caucasian, one percent African American, one percent Hispanic or Latino, one percent American Indian or Alaskan Native, one percent Asian or Pacific Islander, and two percent undisclosed. Since demographics are destiny, that will be changing, too.

So where does the WSBA intersect with diversity issues? There are a number of junctures: CLE, Rules of Professional Conduct, committee appointments, judicial recommendations, meeting location policy, and its own staff to name a few.

Let me elaborate:

CLE: As you enter the lobby of the WSBA CLE Department you will find a framed announcement on the wall, to-wit:

> **Diversity:** Recognizing the diversity of the Washington State Bar Association, the WSBA Continuing Legal Education Committee is actively **recruiting women, African-American, Asian, Hispanic, Native American, and other minority attorneys** to volunteer as speakers or authors for CLE seminars and publications. The Committee is also recruiting any interested attorneys practicing outside major metropolitan areas.

In the WSBA CLE Speaker's Guide, you will find the following:

> The composition of any CLE audience is diverse. Young lawyers and more experienced practitioners, those who focus primarily on one area of the law and general practitioners, men and women, and lawyers from various ethnic and religious backgrounds and disabled individuals may all be part of your audience.
>
> When you take into consideration the diversity and sensibilities of your audience, you will enhance your presentation. Certain positive steps may be taken, such as avoiding the constant use of male pronouns during your talk or in your paper. You must, of course, not make remarks that are in any way condescending in character about racial, ethnic, or religious groups, women or men, or disabled individuals.
>
> The Washington State Bar Association has taken great steps in this regard. Problems of inconsiderate or condescending remarks have been few and far between in recent years. With your help, we may be assured that this record is maintained in the future.

The Rules of Professional Conduct: At the Board of Governors' request, the Supreme Court adopted a new RPC 8.4(g) on September 17, 1993, that reads as follows:

> It is professional misconduct for a lawyer to: commit a discriminatory act prohibited by law on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status, where the act of discrimination is committed in connection with the lawyer's professional activities.

Just last week, the Board recommended a new second part to 8.4(g) that would read:

> It is professional misconduct for a lawyer to: use language, gestures, or conduct which have no professional or lawful purpose and which are intended to denigrate, insult, single out, or demean another person on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status while performing professional activities.

The Board has also passed a resolution opposing Initiatives 608 and 610 as being discriminatory and prejudicial to the administration of justice as prohibited by RPC 8.4 (d) and (g).

Committee Appointments: The WSBA's Committee Selection Policy begins with the statement, "The policy of the Board of Governors is that WSBA committees should reflect the diversity of the membership of the WSBA." The Committee Preference Form solicits information about the person's race/ethnicity/national origin, gender, age, number of years in practice, previous committee assignments, type of practice, residence, and place of work.

Since our committee selection policy allows anyone who wants to serve on committees to serve, the Board of Governors' track record is found in the selection of committee chairpersons. There are 26 committees. During the past year, there were 19 men (73 percent) and 7 women (27 percent). One chairperson was African-American and one was Asian. Ten were from Seattle, five from the Puget Sound area outside of Seattle, four from Spokane, three from Vancouver, two from the Tri-Cities, and two from Yakima.

By the way, there are currently three women out of eleven on the Board of Governors and will be four of eleven as of this September.

Judicial Recommendation Committee: The WSBA's Judicial Recommendation Committee has reached out to minority bar associations to make sure that minorities within the legal profession understand the process for being considered for placement on the WSBA's list of candidates well-qualified for appointment to the appellate courts of the state of Washington. Representatives of the Judicial Recommendation Committee also participated in a program last year for minorities interested in judicial careers.

WSBA Meeting Location Policy: At the urging of the Opportunities for Minorities in the Legal Profession Committee, the Board of Governors adopted the following policy:

> Consistent with the Washington State Bar Association's commitment to diversity and nondiscrimination, it is the WSBA's policy that no functions, official actions, or official meetings of Sections, committees, governing board, or staff shall be held in a facility—public or private—or political subdivision that has a policy, practice, or law that discriminates on the basis of race, color, national origin, religion, creed, sex, age, disability, sexual orientation, or marital status. Nothing in this policy shall be construed to infringe upon the rights of individuals to associate freely in their private lives.

The WSBA Staff: I am committed to making this a diverse and discrimination-free work place. The first personnel policy cited in the WSBA Employee Handbook reads, "The WSBA is an equal opportunity employer and abides by all state and federal laws and regulations prohibiting discrimination in employment on the basis of sex, age, race, national origin, religion, sexual preference, disability, or other protected basis." We have devoted staff meetings to discussing diversity sensitivity and sexual harassment.

Ultimately, however, the proof is in the pudding. In the past three years, we have increased the diversity within our staff. We have increased the number of people of color on our staff. In particular, I am proud of the fact that four out of the seven department heads of the WSBA are now women compared to one female department head when I arrived. As my friend (and WSBA member/diversity consultant) Peggy Nagae Lum reminds me, however, it is a long, evolving process. During her presentation on diversity, she uses a matrix setting the range of progress from affirmative action, to valuing differences, to managing diversity, to leadership diversity. As sincerely as many people, including me, want to be at the point of leadership diversity, the simple fact is that most of us are still moving through the area of valuing differences and managing diversity.

By now, I hope to have made the case that the WSBA has attempted to address issues of diversity. I'm proud of the WSBA and its efforts to move in the right direction.

From Disadvantaged Youth to Head of Civil Rights

by **Diane M. Butler** *and* **Timothy W. Cranton**

Overcoming obstacles of disadvantage and discrimination is seldom accomplished alone. It requires both opportunity and combined courage, perseverance, confidence and—above all—character.

An inspirational figure in the legal community is Deval L. Patrick, the recently appointed Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice. President Bill Clinton heralded him as "a lawyer whose wise counsel, keen negotiating skills and mastery of litigation are held in the highest esteem."* Indeed, Patrick's skills and accomplishments distinguish him not only as a leader in the legal community but, even more importantly, a man of deep understanding of racism, who appreciates the subtle struggles and stereotypes of our times and who has strong faith in the commitment to optimism and change that establishes him as a leader of the new civil rights movement in our country.

Patrick grew up in the south side of Chicago. When he was four years old, his father left the family in their basement apartment to pursue his career as a jazz musician. With only one bunk bed to sleep in, the family members took turns sleeping on the floor.

Just as Patrick was entering junior high, Chicago erupted in the Watts and Woodlawn riots of the late '60s and the violent aftermath of racial tension equaling that of the recent south central Los Angeles riots. His school sat on the edge of the Robert Taylor Homes, one of the roughest projects not only in Chicago, but in America; he had to slip a pass under the doors just to get in.

Deval Patrick appreciates both where he came from and the people who guided or assisted him along the way. In his inaugural address, he expressed appreciation of two of them: Eddie Quaintance, his sixth-grade teacher, "taught me to believe I was special," and as made it possible for him "to accomplish something with the opportunities that were handed to me." Darla Weissenberg, his seventh-grade teacher, recommended him to a foundation called "A Better Chance," which launched him into a new level of educational challenge. He received a scholarship to attend high school at Milton Academy in Massachusetts, continued through Harvard undergraduate and law schools and onto a Ninth Circuit Court of Appeals clerkship for Judge Stephen Reinhardt in Los Angeles; he then went on to the NAACP Legal Defense and Education Fund, where he earned a reputation for battling death penalty cases.

> ***"[W]e see acts of unspeakable cruelty and even violence because of race, or ethnicity, or gender, or disability, or sexual orientation ... How can a nation founded on such principles, dedicated to such a creed, sometimes fall so short?"***

His work at the NAACP earned him the title of "quota clone," coined by the *Wall Street Journal* during his nomination for the civil-rights post. The term emanates from the first candidate President Clinton vetted for the position, Lani Guinier. She and Patrick worked together for the NAACP legal defense fund in the early '80s. Guinier was called the "quota queen" for authoring law review articles on remedies for the unconscious racism which permeates our society, remedies some called "racial gerrymandering." Following their work at the NAACP, their careers parted paths: while Guinier pursued academics and civil-rights theory, Patrick refined his skills as a litigator at the law firm of Hill & Barlow in Boston, Massachusetts.

Patrick's vision of civil rights goes well beyond political buzzwords and simple affirmative action. His inaugural address, reprinted below, expresses his views:

"Many, many people—mostly reporters—have asked me what our agenda will be in the Civil Rights Division and I have usually replied that it's not time quite yet to answer that; that only after a few days on the job, the best I can say is that our formal goals will be developed collaboratively, in consult with the advocacy groups and with ourselves. Then I usually add that I have a personal commitment to defending the Voting Rights Act against the several recent attacks on its gains, to making banks make lending decisions fairly, to developing an expansive jurisprudence under the Americans With Disabilities Act, and to broadening opportunities for minorities and women to equal advancement in the work place and in the schools.

But the unifying theme of our work is quite a bit broader than that. The real and ultimate agenda is to reclaim the American conscience. Our true mission is to restore the great moral imperative that civil rights is finally all about. This nation, as I see it, has a creed. That creed is deeply rooted in the concepts of equality, opportunity and fair play. Our faith in that creed has made us a prideful nation, and enabled us to accomplish feats of extraordinary achievement and uplift.

And yet, in the same instant, we see racism and unfairness all around us. In the same instant, we see acts of unspeakable cruelty and even violence because of race, or ethnicity, or gender, or disability, or sexual orientation. They present a legal problem, to be sure. But they also pose a moral dilemma. How can a

nation founded on such principles, dedicated to such a creed, sometimes fall so short? And let me assure you: That is a question asked not just by intellectuals and pundits of each other. It is asked by simple, every day people of each other and of themselves, in barber shops and across kitchen tables, in the mind's silent voice on the bus ride home from work, in the still, small times when conscience calls.

To be a civil-rights lawyer, you must understand what the laws mean. But to understand civil rights, you must understand how it feels; how it feels to be hounded by uncertainty and fear about whether you will be fairly treated; how it feels to be trapped in someone else's stereotype, to have people look right through you. To understand civil rights, you must understand that the victims of discrimination feel a deep and helpless pain, and ask themselves bitterly the very question of morality I have just posed.

And what will be our answer? Will we sit back and claim that we have no answer, or that it is not our business to devise one? Will we shrink from the moral dimension of our work? Well, let me tell you now: We will not shrink. The answer to the question is, 'No.' There is a moral dimension. And we will assert it. And the reason, the reason I make you that unequivocal pledge is simply this: I have a personal stake in the business of the Civil Rights Division. I know what we can accomplish through vigorous enforcement, through calm determination, and through effort. I know that the business of the Civil Rights Division has opened up jobs to black workers. I know that the Civil Rights Division has opened up apartments to Hispanic families. I know that the Civil Rights Division has opened up whole new vistas of active life to people with disabilities. I know that the Civil Rights Division has vindicated the rights of Asians and Jews and so many others to be safe from organized bigotry; the right of young black men to be safe from excessive police force. I know that the Civil Rights Division has made it possible for prisoners to retain their human dignity even when they surrender their freedom. And I know that the Civil Rights Division has helped create the most integrated Congressional districts in the South, and the most integrated classrooms in the world.

I know because I have lived it. I know because I can look around this room and see every kind of woman and man, joined here in one brief but illustrative moment of harmony, common in our humanity and in our

resolve. And I know that when the American people see what I see here right now, they see the same possibility, the same hope, and the beginning of the answer to the question of conscience that the American creed poses.

Our divisions are of our own creation. They are not beyond our power to resolve them. Our cynicism is but our own fear. It is not beyond our courage to conquer. Our despair is of our own relenting. It is not beyond our faith. We have but so many moments, I think, where the confluence of opportunity and resolve is in this wondrous balance. And so it is right now.

This Administration, with its commitment to forward movement, now greets this nation, yearning to reclaim its moral center. Let us meet this opportunity with sufficient commitment, with sufficient resolve and with wisdom. Destiny asks of us no less.

Of my new colleagues in the Civil Rights Division, I ask from you your most solemn commitment and resolve, and all of the force of intellect I know you amply possess. Bring to your task, and to ours, your hard work and your faith in the American promise. And with it, we can create opportunity. And we can also inspire hope. Bring to this task intellectual honesty, determination, imagination, and humanity. And we cannot and will not fail.

Of the American people, those here and elsewhere, I ask you only this: Give us your commitment to equality. Give us your sense of history and of the great unfinished agenda which derives from it. And we will set your hearts afire, and help you know what I know about what is possible in America.

Dr. King said, 'Cowardice asks the question: Is it safe? Expediency asks the question: Is it polite? Vanity asks the question: Is it popular? But conscience, conscience must ask the question: Is it right?' Ladies and gentlemen, as American citizens, so must we. We may not redeem the sleeping soul of this great republic

> ***"Our divisions are of our own creation."***

and recreate the civil rights consensus that made possible the moral high points of this nation in my tenure, or even in my lifetime. But let us begin."

Deval Patrick has begun.

He is presiding over a $46 million settlement between Denny's restaurant chain and the Department of Justice, a long-pending case under the previous administration. The catalyst for that action occurred in a Maryland Denny's: six black Secret Service agents assigned to guard President Clinton were denied service while 15 white agents with them had been served their breakfasts and had seconds and thirds. The case culminated in 4,300 complaints against Denny's. Regarding enforcement of the Civil Rights Act of 1964 in this case and others, Patrick says,

I know that the problem is not as great today as it once was, but for all those public accommodations that haven't lost their appetite for racism, I want to warn you there that we are watching you.

The resolve, courage, and faith of Deval Patrick and those who inspired him demonstrate the possibilities available when opportunities are presented and seized.

* * *

Seattle attorneys ***Diane M. Butler*** *and* ***Timothy W. Cranton*** *practice with Bogle & Gates.*

*The following accounts served as sources for this article: Associated Press, "Denny's Will Pay $46 Million," *Seattle Post-Intelligencer*, May 25, 1994, A1, A9; Clint Bolick, "Civil-Rights Nominee, Quota Clone," *Wall St. J.*, Feb. 2, 1994, A18; Steven A. Holmes, "Street Survivor via Harvard: Deval Laurdine Patrick," *N.Y. Times*, Feb. 2, 1994, A13:5; Will Haygood, "Partners in Power," *Seattle Times*, Nov. 7, 1993, Scene-L1; Inaugural Address of Deval L. Patrick, Assistant Attorney General, Civil Rights Division, Department of Justice.

The Imperative for Racial and Ethnic Diversity in the Legal Profession

It is highly desirable in our great democratic society that institutions in the private sector and in the public sector adequately reflect the cross-section of our American population.

by **Charles Z. Smith,** *Justice*
Washington Supreme Court

In 1989, in connection with a project for the Ninth Judicial Circuit Historical Society, I conducted a limited questionnaire survey of bar associations in Arizona, California, Idaho, Montana, Nevada, Oregon, Washington, Alaska and Hawaii, asking their best estimates, by numbers or percentages, of judges and lawyers of color in their respective states. The questionnaire included classifications for Native Americans, African Americans/Blacks, Hispanics/Latinos and Asian Americans.

The executive director of the bar association in a small nearby state returned the survey form with simply the words, "We don't know, and we don't ask them." Actually, this was not as bad as it seemed. In fact, at that time, our own Washington State Bar Association had no reliable data on minorities or persons of color. But we did determine from preliminary research studies that approximately five percent of lawyers in Washington were persons of color. We used membership information from the ethnic bar associations to estimate the percentage of lawyers in the major ethnic groups. We also knew from personal knowledge and acquaintance that 16 judges at all levels of court were persons of color.

It has been five years since that survey. Statistics have changed. We have come now to a conscious realization of the importance of an awareness of race and ethnicity in achieving fuller participation by all members of our society in our institutional systems. We cannot know the extent of participation by, or exclusion of, any group of persons if we do not have reliable and legal methods to find out who they are. This is in contradistinction to inquiries concerning race and ethnicity for ulterior purposes, such as systematic exclusion and other invidious forms of discrimination.

We pride ourselves in America on our great democratic system, which has set an example for the entire world. We have many national pronouncements which suggest the essence of that democracy. Foremost, perhaps, are the words from the Declaration of Independence:

> We hold these truths to be self-evident that all [persons] are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness.

One of the great strengths of America as we would like it to be (and as perceived by the optimists among us) is its racial, ethnic and cultural diversity. In simplest terms, we are referring principally to whites (of various ethnicities and religions), Native Americans (American Indians) African Americans (Blacks), Latinos (Hispanics), and Asian Americans (Japanese, Chinese, Filipinos, Koreans, East Indians, Indo-Chinese and Pacific Islanders).

We celebrate the richness of our diversity. We are a nation of immigrants. With the exception of Native Americans, all of us or our ancestors came to this continent from other countries. Most came voluntarily or were exiled. Some came involuntarily in chains on slave ships. Our Native Americans, though, inhabited North America centuries before Christopher Columbus stumbled on our shores in 1492.

We used to boast of the great American "melting pot," which presupposed that we would merge our identities into an amorphous American model. The passage of time has taught us the fallacy of that idea. We now believe we can be distinctly American, but that each of us can still maintain our cultural history, language, music and identity. To me, America is still a melting pot, but with an improved "recipe" for its ingredients which allows recognition of distinctive "spices" and "flavors."

Based upon interpolation of figures from the 1990 Census, as reported by the Bureau of the Census, United States Department of Commerce (April 1991), 80.3 percent—or 199,714,028—of our national population of 248,709,873 is White; 12.1 percent—or 30,093,895—is Black (African American); 0.8 percent—or 1,989,679—is American Indian, Eskimo or Aleut; 2.9 percent—or 7,212,586—is Asian or Pacific Islander; 3.9 percent—or 9,699,685—is "other race"; and 9 percent—or 22,383,889—is of "Hispanic origin" of any race.

The 1990 Census for the State of Washington, reported by the Bureau of the Census, indicates that 88.5 percent—or 4,307,022—of our population of 4,866,692 is White; 3.08 percent—or 149,894—is Black (African American); 1.6 percent—or 77,867—is American Indian, Eskimo or Aleut; 4.33 percent—or 210,728—is Asian or Pacific Islander; 2.37 percent—or 115,341—is "other race"; and 4.41 percent—or 214,621—is of "Hispanic origin" of any race.

Census data on race and ethnicity is now principally a matter of self-declaration. This is as it should be. No official should any longer presume to make that determination for a citizen. Thus "other race" for the state of Washington is explained by the Census Bureau as representing

> persons who, when given an opportunity to identify themselves in a racial category, did not select White (or any other category), but specifically identified themselves as Cuban, Puerto Rican, Mexican, etc. . . . [T]his category represented a count of 111,078 persons who considered themselves racially Hispanic and 4,435 additional responses that could not be elsewhere classified. . . .

The Census Bureau also says,

> Hispanic Origin is not a racial category: it may be viewed as the ancestry, nationality group, lineage, or country of birth of the person or person's parents or ancestors before arrival in the United States. Persons of Hispanic Origin may be of any race and are counted in the racial categories shown. In 1990, 40.69% of persons indicating Hispanic Origin identified themselves as being racially White, 1.77% Black, 2.37% Indian, Eskimo, or Aleut, 3.4% Asian or Pacific Islander, and 51.77% selected the Other races category.

Under this more enlightened approach to identification of our population, we are now better able to avoid the pitfalls of assumptive identification and arbitrary identification of multiracial persons. We can, under this approach, more comfortably choose the category, if any, which best responds to our individual determination of who we are. This self-identification provides a level of comfort far removed from the anachronistic classifications developed by historians, anthropologists, social scientists and statisticians such as Caucasoid, Mongoloid and Negroid. Later, there developed "geographical races" (which are closer to the classifications we use today): (1) African, (2) American Indian, (3) Asian, (4) Australian, (5) European, (6) Indian, (7) Melanesian and (8) Polynesian. Indeed, self-identification helps to assure integrity of personal choice in direct challenge to the crude method of racial identification between "colored" and "white" accepted by the United States Supreme Court in the archaic case of *Plessy v. Ferguson*, 163 U.S. 537, 16 S. Ct. 537, 16 S. Ct. 1138, 41 L. Ed. 256 (1896), which—unfortunately—permeated our legal culture under the rubric of "separate but equal" until it was overruled in *Brown v. Board of Education*, 347 U.S. 483, 74 S. Ct. 686, 98 L. Ed. 873, 38 A.L.R. 2d 1180 (1954).

Plessy v. Ferguson involved the con-

stitutionality of an act of the General Assembly of the State of Louisiana, passed in 1890, providing for separate railway carriages for the "white and colored races." In his petition for a writ of prohibition against criminal prosecution for refusing to ride in a railroad coach designated for "colored," Mr. Plessy pleaded,

> [H]e was [of] seven eighths Caucasian and one eighth African blood; that the mixture of colored blood was not discernible in him, and that he was entitled to every right, privilege and immunity secured to citizens of the United States of the white race; and that, upon such theory, he took possession of a vacant seat in a coach where passengers of the white race were accommodated, and was ordered by the conductor to vacate said coach and take a seat in another assigned to persons of the colored race, and having refused to comply with such demand he was forcibly ejected with the aid of a police officer, and imprisoned in the parish jail to answer a charge of having violated [the Louisiana law].

In its reasoning, which was the law of the land until the case was overruled, nearly 58 years later, the Supreme Court stated:

> A statute which implies merely a legal distinction between the white and colored races—a distinction which is founded in the color of the two races, and which must always exist so long as white men are distinguished from the other race by color—has no tendency to destroy the legal equality of the two races, or reestablish a state of involuntary servitude. . . .

In denying the writ of prohibition, the Court then concluded:

> It is true that the question of the proportion of colored blood necessary to constitute a colored person, as distinguished from a white person, is one upon which there is a difference of opinion in the different States, some holding that any visible admixture of black blood stamps the person as belonging to the colored race, . . . others that it depends upon the preponderance of blood, . . .; and still others that the predominance of white blood must only be in the proportion of three fourths. . . . But these are questions to be determined under the laws of each State and are not properly put in issue in this case. Under the allegations of his petition it may undoubtedly become a question of importance whether, under the laws of Louisiana, the petitioner belongs to the white or colored race.

In today's more enlightened period, the WSBA is institutionally moving towards a knowledgeable awareness of the race and ethnicity of its now more than 17,000 members. This is due, in part, to the work of its Committee on Opportunities for Minorities in the Legal Profession, with the approval of the Board of Governors, in cooperation with the Washington State Minority and Justice Commission (formerly the Minority and Justice Task Force).

That task force, reporting in its 1990

Final Report on a cooperative voluntary Bar survey conducted in December 1988 and findings by Dr. George S. Bridges, Ph.D., Professor of Sociology, University of Washington, concluded:

1. Asians, African Americans (Blacks), Latinos (Hispanics), Native Americans, and other minorities made up approximately five percent (5 percent) of the total sample of 6,348 lawyers. Thus, it is estimated that minorities make up about 5 percent of the Bar membership.

. . .

4. Across most Washington counties, the proportion of minority lawyers was substantially lower than the percentage of minorities in the general population. In some rural counties, differences between the concentration of minorities in the general population and in the Bar were pronounced.

. . .

The Minority and Justice Task Force, reporting on a June 1989 demographic survey conducted by Dr. Charles H. Sheldon, Ph. D., Professor of Political Science, Washington State University, concluded:

1. As of April 1990, of the 371 judges in the state of Washington (Supreme Court, courts of appeals, superior courts, district courts, municipal courts), 16 (4.3 percent) were identified as racial and ethnic minorities.

2. In 1988, the percentage of minorities on the bench (about 4 percent) was slightly less than the percentage of minority lawyers (5 percent). In 1988, the percentage of minorities on the bench (about 4 percent) was substantially less than the percentage of minorities in the general population (about 11 percent).

. . .

4. With the exception of a minority person serving on the Washington State Supreme Court and a minority person serving on the Pierce County Superior Court, all minority judges serve on courts in Seattle and King County.

In conjunction with its 1992 licensing, the WSBA collected voluntary data about the gender and ethnicity of its membership, relying upon self-selection and choice. Of those responding (11,000 out of 17,000 active members), 73 percent were male and 27 percent were female. Of those responding, the ethnic breakdown was:

American Indian/Alaskan Native	(0.51%)	58
Black/African American	(2.10%)	231
Asian/Pacific Islander	(1.20%)	132
Caucasian	(93.04%)	10,256
Hispanic	(0.47%)	52
Other	(0.77%)	85
Gender given, but not ethnicity	(1.91%)	211
Total	(100.00%)	11,025

Extrapolated estimates of total WSBA membership indicate the following as of March 23, 1993.

The percentage of persons of color is not significantly changed:

American Indian/Alaskan Native	(0.51%)	89
Black/African American	(2.09%)	368
Asian/Pacific Islander	(1.19%)	210
Caucasian	(93.04%)	16,328
Hispanic	(0.47%)	83
Other	(0.769%)	135
Gender given, but not ethnicity	(1.91%)	336
Total	(100.00%)	17,549

It is still a subject of some debate whether persons of color are underrepresented in the legal profession in the state of Washington. I believe that they are. I am satisfied there has been no systematic exclusion of persons of color from the Bar. In marshaling the intellectual resources of our population, it is to our material advantage to increase the tempo of our march towards affirmative inclusion of persons of color in the profession.

One does not have to commission a professional study to determine that persons of color are grossly underrepresented on the courts in our state. One need only walk into any courtroom outside King County and be faced with the realization that the benches generally are occupied by white males, with a sprinkling of women and a minute sprinkling of identifiable persons of color.

Some studies have been made on the underrepresentation of persons of color in the legal profession and in the judiciary. They bear out what is generally merely a perception. They also call public attention to the need to engage in a deliberate program of affirmative inclusion. This is not "affirmative action" in its crude sense. This is not accepting the unqualified to fill a "quota." It is recognition of the fact that persons of color represent the same range of intelligence and integrity as persons not of color. The "complexion" of the Washington Bar membership is gradually turning from mostly white to a rainbow of color across the ethnic spectrum. This is as it should be, and it should be reflected in our judiciary.

We have only one person of color on the Supreme Court; no person of color (since 1979), except one court commissioner, on the Court of Appeals; no persons of color on any court in any counties except King and Pierce, except one court commissioner in Spokane County. This is a clarion call to appointing authorities and members of the voting public to identify, encourage, recruit, appoint and elect lawyers of color for service in the judiciary.

There are, in all racial and ethnic groups in our legal profession, persons who well measure up to the highest standards of judicial qualifications: integrity, knowledge of the law, scholarship, commitment to fairness, an understanding of

and judicial temperament. Any people considered for election or appointment to the courts at any level must possess those qualities. And, above all, they must also be able to abide by the strict requirements of judicial conduct: upholding the independence of the judiciary; avoiding impropriety and the appearance of impropriety; impartially and diligently performing judicial duties; participating in activities to improve the law, the legal system and the administration of justice; engaging in only approved extra-judicial activities; avoiding prohibited compensation; and refraining from prohibited political activity.

The WSBA and its members are in a unique position to diversify its membership to include a better representation of people of color in our population. Law schools are identifying and encouraging people of color to study law and qualify for bar admission. The population trends suggest that we will have a clear opportunity to accomplish this diversity in the practice of law. We can call upon the Native American Bar Association, the Loren Miller Bar Association, the Washington State Asian Bar Association and the Washington State Hispanic Bar Association as primary resources. The American Bar Association and the national ethnic bar associations are also available as resources. It is imperative that we not lose sight of our goal to have our legal profession adequately reflect the cross-section of our population.

WSBA Judicial Recommendation Committee to Schedule Interviews

The WSBA Judicial Recommendation Committee is currently accepting applications from attorneys and judges seeking consideration for appointment to fill potential appellate court vacancies. Interested candidates will be interviewed by the Committee at its fall meeting to be held on or about Friday, September 30, 1994. The deadline for receipt of questionnaires by the WSBA offices is 5 p.m., Wednesday, August 31, 1994.

The Committee's recommendations are reviewed by the WSBA Board of Governors and then referred to the Governor for review when appointments are made to fill vacancies on the Washington Court of Appeals and Supreme Court.

If you are interested in scheduling an interview, please contact the WSBA at 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599, telephone (206) 727-8200, to obtain a questionnaire. Please specify whether you need the questionnaire designed for a judge or an attorney.

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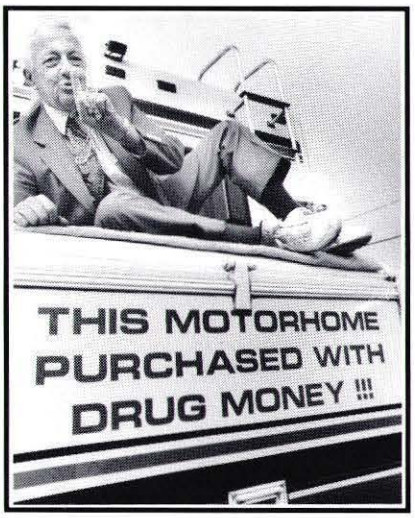

It may well be the law that

lawyers have a constitutional right under the first amendment to pay only those mandatory dues allocated to mandatory function.

Equally not to pay that portion of the dues properly allocated to non mandatory function see *Popejoy vs. New Mexico State Bar U.S. District Court for district of New Mexico* CIV#92-1462JB. See *Keller vs. State Bar of California* 496Usl, *Gibson vs. The Florida Bar* 906 F2nd 624 (11th circuit, 1990).

It is ironic that attorneys, relentlessly disparaged by the public, are now depreciated by their own, who claim attorneys are not entitled to the same guarantees of freedom the First Amendment extends to non-lawyers in matters involving non-voluntary associations. See *Abood vs. Detroit Board of Education* 431 US209-233 1977.

WHAT I AM SAYING

IF THE LAW (AND IT DOES) GIVES US A CONSTITUTIONAL RIGHT UNDER THE FIRST AMENDMENT TO PAY ONLY THOSE MANDATORY DUES ALLOCATED TO MANDATORY FUNCTION, AND WE HAVE THE RIGHT UNDER THE FIRST AMENDMENT NOT TO PAY THAT PORTION OF THE DUES PROPERLY ALLOCATED TO NON-MANDATORY FUNCTIONS, THEN **WE SHOULD NOT HAVE TO OBJECT, AT COST OF TIME AND ENERGY, IN ORDER TO ASSERT SUCH A CONSTITUTIONAL RIGHT.**

It is clear that any individual can waive damn near any constitutional right he is granted under the United States or state constitutions. However, I take the position that that waiver must be affirmatively exercised and not, as in the position of the attorney for our Bar Association, assumed by silence.

It occurs to this writer that it is the affirmative duty of our Bar Association to give us as we feel is provided in *Popejoy,* the option when we receive our dues bill to pay only that amount attributable to mandatory functions, or in addition, pay also that amount attributable to non-mandatory functions. I feel we should be given the affirmative choice from the get-go, and not be required to assert constitutional rights that everyone apparently agrees we have. Simply put, we should be given the option.

Please participate in the Washington State Bar Association's Annual Business Meeting on Friday, September 9th, 1994 beginning at 2:30 p.m. at the Seattle Sheraton.

IT'S AS SIMPLE AS THAT.

The Color of Justice In Washington

by **Faith Enyeart Ireland**, *Judge King County Superior Court*

I have had two recent contacts with Hispanic attorneys, one male, one female, from parts of Washington that have never seen a minority judge on the bench in their community, despite substantial minority populations. They wonder if change will ever come. One pointed out that even in communities with large minority populations, the polarization of the minority versus dominant communities along ethnic lines may make election nearly impossible. Appointment to the bench, which might give a minority candidate the necessary edge to overcome such polarization, seems a remote likelihood to both of these attorneys. They fear that a governor's traditional reliance on bar polls or screening would disadvantage minority candidates.

One writes, "The ratings are not necessarily based on who is the most academically proficient lawyer. Instead, they often reflect the *subjective* feelings of the attorneys who fill out the rating." The other laments how heavily bar association participation and leadership, rather than other civic or community involvement, count in bar ratings.

Looking at the history of women entering the judiciary for guidance may be helpful. When I started to practice as a litigator early in 1970, there were no women on the superior courts of our state, and there never had been any. That was corrected in June of 1970 when Governor Dan Evans appointed Nancy Ann Holman to the superior court. After that breakthrough, however, advancement was slow. A common excuse for the lack of women on the bench was that there were not enough "qualified" women. By the time I took the bench, 13 years later, little progress had been made. In July 1983, of the 124 superior court judges only six (four percent) were women. All but one presided in King County.

There seemed to be a need to "grow" a generation of lawyers where being a woman was not unusual. When I went to law school, there were few women in the classes. By the time I was appointed to the bench, women were approaching equality in enrollment at the law schools. Certainly, this large entry of women into the legal field has eliminated the "lack of candidates" argument.

> ***An increase in sheer numbers of minority lawyers, however, may not solve the problem of underrepresentation of racial and cultural minorities in our justice system. For women and minorities, the trickle up to leadership has been a long, slow, tedious process fraught with barriers, including fear, ignorance, preconceived ideas, ingrained and perpetuated hierarchies.***

Much progress has been made in enrolling minorities in law schools. Law schools which reach out for minority students, like the University of Washington, report statistics in the 30 to 40 percent range for male and female minorities. Enrollment of minority students for the 1993-1994 academic year for the entire student body was 38 percent, according to Dr. Sandra Madrid, Assistant Dean, University of Washington School of Law. (The national average would not compare as favorably.)

An increase in sheer numbers of minority lawyers, however, may not solve the problem of underrepresentation of racial and cultural minorities in our justice system. For women and minorities, the trickle up to leadership has been a long, slow, tedious process fraught with barriers, including fear, ignorance, preconceived ideas, ingrained and perpetuated hierarchies.

Fighting barriers starts with education. In 1987, the National Association of Women Judges sponsored a program for 20 women lawyers in Washington called "You Be the Judge," training women on what it takes to join the judiciary. Over half the women who attended are now members of the bench, including Justice Barbara Madsen, who will become Washington's Chief Justice in three years.

Working with the Minority and Justice Commission, the Asian, Hispanic, Loren Miller and Northwest Indian bar associations, we developed a similar curriculum which was presented in February 1993 to more than 50 attorneys of color. Many of those attending are now in the evaluation process or are candidates.

A premise of these courses is that even in a free and democratic society, the road to public office, especially in the judiciary, can seem to be the product of intrigue, requiring information available only to "insiders." The program, held at the University of Washington School of Law, was designed to take the mystery out of the appointment and election processes and explore the variety of ways in which one can enter and serve in the judiciary.

Participants learned: how to develop and demonstrate qualifications for the judiciary; judicial ethics; bar evaluation procedures; and how appointments are made at various court levels. Basic information on the election process, public-disclosure laws and campaign finance and organization was also covered.

A key component of the program was sponsorship by the judiciary itself. The program was moderated by Justice Charles Z. Smith. More than 18 judges, commissioners and administrative-law judges of color participated as faculty or mentors-judges. The Governor's legal counsel and representatives of several appointing authorities spoke. Chief Justice James Andersen hosted a concluding reception at the home of Acting Chief Justice Barbara Durham for the partici-

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pants, faculty and bar leaders. Afterwards, participants reported that, whether they decide to pursue a judicial career or not, the program benefited them by showing them that the judiciary is not only open to them, but welcoming.

Replication of a specially tailored version of this program for different parts of the state might be particularly helpful to foster representation of minorities on the bench.

Washington's program was unique. Justice Barbara Durham arranged to have the program concept demonstrated at the National Conference of Chief Justices which met here last year. At that meeting, at which all states were represented, only two other states reported to me as having presented a similar program: New York and Georgia.

Educating the *candidates* may not be sufficient. There may also be a need for cultural-awareness education for screening committees, appointing authorities, such as city and county councils, and others who serve as "gatekeepers." There is a natural tendency in groups to prefer those most like themselves. There has been more attention paid in recent years to the composition of the screening committees themselves, to be sure there is diversity not only of race, ethnicity and gender, but also of practice. There are more attorneys from the public sector sitting on screening committees than in the past. This may help minority candidates who may not come from traditional law firm practice and may not benefit from the network effect of such firms. If candidates of color do not make it to the final selection process, it should not be because they suffered from conscious or unconscious bias.

"It is not fair to appoint people to judge *because* they are minority," acknowledged one of the Hispanic attorneys. But if the justice system is to be—and to appear—fair, it is not enough to say it will be only a matter of time. Ultimately, it may require changing the system for selection of judges. In the meantime, there is much work that the bar, the bench, screening committees and appointing authorities can do to educate ourselves and the public we serve to promote and foster inclusion of judges of color.

* * *

Any attorney interested in joining the Hispanic/Latino Bar Association may contact Carmen Delgado at (206) 562-7029.

Racial and Ethnic Diversity in the Work Force of Washington State Courts

by **Vicki J. Toyohara**
Executive Director
Washington State
Minority and Justice Commission

The underrepresentation and—in some counties—the absence of racially, ethnically and culturally diverse employees in Washington state courts were identified as two of the major concerns by the Washington State Minority and Justice Task Force in its 1990 Final Report. The task force, reporting on a 1989 demographic survey conducted by Dr. Jesus A. Dizon, revealed that courts in 21 of our 39 counties:

1. Minorities represent about 12 percent of nonjudicial court employees. However, minorities are not employed in a variety of nonjudicial court positions throughout the various court levels.
2. To the extent that minorities are represented in nonjudicial positions, they are heavily concentrated in the office/clerical category.
3. In 21 counties, four had no minority employees, although minorities are available in the labor pool; 13 had minority employees, but minorities were under-represented in comparison to their availability in the labor pool. (Counties were chosen for composition of minority population and the extent to which one would expect to find minorities available in the local labor pool.)
4. There are numerous positions where minorities are under-represented and many counties where specific minority groups are particularly underutilized.

One recommendation, therefore, was development of a work force diversity program for court personnel.

Several years after the survey, not much has changed.

Many people ask why it is important to have a racially and ethnically diverse work force, since only "qualified" people are hired for court positions. As we move closer to the 21st century, we need to make sure that our justice system can respond to the court users of today and of the next century. Population data from the Bureau of Census, United States Department of Commerce (April 1, 1990), and from a report on population forecasts for Washington state through the year 2010 (Population Forecasts for Race/Ethnic Groups Washington State: 1990-2010, Forecasting Division, Office of Financial Management), predict the following population changes here by the year 2010:

- 59.87 percent increase in Blacks (African Americans) from 149,800 to 239,500
- 52.3 percent increase in Indians (Native Americans) from 81,500 to 124,200
- 146 percent increase in Asian Americans/Pacific Islanders from 211,000 to 519,400
- 152.9 percent increase in Hispanics (Latinos) from 214,600 to 542,800.

At the same time, Washington state will see only an 18.3 percent increase in the White population by the year 2010. The proportionate percentage of the number of people of color will increase from 11.5 percent to 18.36 percent, while the proportionate percentage of the number of Whites will actually decrease from 88.5 percent to 81.64 percent.

Our racial, ethnic and cultural mix will be much more pronounced 16 years from now. The courts will continue to serve a growing racial, ethnic and cultural mix. It is vital that they provide equal and equitable access to the justice system and ensure that justice be dispensed fairly.

Fortunately, our legislators strongly support the Commission in its efforts to eliminate racial and ethnic bias. In 1987,

Washington became the fourth state in the country to establish a task force on racial and ethnic bias in the courts. Today, there are 21 such commissions and task forces nationwide, as well as three in Canadian provinces. These groups, along with the American Bar Association and National Bar Association, comprise the National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Courts, which meets annually to share and discuss accomplishments and issues in their respective states.

By court order in October 1990, the Washington Supreme Court established a permanent Minority and Justice Commission, cochaired by Justices Charles Z. Smith and James M. Dolliver: it implements task force recommendations; conducts research in areas of concern, such as racial disparities in sentencing and prosecutorial decision-making; develops and conducts cultural diversity, work force diversity and other education programs for judges, court administrators and other court personnel; and establishes relations with state, county, local and minority bar associations.

The Work Force Diversity Subcommittee of the Commission, chaired by King County Superior Court Judge LeRoy McCullough, enthusiastically took on the responsibility of addressing the issue of increasing the number of people of color in nonjudicial positions. It successfully completed two projects: a directory and a training program.

The Recruitment/Work Force *Diversity Resource Directory* is a comprehensive, statewide listing of government resources; minority bar associations; racial and ethnic community organizations, churches and religious organizations; media resources; and colleges and universities which provide some type of employment services. This resource tool improves access to ethnic minority communities and people of color. It was published in June 1993 and distributed statewide to presiding judges and court administrators.

Our resource directory also was part of the education materials made available to participants who attended our Recruitment/Work Force Diversity Education Program. A consultant developed and conducted an education program to provide participants with resources, tools and strategies to assist in recruiting, hiring, retaining and promoting people of color in professional and clerical positions in their respective courts; to improve existing hiring, retention and other personnel practices in a proactive manner to achieve racial and ethnic diversity; to respond to and address personnel issues in the courts on a local or regional basis; and to identify racial and ethnic minority communities throughout the state and employ networking resources available in those communities.

Our proposed education program on recruitment/work force diversity was met with overwhelming support by the Board for Trial Court Education and its board of trustees; the Superior Court Judges' Association (King County Superior Court Judge Donald D. Haley, president); the District and Municipal Court Judges Association (Chelan County District Court Judge Thomas C. Warren, president); and the District and Municipal Court Management Association (Snohomish County's South District Court Administrator Carol J. Wilson, president). It was included in the 1994 spring judicial conference program for superior court judges, county clerks, juvenile and superior court administrators in Blaine on April 19. We also conducted the program for district and municipal court judges and administrators in Pasco on May 18.

Has this education program been truly successful? Has it influenced the workplace? Several judges and administrators have said that many of our participants continue to be enthusiastic and inspired by what they learned in our education program, and that the courts are engaging in proactive initiatives and efforts, through individuals and committees, to implement changes in the way prospective employees are found, interviewed, hired and retained.

These are our court leaders. It is they who will move our court work force to mirror the racial, ethnic and cultural diversity of our state population.

CALENDAR

Business Advisory Services Inc. (206) 223-5400
CLE International (206) 621-1938
Idaho Law Foundation (208) 342-8958
King County Bar Association CLE (206) 340-2579
Northwestern School of Law of Lewis & Clark College (503) 768-6642
National Business Institute Inc. (715) 835-7909
National Institute of Trial Advocacy (NITA) (800) 225-6482. BBS registration, messages, etc.: Set communication program to 8 bits, no parity, 1 stop bit, then call (219) 234-7348.
Spokane County Bar Association (509) 623-2665
Tacoma-Pierce County Bar Association (206) 383-3432
University of Washington School of Law (UW CLE) (206) 543-0059; (800) CLE-UNIV
Washington Association of Prosecuting Attorneys (WAPA) (206) 727-8202
Washington State Bar Association CLE (WSBA CLE) (206) 727-8202
Washington State Trial Lawyers Association (WSTLA) (206) 464-1011, (800) 732-9251

August 1994

1 Applications due, United Kingdom Fulbright Award in European Community Law. *Contact* CIES (202) 686-7878.

5 Seattle: Depositions. *Sponsored by* WSBA CLE.

5 Spokane: Advising the Small Business. *Sponsored by* WSBA CLE.

12 Seattle: Advising the Small Business. *Sponsored by* WSBA CLE.

15 Deadline for October 1994 *Bar News*.

19 Seattle: New Probate Code Amendments. *Sponsored by* WSBA CLE.

31 WSBA Judicial Recommendation Committee questionnaires due by 5 p.m. *For information:* (206) 727-8200.

September 1994

7-9 Seattle: Northwest Deposition Program. *Sponsored by* NITA.

8 Seattle: WSBA Board of Governors meeting.

9 Seattle: WSBA Annual Meeting and CLE, Sheraton Hotel.

15 Deadline for November 1994 *Bar News*.

16 Seattle: Administrative Law. *Sponsored by* WSBA CLE.

16 Seattle: Workers' Compensation. *Sponsored by* WSBA CLE.

16-17 Seattle: 8th Annual Western Regional Indian Law Symposium. *Sponsored by* UW CLE.

16-17 SeaTac: First Annual Criminal Justice Institute. *Sponsored by* WSBA CLE.

22 Seattle: Employee Benefits Conference. *Sponsored by* WSBA CLE.

23 Spokane: Advising the Injured Worker. *Sponsored by* WSBA CLE.

23 Seattle: Environmental Issues in Busines and Real Estate Transactions. *Sponsored by* WSBA CLE.

24 Seattle: 4th Annual Northwest Alternative Dispute Resolution Conference. *Sponsored by* UW CLE/WSBA ADR Section.

24 Seattle: The Efficient Assistant, *Sponsored by* American Management Association. *For information:* (800) 821-3919.

23-25 Alderbrook: TPCBA Annual Convention. *For information:* (206) 272-8871.

30 Seattle: Water Law. *Sponsored by* WSBA CLE.

30 WSBA Judicial Recommendation Committee interviews. *For information:* (206) 727-8200.

30 Seattle: Basic Mediation Skills Training Certificate Program. *Sponsored by* UW CLE. **Continues Oct. 2, Oct 8- 9.**

October 1994

7 Seattle: Estate Planning Skills Training Certificate Program. *Sponsored by* UW CLE. **Continues Nov. 4, 18, Dec. 2.**

14-15 Yakima: WSBA Board of Governors meeting.

15 Deadline for December 1994 *Bar News*.

November 1994

9 Seattle: Roberta Cooper Ramo, ABA president-elect; King County Washington Women Lawyers President's Leadership Award luncheon. *Contact:* Jill Patterson, (206) 454-3313.

15 Deadline for January 1995 *Bar News*.

December 1994

2-3 Seattle: WSBA Board of Governors meeting.

15 Deadline for February 1995 *Bar News*.

COMMITTEE APPOINTMENT OPPORTUNITIES FOR WSBA MEMBERS

The WSBA Board of Governors is called upon to make appointments to various boards, commissions and committees listed below. These vacancies are in addition to those on WSBA standing committees, for which a separate mailing goes out to each member annually. Some timeframes for application are shorter than others as a result of the need to start this service at some point in time and the desire to include as many openings as possible. Over time, all openings will be listed at least three months ahead of Board action.

Members are encouraged to apply for any and all positions that are of interest. Applications may be directed to Dennis P. Harwick, Executive Director, WSBA, 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599, or to members' representatives on the Board of Governors. Members of the Board of Governors, the congressional or other districts they represent, and their city of residence are listed on the masthead of the *Bar News*.

Board for Judicial Administration (BJA):

One Seat (Call for applicants-September; Board action-November)

The term of Ronald M. Gould (Seattle) expires December 31, 1994. There is no set term (terms coincide with the term of office of each member, most of whom are judges), but the Board prefers that individuals serve two to three years for continuity. Meetings expenses are paid by the BJA. For a description of the BJA, see Board for Judicial Administration Rules (BJAR) in the Supreme Court's Rules of General Application.

Legal Foundation of Washington Board of Trustees:

Two Seats
(NOTE CHANGE IN BOARD ACTION DATE: Call for applicants-September; Board action-October)

The two-year terms of Rebecca Baker (Republic) and William P. Bergsten (Tacoma) expire December 31, 1994. The Foundation manages and disburses the interest earned on lawyers' pooled trust accounts (IOLTA). The funds go to support legal-assistance and education programs in Washington. Qualifications are knowledge of, and interest in, access to justice for low-income persons and a willingness to devote the time required to carry out the Foundation's duties. The Board meets five to six times per year for full-day meetings. Committee meetings may require additional time. Meeting expenses are paid by the Foundation. The open terms commence January 1, 1994, and end December 31, 1995. Trustees are eligible for appointment to one additional term, for a total of four years' service.

Notices of Interest to WSBA Members

WSBA Attorney Discipline

Censured: Seattle lawyer **Richard George Gawlowski** (WSBA #19713, admitted 1990) has been ordered censured by order of the Supreme Court of Washington dated May 12, 1994. The order is pursuant to RLD 12.6 and the discipline imposed by the Supreme Court of Arizona on February 9, 1994. The discipline is based upon his lack of diligence, his failure to expedite litigation, and his failure to communicate with his clients. [June 10, 1994]

Reprimanded: Seattle lawyer **Glen D. Mark** (WSBA #13254, admitted 1991) has been ordered reprimanded by order of the Supreme Court of Washington dated May 24, 1994, pursuant to RLD 12.6 and the discipline imposed by the Supreme Court of Alaska on June 9, 1993. The discipline is based upon his failure to adequately notify his clients of the closure of his practice; his failure to avoid foreseeable prejudice to his clients' interests; his failure to withdraw as attorney of record; and his failure to properly dispose of a client file. [June 14, 1994]

Reprimanded: Pursuant to a stipulation, Everett lawyer **Paul John Novack** (WSBA #13380, admitted 1983) was ordered reprimanded. The reprimand is based upon Novack's acting in a conflict of interest by filing suit on behalf of one client against a former client in the same matter without obtaining the permission of the first client in violation of RLD 1.1(i) and RPC 1.9(a). [June 22, 1994]

Commission on Judicial Conduct Decision

Order of Reprimand and Closure: On June 3, 1994, at an open session, the Commission on Judicial Conduct reprimanded Grant County District Court Judge **Edward W. Allan** for intemperate behavior and accepted an agreement for him to resign. The agreement closed a proceeding in which the Commission alleged, and Allen denied, other incidents of misconduct.

By stipulation the parties agreed that while serving as a judge, Allen committed acts of judicial misconduct contrary to Canons 1, 2, 3, and 7 of the Code of Judicial Conduct. (A) During the years 1988-1990, he engaged in intemperate behavior toward his benchmate, Judge Carl Warring, consisting of written notes and oral comments witnessed by other persons. (B) He made derogatory remarks about defendants within the hearing of court personnel and other persons. (C) He verbally abused court personnel or made derogatory comments about them to third persons. (D) He made comments of a sexual nature which were regarded as vulgar and unwelcome. (E) He displayed a lack of impartiality in his administrative duties regarding personnel. (F) He asked court employees under his supervision and control to engage in support of his reelection campaign during court time.

The Commission found no evidence that the aforementioned conduct affected any decision rendered by Allen while serving as a judge. The Commission believes it has evidence to substantiate Allegations B, C, D, E and F, however, the Respondent denies those allegations.

With regard to Allegation A, intemperate behavior towards his benchmate, Allen agreed and stipulated to accept the Reprimand imposed by the Commission and will not contest the Commission's determination as to the facts set forth above and imposition of the reprimand.

Judge Allen agreed he will resign from office effective December 31, 1994. In exchange for that resignation, the Commission closed further proceedings in this matter. The Order of Closure was based on Allen's stipulation that he will not seek or serve in any judicial office in the future.

Based upon these stipulations, the Commission ordered closure of the complaint, having found that Allen's conduct violated Canons 1, 2, 3, and 7 of the Code of Judicial Conduct. James M. Danielson represented Allen. Mary Alice Theiler represented the Commission. *In re the matter of Hon. W. Edward Allen, Grant County District Court*, No. 92-1257-F-44. [June 3, 1994]

Public Notices

Legal Foundation of Washington Applications Available:

The Legal Foundation of Washington has announced its 1995 annual grant application is now available. The Foundation focuses its funding on legal-service programs and volunteer attorney representation programs in Washington that will benefit low-income persons. To obtain an application, contact the Foundation in Seattle at (206) 624-2536. Applications must be postmarked by August 31, 1994.

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 July 1994 is 4.92%. ***The maximum allowable interest rate permissible for August 1994 is therefore 12%.***

Compilations of the average coupon

equivalent yields from past auctions of 26-week treasury bills, and past maximum interest rates for the last ten years appear on page 48 of the June 1994 *Bar News*.

Criminal Law Section:

The annual meeting of the Criminal Law Section will be held on September 9, 1994. To promote greater participation in the electoral process, the Executive Committee amended the section bylaws to provide for balloting by mail for the annual elections.

The following positions are open: chair-elect, secretary-treasurer (one year each); two prosecution positions and two defense positions in the Executive Committee (three years each) and an additional defense position with a one-year term.

A list of nominations has previously been mailed to section members. Any additional nominations must be supported by ten signatures of section members and submitted to the Executive Committee by August 9. Ballots will be mailed by August 19.

For further information, please contact Bill Redkey, (206) 553-7970; Jon Scott Fox, (206) 451-1995; or Jim Walker, (206) 443-1100.

Notice of Hearing on Petition for Reinstatement:

A petition for reinstatement after disbarment has been filed on behalf of **Robert J. Banghart**, who was disbarred on June 27, 1988. At the time of his suspension and disbarment, Banghart practiced in Bremerton.

The hearing will be held before the Character and Fitness Committee on August 27. On or before the date of the hearing, anyone may file a written statement for or against reinstatement, setting forth factual matters showing that the petitioner does or does not meet the requirements of RLD 9.6(a). Except by its leave, no person other than the petitioner or petitioner's counsel shall be heard orally by the Character and Fitness Committee.

[Notice pursuant to RLD 9.5(a).]

WSBA Judicial Recommendation Committee to Schedule Interviews:

The WSBA Judicial Recommendation Committee is currently accepting applications from attorneys and judges seeking consideration for appointment to fill potential appellate court vacancies. Interested candidates will be interviewed by the Committee at its fall meeting to be held on or about Friday, September 30, 1994. The deadline for receipt of questionnaires by the WSBA offices is 5 p.m., Wednesday, August 31, 1994.

The Committee's recommendations are reviewed by the WSBA Board of Governors and then referred to the Governor for review when appointments are made to fill vacancies on the Washington Court of Appeals and Supreme Court.

If you are interested in scheduling an interview, please contact the WSBA at 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599, telephone (206) 727-8200, to obtain a questionnaire. Please specify whether you need the questionnaire designed for a judge or an attorney.

Notice of Public Hearing: WSBA Resolutions Committee

Friday, September 2, 1994—1:30 p.m., Washington State Bar Association Office, 500 Westin Building, 2001 Sixth Avenue, Seattle, WA

The Resolutions Committee of the Washington State Bar Association (WSBA) will conduct a public hearing on the resolution shown below received in accordance with Article VII of the WSBA Bylaws. The public hearing will begin at 1:30 p.m. on Friday, September 2, 1994, in the President's Room on the 4th Floor of the Westin Building at 2001 Sixth Avenue, Seattle, WA. Proponents and opponents of the resolution are urged to attend the hearing or to present their views in written form for consideration by the Resolutions Committee by sending their comments to the Executive Director, WSBA, 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599.

The Resolutions Committee will recommend approval, rejection, or amendment of the resolution, which will then be debated at the Annual Business Meeting of the WSBA, which will be held on Friday, September 9, 1994, beginning at 2:30 p.m. in the Seattle Sheraton in Seattle. The members of the WSBA Resolutions Committee are: John G. Schultz (chair), David D. Hoff, Gary D. Gayton, Jon C. Iverson, James T. Johnson, Jill R. Kurtz, Edward N. Lange, Teresa M. Morris, John M. Riley III, Stanley D. Tate, Phillip Thom, and Ted D. Zylstra.

RESOLUTION TO LIMIT USE OF MANDATORY FEES

Be it resolved: Effective October 1, 1996, the Washington State Bar Association shall not use the revenue it derives from mandatory dues assessments except to administer and carry out functions necessary to regulate the practice of law in Washington State, to-wit, admissions (including the bar examination), licensing, discipline, and monitoring compliance with continuing legal education and trust account regulations.

Statement in Support of Resolution

The Washington State Bar Association represents a number of conflicting interests, none of which is being served well. The state bar has assumed the responsibilities of a regulatory agency, a trade union, a professional society, and a defender of the courts as if there were no significant differences among these various, legitimate interests, and as if it need not answer for its performance in any one respect because its intentions are good.

The resolution would limit the use of mandatory fees to regulatory purposes. It follows the example of the District of Columbia Bar, whose membership restricted the use and amount of mandatory dues during the early 1980s. See, 431 A.2d 521 (D.C. App. 1981). Its objective is to meet the bar's public responsibilities from its mandatory fees, while encouraging the development of a voluntary bar, supported by voluntary dues, fees, and contributions, which would be responsible to and representative of the state's lawyers.

It is not just a good idea, it is the law. Lawyers are entitled to have their dues payments limited to purposes which serve important or compelling state interests. *Keller v. State Bar of California*, 496 U.S. 1 (1990). The WSBA has trivialized the *Keller* decision, treating it as if it stood for nothing more than the right to a (nominal) refund of bar dues for narrow political reasons. The WSBA is wrong. *See, Chicago Teachers Union Local No. 1 v. Hudson*, 475 U.S. 292 (1986). The resolution affirms the fundamental First Amendment principles upon which *Keller* is based.

The resolution would not take effect until October 1, 1996. That is time enough for the state's lawyers to determine, by democratic procedures, how they want the Bar to be run.

SHOULD THE WSBA CONTINUE AS A UNIFIED BAR? YES!

by **Joseph P. Erickson**
WSBA Governance Task Force

The most appropriate message to send to the public is that Washington state lawyers serve in the public interest. The fundamental purpose of the law is to promote the common good through the attainment of justice. That purpose is of obvious public concern. Our unified bar administers at minimal cost in dues to individual lawyers numerous programs that serve the public's interest in the legal system. WSBA programs such as Access to Justice/Pro Bono Support, the Client Security Program, the Legislative Program, and BBS are just a few examples. A unified bar signals our acceptance of responsibility to the public. The Bar Association holds the public trust as much as individual lawyers do. A withdrawal into a voluntary bar association, on the other hand, conveys to the public the image of a trade association. A purely voluntary association will inevitably tend to eliminate those publicly oriented programs that do not directly address the parochial interests of its members. The formation of a voluntary association will sever the Bar Association's purely regulatory functions of admissions and discipline from its public-interest programs. This proposed severance will, unfortunately, transmit the message that attorneys are interested only in a minimal commitment to the public's welfare. The isolation of admissions and discipline from other Bar Association programs will also spotlight admissions and discipline for regulation by the Legislature.

Proponents of a voluntary association are like generals preparing to fight the last war. The 1992 dues referendum trimmed questionable WSBA programs. The *Keller* decision provides protection against the use of compelled dues for those who disagree with positions advanced by a mandatory bar. Little, if any, thought has been given to the future development and organization of a voluntary association by those who propose it. That absence of planning is one of the reasons why the WSBA Task Force on Governance rejected the idea of a voluntary association by a preliminary vote of twelve to one.

A unified bar projects a sense of community among all lawyers in the state; it is a counterbalance to the fragmentation of the profession from both practice area and voluntary associations. The notion of "choice" is an appealing aspect of a voluntary association. But even in a voluntary association, not every member will at all times agree on the expenditure of funds for all programs. Fewer than 50% of the lawyers in the New York bar belong to its voluntary statewide association. A unified bar can speak with one voice for all lawyers in the state.

The WSBA is not perfect. It needs to do much more to address the needs of general practitioners, government attorneys and attorneys practicing out of state. And the WSBA hasn't done a good job of letting its members know the numerous things it does for them and on their behalf. But that doesn't mean that we should lose sight of all the impressive deeds that the WSBA has accomplished for its members and for the public. The current cost of belonging to the WSBA is 53 cents a day per member. If our unified bar did not exist in its present form, it would have had to be created.

***Joseph P. Erickson** is a sole practitioner in Kennewick. He is a member of the WSBA Task Force on Governance and former chair of the General Practice Section.*

See the facing page for the opposing point of view:

SHOULD THE WSBA CONTINUE AS A UNIFIED BAR? NO!

by **Rick Ockerman**
WSBA Governance Task Force

Finding myself to be the lone voice on the Governance Task Force favoring a split (voluntary) bar, it falls to me to argue why such a system is preferable to the existing system or other alternatives. A split bar continues the mandatory functions of admission, discipline, and mandatory CLE compliance under aegis of the Washington Supreme Court, which delegates the matters to a state bar association, to which all attorneys must belong, as now. However, other existing or future programs and functions would be handled by a separate, voluntary association with its own dues structure.

The most compelling reason for a split bar is that of choice. Although philosophical in nature, the guaranty of individual choice, protected from the tyranny of the majority, has always been the most fundamental and protected right in our legal system. It is ironic that an association founded by lawyers, for the benefit of lawyers, has ignored the very concept of individual right of choice that so many of us argue and fight for on behalf of our clients.

Beyond the esoteric and philosophical, there are sound pragmatic reasons for a split bar, not the least of which is a reinvented association that actively seeks to address the concerns of all its members. A voluntary bar better serves its members' needs. The most compelling example is that of the Wisconsin Bar. For a few years, Wisconsin attorneys had a split bar because the Federal District Court dissolved the mandatory bar (a decision later reversed by the Court of Appeals). The new voluntary bar association became much more sensitive to its members and their real needs. Bar staff and officers made a concentrated effort to reach out beyond Milwaukee and Madison to more rural attorneys and those with government jobs. Because this new association became subject to normal market forces, it became willing to consider changes that had been ignored for years.

Instead of a mass migration away from the voluntary bar association, more than 80 percent of its mandatory membership continued. The bottom line was that meaningful value was being provided for the dollars assessed, and the members responded accordingly. The lessons learned from the split bar have continued in its reincarnated mandatory bar. But, as one of the Wisconsin Bar members who spoke to us admitted, the Bar's responsiveness to member needs would not have happened without the voluntary system having been forced upon them.

Because dollars and cents motivate many of our decisions, I looked carefully at what appear to be the actual mandatory costs of our present association. Far from being 75 to 90 percent of what we pay, as is often times thrown around, the real cost of mandatory functions are about $100 per member per year. Add to this figure another $25 per member per year for the client security fund, and a realistic mandatory bar association cost would be about $125 per member per year. In fact, this assessment would probably provide more money for discipline, admission, CLE compliance and client security than is presently allocated.

The new voluntary bar can anticipate fewer members than the mandatory bar, so they would probably pay more than the $195 we now pay to belong to the split bar. A voluntary-bar member would probably pay another $125 per year for those services in addition to the mandatory assessment. Frankly, I would gladly pay a little more to belong to an association more sensitive to my individual concerns and needs in the practice of law, as was the case in Wisconsin.

Although an effort recently has been made toward inclusiveness, not every bar president is a Paul Stritmatter. I do not believe that the needed changes in our association can be accomplished within the present governing structure. Only a voluntary bar can adequately meet our needs. If they are not met, an attorney should be free to join another association and not be forced to remain captive of what that attorney perceives as an unresponsive bar. Choice and free-market checks and balances are the best alternatives available to the regular rank-and-file member.

In arriving at my personal conclusions in this debate, I have rejected the arguments aimed at the fears of the members, such as massive dues increases, legislative control over discipline, and the abandonment of many good programs that exist outside of the mandatory functions. These arguments do not bear up under the scrutiny of the actual facts and figures. Complete destruction of our known way of life (and modern legal civilization) will not result from a split bar. To the contrary, the examples of Virginia's split bar and Wisconsin indicate that the mandatory functions will become stronger and more efficient, while the voluntary functions will become more meaningful and of greater practical use. These desired results can best be obtained through a split/voluntary bar.

* * *

Rick Ockerman *is a partner in the Kirkland firm of Green and Ockerman. He is past chair of the WSTLA Commercial Torts Section.*

Education and Work: Cultural Diversity and Emerging Labor Needs

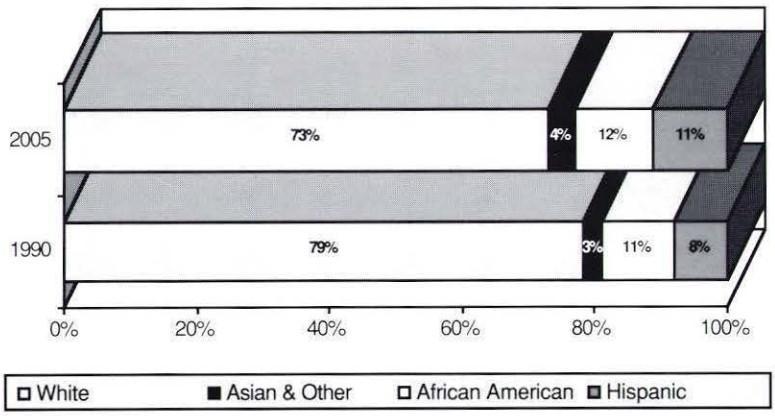
by **Charles Oliver Russell,** *Ph.D.*

Continuing change in the demographic composition of the population and the influences of change upon the American labor force have generated extensive commentary in recent years. Management literature abounds with discussions of the challenge of managing a diverse labor force.

Changes In Labor Force Composition

These observations about composition and management challenges of the future labor force are true. It will be much more diverse: African-Americans, Hispanics, Asians and other racial groups will account for roughly 35 percent of all labor force entrants from 1990 to 1995.[1] Women will also continue to join the work force in increasing numbers. From 1990 to 2005, the number of women in the labor force will increase faster than the total labor force. By 2005, women will constitute 47 percent of the labor force.[2]

Labor Force Diversification



Parallel Economic and Population Trends

Parallel changes in job requirements are occurring concurrently with the demographic shifts. These changes appear destined to affect both the number and types of people who will hold the jobs.

These parallel trends are:

- Projected rates of employment growth are faster for occupations requiring higher levels of education or training than for those requiring less.
- Office and factory automation, changes in consumer demand and substitution of imports for domestic products will cause employment to stagnate or decline in those occupations that require little formal education.
- In recent years, the educational attainment of the labor force has risen dramatically. From 1975 to 1990, the proportion of labor force aged 25 to 64 with at least one year of college increased from 33 to 47 percent. During the same year, the proportion of the labor force aged 25 to 64 with four years or more of college increased from 18 to 26 percent.
- African-Americans and Hispanic-Americans continue to lag behind Whites and Asian-Americans in educational attainment.

Job Skills and Educational Requirement

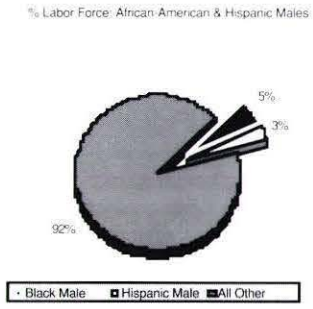
Employers, generally, are demanding higher job skills and greater education. The emphasis on education will continue. Three of the fastest-growing occupational groups will be executive, administrative and managerial. Other rapidly growing occupations will be in the areas of professional specialties and technical-support groups.

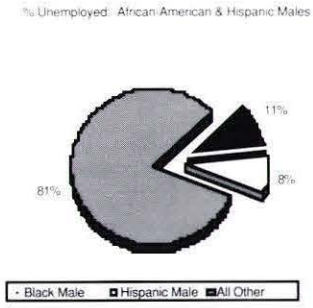
Occupations requiring little formal education will become increasingly scarce. There will be few job opportunities for high school dropouts. People who cannot read and follow directions will probably not be considered for most jobs. Employed high school dropouts are more

likely to have low-paying jobs with little potential for advancement. Workers in occupations with higher education requirements will have higher income levels.

The Educational Attainment of African-American And Hispanic Males

Two groups negatively affected by these labor market changes will be African-American and Hispanic males. Combined, they comprise about eight percent of the labor force and 18 percent of the total unemployed.[3]





In 1992, African-American males had median weekly earnings of $336 in 1992, and Hispanic males had median weekly earnings of $303. African-American earnings were about 65 percent of those of white males, and earnings of Hispanic males about 58 percent.

These two populations also have the lowest percentage of high school and college graduates. Further, since 1985, the educational attainment rate of African-American and Hispanic males has slowed noticeably.[4] In 1960, just 18 percent of African-American males had high school diplomas and only three percent had four or more years of college. In the 25 years from 1960 to 1985, the percentage of African-American males with high school diplomas grew to 58.4 percent, a growth rate of 1.6 percent per year. The percentage of African-American males with four or more years of college grew to 11 percent, a growth rate of 0.34 percent per year. Since 1985, these rates have slowed dramatically. The percentage of African-American males with high school diplomas increased just nine percent from 1985 to 1992, a growth rate of only 1.07 percent per year. The percentage of African-American males with four years or more of college increased from 11 to 12 percent during the same period.

Information regarding the educational attainment of Hispanic males is not available for the period prior to 1980. However, in 1992, just 54 percent of Hispanic males had high school diplomas, and only ten percent had four or more years of college.[5]

In 1992, 80 percent of the general population and 81 percent of the white males had high school diplomas. Twenty-four percent of the general population and 25 percent of the white males had four years or more of college in 1992.[6] The latter figure is more than two times greater than the educational attainment of African-American males and almost three times greater than that of Hispanic males.

Considerations and Implications

The apparent slowdown in the educational attainment of African-American and Hispanic males tends to contradict many earlier observations regarding the nature of tomorrow's work force. Increased automation, higher educational requirements and greater educational attainments on the part of Whites, Asians and females are factors that will substantially reduce the ability of African-American and Hispanic males to compete for mainstream jobs. Unless there are substantial changes in current educational trends, larger numbers of African-American and Hispanic males will be relegated to low-end jobs and increasing unemployment.

The observations made here are cursory in nature and hardly definitive. They are sufficient, however, to highlight a problem area that remains relatively undiscussed. The demands of the labor market are changing, and two significant segments of the labor force are becoming less able to respond to those changes. Methods must be found to stimulate greater educational participation and achievement on the part of African-American and Hispanic males. Failure to find and implement these methods could augment isolation and frustration among these two major segments of the minority population. A diverse labor force has little meaning if that diversity is not distributed throughout the length and breadth of the nation's occupations and industries.

Endnotes:

[1] U.S. Department Of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 1992-93 Edition.

[2] *Ibid.*

[3] U.S. Department Of Commerce, Bureau of the Census, *Statistical Abstract of the United States 1993*, "Table 646, Occupation of Employed Civilians by Sex, Race and Educational Attainment: 1992," page 409.

[4] U.S. Department Of Commerce, Bureau of the Census, *Statistical Abstract of the United States 1993*, "Table 231: Educational Attainment By Race, Ethnicity and Sex: 1960 to 1992," page 153.

[5] *Ibid.*

[6] *Ibid.*

* * *

Charles Oliver Russell *is Professor of Economics at the School of Business and Economics, Seattle Pacific University.*

WSBA
Annual Meeting
September 9
12:15
Awards Luncheon
[for reservations,call (206) 727-8213]
2 p.m.
Business Meeting

September 16 and 17
At the Doubletree Suites
Near the SeaTac Airport

Policy Forum on Funding . . . Gang School for the Rest of Us . . . Analyzing the Fallout . . .

WHAT'S IT ALL ABOUT?

by **William H. Redkey, Jr.**
Institute Co-chair
and **Diane de Ryss**
Director of WSBA CLE

"It" is the Washington Criminal Justice Institute.

The WSBA CLE Department, CLE Committee, and Criminal Law Section are planning this unprecedented educational opportunity for prosecutors, defense counsel, judges, law enforcement officers and others working in the criminal justice system. Our program is modeled on Minnesota's Criminal Justice Institute, now in its 28th year and annually attracting over 900 registrants.

A CLE Seminar that Goes Beyond Education—and Beyond the Legal Community

Our goal is ambitious: bring together people from throughout our state's criminal justice system for a comprehensive, multi-disciplinary seminar.

While in-depth education is the driving force, we have also worked hard to ensure that the program is a catalyst for communication, an opportunity to analyze public policy and a forum for exploring conflicting opinions. Our work has the support of the Washington Association of Superior Court Judges, the District and Municipal Court Judges Association, the Washington State Council of Police Officers, the Washington State Law Enforcement Association, and the Washington Council on Crime & Delinquency.

The Institute is aiming for the same unqualified success as the Minnesota model. William K. Finney, Chief, and Edward J. Steenberg, Deputy Chief, of the City of St. Paul Police Department comment: "You have chosen a very successful model as an example of how the diverse professionals within the greater system can cooperate and grow through collaboration."

A Catalyst for Communication

We embarked on this program, at least in part, to break a mold. Prosecutors and public defenders—as do others in the criminal justice system—often isolate themselves. The compartmentalization of the system means people frequently have little understanding of the links in the chain before or after their own. At times, defense attorneys and prosecutors even exclude one another from their CLE seminars.

While such exclusionary seminars have a role, the Criminal Justice Institute promotes an unparalleled opportunity for traditional adversaries to meet with, talk to and learn from one another. Plenary sessions have been designed to appeal to prosecutors, defense counsel and other criminal justice professionals.

On Friday, Chief Justice James A. Andersen of the Washington Supreme Court will launch the opening plenary session with an analysis of *Challenges Confronting the Criminal Justice System*. With his unique perspective of our state's problems, he will spell out the demands on a structure begging for attention.

On Saturday, Judge Charles E. Moylan, Jr., one of the country's foremost Supreme Court analysts, will present *U.S. Supreme Court Decisions in Review*. Regularly described as a compelling speaker and marvelous teacher, Moylan is respected as an author, lecturer and jurist from the Maryland Court of Special Appeals.

Both Andersen and Moylan will raise questions and spark discussion among the diverse group of registrants to provide the springboard for further informal conversations—an invaluable component of any successful professional gathering.

An Opportunity to Affect Public Policy

In an additional plenary session, we have provided a neutral forum for those who may not agree, but who share a concern about improving the criminal justice system in this state. For example, we deliberately stepped beyond discussions of substantive law and procedural issues to assemble a panel of policy makers to debate and discuss: *Funding the Criminal Justice System—Challenges, Resources and Priorities.*

Joining us for this Policy Makers Forum is a group of local and state leaders with strong opinions on how available resources should be spent. Panelists include U.S. Attorney Kate C. Pflaumer; ranking minority member of the House Judiciary Committee State Rep. Mike Padden; chair of the Senate Law and Justice Committee State Sen. Adam Smith; president of the Washington Defenders Association and director of the Public Defenders Office in King County Robert C. Boruchowitz; Snohomish County Prosecutor Seth R. Dawson; Federal Public Defender Thomas W. Hillier; City of Seattle Anti-Violence Project Director Dale H. Tiffany; Metropolitan King County Councilmember Jane Hague; and Department of Corrections Secretary Chase Riveland.

With the array of opposing viewpoints, the Policy Makers Forum promises to be a vigorous exchange of ideas, criticisms and solutions about such things as privatization, realigning federal, state and local spending priorities, and the age-old debate of incarceration v. rehabilitation v. prevention.

An Airing of Conflicting Views

Equally compelling is our Policy Makers Forum, *Gang School for the Rest of Us*. Panelists drawn from police department gang units and others working on gang issues will look at the dynamics leading up to gang membership, what the corrections system can do for or with gang members and the role of the community.

All of these plenary sessions—Justice Andersen's address on challenges facing the system, Judge Moylan's analysis of Supreme Court decisions, the Policy Makers Forum on Funding, and Gang School for the Rest of Us—cover issues and education that touch all segments of the criminal justice system.

Pragmatic Educational Workshops

Our core planning committee—Assistant U.S. Attorney William H. Redkey, Jr., Tacoma defense attorney Monte E. Hester and King County District Court Judge Rosemary P. Bordlemay—is acutely aware that systemic and societal problems must be debated and discussed by the people working in the criminal justice system.

But they also recognize that everyone must get up in the morning and face cases, clients, courtrooms and witnesses.

The Institute responds by offering three sets of five concurrent workshops—15 separate choices in all. Registrants, whether prosecutors, defense counsel, social services workers or law enforcement officers, can build their own seminar, attending sessions geared specifically to their interests. They will also have an excellent opportunity to "cross-train" and learn about challenges facing others working in the system.

Workshop sessions include state and federal sentencing, victim and witness rights, the mentally ill offender, working with the news media, DNA and crime lab developments, pre-trial diversion, community policing and the 1994 DWI amendments.

Two workshops will focus specifically on a major piece of state legislation and a controversial initiative adopted this past year. In *Analyzing the Fallout, Part I*, we take a hard look at the new youth antiviolence legislation. During this workshop, we will consider a comprehensive approach to youth, juvenile justice and juvenile crime and the impact of the new legislation. Where does it lead us? Will it work? Are there supplemental solutions and choices to be made among prevention, reform, sentencing and restrictions?

In *Analyzing the Fallout, Part II*, we look at our state's Three Strikes and You're Out initiative passed by the voters this past fall. Major protagonists from both sides of the debate leading up to the voting on this controversial issue will review nearly a year of history on the new law and consider the impact of the pending federal law.

The Criminal Justice Institute promotes an unparalleled opportunity for traditional adversaries to meet with, talk to and learn from one another. Plenary sessions have been designed to appeal to prosecutors, defense counsel and other criminal justice professionals.

One additional plenary session offers further fundamental education. We are pleased to welcome Judge Ronald Kessler of the Municipal Court of Seattle—author of the *Criminal Caselaw Notebook* and member of the WSBA Court Rules Committee—who will give a comprehensive *Washington State Case Law Update*.

Breaking Down Barriers

The Institute offers all registrants the opportunity for informal discussion of common concerns. Sometimes the greatest learning happens during breaks, at lunch, or at a reception. The germ of an idea planted in a workshop may flourish in a discussion over coffee. Professionals from all of the different disciplines can meet informally and in a congenial setting to improve communication and gain greater respect and appreciation for each other's work.

An Effort to Improve the System with Communication and Education

Professor C. Paul Jones from the William Mitchell College of Law, and one of the initial planners of the Minnesota Institute—the model for Washington's Institute—comments about professionals working in the criminal justice system:

> "We have a lot in common. In our respective disciplines we each study and apply the same United States Supreme Court's and other courts' decisions. We deal with the same ballistics, handwriting, DNA and other crime lab type of evidence. We interview . . . examine and cross-examine witness . . .We are all subject to the same rules of evidence and criminal procedure. . . .
>
> [By attending the Institute] we have not given up our individual disciplines. To the contrary, each of us has improved the common sense, even hard nosed, exercise of our respective disciplines or roles in the criminal justice system."

WSBA CLE and the Criminal Law Section are proud to bring to Washington our own Criminal Justice Institute and make a positive contribution to improving the criminal justice system in this state.

For additional information about the Institute, contact WSBA CLE Director Diane de Ryss or Associate Director John Redenbaugh at (206) 727-8202.

See page 44 for distinguished-faculty listing

September 16 and 17
At the Doubletree Suites
Near the SeaTac Airport

Policy Forum on Funding . . . Gang School for the Rest of Us . . . Analyzing the Fallout . . .

Criminal Justice Institute

The Distinguished Faculty Includes:

Chief Justice James A. Andersen – Washington Supreme Court
State Rep. Marlin J. Appelwick – 46th District State Representative, Appelwick, Trickey & Lukevich
Susan C. Arb – Yakima County Prosecuting Attorney's Office
Simmie A. Baer – Office of the Public Defender
Curt Benson – Public Information Officer, Pierce County Sheriff's Office
Lt. Tor Bjornstad – Olympia Police Department
Prof. David Boerner – UPS School of Law
Robert C. Boruchowitz – President of the Washington Defenders Association/Director of the Law Office of the Public Defender
Anne Bremner – Stafford Frey Cooper
Hon. Bobbe J. Bridge – King County Superior Court
John Henry Browne – Browne & Ressler
Jacalyn D. Brudvik – Society of Counsel Representing Accused Persons
Ruben L. Cedeño, Ph.D. – Director, Division of Offender Programs, Department of Corrections
Howard C. Coleman – President, GeneLex Corporation
Hon. Karen B. Conoley – Kitsap County Superior Court
Douglas L. Cowan – Cowan, Hayne & Fox
Arthur D. Curtis – Clark County Prosecuting Attorney
Craig S. Daly – Court Services Coordinator, King County Department of Youth Services
Seth R. Dawson – Snohomish County Prosecuting Attorney
Gene S. Dupuis – Juvenile Probation Counselor, Department of Youth Services
Suzanne Lee Elliott – Washington Appellate Defender
Beverly Emery – Executive Administrator, Office of Crime Victims Advocacy
Jana Ewing, Ph.D – Mental Health Professional, Department of Youth Services Health Clinic – Seattle
Larry Fehr – Executive Director, Washington Council on Crime and Delinquency
Robert B. Gould – Law Office of Robert B. Gould
Jane Hague – Council Member, Metropolitan King County Council/Chair of Law, Justice & Human Services and Regional Policy Committees
Hon. Donald D. Haley – King County Superior Court
Hon. Robert L. Harris – Clark County Superior Court
Detective John F. Hayes – Crime Prevention Division, Seattle Police Dept.
Thomas W. Hillier II – Federal Public Defender
Leigh Hofheimer – Project Coordinator, Family Violence Law Enforcement Training Project
Jack Hopkins – Reporter, *Seattle Post-Intelligencer*
Greg Hubbard – Senior Deputy Prosecuting Attorney, King County Prosecutor's Office, Juvenile Division
Christopher Jarvis – Reporter, *Bellevue Journal American*
Hon. Teresa Jordan – Olympia Municipal Court
Detective Glenn A. Kerns – Gang Unit, Seattle Police Department
Hon. Ronald Kessler – Municipal Court of Seattle
Professor John Q. La Fond – UPS School of Law
John W. Ladenburg – Pierce County Prosecuting Attorney
Hon. Robert S. Lasnik – King County Superior Court; Chair, Sentencing Guidelines Commission
Detective Mike Le Blanc – Gang Unit, Seattle Police Department
Hon. Thomas L. Lodge – Clark County Superior Court
Norman K. Maleng – King County Prosecuting Attorney
Sergeant John E. Manning – Operations Bureau, Patrol Division, Community Police Team, Seattle Police Department
Hon. Ricardo S. Martinez – King County Superior Court
Alfred W. Matthews – King County Prosecutor's Office
Hon. LeRoy McCullough – King County Superior Court
State Rep. Betty Sue Morris – 18th District State Representative, Co-chair, Juvenile Justice Reform Task Force/Chair, House Corrections Committee
Hon. Charles E. Moylan, Jr. – Maryland Special Court of Appeals
State Rep. Mike Padden – Ranking Minority Member, House Judiciary Committee
Tami A. Perdue – King County Prosecutor's Office
Kate C. Pflaumer – U.S. Attorney
Mary Pontarolo – Director, Washington State Coalition Against Domestic Violence
Chase Riveland – Secretary, Department of Corrections
Kerry G. Robinson – Davis Wright Tremaine
Rebecca J. Roe – Senior Deputy Prosecuting Attorney, Special Assault Unit, King County Prosecutor's Office
William O. Salen – Public Defender's Office
Daniel T. Satterberg – Chief of Staff, King County Prosecutor's Office
Dave Savage – Department of Corrections, Division of Community Corrections
State Senator Adam Smith – Chair, Law & Justice Committee
Justice Charles Z. Smith – Washington Supreme Court
Hon. Evan E. Sperline – Grant County Superior Court
Chief Norman Stamper – Seattle Police Department
Professor John A. Strait – UPS School of Law
Jeffrey C. Sullivan – Yakima County Prosecutor
Patricia Terry – Department of Corrections, Division of Offender Programs
Dale H. Tiffany – Director, City of Seattle Anti-Violence Project
Vicki J. Toyohara – Executive Director, Washington State Minority & Justice Commission
Carolyn Williamson – Deputy Prosecuting Attorney

WSBA Challenges Labor Legislation

On June 15, 1994, the Washington State Bar Association filed a lawsuit in the Supreme Court of Washington challenging the constitutionality of a law passed during the 1994 legislative session and codified as RCW 41.56.020. That law attempts to impose legislative control over the WSBA, an arm of the Supreme Court, and was signed by Washington Governor Mike Lowry April 2.

WSBA President Paul Stritmatter said the lawsuit was filed to preserve the constitutional principle of separation of powers between different branches of government. A Supreme Court rule permits the WSBA to allow a collective bargaining election for staff, and the WSBA Board of Governors has agreed to hold such an election, but it opposed the Legislature's statutory direction mandating how bargaining is to be conducted. The action filed in June is intended to resolve the underlying constitutional conflict, and it is not intended as an anti-labor action by the WSBA, Stritmatter said. After the current case is decided, the Board plans to hold an election to determine whether WSBA staff wish to collectively bargain.

Seattle lawyer Cameron DeVore and his firm, Davis Wright Tremaine, have agreed to represent the WSBA at no cost.

"The Bar Association believes the Legislature can't tell them what to do, and we believe it can," United Food & Commercial Workers Union Local 1001 president Joe Peterson told the *Seattle Post-Intelligencer*. The Seattle-based local has been aiding a group of WSBA employees who sought an election three years ago.

Negotiations this spring sought to make arrangements for a staff election in return for the withdrawal of the bill before the Governor signed it. WSBA leaders contend that the talks failed because the union insisted on resolving post-election issues prematurely. The union contends it would be pointless to hold an election without some idea what would happen next.

The Northwest Minority Job Fair

by **Alisa Tazioli, Richard Jones, John McKay** *and* **Ray Summers**

One of the most successful minority job fairs in the country is right in our own back yard. Now in its eighth year, the Northwest Minority Job Fair boasts 49 participating employers; some 250 student candidates are expected to attend.

Success resulted from hard work and creative thinking. In 1987, members of the University of Puget Sound's Black American Law Student Association (BALSA) met with several lawyers to develop a strategy to expand opportunities for minority law students. Original planners included John McKay and Ellen Pfaff of Lane Powell Spears Lubersky, Sharon Sakamoto of the Asian Bar Association of Washington, and Richard Jones, then-president of the Loren Miller Bar Association. The students proposed creation of a job fair similar to those on the East Coast. An ad hoc group of legal professionals developed a program outline, recruited Seattle and Tacoma firms and oversaw the initial process of matching students with employers.

That first Job Fair involved 33 employers—private firms, private corporations and government agencies—and attracted 110 second- and third-year students.

McKay, one of its first cochairs, says, "We encountered some initial skepticism from law students who doubted the commitment of legal employers to hire people of color as summer clerks and lawyers."

But once the callbacks and job offers started coming in, participation grew dramatically.

"We learned a lot that first year," admits McKay.

Lane Powell held the first four fairs at Seattle's Four Seasons Hotel, and the fifth in its Seattle office. This change in venue helped hold down costs and expenses.

"By moving the Fair's setting from a hotel to a host firm, we could reduce operating costs and thereby afford to create scholarship opportunities for students. Moving simply made good fiscal sense," says Jones.

This change in strategy has since enabled the Fair to fund an annual $500 scholarship to each of four local, ethnic-specific bar organizations. It has enhanced the job interview setting as well.

At the heart of the Job Fair is a clear goal: provide students access to local legal employers. After employer registration concludes in the spring, student registration begins. A list of participating firms is mailed to students and law schools, and students are asked to prioritize their employer selections and return their request along with a resumé. Ideally, students receive interviews with four or more of their top choices.

Computer technology has simplified the process of matching students with employers. In the Fair's early years, the Lane Powell crew spent many a late evening doing the matches by hand. In 1993, the Job Fair Committee acquired special software developed on the East Coast. Thanks to the fine-tuning skills of Alisa Tazioli, the Planning Committee's executive director, and Ken Anderson, Bogle & Gates software manager, the entire scheduling and matching processes are now fully automated.

Last year, the Job Fair Committee also sponsored a Coaching and Resource Center. Committee members assisted students with everything from breath mints and the Martindale-Hubble Directory to a lunch hour workshop in interview techniques. Participants enthusiastically endorsed the Center; it will return this fall.

This year, Bogle & Gates is completing a two-year commitment to host the Fair at its Seattle office. In 1992, the Washington State Attorney General's Office hosted the event. Davis Wright Tremaine recently committed to hosting the Fair in 1995 and 1996. The Job Fair Committee is hopeful that other firms or agencies will continue to share hosting responsibilities in the years to come.

Although the Fair is based in Seattle, it is not an exclusively local event. While many student participants are from the University of Puget Sound and University of Washington schools of law, an increasing number attend from around the country. Last year, 35 law schools were represented by more than 200 attendees.

The effort has paid off handsomely for everyone involved. In a post-Fair survey of last year's participating employers, 29 reported extending invitations for 66 callback interviews. Seventeen job offers

resulted. Those same employers also reported that they currently employ 17 lawyers who came to them through previous fairs.

Big firms are not the only employer participants. This year's Fair welcomes Microsoft and the Washington State Court of Appeals Division I. Law firms of all sizes, public defenders, prosecuting authorities and local and federal government entities are also well-represented.

The Planning Committee is now incorporating as a nonprofit organization, with members of the Northwest legal community serving on its board of directors. Charter board members include Richard Jones, Assistant U.S. Attorney and cofounder of the Fair; John McKay, partner at Cairncross & Hempelmann; Tina Kondo, assistant Washington State Attorney General; Dolores Sibonga, former Seattle City Council member and recently retired partner from Preston Gates & Ellis; Eileen Kato, King County Bar Association chair of the Ethnic Diversity in the Legal Profession Committee and associate at Hiscock & Barclay; and Alisa Tazioli, attorney recruiting administrator for Bogle & Gates.

The Fair is held annually during the fall recruiting season, this year, on September 24. A reception for all participants and distinguished members of the bench and bar will follow the interview sessions. Guest speaker will be the Honorable Joyce Kennard, California State Supreme Court Justice. (Past speakers include Washington State Supreme Court Justice Charles Z. Smith, King County Superior Court Judge Charles B. Johnson, and then-Washington State Attorney General Ken Eikenberry.)

The Fair has gained broad support in the legal community, not just from participating firms but also from the WSBA's Opportunities for Minorities in the Legal Profession Committee, Washington Women Lawyers, Washington State Trial Lawyers Association, and the alumni associations of UPS and UW.

Eileen Kato, chair of KCBA's Ethnic Diversity in the Legal Profession Committee, says, "Our fair is one of the most progressive steps the city has undertaken to help ethnically diversify our legal community."

Kato also applauds employer participants. "The Job Fair provides a solid resource for legal employers," she notes, "and encourages many to take advantage of this wonderful opportunity."

The Opportunities for Minorities in the Legal Profession Committee

by **Tom Chin**, *Committee Chair*

You walk into a WSBA conference room. You hear spirited—but always amicable—debate. You've stumbled into a meeting of the Opportunities for Minorities in the Legal Profession Committee.

Vigorous debate and diverse opinions should come as no surprise. Debate is vigorous because it's this committee's job to be a voice for the diverse WSBA membership and make the Bar and the legal community more responsive to it. The committee's opinions are diverse because they reflect the diversity of the Bar.

The Opportunities Committee was established by the WSBA Board of Governors in 1990. Since then, the Committee has included men and women who are African-American, Hispanic, Asian, Native American, Caucasian, gay, or physically challenged. Appropriately, the Committee's primary work—to increase participation by members of racial and ethnic minorities in Bar activities and in the practice of law—often expands to ensure that all of the diverse groups within the WSBA have a voice and gain recognition.

The Committee's size grew significantly this year when the Board of Governors augmented the appointment system. In addition to the appointment each Governor makes to the Committee, the president-elect can now appoint any number of additional members. Everyone who applied for a committee position this past year was appointed.

Guided by a strong sense of purpose and a deep sense of commitment, we have been key in effecting a number of institutional changes at the WSBA.

A Higher Standard of Conduct—Amendment to RPC 8.4

Two studies commissioned by the Supreme Court found that gender bias and racial and ethnic discrimination were pervasive in Washington's legal system.

In conjunction with Washington Women Lawyers (WWL), the Opportunities Committee helped obtain approval by the Board of Governors and the Supreme Court of an amendment to the Rules of Professional Conduct (RPC). It is now a violation of the RPCs for attorneys, in connection with their professional activities, to engage in unlawful discrimination on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation or marital status. RPC 8.4(g).

Originally, the Committee and WWL included harassment as prohibited conduct, but the Supreme Court sent that aspect of the proposed rule back to the WSBA RPC Committee for further definition. We continue to review and comment to the RPC Committee on that drafting and revision.

The need to address harassing behavior is well-documented in the Office of the Administrator for the Court's Minority and Justice and Gender and Justice Task Force reports. A subsequent study of the federal courts within the Ninth Circuit compiled extensive data demonstrating gender bias, including sexual harassment, which occurred during the conduct of legal business.

Yet many of the harassing acts—racially demeaning remarks about counsel in court, sexual remarks targeted at women lawyers or witnesses during depositions—are not "prohibited by law" and are not proscribed by the current rule.

By carefully defining harassment and making it a violation of the RPCs, the Bar will take an important step forward and join a number of other state bars in eliminating behavior which undermines the fair and effective administration of justice and threatens the credibility of the judicial system.

Expanding the Concept of Professionalism—Proposed Amendment to APR 11

The Board of Governors, after receiving input from the CLE Board, the CLE

Committee and the Young Lawyers Division, is recommending that Admission to Practice Rule (APR) 11, the mandatory CLE rule, be amended to require that six of the necessary 45 credits during the three-year reporting cycle be devoted to ethics and professionalism. Our committee, which had developed a related proposal, was successful in ensuring that training on diversity and the elimination of bias were recognized as part of the definition of professionalism.

If the amendment is enacted as proposed, attorneys will be able to earn "ethics/professionalism" credit by attending courses not only on the RPCs or malpractice prevention, but also those on diversity training and eliminating bias.

Written Policy on Locations for WSBA Meetings

We and the WSBA Civil Rights Committee drafted a formal policy, consistent with WSBA practices prohibiting official Bar functions or meetings from taking place at locations which discriminate on the basis of race, color, national origin, religion, creed, sex, age, disability, sexual orientation, or marital status. The Board of Governors formally adopted the policy last year.

Recognizing the Changing Face of the Profession—Demographic Questionnaire

Since its inception, the Committee has had a continuing interest in learning about the demographic makeup of the WSBA. Following up on a recommendation by the WSBA Long-range Planning Committee, and with the support of a host of minority bar associations, we successfully worked with WSBA staff to include in the 1992 WSBA licensing form a voluntary demographic questionnaire. It is slated to be repeated in 1995. We will also be working with staff to include the questionnaire with the forms completed by newly admitted attorneys.

A key goal of this effort is to reveal the changing face of the membership. That information will allow the WSBA to work toward ensuring that its diverse membership is active and participates in Bar projects, committees and task forces. It will also enable the Committee to devise better strategies for doing our work.

Other Activities

Over the last four years, the Committee has also undertaken other projects: at the last WSBA Convention we cosponsored a seminar on Access to the Profession, which featured Professor Derrick A. Bell, Jr., author of *Faces at the Bottom of the Well*. We supported the Northwest Minority Job Fair. And this issue of the *Bar News*, the first to be devoted in full to diversity issues, is also our work.

Involvement Leads to Greater Opportunities

The Committee has a short history, but we have undertaken a wide range of activities. If there is one lesson we have learned, it is that improving the professional prospects for minorities in the legal profession and making the judicial system more responsive to the full diversity of the bar and society at large require both spirited attention and collaborative effort. Actively working with other bar associations, other specialty bar associations, and the private bar is vital if the Committee is to meet its responsibilities. Meetings are held frequently—about once a month—and are open to all members of the Bar.

* * *

Tom Chin *is an attorney with Evergreen Legal Services in Vancouver, Washington.*

Further Readings on Healthful Aging

Geri Marr Burdman, who wrote "Healthful Aging: A Challenge of our Times" in the June 1994 *Bar News*, refers readers to the following sources:

Berenson, Herbert and M. Klipper. *The Relaxation Response*. New York: Avon Books.

Borysenko, Joan. *Minding the Body, Mending the Mind*. New York: Bantam Books.

Burdman, Geri Marr. *Healthful Aging*. Englewood Cliffs, NJ: Prentice-Hall Inc.

Butler, Robert and M. Lewis. *Aging and Mental Health*. St. Louis: C.V. Mosby Co.

Cousins, Norman. *Head First: The Biology of Hope*. New York: E.P Dutton.

Frankl, Viktor. *Man's Search for Meaning*. Boston: Beacon Press.

Matthews-Simonton, Stephanie and O.C. Simonton and J. Creighton. *Getting Well Again*. New York: Bantam Books.

Seyle, Hans. *The Stress of Life*. New York: McGraw Hill.

Seigel, Bernie. *How to Live Life Between Office Visits: A Guide to Life, Love and Health*. New York: Harper Collins.

Can the Corporate Law Firm Achieve Diversity?

by **Vance Knapp** *and* **Bonnie Kae Grover** *in the* NBA Journal

This Fourth of July is yours, not mine. You may rejoice, I must mourn. To drag a man in fetters to the grand illuminated temple of liberty, and call upon him to join you in joyous anthems, were inhuman mockery and sacrilegious irony . . . I say it with a sad sense of the disparity between us. I am not included within the pale of this glorious anniversary . . . The blessings in which you, this day, rejoice, are not enjoyed in common. The rich inheritance of justice, liberty, prosperity and independence, bequeathed by your fathers, is shared by you and not by me. The sunlight that brought light and healing to you has brought stripes and death to me.[1]

Frederick Douglass uttered these words on July 4, 1852, to express his outrage over a society that professed to embrace freedom and liberty, yet at the same time practiced slavery. Nearly a century and a half later, our system of civil rights laws provides protection for minorities in many areas of life.[2] Our Constitutional jurisprudence includes such breakthrough decisions as *Brown V. Board of Education*,[3] *Katzenbach v. McClung*,[4] and *Loving v. Virginia*.[5] The armed forces are integrated.[6] Minorities have risen to prominence in government, entertainment and the arts and have made substantial gains in the sciences and in business, yet the representation of minorities in the legal profession continues to lag behind the gains made in these other areas.

This paper addresses the forces that gave rise to the discrimination faced by minorities in the legal profession and the present realities that enable this exclusion to continue.

Historical Barriers to Professional Entry

Racial discrimination in the legal profession has largely mirrored that prevailing in American society.[7] Only very recently have the barriers begun to recede (*see infra*, notes 50-54 and accompanying text.) Underrepresentation of minority attorneys can be traced to the eighteenth centuries, when apprenticeship was the accepted means of becoming an attorney.[8] Few established attorneys were willing to sponsor blacks, and in the south, education of any sort for African Americans was flatly illegal.

At the end of the Civil War, a movement arose in many states to formalize legal education. Law schools began to emerge . . . . Few law schools admitted blacks. Accordingly, Howard Law School was established, the first such school dedicated to educating minorities. Although other black law schools were established in the next few decades. Howard, from its beginnings in 1869 to the early 1960s, trained the majority of African American attorneys in the United States. The law schools reserved for blacks under the dual system of legal education were minimally funded, poorly staffed, and met the minimal requirements of the "separate but equal" principle in order to preserve racial segregation.[9] Under these dismal circumstances, the number of minority lawyers in the United States remained small, hovering at around one percent as recently as 1975.

In 1929, the young Thurgood Marshall applied for admission to the University of Maryland School of Law. When the school rejected his application,[10] he entered Howard Law School. After graduation, Marshall joined the NAACP, which was then engaged in a long struggle to desegregate public schools. Earlier, at the request of the NAACP Legal Defense Fund, Charles Houston, Vice-Chancellor of Howard, had devised a legal strategy centering around carefully chosen test cases. The strategy would challenge the "separate but equal" system in two stages. The first stage would establish the disparity between a fully funded graduate program and a Jim Crow program. The second would build on those precedents, along with empirical data, to persuade the United States Supreme Court to declare desegregation illegal. (*See* Gormley, *Mentor's Legacy, supra* note 20).

In 1950, Thurgood Marshall argued *Sweatt v. Painter* (339 U.S. 6520 (1950) before the United States Supreme Court. Sweatt, an African American, had been denied admission to the University of Texas School of Law because he was "colored." To comply with the separate but equal doctrine of *Plessy v. Ferguson*,[11] the state of Texas hastily created a "colored" law school, but the resulting institution was anything but equal.[12] It had but five full-time professors,[13] 23 students, a library of 16,500 volumes, a moot court, and one alumnus member admitted to the Texas bar. By contrast, the University of

Texas Law School had sixteen full-time and three part-time professors, a student body numbering 850, a library containing 65,000 volumes, a law review, practice court facilities, scholarship funds, an Order of the Coif chapter, many distinguished alumni and great prestige and tradition. The Court agreed with Sweatt that the "colored" law school was not equal and could not be made so because it lacked the faculty, resources, prestige and recognition enjoyed by the established school. Consequently, it ordered Sweatt admitted to the University of Texas.

Sweatt did not automatically open doors for minorities to enter the legal profession. Three major hurdles remained: admission into the now-desegregated law schools, opportunities within the profession, and membership in bar organizations. Although minorities had secured the right to enter traditional law schools, their chances of actually doing so remained slim .[13]

In 1964, the American Association of Law Schools adopted a proposal requiring that member schools create fair and equal admission policies for minorities.[14] This change, too, produced relatively few gains. Law schools found that merely announcing that they would henceforth treat minorities on the same basis as whites did little to increase numbers, at least in the absence of affirmative action and aggressive recruiting. Because of longstanding academic and financial deprivation resulting from racism, the number of minority law graduates increased only from 1.3 percent in 1973 to 4.2 percent in 1983.[15] Even that small growth seems to be leveling off.

Blacks and other minorities who graduated from law school continued to find few opportunities within the profession. In Washington, D.C., for example, black lawyers were not allowed to use the law library in the Federal Courthouse until a successful suit challenged the restriction in 1951.[16] During the 1930s and the 1940s, black lawyers were verbally and physically harassed for representing black clients. During the first half of the twentieth century, African American attorneys had trouble in simply attracting clients. They competed with white lawyers for both white and black clients. African Americans perceived the legal system as racist. Because of the general belief that the white lawyers were better trained and less likely to encounter discrimination in the courts, the black in need of a lawyer was more likely to hire a white to represent her interest.[17]

> ***"Minorities have been able to gain limited access to the legal community but have never been welcomed wholeheartedly into the profession."***

Having more minority judges would, presumably, help address this unfortunate circumstance. Yet it was not until the advent of political appointments in the early '70s that the numbers of judges of color began to increase in major urban areas (*NBA Report on Minorities in the Judiciary*, 1989). Even today, the judiciary is less than one percent black.

Most attorneys in private practice believe that a successful and prosperous career requires membership in professional organizations. State, local and national bars play active roles in shaping the legal profession and also provide valuable contacts within their groups. The American Bar Association (ABA), founded in 1878, at first maintained no normal rules that excluded minorities from members. But when it discovered that three of its members were black, the organization quickly promulgated a rule that excluded minorities.[18]

Even after *Sweatt*, the ABA discouraged minority attorneys from joining its ranks. Not until the 1960s did the ABA soften its stance and begin encouraging African Americans and other minorities to join. Before the 1960s, minorities suffered further discrimination by state and local bar associations. In response to such pervasive exclusion, minority bar associations were established. These groups helped fulfill the social and professional needs of their members by addressing concerns that were not given adequate attention by the majority associations.[19]

Minorities have been able to gain limited access to the legal community but have never been welcomed wholeheartedly into the profession. Even those minority students who negotiate the maze described above face additional barriers once inside.[20] White law professors often perceive minorities as less qualified than majority students and therefore have lower expectations from them.[21] These messages are quickly perceived by students with each group acting out their prescribed role. Studies show that in an environment where minorities are expected to perform above average and are encouraged, students have the confidence to succeed and are more likely to be in the top of their class.[22] Unfortunately, those environments are rare.[23] Moreover, even when minorities are able to survive law school and its discouraging atmosphere, the prospects for employment in private practice are sorely limited.

The Current Situation: Underrepresentation of Minority Attorneys in Private Law Firms

Minorities have made many contributions in our society, yet in the legal profession their representation lags behind their numbers in society as a whole.[24] Private law firms continue to trail corporate and governmental employers in hiring to achieve a proportionate racial balance. For example, the number of Hispanic attorneys employed by corporations is 50 percent greater than the number of Hispanic associates in corporate law firms. Hispanics represent less than one percent of attorneys in the 150 largest law firms. A recent survey conducted by the *National Law Journal* found that of the nation's 251 largest law firms, 89 percent of the partnerships were held by men and 97.6 percent of them were white.[25] Of the attorneys surveyed, women made up 26.2 percent; Blacks, two percent; Hispanics, 1.2 percent; and Asian/Native Americans, 1.7 percent. The survey also found that at 44 of the law firms there were no minorities, and only one minority attorney in 61 other firms. Progress for minorities at corporate law firms has been slow. As A.J. Cooper, Jr., a partner in a Washington, D.C. law firm, National Bar Association associate general counsel and past president of the National Conference of Mayors, put it: "Law firms are among the most segregated institutions in America . . . . The Senate Judiciary Committee should not be asking judicial candidates if they belong to a segregated golf club, but whether

they belong to a segregated law firm."[26] In ten of the largest cities within the United States, the numbers of minority partners and associates did not exceed 10 percent. San Francisco is the most diverse with 9.2 percent. Boston is the least diverse with only three percent of the city's partners and associates members of minority groups.[27] The environment for attorneys in corporate law firms is often chilly, an extension of the subtle and not-so- subtle racism minorities face in law school. Many white practitioners believe that the only reason minorities are lawyers is the color of their skin. Lino Graglia, Professor of Law at the University of Texas School of Law, alleges that affirmative action in law school admissions results in the abandonment of objective standards, thus injuring the more qualified student.[28] What Graglia and other opponents of affirmative action argue, of course, is that minorities who have benefited from affirmative action are not as competent as their white counterparts. Richard Delgado challenges this view, pointing out that favoritism often lies in the eye of the beholder:

> Affirmative action, as currently understood and promoted, is also ahistorical. For more than 200 years, white males benefited from their own program of affirmative action, through unjustified preferences in jobs and education resulting from old-boy networks and official laws that lessened the competition . . . . Today's affirmative action critics never characterize that scheme as affirmative action, which of course it was. By labeling problematic, troublesome, and ethnically agonizing a paltry system that helps a few of us get ahead, critics neatly take our eyes off the system of arrangements that brought and maintained them in power, and enabled them to develop the rules and standards of quality and merit that now exclude us, make us appear unworthy, dependent (naturally) on affirmative action.[29]

Proponents of affirmative action cite several benefits that minority communities have received: 1) the accumulation of valuable experience, 2) the expansion of a professional class that can pass its advantages along to future generations the elimination of damaging stereotypes, and 3) the inclusion of minorities in the making of decisions that affect their interests.[30] Even black attorneys who have benefited from affirmative action often feel that their receipt of the benefit is a source of shame that needs to be suppressed.[31] Whispers of unfair treatment, "quotas" and weaker standards contribute to the stigmatized image.[32] Often blacks and whites alike fail to realize that affirmative action affords a person only an opportunity to succeed or fail; it is not a guarantee of success.[33] Stereotypes persist in reviewing applicants for law clerk and associate positions. During initial interviews many minorities confront the preconceptions that interviewers will have of them: Hispanic students are often perceived as being better suited for careers in public service rather than ones with corporate law firms.[34]

> ***"Law firms are among the most segregated institutions in America . . . The Senate Judiciary Committee should not be asking candidates if they belong to a segregated golf club but if they belong to a segregated law firm."***

Recruiters for corporate law firms are concerned about how their clients will react to a minority who is working on their case, and question whether he or she will be able to fit into the corporate image.[35] African American law graduates face class-based stereotypes about their communication abilities while their white counterparts do not. While white graduates are evaluated by their academic performance and ability to relate to clients, with minorities the interviewers are looking at the impact of skin color on clients.[36] Minority job candidates are not only likely to encounter preconceptions about the type of law that they want to practice, but they may face open hostility. An African American woman who attended the University of Chicago School of Law interviewed with Baker and McKenzie, the world's largest law firm. During the interview, a senior partner asked her how she would react if a colleague or opposing client called her a "nigger" or a "black bitch."[37] Baker and McKenzie later apologized and funded a $500,000 scholarship program for minority law school students. The questions Baker and McKenzie asked were inappropriate, but more subtle forms of racism continue. As one attorney put it:

> Aside from the apparent surprise on the part of white lawyers when they discover that their opponent is black and competent, there is a fleeting yet recognizable moment when white clients register a look of dissatisfaction and surprise when they encounter their black attorney for the first time.[38]

Why Law Firms Should Recruit Minorities

Law firms should hire more minority attorneys, of course, out of simple justice (Richard Kluger, *Simple Justice*, 1976). But powerful economic reasons exist as well: The U.S. Census estimates that by the year 2000, 80 percent of the U.S. work force will consist of minorities, women or immigrants. A business that focuses solely on hiring white males will find them in short supply.[39] Minorities are assuming positions of authority in politics and corporations. The number of African Americans holding elective office, for example, increased from 1,469 in 1970 to 5,606 in 1983.[40] Several corporations require law firms representing them to be staffed in part by women and minority attorneys, so as to mirror the corporations' diverse work forces.[41] These corporations recognize that America's demographics are changing and that minorities and women make up a large portion of their markets.[42] At the 1992 conference of the Association of Legal Administrators, a participant related receiving a questionnaire from a potential corporate client that surveyed the number of minority associates and partners. The client was prepared to take the firm's response into account in deciding whether to retain it or not.[43] State and local governments are interested in hiring law firms that have women and minorities working for them.[44] The San Francisco Redevelopment Agency demanded

that Steefel, Levitt and Weiss, a local law firm, hire minority attorneys or lose a profitable real estate contract. After the agency withheld funding, the firm scrambled to obtain minority counsel.[45] Major law firms are located within urban areas and often represent the local and state governments. Minorities in those areas usually are represented at the highest levels of government; the mayors of Atlanta, Denver, Detroit, New York, and Washington, D.C., for example, are black, and several members of their respective city counsels are minorities. Each of these mayors, along with their counsels, can formulate regulations that encourage law firms who do business with their cities to hire minority attorneys.[46] Congress now has more women and minorities within its ranks than ever before. . . .[47] President Clinton's new cabinet includes four women and seven minorities. The United States Supreme Court now has two women justices. Together, women and minorities in Congress and the new Administration will exert considerable influence on governmental policy and will have the ability to create more opportunities for minorities, encouraging diversification in all professions.

Corporations and law firms wishing to tap into new markets must be willing to diversify themselves. The city of Chicago places a special emphasis on firms that have minorities working for them. According to one attorney: " 'It's important to the municipality of Chicago, for example, to recruit minorities. . . . If I want to get city business, especially with minorities in key positions or in some of these corporations, I better have some minorities on board.'"[48] Recruiting minority attorneys can broaden the client base of any law firm because many minority attorneys come from and maintain ties with their communities. If firms cannot be persuaded to include minority attorneys for principled reasons, changing demographics will cause them to alter their traditional hiring practices to remain competitive.

What "A Qualified Minority Attorney" Is and How to Locate and Hire One

Some major firms complain that there are not enough qualified minorities.[49] The criteria that these firms use for minorities are not uniform in terms of all their hiring decisions. Large firms insist that they hire only the top graduates from the best schools; one, for example, explained that a "qualified minority" attended a "top-10" law school, served on the law review, and graduated with honors. Nevertheless, white lawyers whose law school transcripts reveal less than stellar performance from regional or local schools are found within these firms.[50] The problems begin with the initial interview, where the interviewer may have some pre-interview assumptions about the candidate:

> [W]hen a minority has made a good impression on you in an interview, have you ever thought, 'That interviewee is sure articulate (or well-educated)'? If so, what assumptions did you make going into that interview that led to your thought? Why should you be surprised that, interviewing at a fine law school a minority who has met the exacting standards of admissions to that school and likely done outstandingly well in undergraduate school, the person to whom you are speaking is articulate or well-educated? Would you ever have the same thought about a white interviewee?[51]

"Corporations and law firms wishing to tap into new markets must be willing to diversify themselves."

Major firms pride themselves in basing their recruiting process solely on merit, and they resist hiring a minority if doing so would necessitate lowering their "entrance requirements." These same firms, however, fail to disclose their unwritten policy of nepotism of their "old boys" network.[52] . . . The pages of Martindale-Hubbell are replete with professional bibliographies of the partners and associates of major law firms who neither attended a top law school nor participated on law review.[53] Apparently, law firms have long recognized intangible factors or characteristics besides prestigious law schools, class rank, and law review membership, or they should.

Are minority applicants evaluated according to the same set of intangible factors or are they expected to meet greater levels of achievement? In determining which candidates to hire, the majority of law firms use law school grades as the main predictor of success.[54] Justice Felix Frankfurter recognized that these were not always the best measures:

> This whole matter of academic grades, and academic records, the worship at the shrine of academic honors, has led me repeatedly to point to the B men, and even the C men, who have attained eminence in this country, and rightly so, at the bar, and certainly in public life. They show up the foolishness in thinking that one has to be a brilliant fellow in order to be a successful, a useful and esteemed lawyer. Just because a man is not intellectually very gifted is no reason to suppose that he is not very good.
>
> *Id.*

If grades are used as only one of the many factors in determining the ability of a candidate, what are some of the intangibles that minorities might possess? Minorities tend to come from diverse backgrounds that have traditionally been disadvantaged, and they must overcome those obstacles to obtain an education. It is not unusual to find a minority student who has had to work to put himself or herself through school, who has had to overcome prejudice and ignorance to succeed. A student who has been undervalued by professors and looked upon with contempt by fellow classmates, yet completes important educational goals, might well become a particularly tenacious and valuable attorney.

Successfully achieving any hiring goals means that the law firm must always look beyond the candidate's transcript and resume. By adapting the usual range of intangibles sought to take account of unique qualities offered by minority applicants, the firm will discover an end result well worth the effort.[55]

In attempting to diversify, there are several options that a law firm may pursue. First, a law firm must honestly evalu-

ate its treatment of minorities and women. If negative perceptions are found to exist, the firm may consider employing a diversity consultant or pooling with other law firms to have a local minority bar association present a CLE program on diversity.[56] Second, the firm should establish a committee that oversees the firm's diversity issues and supervises a mentor program for new clerks and associates. Third, the firm should review its hiring criteria to give express weight to intangible factors that frequently offer greater profitability than grades and class rank.

Once the review has been carried out, the firm can begin the task of hiring a "qualified minority." Students need to believe that their skills and abilities will be valued. This requires law firms to reach beyond the usual on-campus employment interviews to increase the pool of minority applicants. Firms can do this by contacting minority student organizations and encouraging their members to apply. Career counselors and minority professors can be asked to ***encourage*** promising minority students to seek employment with their firm. Firms can set up minority job fairs, sending representatives who are entitled to make initial hiring decisions, not just make recommendations to the "real" hiring committee. Minority bar associations and bar committees that deal with diversity issues are additional sources for locating minority applicants.

Conclusion

Minorities do not ask for special privileges, but for that same measure of opportunity available without question to their majority race counterparts. Minority students, like white students, must have such opportunities as clerkships with judges or at law firms in order to succeed in private practice. For this to happen, the firm must be willing to offer that person a chance. Firms today should be more willing than in the past to make such offers: demographic changes and shifts in the business and political climate make it in their interest to do so. We have shown that it is not at all difficult to articulate reasonable criteria for identifying promising attorneys and clerks of color. Nor is the legal profession devoid of strategies to evaluate and encourage them to join. With modest effort, corporate firms may rapidly and profitably increase minority representation in their ranks. Society at large, and the law itself, will be made the better for it.

Endnotes

[1] "The Meaning of the Fourth of July to the Negro," *The Life and Writings of Frederick Douglass* 189 (P. Foner ed. 1950).

[2] *See* Title 42 U.S.C. § 200e (1988) (employment), 42 U.S.C. § 2000c (1988) (public education), and 42 U.S.C. § 3601-19,3631 (1988) (fair housing).

[3] 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954) (*held* that discrimination in public education violated the Fourteenth Amendment).

[4] 379 U.S. 294, 85 S.Ct. 377, 13 L.Ed.2d. 290 (1964) (*held* that Congress has the authority under the Commerce Clause to prohibit discrimination by businesses engaged in interstate commerce).

[5] 388 U.S. 1, 87 S.Ct. 1817, 18 L.Ed.2d 1010 (1967) (invalidated Virginia's antimiscegenation statute that had prohibited white people from marrying outside their race).

[6] Gerald G. Jaynes and Robin M. Williams, Jr., National Research Council, *A Common Destiny: Blacks and American Society*, 67 (1989).

[7] *See* generally Derrick Bell, *Race, Racism and American Law* (3d ed. 1992); Leon A. Higginbottom, *In the Matter of Color* (1978). *See also* Edward J. Littlejohn & Leon Rubinowitz, "Black Lawyers in Legal History: A Michigan Perspective," 33 *Wayne L. Rev.* 1625 (1987) [*hereinafter* Littlejohn, *Black Lawyers in Legal History*].

[8] Littlejohn, *Black Lawyers in Legal History*, *supra*, note 12, at 1629.

[9] *Id.* at 1630 n.26.

[10] *Ken Gormley*, "A Mentor's Legacy." *78 A.B.A. J.* 62 (1992) [*hereinafter* Gormley, *Mentor's Legacy*].

[11] 163 U.S. 537 (1896).

[12] 339 U.S. at 631, 632.

[13] *See* Littlejohn, *Black Lawyers in Legal History*, *supra*, note 12, at 1630-31.

[14] *Edwin R. Hazen*, "Draft Statement of Student Services Administrators Good Practices," 12 *N. Ill. U. L. Rev.* 332, 337-38 (1992).

[15] Linda E. Davila, "The Underrepresentation of Hispanic Attorneys in Corporate Law Firms," 39 *Stan. L. Rev.* 1403, 1406 (1987) [*hereinafter* Davila, "Hispanic Attorneys"]. This note focuses on the perceptions of Hispanic students Stanford Law School.

[16] See Littlejohn, *Black Lawyers in Legal History*, *supra*, note 12, at 1635.

[17] *Id.*

[18] *See* Littlejohn, *Black Lawyers in Legal History*, *supra* note 12, at 1630.

[19] *Id.* at 1680, 1681. Prior to the ABA's lifting of restrictions on minority membership, black lawyers banded together to create a bar association of their own, the National Bar Association.

[20] Leo M. Romero, Richard Delgado, Cruz Reynosa, "The Legal Education of Chicano Students: A Study in Mutual Accommodation and Cultural Conflict," 5 *N.M.U. L. Rev.* 177 198-202 (1975). This article describes the pitfalls that Hispanic students often face when confronted with the "Socratic Method" for the first time.

[21] *See* Derrick Bell, "Humanity in Legal Education," 59 *Or. L. Rev.* 243 (1980); Kimberlie Crenshaw, "Forward: Toward a Race-conscious Pedagogy in Legal Education," 11 *Nat'l Black L.J.* 1 (1989). *See*, e.g., Katherine L. Vaughns, "Toward Parity in Bar Passage Rates and Law School Performance: Exploring the Sources of Disparities Between Racial and Ethnic Groups," 16 *T. Marshall L. Rev.* 425, 430-31 (1991).

See generally Nerissa B. Skillman, "Misperceptions Which Operate as Barriers to the Education of Minority Law Students," 20 *U.S.F. L. Rev.* 553, 554 (1986).

[22] *See* Frank Motley, "The Connection Between Recruitment and Diversity," 12 *N. Ill. U. L. Rev.* 299, 303, 304 (1992).

[23] *Cf.* Kathleen Patchel, "The LSAC Academic Support Program Workbook From the Perspective of a Novice User," *12 N. Ill. L. Rev.* 341 (1992).

[24] *See* Davila, "Hispanic Attorneys," *supra*, note 31, at 1408.

[25] Claudia MacLachlan & Rita Henley Jensen, "Progress Glacial for Women Minorities: But the Recession Hits White Males the Hardest," *Nat'l. L. J.*, Jan 27, 1992, 1.

[26] *Id.* at 3.

[27] Claudia MacLachlan, "Minorities Find Firm With A Place for Them," *Nat'l L. J.*, Jan. 27, 1992, at 31, 32.

See Vicky Schultz, "Telling Stories About Women and Work: Judicial Interpretations of Sex Segregation in the Workplace in Tile VII Cases Raising the Lack of Interest Argument," 103 *Harv. L. Rev.* 1749 (1990).

[28] Lino A. Graglia, "Race-Conscious Remedies," 9 *Harv. J.L. & Pub. Pol'y* 83 87 (1986). *See also* Thomas G. Gee, "Race-Conscious Remedies," 9 *Harv. J.L. & Pub. Pol'y* 63, 64 (1986). But *see* Nathaniel R. Jones, "The Justification For Race-conscious Remedies," 9 *Harv. J.L. & Pub. Pol'y* 71, 74 (1986). For a critical definition of reverse discrimination, *see* Philip L. Fetzer, "Reverse Discrimination: The Political Use of Language," 17 *T. Marshall L. Rev.* 293, 313-15 (1992).

[29] Richard Delgado, "Affirmative Action as a Majoritarian Device: Or, Do You Really Want to Be a Role Model?" 89 *Mich. L. Rev.* 1222 (1991).

[30] Randall Kennedy, "Persuasion and Distrust: A Comment on the Affirmative Action Debate," 99 *Harv. L. Rev.* 1327, 1329 (1986)

[*hereinafter* Kennedy, "Persuasion and Distrust"].

[31] Stephen L. Carter, *Reflections of an Affirmative Action Baby*, 11, 12 (1991).

[32] *See* Morris B. Abram, "Affirmative Action: Fair Shakers and Social Engineers," 99 *Harv. L. Rev.* 1312, 1320 (1986). *See also* Alan Keyes, "Symposium on Affirmative Action," 77 *Cornell L. Rev.* 980, 981-82 (1992).

[33] *See* Kennedy, "Persuasion and Distrust," *supra*, note 58.

[34] *See* Davila, "Hispanic Attorneys," *supra*, note 31, at 1411.

[35] David E. Neely, "Breaking into the Market," 4 *Compleat Lawyer, 19, 21(1987).*

[36] *Id. See infra*, notes 66-68 and accompanying text.

[37] Charles E. Anderson, "Affirmative Reaction: Baker and McKenzie Adopts New Program After Racial Remarks," 75 *A.B.A. J.* 20 (1989).

[38] Samuel L. Simpson, "The Problem of Racism," 4 *Compleat Lawyer* 18, 20 (1987).

[39] Nancy Blodgett, "Room for Minorities: Firms Advised that a Diverse Work Force is Good For Business," 78 *A.B.A. J.* (Aug. 1992) [*hereinafter* Blodgett, "Room for Minorities"].

[40] Faye A. Silas, "Business Reasons To Hire Minority Lawyers," 70 *A.B.A. J.* 52, 53 (1984) [*hereinafter* Silas, "Business Reasons"].

[41] Joanne Skolnick, "Doing the Right Thing Is Good for Business," 8 *Compleat Lawyer*, 20 (winter 1991) [*hereinafter* Skolnick, "Good for Business"]. *See supra*, Silas, "Business Reasons."

[42] *See* Silas, "Business Reasons," *supra*, note 71. On these demographic changes and their likely effect, *see* Richard Delgado, "Rodrigo's Chronicle," 101 *Yale L. J.* 1357 (1991).

[43] *See* Blodgett, "Room For Minorities," *supra* note 70.

[44] *See* Skolnick, "Good for Business," *supra*, note 72 at 22.

[45] *See Silas*, "Business Reasons," *supra* note 71, at 52.

[46] *Richmond v. J.A. Croson Co.*, 488 U.S. 469, 109 S.Ct. 706, 102 L.Ed.2d 854 (1989).

[47] "Revitalizing Congress," *N.Y. Times*, January 6, 1993, at A20.

[48] See Skolnick, "Good for Business," *supra*, note 72, at 20.

[49] John L. Edwards, "What is a 'Qualified Minority'?: A Fresh Perspective on Law Firm Hiring Practices," *Nat'l L.J.*, Aug. 8, 1983, at 13 [*hereinafter* Edwards, "Qualified Minority Attorney"]. On the "pool is so small" argument, *see* Randall Kennedy, "Racial Critiques of Legal Academia," 102 *Harv. L. Rev.* 1745 (1989). For criticism of this argument, *see* Richard Delgado, "Mindset and Metaphor," 103 *Harv. L. Rev.* 1872 (1990).

[50] Frederick H. Bates & Gregory C. Whitehead, "Do Something Different: Making A Commitment To Minority Lawyers," 76 *A.B.A. J.* 78, 80 (1990) [*hereinafter* Bates & Whitehead "Something Different"].

[51] Arnie Kanter, "Hiring of Minorities Takes Thought," *Nat'l L. J.*, April 25, 1988, at 19.

[52] *See*, e.g., Jerome M. Culp, Jr., "Diversity, Multiculturalism, and Affirmative Action: Duke, the NAS and Apartheid," 41 *DePaul L. Rev.* 1141, 1158-61 (1992) (describing the preferences that children of alumni receive in law school admissions). Suzanne Baer, diversity consultant for the Association of the Bar of the City of New York's Committee to Enhance Professional Opportunities for Minorities, quoted in Steven Keeva, "Unequal Partners: It's Tough at the Top for Minority Lawyers," 79 *A.B.A. J.* 50, 52 (1993).

[53] *See* Bates & Whitehead, "Something Different, *supra*, note 83, at 80.

[54] *See* Emily Campbell & Alan J. Tomkins, "Gender, Race, Grades, and Law Review Membership as Factors in Law Firm Hiring Decisions: An Empirical Study," 18 *J. Contemp. L.* 211 (1992); *compare* Charles E. Anderson, "Law Reviews Reserving Spots For Minorities, Disadvantaged," 75 *A.B.A. J.* 50 (1989), making the case for having law review membership based on a writing competition instead of grades.

[55] Just as it often does with white applicants. *See* text and notes. 75-85 *supra*.

[56] R. Roosevelt Thomas Jr., *Beyond Race and Gender: Unleashing the Power of Your Total Work Force by Managing Diversity* (1991).

* * *

This article appeared originally in the *National Bar Journal*, March/April 1994, Vol. 8, No. 2, pages 8-22. The *Bar News* and the WSBA Opportunities for Minorities in the Legal Profession Committee thank the *NBJ* for permission to reprint it here.

Vance Knapp *is a Judicial Fellow of the Colorado Supreme Court and a student at the University of Colorado School of Law, J.D., 1994.*

Bonnie Kae Grover *is a student at the University of Colorado School of Law, J.D., 1994.*

The authors wish to express their gratitude for the guidance of ***Richard Delgado***, *and* ***Charles Inglis Thompson***, *Professor of Law, University of Colorado School of Law.*

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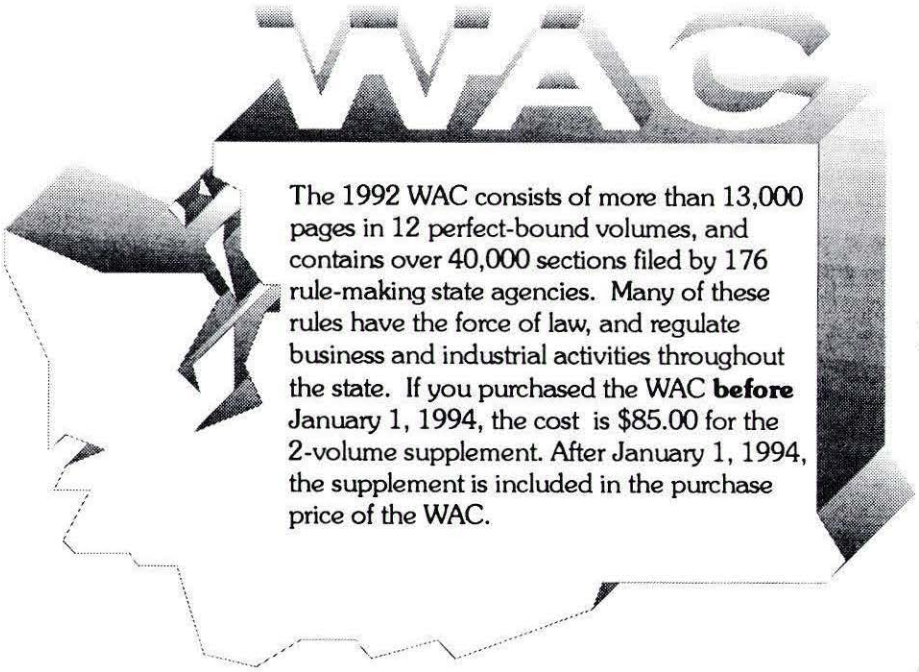

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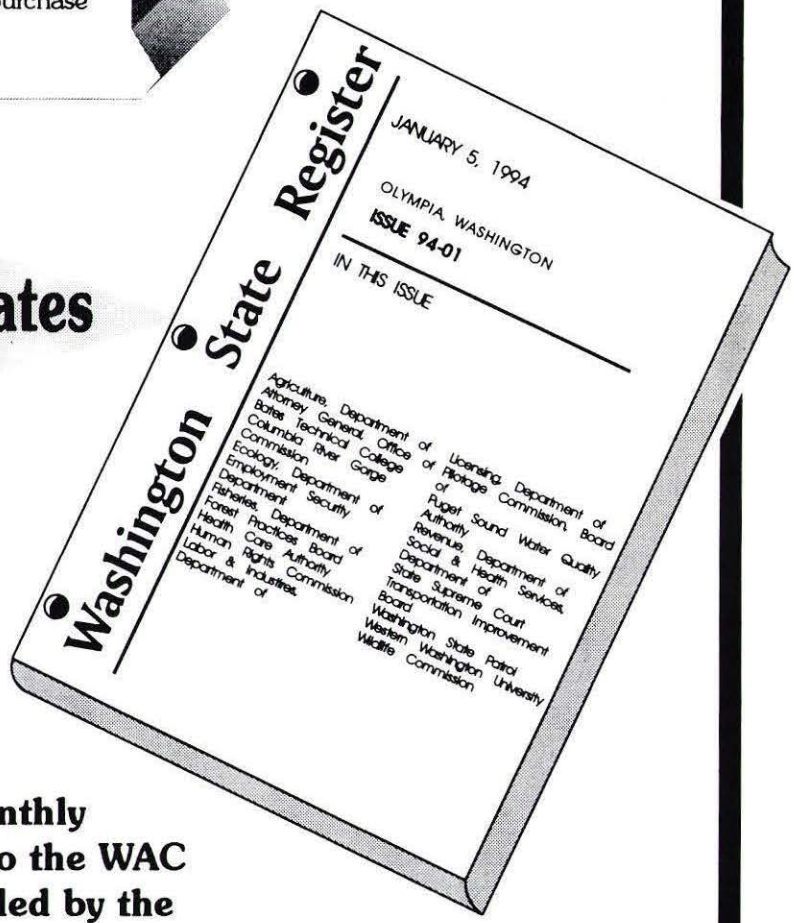

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NEWS FROM HOME

Two Washington lawyers have been elected directors of the 1,400-member Computer Law Association: **William F. Baron** of Baron Lieberworth & Warner in Seattle, and **William Neukom**, counsel to Microsoft Corporation in Redmond. The Association exists to inform and educate lawyers about the unique legal issues arising from the evolution, production, marketing, acquisition and use of computer and communication technology.

Michael P. Stern, formerly a partner with Diamond & Sylvester, became of counsel to Gaitán & Cusack in May and practices in the firm's Bellevue office.

Keller Rohrback of Seattle has announced that **David J. Russell** has become associated with the firm. Russell holds two BAs from the University of Washington and his law degree from Columbia University. His practice emphasizes product liability litigation.

Spokane-based Lukins & Annis was one of three Washington firms to be given an Award of Merit and recognition by the Washington State Paralegal Association, recognizing the firm's support of the WSPA and its president, **Sheri H. Olsen**. Olsen is a paralegal with the firm.

Gene B. Brandzel has left private practice in Seattle to form the Brandzel Consulting Group. He provides services to professional firms, profit and not-for-profit organizations.

Port Orchard lawyer **Judith Mandel** received the Washington Association of Criminal Defense Lawyers' William O. Douglas Award in June. The honor recognized Mandel's "extraordinary courage and commitment in the practice of criminal law," more particularly, in death penalty cases.

Seattle's Foster Pepper & Shefelman has expanded its business and employment groups with the addition of **Marque C. Chambliss** and **Elizabeth L. Foster-Nolan**, both in the firm's Seattle office. **Lynne E. Graybeal** and **Polly Kim Close** have also joined the firm's intellectual-property practice.

Jeff Tolman, the Sage of Poulsbo, has an additional title now. After his law partner, **Jay Roof**, was appointed to the Kitsap County Superior Court bench, Tolman was appointed Poulsbo's municipal court judge. His Honor will preside every Monday night and two Wednesdays a month. Tolman has been a pro tem judge in the court for some ten years.

Spokane lawyer **Don Curran** is the recipient of the Washington State Trial Lawyers Association first Professionalism Award.

Douglas A. Hoffman of Williams Kastner & Gibbs' Seattle office, has been installed as president of the Association of Defense Trial Attorneys, a national organization whose membership is limited to one person for any city, town or municipality.

Toshimitsu Takaesu has joined the law firm of Betts, Patterson & Mines in Seattle, where he serves as a foreign legal consultant. A practicing attorney in Japan for more than 30 years, Takaesu will be of counsel to the firm in corporate and business transactions and estates, especially succession issues dealing with the Japanese family system of property inheritance.

Mercer Island lawyer **Ron Dickinson** has left Washington to become a federal administrative law judge for the U.S. Social Security Administration in Wilkes-Barre, Pennsylvania. Dickinson was Mercer Island city attorney for 23 years.

Arne Hedeen, a partner in Schwabe Williamson Ferguson & Burdell, has been appointed leader of the firm's 16-attorney Construction and Governmental Law Practice Group.

From Switzerland, **Albert Tramposch** writes, "So that I might keep in touch with some of my WSBA colleagues, I will greatly appreciate" the *Bar News* advising people that Tramposch, a former lawyer with Seed & Berry and 1986 UW law graduate, has been appointed Head of the Patent Law Section of the World Intellectual Property Organization (WIPO) in Geneva. WIPO is a United Nations Specialized Agency which administers international treaties and conventions on patent, trademark and copyright law.

The Asia-Pacific Center for the Resolution of International Business Disputes has named **David E. Wagoner** a member of its panel of arbitrators. He practices with Perkins Coie in Seattle.

Vancouver, Washington, assistant city attorney **Ted Gathe** has been appointed city attorney there. He succeeds **Jerry King**, who retired at the end of May after

29 years on the job.

Gretchen Valentine has been named assistant vice president and counsel to Commonwealth Land Title Insurance Co. and Transamerica Title Insurance Company.

In Seattle, **Eric A. DeJong** has joined David Wright Tremaine as an associate. He was previously with a San Francisco firm.

Jacqueline A. Wood is now affiliated with Riddell, Williams, Bullitt & Walkinshaw in Seattle.

Erickson & Barkshire, the Bellevue firm, announces that **Terrence A. Leahy** has joined the firm, continuing his practice in real estate litigation, and expanding his work in mediation and adoption.

Stephen M. Seidel has joined Miller Nash's affordable-housing group.

CLARK COUNTY REPORT
by **JOHN F. NICHOLS**

Bring out the scooper:

It doesn't happen often and it isn't pleasant when it does, but being out scooped by *The Columbian* is akin to losing an uncontested motion for default. But hey, who doesn't every now and then? *Ergo*, imagine my shock and dismay when I read in said paper that our own Hon. **Barbara Johnson** had been married in her ancestral home in Walla Walla. Wearing her trademark basic black and pearls, she was wed to, of all things, a reporter, (not even a court reporter), who just happens to work for the above mentioned *Columbian*. A more jaded correspondent would suggest preferential treatment, but judicial prerogative is a more logical explanation. Calls to the judge demanding equal time were met with the terse voicemail response, "Please leave your message at the beep, then push 1; and if that's you, Nichols, you can push all the numbers you want till your finger falls off. . . . Good-bye." Well, I did but nothing happened. Does it have to be a push-button phone?

Finally a Boss:

Buried in last month's *CCBA News* was the announcement that **John Vomacka** had garnered the coveted Boss of the Year award at the 28th annual Bosses Night sponsored by the Ft. Vancouver Legal Secretaries Association. The award is second only to the Beagle in prestige, buying power and "Q" rating. My response: it's about time that **Wayne Nelson** finally got dethroned from his lofty perch high atop his quasi-pedestal at his quasi-job at the P.U.D. My own unbiased opinion was that the wrong Nelson had gotten the award these past two years. **Ozzie**, heck even **Ricky** or **David**, was twice the boss at half the pay. But it was truly touching when John's secretary described how he had put himself through law school selling stereo equipment from the trunk of his car. I guess some of those eight-track decks still had price tags on them. She went on detailing John's logical progression from law school; to Radio Shack assistant manager; to Muzak sales; and finally to solo practice in Clark County. And to think it only took 15 years and God knows how many bootlegged tapes. Congrats, John, and think "DAT."

CHELAN COUNTY OPBA REPORT
by **CHARLES W. CONE**

Minutes of the June 9, 1994, Meeting of the OPBA:

The summer meeting of the OPBA was held in the VIP Room of the Red Lion Inn in Wenatchee, Washington, on June 9, 1994. Only five members were present. The following excuses were accepted as valid by those present: (1) **Bernie Burke** was busy hustling a pigeon in a snooker game; (2) Judge **Bob Graham** had a 12:30 tee time; (3) **David Whitmore**, candidate in the coming election to succeed the retiring Graham, was busy campaigning at the Senior Citizen's Center. Other claimed excuses were rejected by unanimous vote. A quorum being present, election for the award of Old Phart of the Year was conducted. Judge **Jerry Hanna** gave an impassioned speech nominating our only Harvard graduate, **Earl Foster**. Hanna pointed out that Foster's age and the Harvard experience would do much to restore the prestige and dignity of our group. **Charles Cone**, in his nomination of Whitmore, pointed out that our group should support one of its own and that his selection as Old Phart of the Year and his prominent mention in his campaign literature ads and speeches would greatly enhance his campaign efforts. After much discussion, Whitmore was declared the winner of this coveted award by unanimous ballot. After this business was attended to, **Bob Hensel** lectured the group on difficulties of living off of the interest from one million dollars in investments and on the sin of invading capital. The meeting was then adjourned. We will convene again in late September. At the September meeting, the group will endorse candidates for the November election.

EAST KING COUNTY REPORT
by **MARIJEAN E. MOSCHETTO**

August is the month for EKCBA's Golf Tournament, to be held at Carnation Golf Course on August 25. The tournament has grown with the additional attraction of being the second leg of the Suburban King County Bar Association's Golf Challenge against South King County Bar Association and the kickoff of the annual fund-raising raffle for the Eastside Legal Assistance Program. You can play golf, have dinner or both as well as sneer at SoKCBA, which is going to lose the challenge cup this year!! We promise great prizes and great company, maybe even a judicial hopeful or two who will be smiling while campaigning for the fall elections. (At the very least, you should take advantage of the opportunity to have a judge smile at you for a change.) Our tournament director this year is **Alex Wirt**, (206) 455-1909, who will be happy to set up a tee time for two, or however many are in your party.

Speaking of prizes, this year's ELAP raffle grand prize will be a trip for two to Mexico, specific location to be announced at the tournament. Now this may not seem so special during the sunny season, but the prize is also good during Puget Sound monsoon months. At a buck a chance to a worthy cause, you can't miss. Who knows? You might win.

EKCBA and SoKCBA held their joint cruise in June. I didn't check the bar receipts but was assured that SoKCBA upheld its reputation. About 100 members of both organizations boated around Lake Washington, dining and dancing. Many luminaries also attended, including Supreme Court justices **Barbara Durham** and **Richard Guy**, judges **Brian Gain**, **Deborah Fleck** and **Jim Cayce**, as well as Judge **Faith Enyeart Ireland**, who is running for the state Supreme Court. WSBA President-elect **Ron Gould** was circulating and meeting some of his future constituency. Of course, many of

the officers and trustees for each organization attended, including EKCBA President **Val Hoff** and WSBA Eighth District Governor **Steve Toole**. SoKCBA's outgoing president, **Mike Salazar**, handed over the gavel and took off his tie (in that order) as SoKCBA inducted its new president, **Jane Rhodes**, as well as the remainder of her 1994-1995 officers and new trustees. Apologies to those whose names I should have mentioned but didn't; for those of you who didn't attend, be sure to reserve it on your calendar next year.

Other news on the Eastside: **Tom Hamerlinck** and **David Hobson**, members of the Riddell Williams firm, have relocated their offices in Bellevue, as have **Terry Leahy** of Erickson & Barkshire and **Joel Green** who has established his sole practice. In June, **Karli Jorgensen** of the Thomas Whittington firm in Issaquah became the prosecutor for the City of Issaquah. **Ted Barr** has found a life after law. Actually, he will continue to practice while attending to his duties as new substitute host for KIRO Radio's Legal Line. Ted's first official gig was June 25 and was a smashing success, so I heard. Of course, the source of that information was the announcer himself. Ted is accepting invitations from prospective agents and entertainment lawyers to "do lunch" while they bid to represent his budding new career. Ted is always ready to accept a free lunch . . . .

Finally, September is the month that EKCBA will resume its monthly luncheons. Dates and speakers will be announced in the newsletter, so be sure to check them and mark your calendar accordingly.

photo by Randy Bracht

*Ephrata attorney **Paul White** (center) was honored this spring for more than 32 years' volunteer service as chair of the Grant County Board of Adjustment. Pictured at the ceremony are (l-r) county commissioners **Tim Snead** and **Helen Fancher**, Planning Director **Billie Sumrall** and Commissioner **LeRoy Allison**. White wrote the rules of operation and bylaws still used by the board and the commission, and he has successfully defended the board without compensation in every case appealed to superior court. They adopted a resolution lauding him, praised him for his diplomacy and fairness, and expressed their thanks "for a job superbly well done."*

(The Bar News *thanks the* Grant County Journal *and photographer Randy Bracht for permission to print this news item and picture.)*

LAW FUND

Thanks to Microsoft Corporation for its generous contribution to LAW Fund of $200 per attorney in its legal department. The contribution will be credited to the 1994 LAW Fund Annual Campaign. Microsoft is setting a standard for other corporate law departments in its support of equal access to justice. A special thank you to **William H. Neukom** and **Kimberly T. Ellwanger** for their help in securing this important corporate gift.

The "Double Your Dollars for Dean Campaign," a special memorial campaign in honor of Spokane legend and LAW Fund founding president Jack R. Dean, has attracted many new contributors. Thanks to the hard work of honorary cochairs, **Joseph P. Delay**, Hon. **J. Ben McInturff** (Ret.), **Richard D. McWilliams** and **Smithmoore P. Myers**, as well as Campaign Committee members **James A. Bamberger**, **Paul A. Bastine**, **Nancy D. Isserlis**, **Michael C. Ormsby**, **John T. Powers, Jr.**, and **Karen L. Sayre**, the campaign has expanded beyond Spokane County to include Jack's friends from around the state. The goal is to raise $40,000 during the campaign, which is being coordinated in conjunction with the dedication of the Jack R. Dean Center for Legal Services in Spokane. If you would like to participate in this special tribute, please contact the LAW Fund administrative office.

For more information or to make a contribution, write LAW Fund, 1326 Fifth Avenue, Suite 815, Seattle, WA 98101, or call (206) 623-5261.

PIERCE COUNTY REPORT

by **GEORGE S. KELLEY**

In 1959, on the opening of the newly built County-City Building, Judge **John D. Cochran**, and **Ralph Rogers**, chair of the Superior Court Liaison Committee, prepared a Statement of Principles relating to Conduct and Decorum in the Superior Courts of Pierce County, a portion of which is reprinted here.

> Upon entering the courtroom, attorneys should remove their hats and topcoats before proceeding to the bar to present matters to the Court. If boot type overshoes are worn, they should also be removed upon entering the courtroom. Sport shirts should not be worn in the courts, but business dress is proper

at all times, and adds to the appearance of attorneys.

Adequate preparation of a case requires that a lawyer take pains to instruct his client and the witnesses regarding minimum standards of dress for court appearances. No lawyer should ever permit a female client or witness to appear with her hair done up in pin curls or dressed in slacks or wearing excessively informal attire. Male witnesses and clients should be decently clean even though dressed in working clothes.

Thirty-five years later, 40 new lawyers were admitted to the bar at swearing-in ceremonies at the same County-City Building. Attending were the usual bright young faces, dressed appropriately, ready to start practicing law in the hopes of earning enough money to pay off their law school loans. However, one fellow appeared in high-top basketball shoes, casual pants and a sweatshirt on which was Shakespeare's phrase ". . . first, let's kill all the lawyers." He was also chewing gum. We never had a chance to find out the reason for the style of dress and can only assume that he lost a bet with someone that he would never pass the bar exam. We can be assured that Judge Cochran and Attorney Rogers would not have been amused.

In other courthouse news, the superior court judges, last January, designated the County-City Building as a weapon-free building pursuant to RCW 9.41.300. If things were that easy, the judges could simply declare Bosnia and parts of Africa similarly weapon-free, and world peace would be upon us. Being practical folks, the judges arranged for the installation of a security system at two courthouse entrances. The other doors will be locked and usable only by those county employees taking a smoke break possessing card entry keys. X-ray machines will examine bags and briefcases, and a magnetometer will snare those defendants with ironclad alibis on their way to the criminal court. If the security works anything like the airports, we will have new excuses for being late for court.

Chuck Robbins returned from a fishing expedition in Costa Rica with several fine fish and a case of malaria. If you see Chuck shivering in the courthouse hallways, do not assume that he has been sampling Byrd's prize winning wine—only that he met a mosquito that didn't like trial lawyers.

Pictured in our local newspaper was Judge **Waldo Stone** lying alongside the curb of Vassault Street being attended to by two attractive young ladies. No, he wasn't sampling Byrd's wine either. He was tripped during the first mile of the 7.4 Sound-to-Narrows foot race, made a miraculous recovery, and finished along with 10,000 or more other runners.

Winners of this year's Liberty Bell Awards were Justice **Charles Johnson** and **Andrew E. Neiditz**, of the County Executive's office. Awards were presented at the annual Law Day luncheon.

Terry Lumsden has become a shareholder in the Davies Pearson firm.

WASHINGTON ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

Tim Ford (Seattle) began his term as president of the Washington Association of Criminal Defense Lawyers at WACDL's annual conference, held June 9-12 at Campbell's on Lake Chelan.

Other newly elected officers are: **Steve Hayne** (Bellevue), president-elect; **Ron Ness** (Port Orchard), vice president/west; **Jeffry Finer** (Spokane), vice president/east; **Jon Zulauf** (Seattle), treasurer; and **Sheryl Gordon McCloud** (Seattle), secretary.

Winners of the races for positions on the WACDL Board of Governors are: **Bill Fligeltaub** (1st district), **Jon Komorowski** (2nd district), **Charlie Williams** (3rd district), **Vito de la Cruz** (4th district), **John T. Rodgers** (5th district), **Roger Hunko** (6th district), **Anne Harper** (7th district), **Jon Fox** (8th district), **Jim Short** (9th district), **Mark Mestel** (at large) and **Peter Offenbecher** (at large).

They join current Board of Governors members **Tom Hillier**, **George Bowden**, **Mark Muenster**, **Dan Fessler**, **Cece Glenn**, **Judy Mandel**, **Karen Klein**, **Tom Campbell**. **Marjorie Tedrick**, **Dave Bukey** and **Jim Lobsenz**.

Judith M. Mandel, Port Orchard, was selected to receive the 1994 William O. Douglas Award from the Washington Association of Criminal Defense Lawyers. Mandel began her criminal defense career in 1978 at the Kitsap County Public Defender. She moved to the Pierce County Department of Assigned Counsel in 1981, where she became well-known as a result of her defense of a battered woman in a 1983 Pierce County murder case. After three years with the Pierce County Prosecutor's Office, she returned to criminal defense—at first on her own in Gig Harbor, and after 1992 with **Ron Ness** in Port Orchard.

Mandel's defense work includes two death penalty trials, a current death penalty appeal and service as co-amicus curiae in the Westley Allan Dodd case (ar-

guing that he should not be allowed to drop the automatic appeal of his death sentence). She now has a full criminal-defense practice.

The Douglas Award, the highest award presented by WACDL, is given in recognition of extraordinary courage and commitment in the practice in the criminal law. Past Douglas Award recipients are **Kathryn Lund Ross** (1988), **Dick Cease** (1990), **Mark Vovos** (1991), **Tim Ford** (1992), **Bob Boruchowitz** (1993) and **Tom Hillier** (1993). The Douglas Award was given to Mandel on June 10 at WACDL's annual conference at Campbell's on Lake Chelan. The award was presented, on behalf of WACDL, by U.S. District Court Judge **Robert Bryan**.

Three President's Awards were also given in recognition of distinguished service. The first goes to **Sheryl Gordon McCloud,** who has been cochair of the WACDL CLE committee for the past three years. In that role, she has served as cochair of two CLE programs, worked closely with cochairs of several additional programs, and led the committee in developing a long-range plan for CLE programs. In addition, Sheryl has been a member of the Board of Governors since 1992 and served as cochair of the Board's 1991 ad hoc committee on diversity.

A second president's award will be presented to **Mark Muenster,** cochair of the WACDL amicus committee since 1989. In addition to providing oversight to our amicus program, Muenster has written a number of WACDL's amicus briefs. He is a current member of the Board of Governors, and he served an earlier term on the board from 1988 through 1992.

The final president's award goes to **Karen Klein,** WACDL chair of the WACDL-WDA Legislative Committee for the past two legislative sessions. She began her work on the legislative committee by participating in one of our 1990 lobby days and went on to serve as the legislative committee's "priority two" chair in 1991. Karen is a current member of the Board of Governors, served an earlier term on the board (1988 -1991) and served as cochair of WACDL's first two annual conferences at Lake Chelan.

Certificates of Appreciation, in recognition of service to the association, were presented to: **Eileen Farley and Linda Portnoy**, cochairs of October 1993, misdemeanor program; **George Bowden and Chris Beck**, cochairs of the 1993 holiday party; **Roy Howson** and **Anne Harper**, for their work in opposing Initiative 593, and on the 593 Task Force; **John Muenster**, for strike force work on behalf of **Peter Camiel** and Sheryl McCloud in the *Lord* case; **Dan Dubitzky**, for organizing the Federal Bar Committee's brown-bag seminars; **Michael Iaria**, for organizing the Death Penalty Committee's CLE series; **Ralph Hurvitz**, for his Strike Force representation of several WACDL members; **Jon Zulauf**, for his work as treasurer, which this year included chairing a new personnel task force and serving as an ad hoc member of the CLE committee.

WASHINGTON ASSOCIATION OF LEGAL SECRETARIES REPORT

by **CINDY MANSON**

Officer of the Year Award: WALS proudly announces that the recipient of its 1993-1994 Officer of the Year Award is second vice president **Roxanne Forrest**, who works with Bellevue lawyer Douglas Cowan of Cowan Hayne & Fox. The award honors the WALS state officer who has contributed to the association in ways beyond the scope of that officer's duties.

WALS Fall Board Meeting: The fall 1994 board meeting of the Association will be held September 16-18 at the Harbor Plaza Best Western Hotel in Oak Harbor. Friday, September 16, the Legal Education Committee will hold seminars on victims' rights and remedies and ethics. The cost is $15 for members and $25 for nonmembers. The Educational Conference will be held Saturday, September 17, and includes topics covering the role of the public defender; domestic relations patterns forms; employment law; and use of Support Calc. The cost is $20 to members and $40 to nonmembers.

"Back to Basics" topics on Sunday, September 18, are on public speaking, starting a PLS/ALS study group, and "Ways and Means." The registration fee is $10 and includes breakfast. The regis-

tration deadline is September 6, 1994; contact **Linda Lee Martens**, (206) 679-7350.

Legal Education Workshops In October: WALS' October 1994 Legal Education workshops will be held October 8 in Bellevue and October 22 in Olympia. Three sessions will be offered. Session I (8:30-10:00 a.m.) covers sexual harassment as a matter of law and TQM in the law office. Session II (10:30 a.m- noon) covers 1994 state legislation and legal malpractice. Session III (1:30-3:00 p.m.) treats the topics, "DUI Update: I May Flunk, I'm Not Drunk!" and court rules, concentrating on changes in state rules and discussing local rules in Thurston/Pierce, Grays Harbor and Cowlitz Counties (Olympia session) and King/Snohomish and Kitsap Counties (Bellevue session).

The cost is $35 for members and $55 for nonmembers. Registration deadlines are September 30 for Bellevue and October 14 for Olympia. There will be a $5 late charge for registrations after those dates. For information, contact **Diana Osborne**, (206) 259-5106.

Recent Accreditations: Seventeen members were certified as Professional Legal Secretaries and one as an Accredited Legal Secretary in May.

Annual Meeting and Educational Conference: WSBA president-elect **Ronald Gould** was the keynote speaker at this event, held in Mount Vernon May 20-22. **Robin Mullins** received the Award of Excellence and the Legal Support Professional of the Year Award went to **Donna Walt**, Certified PLS, from Cowlitz County.

WALS officers attended the NALS Leadership Symposium in Tulsa June 3-5. Other June activities included the Legal Education Committee meeting June 4, the 1994-95 Executive Committee planning meeting in Ocean Shores June 11-12; the WALS/WSBA Joint Education Committee meeting June 18, and the installation of officers in the newly chartered Snake River Legal Secretaries Association in Clarkston June 23.

A vice presidents/treasurers workshop was held July 23, and the Executive Committee met again July 24. Ten members attended the Annual Meeting and Educational Conference of the National Association of Legal Secretaries in Orlando July 29-August 3.

WASHINGTON DEFENSE TRIAL LAWYERS REPORT

by **LAURIE D. KOHLI**

The Washington Defense Trial Lawyers held their Annual Meeting and Convention on July 14-17 at the Delta Whistler Resort. As usual, a good time was had by all, and at the same time some thought-provoking discussions of the future of our civil justice system were held. Former Chief Justice **Keith Callow** shared his experiences in helping Estonia create its new judicial system. **Robert Sayler**, chair of the American Bar Association's Section of Litigation, spoke on the need for, and the ABA's efforts to facilitate and support, reform of America's civil justice system and what Washington state and WDTL members can do to help effectuate that reform. King County Superior Court Judge **Sharon Armstrong** then spoke on discovery reform as a starting place for improving our civil justice system.

President-elect **Mary Spillane** called for WDTL and its members to step forward and take an active role in spearheading needed reform to ensure the continuing viability of our civil jury trial system into the 21st century. Towards that end she proposed that WDTL and the Washington State Trial Lawyers Association continue the momentum which brought about the WDTL/WSTLA Joint Statement on Professionalism and the first ever jointly sponsored WDTL/WSTLA seminar on professionalism earlier this year under the leadership of **Jeff Tilden** and **Judith Proller**. Mary proposed that both organizations work together to address and seek to resolve issues of concern to all trial lawyers, plaintiff and defense, including issues relating to civil-justice reform.

Several WDTL officers and trustees attended the Northwest Defense Leaders Conference at Semiahmoo on July 21-24. Representatives of defense organizations from Oregon, Idaho, Montana, Northern California and Alaska met to discuss issues of mutual interest to defense counsel and to strengthen the ties and friendships between the members of the defense organizations.

Three new trustees have been appointed to the WDTL Board for two-year terms: **Howard (Terry) Hall** of Seattle, **Beth Jensen** of Tacoma and **Roy Umlauf** of Seattle. Officers for the 1994-95 year will be **Mary Spillane** of Seattle, president; **Bill Phillips** of Tacoma, vice president; **Pete Johnson** of Spokane, secretary; and **Laurie Kohli** of Seattle, treasurer. Trustees **Tim Blue**, **Andy Cooley** and **Jim Macpherson** of Seattle, **Steve Stocker** of Spokane and **Bob Tenney** of Yakima will continue to serve on the WDTL Board, as will **Jeff Tilden**, past president .

YAKIMA COUNTY REPORT

by **GARY McCLOUGHLEN**

Single, unattached and available **Tim Green** has set sail for the more fertile seas of Puget Sound, where he will practice immigration law with the **Dan P. Danilov** office at 2303 One Union Square in Seattle. Tim related that the real issue of his move to Seattle's law practice was the parking perk—he wanted more than the one hour free parking the office provides for clients, especially after having his own parking lot in Yakima. Also bailing out of Yakima sees (no SIC) **Guillermo Wm Romero** heading out for the Spokane Bar, where he will establish his sole practice in family, criminal and immigration law. William hopes to have a second port in Moses Lake before long. He had a civil trial last month, and immediately decided to concentrate in criminal law, referring his civil cases to Spokane attorneys, hoping for criminal case referrals from the same as his practice builds up. **Joe Falk** will serve a three-year term on the board of governors for the American Red Cross, its highest governing body. Joe has served as a volunteer since 1979 and was awarded a life membership in the Yakima Valley Chapter. **Bob Northcott,** Deputy Prosecuting Attorney, has finally taken a vacation and traveled across country to visit in-laws. Twenty-seven years ago Bob stole Sandy away from her father, a Greek native now of Birmingham, Alabama. His new father-in-law was so happy he threw a Greek banquet and

partied for a week. This time he promised Bob that Bob would relax, and bought a refrigerator to keep the beer supply cold. Methinks Bob will be happy to get back to work! New leaders of the Yakima County Bar start on September 9th, with the first bar meeting of the fall. **Teresa Kulik,** Assistant Attorney General with the Yakima Office, ascends to the Captaincy of the Yakima Bar. Rumor has it that the first CLE will be a field trip of white-water kayaking, her favorite sport when she is not involved with her son's basketball or CWU's board. **Pat Cockrill,** as First Mate, is quoted as saying he will be very supportive of his captain, but that was before he found out he would be up front in the kayak, instead of aboard the luxury liner sipping afternoon tea and strolling around the deck. Bar secretary **Greg Lighty,** with Halverson & Applegate Law Office, will chart the bar courses as keeper of the minutes and all the crew will keep an eye on **Kirk Ehlis,** with Meyer, Fluegge & Tenney, as he counts the gold doubloons in the ship's treasure chest as treasurer. The crew faced mutiny when the library board was told they had been shanghaied for a four-year term, instead of being allowed to jump ship after only one year. Peace was regained when **Vern Fowler** volunteered to keep secret the crew members of the Board until their term was over. Yes, Teresa, **Walt Weeks** reports there actually is a board of trustees. They are in charge of the plans.

Peace, civility, respect and friendship between all members of the some 340 member strong Yakima Bar crew, with a mix of old and now becoming better acquainted, are the goals of our captain for 94-95. Each of us should be better equipped to represent our clients and our community when we reach this goal.

IN MEMORIAM

J. Guthrie Langsdorf

Former Clark County Superior Court Judge J. Guthrie Langsdorf, 83, died March 14, 1994, in Vancouver. Born in Salmon, Idaho, Langsdorf moved to Vancouver with his family and was raised there. He graduated from the University of Washington School of Law in 1935

and returned home to practice in the law firm of Wilkinson & Langsdorf. In World War II, he served with the U.S. Army Air Corps in the China-Burma-India Theater of Operations between 1941 and 1946. He was awarded a Bronze Star and left active duty with the rank of lieutenant colonel. Langsdorf served in the Air Force Reserve until 1971.

After the war, Langsdorf returned to Vancouver and resumed his former practice. Harking back to his Irish roots, he asked that his swearing-in as a Clark County superior court judge be held on St. Patrick's Day, 1955, "in honor of a good Irishman." Langsdorf served on the bench nearly 22 years and retired at the end of 1976. During his judgeship, Langsdorf served as a pro tem judge on the Washington Supreme Court and as president of the Washington Superior Court Judges' Association. Among his civic activities were terms on the boards of St. Joseph's Hospital and the State School for the Deaf. He was an avid sportsman and traveler and was active until a few weeks before his death.

Survivors include Judge Langsdorf's wife and three children, two of whom, Linda Langsdorf Johnson and Michael Langsdorf, are Clark County lawyers.

LeRoy LaVigne

LeRoy LaVigne, 72, died March 9, 1994. Born in Valley, Washington, he moved with his family to Cashmere in 1929. LaVigne graduated from Cashmere High School and attended the University of Washington before enlisting in the Army Air Corps in January 1942. He served in the European and African Theaters of World War II and was discharged in 1945.

After the war LaVigne attended Gonzaga Law School then returned to Cashmere and went into the real estate business. He served as Cashmere's municipal court judge for many years, and he drove a school bus for the Pashastin-Dryden and Cascade school districts. He was a member of the American Legion, past president of the Cashmere Chamber of Commerce and Kiwanis International. He was a retired member of the Cashmere Volunteer Fire Department and was secretary of the Chelan County Fair Board for many years. Survivors include his father, brother, wife, four daughters and eleven grandchildren.

Duane Lund

A. Duane Lund, 60, died February 21, 1994, in Kirkland. He was born in North Dakota and was a graduate of the University of Washington and UW School of Law. He served in U.S. Army Intelligence in 1953-1954. Active in civic and bar association affairs, Lund was twice a member of the Board of the Washington State Trial Lawyers Association, twice Washington State delegate to the Association of Trial Lawyers of America, co-chaired its seminar committee for two years, and was president in 1976-77. He was WSTLA's recipient of the Brandeis Award for Leadership in 1980. From 1978 to 1981 he chaired BAR PAC, the Washington lawyers' political action committee.

Lund was a member of numerous King County and WSBA committees, and he maintained memberships in the Federal and American bar associations. In 1986-1987 he served on the Washington State Insurance Commission. In Kirkland, he was active in the Chamber of Commerce, serving as its president last year. Founder and first president of the Kirkland Sister Cities Association, Lund was honored by the Federal Republic of Germany last year for his work in improving relations between the United States and Germany.

Lund was also an active writer and editor, serving as editor of WSTLA's *Trial News* from 1973 to 1976 and as a member of the *Washington State Bar News*' Editorial Advisory Board from 1978 to 1981.

Lund's survivors include his mother, brother and three sisters, wife, and two daughters.

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Construction litigation insurance/general defense litigation: 45+ attorney firm seeks two associate attorneys with a minimum of two years' practice emphasizing construction, insurance and/or general-litigation defense. Salary DOE + benefits. Candidates must possess outstanding academic background and excellent written, oral and presentation skills. EOE. Send resumé in confidence to Hiring Coordinator, Reed McClure, 3600 Columbia Center, 701 Fifth Avenue, Seattle, WA 98104-7081.

Intellectual property attorney: Prominent Seattle firm seeks an experienced intellectual-property attorney. Should have substantial experience handling complex intellectual-property matters, an established client base and the desire and ability to help expand the firm's intellectual-property practice. All resumés confidential. Send resumé and cover letter to Box 430, WSBA.

Franklin County is accepting applications for a deputy prosecutor. Lawyers already admitted to the Washington State Bar Association with an interest in domestic relations (paternity/child support) or criminal prosecution may apply. Starting salary $32,868-$36,240 plus benefits, depending on experience. Franklin County is an equal opportunity employer. Send cover letter, resumé and references to Dennis DeFelice, Franklin County Prosecuting Attorney, PO Box 1160, Pasco, WA 99301.

Spokane, Washington, intellectual-property law firm of seven attorneys and one agent has excellent opportunities for highly motivated associates having strong electrical or mechanical engineering backgrounds and one or more years of experience. The position involves all phases of intellectual property with emphasis on patent application preparation and prosecution in the fields of electrical, computer and mechanical engineering. Significant client contact and responsibility are provided. Position is expected to lead to partnership. The firm has a diverse and well-established client base representing small to prominent multinational companies. The firm enjoys rapid growth and a very bright future in a beautiful part of the country. Spokane is noted for its outstanding quality of life and wide range of outdoor activities. In the Spokane community, delayed traffic and freeways are not a problem. Rural living is still available. We enjoy the best of both worlds—(1) a stimulating and first-rate law practice, and (2) a first-class lifestyle without the hassles of larger cities and long commutes. Excellent salary and benefits. Reply in confidence to David P. Roberts, Wells, St. John, Roberts, Gregory & Matkin P.S., W. 601 Main, Suite 815, Spokane, WA 99201.

Midsized Seattle law firm seeks an experienced attorney in estate planning and probate. Should have a minimum of five years' practice, and established client base, and possess superior interpersonal and writing skills. Salary DOE; excellent benefits. Send resumé in confidence to Mary Blazek, Ryan, Swanson & Cleveland, 1201 Third Avenue, Suite 3400, Seattle, WA 98101-3034.

Midsized Seattle law firm seeks an attorney in long-term healthcare. Must have experience working with healthcare facilities in areas involving Medicare/Medicaid reimbursement and certification, Certificate of Need, facility and staff licensure and business contracts. Should have a minimum of eight years' practice, an established client base, and possess superior interpersonal and writing skills.

Salary DOE; excellent benefits. Send resumé in confidence to Mary Blazek, Ryan, Swanson & Cleveland, 1201 Third Avenue, Suite 3400, Seattle, WA 98101-3034.

Midsized Spokane law firm seeks associate tax lawyer looking for challenge and growth opportunity. Individual should have LL.M. or broad-based IRS experience with a minimum of two years' experience preferred. Comprehensive benefit package and salary DOE. Send resumé and one (1) writing sample with cover letter to: Box 428, WSBA.

University of Washington School of Law: The University of Washington School of Law seeks an instructor to teach halftime in its Basic Legal Skills program. This six-credit required course is integrated with the first-year curriculum and provides both an introduction to legal method and skills training in a simulated clinical model.

This halftime appointment will be for nine months. Candidates should possess excellent academic records, including proven analytic, writing and lawyering skills, and at least two years' experience in teaching or practice.

Please apply by sending a cover letter and resumé not later than August 31, 1994, to Roland Hjorth, Associate Dean for Academic Affairs, University of Washington School of Law, JB-20, Seattle, WA 98195. The University of Washington is an affirmative action/equal opportunity employer.

Tired of the rat race? Ready for the country? Opportunity for experienced attorney with strong credentials to manage Okanogan County office of dynamic Wenatchee-based general practice. Send resumé to Office Manager, Foreman & Arch, P.S., PO Box 3125, Wenatchee, WA 98807-3125.

WILL SEARCH

Charles E. Hinton: Anyone having knowledge of a will prepared on behalf of decedent, Charles E. Hinton, please contact George Treperinas, attorney, (206) 292-4900.

William K. Burhen, DDS: Anyone having information or knowledge of a last will and testament of William K. Burhen, DDS, who died 4.18.94, should immediately contact Anthony J. Vidlak, Attorney at Law, (206) 622-5306.

SERVICES

Omega Attorney Placement: The Pacific Northwest's premier attorney placement firm, specializing in law firm and corporate attorney placement. Direct confidential inquiries to Omega, (206) 467-5547.

Urology forensic consultant: Experienced, boards, professor, M.D., J.D., plaintiff or defense. (314) 361-7780.

Jerald E. Albrich, M.D., board-certified in urology and radiation oncology. Actively practicing radiation oncology. Review and testimony. (503) 291-2195 in Oregon. (503) 291-2196 fax.

Document examiner: government-trained; court qualified. Eugene P. Hussey, (206) 564-1340, (206) 565-8022.

Forensic accounting: Roger B. Gulliver, CPA, CFE, CISA, CBA is now available for civil and criminal litigation support. Twenty years' audit and fraud examination experience. (206) 735-2392.

Nurse consultant: medical record chronologies, analyses and summaries. Medical research. Seventeen years' experience. Broad nursing background. Competitive rates. Sharon T. O'Malley, RN, BSN. (206) 943-2369.

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Joan Luckmann, R.N., M.A. Nursing textbook author is available for consultation, medical/nursing research, detailed record analysis, preparation of reports, client interviews and expert-witness referral. (206) 782-5188.

Library membership improves your life. You get the information services you need when you need them. You control the cost. You provide the best service to your clients at the most reasonable cost. One monthly payment buys a full-service law library and qualified staff to help with your information needs. Fax, document retrieval, word processor, paralegal and conference room available on "use basis." Comfortable, quiet, cool place to work. Come in for one free day's use. See for yourself. For more information, call Margie Broderick at (206) 646-3464.

Registered professional land surveyor with J.D. and extensive experience as a consultant and expert witness in boundary disputes. Author of articles and regular columns in recognized journals and instructor for land surveyors' seminars; active in professional societies. Jerry R. Broadus, Geometrix Surveying Inc. (206) 840-5680.

Washington, D.C., attorney - Available to assist your legislative, regulatory or litigation needs in D.C. Reliable, experienced and effective DC/OR bar member offering legal and consulting services for NW firms/clients who need access to Capitol Hill or DC agencies/courts. Flexible rates vary depending on services rendered. Contact Colleen Morgan, (202) 232-7949 or fax (202) 797-9862.

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