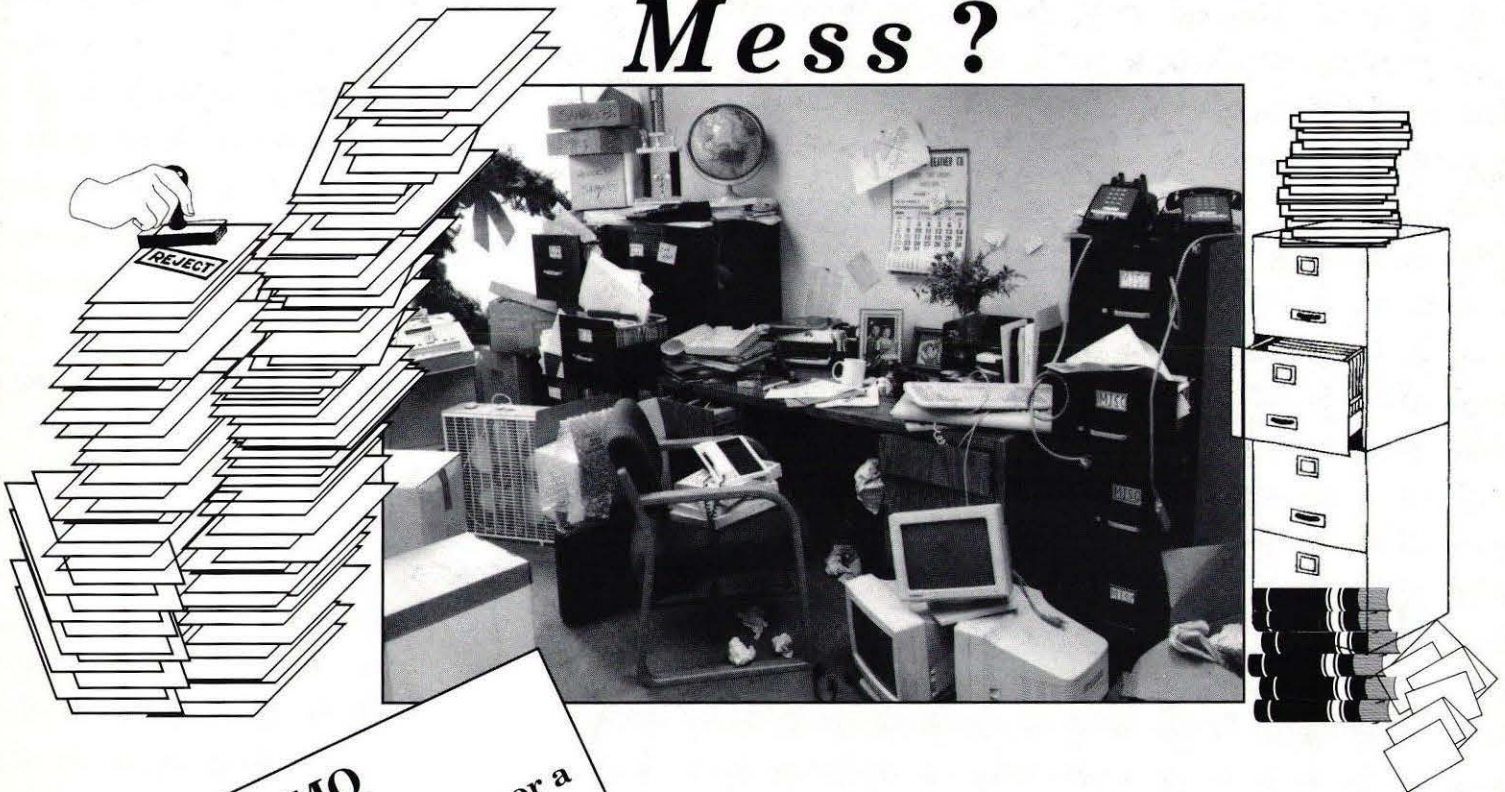


Washington State **Bar
News**

Vol. 48, No. 9, September 1994

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Cover: A Shurgard Storage photo of a typically mismanaged office.
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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.

About Those Few Bad Apples . . .

Editor:

As president of the Washington State Court Interpreters and Translators Society (WITS), I am writing you regarding a matter of concern to the organization, professional interpreters, and the legal community in general. Recent newspaper accounts of unethical and illegal activities involving a community interpreter and subsequent pleas of guilty to criminal charges on behalf of at least one interpreter is a very unfortunate series of events.

One of the principal functions of WITS is to promote the Code of Conduct adopted by the Washington State Legislature. WITS and its members are saddened to hear of unethical activities on the part of any interpreter, because this may cause erroneous assumptions to be made about interpreters in general.

Certification for court interpreters in the state of Washington was created in part to ensure that interpreters adhere to the Code of Conduct, and certified interpreters are sworn to uphold these high professional standards. Certification by the Office of the Administrator for the Courts is currently available for the Cambodian (Khmer), Cantonese, Korean, Laotian, Spanish and Vietnamese languages. Although, as the reader can see, there are many languages for which certification is not available, *all* interpreters, whether certified or not, are bound to adhere to the Code of Conduct.

WITS is a supporter of high ethical standards for interpreters, and we hope to work together with others in the legal field to ensure compliance with these standards.

SUSANA STETTRI SAWREY
President, Washington State Court
Interpreters and Translators Society
P.O. Box 1012
Seattle, WA 98111-1012

Slick Moves Scored

Editor:

Please imagine my surprise when my secretary brought me an invoice to pay the sum of \$145 for membership in the King County Bar Association with a rather large reference to "payment due- 7/15/94."

Why was I surprised? Because I am not, nor have I ever been, a member of the King County Bar Association. I did not

request membership in the King County Bar Association. I did not request that I be sent any information on the King County Bar Association.

While I would not mind being sent applications for membership in that organization, I am certainly disturbed that my office would be "invoiced" in such a way that, but for my bookkeeper's inquiries, an apparent obligation to maintain my license to practice law would have been

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DUNCAN C. WILSON
Renton

And While You're At It, Shoot the Piano Player

Editor:

On behalf of the Family Law Section, I must take exception to your report ("The Board's Work, *Bar News*, June 1994) that the Board of Governors denied our request to use a prior year's surplus. You state that "everyone thought the Section's representative did a fine job of pleading a thin case." I have no doubt our representative did a fine job. I do not agree that it was a thin case.

As usual, one can only judge the adequacy of our case when the facts are known. The fact was that the section had earned \$4,800 at our June 1993 midyear seminar as its one-half share of the profits. This profit was credited to our account on September 30, 1993, the last day of the fiscal year. We were not informed of it until some time later, when the September accounting statement was received. Under the rule then in effect, any unused funds at the end of the year were automatically forfeited to the WSBA.

Your report implies that the Bar was simply following its own rules which the Family Law Section foolishly refused to accept. The point is that there are two contrary rules applicable to this case. The rule you referred to required the loss of any surplus at the end of the year, supposedly to compensate the Bar for its overhead expenses incurred in servicing the sections. The other rule, which was overlooked, says that the sections should receive one-half of the profits of their mid-year meetings. We naively thought that the concept of "receiving" profits implied the right to use them. The Bar, in applying the first rule, took away our profits before we even knew we had them. To say that we "received" the profits

because some time after the end of the fiscal year we discovered that they had been momentarily entered on our ledger is a concept that I, quite frankly, don't get. Since both rules were written by the Bar, it would be reasonable to expect that when they are inconsistent, the one most favorable to the section would be followed.

You refer to the WSBA's party line that no administrative charges were as-

essed that year and had there been, there would have been no surplus. True, but beside the point, or maybe it is the point. Yes, there was no administrative charge assessed. If no charge was being assessed, why were the section funds taken to satisfy this nonexistent charge? When the Bar later decided to assess administrative charges, the sections were allowed to raise their dues to include the assessment.

I may be biased, but I believe that some



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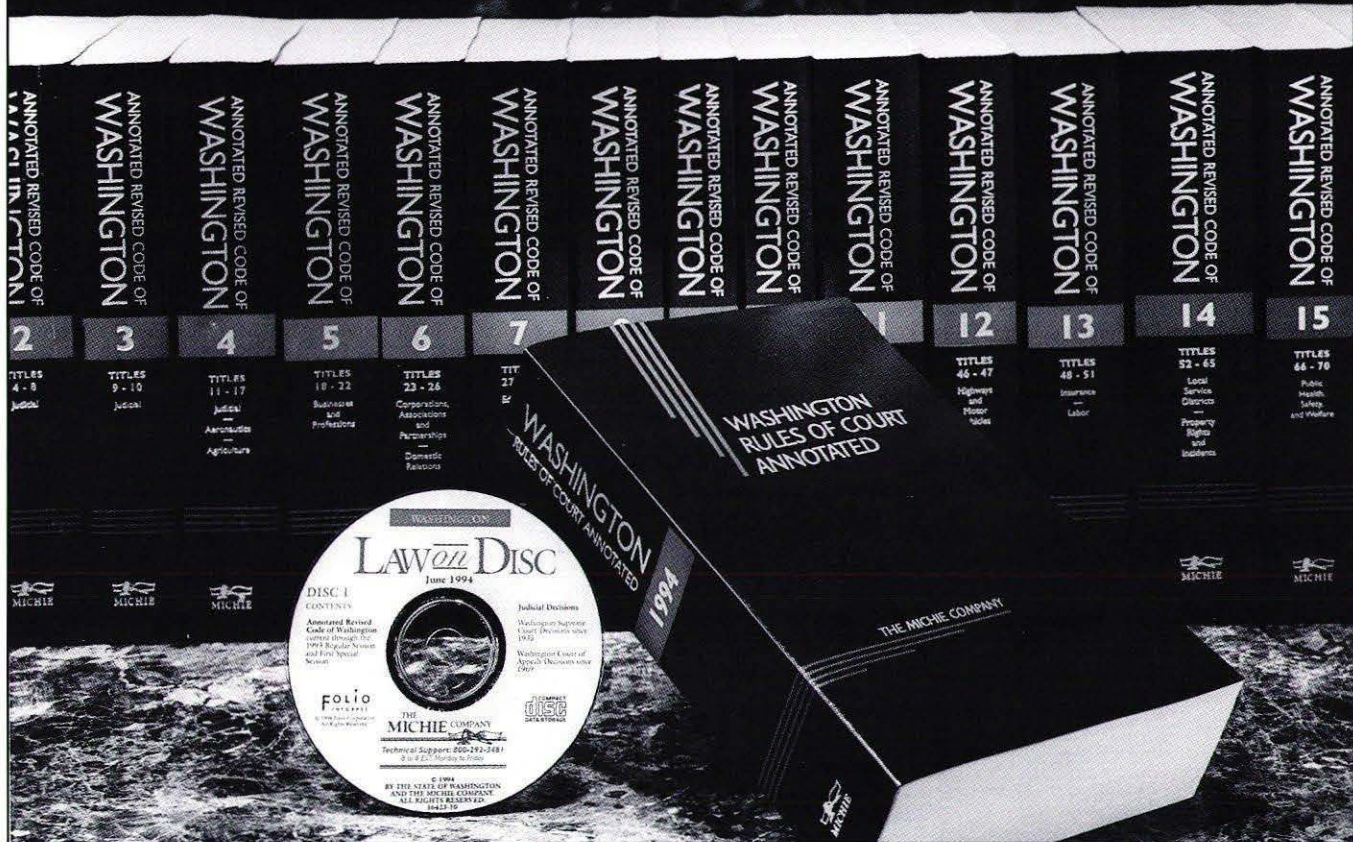
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of the most important work done by the WSBA is conducted by its sections. Having sat on the Family Law Section executive committee for a number of years, I have witnessed some of the incredible proposals introduced in the Legislature each year. Each year, we review proposed legislation and report to the Legislature on bills we support, those we oppose, and those we feel need improvement. In some cases we are successful; in some we aren't. Successful or not, it is important work that needs to be done. We are expected to do this and at the same time be self-supporting. We are happy to do this within the limits imposed by WSBA rules. We only ask that the rule be applied with a sense of fairness.

ROBERT B. TAUB
Chair, WSBA Family Law Section
Tacoma

Editor's response: Though he opts to shoot the messenger, the writer's quarrel appears to be with the Board of Governors' decision and WSBA administrative policies. As to the accuracy of "The Board's Work" as a summary of what was said and done, I stand by the challenged material. I was there. The writer was not.

Whose Shoe, Whose Foot?

Editor:

After reading Mary Alice Theiler's letter (*Bar News*, July 1994) stating that "there is no slight personal advantage that can possibly be hypothesized as to the motivation for [Governors] to seek bar leadership," I was about to concede that maybe I was being paranoid in thinking some of our bar leaders might have personal motives in seeking office.

But my perusal of the *Bar News* then took me to the Gray Pages, particularly page 32 and the discussion of the June 18-19 Board of Governors meeting. The editor's enlightening report of the issue surrounding the proposal to amend CR 19 stated that the issue was "essentially a turf battle between the trial lawyers and the defense lawyers" in which, over a two-hour discussion (anyone want to figure out how much billable time went into that discussion?) the debate "pretty much followed the usual lines." Apparently the plaintiff's lawyers argued a position which would benefit their clients, and the defense lawyers argued a position which

would benefit their clients. In other words, it seems that the governors were using their positions on the Board to push or oppose a rule change because the result would benefit them financially. In the end, when it seemed that the defense lawyers had prevailed, President Stritmatter, himself a plaintiff's lawyer, even attempted to cast a vote to preserve

the plaintiff's lawyers' position. Hmm.

Do you still contend, Ms. Theiler, that there is "no slight personal advantage" that can even be hypothesized as to whether lawyers seek positions on the Board of Governors to advance personal agendas? Exactly which one of us has had the wool pulled over his or her eyes?

CHRISTOPHER HODGKIN
Friday Harbor

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IS THERE LIFE DURING THE BAR PRESIDENCY?

by **Paul L. Stritmatter**, *WSBA President*

I constantly hear the rhetorical question, "Why would anyone want to be WSBA president?" "How are you able to maintain a law practice?" is the second most popular refrain. It has been an interesting and challenging responsibility. It seems that a day did not go by without some significant issue or meeting for the Bar appearing on my agenda.

I was not totally naive about the time requirements for the job when I agreed to be considered for the presidency. I had served on the Board of Governors for three years. I was well aware of the very significant time commitment that is involved in that three-year term for every governor. Frankly, like most board members, I was relieved when my term expired in order to free up much needed additional time. I would actually have a significant portion of my life back in my own hands to work on behalf of my clients, to spend time with family and friends and to relax. I had served as president of WSTLA, and I knew of the significant increase in work load for the presidency of an association as compared to a position on the Board. Even at that, I was not prepared for the time commitment that is involved with this responsibility.

For the first two months, working 60- to 70-hour work weeks, approximately 80 percent of my time dealt with issues for the Bar Association. Once I got committee appointments in place, task forces appointed, orientation meetings completed, and the first couple of crises resolved, I settled into a steady schedule with Bar business occupying 50 to 60 percent of my time. The last two months, however, have involved only 30 percent of my time.

The commitment to the job is not just a personal one, but affects your family, staff and—most certainly—your partners. I have practiced law for many years with my two partners, Keith L. Kessler and F. Mark McCauley. A lawyer could never ask for two better partners. They willingly put up with the increased demands on their time and undertook additional responsibilities in our law firm due to my absence while on Bar Association business. Just after I had settled into a regular

pace on the job, my partner Mark McCauley was elected to the Grays Harbor County Superior Court bench. In addition, the need was so great in Grays Harbor County for a third judge that Mark was asked to take office and assume his duties the first week in December rather than wait until the second week in January. You can imagine how thrilled Keith Kessler was with this turn of events. Later, Brad Moore and Garth Jones in our office provided very significant support.

To compound things even further, Kessler and McCauley had previously assumed responsibility for one of my cases which was scheduled for a four-week trial, and I now needed to step back into that case. So the truth can now be told. After a substantial work-up of the case by my partners, for four weeks I walked away from the presidency of the Bar and tried a case. It was a lot of fun, and we also had a great result!

During the trial I was on the telephone with Dennis Harwick nearly every morning from 7:30 until 8:00 reviewing the issues of the day, offering my suggestions and asking both my personal staff and Bar staff to follow up on ideas. I even presided over a dinner for ABA President Bill Ide one evening during the trial. But mainly I just tried a lawsuit.

The job of Bar Association president is extremely interesting with the broad range of topics and issues facing the Association. One day the issue is working with staff and dealing with the press regarding the ABA report on lawyer discipline and the issue of whether our discipline process will be turned over to the Supreme Court. The following day the main topic is working with Board members regarding whether or not the Association should recognize the right of Bar employees to unionize. The next day, the primary issue is with the Legislature, and whether or not the Bar Association should or should not change its position regarding the Limited Liability Corporation Act. The following day, I am working with my staff and Bar staff setting up a focus group of members with whom I will meet the day before our next Board meeting to hear their questions and concerns regarding the Association. The next day involves

travel to a local bar association to speak about the issues before the Bar and the state of our association. The day after that holds a myriad of issues relating to improving access to justice for all of the people of the state. If that seems like more than a five-day week, believe me, it is.

In the meantime, I get many letters. Most are supportive, encouraging and uplifting. I received more than 80 letters from members regarding my column on the rules of professionalism that I learned from my father. Last September, I wrote to various members to make unfunded appointments to Bar committees. I asked for a written response and commitment from each to the work of the committees. For six months, I got about one letter a week from a member indicating that he or she had just seen my letter and would be pleased to serve on the committee.

Approximately once a month, I receive a letter from a member expressing deep dissatisfaction with the Bar Association, sometimes blaming me personally for the source of the complaint. Lawyers know how to write very nasty letters, but I don't mind the heat!

I do a lot of traveling around the state meeting with members and discussing the current issues. There are many wonderful members in our association. I reached a new milestone in member communications when a Tacoma law firm asked if I would be willing to conduct a focus meeting with their entire firm. I gladly accepted and greatly enjoyed the interchange.

It has been a great pleasure for me personally to see old friends, make new acquaintances and bring member concerns back to the Board of Governors. Whether it be a local-bar meeting, a voluntary attorney legal-service group, one of my focus group discussions, a task force meeting or a committee meeting, I have found how much we all have in common as compared to our differences. These discussions have underscored my belief in the need for an integrated bar association and also highlighted the requirement that we deal with the issues raised by our differences. How can we assure representation in our governance on behalf of out-of-state lawyers? Should



Annual meeting 1993: at their first '93-'94 gathering, the Board of Governors contemplates a new career as a blues chorus.

there be a different dues structure for government lawyers? How should the Bar Association involve itself in the issues of the employment of women lawyers who have responsibilities to balance with their job responsibilities? Are young lawyers being made the scapegoat for professionalism issues?

Three task forces have worked hard this year on governance of the bar, professional qualification for new members and our discipline process. While the work is not yet finished, the progress to date in all three areas demonstrates that solid and workable ideas will be presented for implementing which will benefit us all. While the debate and resolution of unionization for the staff took an unfortunate turn in the Legislature, we know now that the Bar staff will get to choose for themselves, in an election, whether the majority wishes to be represented by a union and put this issue to rest. And we have made great strides in expanding the potential for access to justice in so many ways: The creation of the Access to Justice Board; creation of the amendment to the Supreme Court to extend IOLTA to Limited Practice officers; the adoption of a voluntary attorney

legal-service action plan for the future as a result of a highly successful planning conference; a substantial financial commitment to access-to-justice programs in the near future; and a renewal of our commitment that access to justice for all be our prime goal and responsibility in the future.

I stressed inclusion at the start of the year, and I know that we included more members of the Bar and a broader spectrum of diverse members of the Bar in our activities this year than ever before. I promoted professionalism at every speaking opportunity this year, and the response has been wonderful. We are making a difference and putting professionalism back into our profession.

There are many to thank for all of their support and assistance this past year. My partners and family must be mentioned first for their loyalty, love and support. Our law firm staff, and especially my secretary, Jody Hatch, have been marvelous in their commitment to the Bar Association. The members of the Board of Governors have been phenomenal in the giving of their time and themselves to work on assignments I doled out. Board members of our association never receive

enough credit for the sacrifices they make for the benefit of all of us. Dennis Harwick has been hard-working, good-humored and instructive in providing professional support to an obstinate president. I have had the pleasure of working directly with several members of the Bar Association's staff, and they have been professional and supportive both to me and for all of us. I appointed 26 committee chairs who did a tremendous amount of work for the Bar. Past president Steve DeForest shared his experience, and president-elect Ron Gould shouldered the work load after he was elected. It is a job that requires a significant supporting cast, and this cast was beyond words. Finally, I would be remiss if I did not once again publicly acknowledge my mentor, my inspiration, my law partner and father, Lester O. Stritmatter, who taught me that giving back to the profession is an obligation, part of the commitment in belonging to this great profession.

Would I do it again? You bet! Life was great during my term. Would I want to stay in office for an extra year? Absolutely not! I've done my share. After one year, it is Ron's turn. Thanks for everyone's support!

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THE PLEASURE AND THE CHALLENGE

by **Ronald M. Gould**
President-elect

As president-elect of the WSBA, I have been preparing for the pleasure and the challenge of serving as president and acting on behalf of our members. With your help I will make every effort to assist the Bar and its Board of Governors to respond to the issues now facing our profession and the Association.

Preliminarily, I want to express my deepest gratitude to my family for encouragement of my participation in the Bar's activities. I am also grateful to my law firm, Perkins Coie, and to its partners, associates and staff for their generous and constant support of my activities and of WSBA's committees, sections and programs.

Much of the WSBA's work in the coming year and my corresponding efforts as president will relate to key issues that now have the attention of the WSBA's Board of the Governors and on which study and work is now in progress. These issues include:

- **Governance.**

When the current Governance Task Force, chaired by Governor Wayne Blair and Moni Law, reports next fall, the Board and the WSBA's members will want to evaluate and respond to the Task Force's recommendations. While a recent WSBA survey suggested that a large majority of our members apparently want the current governance system to remain, our system has not been substantially re-evaluated since its inception. It seems to be desirable to air governance issues periodically because our governance system exists to respond to Bar members' needs. After we hear the recommendations and reasoning of the Governance Task Force, any proposed changes will be measured by our members' evaluations of whether these changes would provide an improvement of the current system.

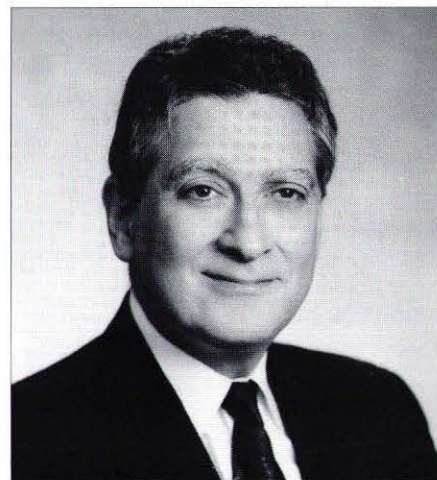
- **Professional Qualifications.**

Another task force, chaired by Governor Vickie Norris, is looking

at issues relating to professional qualifications. Issues under review include the possibilities of required articling or enhanced training courses for new attorneys. I do not support the articling concept, which has an association in the minds of many young lawyers with a system of involuntary servitude. I also am skeptical whether any mandatory articling system is needed or appropriate to cure occasional unprofessional conduct by lawyers. Moreover, an articling requirement here—but not elsewhere—could also be a disadvantage to law firms in the state of Washington in their efforts to recruit lawyers in competition with firms from other states. On the other hand, I support continued work on new systems of training, for not only our newer lawyers but for all who can benefit from increased professionalism and from the development of new skills to enhance service to clients. As my comments indicate, it is my hope that the Professional Qualifications Task Force will move in the direction of enhanced training opportunities rather than any required period of articling.

- **Discipline.**

The Discipline Task Force co-chaired by Chief Justice James Andersen and WSBA President Paul Stritmatter—a joint effort of WSBA and the Washington Supreme Court—is currently reviewing our system of discipline following some critical evaluations and suggestions made by an ABA study group. This ABA group was invited by the WSBA to scrutinize our system. Discipline issues are complex and will warrant our continued studies and efforts. But there can be little doubt that a key problem facing the WSBA system of discipline has been a lack of adequate financial resources. The financial constraints followed the increased membership size coupled with a prior rejection of a dues



Ronald M. Gould

increase by the membership. Whatever else might be said about a system of discipline, if the WSBA is to continue its self-discipline responsibilities, rather than turning them over to some other governmental agency, we need an assured flow of adequate financial support for the discipline system. Indeed, our members have been generous in donating their time to work on discipline matters, but we still need adequate funds for necessary staffing of certain discipline functions. We await the Discipline Task Force's evaluations.

- **Access to Justice.**

Following a long effort by the WSBA's Board and its recommendations, the Washington Supreme Court has recently ordered the establishment, for a two-year period, of a separate Access to Justice Board. Our WSBA Board of Governors proposed this concept with the idea that coordination of access-to-justice issues would be enhanced by efforts of a separate board. The WSBA is funding the work of the Access to Justice Board and has some role in appointing a part of its membership. As president, I will support the Board's policy and try to continue the positive momentum of this project. At the same time, some have noted a risk that the WSBA's sustained commitment to delivery of legal services to the poor might be diminished if the issue is out of the Board of

Governors' sight and mind. As this new Access to Justice Board begins its work, it will be important for WSBA Board of Governors also to continue their traditional positive involvement in encouraging lawyers to give legal services to the poor.

There are some additional issues that I, as president, will seek to bring before the Board of Governors and on which I will encourage members' attention. These include:

- **Long-range Plan.**

While the Board has engaged in useful planning, and we have the benefit of a Long-range Planning Task Force report prepared several years ago, the WSBA has no written mission statement or Long-range Plan. Of course, functions of the WSBA are established under a General Rule (GR 12). However, the effectiveness of the Board of Governors and of our committees and sections may be aided by the development of a mission statement and long-range plan. Following other business at the October 1994 Board of Governors meeting, there will be a long range planning conference and I will encourage the Board of Governors to commence work on such a written mission statement and Long-range Plan. I anticipate active participation in this process by the WSBA's Sections and also by other observer groups, including local bar associations and specialty bar associations serving particular groups. I will urge preparation and circulation of such a plan for comment, developing substantial consensus within the WSBA before this work is concluded.

- **Lifestyle Issues.**

Many lawyers appear to be dissatisfied with the demands of our profession. Law practice for many is more difficult, more competitive and less rewarding economically than in prior decades. Anti-lawyer public sentiment and bad lawyer jokes have increased. Clearly, some of the causes are beyond our control. But just as clearly, some problems can be solved. One problem that I would

like to see addressed concerns the difficulties facing lawyers who are parents and who seek to work part-time in order to fulfill family responsibilities. Parallel issues arise for lawyers who need to care for elderly parents or ill family members, and there may be other valid reasons why lawyers may seek part-time employment. Because of the complexity of labor laws affecting employment and the economic issues relating to them, only some law firms have had the resources, patience, and motivation to develop written policies for leave and part-time employment. I have urged a study group to develop model policies for family leave and part-time employment which would effectively balance lawyers' needs with economic and other considerations in a fair way. If the WSBA can develop useful model policies, they will be a contribution to its membership.

- **Active Outreach.**

I will continue the efforts of the Board of Governors to reach out to the WSBA's sections and to local and specialty bar associations. It has been recognized that the WSBA cannot operate effectively stressing solely its own leadership. Instead, leadership initiatives must be developed in our sections and in local and specialty bar associations, which in turn can properly be given support by WSBA when such initiatives would advance the profession and help our members. We will also be paying renewed attention to our own sections and the extraordinary contributions that they make to the profession. While our sections properly have been practice-oriented, I will be encouraging section members, and particularly business attorneys, to share in the work of WSBA on broader issues affecting the profession and society.

- **Aiding the Community.**

Much of the WSBA's attention in recent years has been focused on internal issues such as budget analyses, disclosure, discipline, dues, governance, professionalism and professional qualifications.

That is not surprising. But to enhance the reputation of lawyers in the community, it is important that they also contribute to broad community efforts affecting the administration of justice. I will be continuing efforts to develop a program recently initiated by the Board of Governors in concert with the Office of the Attorney General, to develop a mediation project for high schools to prevent youth violence. I will be encouraging lawyers more generally to continue to give something back to their communities, as lawyers in our state have historically done, and to take part in various programs to decrease youth violence.

While preparing these remarks during a summer journey with my family, I had the opportunity to ponder the WSBA's issues from the vantage point of a riverside path in Trier, Germany, one of Europe's oldest cities. While I may not have addressed all the important issues, what progress I made was in part due to my receiving shelter from the summer sun provided by a beautiful row of mature shade trees on the bank of the River Mosel. I recognized that these same trees had probably been planted some 50 or 60 years before. In fulfilling our responsibilities to the WSBA and its institutions, we certainly need to address the issues of our day. But we also need to look toward the future and to be certain that, while addressing current issues, we are also planting some seeds of institutional programs that will grow and provide benefits not only for the present Bar but also for future generations of Washington lawyers. Sometimes efforts and programs seem small but, once begun, they can grow in importance and provide great benefits over the years. The collective power of a strong, united and independent Bar can continue to be a positive force in our society, and help preserve an independent judiciary and a broader separation of powers. Working alone, none of us can do much to help others. Working together, we can instead strengthen our system of justice for the benefit of the Bar, our clients and the public. I look forward to working with the Board of Governors on your behalf, and I look forward to working with you to assist your personal contributions to the WSBA's efforts and to the administration of justice. Thanks for this opportunity to serve the Bar.



ANOTHER YEAR, ANOTHER LESSON

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

For someone who doesn't have kids, September sure feels like the beginning of a new school year to me — a new class (of governors), a new lesson plan (or political agenda), and a new principal (or bar president). September marks the last meeting of the "old" Board of Governors (figuratively speaking, of course) and the beginning of a new Board, complete with a new president (Ron Gould) and three new governors. Even though eight members of the "old" Board continue on, it is amazing how much the group chemistry can change with three or four new governors and a new president.

The usual lament is that the departure of the senior class will slow down the work of the Board of Governors. The judgment and energy of Wayne Blair, Mike Larson, and Joe Nappi will be missed. But I learned a long time ago that new governors—Peter Ehrlichman, Pat Williams, and Ron Perey, in this case—will fill the gap.

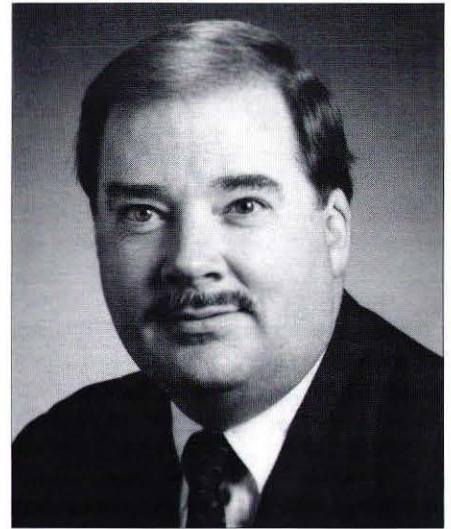
September will also mark the last meeting of the Board of Governors to be chaired by Paul Stritmatter. If ever there was a person destined to be president of the Washington State Bar Association, it was Paul Stritmatter. I know of no one who has a more complete portfolio of bar leadership—leadership of his local bar, leadership of statewide legal organizations, leadership at the national level, and, most importantly, credibility at that most essential level—one on one.

As he has reminded us on many occasions, he learned the practice of law from his father—a lawyer of the "old school." Paul has a passion for his community, both geographically and professionally. He has a passion for the role of law in our society and the role lawyers play in achieving justice. And he has a passion for getting lawyers together to discuss the issues facing the legal profession and the community.

I don't know how many lawyers Paul has talked with this past year. I doubt that he does. But I know that he has talked or met with every group he could, even when it meant driving home to Hoquiam

late at night, then heading back up or down I-5 the next morning. I can tell you with assurance that I have talked to him more on his car phone than on his office phone! And I can tell you that Paul makes sure that everyone has fun while working hard.

Continuing the school year theme, elsewhere in this issue of *Bar News* you will find the 1994 WSBA Annual Report—our proverbial report card. I haven't assigned a specific grade to our efforts this past year, but I can assign a degree of satisfaction. I doubt that any Board of Governors has sent more significant proposals to the Supreme Court. I know that the WSBA has never been in better financial shape. I know that CLE has never had a better year. And I know that we have made significant improvements in relations with WSBA Sections, local bar as-



Dennis P. Harwick

sociations, and specialty bar associations.

I know one more thing. There's no summer vacation when one bar president is trying to wrap up initiatives begun on his term, and the next bar president is trying to "hit the ground running." So whether school's out, or school's in, another bar association year is underway.

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LAW PRACTICE: A PROFESSION OR A BUSINESS?

by Leonard W. Schroeter

Skadden: Power, Money and The Rise of a Legal Empire by Lincoln Caplan (New York: Farrar Straus Giroux, 1993)

In the last few years there have been more than 15 multimillion dollar malpractice verdicts in the United States against the largest—and, in the eyes of many, prestigious—corporate law firms. These suits have resulted in payments of hundreds of millions of dollars by their captive liability carriers, which selectively limited their clientele to the large firm royalty of American legal life.

The enormous proliferation of such cases is continually accelerating, with many still pending. Virtually all involve ethical violations. At a recent meeting of the managing partners of New York, Chicago and Cleveland firms, review demonstrated that not a major corporate law firm in this company has avoided the disastrous risks of the suits being brought against them.

Strangely, the heart of the charges is not for errors in the management of banking, insurance, or savings and loan cases, but in ethical conflict areas. Far too frequently, they involve partners taking equity positions in their clients' corporations. This is startling in the face of the traditional presumption in legal ethics that where there is a business relationship with the client, it has the potential for ethical violations or fraud.

The remarkable revelation of the insensitivity of America's massive corporate firms to ethical considerations and the basic tenets of professionalism constitutes the backdrop for a review of Lincoln Caplan's fascinating biography of one of the largest law firms in the world.

On November 24, 1993, the University of Washington's Law School Foundation

But if by "professionalism" our bar leaders mean "guidelines for professional conduct," if the breadth of their vision is a concern for courtroom decorum, the focus will have the same importance as the once obsessive insistence upon elaborate dress codes for the courtroom. It will have as much relevance to a public often denied access to justice as to whether or not barristers should continue to wear wigs.

sponsored a half-day seminar entitled "Inside the Business of Law in America: A Morning With Lincoln Caplan—Questions on Ethics & Professionalism Raised by *Skadden*." The moderator and principal commentator at the seminar was Professor Robert H. Aronson of the University of Washington School of Law, whose classes include those on professional responsibility and legal ethics. The materials prepared by Aronson raised penetrating questions, not only as to whether the law is a profession or a business, but also as to whether *Skadden*, Arps, Slate, Meagher & Flom is an exaggerated caricature of the largest, richest and most successful legal businesses, or whether

its essential character simply reflects dramatically changing values of the legal profession. Aronson and the other panelists also asked whether *Washington State Physicians Insurance Exchange & Ass'n v. Fisons Corp.*, 122 Wn.2d 299 (Sept. 1993), is "a case in point" demonstrating the essential similarity between *Skadden's* conduct and similar ethical lapses of large corporate law firms in Seattle, such as Bogle & Gates.

The epidemic of megamillion dollar judgments and settlements against America's largest and richest firms, the remarkable biography of *Skadden*, the insightfully suggestive University of Washington seminar, and the sharp rebuke of Bogle & Gates by the Washington Supreme Court reflect the heightened concerns lawyers have about their profession and their roles as professionals.

It is no secret that numerous public opinion polls, surveys, and research on the attitudes of Americans toward lawyers demonstrate that people place the profession at a level only slightly higher than that of used car salesmen. Lawyers are seen as selfish, greedy barracudas with little concern for truth or public interest. Our often ostentatious affluence simply reconfirms that stereotype. Public opinion does not distinguish between corporate and criminal lawyers, plaintiff's or insurance lawyers; it damns us all.

It is little wonder, therefore, that 1994, in this state at least, might be considered the Year of Professionalism. WSTLA President Judy Proller created a WSTLA task force on professionalism, and has secured the cooperation of other state bar associations in giving primacy to an ini-

tiative to focus on this issue on a statewide basis. WSBA President Paul Stritmatter has joined Proller in this effort, and, with the WSBA Board of Governors, declared the month of March a period when focus and discussion of the issue should occur. Other bar groups joined in the effort.

But if by "professionalism" our bar leaders mean "guidelines for professional conduct," if the breadth of their vision is a concern for courtroom decorum, the

focus will have the same importance as the once obsessive insistence upon elaborate dress codes for the courtroom. It will have as much relevance to a public often denied access to justice as to whether or not barristers should continue to wear wigs. Courtesy, civility and manners are, without doubt, a part of the desirable facade of a professional world. But Caplan's biography of Skadden compels us to conduct an examination of the implications and meaning of the complex

The issues are those of money and power, and the corruption which inevitably flows from the quest for both.

tensions between the business and professional aspects of law practice.

It is this tension that must impel our every inquiry. It is not an accident that *Skadden* is subtitled *Power, Money, and the Rise of a Legal Empire*. The issues are those of money and power, and the corruption which inevitably flows from the quest for both. These critically defining questions are essentially averted by Caplan, although he provides a wealth of impartial reportage to provide documentation for an answer.

At the University of Washington seminar, some of the panel participants—most notably Fred Tausend, now a senior litigation partner at Preston Thorgrimson Shidler Gates & Ellis and a former dean at the University of Puget Sound Law School—felt that the difficulty of discussing the issue was being able to define what professionalism really means. Tausend's difficulties can be easily understood, since he was a primary witness in *Fison* in support of the dubious contention that Bogle & Gates' conduct raised no professional or ethical issues. But anyone who is *serious* about understanding the compelling issues of professionalism, in a society whose last decade was characterized by the frenzy of its greed, must take seriously the necessity to understand what that term means.

Seth Rosner, a distinguished New York City corporate lawyer, has focused attention on matters of professional responsibility in a remarkable article, "Professionalism and Money in the Law" (*New York State Bar Journal*, September/October 1991). Rosner traces the meaning of that term, noting that its most common definition was to generically distinguish the professional from the amateur; it defined people who, by education and training, had committed themselves to a learned calling. But he notes:

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the American Bar Association Commission on Professionalism in 1986 lawyer professionalism is understood in a narrower, more value-laden sense than purely mechanical excellence. What we mean may be summed up quite simply as placing the interest of others ahead of the lawyer's own interest. First among the interests which must precede the lawyer's own are those of his or her client. Others include the interest of the courts and the justice system, as well as those of third parties and, indeed, of our society. It is precisely at this point that a lawyer confronts the separate values of professionalism and money, and must decide which comes first.

Caplan also recognizes that the critical question is the one asked by the ABA Commission: "Has our profession abandoned principle for profit, professionalism for commercialism?" "There is little doubt that, in the view of the Commission—and of Caplan—the character of American lawyering has never been more strained." In a notable chapter of his book, he reviews the changing attitudes

"Has our profession abandoned principle for profit, professionalism for commercialism?"

of the American people toward lawyers and the contradictions within the bar itself about its duties and responsibilities.

But concern about the charge that the practice of law has been corrupted by money and commerce are not new. Almost half a century ago, in my first few days at Harvard Law School, I learned that the business of lawyers was to make rich people richer. But I also knew that in 1905, more than 40 years before I entered that law school, Louis Brandeis gave a talk to the Harvard Ethics Society on "the Opportunity in the Law." He said:

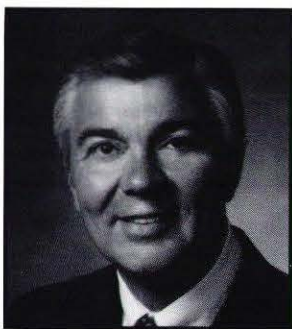
Lawyers are now to a greater extent than formerly businessmen, a part of the great organized system of industrial and financial enterprise.

They are less than formerly the students of a particular kind of learning, the practitioners of a particular art, and they do not seem to be so much of a distinct professional class . . . Instead of holding a position of independence, between the wealthy and the people, prepared to curb the excesses of either, lawyers have, to a large extent, allowed themselves to become adjuncts of great corporations and have neglected the obligation to use their power for the protection of the people.

Almost 30 years later, Justice Harlan Fiske Stone concurred with Brandeis' appraisal and broadened it by noting that, by focusing on "petty details of forms and manners," the bar missed the larger issue on which their code of ethics should focus: How the profession's "activities affect the welfare of society as a whole."

Caplan carefully examines these concerns and contradictions and examines them in the context of the remarkable growth of the Skadden firm. For more than 300 pages, his biographical history dissects the firm, its lawyers, its practice, its internal culture and the powerful fig-

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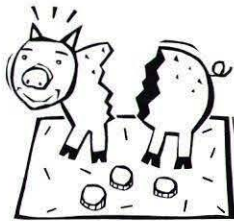
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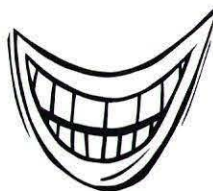
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ure of its longtime leader, Joseph Flom. In a recent poll taken of Stanford Law School students, Flom was named as the most significant lawyer in American life and the attorney law students most desired to emulate. His distinguished predecessors in earlier polls were Clarence Darrow, John W. Davis and Thurgood Marshall. Is there a message there we need to understand?

Flom has so dominated the growth of Skadden that the firm is widely known as "Joe Flom's firm." Flom, who reportedly makes well in excess of \$5 million a year, dominates the book, as he does the law firm. At the zenith of his powers, 300 American corporations each paid \$150,000 a year or more to his firm for the privilege to say he represented them — not so much because they needed his services but as a defense mechanism to prevent Flom from opposing them in court. As the *Washington Post* says in a recent book review by Mark London of the Skadden book:

But to call him one of the giants of American law, as many of his partners and clients have, is to demean a profession that has produced the likes of Thurgood Marshall or Benjamin Cardozo. What distinguishes lawyers such as Flom from the true giants of law is their acceptance of an attorney's role as a hired gun, nothing more.

One must read the book to get the full flavor of this 1,000 lawyer firm with dozens of offices on four continents, but its fly sheet fairly summarizes the book's contents without stating the questions that the book raises. The summary follows:

Skadden, Arps, Slate, Meagher & Flom rode the tidal wave of take-overs in the 1970s and '80s to become the most profitable law firm in the world. At its peak, partners there earned an average of over \$1 million a year. Unabashedly competitive and zealously private, Skadden . . . was different from leading firms of previous eras: They had reflected the might and luster of their clients, but Skadden became a big business in its own right, with global reach and power. At its center was Corporate

. . . by focusing on "petty details of forms and manners," the bar missed the larger issue on which their code of ethics should focus: How the profession's "activities affect the welfare of society as a whole."

America's most sought after legal advisor, the firm's street-smart, media-wise senior partner and presiding genius Joe Flom, rainmaker par excellence. In this unprecedented look at the culture and history of American lawyering, Lincoln Caplan describes Skadden's origins in the still white shoe, New York legal universe of the early postwar period and its rise with the growing

sophistication of battles for corporate control to dazzling preeminence in the era of Michael Milken and Drexel Burnham Lambert—the firm's largest client in the '80s. Skadden takes readers inside a tribe with its own vocabulary and rite of passage, showing us Skadden's view of itself as an aggressive meritocracy—which prizes opportunists and does not consider it a compliment to be called a gentleman. And at the same time created a unique \$10 million program to support young public interest lawyers. And, in a penetrating look at the process of making partners, Caplan describes the shifts Skadden has made in response to the changed business climate of the 1990s—as well as the increasing global practice of law, in which the firm has once again been a ground-breaker.

But Caplan does define the professionalism conflicts throughout the book. For example, he states:


Legal ethics becomes a paradoxical

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element of competition among lawyers. Those who practice closest to the line without crossing seem to gain an advantage. Goaded by the market, conscientious lawyers ask whether they do their clients a disservice if they don't exploit every opening. Some legal scholars warn that any lawyers who don't reach the limit are in breach of their professional obligations. For Skadden, the upshot of the gradual evolution of generally acceptable legal ethics has been this: The firm's critics fault it for not practicing by gentlemanly standards, and its leaders tout their firm's integrity, since it admonishes Skadden lawyers to operate within the codified rules of practice. Integrity, like opportunism, has come to have a special meaning at Skadden. The firm, like many, is now playing by pliant rules, in a system where there is no ready sanction against looking out for one's own interests first, and where there is far more agreement about the mandate for serving the interests of a client than that of the public.

Given the competition for the best and brightest of the law graduate crop, and intense competition between law firms for the stars and hotshots in various specialties, big-firm overhead has skyrocketed. . . .

Skadden also raises a question as to whether the deterioration of professionalism and ethics is not an inevitable consequence of the increased stress, adversariness, and business competition that is present. Caplan notes, "through force of circumstance, lawyers are less often counselors than hired guns, less often fiduciaries than mouthpieces." He notes the numerous improprieties of large law firms.

"The evidence being scandals, which were previously rare, at many Wall Street firms and common reports of intimidation, distortion, lying, and other forms of unacceptable behavior in their lawyers' work." He cites example after example of "hard ball" overzealousness, which by conventional society standards would be immoral, but which is justified as diligent advocacy. He describes extensively the perils of ambition and greed in terms of unconscionable hours of overwork at the sacrifice of family, friends, human values, and everything but overarching ambition and greed. Exorbitant retainers, fee-gouging and overbilling are the indicia of success and upward mobility within the firm.

The securing and retention of demanding corporate clients inevitably lead to a firm ethic which states that service to the client is the sole meaning of professionalism. Thus, what the client wants, the client gets. And if the firm does not produce in a rapaciously competitive market, the client can go elsewhere to a firm that will do as it is told.

Given the competition for the best and brightest of the law graduate crop, and intense competition between law firms for the stars and hotshots in various specialties, big-firm overhead has skyrocketed. Since large corporate firms now are not only national, but international, in character, this expensive expansion has massively increased overhead to the point where the sole consideration of the firm often is how to meet that overhead and still provide for the insatiable increase in perks demanded by the lifestyle of its rich partners.

In the UW seminar discussions, Aronson asked the question as to whether this description is not equally applicable to Seattle as it is to Skadden. If the question were asked of anyone with experience in pharmaceutical cases, as to whether Bogle & Gates' conduct in *Fison* was the routine expectation of the corporate firms that represent the pharmaceutical industry, one would expect the affirmation to be singularly unanimous. Such conduct has been the rule, not the exception, although the acceptance of the reality of that dirty secret has been slow in coming. To the credit of the Washington Supreme Court, it faced reality when it stated:

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Our court is, of course, correct, and the statement of that obvious truth has been a long time coming. The ultimate question that must be answered is whether any large corporate firm can be both professional and serve to the utmost the economic interests of its corporate client.

Recently an excellent film called "The Remains of the Day" appeared, which dealt with the "standards" of being a gentleman's man, i.e., butlering. It described the professionalism of service to the British ruling class, and in doing so, afforded interesting insights to the issue of professionalism facing attorneys today. Corporate lawyers, after all, are the butlers of American capitalism. But is that an adequate expression of the values and meaning of the law and the commitment that we make to the law when we become attorneys? Some of the answer may simply be a question of choice. I, for one, prefer the professionalism path described by Justice Louis Brandeis. Seth Rosner concludes his article as follows:

Certainly not all lawyers can be expected to have the level of altruism and disinterest in money revealed in the statement attributed to Justice Brandeis:

Some men buy diamonds and rare works of art, others delight in automobiles and yachts. My luxury is to invest my surplus effort, beyond that

. . . Since large corporate firms now are not only national, but international, in character, this expensive expansion has massively increased overhead to the point where the sole consideration of the firm often is how to meet that overhead and still provide for the insatiable increase in perks demanded by the lifestyle of its rich partners.

required for the proper support of my family to the pleasure of taking up a problem

and solving or helping to solve it for the people without receiving any compensation. . . I have only one life, and it is short enough. Why waste it on the things I don't want most? I don't want money or property most. I want to be free.

But perhaps it is not too much to expect that, as the profession adjusts to the reality of legal life in this last decade of the Twentieth Century, more lawyers, especially those just beginning their careers, will restore to its previous status the notion that "serving clients is the first goal of the lawyer."

* * *

Leonard W. Schroeter is of counsel to Schroeter, Goldmark & Bender in Seattle. He is a graduate of Indiana University, the University of Chicago, and Harvard Law School, and is admitted to practice in Massachusetts, New York, Washington, California and Israel.

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The Ultimate Bar Exam Question: How Do You Sell A Law School?

by *Lindsay Thompson*, Editor, Bar News

It's not the sort of thing you see listed in the classifieds, or even—so far—in the Neiman Marcus Christmas catalogue. "It's not the type of commodity you usually think of as being bought and sold," Tacoma lawyer Michael Shipley commented. But once in a while, if you keep your ear to the ground, you can get wind of a law school for sale. That's what Seattle University president William J. Sullivan, S.J. got for his school last November 9, when he and officials of Tacoma's University of Puget Sound announced the sale of the UPS School of Law to Seattle U. The actual transfer of ownership took place August 19; this fall's entering class, though still studying in the Norton Clapp Law Center in downtown Tacoma, entered as students in the Seattle University School of Law.

The announcement, made at a joint press conference in the Tacoma Dome Hotel, made the front page of the state's

two largest newspapers. "Word of transaction stuns those at Tacoma campus," the *Seattle Post-Intelligencer* led; "Seattle U acquires UPS law school," *The Seattle Times* commented more sedately.

"Gratitude was not the first reaction among University of Puget Sound law students after they learned their school was being sold to Seattle University," reported *Times* writers Keith Ervin and Lee Moriwaki.

Startled and angered by news of the unusual deal, hundreds of future lawyers greeted UPS president Susan Resneck Pierce with silence at a special meeting last night. Some hissed.

But after lambasting the UPS president and trustees for negotiating the departure of Washington's largest law school from Tacoma, students enthusiastically applauded the man who initiated the talks, Seattle University President William Sullivan.

The deal, it was announced, had been under discussion since July 1993, but only a handful of UPS administrators and trustees knew anything about it. UPS Law's acting dean, Don Carmichael, learned of the impending sale the afternoon of November 8 in a faculty meeting. A memorandum was sent to students later in the day. UPS undergraduate faculty, irked about not being consulted, weighed in with their own criticisms of the UPS trustees as news of the sale spread. Faculty Senate Chair Walter Lowrie pointed to a faculty code section requiring the university president to consult the faculty before recommending the discontinuation of a department, school or program. But trustee John Fluke, Jr. told Tacoma's *The News Tribune* the board didn't feel the provision applied because the deal involved a transfer in which no jobs were lost.

Sullivan said his summer telephone call to UPS president Pierce was motivated by calls he was getting asking for comment on rumors of an SU acquisition of the law school. Since Pierce became UPS president in 1992, the university has shed its graduate programs in business and public administration, English, comparative literature and the sciences as part of a refocusing on undergraduate education. As Sullivan and Pierce talked, the rumor turned into a possibility, and from there into a deal.

The 103-year-old Seattle University is the largest independent university in the Pacific Northwest, with more than 5,000 students in its 49 undergraduate, 19 graduate and one doctoral programs. With the UPS acquisition, both of the state's private law schools will be part of Jesuit institutions. (Gonzaga University in Spokane is the other.) The UPS School of Law opened in 1972 and grew to become the state's largest, with some 800 students.

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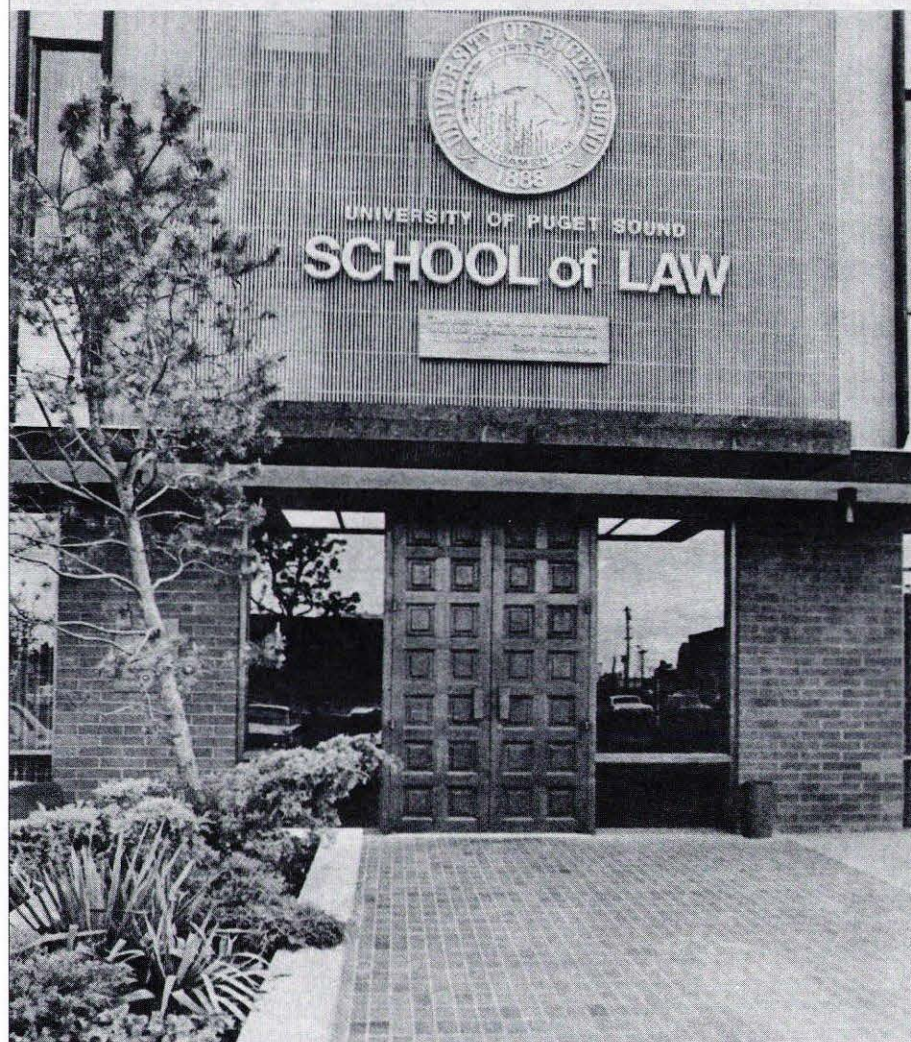
WASHINGTON STATE BAR NEWS

were optimistic about the move. After some fretting about short-term overuse of its library, UW School of Law dean Wallace Loh predicted having another law school in town would create opportunities for collaborative ventures. Gonzaga dean John Clute noted the Jesuit connection between his school and Seattle University and predicted, "We'll probably get along fine." Neither Gonzaga nor UW expects any change in its recruiting efforts. Clute told *The Catholic Northwest Progress*, "The majority of our students aren't Catholic . . . the students who wanted to go to an urban university would have gone to UPS anyway."

Seattle University officials say the change will hardly be noticeable in the first few years. Academic programs will not change, financial aid will be "comparable," and all of the faculty and staff are being transferred to the SU payroll with their existing salaries and benefits maintained. Seattle University will lease UPS's Norton Clapp Law Center in downtown Tacoma, keeping the law school in its current location for five years, until a new law school can be built on the Seattle campus. Current students can elect to have their degrees issued by either school. T-shirts bearing a tombstone with the inscription "R.I.P. U.P.S. School of Law 1972-1994, Died of Resneckian Pierceitis" turned up for sale almost immediately for \$12 each.

Financial terms of the deal have not been disclosed. Sullivan said the price reflected the value of the law school's physical assets and goodwill. The *Daily Journal of Commerce* reported November 9 that the law school has an \$11 million budget and is self-supporting. "If it were going to be a financial problem, we wouldn't be interested," Seattle University spokesman Paul Blake told the paper. The university's 21st Century Campaign, a four-year fund-raising effort targeted to raise \$55 million, will fund some of the purchase and relocation costs. 1993-94 tuition at UPS was \$13,800.

After some initial misgivings and irritation at being kept in the dark, law faculty were reported to be generally in favor of the move, citing UPS's benign neglect of the graduate school over the past few years, and the feeling of separation that the undergraduate school's location four miles away engendered. Tacoma business and civic leaders were not



A HEALTHY INFANT: OUR NEWEST LAW SCHOOL ENDS ITS FIRST YEAR

pleased, noting that federal grants to the city were used to help UPS rehabilitate the former Rhodes Department Store to house the law school, Division II of the Washington Court of Appeals, and a number of other law-related organizations. The law school's presence in the city was universally cited as a spur to urban redevelopment.

Tacoma-Pierce County Bar Association president Mike McKasy, a member of UPS's second graduating class, urged

Seattle University officials to take a look at leaving the law school in Tacoma. Over the two decades of its operation, it has provided local law firms and thousands of students employment opportunities as clerks and interns.

Local irritation over the sale boiled up in early December when U.S. Rep. Norm Dicks publicly urged UPS trustees to reconsider the sale. Dicks, a UW law graduate who helped obtain a \$4.5 million federal loan to construct the law

school facility in 1980, said he was "very surprised when this occurred." Dicks met with UPS trustees at their day-long December 10 meeting in Tacoma. Washington Supreme Court Justice James Dolliver, one of two trustees who opposed the sale, supported a reconsideration but wasn't optimistic. "I still think it's a done deal," he told Tacoma's *The News Tribune*. It was. The board of trustees reaffirmed the sale.

But local feeling still simmered. On February 4, Washington House Speaker Brian Ebersole of Tacoma and Rep. Ron Meyers of Gig Harbor introduced a bill in the Legislature to derail the sale. The bill would have allowed local government to tax the sale of a law school at 100 percent of the sale price. Meyers denounced the sale as "theft by contract" and said the bill showed "we are upset about the sale of the school; we want to stop it; we want the city to be able to recoup its losses." *The Seattle Times* quoted Ebersole as estimating the tax could bring as much as \$9 million.

In January, acting dean Carmichael

announced the law school would seek provisional accreditation from the ABA Section on Legal Education and Admission to the Bar at its February 5, 1994, meeting in Kansas City. Provisional accreditation for the school, which was fully accredited under the UPS umbrella, is required whenever a law school changes its affiliation to ensure that standards are maintained during the changeover. Approval was expected from the section and from the ABA at its August annual meeting. Both the ABA and American Association of Law Schools conducted accreditation visits in late January and mid-February.

Meanwhile, the law school's alumni office launched a major push in support of the sale with the spring 1994 issue of its publication, *Puget Sound Lawyer*. On April 8, UPS president Pierce published a 27-column-inch defense of the sale on the op-ed page of *The Seattle Times*.

Pierce declared UPS accepted the Seattle U offer

... because we believed that the transfer would clarify Puget Sound's mission as a national liberal-arts college.

We were also convinced that the law school—established in 1971 and located in a renovated department store in downtown Tacoma, a 10-minute drive from Puget Sound's main campus—would be better served by becoming part of an institution fully committed to professional and graduate education.

She called the move consistent with the current restructuring trends in American higher education, focusing on what institutions do best.

Pierce called the aftermath of the decision to sell the law school,

particularly the negative reaction of Tacoma's business leaders, local press, and some lawyers and judges [an illustration of] just how difficult it is for institutions to move beyond talk to action.

She highlighted some of these reactions and observed,

In retrospect, I see that much of the

negative reaction stemmed from the widely held notion that because educational institutions are involved with a host of external constituencies (localities, the press, elected officials), we are obliged to serve them all. Many people clearly believed that educational institutions should serve as social service agencies.

We knew that local lawyers—some of them alumni—would miss their ability to use the law school's library without charge and miss the pool of talented legal interns and future employees.

Unimpressed was a group of about ten people calling themselves Save Our University Law School. But one member, Tacoma lawyer Tim Strege, told *The Morning News-Tribune* that halting the law school's removal from Tacoma, even by century's end, looks pretty unlikely.

UPS president Pierce skipped the law school's final commencement ceremony, held May 15 at Memorial Fieldhouse on the undergraduate campus. Some 2,000 people watched the 225 members of the Class of 1994 take their degrees from retired UPS president Philip M. Pibbs and acting dean Don Carmichael. Seattle University President Sullivan gave the invocation and benediction. United Nations Ambassador Madelyn Albright gave the commencement address and got a rousing chorus of "Happy Birthday" in return as participants marked her 57th birthday.

Washington Supreme Court Justice Charles Johnson, a 1976 UPS graduate, called the event "a sad passing." The law school was "a community asset. It's going," he commented. But UPS law professor James Beaver told reporters, "We're just changing the name. It's the same law school. I see no reason why I should be shedding any tears."

And as for Mary Young of Bainbridge Island, it never occurred to her, until someone asked her how she felt, that when she walked across the stage she became the last-ever graduate of the 5,284 graduates of the University of Puget Sound School of Law. "It's unfortunate for Tacoma," she said. "I'm really looking forward to becoming a member of the Seattle University community."

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DOWN THE TUBE—BLUEPRINT FOR A RED FIGURE

by Clare L. Kennedy, PLS

Let's face it: Lawyers as a class don't have a great reputation among the masses. Your average man on the street truly believes that attorneys collect unearned fees so they can spend weekends on yachts and take frequent flights to Tahiti. Well, I don't know if you're aware of it, but there is a new movement afoot to quash this slanderous talk once and for all. It's called Toward Ultimate Budgetary Eradication (TUBE). It is made up of clear-minded attorneys whose objective is to persuade their colleagues to stop making money and thus improve their reputation in our nation (while creating a nice tax shelter).

The difficult part of their task will be persuasion. Going broke is easy.

There must be a hundred ways for a law firm to go broke. You can do it via client relations (entertain lavishly), community service (do only pro bono work), marketing (purchase nightly ads on national television), continuing education (send the partners on lengthy sabbaticals to distant universities); or you can do it more slowly and unobtrusively by observing certain management techniques within your office. This article focuses on *internal management*.

The way your firm is managed is of key importance if you really want your law business to fail. Of course, the IRS does not look with favor upon businesses whose objective is to fail. Therefore, you will need to keep your goal a secret from your staff, who will naturally assume you wish your business to succeed. Even without their knowledge, you can still achieve your objective. You can pile on the work and apply plenty of verbal pressure while simultaneously making it difficult and cumbersome for your employees to perform the required tasks.

Your new goal can be accomplished by diligently implementing each of the concepts contained in this article.

Suggestion #1: Keep your staff on the run.

If they are constantly between desti-

nations, they will not be very productive. Here's how:

(a) Locate the photocopier as far away from any staff members as possible. Provide a slow copier that breaks down twice a day.

There must be a hundred ways for a law firm to go broke. You can do it via client relations (entertain lavishly), community service (do only pro bono work), marketing (purchase nightly ads on national television), continuing education (send the partners on lengthy sabbaticals to distant universities); or you can do it more slowly and unobtrusively by observing certain management techniques within your office.

(b) If you must have a fax machine, make sure it's an early model. Place it on a different floor from your staff, or preferably in a different building, and require each staff member to send his or her own faxes. That way they will be forced to do a lot of waiting, away from their productive area.

(c) Keep your active files far away from the staff members that use them. In the alternative, keep them in your office, and forbid entry while you are in conference or on the telephone.

Suggestion #2: Keep your staff waiting.

Waiting at the photocopier, waiting at the fax, waiting for documents to print,

waiting for a telephone line, waiting to retrieve a file, waiting for supplies—well, you get the idea. No matter how many square feet or how many floors your firm occupies, provide just one photocopier, one printer, one fax, one forms index, narrow filing corridors, a minimum number of phone lines and a minimum stock of supplies.

Suggestion #3: Rather than updating your computer system every three or four years, keep your old system for 10 to 20 years.

If you spent one or two hundred thousand dollars on a few dozen new PCs with modern software, 20 percent of your staff would have nothing to do. They would get bored and leave. Those remaining would be happier and more efficient and would stay longer in your employ, reducing the cost of training new people. The new system would end up paying for itself inside of a year, and soon you would be making money. So avoid updating.

There is an exception to this rule: If the most modern word processing equipment you possess is typewriters, consider purchasing someone else's outdated computer system. Then install it yourself. That should insure that it will be even slower and more cumbersome to operate than the typewriters. Your staff will become unhappier, many will quit, and you'll be training novices, which will keep your balance sheet "in the pink."

Suggestion #4: Don't be tempted by colorful catalogs touting the modern three-ring binder system of filing.

If you're sincere about losing money, stay with the old two-prong, top-bound files, and make them as hard to get into as you can. Remember to place lots of documents under one fastener, so it will be cumbersome for your staff (and, unfortunately, for you) to file or retrieve a document. Require the latest document to be filed on the bottom. Fill the folders as full as you can, too. Full folders spill more easily. You'll have fun watching your frustrated employees as they pick up the

papers and rearrange them in date order.

Suggestion #5: Monitor supplies closely. If your staff are allowed to use "convenience" products, such as self-adhesive labels or electric pencil sharpeners or preprinted index tabs, they will become productive, again defeating your purposes. Also, their jobs will become easier, reducing fatigue and "burnout." You certainly don't want that to happen.

First thing you know, you'll be stuck with a happy, cooperative, permanent staff and a blue "bottom line," and you'll never go broke!

* * *

Clare L. Kennedy, PLS, has been a freelance legal secretary in the Tacoma area for the last 10 years. She became the first Certified PLS in Pierce County in 1985.

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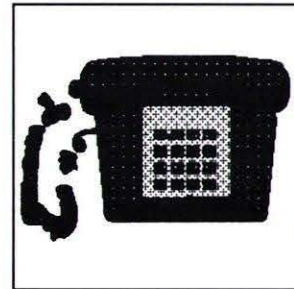
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The Washington State Lawyers' Campaign for Hunger Relief will staff a booth at the Annual Meeting to continue soliciting funds from lawyers and other professionals for the alleviation of hunger in children and the elderly, chiefly in Washington. Your continued support of the Campaign will assist those less fortunate individuals and help improve our image.

HELP WANTED: HOW TO SPOT A GOOD LEGAL SECRETARY

by Peigi Flynn, PLS

In tough economic times, jobs are scarce and workers plentiful. When you advertise in the papers for a legal secretary, you may find yourself flooded with resumé and telephone calls.

As an attorney or lawyer's office manager, how can you tell if someone is really qualified for the place you want to fill? The resumé may look nice (probably like all the others you received). The interview may go along smoothly. How can you really be *sure* you've got the right person?

Should you hire the person who asks for the most money? After all, someone who wants that much must be worth it, right? Or should you take the economy route and hire the person who will come the most cheaply, hoping that what he or she doesn't know can be learned on the job?

Regardless of financial considerations, there *is* one sure way to tell if someone is a qualified legal secretary. Ask if the candidate is an Accredited or Certified Professional Legal Secretary.

The National Association of Legal Secretaries sponsors both of these certification programs, not only to encourage its members to become better and more informed legal secretaries, but also to let employers know when they have found a qualified legal secretary or assistant.

The Accredited Legal Secretary certification is for beginning legal secretaries with three or fewer years' experience. The certificate expires after three years, at which time the "ALS" will be qualified to take the Certified Professional Legal Secretary examination. While these secretaries may not have the years of experience a "PLS" has, they have worked hard for their certification, and you will be pleasantly surprised at the dedication and enthusiasm they will bring to their work.

The Certified Professional Legal Secretary certification is for secretaries with more than three years of experience. This certification, as of March 1994, must be kept up to date through CLE hours. The

commitment and dedication required to master the PLS certification is something that every employer should be proud of when achieved by his or her staff members.

Should you hire the person who asks for the most money? After all, someone who wants that much must be worth it, right?

The PLS exam is an extensive, seven-part, two-day examination which covers all aspects of the legal pro. Part One, "Written Communications," covers grammar, word usage, spelling and capitalization.

Part Two, "Ethics," covers the Model Rules of Professional Conduct, the Code of Professional Responsibility and the NALS Code of Ethics. In a time of lawsuits and rising malpractice insurance rates, wouldn't you like to have a secretary who is knowledgeable about the Model Rules and Code? Confidentiality, unauthorized practice of law, and lawyers' responsibilities are just a few of the

In a time of lawsuits and rising malpractice insurance rates, wouldn't you like to have a secretary who is knowledgeable about the Model Rules and Code?

topics covered by this exam. Wouldn't it be nice to know your secretary won't cross the lines into breach of client confidentiality?

Part Three, "Legal Secretarial Procedures," covers office procedures such as filing, mailing, office equipment, com-

puter equipment and the like.

Part Four, "Accounting," addresses the legal office accounting skills needed by most small firms and sole practitioners. Secretaries learn and use a double-entry ledger system, learn about trust accounts, interest rates, owner's equity and account balance statements. For you sole practitioners, hiring a PLS can save you a lot of time and money in training costs alone!

Part Five, "Terminology," covers all aspects of legal technology, citations, the law library and the court system. This part also covers such topics as real estate, estate planning, litigation and corporate law.

Part Six, "Judgment," includes testing in the areas of assigning priorities to work, proofreading, ethics and delegating work responsibilities among staff. With a PLS, you know an emergency situation is more likely to be handled correctly.

Part Seven, "Secretarial Skills," covers the preparation of legal documents from dictated materials. The exam tests a secretary's skill in assembling draft documents from only written and pre-dictated instructions.

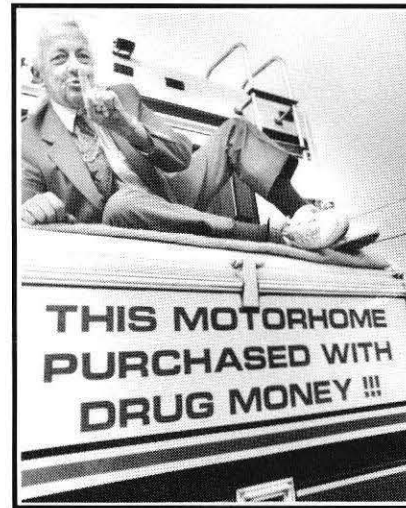
The Accredited Legal Secretary is equally tested for knowledge and skill. An ALS will soon become a PLS and become an even better investment for your firm.

So when you advertise for that legal secretary or assistant, remember: dedication, enthusiasm, knowledge and continuing education are what you will find in an ALS and a PLS!

Peigi Flynn is cochair of the ALS/PLS Certifying Committee of the Washington Association of Legal Secretaries and a Professional Legal Secretary with LeSourd & Patten, P.S. in Seattle. For more information about ALS/PLS certification, contact Flynn at 701 Fifth Avenue, Suite 2400, Seattle, WA 98104, or Tammy Quiram, PLS, with Simonarson, Visser, Zender & Thurston, P.O. Box 5226, Bellingham, WA 98227.

CAN YOU KEEP A SECRET

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.

OF PAPER TAPE AND MESSY CARBONS

by Russell A. Austin, Jr. (a.k.a. WSBA #459)

Those few of us not-so-young lawyers who take the time to reminisce—to look back at the things we have seen and the changes we have been a part of, if not responsible for—and realize we have lived and practiced in a fast-changing era.

For example, if I asked a recent arrival at the Bar where in the office the carbon paper was stored, the answers could be varied. Depending on how recent and how young the person was, I might draw a blank look (e.g., "What's carbon paper?" or "Why would we have that stuff around the office?"), or perhaps the helpful suggestion, "Why don't we just make a photocopy?" Some of us recall what we suffered through in an earlier age to get photocopies to the high art form they are today. Remember when someone had to arrive at the office an hour early to mix the liquid chemicals and pour them into the receiving tray of the copier, which was then turned on and allowed to heat the fluid before use? Of course, each night it had to be poured out and the tray cleaned. That process used two kinds of special paper in separate bins and when the copy came out, one sheet was pulled free of the second sheet upon which you hopefully found the duplicate image you were seeking. It was much like developing photographs, only it took place inside the machine. And rest assured, we didn't make extra copies in anticipation of future possible need; we calculated in advance!

Then came the simpler, faster 3M copier. It used a special paper too, but only one sheet per copy, and no messy fluids. It worked off some type of a heat fuser onto its special paper. The paper curled at the corners and edges. And it began turning brown the next day. But there were those who saw its convenience and speed as a singular improvement!

Then came the selenium drum, and it was all downhill from then on. The Japanese took over copier development, and today's copiers collate, staple, bind, and even copy in colors, I'm told. The color part is hearsay, since I'm neither that progressive nor wealthy.

And typewriters. If anybody remembers what they were, hold up your hand.

I'm talking about the kind you didn't plug in. Fingers provided the power to impress the keys through a messy cloth ribbon that was then replaced when your letters started getting too dim to read.

Then came electricity. All it really did was speed up the operation by allowing a faster, lighter touch with a uniform impression on the paper, still using cloth ribbons, which shortly thereafter turned to onetime cellophane ribbons with a very definite lifespan (once-through). But if the dictator wanted to make a change, the entire page had to be retyped, frequently introducing new mistakes and encouraging additional changes.

Then some guy invented the typewriter that made perforations in a paper tape with each keystroke. Thus, all the documents you were satisfied with could be retyped by rerunning the tape, and only the changes needed retyping. But the paper tape was fragile, difficult to store, expensive, and so on.

So along came IBM, with its system of magnetic cards (called "Magcard" for some strange reason). It wasn't long before magnetic tape replaced the cards, and now we dispense with even the tape, and the typing is mysteriously preserved on floppy disks and hard drives that every youngster studying for the Bar understands much better than I do.

Today, associates or law clerks disappear into the library and emerge a short time later with a computer-prepared production wherein they have inserted accurate quotations from computer-stored case law, and all of this has been put together with one quiet little printer in the corner of the library. I haven't quite caught up with how they do all that, but I'm willing to predict that it will be only a few years before I can swivel in my chair, fix a steely eye on my voice-activated computer terminal, and command: "Give me a brief on the Rule in *Shelley's* case, having in mind that Shelley is our client and we don't want to be rule applied." And a few minutes later, I'll be off to the courthouse, brief in hand, confident of victory unless, of course, my opponent has the newer, smarter model of the same computer that made mine obsolete yesterday.

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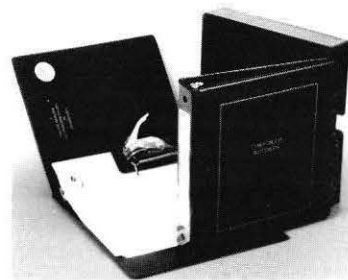
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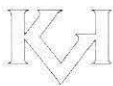
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by **Lindsay T. Thompson**

Editor, Bar News

Ocean Shores, July 29-30, 1994

Present: The president and the governors, save Linda Dunn (Saturday) and Dan Hannula, absent on other business. *Also present:* Phil Arnold (WSBA Court Rules & Procedures Committee); Thomas A. Campbell (Washington Assn. of Criminal Defense Lawyers); Barbara Clark (Legal Foundation of Washington); Rosemary Daszkiewicz (WSBA Young Lawyers Division); Ken Davidson (WSBA Legal Aid Committee); Ellen Dial (WSBA Real Property, Probate & Trust Division); Judge Mary Gallagher Dilley (Administrative Law Judges' Assn.); Susan Edison (King County Bar Association Young Lawyers Division); Zanetta Fontes (King County Bar Assn.); Dennis P. Harwick (WSBA Executive Director); Robert S. Hauth (Washington State Assn. of Municipal Attorneys, Friday); Janet Helson (Lesbian/Gay Legal Society of Puget Sound); Evelyn Fielding (Government Lawyers Bar Assn.); Rick Kimbrough (WSBA General Practice Section); Nancy Krier (Washington Women Lawyers); Steward Menefee (Washington Association of Prosecuting Attorneys); Ron Perey (WSBA Board of Governors member-elect); Bill Phillips (Washington Defense Trial Attorneys); John Powers (WSBA Public Relations Committee); Kimberly Prochnau (WSBA Family Law Section); Mary Elizabeth St. Clair (WSBA Communications Director); Larry Shannon (WSTLA); Craig Sjoström (Grays Harbor County Bar Assn.); Judge T.W. Small (Legal Foundation of Washington); Lindsay T. Thompson (*Bar News* editor); Judge Philip J. Thompson (Court of Appeals, Division III); and Robert D. Welden (WSBA General Counsel).

The reader board on the hotel read "WELCOME WA STATE BAR ASSN AND HARLEY OWNERS." The Harley Owners Group, (HOGs to the locals) convene there yearly, and this was their time. Sleeveless jean jackets and fading, stretched tattoos abounded.

President's Report: President Paul Stritmatter called the meeting to order. In Ocean Shores, he's "Your Honor," serving as that city's municipal judge. He reported all had survived the 36th Annual Grays Harbor Bar Association Fishing Derby in good order, thanks to glassy seas. One of the participants, WSBA Executive Director Dennis Harwick, has been elected vice president of the National Association of Bar Executives, Stritmatter announced. This is, apparently, an Important Event, and after a year of asking after the NABE president's health, Harwick will ascend to the top job himself.

Stritmatter reported that he, WSBA President-elect Ron Gould and several Board members met with the executive committee of the King County Bar Association to discuss issues of mutual interest and concern. A suggestion arose from that meeting: that the Board and the boards of other bar groups should "liase" regularly on legislative and other matters to encourage the development of common positions. Governor-elect Ron Perey has been appointed to pursue this initiative by President-elect Gould.

Stritmatter also attended the WSTLA convention and met with Dennis Harwick and WSBA counsel on the bar's lawsuit. A notice has been received that the Supreme Court will hold oral argument September 20 on a proposed rule change that

would bring title officers' escrow accounts into the IOLTA system.

Executive Director's Report: Dennis Harwick told the Board that WSBA Disciplinary Counsel Lee Ripley has announced his resignation, effective as of the end of September. Ripley, who has been with the Bar 17 years, feels "it's time to practice law again," Harwick told the board.

Think of it as Three Perkins Coies, And it'll Really Give You the Willies: Harwick told the Board 946 people took the summer bar exam. A 947th had the misfortune of going into labor as the exam got underway and will have to come back in February.

Client's Security Fund Revisions Approved: Harwick reported the Supreme Court has adopted rules changes necessary to create a larger fund to cover payments to clients of lawyers who steal. The new fund will be supported by a \$10 annual assessment of all Washington lawyers.

MAR Rules Sent Back: The Court didn't approve the proposed changes to the rules for Mandatory Arbitration Rules 6.2(b) and 6.3(b), which set out a procedure under which an arbitrator can hear a motion for reconsideration and which also lays out the logistics for hearing that motion. The Supreme Court rejected them on the basis that they are premature. After examining the law governing mandatory arbitration (RCW 7.06.030), the Court felt a legislative change is required to effect a rules change.

Civility Gets a Boost: Governor Linda Dunn told the Board she attended the last meeting of the Superior Court Judges' Association, where the WSBA guidelines on courtroom civility ("The Board's Work," July 1994) were adopted unanimously. An article and the text of the guidelines will be published in the *Bar News*.

King County Bar trustee Zanetta Fontes reported her organization has sent copies of the guidelines to Washington's law schools for use in professional-responsibility classes.

Appointments: The newly approved Access to Justice Board needs to be filled (see appointments column, *Bar News*, July 1994, page 39) and more than 50 were received. Evergreen Legal Services Director Ada Shen-Jaffe wrote the board suggesting criteria for appointments, which should, she felt, include a demonstrated commitment to access to justice programs or issues to reduce "learning curve time"; the ability to bring power and influence to bear to make the most of the two years the Supreme Court has given the ATJ Board as a trial; and geographical and other diversity.

Board members expressed an unwillingness to try and pare the list down to seven there in the meeting. Governor Joe Nappi suggested the creation of a board committee to do the paring and then have a board conference call to approve the choices. Judge Small thought a call to the Chief Justice asking that the ATJ Board's two years be extended to run from the date the appointments are made rather than from the date the ATJ Board was approved in May will be heard sympathetically. As it is, the

clock is ticking on the two years the court gave the project.

Governor Jan Peterson thought if the Board was going to make the appointments by conference call they should hear from liaisons at this meeting. A roundelay of comment followed, much of which urged the Board to interpret diversity to include particular nominees or types of nominees. Peterson's motion to table the appointments to September, and Linda Dunn's motion to appoint governors Blair, Fairhurst, Larson, Nappi and Peterson to pare the nominees list, was approved.

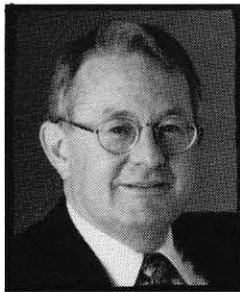
The board renominated Ernest Allen of Pasco to a citizen membership, and Peter Arkison of Bellingham to a lawyer post, on the CLE Board (subject to Supreme Court confirmation), and it appointed Kristal Wittala Knutson of Chehalis, Richard Wallis of Seattle and Richard Wiehl of Yakima to the Disciplinary Board. Dan Jaech was appointed to the Client Security Fund as a citizen member.

Appointments by President-elect Ron Gould to chair WSBA standing committees were also approved by the board. The committees, and their 1994-1995 chairs, are: Attorneys Professional Liability Insurance: Eric Jeppesen (Bellevue); Bench-Bar-Press, Stephen Smith (Seattle); Character and Fitness, Ellen Dial (Seattle); Civil Rights, Marta Lowy (Seattle); Client's Security Program, Kenneth A. MacDonald (Seattle); Committee of Law Examiners, Frank Slak, Jr. (Spokane); Continuing Legal Education, J.J. Leary, Jr. (Seattle); Corrections, Leta Schattauer (Seattle); Court Congestion & Improvement, Mary Neel (Seattle); Court Rules & Procedures, Jerry McNaul (Seattle); Disciplinary Board, William S. Bailey, (Seattle) chair; Joseph P. Delay, vice chair (Spokane); Editorial Advisory Board, Charles Jackson (Friday Harbor); Group & Prepaid

Legal Services, Susan Daniel (Port Orchard); Judicial Recommendation, Sharon Sakamoto (Seattle) and James McNeill (Spokane), co-chairs; Interprofessional Committee, Janet Irons (Seattle); Lawyers' Assistance Program, Hal Vhugen (Seattle); Legal Aid, Barbara Evans-Cordts (Tacoma); Legal Assistants, William Hames (Kennewick) and Karlene Weiland (Bellingham), co-chairs; Legislative Committee, Pat Aylward (Wenatchee); Opportunities for Minorities in the Legal Profession, John Myung (Redmond); Public Relations, Evelyn Fielding (Olympia); Resolutions, Gary Gayton (Seattle); Rules of Professional Conduct, Jonathan Noll (Seattle). Gould contemplates sunseting the Consumer Protection and Legal Services for the Armed Forces Committees, but the board is inclined to keep the former going.

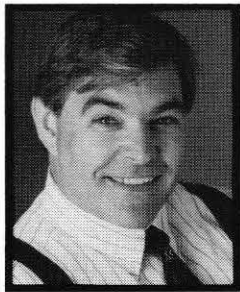
Regulation of Nonlawyers: With more than 800 pages of material to deal with, the Board had the fullest plate in many a month; 181 pages concerned proposals on the licensure or regulation of nonlawyers doing legal work. Earlier this year President Stritmatter asked the Young Lawyers Division, Consumer Protection Committee and Legal Assistants Committee to consider whether a limited-practice rule should be put in place to regulate paralegals or legal assistants. The YLD team reported it was unable to report until November or December; the Consumer Protection Committee has had a number of meetings and is working on a variety of ideas. The Legal Assistants Committee opposes current proposals, largely on grounds that no one has been able to show letting nonlawyers practice in certain areas would do the first thing to help the poor

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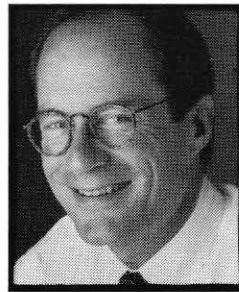
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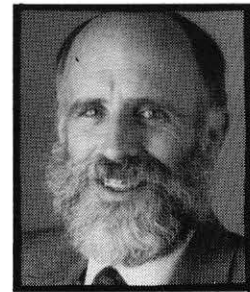
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in those areas, an argument often made for expanding limited-practice options.

In the meantime, an outfit called The Estate Guarantee Association has proposed a batch of court rules changes to the Supreme Court, which the Court referred to WSBA for comment. The rules changes are offered in conjunction with legislation expected to be offered in the 1995 session to create a process for licensing estate planners. The rules changes are intended to "liberalize" practice to "allow lawyers to more easily work with other professionals," wrote Daniel Vargus, the proponent of the changes. Among other things, they would allow lawyers to share fees with nonlawyers; allow nonlawyers to have ownership interests in law firms; allow lawyers to solicit clients directly; and allow lawyers to claim they are specialists in fields of law. The limited licensure for estate planners would allow them to prepare a variety of documents relating to estate planning and give advice or opinions "only with respect to . . . guardianship, probate, taxes, insurance, retirements plans, protection of assets, qualification for government benefits and the transfer of nonprobate assets."

Vargus, it turns out, is also head of an estate-planning venture called Vargus & Associates, which is a defendant in a Consumer Protection Act case filed by the Attorney General's office earlier this year, and plaintiff in an action against the AG's office. This takes some of the shine off his ideas, some governors felt.

Representing the WSBA Real Property, Probate & Trust Section, Ellen Dial told the Board the section is concerned by the Vargus proposals from a consumer protection standpoint. The proposals don't have any of the safeguards that the real

estate LPO rules have (see APR 12). They let people call themselves estate planners and do virtually anything lawyers can do if it can be tied to estate planning, she said. "They could create wills, trusts, contracts, deeds, releases, assignments and UCC documents for estate planning purposes."

Governor Jim Handmacher saw the legislation as the greater threat to the public and asked if the section is willing to take the lead in explaining to the Legislature why it is a bad idea as proposed. Mary Gallagher Dilley urged Board members and lawyers generally to talk with their legislators this fall, because by the time the Legislature convenes in January, the idea may have a head of steam behind it, given the unusually large number of freshman legislators coming to Olympia anxious to make a mark.

Handmacher then moved to send the Vargus proposals to the Court Rules Committee and the Rules of Professional Conduct Committee for comments and the broader issues of how to respond to nonlawyer licensing to the Consumer Protection Committee. The Board approved the motion. A motion to have the Real Property, Probate & Trust Section work on a paper analyzing the legislative proposals in support of the Board's decision to oppose them in principle passed, too.

Governor Handmacher wondered if a section referral was a strong enough move. Linda Dunn moved the creation of a task force to study and report back on all aspects of nonlawyer practice, its membership to be drawn from the Consumer Protection Committee, relevant bar sections, the Young Lawyers Division, WSBA members and nonlawyers, all to be appointed by the president and president-elect. Its report will be due in September 1995.



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Honors, Richly Deserved: The Board's awards committee, chaired by Governor Steve Toole, presented a list of nominees for WSBA awards to be presented at the Annual Meeting in Seattle in September. The Board approved them all. In brief, the awards and their recipients are: Award of Merit: Ruth Walsh and Frank Slak, Jr.; President's Award, Ada Shen-Jaffe; Board of Governors' Award for Professionalism: Judith Proller; Angelo Petrus Award for Lawyers in Public Service: Robert Jensen; Outstanding Judge Award:

Hon. Charles Johnson, King County Superior Court; WSBA Pro Bono Award: Morse & Bratt law firm, Vancouver, WA; WSBA Courageous Award: Frederick Paul (posthumous); Affirmative Action Award; Jerry F. King; Board of Governors Special Leadership Award: Michael McKasy.

A New Idea: Spokane lawyer John Powers appeared for the WSBA Public Relations Committee with an idea for a small brochure to be made available to

lawyers and judges. With some fixed text and some text to be added by the user (mainly easy stuff like a short bio), the brochure is something a lawyer or judge can stick in his or her pocket when leaving for a speaking engagement, then use to spend five minutes at the start of the remarks telling the audience a few good things about lawyers. Powers did it at the outset of his presentation and it was well-received.

Powers also presented a proposed "Lawyer's Commitment," a sort of quality-of-service promise to customers, which the Committee also wants to send out to lawyers in some form. He floated several options for doing these things, and the Board referred them to the Budget & Audit Committee for some review before consideration for action in September.

Should Lawyer Discipline Records Be Public? The Board took up a proposal to amend RLD 11.1 to make disciplinary matters more open to the public. Under the proposal, grievances would become public after the accused lawyer had a reasonable opportunity to respond under RLD 2.8. Bar disciplinary counsel would evaluate complaints and determine if they raised an RLD or RPC violation. Those that didn't would be classified as "inquiries" and would remain confidential.

"My personal perspective, after 17 years of lawyer discipline work, is that the weakest link in our regulatory system is the fact that we 'secretly' process and dismiss grievances. It looks like, feels like, and is perceived as a 'coverup,'" Disciplinary Counsel Lee Ripley advised in a memo to the Board. "The public will not make the 'leap of faith' that we are adequately policing the legal profession unless they can see the *entire* process. When our own reports show that more than 90 percent of grievances are dismissed, the public sees protectionism, not a functioning regulatory system The current rule prohibits the WSBA, without a clear showing that the release would benefit the public, clients or the integrity of the bar, from either confirming or denying the existence of a grievance or divulging information, even if disclosure would correct false information or would exonerate the lawyer."

Governor Jan Peterson explained the amended proposal. "The experience of other states is the most persuasive basis for making this change," he said. Oregon has had a completely open system for

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over a decade and it has worked well, without the fear coming true that lawyers' reputations could be ruined by false charges being made and getting into the papers. "That happens now," several governors commented, noting that a grievant can alert the media a complaint has been filed, and the bar's hands are tied: it can't say anything.

Other governors said they were lukewarm about making such a change. "This is such a big issue with our members maybe we need to do some presentations to local bars," Linda Dunn commented. There was some discussion of referring the matter to the WSBA-Supreme Court task force now studying an ABA report on changes to the disciplinary system. Governor Wayne Blair thought the change a good idea. He recalled his service on the Disciplinary Board as a time when the question grew larger in his mind, "Why is this all secret?"

"This is where you put on your regulation-of-the-bar hat," he told the board. "It's not popular but it needs to be done." Governor Steve Toole said he wasn't convinced and thought that meant the bar had a ways to go in convincing the average member. Family Law Section representative Kim Prochnau said they don't like it, nor will their clients, whose personal problems are likely to be drawn into the narrative of grievances that then become public.

WSBA Counsel Bob Welden said much the same arguments were made ten years ago when disciplinary hearings were opened up, and they didn't come true then. "The media pay no mind unless there's a celebrity involved," he commented.

Governor Dan Hannula, who joined the discussion by conference call, said he opposed the rule change altogether. "I don't think it enhances professionalism or protects the public. At best it *might* improve our image with the press. I don't have a problem telling the press, 'It's under investigation. If we decide to act, it'll be made public.' I think the membership is opposed to this."

Governor Vickie Norris commented, "If you include a civil-liability provision against people who make unfounded claims, I might be able to support this. We asked lawyers to shoulder the cost of the bad acts of their colleagues who steal, and now we're asking innocent lawyers to risk their reputations. Lawyers tell me the price isn't worth the remedy for a PR problem."

"Cops have to have probable cause to

issue a traffic infraction," she continued. "Grievants don't have to have any basis at all."

Observer Nancy Krier saw opening the process as part of the Board's vision of the bar in the future. "The last hundred years it has been a closed system. It's a new day now. If these records are open, and someone makes a false claim, the Bar can say, 'there's nothing to this, and here's proof. You can see for yourself.'"

A motion by Linda Dunn to table the matter to the next day was approved, so the Board could think about it all some

more. When they took it up again, they passed a motion calling on the Communications Department to take a run at educating the Bar on the need for the change.

WSBA Budget Approved: Treasurer Mike Larson presented the 1994-1995 budget, calling it "consistent with the Bar's priorities, though I have a personal problem with some of those priorities," about which he then failed to offer any corrective action or even elaborate upon their nature. With little other discussion, the board approved the budget, details of

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which will appear in a future *Bar News*.

The Annual Court Rules Somnambulation: It happens every year; the Court Rules & Procedures Committee brings in too damned many rule changes. This year's crop was 221 pages of explanations and drafts, presented by long-suffering committee chair Phil Arnold. There was another round of finger-pointing by the plaintiffs' and defense attorneys' bars at the motives for proposing various changes, reflecting the manner in which court rules have, in recent years, become less the definers of the playing field and more the football of competing interest groups.

The noncontroversial rules were approved, which means they will be published in the *Advance Sheets* later in the year. You can read them there, then. The controversial ones were put off to September, so more input could be sought from members. Here's a summary:

Should Anything Be Done About Paiya v. Durham Construction Company? This case (69 Wn.App. 578 (1993)), contains some mischief about payment of expert-witness fees. The majority of the Court Rules Committee felt no action needs to be taken. Let the case law take its course, they held, and see if this case really causes a problem. A minority on the committee felt otherwise, and committee member Terry Hall spoke for them. A lengthy discussion followed, with some governors opining the case should be sent back to the committee with directions to draft a rule. Others felt it should be sent somewhere—not necessarily the committee, maybe the Interprofessional Committee, which mediates disputes between lawyers and doctors—and sort out a lot of long standing problems with doctors and lawyers involved in litigation at the same time.

Eventually the discussion evolved into the Comet Schumaker-Levy of Motions, and after the various fragments crashed into the Board they voted 6-3 to send the matter back to the committee for some more study.

Right-to-Know Court Rules: Proposed amendments to GR 15, CR 5 and CR 26 would require the saving of materials relating to protective orders for two years and make it possible for anyone, party or not, to seek access to those materials. Intended to implement RCW Chapter 4.24 amendments, the rules go too far, critics say, and several showed up to explain why. Terry Hall said the proposals expand and, perhaps, even contradict the legislation by going further than it contemplated. Law professor Stuart Jay called the amendments of the rules "inconsistent" and highly unusual in their expansion of who can seek access to a lawyer's files. "Discovery can be disrupted by anyone who wants to come in and contest a discovery order."

Tom McLaughlin expanded and amplified Jay's comments. "It's an attempt to advance the plaintiffs' lawyers agenda by imposing their 1992 legislative proposals on the Legislature's 1994 limitations." He thought the attempt to implement 1994 legislation premature.

Fred Tausend said he thought the rules proposals went too far as well, and that many companies involved in high-tech research would find them very troublesome, since a great deal could be discovered peripheral to a case but valuable to competition. They thought they'd sorted all these issues out in the '94 legislation, and now here it was back again.

After a long discussion of the pros and cons the board put action off to September.

Criminal Law: Life Is Just One Thing After Another, It Seems: Amendments to the district and superior court criminal rules provoked some discussion between the good guys and the bad guys. Which is which depends on where you start from. Tom Campbell of the defense lawyers and Steward Menefee of the prosecutors played the leads.

CrR 3.1 (and in each case cited, its district court counterpart) would be amended to allow defense counsel to petition the court for appointment or payment of experts *ex parte*.

CrR 3.5 would allow the court to ascertain that a defendant had been advised of his rights before accepting a plea, rather than going through the process of making an independent determination.

CrR 3.6 would require that suppression motions be in writing and provide a basis for the motion. No more of this oral motion, or written motion citing the "applicable provisions of state and federal constitutions stuff," proponents argued. No, it'll create unmanageable paperwork for us to have to let the prosecution know what we intend, the defense lawyers argued back. We have too many cases for that sort of detail.

CrR 4.7 would be amended to allow defense lawyers to give their clients copies of police reports with materials allowing the reader to determine where or how to contact witnesses redacted.

And Now, The "Friends and Co-Defendants Calling Plan Offers Big Savings When More Than Seven Are Indicted on the Same Charges . . ." The Group and Prepaid Legal Services Committee presented a detailed report of the committee's research into the feasibility of an 800 or 900 information line people could call for legal advice. Some lawyers have been doing something like that in their practices for a number of years and feel it has great potential, not only to help people sort out frequently occurring types of problems, but helping people identify when they need a lawyer, and what sort to look for.

The committee feels such systems offer great potential for increasing access to the legal system and urged the board to let them study the implementation of such a system in Washington. The board enthusiastically agreed and asked them to submit a budget for their plans.

Wrap-up in Ocean Shores: In other action, the Board heard a report on the Grays Harbor County Bar Association from its president, Craig Sjostrom; deferred action on some cleanup amendments to the WSBA bylaws pending some further revision of the text; and approved a resolution congratulating the Loren Miller Bar Association for its role as host of the 1994 National Bar Association convention in Seattle August 7-18. The Board reviewed CLE registrations for the year (over projections).

To deal with the complexities of judicial recommendations and their use in contested elections, and to aid the work of an overburdened committee, the Board authorized the creation of a committee drawn from the Judicial Recommendations Committee and the Board of Governors. Its report is due in March 1995. Bruce Gardner and Ron Steingold of the Computerization of Law Division gave a report on the division and its goals; the Board approved the goals and appointed a committee of Linda Dunn, Bob Welden and a division representative to negotiate a new contract for access to the state law reports once the old contract expires at year's end.

Ken Davidson, chair of the WSBA Legal Aid Committee,

presented the board a detailed Volunteer Legal Services Action Plan derived from a conference held in April. The plan, too lengthy to fully describe here, gets lawyers involved in providing legal services to the poor where resources are stretched thin. It's a reflection of the acknowledgment that government can't or won't cover all of the need and that some of the old system of lawyers handling such matters needs to be revived. The board adopted the plan.

Governor Mike Larson then announced that the proposed Supreme Court assessment to fund the Client Security Program would free about \$100,000 budgeted for that purpose in the 1994-1995 budget. He thought it should go to access-to-justice programs. The extent of discussion was that Governor Joe Nappi didn't want to spend any of it until the assessment actually generated the substitute funds, and Governor Jim Handmacher wanted to be sure that this would be a "contingency" allocation which could be redirected if the need arose. The Board then unanimously approved the motion subject to receipt of funds assessed by the Supreme Court.

Next meeting: Seattle, September 8-9. **Coming meetings:** You, too, can be part of the fun: Board meetings are open to members of the bar. Under the schedule recently approved, here's where they'll be over the next year: 1994—Yakima, October 14-16; Seattle, December 2-3; 1995—Olympia, January 13-14; Tacoma, February 17-18; Sudden Valley, Bellingham, March 31-April 1; Spokane, May 12-13; Lake Chelan, June 16-17; Winthrop, July 28-29; Seattle, September 7-8, 1995.

NOTICE OF COMING APPOINTMENTS

The Board of Governors deferred action on several appointments until their September 8-9 meeting in order to give more time for publication of the appointments. Interested readers may send letters of application to their members of the Board of Governors or WSBA Executive Director Dennis Harwick at the WSBA office in Seattle.

State of Washington Courts, Pattern Forms Committee: Established in 1978 by the Supreme Court, the Pattern Forms Committee and its subcommittees develop forms for use in state

court proceedings. Nominees should possess knowledge of state law and litigation procedures. Terms on the 12-member committee are for four years; it meets four times per year, plus subcommittee meetings. Reimbursement is by the state, according to state reimbursement guidelines. The position is currently vacant. For information, contact Bradley Hillis, Legal Analyst, Office of the Administrator for the Courts, P.O. Box 41174, Olympia, WA 98504-1174, (206) 357-2128.

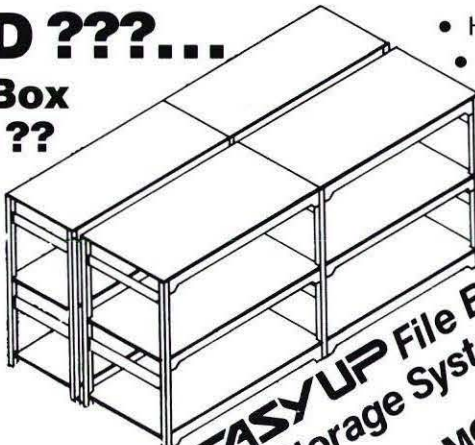
State of Washington, Pattern Jury Instruction Committee: This committee drafts model civil and criminal jury instructions for use in state courts. Nominees should have a familiarity of legal areas covered by the pattern instructions. The four-year term of the incumbent, David Shelton of Seattle, expired July 15, 1994. Reimbursement is by the state, according to state reimbursement guidelines. For information, contact Jane Nelson, Office of the Administrator for the Courts, P.O. Box 41174, Olympia, WA 98504-1174.

State of Washington, District and Municipal Courts Advisory Committee: A subcommittee of the Judicial Information Systems Committee (see RCW 2.56 and Supreme Court Judicial Information System Committee (JISC) rules), this committee is administered by the Office of the Administrator for the Courts. The position is vacant; the term will run from March 1, 1994, to February 28, 1995. For information, contact Rick Coplen, Information Systems Division, Office of the Administrator for the Courts, P.O. Box 41174, Olympia, WA 98504-1174, (206) 753-3365.

Washington Supreme Court, Continuing Legal Education Board: The second three-year term of Dillon Jackson of Seattle expires September 30, 1994, and he is not eligible for reappointment. The Board oversees the provision of continuing legal education in Washington and approves course offerings for CLE credit. The Board and its powers is described in APR 11. The new member will serve from October 1, 1994, to September 30, 1997. Members are nominated by the WSBA Board of Governors to the Supreme Court, which makes the appointments. Meeting expenses are paid by the WSBA.

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WSBA Annual Meeting September 9

8:15 am
CLE

[for reservations, call (206) 727-8271]

12:15
Awards Luncheon

[for reservations, call (206) 727-8213]

2 p.m.
Business Meeting

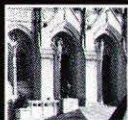
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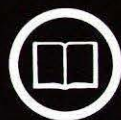


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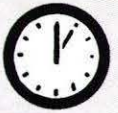
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 National Business Institute Inc. (715) 835-7909
 National Institute of Trial Advocacy (NITA) (800) 225-6482. BBS registration, messages, etc.: Set communication program to 8 bits, no parity, 1 stop bit, then call (219) 234-7348.
 Spokane County Bar 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

September 1994

- 7-9 Seattle: Northwest Deposition Program. *Sponsored by NITA.*
- 8 Seattle: WSBA Board of Governors meeting.
- 8 Spokane: Tort Law Update: Strictly "Need to Know." *Sponsored by WSTLA.*

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

9 Seattle: Family Law Litigation in Washington. *Sponsored by National Business Institute. For information: (715) 835-8525.*

9 Seattle: Tort Law Update: Strictly "Need to Know." *Sponsored by WSTLA.*

13 Fighting Discrimination in the '90s - Americans With Disabilities Act - Sexual Harassment - EEOC Update. *Sponsored by: U.S. Equal Employment Opportunity Commission. To register: (800) 669-4000/(202) 663-7071; TDD (202) 663-7114.*

15 Deadline for November 1994 *Bar News.*

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

16 Seattle: Regulatory Reform and the New Administrative Process. *Sponsored by WSBA CLE.*

16 Seattle: Trust and Fiduciary Half-day Program and Annual Meeting of Washington Chapter, National Academy of Elder Law Attorneys. *Contact: Janine Lawless, (206) 789-2511.*

16 Seattle: Hot Issues in Worker's 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: Hot Issues in Worker's Compensation. *Sponsored by WSBA CLE.*

23 Seattle: Environmental Issues in Business & 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

6-7 Seattle: 39th Annual Estate Planning Seminar. *Sponsored by WSBA CLE.*

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

14 Seattle: Federal Tax Controversies. *Sponsored by WSBA CLE.*

14-15 Yakima: WSBA Board of Governors meeting.

15 Deadline for December 1994 *Bar News.*

19 Seattle: Red Flags, Black Holes & Silver Linings—Risk Management. *Sponsored by Seabury & Smith. For information: (206) 292-7159/(800) 552-7200 ext.159.*

20 Seattle: Family Law. *Sponsored by WSBA CLE.*

21 Olympia: Limited Liability Companies. *Sponsored by WSBA CLE.*

21 Olympia: Limited Liability Companies. *Sponsored by WSBA CLE.*

28 Seattle: Employment Law. *Sponsored by WSBA CLE.*

28 Seattle: Limited Liability Companies. *Sponsored by WSBA CLE.*

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.*



Notices of Interest to WSBA Members

WSBA Attorney Discipline

Resignation in lieu of suspension: Federal Way and Seattle lawyer Malcolm J. Bell (WSBA #3870, admitted 1949) resigned in lieu of suspension on July 1, 1994, effective 5 p.m. [July 7, 1994]

Censured: Redmond lawyer Stephen F. Frost (WSBA #5989, admitted 1975) has been ordered censured by order of the Supreme Court of Washington dated June 10, 1994, pursuant to RLD 12.6 and the discipline imposed by the Supreme Court of Alaska on November 26, 1993. The discipline is based upon his violation of duties and obligations as a lawyer by threatening to use a client confidence or secret for his own advantage. [June 24, 1994]

Reprimanded: Vancouver lawyer Robert D. Mitchelson (WSBA #4595, admitted 1972) was ordered reprimanded and required to make restitution in the amount of \$589.15. The discipline is based upon Mitchelson's failure to withdraw after he was discharged by his client and his failure to promptly remit remaining settlement proceeds to his client despite repeated requests to do so. [June 23, 1994]

Suspended: Renton lawyer John K. Pain (WSBA #0594, admitted 1955) was ordered suspended from the practice of law May 24, 1994 for a period of six months. The discipline is based upon Pain's neglect in failing to distribute the

assets of an estate between late 1990 and the fall of 1992, for failing to arrange for the filing of federal estate income tax returns for all years the estate had earned taxable income, and for failing to communicate with the co-personal representative regarding the state's obligation to file federal estate income tax returns and for taxes and penalties the estate owes the Internal Revenue Service due to the delay in estate distribution and tax filings. Following the six-month disciplinary suspension, Pain will be subject to a term of probation for a period of two years. [June 23, 1994]

Attorney Discipline, U.S. District Court, Eastern District of Washington Order Dissolving Stay and Order of Suspension from Practice of Law:

On September 24, 1991, the active, non-recused judges of the U.S. District Court for the Eastern District of Washington entered their Findings of Fact and Conclusions of Law that John Jarrette Sandlin (WSBA #7392) had violated the Local Rules of the court and the Rules of Professional Conduct of the Washington State Bar Association by making false accusations and allegations against a member of the judiciary of the court. The court determined that the appropriate sanction was suspension from the prac-

tice of law before the court for a period of six months.

Thereafter, on October 21, 1991, Sandlin filed a Notice of Appeal to the Ninth Circuit Court of Appeals. On October 23, 1991, a Stay Order was entered in the district court staying commencement of the period of suspension pending completion of appellate review. On December 20, 1993, the Ninth Circuit Court of Appeals affirmed the action of the district court. See United States District Court for the Eastern District of Washington v. John Jarrette Sandlin, 12 F.3d 861 (9th Cir. 1993). The mandate of affirmance was filed in the district court on March 15, 1994. The stay order remained in effect pending the filing by Sandlin of a petition for certiorari. Sandlin having not timely filed such a petition, the district court determined the action of the court suspending Sandlin from the practice of law should commence without further delay.

"Based upon the foregoing," the court's order continued, "IT IS HEREBY ORDERED AS FOLLOWS:

"1. The Stay Order of the Respondent's suspension entered on October 23, 1991, shall be dissolved effective July 1, 1994.

"2. The Respondent, John Jarrette Sandlin, is hereby suspended as a member of the bar of this court for a period of six months commencing July 1, 1994.

"3. On or before July 11, 1994, the Respondent shall notify all of his clients in writing of his inability to act as their lawyer and the reason therefore, and shall advise them that they should seek legal advice elsewhere.

"4. The Respondent shall comply with all Rules for Lawyer Discipline (RLD) of the Washington Rules of Court applying to the suspension of an attorney from practice for a period of six months, including, but not limited to, Rules of Lawyer Discipline 8.1 through 8.6 inclusive and Rule 11.2

"5. IT IS SO ORDERED. The Clerk is hereby directed to enter this Order and furnish copies to the Respondent, the Chief Judge of the Ninth Circuit Court of Appeals, the Chief Judge of the United States District Court for the Western District of Washington, the Supreme Court of the State of Washington, the Presiding Judge of the Superior Court of the State of Washington for Yakima County, the Washington State Bar Association, the

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Washington State Bar News, the National Discipline Data Bank, and the judicial officers for the Eastern District of Washington."

The order, dated June 29, 1994, was signed by Justin L. Quackenbush, Chief Judge, U.S. District Court for the Eastern District of Washington, and Judges William Fremming Nielsen and Fred Van Sickle. *In The Matter of John Jarrette Sandlin, Respondent*, Cause No. CS-91-014-JLQ & RJM

Public Notices

Local Court Rule Changes: U.S. District Court, Eastern District of Washington:

By General Order dated May 23, 1994, **Local Rule 10(a)** was amended as follows:

LR 10-FORM OF PLEADING

(a) All papers presented for filing shall be prepared on letter size (8 1/2" x 11") paper.

(1) Pre-punching: all documents presented for filing shall be pre-punched with two normal-size holes (approximately 1/4 inch diameter), centered 2 3/4" apart, 1/2" to 5/8" from the top of the document.

(2) All papers submitted must be of good quality on which line numbers appear at the left margin. The material thereon shall be typed, printed or prepared by a clearly legible duplicating process, and shall be double-spaced. *Quoted material may be single-spaced, however footnotes shall be double-spaced. All typed and printed matter must appear in at least 11 point type or larger.*

(3) On the first page of each pleading or similar document the title of the court shall appear on or below the fifth line. All pleadings shall be signed as required by Rule 11, Federal Rules of Civil Procedure. Names shall be typed underneath all signature lines.

[(b) through (j) unchanged]

King County Superior Court:

Change of Delivery Location: Effective April 1, 1994, Per **Local Rule 7**, one copy of all the judge's courtesy copies/working papers for Daily Motions, Summary Judgments, and Supplemental Proceedings must be marked in the upper right hand corner of these documents with the words "working papers", the name of the calendar, the date of the hearing, and by whom these papers are

being delivered ("moving party," "opposing party" or other descriptive identifying terms). Effective April 1, 1994, these documents must be delivered to the Working Papers Coordinator in Room C607 of the Clerk's Office where attorneys' copies will be stamped "Received."

Working papers must be received before the close of the confirmation period. Confirmation rules have not changed. Daily motions and summary judgment hearings are confirmed through the Department of Judicial Administration (Superior Court Clerk's Office). The telephone number for Daily Motions and Summary Judgment confirmations is (206) 296-7847. Motions must be confirmed between 2 p.m., three court days before the hearing, and 12 noon two court days before the hearing.

(NOTE TO READERS: The Bar News prints local court rule changes as we are made aware of them. The practice of courts in advising the magazine of local court rules changes varies widely between sometimes and never. Readers should always consult the court in which they plan to appear regarding local rules.)

Changes in Judgment Laws Extending Judgments an Additional Ten Years:

SSB-6045, Chapter 189, Laws of 1994, amends RCW 6.17.020 effective June 9, 1994. Within 90 days of the expiration of the original ten year period of validity of

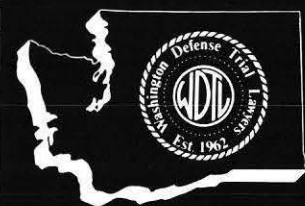
a judgment, a judgment creditor may petition the court for an order granting an additional ten years in which execution may issue. The petitioner must pay the Clerk's \$110 filing fee at the time of the filing of the petition. The filing fee shall be included in the judgment summary of the order as a recoverable cost. The petition and order shall reference the cause number as originally assigned to the cause of action.

Judgments Are Not Valid Without Summary at Beginning:

ESB-5449, Chapter 185, Laws of 1994, amends RCW 4.64.030, effective June 9, 1994. The court clerk is required to enter on the execution docket only those money judgments that have a judgment summary on the first page of the order, identifying the judgment creditor, name of his or her attorney, the judgment debtor, the amount of the judgment, the interest owed to the date of the judgment and the total of the taxable costs and attorney fees. Filings which do not contain such a summary will not be handled as judgments and will not be placed on the execution docket. Any subsequent filing of a judgment summary must be approved and signed by the court.

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



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bills in August 1994 is 4.93%. *The maximum allowable interest rate permissible for September 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*.

STATE LAW LIBRARY Books Recently Cataloged:

Listed below are some of the new titles recently acquired by the State Law Library and available for loan by phone from (206) 357-2136, or by mail from Washington State Law Library, Temple of Justice, P. O. Box 40751, Olympia, WA 98504-0751. A quarterly *Books Recently Cataloged* list, generally containing 150-200 new titles, is also available. Copies may be obtained by mail from the above address.

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

APPELLATE PROCEDURE

Federal appellate practice guide: Ninth Circuit. Ulrich, Thompson, and Kessler; Sidley and Austin. Rochester,

NY: Lawyers Cooperative Publishing, 1994-. 1 vol. (loose-leaf).

KF9054.9th.F44 1994

BRIEFS

Re, Edward Domenic and Joseph R. Re. *Briefwriting & oral argument.* 7th ed. [Dobbs Ferry, NY]: Oceana Publications, 1993. Pp. 363. **KF251.R4 1993**

CONFIDENTIAL

COMMUNICATIONS—LAWYERS
Rice, Paul R. *Attorney-client privilege in the United States.* Contributing authors, John B. Corr and David Drysdale. Rochester, NY: Lawyers Cooperative Pub., 1993-. 1 vol. (loose-leaf).

KF8959.A7R52 1993

CRIMINAL PROCEDURE

Portnoy, Linda S. and Eileen P. Farley. *Washington criminal practice in courts of limited jurisdiction.* Salem, NH: Butterworth Legal Publishers, 1993-. 2 vol. (loose-leaf).

KF9619.P6 1992

DIVORCE

Fitzgerald, Judith K. and Ramona M. Arena. *Bankruptcy and divorce: support and property division.* 2d ed. New York: Wiley Law Publications, 1994. Pp. 355. **KF535.F58 1994**

INFORMATION SERVICES—

GOVERNMENT POLICY

Boland, Barbara. *Prosecutors and computers: automating major operations—what a prosecutor needs to know.* Prepared for the National Institute of Justice, U.S. Dept. of Justice, by Abt Associates, Inc., under contract

#OJP-89-C-009. Washington, DC: U.S. Dept. of Justice, Office of Justice Programs, National Institute of Justice, [1993]. Pp. 84. **KF242.C72B6 1993**

LAW—WASHINGTON (STATE)

Annotated revised code of Washington. Charlottesville, VA: Michie Co., 1994. 18 vol., plus Index and Table volumes. **MRR**

Legal Foundation of Washington seeks Goldmark Award Nominations:

The Legal Foundation of Washington, created in 1984 at the direction of the Supreme Court of Washington to fund organizations to provide civil and legal services to low-income people, seeks nominations from the bar and public for the 1995 Goldmark Award. The award is given to an individual and/or organization in recognition of outstanding achievement in providing equal access to justice.

The award will be presented at the Foundation's annual Goldmark Award Luncheon on January 20, 1995, at the Sheraton Hotel in Seattle.

The Goldmark Award was created in 1987 to honor Charles A. Goldmark, second president of the Legal Foundation of Washington, and a major architect of the IOLTA program in Washington.

Send nominations, which may include documentation and letters of support, by **October 30, 1994**, to the Legal Foundation of Washington, 500 Union Street, Suite 945, Seattle, WA 98101.

Thurston County Literacy Network Board Members:

The current board is looking for additional members who are interested in program-planning, membership, fund-raising and public relations. The network tutors adults in Thurston county. The Department of Vocational Rehabilitation, DSHS, Literacy Hotline and South Puget Sound Community College are among referral sources. Board commitment is for a term of three years and service on at least one committee. For information, call Rena Miles at (206) 754-7482.

Rules Committee seeks your comments:

When it reconvenes this fall, the WSBA Court Rules and Procedures Committee is scheduled to review the Rules of Evidence (ER) and the Infraction Rules for Courts of Limited Jurisdiction (IRLJ). Your comments and suggestions about these rules are invited. Please send them to: Steven Rosen, Staff Attorney, WSBA, 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599.

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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, 1995,

and end December 31, 1996. Trustees are eligible for appointment to one additional term, for a total of four years' service.

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WINE, WOMEN AND HEALTH

Both beverage and drug, alcohol is alternately lauded for its contribution to gracious living, blasted for its role in societal decay, and scrutinized for its effects on health. Yet, whatever the tenor of the discussion, alcohol is likely to be associated with men rather than women. Men dominate the wine societies, the media images of problem drinking, and most of the studies associating liquor consumption with health outcomes. For the last reason very little was known about alcohol's effects in women until quite recently, and it was widely assumed that they were the same as in men.

They're not. In general, women register alcohol's punch more dramatically than men do. At one time the disparity was attributed to size. However, that notion was dispelled by studies of men and women with similar drinking histories. When both were given identical doses of alcohol per body weight, the women's blood alcohol concentrations reached higher levels.

Physiologic research determined a possible cause: Women appear to have proportionately less of an enzyme called alcohol dehydrogenase than men do. Because alcohol isn't oxidized as efficiently in the stomach and liver, more is absorbed into the blood and delivered to the brain. Thus, we tend to register the effects of alcohol sooner.

Alcohol as an energy source

Alcohol is more than a mood-altering substance; like virtually everything else we eat, it provides fuel for the body's activities. When analyzed by bomb calorimetry—a laboratory process that measures the energy provided by foods—alcohol yields about 7 calories per gram, compared to 4 calories for proteins and carbohydrates and 9 for fats. However, physiologists postulate that alcohol probably generates fewer calories when burned in the body because a certain amount escapes through the breath and urine.

Unfortunately, as women drink more they tend to substitute alcohol, which is an inefficient source of energy and has no nutritive value, for other foods. Carbohy-

drates are usually the first to be cast aside, usually when alcohol comprises about 20% of total calories. Those who consume 30% of their calories as alcohol are usually cutting back on fats and proteins as well. At 50 percent or more of daily calories, alcohol has displaced so many foods that malnutrition is likely.

Due to inadequate diet and several other factors—many of which aren't fully understood—heavy drinkers are often deficient in certain nutrients, including vitamin B6, ascorbic acid, thiamin, magnesium and zinc. Alcohol also appears to impair the body's ability to metabolize folate—a vitamin that has been shown to reduce the risk of heart attack, colon cancer, and of giving birth to a child with spina bifida or other neural tube defects. It also impedes calcium absorption, which is partially responsible for the increased rate of osteoporosis in women who drink heavily.

At very high levels of consumption, alcohol also accelerates the body's metabolic rate. Thus, even heavy drinkers whose caloric intake from food is adequate can lose weight.

Three Things to Think About

- Alcohol interacts with a number of drugs, particularly sleeping pills, anti-depressants, and medication taken to reduce anxiety—occasionally with fatal consequences. Caffeine enhances rather than counteracts alcohol's effects (See *HWH*, April 1994.).
- A nightcap before retiring may help you to get to sleep faster, but it is also likely to cause disrupted sleep and bad dreams.
- The ability to metabolize alcohol declines with age. As we grow older, every drink begins to have a greater impact.

The physical effects of drinking

Many of alcohol's effects are similar in both sexes, but women appear to suffer the physical consequences of steady drinking earlier than men do. For example, some women who have the earliest form of alcoholic liver disease have said that they have as few as two drinks a day, men with similarly severe disease rarely report fewer than four daily drinks. (A drink is defined as 1 ounce of spirits, 3-4 ounces of wine, or 12 ounces of beer—all of which contain about 0.4 ounce of pure alcohol.)

Although such self-reports are generally considered to be underestimates, there is no reason to believe that women are less truthful about their drinking habits than men are, particularly since statistics indicate that the effects of alcohol abuse are even more devastating to women than to men. At any given age, female alcoholics are 3-7 times as likely to die from all causes as are other women; male alcoholics are only 2-4 times as likely to die as their nonalcoholic counterparts.

Even in nonalcoholic, drinking can disrupt virtually every body system:

The brain and central nervous system. Alcohol literally goes to our heads within minutes, altering brain chemistry and neuronal interaction. As little as a drink or two can change our behavior, impair our reasoning ability, delay our reactions, and hamper our motor coordination. Over time, habitual heavy drinking can affect the peripheral nerves, causing pain, numbness, and tremors in arms and legs. It can also result in intellectual decline and memory loss.

The gastrointestinal system also registers alcohol's effects. A single bout of heavy drinking can result in inflammation of the esophagus, stomach, and small intestine. Longtime drinkers can suffer recurrent bouts of gastritis, pancreatitis and diarrhea.

Because the liver bears the greatest responsibility for metabolizing alcohol, it pays the highest price. In that organ, burning alcohol takes precedence over breaking down fats, and as alcohol levels rise fats accumulate in liver cells. Absti-

nence can usually reverse the first vestige of liver damage, but continued drinking can expedite the progression to chronic hepatitis and cirrhosis, which can ultimately destroy liver function.

Cardiovascular system. Habitually consuming as few as three drinks a day for men—and probably even fewer for women—can also increase blood pressure. Binge drinking can cause irregular heart rhythms in people with no other signs of cardiac disease, and heavy drinking increases the risk of heart attack, stroke, and alcoholic cardiomyopathy—an enlargement and weakening of the heart muscle.

Neuroendocrine system. Alcohol also appears to contribute to premenstrual tension, failure to ovulate, disrupted menstruation, and premature menopause. For pregnant women, the risk of having a child with the facial abnormalities and mental retardation characteristic of fetal alcohol syndrome increases with even moderate drinking. Because no safe level of alcohol consumption during pregnancy has been established, obstetricians recommend absolute abstinence.

Psychological and social consequences

Women who are alcoholics tend to have a higher incidence of depression, eating disorders, and other mental diseases than do men, as well as a higher suicide rate. At the same time, they are less apt than alcoholic men to have legal or job problems.

Female alcoholics are more likely to be living alone or with an alcoholic spouse than are non-alcoholic women. They are also 12 times more likely to be abandoned by a nonalcoholic spouse than are alcoholic men.

The risks and benefits of imbibing

Drinking elevates the chance of developing certain cancers. Alcoholics have a 10 times greater risk of solid malignant tumors—particularly those of the head and neck, esophagus, stomach, liver, and pancreas—than the general population. And

recent epidemiologic studies have suggested that even a drink or two a day can increase a woman's risk of breast cancer somewhat.

However, there is even more evidence—albeit primarily from studies of men—that in moderation (1-2 drinks a day) alcohol can be beneficial. It appears to reduce the risk of heart attack, probably by raising levels of high density lipoproteins—the “good” cholesterol. Moreover, mortality data indicate that people who take 1-6 drinks a week have the lowest overall death rates, and that drinking doesn't begin to result in a marked increase in the number of deaths until daily consumption reaches six drinks. Yet most medical authorities do not see either of the above as sufficient reason for teetotalers to begin imbibing. As with anything else, deciding whether and how much to drink is a choice to be made after weighing your individual risks against the possible benefits.



Excerpted from the May 1994 issue of Harvard Women's Health Watch, © 1994, Harvard and Fellows of Harvard College. Individual subscriptions (\$24 per year) and bulk subscriptions (reduced rates on 10 or more copies per month) are available. Contact the Harvard Women's Health Watch, 164 Longwood Avenue, Boston, MA 02115, (617) 432-1485.

Are You at Risk?

The following quiz is often used by health professionals to identify persons at risk for alcohol abuse.

- Have you ever felt the need to cut down on your drinking?
- Have you ever been annoyed by criticism of your drinking?
- Have you ever felt guilty about your drinking?
- Have you ever felt the need for an eye-opener in the morning?
- If you answered “yes” to two or more, you may have a drinking problem.

Under the Wire

(late-breaking news)

Position Announcement

Chief Disciplinary Counsel Washington State Bar Association

The Washington State Bar Association is accepting applications for the position of Chief Disciplinary Counsel. The full position announcement can be obtained from Jo Morehouse at (206) 727-8244.

Chief Disciplinary Counsel oversees the lawyer discipline function of the WSBA and supervises a staff of 20, including seven lawyers. The WSBA has approximately 18,400 active members and is headquartered in Seattle. The successful candidate will possess strong legal skills, strong leadership/team-building/management skills, strong oral and written communication skills, knowledge of and experience in lawyer discipline or an analogous field, and strong organizational/administrative skills. The position also requires membership in the WSBA.

Submit applications, including resumé and writing sample, to CDC Search, c/o Executive Director, Washington State Bar Association, 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599. The deadline for submitting applications is September 16, 1994. EOE.

Appointments

On July 27, Governor Mike Lowry appointed Seattle Assistant U.S. Attorney Richard A. Jones to the King County Superior Court. Jones is a former King County deputy prosecutor and attorney with the Port of Seattle and the Bogle & Gates firm. He is a graduate of Seattle University and the University of Washington School of Law, and he is active in a number of community and bar groups, including the UW Law Alumni Association, Greater Seattle YMCA, the Loren Miller Bar Association and several central-area Seattle organizations. He succeeds Judge Frank Sullivan, who died in office July 14.

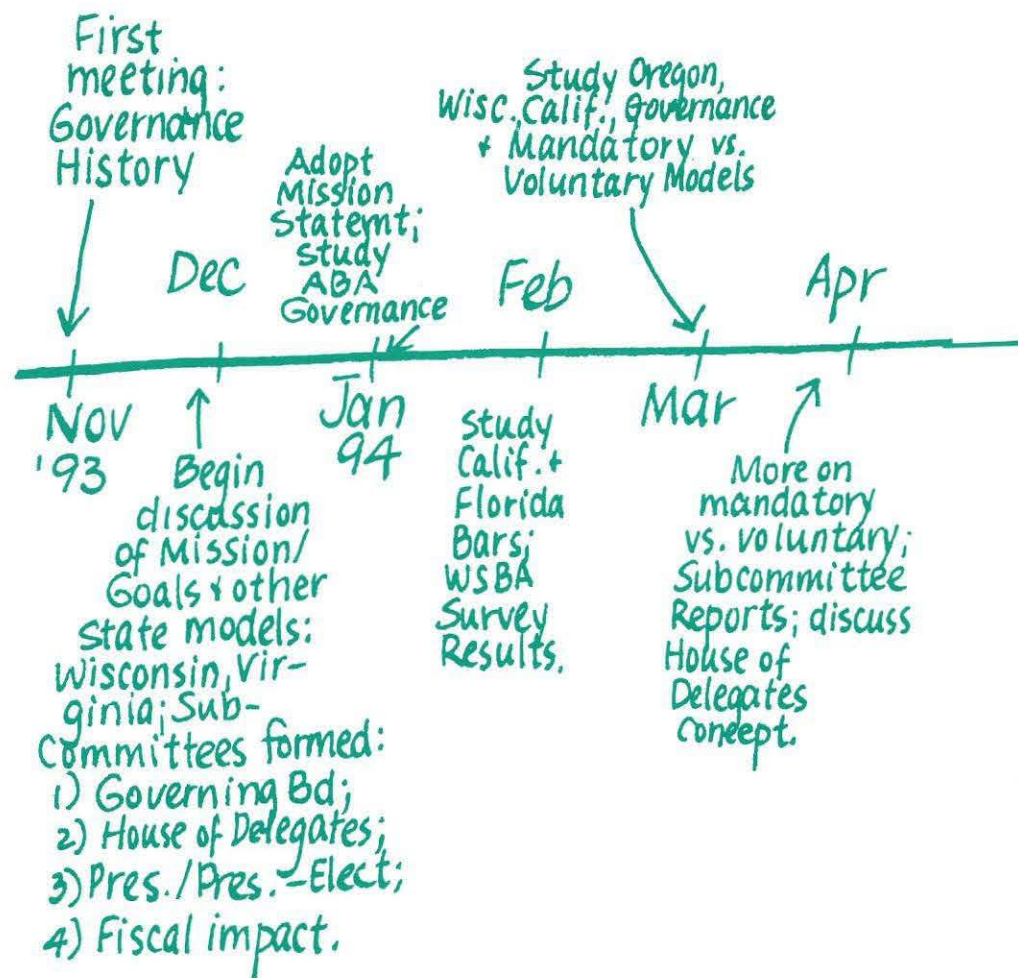
WSBA Board of Governors Election Certified

In the contested election for the First Congressional District seat on the WSBA Board of Governors, Peter S. Erlichman has been certified elected. Erlichman received 372 votes. Catherine Wright Smith received 270 votes. Erlichman will serve a three-year term commencing in September 1994.

UPDATE ON THE WSBA GOVERNANCE TASK FORCE

by Mary Fairhurst and Ada Shen-Jaffe, WSBA Governance Task Force

This article is offered for informational purposes, and does not represent any official position taken by the task force as a whole.



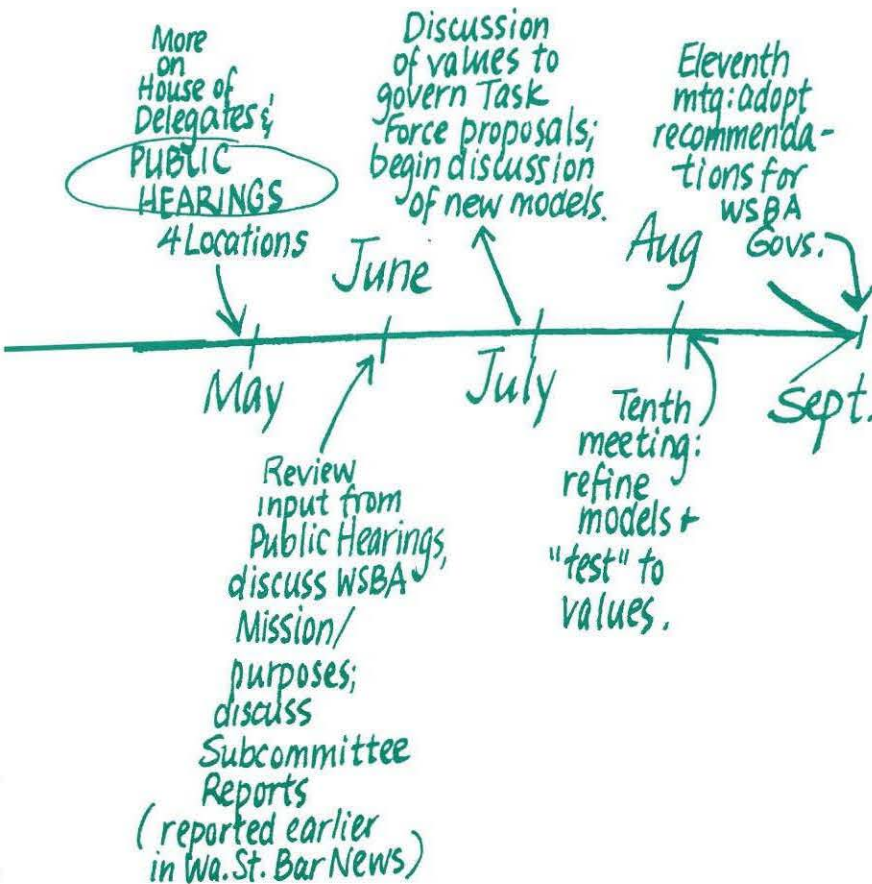
While some may see the task force's formation and existence as little more than a "knee-jerk" reaction to last year's dues rollback referendum, the task force members have, in fact, been motivated by a deeper purpose. They believe that strong

and viable organizations remain vital and responsive only when they continually evaluate and assess their performance. Therefore, regardless of the immediate "trigger" for such self-assessment, the process itself has produced information and thinking that has substantial value.

One of the first steps taken by the task force was an extensive debate about its own mission; this required a review and assessment of the purposes and mission of the State Bar as a whole. Task force members continually struggled to limit discussion of State Bar purposes and mis-



It summarizes the extensive process as well as the areas of discussion covered by the WSBA Governance Task Force to date.



sion to only those issues which are directly relevant to governance.

We adopted the following mission statement at our January 14, 1994, meeting:

The task force on Governance has been charged with the study, assessment and evaluation of State Bar governance for

the purpose of determining the most appropriate role and function for the State Bar, and what changes, if any, would best enable the State Bar to carry out its role and function in the most effective and economical way possible. The task force is guided by the following principles:

professionalism, sound legal ethics and the protection of the public, the rule of law, access to justice for all, inclusiveness, pluralism and diversity. The task force was scheduled to present a comprehensive report to the Board of Governors not later than July of 1994.

Our tasks include:

1. *Educating* ourselves on WSBA's current form of government, including the election and powers of the President and Board of Governors;
2. *Assessing* the strengths and weaknesses of the present structure;
3. *Comparing* the WSBA's form of governance with the form of governance in the ABA, other state bars, other professional organizations, and other relevant models of government, and providing a critical analysis;
4. *Receiving* input from members across the state; and
5. *Recommending* changes in present form of governance, if deemed necessary and appropriate, and documenting rationale for these recommendations.

Consistent with the mission and goals, task force members identified values against which any bar governance structure should be tested. The authors of this article believe that any effective State Bar governance structure must demonstrably facilitate these ends:

1. Production of high quality of information for governing body decision-making;
2. Representation of diverse interests and viewpoints (e.g., geography, race, ethnicity, national origin, language, age, gender, disability and other perceived differences);
3. Broad, inclusive involvement (removal or decrease of institutional barriers to participation and engagement in the life and activities of the State Bar whether those barriers are perceived or real);
4. Development of high-quality State Bar leadership;
5. Fostering of unity and cohesiveness through increased participation and stakeholding in governance;
6. Promotion of effectiveness and efficiency of State Bar governance; and
7. Accountability to the public interest.

The task force's strong articulation of

mission, goals and values has influenced each and every important debate in which its members have engaged. An example is the discussion about whether State Bar governance structure should be premised on the Bar's performance (1) of regulatory duties only; (2) of voluntary activities only with voluntary membership and participation (Bar regulatory functions would be handled by the Supreme Court or a strictly regulatory entity); or (3) of both regulatory functions and voluntary functions. The third option is a "hybrid" model, and has also been referred to in discussion and debate as the "unified bar" or "mandatory bar" model. The hybrid model involves broader governance and leadership duties related to enhancing the integrity of the legal profession. All task force members but one support the hybrid or unified bar approach. (This year, a resolution again has been submitted by ten members for a vote at the annual meeting on whether the WSBA should perform regulatory duties only.)

At the July meeting, task force members proceeded under a unified bar approach. Discussion focused on the recommendations of the task force subcommittees about various governance models. The models were: (1) a house of delegates, with an executive committee; (2) an expanded board of governors without a house of delegates; and (3) the existing governance structure. The group has not yet completed its discussion about the respective strengths and weaknesses of these models. As a task force, we find ourselves constantly battling a "chicken or egg" dilemma in discussing proposed changes (e.g., If there were a house of delegates, what would happen to the Board of Governors as we now know it? If I am absolutely opposed to a house of delegates model, do I refuse to engage in discussion about what "the ideal" house of delegates might look like, or do I engage but note my underlying opposition to the model on principle? etc., etc.) This dilemma is particularly acute because the task force is made up of an extraordinarily diverse group with a wide variety of perspectives. It has been challenging for task force members to set aside individual preferences supporting or opposing a specific model. To assure full development of models 1 and 2, the task force has committed to meet at least two more times before making final rec-

ommendations to the Board of Governors. This delays the task force's original goal of submitting a report in July 1994 until September or October 1994.

We have met nine times. After the initial meeting, all meetings involved general discussion, subcommittee reports, reports from individual task force members on assigned research areas and work on a variety of related tasks. Task force members have reviewed volumes of information on governance. The following detailed timeline of task force meetings provides an overview of our process and discussion, and special topics presented and discussed.

Task Force Timeline:

November 19, 1993 - Current WSBA governance, with historical perspective. Guest Speakers: Paul Stritmatter, WSBA president; Dennis Harwick, WSBA executive director; Bob Welden, WSBA counsel; Greg Dallaire, current task force member and 1970s Governance Task Force member.

December 10, 1993 - Task Force Mission and Goals; Issues to Study; Study of Governance of Wisconsin Bar and Virginia Bar Experiences; Formation of 4 Subcommittees: (1) Governing Board, (2) House of Delegates, (3) President and President-Elect, (4) Costs, Revenue and Budget. Guest Speakers: Tad Seder and Michael Weisman, Wisconsin and Washington Bar members.

January 14, 1994 - Final Mission Statement; Review of ABA Governance. Guest speakers: Tom Fitzpatrick and John McKay (current task force member), ABA Washington delegation members.

February 10, 1994 - Reaching Out to Our Members and Other Bars; Study of Governance of California Bar and Florida Bar; Implications of WSBA Survey to Work of Task Force. Guest speaker: Mary Elizabeth St. Clair, WSBA communications director.

March 11, 1994 - Mandatory Bar v. Voluntary Bar at the WSBA; Mandatory v. Voluntary Bar, the Wisconsin Experience; Study of Governance of Oregon Bar; More Discussion of Governance of California Bar; Planning for Public Hearing. Guest Speakers: Alva Long and Howard Todd, WSBA members; Stephen

Smay, Wisconsin Bar Executive Director.

April 15, 1994 - Discussion of Mandatory v. Voluntary Bar and variations; Working Sessions and Formal Reports of Subcommittees; Beginning of House of Delegates Discussions.

May 13, 1994 - Public Hearing Finalization; President-Elect Presentation; Continuing Discussion about House of Delegates. Guest Speaker: Ron Gould, WSBA president-elect.

May 13, 1994 - 3 to 5 p.m. - Public Hearing teleconferenced among four sites: Richland, Seattle, Spokane and Vancouver. Thirty-six people attended the public hearing.

June 10, 1994 - Review of Public Hearing; Discussion of GR 12 on State Bar Purposes; Expanded Discussion of Proposals and Recommendations of Subcommittees.

July 15, 1994 - Discussion on Values and Criteria to be met by any Proposed Governance Model; Beginning Discussion of New Governance Models. Decision made to hold at least two more meetings working on models before presenting to Board and membership.

The next task force meetings are scheduled for August 12 and September 16, 1994.

Public comments at the May 13, 1994, public hearings were highly reflective of the views expressed and debates held at the task force meetings. Two clear areas of consensus that emerged from the public hearings were support for a unified bar structure and for authentic, meaningful lay participation in bar governance. Support for lay participation was well-articulated by George Reamer, a WSBA and Oregon Bar member who attended the public hearings at the Vancouver site. He said that in Oregon, the addition of public members to the bar's governing body has added "a significant positive dimension." He emphasized that one reason bar associations exist "is for the protection of the public and providing them with quality legal services, and you need that public perspective." He explained that the Oregon Bar has had lay public members on its governing board for about 15 years and that it has worked quite well.

The task force has thus far engaged in a lengthy, spirited and thoughtful discussion on the issues of governance of the WSBA. Task force members have worked hard to keep open minds in order to foster

full and frank discussion. We urge our colleagues to join us in the spirit of full and fair self-assessment, which we believe is essential to the long-term health and vitality of the Washington State Bar.

Mary Fairhurst is an Assistant Attorney General in Olympia, who currently serves on the WSBA Board of Governors.

Ada Shen-Jaffe is the statewide director of Evergreen Legal Services, which provides civil legal services for low-income people.

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NEWS FROM HOME

Mark A. Levin, formerly of Bogle & Gates' Seattle office, recently completed a year as a Japan Foundation Research Fellow at the University of Tokyo School of Law and has been appointed an associate professor at Hokkaido University School of Law. Levin took up his appointment September 1. He is the third non-Japanese national and the first American to be appointed to the faculty of a national university law school in Japan. He reports that "friends from the Washington bar traveling to Hokkaido should be sure to bring their skis when they come to town."

Meanwhile, back at Bogle, James F. Tune has been named chairman of the firm. He succeeds Irwin Trieger, who led the firm from 1986 to 1994.

Former senior Assistant U.S. Attorney for the Eastern District of Washington Carroll Gray retired this summer after two years as a Spokane County deputy prosecutor and 33 in the U.S. Attorney's Office. He has opened a private practice in Spokane.

Mercer Island resident Thomas J. Owens has joined the labor and employment law department of Lane Powell Spears Lubersky as a senior associate. He was previously with Akin Gump Strauss & Feld in Dallas.

Lukins & Annis in Spokane has announced that Roy Berg, Bryce Wilcox and Larry Larson have joined the firm. Berg and Wilcox practice in Spokane; Larson is in the firm's Moses Lake office.

Timothy J. Hogan has been named vice president of supply and administration and corporate secretary for Washington Natural Gas Company. He retains his prior post as vice president and corporate secretary of Washington Energy Company, the parent company of Washington Natural Gas.

Patricia Williams of Spokane is the first woman in the state to earn certification in business bankruptcy law from the American Bankruptcy Board of Certification. Williams is one of seven certified lawyers in Washington.

Seattle lawyer Joan Glaser Morgan has been awarded the WSBA Young Lawyers Division Professionalism Award. She practices with Williams, Kastner & Gibbs.

Daniel L. Kahn, a retired U.S. immigration law judge, has joined the Law Offices of Dan P. Danilov.

Riddell, Williams, Bullitt & Walkinshaw has added six new associates recently: Margaret Cerrato-Blue, Lisa M. Herb, Caitlin Moughon, Janissa Strbuk and Alejandro Torres. Another associate in the firm, Kathleen Hopkins, was named the 1994 King County Bar Association Young Lawyer of the Year recently.

CLARK COUNTY REPORT

by JOHN F. NICHOLS

The Fence Never Rests

In this electioneering season, every available lawn, bumper, barn and/or fence is viewed as a potential receptacle for campaign paraphernalia. In plague-like proportions, the candidates swarm the county for that prime location that will assure victory or at least a Malox moment for their opponent.

This juxtaposition of judicial candidate, supporter and location recently merged with almost fatal consequences. A certain judicial candidate was at the home of lawyer Bill Lacey inquiring about the possible placement of a sign on Bill's fence. At the same time, neighboring defense attorney Steve Thayer rounded the corner in his Ferrari. Steve accidentally pushed the anti-gravity button on the dash and caused said vehicle to lose its adhesion; plowed into Bill's fence; thereby causing irreparable harm to both fence and car. Steve was unharmed; Bill was in shock; and the candidate was last seen scurrying on to another location. The most surprising news was that there was only one candidate in the yard at the time of the accident. Bill vowed not to repair the fence until after November. Steve, in the meantime, is shopping for a new vehicle. Something white, and jeep-like that travels very slowly on the freeway.

The Air Up There

In other campaign news, another judicial wannabe's helium balloon was the subject of a senseless act of vandalism. Under the cloak of darkness, someone cut the balloon from its moorings. The police investigation failed to reveal "any evidence floating around" the scene. Their last official statement was that the investigation was still "up in the air." How many cups at Winchel's did it take to come up with these quips? The candidates' lament? What to do with 50 gallons of helium. After all, talking like a Martian is only funny for so long. Okay, it's funny for a long time, but only to a very limited and very sophisticated audience—like voters.



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AMERICAN IMMIGRATION LAWYERS ASSOCIATION WASHINGTON CHAPTER REPORT

by **PAMELA S. COWAN**

The Washington Chapter of the AILA has elected the following people to serve on the executive committee—and as officers—of the chapter: **Pamela Cowan**, president; **Susan Taylor**, vice president; **Gregory McCall**, secretary; **Kevin Lederman**, treasurer; **Gregory Boos**, program chair; and **Julia Bolz**, membership chair.

LAW FUND

by **LAUREN MOORE**

LAW Fund now has available a brochure detailing planned giving and major gift opportunities for donors. It is being distributed to all members of the WSBA Real Property Probate & Trust Section, and it is also available to any interested member of the Bar. The brochure outlines tax advantages and giving opportunities, including gifts of cash, real estate, securities, and life insurance, as well as bequests and memorial gifts. It was produced with a special grant from The Boeing Company. If you are interested in receiving a copy, please contact the LAW Fund administrative office.

During the month of June, LAW Fund established the Legal Aid for Washington Fund at The Seattle Foundation. The Fund was created with a portion of the net proceeds from the 1992 and 1993 LAW Fund annual campaigns. The purpose of the fund is to provide stability and future funding opportunities for civil legal-service programs in our state. Contributions

can be made directly to the Fund. If you are interested in more information, 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**

Hugh Robinson is leaving town to return to his native state of Oklahoma. He has practiced law in these parts for many years and has many stories from the courts of the small towns in eastern Pierce County. He recalls one afternoon in Orting Municipal Court seeing a woman in the court hallway holding a small dachshund. The dog was dressed in a white shirt, tie, and blue sports coat. Hugh found prosecutor **Ed Loughrey** in court and told him about the dog. Ed remarked that you should have seen him on the night of the crime and pulled out a Polaroid picture of the red-eyed dog looking into the camera with chicken feathers all over his face. Ed added that it made him sick the way some defendants dress up for court just to impress the judge. The dog was later found not guilty.

We have reported that Washington Court of Appeals Judge **Gerry Alexander** was literally running for a Supreme Court position by entering local running races as a means of meeting voters and getting some exercise at the same time. He ran three races over the Fourth of July weekend finishing well back in the pack in the third one. The running program may have just become something more than a campaign device—someone stole his honor's car from in front of his north Tacoma residence. So, if you see someone running along the road in an Alexander for Supreme Court shirt you

might offer him a lift - or at least a vote.

The Young Lawyers' slow-pitch baseball team finished the season with a 12 and 2 record, the best in its 24-year history. Coach **Larry Couture** and field manager **Skip Stansbury** may negotiate more sponsorship money from Columbia Bank by threatening to move the team to Tampa.

Cheryl Robbins Berg, formerly with the firm of Dolack, Hansler, P.S., has opened her own office in the Old City Hall, where she will continue to practice personal injury and product liability law.

Beth Jensen has announced that she is running for the State Legislature in the 27th District. She is seeking the position previously held by **Art Wang**, who left the Legislature to take a government job.

SPOKANE COUNTY BAR ASSOCIATION

The Spokane County Bar Association has elected its officers and trustees for the coming year. They are: **Patrick Connelly**, president; **Greg Smith**, vice president; **Pamela DeRusha**, secretary; and **Richard Kayne**, treasurer. Newly elected trustees are **Jennifer Boharski**, **James Craven**, and **William Hyslop**. Continuing trustees are **Mark Casey**, **Frank Gebhardt**, and **Terry Ryan**.

WASHINGTON STATE ASSOCIATION OF MUNICIPAL ATTORNEYS

Mark (not Mary) **Erickson**, Olympia city attorney, and **John Vannick** of Olympia, not Yakima, were elected as president and board member of the Association at the June 27 WSAMA meeting at Port Ludlow detailed in the July issue. The *Bar News* regrets the errors.

IN MEMORIAM

Glenn D. Abraham

Glenn D. Abraham, 69, died March 13, 1994. Born in Starbuck, Washington, he was raised in Port Townsend and graduated from high school there. He was a student at Washington State College when World War II broke out; enlisting in the Army Air Corps, Abraham was a radio gunner based in England. Shot down in an engagement over Germany, he was held as a prisoner of war.

Returning home after the war, Abraham married in 1945, then graduated from Seattle University and the University of Washington. In law school he was a member of the law review board and was elected to the Order of the Coif. From 1951 to 1956 he taught in WSU's business college.

Abraham returned home to establish a private practice and devoted himself to public service. He was Port Townsend's city attorney for 29 years; the Port's attorney for 28 years, and attorney for Jefferson County General Hospital. In 1974 he was appointed superior court commissioner.

Survivors include his mother, two sisters, wife, two daughters and one grandchild.

Robert Meisenholder

University of Washington School of Law Professor Emeritus Robert Meisenholder died May 13, 1994. He was born in Mitchell, South Dakota, and graduated from the University of South Dakota. He then obtained his J.D. and S.J.D. degrees from the University of Michigan School of Law, where he was elected to the Order of the Coif.

While serving in the Navy in World War II Meisenholder graduated from the Navy Japanese Language School and worked in Naval Intelligence in Washington, D.C.

Meisenholder practiced law in New York City and held academic appointments at the law school of the Universities of Miami, Cincinnati, Michigan and Washington. He was a member of the state bars of South Dakota, Ohio and New York. He was a nationally recognized expert in the fields of evidence and procedure; his published works include co-authorship of *McCormick on Evidence* and *Procedure Before Trial*. In Washington he is widely appreciated as the author

of *Evidence Law and Practice* in the West Washington Practice series. Between 1960 and 1969 he wrote detailed commentaries on the Rules of Civil Procedure then being proposed for adoption in the federal courts, and he was a pioneer in teaching evidence using the problem method.

Survivors include his sister, wife, three children and one grandchild.

Frederick Paul

Frederick Paul, 80, died April 28, 1994, in Seattle. A member of the Tlingit tribe, Paul made a name for himself as a tireless litigator for Native American rights at enormous personal cost.

Paul was born in California but raised in Alaska, the son of another attorney, William Paul. The elder Paul defended and obtained the acquittal of his wife, Tillie, after she was arrested in Wrangel, Alaska for voting—an illegal act for Native Americans at that time. He then set aside a classical-singing career to lobby Congress for Native American voting rights in Alaska.

Frederick Paul was a graduate of the University of Washington and the UW School of Law. Poor eyesight barred him from service in the military in world War II. In the 1940s and '50s he championed native rights in Alaska, challenging restrictions on fishing and laying the groundwork for the case of his life in the 1960s.

During the '60s, Paul opposed the U.S. Department of the Interior's plan for non-competitive oil leasing on Alaska's North Slope. After a five-year court battle, the case was settled and Alaskan Indians and Eskimos won title to some 40,000,000 acres of land and \$1,000,000,000 under the 1971 Alaska Native Claims Settlement Act of 1971. He was also active in establishing the borough local governance system in the newly designated Native American lands; he flew from village to village in a converted air freighter in 1973.

Paul spent more than 7,000 hours on the case, all but giving up the rest of his practice, and was awarded \$275,000 in attorney fees, after which the Internal Revenue Service levied \$220,000 in back taxes, interest and penalties on the fee. Paul had to sell his home and liquidate all of his personal holdings to pay off the tax bill. He died in his sister's Seattle home. He was active in Native American-rights litigation as late as last fall, and he was a founder of the Northwest Indian Bar Association. He was a powerful influence

on his family and those who knew him. In a *Seattle Times* obituary for Paul, a niece, Debra O'Gara, attributed her career in law to his influence.

Paul's survivors include his sister and brother, four children—one of whom, Blair Paul, is also an attorney—and ten grandchildren.

Bruce T. Rinker

Bruce T. Rinker, 78, died May 2, 1994, in Seattle. He was born in New Rockford, North Dakota, and attended the University of North Dakota before World War II interrupted his education. Rinker joined the Army Air Force; a navigator, he was shot down during his first bombing run. He was held as a German prisoner of war from 1943 to 1945. Some of his experiences were used as a basis for the film, "The Great Escape."

Rinker returned home after the war. In 1945, he met his wife, Yvonne, and they married ten days later. She died in 1992. Rinker resumed his education and obtained his undergraduate and law degrees from the University of Washington in 1947. After admission to the bar, he practiced law in Bellingham, serving as city attorney there from 1951 to 1958. In 1967 he moved to Seattle and joined the firm now known as Oles, Morrison & Rinker. His practice was concentrated in construction law. An enthusiastic outdoorsman, Rinker was valued by friends and colleagues alike for his intellect and quick wit.

Survivors include three sisters, five children, and eight grandchildren.

Robert L. Rovai

Robert L. Rovai, 62, died April 15, 1994, in Tacoma. A graduate of the University of Puget Sound and Gonzaga University School of Law, Rovai was a member of the firm of Rovai, Miller, Orlando & Hebling; he entered practice in Tacoma in 1959 as a deputy prosecuting attorney.

Rovai was noted for his defense of former Pierce County Executive Joe Stortini in highly publicized suits filed by former planning director Larry Frazier and former fire marshal John Burgess in 1991. In his spare time, Rovai was a member of the Western Washington Officials Association, refereeing high school football games. He coached his children's and nephews' basketball and baseball teams and was a Seahawks ticket holder from the team's organization.

Survivors include his sister, wife, one son and one grandson.

William J. Walsh, Jr.

William J. Walsh, Jr., 74, died April 26, 1994, in Seattle. A Seattle native, the son of Territorial pioneers, Walsh was educated at Seward School, Broadway High School and the University of Washington, from which he received his B.A. in 1941 and his law degree in 1943.

During World War II, Walsh served as a lieutenant in the Navy. At his death, he was of counsel to the law firm of Lane Powell Spears Lubersky, where he centered his practice in the fields of legal malpractice, insurance defense and corporate law. He was a member of the National Association of Railroad Trial Counsel. Walsh was also a member of the Rainier Club, the Seattle Golf Club and the Seattle Tennis Club. Survivors include his sister, wife, two daughters and one grandchild.

George McCush

George McCush, who died earlier this year, was memorialized by an unnamed Bar News reader:

"George McCush (1902-1994) was from the old school. He was generous, thoughtful, caring, honest, ethical and knowledgeable. George started his Bellingham law practice in 1927. In 1965-1966 he served as president of the WSBA. For many years he served as the attorney for St. Luke's Hospital, Bellingham National Bank and other major local businesses.

"George was a class act and will be missed but not forgotten."

John S. Lynch, Jr.

John S. Lynch, Jr., 83, died March 29, 1994, in Olympia. Born in Seattle, Lynch graduated from the University of Washington School of Law in 1933. He joined his father in practice and in 1940 became Thurston County Prosecuting Attorney. In 1943, his term was interrupted by World War II; Lynch served as a naval officer for the balance of the war and returned to Olympia after his discharge.

Lynch opened what soon became a family firm; after several years of solo practice, he was joined by his brother Neil, and the two practiced as Lynch & Lynch for 40 years. Lynch's son John and daughter Judith later joined the firm.

Lynch was a member of the U.S. District Court and U.S. Supreme Court bars, and he served as president of the Thurston County Bar Association. From 1969 to 1972, he was a member of the WSBA Board of Governors. In civic affairs, Lynch was a member of the Elks Club,

Knights of Columbus, the Parish of St. Michael's and numerous other community groups. He served on the board of Heritage Federal Savings & Loan for 27 years, including seven years as chairman. *The Olympian* described Lynch as "a generous man with wit and humor. He was a true and proud Irishman, and will be remembered also for his gift of gab and the appreciation for the hearing and telling of a good story. He made his last trip to Ireland in 1983 with his children after his first wife's death, where they visited the tiny parish in County Roscommon, from which his grandfather emigrated."

Survivors include his brother, second wife, three children, five grandchildren, five great-grandchildren, four stepchildren and six step-grandchildren.

Bryan L. Fischnaller

Olympia lawyer Bryan L. Fischnaller, 49, died June 24, 1994, in Olympia.

Born in New York and raised in Omak, Fischnaller was an Eagle Court and graduated from the University of Washington. After military service in Germany, he read law at Gonzaga University in Spokane, graduating in 1974. He clerked for Washington Supreme Court justices Robert Finley and James Dolliver in the court's 1975 term.

Fischnaller spent several years as an assistant attorney general and 1980-1981 as a Thurston County deputy prosecutor before opening a private practice in Olympia. He served as a Thurston County pro tem judge and as an adjunct professor at the UPS School of Law in Tacoma. Fischnaller was active in the Boy Scouts, the Tumwater Chamber of Commerce, the Westside Cooperative Preschool, the OK Boys' Ranch and Thurston-Mason Addiction Recovery Council. At his death, Fischnaller was a candidate for Thurston County Prosecuting Attorney.

Survivors include his maternal grandmother, parents, brother, wife and two daughters.

Hon. Frank J. Ruff

Retired Pierce County District Judge Frank J. Ruff, 86, died June 9, 1994. A native of Cheyenne, Wyoming, Ruff moved to Seattle with his family and graduated from the University of Washington School of Law before taking a graduate degree at Harvard. Ruff was admitted to the Bar in 1931 and practiced law for several years in Seattle before moving to Tacoma.

In 1958 Ruff was an unsuccessful can-

didate for Pierce County Prosecuting Attorney; in 1975 he was elected to the district court and also served as a superior court commissioner and Tacoma juvenile court judge until his retirement in 1980.

After retirement Ruff enjoyed spending his mornings over a cup of coffee with fishermen in Gig Harbor. He was a Shriner, past master of the Masonic Lodge and past president of Temple Beth El. Twice elected secretary of the Tacoma-Pierce County Bar Association, he was also a member and officer of the National Association of Claimants Compensation Attorneys.

Survivors include five children, 13 grandchildren and 11 great-grandchildren.

Leo H. Fredrickson

Retired lawyer Leo H. Fredrickson, 72, died May 31, 1994, in Seattle. He was born in Beresford, South Dakota, and raised in Spokane. After graduating from Lewis & Clark High School, Fredrickson served in World War II and rose to the rank of captain. He later became a pacifist and opposed subsequent military conflicts.

After the war, Fredrickson graduated from Gonzaga University and the university's School of Law. He clerked for Justice Edgar Schwelienbach of the Washington Supreme Court in the 1951 term, and he later served as a deputy attorney general for the state.

In 1952, Fredrickson entered private practice. Eight years later, he went into practice with Carl Maxey and Bob Bell; in 1976 he retired from the firm, then known as Maxey, Bell & Allison. Fredrickson's practice was concentrated in workers' compensation and personal-injury work. After leaving active practice, he traveled extensively and worked on his golf game. Survivors include four children and four grandchildren.

Richard C. Shanks

Richard C. Shanks, 68, died in Seattle June 8, 1994. He was born in Seattle and graduated from Seattle University before attending Gonzaga University School of Law. He received his J.D. from Gonzaga in 1954 and an honorary doctorate from the law school in 1967.

Shanks served in the U.S. Navy in World War II and was active in a variety of civic and religious organizations. Survivors include brother and sister, his wife, 12 children, 15 grandchildren, and two great-grandchildren.



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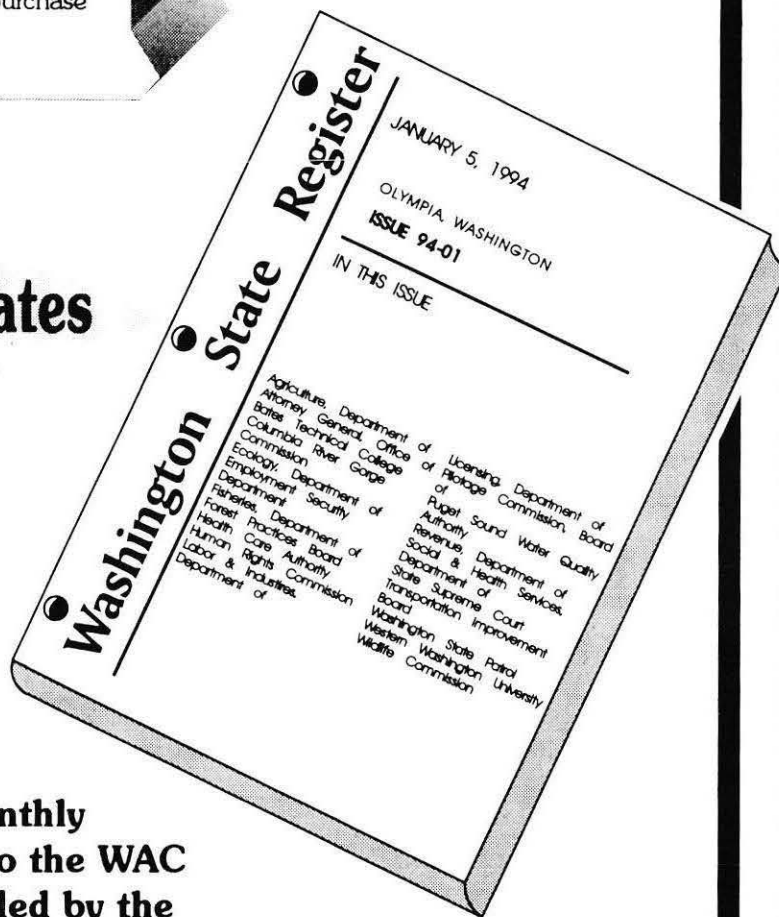
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