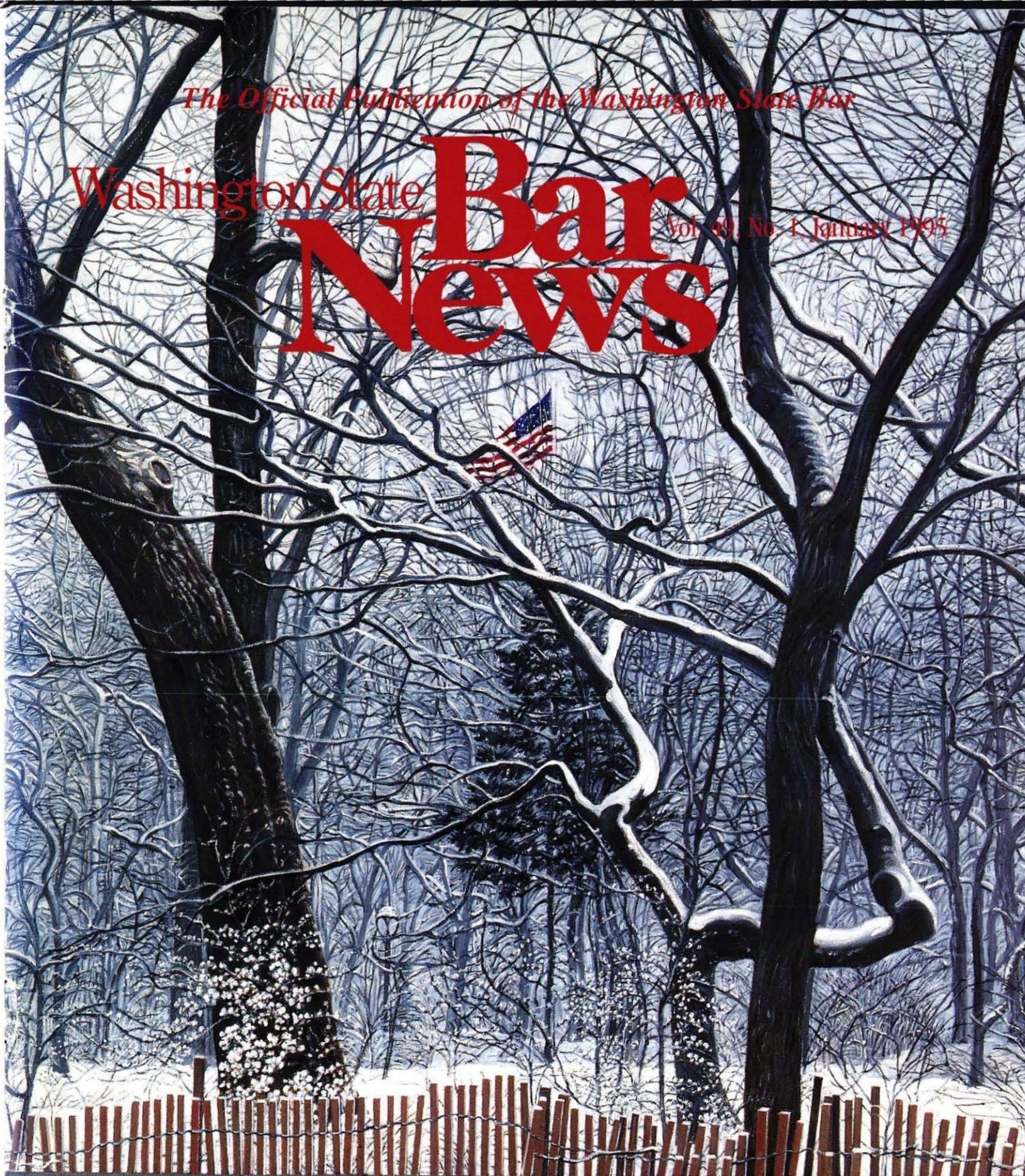
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Washington State Bar News

Vol. 49, No. 1, January 1995



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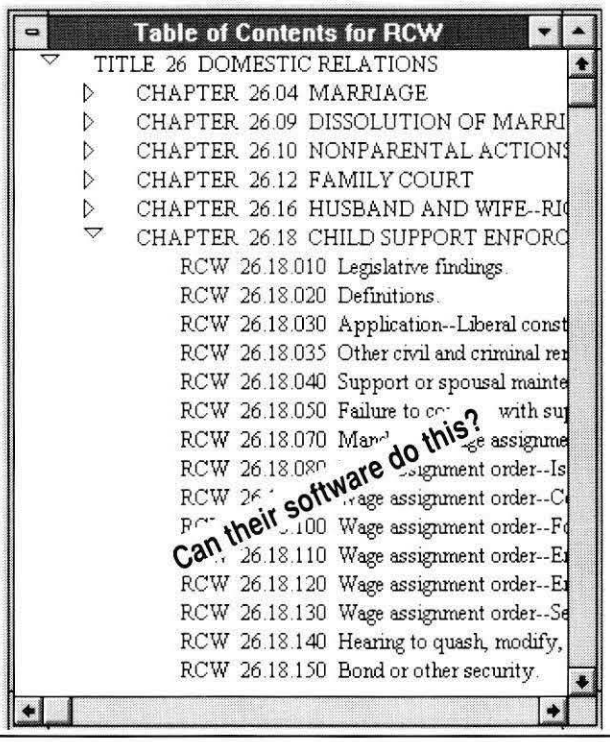
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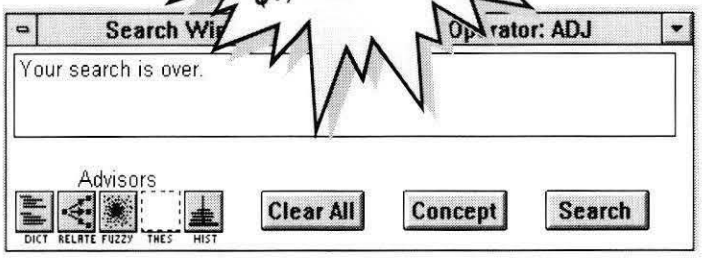
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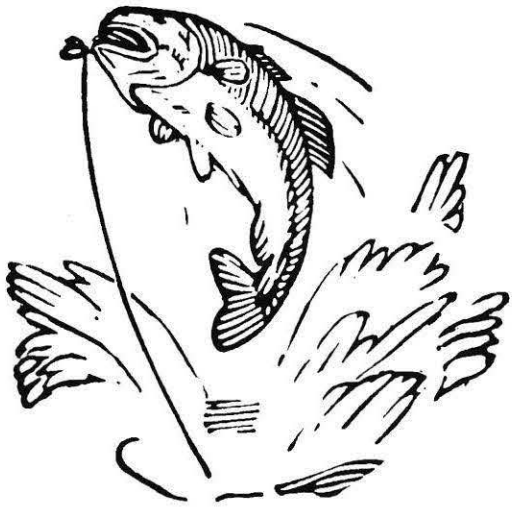
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WSBA DEBATE: SHOULD THE MANDATORY DUES REFERENDUM BE ADOPTED?

A resolution defeated at the 1994 annual meeting appears headed for a vote of the WSBA membership. It seeks to restrict the use of WSBA licensing fee income to fund a partially-defined category of bar regulatory functions. Seattle lawyer Howard K. Todd argues for the resolution; WSBA President Ron Gould argues against.

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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.

You Had to Be There

Editor:

The Washington State Bar Association lost one of its great characters when Alva Long passed away. From his flamboyant, multicolored attire to his letterhead, complete with a peace sign on the bottom, Alva was one of a kind. During my two years with Alva on the WSBA Board of Governors, I grew very fond of him. Our obvious differences became less and less important than the many Bar and life issues we agreed on. One month I learned Alva was leaving the Board early. I asked why. After some prodding (he might have described it as nagging), I learned that Alva was going back East to hear the college valedictory address of a woman he had helped through treatment and had sponsored in AA for many years, and had visited throughout her schooling. "I helped pay for the college, I'm going to hear the speech," he said. When I told him what nice thing he did, he said quite simply, "Jeff, through your family activities you raise children. Through mine I raise adults. Basically we do, and love, the same thing." And he raised many adults through tough times.

I last saw Alva the last week of September at Alderbrook. He told me about his annual kayak trip. I told him about my kids. As always, we debated the future of the Washington State Bar Association. He gave me a gentle, fatherly hug as we parted. A few days later I received a wonderful letter from Alva. In it, he said: "I have on the back of my refrigerator a bumper strip saying you are never too old to have a childhood."

Alva lived that view in his unbending energy directed to those persons and causes he loved. He combined this useful energy with more life experiences than a small village, to be one of this life's great people and great characters.

JEFF TOLMAN
Poulsbo

Editor:

The first time I met Alva Long, I was a prosecuting intern in Pierce County District Court. Alva was dressed in Bermuda shorts and a loud Hawaiian shirt. He sauntered into the courtroom and proceeded to harass my supervisor, a female prosecutor, with comments about overzealousness, and then suggested that she and he should go down to his Winnebago in the parking lot and work this whole thing off. Unperturbed, she cuffed him on the shoulder and said, "Oh, Alva, knock it off."

Getting no rise out of her, he looked over at me and approached like a heat-seeking missile. I stuck out my hand and said, "I'm Howard Stein, Rule 9 Intern. Can I help you?" Pausing to purse his lip in a way that only Elvis or a denture-wearer without uppers can do, he assessed me and my heritage. "I'm Alva Long. I'm a Jewish-American lesbian Communist." He fired it off with a big semi-toothless grin. Speechless, I smiled and laughed with a nod of confabulation.

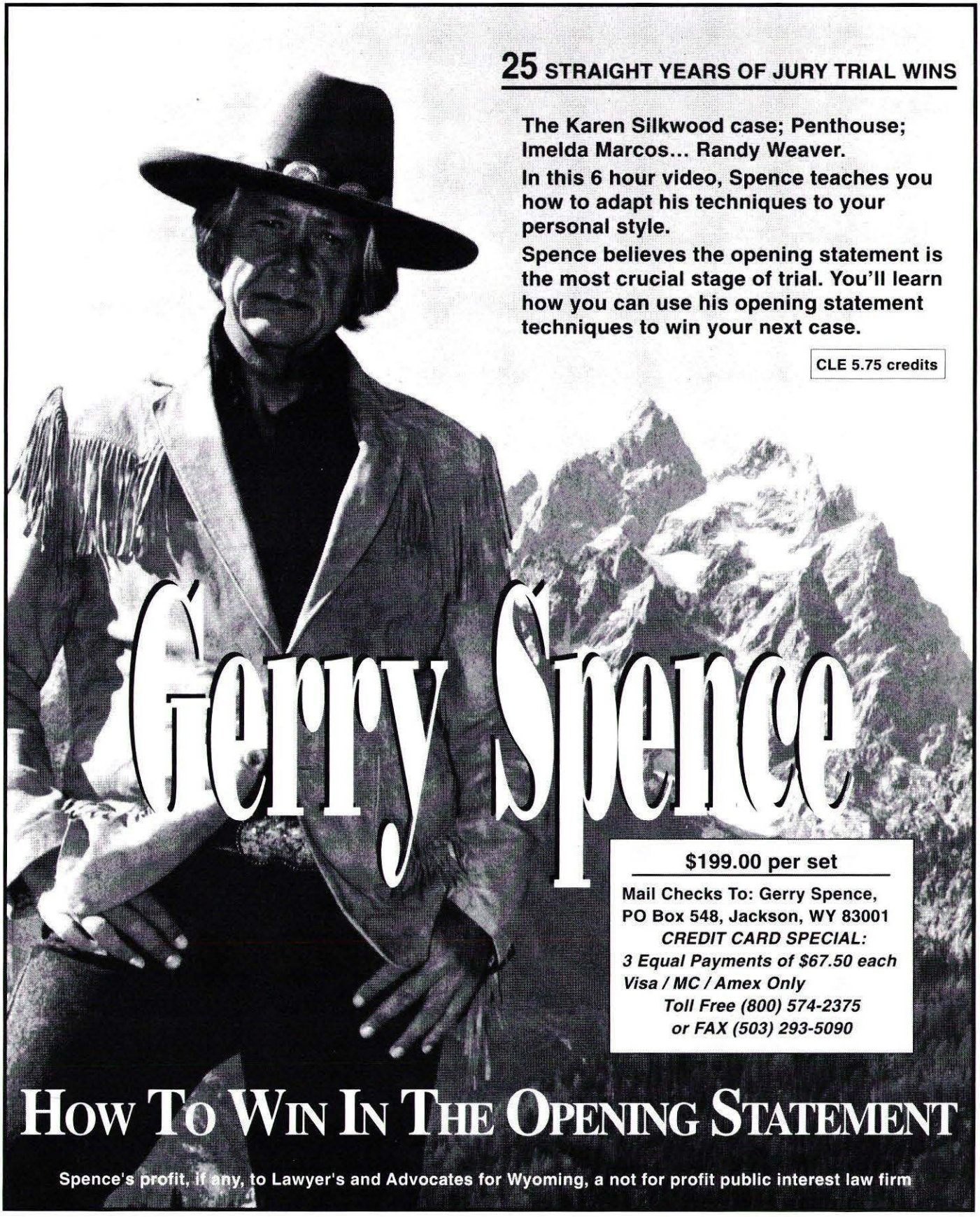
Alva, not being satisfied, put his arm around me and explained that what he really meant was he was a homosexual. Pausing to look deeply into my eyes, and finally obtaining a real, solid panic response, he continued, "I'm waiting for a sex change operation, so that I can fulfill my lifelong desire to become a lesbian." He then further explained that he wasn't really Jewish, but felt like he was Jewish because he was an alcoholic drug addict, and polite society doesn't like Jews or drug addicts, so he felt like a Jew. Finally, he whispered in a conspiratorial tone, "I'm a nonpracticing Communist, and I have the FBI file to prove it."

By this time, the judge had come back on the bench. Her attention drawn to Alva's dress, she drew back her lips, made an effort to ignore him and then, unable to do so, called him to approach the bench. "Mr. Long, go down to your motor home and put on a tie and jacket. If you intend to appear before this court, I expect you to dress appropriately."

With absolutely convincing acting skills, Alva, chastised and humiliated, skulked out of the courtroom. Returning ten minutes later, emboldened and beaming, he was wearing the same Bermuda shorts and Hawaiian shirt, now coordinated with a plaid sports coat and brightly striped tie tied in his fashion with a tail slung over his shoulder. The judge looked and had the same reaction we all had to Alva. Compressing one cheek and lowering her brow and head in frustration, her eyes rolled back in a surrender to absurdity that ended in a smile. That day, Alva's client, who had attended 90 AA meetings in 90 days, was granted a deferred prosecution, and I made a new sober friend. That was 12 years ago.

Over those years, Alva cajoled, mimicked, consoled, teased, encouraged, lobbied, soothed and always reminded me, as he said, to "listen to your stomach."




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The visceral telegraph from my soul. The internal organs of the spirit drumming and vibrating in the universal language; the endless message from the higher power.

Alva heard the message, and he wanted everyone else to hear it. He would stand on his head and pull his pants up if it would get you to listen. He would go to Alaska and yell at the spawning salmon, "Don't do it; it's not worth a silly little roll in the gravel." He would make me smile, and when he smiled his toothless grin, he eased the fear in the pit of my stomach and filled my heart.

Wherever you are, whatever I do, your smile lives on. See ya, Al.

HOWARD S. STEIN
Bellevue

Thoughts On a Voluntary Bar Association

Editor:

I have read with interest the request of some members of the Washington State Bar Association that we change to a voluntary bar. I would like to make the following comment.

Many, many years ago, I was chairman of the Unauthorized Practice of Law Section of the Bar, and a situation arose wherein runners were soliciting members of the railroad union and the railroad employees on various and sundry accidents. The runners were given a percentage of the amount of recovery from the attorneys. The attorneys on these cases were from "voluntary bar" states. Our investigation disclosed that these voluntary states had no control over their members. They could not even tell us how many attorneys they had in their states. It was very much of a shock as to the lack of control in those states.

It would be very detrimental to our bar association if we changed from the mandatory to the voluntary, for the ones who create the problems in the bar will not volunteer to become a member of it.

I don't know if any of the records of our surveys still exist in the WSBA office, but it would be very interesting to review.

E. FREDERICK VELIKANJE
Yakima

A Word in Favor of Recycling

Editor:

After seeing cans, bottles, and the like going out in the office trash, I contacted building management a couple of times to encourage adoption of a full recycling program. Building custodians apparently recycle paper, but my entreaties for additional recycling fell on deaf ears.

So I began to recycle those nonpaper items which are recyclable. Frankly, it is easy. There is a shopping bag in which everyone puts rinsed cans, bottles, and recyclable plastic. Once a week, I see that the contents are recycled. We have been doing this for 48 weeks now.

For those of you in larger offices, there are companies which can be found in the telephone directories who will either pay for the recyclable items or will become more intensively involved in the recyclable process.

I am writing this letter to encourage others to contact their building managements to adopt recycling programs to the extent they are not doing so now. And I am writing to suggest just how easy it is to step into the breach, should building management not act. The intangible rewards are terrific!

A. STEVENS QUIGLEY
Seattle

Open Lawyer Discipline Records?

Editor:

I read with interest the article by Leland G. Ripley ("More Open Disciplinary System") as well as the opinion of George

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Reimer ("The Oregon Experience With An Open Disciplinary System").

I served on the Disciplinary Board from 1974 through 1977, and on the Board of Governors from 1980 through 1983, as well as Special District Counsel and its forerunner for several years. Based on that experience, I agree that, in part, the disciplinary process should become "more open" to public scrutiny. The question is, when should it become "more open," and is the present system of discipline well-enough organized, timely and functioning, so that the potential disservice to the honest, ethical lawyer who has a complaint lodged against him or her is minimized?

On the first count, I do not believe that the system should be open to the public until a basic investigation has taken place and an initial determination has been made concerning the validity of the complaint. My reason for this is the inordinate delay which, many times, exists between the time a complaint is filed and the time some determination is made about the validity of that complaint. I have specific knowledge of a fairly straightforward complaint filed against a lawyer two years ago, which resulted in the complained-against lawyer filing a complaint against the complaining lawyer. Although the counter-complaint against the complaining lawyer was groundless, it took two years for that complaint to be dismissed. The principal complaint review also took two years before it was referred to a review committee of the Disciplinary Board for further proceedings. The facts were simple, undisputed and straightforward, yet there was a two-year delay before any action was taken. Based on my knowledge of news-worthiness, I doubt, after such a delay, that the media—which might report the complaint—would report the dismissal of the complaint or, if reporting it, would give it the same coverage. Complaints make news—dismissals, particularly after two years, don't make news.

With respect to my second point, I doubt that the disciplinary system and process presently carried out by the Washington State Bar Association is sufficiently speedy to overcome the problem of early-release of complaints, without an investigation, in light of the expected delay in investigating and dismissing unfounded complaints. Mr. Ripley's article, under the heading, "Responses to Specific Criticisms," indicates that "while we grant grievants absolute immunity, the fact that a grievance was filed against a lawyer does not make the lawyer a public figure exempt from the protection of the libel laws if the information about the grievance is misused by a third party." This "protection" has little meaning, as "misuse" by the media in simply referring to the complaint and its allegations is remote. This would not be the basis for libel or slander.

Some suggestions which others and I have made in the past might include:

1. better use of Special District Counsel and outside lawyers to dispose of the backlog;
2. better internal organization within the Disciplinary Department of the WSBA in order to speed up investigations and determine potential validity of complaints;
3. make the complaint public only after a preliminary determination has been made about whether to dismiss or go forward with the complaint. Any release would include the initial complaint, the decision to proceed or not to proceed, and the basic investigation and rationale for that decision;
4. give only limited immunity to grievants, such as excluding bad faith and malice; and
5. provide sanction against lawyers who file frivolous complaints.

I believe that better time organization within the Disciplinary Department itself, together with greater use of outside lawyers, at least for the investigation of disciplinary complaints, might speed initial determinations to either dismiss or to recommend further proceedings. Once this has been accomplished, I see less problem with disclosure, so long as the basis for either dismissal or continuation is provided.

I trust that these comments are taken in the light of constructive criticism and not otherwise.

JULIAN C. DEWELL
Everett

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RESOURCES



EVERYTHING BUT THE PEACOCK

by **Lindsay T. Thompson**

Although I like my old movies in black and white, and didn't own a color television set until 1992, I believe magazines should be in color. I am not alone in this view. For over half the *Bar News*'s 48-year run, its editors have pursued that most elusive of goals, the addition of color to this magazine. Not just spot color—one hue here and there—but real four-color separations, the kind that, combined, produced the rainbow array of the NBC peacock when the age of color reached television 30 years ago. Color enlivens a publication.

It also costs a lot of money. Since the *Bar News* started selling ads in 1975, the Board of Governors has directed that it pay all of its direct (that is, production) costs and as much of its overhead (the percentage of staff and office costs allocated to its operations on the basis of time sheets kept by staff) as it could. Most years, the *Bar News* does pretty well at this. In FY 1993-94, for example, the magazine paid for all of its production and mailing costs, the editor's salary and expenses, the cost of the WSBA Editorial Advisory Board (the only WSBA function that carries the cost of its own standing oversight committee), and still returned some $70,000 back to the Bar Association to cover one-third of its overhead. But times were thinner in The Old Days, and any notions of using color in the magazine had to win the Board of Governors' approval of a supplemental appropriation to pay for it.

Such things were not obtained lightly. In 1985, Carole Grayson approached the Board with a $36,000 plan to fund extra pages for news coverage and some color, noting that the *Bar News* was, even then, "the only self-supporting state bar magazine in the country." The Board approved an $18,000 grant, and discussion moved on. Just before adjournment, Governor Jay White, a former *Bar News* editor, moved to allocate $3,000 more for a color cover for the November issue. It was to feature Washington Volunteer Lawyers for the Arts, and the plan was to feature a painting by Seattle artist Jacob Lawrence which had been included that year in West Publishing Company's annual exhibition, Art & The Law.

On a motion by Governor Angelo Petruss, the Board gave the *Bar News* $6,000—twice what Grayson requested—as an experiment with color and its uses. Another governor grumbled, "This is what happens in the last minutes of Congress."

The November '85 cover was indeed in color, and it was followed by the covers of May 1986 (a photo by Seattle lawyer Karen Ellentuck), October 1986 (a photo by another Seattle lawyer, John Redenbaugh), some spot color in December 1986 and full color in January 1987 and March 1987. Then the money ran out, and so did the color.

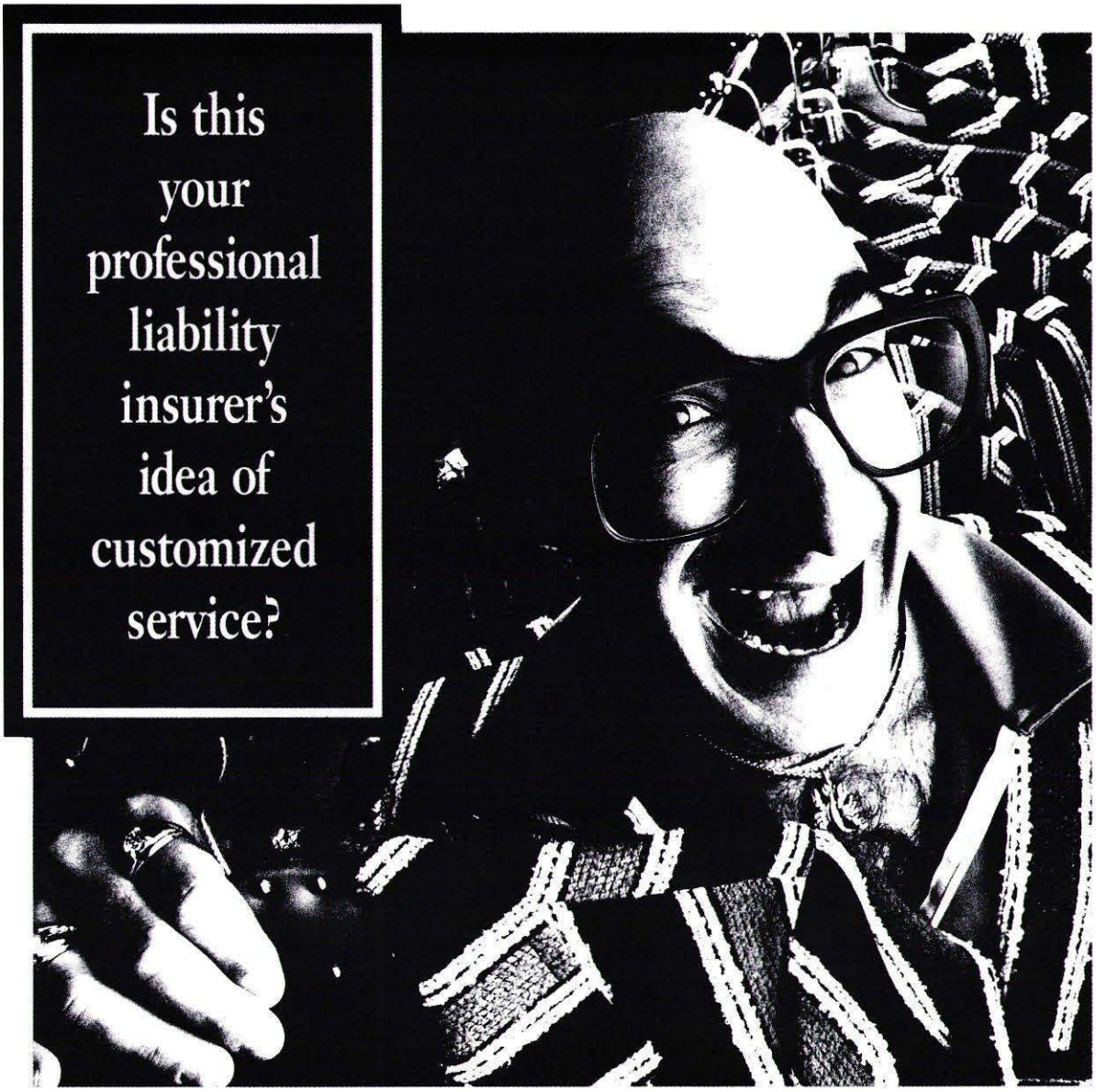
The next color cover was a June 1988 reproduction of artist Linda Hawkin-Israel's "Women in Law" painting. A truly indomitable advocate for the cause of turning the painting into a postage stamp, Hawkin-Israel never missed a beat when I told her we had no money to print it as a color cover, however much I might want to; she went out and sold a couple of lithographs of it and gave the *Bar News* the proceeds to pay for the cover.

In 1989, we managed to pry loose some money from advertising revenue to fund four more color covers, and they were stunners, one and all. June 1989 was a riotous vortex of colors worthy of the last scenes in *2001: A Space Odyssey*, created with a couple of ketchup bottles and a paint wheel at a county fair in 1967. September was a cubist fantasy of office computerization by Boston artist Mark Fisher. For the state centennial, November's cover featured a dazzling interior photo of the State Capitol dome in Olympia by Harry Halverson; December was a night shot of downtown Seattle from Queen Anne Hill through Doris Chase's 1969 sculpture, "Volumetric Space Frame," taken by *Bar News* managing editor Jennifer Klamm.

Then the money ran out again, and the Editorial Advisory Board directed that until the magazine could promise color on a regular basis—no more of this on again, off again stuff—there would be none.

Five years passed with little more than the occasional thrill of a duotone cover to sustain us. In November, we got word that the company with which we began the *Bar News*'s color odyssey, West Publishing, signed a year's contract for a color ad. Color in one place means you can have color in other places; with the *Bar News*' stronger financial position and a dedicated budget item for art acquisition fees, the pieces have finally fallen into place. This issue is the first of a full year of color covers for the *Bar News*; to celebrate; we have returned to West's Art & The Law Collection for this month's cover. We hope it will be the first year of many years, and are grateful to the advertisers (and *Bar News* advertising director Jack Young) who made it possible.

Times were thinner in The Old Days, and any notions of using color in the magazine had to win the Board of Governors' approval of a supplemental appropriation to pay for it.



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TRENDS IN THE LEGAL PROFESSION

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



Dennis P. Harwick

MUSINGS FOR A NEW YEAR

Early in my career as a bar executive, one of the volunteer leaders of that bar association looked at me and said, "There must be an association for people like you." Ignoring any negative implications of that innocent-sounding statement, I conceded there was—the National Association of Bar Executives. His point then, and my experience throughout, is that associating with one's peers provides a valuable source of information—especially "big picture" information that would be hard to collect on one's own.

Such was the case last summer when the National Association of Bar Executives met in New Orleans (yes, New Orleans in August). One of the bar execs' keynote speakers was Ward Bower of the prominent legal consulting firm of Altman Weil Pensa, Inc. He painted us a picture about trends in the legal profession. To many, it wasn't pretty. He told us that the good old days of the '70s and '80s, when many of us entered the profession, are gone. That's the trouble with the good old days; we only see them in the rearview mirror.

He rattled off some statistics:

- — over the past decade, law firm overhead increased 150 percent, while per-lawyer revenues increased only 120 percent;
- — over the same decade, the number of lawyers in the U.S. nearly doubled to 850,000[1]; and,
- — in 1988, the average age of a lawyer dropped below 40 (which made me about average at the time).

All of this, aided and abetted by a lingering recession, conspired to create a "mature market place" for legal services. Other service providers who have preceded us into the brave, new world of mature market places include accounting firms, brokerage houses, and financial institutions. Since I spent 12 years as a bank lawyer and married a banker, I know the exigencies of the banking industry.

Characteristics of a mature market place for services include the following:

- ***Consolidation:***
  Remember the big eight accounting firms? No need to count that high any more. There are now three law firms in this country with more than 1,000 lawyers. None of them had more than 300 lawyers in 1980.
- ***Brand Name Recognition:***
  Big-firm names are now recognized in many circles outside the legal profession—especially in the business community. They may not be household names yet, but so much for getting your name on the door.
- ***Price Competition:***
  If you don't know what an RFP is by now, you'll probably will find out sooner rather than later.[2]
- ***Client Sophistication:***
  Contacts with business clients are ever more likely to be with a sophisticated-consumer of legal products, or, heaven forbid—with an in-house lawyer. Clients can actually tell the difference in quality of legal services provided by different firms.
- ***Marketing:***
  As much as most lawyers detest it, there is probably more marketing of legal services in our future. Law firms spend just over one percent of revenues on marketing. In mature service industries, firms usually spend three to seven percent on marketing, promotion, advertising, and business development.
- ***Shakeout:***
  It's happened in every major city (and many smaller ones), and it will fuel the consolidation of law firms.
- ***Incursion:***
  We hear the footsteps—paralegals, labor/environmental/employee benefits consulting firms, estate planners, and even accounting firms.

It isn't all doom and gloom. Many, if not most, lawyers in private practice will continue to choose to practice solo or in small firms. The world seems to be getting more complex by the day, and the legal profession is usually the beneficiary of complexity. Good lawyers will prosper, and bad lawyers will suffer. We, at the WSBA, will try to give you the tools to survive and prosper!

[1] 10,366 lawyers have been admitted to the WSBA since 1984. Although not all of them are still active members, it's safe to say that half of the WSBA's current membership of 18,877 has been admitted since 1984.

[2] "Request for Proposals", i.e., a bid.

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Is The WSBA's Mission Your Mission as Well?

by ***Ron Gould***, *WSBA President*



Ronald M. Gould

Two of my presidential initiatives are to develop a written mission statement and to make progress on a written long-range plan.

In October, the Board convened a long-range planning session with interested liaisons and other participants. We spent many hours discussing the WSBA's images, its strengths and weaknesses, its opportunities and challenges and its priorities.

After much debate, great good will—and some exasperation because it is so hard to describe all of the WSBA's positive efforts and purposes in a few words—we tried to boil it all down. What can be said about the WSBA that is both true and simple? Here's a starting definition:

THE MISSION OF THE WSBA IS TO PROMOTE JUSTICE, SERVE THE PUBLIC, AND ASSIST AND INSPIRE OUR MEMBERS

Drafting a catalog of our goals was somewhat easier:

I. To assist our members in providing quality legal services.

II. To promote an effective and accessible legal system ensuring the independence of the bar and the judiciary.

III. To ensure diverse representation of members at all levels of bar activity.

IV. To foster and maintain high standards of competence, professionalism, and ethics among our members.

V. To foster collegiality among members of the bar and good will between the bar and the public.

VI. To serve as the statewide voice and promote public understanding of the law.

VII. To operate a well-managed, financially sound, and cohesive association.

Laudable goals—but how do we develop specific objectives and tasks from them?

The three prongs of the proposed mission statement describe generally what we do: promote justice, serve the public and assist our members. If we can also inspire them, so much the better.

Some of our committees—for example, Civil Rights, Consumer Protection, Corrections, Court Congestion and Improvement, Court Rules and Procedures, Judicial Recommendation, Legal Aid and Rules of Professional Conduct—are directly related to promoting justice.

Some—Bench-Bar-Press, Character and Fitness, Client Security Program, Disciplinary Board, Legal Aid, Legal Services to the Armed Forces and Opportunities for Minorities in the Legal Profession—serve public interests at the same time.

Most importantly, we exist to assist our members. Our Attorneys Professional Insurance, Continuing Legal Education, LAP, L.A.W. BBS, Public Relations and other committees do that.

The Court Congestion and Improvement, Legal Aid and Legislation committees advance several of these purposes simultaneously.

The sections dedicated to professional interests in varying areas serve these same positive purposes, which also motivate our hard-working task forces, on Discipline, Governance, Professional Qualifications and Nonlawyer Practice of Law.

Please pass on your views on the appropriateness of our goals and proposed mission statement to our Long-range Planning Committee, chaired by Governor Mary Fairhurst and including Governors Peter Ehrlichman and Steve Toole and Young Lawyers Division Representative Rosemary Daszkiewicz. This committee is now assessing with our organizational leaders how our varied activities fit together. We may revise our draft statements better to describe these good works.

Do you agree that the WSBA's mission is to promote justice, serve the public and assist and inspire its members?

Posing this question for the Association leads us to pose it for ourselves.

What is my individual professional mission: Am I merely a business entity earning a living, or is there more to my profession? Am I taking a personal hand in promoting justice in the cases in which I have a say, by doing my best to ensure that the facts are developed and determined accurately and that the law is correctly identified and applied? Do I do my part for the community by donating my time and efforts professionally? Do I manage my particular case responsibilities conscious of advancing public, as well as private, interests and taking due account of public interests in my view of professionalism?

On an individual level, am I seeking to assist my colleagues? In an adversary proceeding or a tough negotiation, am I able to end the case on as good or better terms with opposing counsel as existed when we began? Do I mentor and aid beginning lawyers, those who are new to the practice whatever their age? Do I reach out, through Bar committees and other professional activities, to provide some help to those who are not members of my organization ?

Take a few minutes; consider the answers that arise in your own mind and heart. Ask yourself, too, what the WSBA stands for and what its mission should be. If you have other ideas, call your elected representatives on the Board of Governors, and ask the organization to be responsive to them. We will be better managed and achieve better aims with your cooperation and help.

Best wishes to you and your families and friends as we commence the New Year working together. I hope that you will join with me in recognizing how fortunate we are to be lawyers and in welcoming all new members of our bar.

Ron

Personality Differences and Their Impact on the Professional and Personal Lives of Attorneys and Office Administrators

by **Joseph Shaub**

It has happened to just about anyone who works in a law office. You return from a short lunch and find a telephone message on the top of your spindle, staring back at you. You recognize the name of an important client, and you notice that the words are underlined twice. The message simply says, "*Call back immediately—Urgent.*"

How do you react? What thoughts run through your mind as you walk into your office? Does your stomach tighten as you wonder what sort of complaint you will be fielding—or do you immediately scroll through the possible reasons for the call and compose a reply in a more-or-less dispassionate fashion? Do you need to take time with the door closed to briefly center yourself and think through the call before you lift the handset, or do you usually talk about the message and its possible meaning with somebody, "thinking out loud," as it were, before returning the call? Do you welcome or dread the sense of emergency that rises from the curt message?

Most of us travel through life with a natural belief that others see the world the same way that we do. Yet to some a pot-bellied pig is the pet of the '90s, while to others it's a ham sandwich.

How you react and what you say to this client are the products of many factors. The one I want to address here is the importance of your (and their) personality type. The ambiance of your office, the difficulty which nonprofessionals claim to have dealing with attorneys, the communication and listening styles of lawyers and staff—all can be clarified with an understanding of the principles of personality type.

Most of us travel through life with a natural belief that others see the world the same way that we do. Yet to some a potbellied pig is the pet of the '90s, while to others it's a ham sandwich. A pat on the head of a 6-year-old child in Los Angeles is a gesture of affection; in Bangkok it is a sacrilege—and insulting—because a person's highest spiritual essence flows upward through the top of the head, heavenward. One person's challenging career is another's way of making a buck so that he or she can return home and pursue a real love, be it writing, community work or family.

In their first weeks of law school, law students are introduced to the "Average Reasonable Man." All lawyers know this fellow. He's the fictitious character whose conduct is reasonably predictable and whose expectations are distilled from the consensus of society. The world of law is based in large part on the uniformity of certain principles. The legal domain is composed of rules with more-or-less universal application. Their education and training, coupled with the natural tendency of attorneys to be highly intelligent, brilliantly (though at times selectively) observant, skilled verbal persuaders and possessed of more than their fair share of self-regard, result in a certain professional myopia. "Things are a particular way . . . and if you disagree, then you are wrong." The well-being of lawyers and their firms, clients and families would be vastly encouraged if this could be changed to, "I see things a certain way, and if you disagree; well, then, you are different."

Personality Type is One of the Keys to Understanding Differences

For centuries writers, philosophers, psychologists and other observers of the human condition have described people in terms of "type." The ancient Greeks would categorize their fellow citizens as one of four "types"—ones of a cynical sort were "sanguine," the pessimists "melancholic," the idealists "choleric," and the skeptics "phlegmatic." Carl Jung, who, perhaps, is matched only by Freud as a giant in the development of modern psychology, traced the idea of personality type through poetry, literature and psychological thought, and he developed his own theory of type. His classic, *Psychological Types*, written in 1921, is regarded as a remarkably thorough and accurate description of the basic differences between people's fundamental orientation toward themselves and the world.

Jung observed, for example, that while some people seemed to direct their energy outward, obtaining sustenance from interaction with people and things in the world "out there," others were more at ease, focused and productive when directing their energy toward the inner world of thoughts and ideas. While some needed contact with their environment, others were at their best with solitude. He coined the terms "introvert" and "extrovert" to describe these two different types of preferences, and these names have survived to the present day.

Introverts tend to be private about their personal lives. Strong extroverts will unselfconsciously reveal more about themselves than you might ever have wanted to know. Introverts find this behavior indiscreet, while the extrovert wonders why the introvert is so withholding. Another telling difference between these two types involves the tendency of the extrovert to think out loud—to literally verbalize thought processes. The introvert prefers consideration of the issue before anything is said. The thought will come out complete, like a loaf of bread from the oven, rather than in bits and pieces. Again, the extrovert finds the introvert to be disconcertingly nonparticipatory in the brainstorming process. The introvert often experiences impatience at the "nonsense" that makes up the content of the

extrovert's verbalized thought process. Yet this is only one of the three major distinctions which Jung observed.

Jung also described a basic difference in how we actually perceive the world—what kind of information registers with us. He distinguished those who prefer to take in the world in a very concrete fashion (who rely on their five senses) from others who deal more comfortably with implications, patterns and relationships which are suggested by concrete facts. The first type, he said, prefers "sensation," and the second relies on "intuition." Sensing types are far more comfortable with the observable. History, evidence and experience have an impact on them. Intuitives would rather think symbolically—they prefer words and ideas—possibilities and change are their spark. A sensor can be relied on to be practical and realistic. When a novel challenge is presented, you'll want to enlist the intuitive's ingenuity.

Trial judges, for example, are predominantly sensing types. They rely on evidence, precedent and experience to guide their evaluation of factors for decision. The more conservative appellate jurists also tend to be sensing types. Those who strike out in new directions, to the delight or consternation of their fellows, the Earl Warrens and Roger Traynors, have been intuitive types. Another difference between those two types lies in whether they see the forest or the trees. The sensing types miss the forest for the trees. They are excellent with detail, but often have difficulty seeing a problem globally or from any other than a conventional angle. The intuitive is remarkably adept at reviewing the facts of a case or transaction and shines an altogether novel, creative light upon it—often solving an intractable difficulty with a crystalline feat of mental agility. The sensing types do best to check the details after the intuitives are done, however, as this can be their Achilles heel.

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The third area of difference that Jung described involves what we do after we take in this information—how do we make decisions? This was translated from his German into what we now call the "judging" function. Decisions or judgments, according to Jung, are based upon either "thinking" or "feeling." This distinction goes a long way in explaining what makes lawyers a shade different from many of those in society whom they serve. I will discuss this difference in more detail in a moment.

Remember that the key idea, here, is "difference," not whether one style of doing things is better or worse. We do have certain biases in our culture, to be sure. American society values extroversion. Dale Carnegie courses and Toastmasters meetings abound. The Socratic method of law school education pushes individuals to be "out there"—to learn how to engage other people more effectively.

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While sociability and approachability are virtues in many instances, the ability to focus, close out the world and concentrate on one thing is also highly prized. The lawyer, for example, who must complete a complex task has to shut out the external world for long periods of time—and must be able to do so comfortably. A gift of extroversion is expression and action. A gift of introversion is reception and concentration.

While Carl Jung was writing in Switzerland about the differences in the ways people take in, or "perceive," the world; the kinds of decisions, or "judgments" they make about the information they take in and whether their energy is directed outwardly or inwardly, a mother and daughter in the United States, from one of the leading families in American education at the time, began to develop their own typology which, remarkably, was exactly the same as Jung's. Katherine Cook Briggs and Isabel Briggs Myers added a fourth category, distinguishing those who approach the world primarily as "judgers," who strive for resolution and decision, preferring to be organized and structured from those who they termed "perceivers," who tend toward observation and experience of the world, putting off decisions lest a precipitous judgment disregard an essential, but missed, factor. Judging types tend to refer to themselves as "organized" and perceiving types preferred "adaptable" as self-descriptions.

What would be the preferable type for a trial lawyer? Might we, rather, be describing a team—one of whom is extremely well-organized, preparing trial notebooks, making sure everything is easily accessible, creating the structure, as it were, for the perceiving type who will not be undone by an unanticipated twist in testimony and who is ever-observant of the details of the testimony and evidence, able to shift emphasis if necessary? The finest trial lawyers combine these strengths.

While there are countless behaviors and approaches that distinguish the perceiver from the judger, an easy way to tell the difference in your firm is to walk into someone's office and look at a time sheet. If the work environment is in order and the time sheet is up to the minute, you know you're dealing with a judging type. If you can't see the lawyer's desk under the papers, magazines, books and phone messages on the desk, and if the latest time sheet is days behind, you're in the domain of the perceiver.

Returning to Katherine Briggs and Isabel Myers—as their insights matured, they began to develop a test or questionnaire which might help in identifying what an individual's preferences were. It was tested and refined over many years and evolved into the Myers-Briggs Type Indicator (or "M.B.T.I."[1]), one of the most widely used and researched personality inventories in the world today. It consists of 126 "forced choice" items in which the individual is asked to pick which statement or word best reflects his or her preferences.

Examples are:

> "Do you usually get along better with (A) imaginative people or (B) realistic people?"
>
> "Is it harder to adapt to (A) routine or (b) constant change?"
>
> "Can the new people you meet tell what you are interested in (A) right away, or (B) only after they get to know you?"

Another set of items asks the individual which word in a pair appeals more. Examples are "facts/ideas; peacemaker/judge; agree/discuss; and sensible/fascinating."

The MBTI has been administered to millions of people worldwide. A registry has been created which contains the results from people of every imaginable age group, education level and occupation. In the late 1980s, a psychology graduate student, who for many years had been a practicing attorney, chose as the subject of his doctoral dissertation lawyers and psychological type.

The ABA-sponsored Study of Lawyers' Personality Types

When Larry Richards decided to study lawyers and personality types, he contacted the American Bar Association and received the endorsement of its president to pursue his study. He randomly selected approximately 3,000 lawyers of varying "specialties" and sent them the test. More than 1,500 attorneys responded, a staggeringly high return rate.

Richards' dissertation was condensed and appeared as the cover article for the July 1993 *ABA Journal*. His findings were intriguing and ought to be understood by both attorneys and those who must deal with them on a daily basis.

The key to Richards' study is the manner in which lawyers make decisions. This is known as the "Judgment Function," and the differences in approach can be understood something like this:

Some of us prefer to make our decisions based on what is logical and defensible. Of greatest importance is what works—what hangs together. This kind of person makes decisions dispassionately. Emotion does not enter into the

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equation—it is considered unseemly and off the point. People and their interests generally are not a primary part of the decision-making process. These people are known as "thinking types." They are quick to spot a flaw in a plan, argument or proposal and will point out that flaw in a very natural and matter-of-fact way. Usually there aren't a lot of preliminaries to smooth possibly ruffled feathers or protect hurt feelings because "ruffled feathers and hurt feelings aren't what we're talking about here." Thinkers enjoy debate and argument for the pure sport of it and they usually don't get personally invested in, or wounded by, the exchange. The highest value and objective for the thinking type is truth, and universal principles, scrupulously adhered to, are imperative.

There is another way of making decisions, however, and it is truly a pendular swing away from the thinking orientation. Some people make their decisions based upon their own sense of personal values—how deeply they feel about something. Their certainty is not found in its irreducibility to a pin point of logic, but, rather, the often inarticulable depth of their belief or commitment. These people are continually aware of the impact of their decisions and actions on other people. They have a natural empathy for others and prefer to consider any option in the context of the people that will be touched. These people are called "feeling types" in the Myers-Briggs typology. Feeling types prize harmony and are often excellent at creating it in their work and personal environments. Tact is highly developed and generously employed by the feeling type. Because of their interest and ability in empathy, these people are usually excellent persuaders of others.

It has been said by one writer that thinkers strive for achievement and feelers strive for appreciation (for themselves and others). It is a mistake to believe, however, that thinkers don't have emotions—their emotional reactions can be as strong as a feelers'. While thinkers prefer to understand their emotions, feelers prefer to experience them, as life is in the clarity of that non-logical experience.

Occupational studies have revealed that feelings types are found in greater percentages over thinking types in fields such as sales and customer relations (89 percent to 11 percent), creative writing (65 percent to 35 percent) and in graduate counseling programs (85 percent to 15 percent). By contrast, thinkers predominate over feelers in fields such as accounting (73 percent to 27 percent) and law (73 percent to 27 percent).

This distinction between the thinking type and the feeling type is particularly important for understanding attorneys and the practice of law. First, we should understand that the volumes of data which have been collected from millions of Americans who have taken the MBTI reveal that this "judging function" is the only one that has a clear gender difference. Approximately 65 percent of the men who take this test are found to prefer thinking, while 65 percent of the women are feelers.

Of the four different preferences which are indicated by the MBTI, only one shows a radically higher preference for attorneys versus the rest of the world, and that is in the area of thinking vs. feeling. Approximately 81 percent of the male attorneys prefer thinking while about 69 percent of the women prefer thinking. By selection, education and training, the practice of law is overwhelmingly weighted in favor of those who prefer a thinking orientation. How does this come about, and what does it mean practically speaking?

The Significance of Lawyers' "Thinking" Orientation

One is drawn, initially, to a passage from "One L," a personal account of the first year at Harvard Law school written by Scott Turow, author of *Presumed Innocent*, the runaway bestseller a few years back.

A few weeks into his legal education, Turow became aware of the force of the analytical style being taught by professors Morris, Perini and Mann:

> "We all quickly saw that that kind of argument was supposed to be reasoned, consistent, progressive in its logic. Nothing was taken for granted; nothing was proven just because it was strongly felt. All of our teachers tried to impress upon us that you do not sway a judge with emotional declarations of faith. Nicky Morris often derided responses as "sentimental goo," and Perini on more than one occasion quickly dispatched students who tried to argue by asserting supposedly irreduc-

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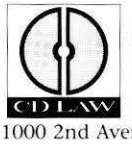
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ible principles . . . (With relative speed, we all seemed to gain skill in reconciling and justifying our positions . . . But to Gina, the process which had brought that kind of change about was frightening and objectionable.

'I don't care if Bertram Mann (the criminal law professor) doesn't want to know how I feel about prostitution,' she said that day at lunch. 'I feel a lot of things about prostitution, and they have everything to do with the way I think about prostitution. I don't want to become the kind of person who tries to pretend that my feelings have nothing to do with my opinions. It's not bad to feel things.'"

Lawyers believe in the strength of logical presentation of ideas and view with utmost distrust appeals to emotion—to what "feels" right. There is something very cut-and-dried about the way we think as lawyers. We want to focus. We don't want to get too distracted by irrelevancies, and feelings trespass into this territory. Lawyers are very goal-directed (as opposed to psychologists, who are more process-oriented). If you want to get a good laugh out of a lawyer, ask if law school was a "nurturing" experience or whether harmony was much prized in that environment. Now stop and consider whether harmony is actively pursued by the attorneys in your office. Most likely, the answer will be, "No."

Thinking types just don't think about it. It's as simple as that. Efficiency and competence have value in the world of the lawyer. Generally speaking, and as results on the MBTI have borne out, it is more valued by attorneys to be "reasonable" than "sympathetic." When asked to choose between "justice" and "mercy," justice is almost unanimously chosen by the lawyers to whom I have administered the MBTI.

The value of the thinking function in the practice of law is indisputable. Thinking permits dispassionate analysis, reasoned decision-making and the ability to "focus like a laser" on the heart of a position. Logic is the motive force behind the thinker's power. Justice Oliver Wendell Holmes once said, "The language of judicial decision is mainly the language of logic. And the logical method and form flatter that longing for certainty and for repose which is in every human mind." Of course, he then added, "But certainty generally is illusion, and repose is not the destiny of man."[2]

In this trenchant observation, Holmes described both the great strength and essential weakness of exclusive reliance on logical thought. The element that is missing from the over-reliance on a thinking orientation is eloquently described by Isabel Myers in this way,

> ". . . [I]n teaching, in acting and the other arts, in oratory and in that humbler branch of persuasion called salesmanship, in the relations of the clergy to their congregation, in family life, in social contacts, and in any sort of counseling, it is feeling which serves as the bridge between one human being and another."

Because the legal environment is so heavily weighted in favor of the thinking type, the values of the feeling type are

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often judged in a critical light. Appreciation is very important to a feeling type—both giving and receiving. It follows that one of the great strengths of the feeling type is the ability to empathize. Those who interact with feeling types say that they come away feeling truly understood. While a thinking type might find this kind of language "soft," there is no denying that these qualities provide the social lubrication which is indispensable to a well-functioning organization or to any satisfying interpersonal relationship. Lawyers are often very much involved in getting their point across. So much so that at times the value of being truly receptive, of carefully listening, gets lost.

Another natural activity of the thinking type is criticism. This is not expressed by the thinker in order to be cruel or for other ill motive. The flaws are the first thing that this person notices and, thus, the first thing commented upon. Does it hang together? What are the weaknesses and how can they be remedied? These are the questions which circulate through the thinker's mind. Since the heart of the thinking function is impersonal analysis, these criticisms can be hard for the very personal feeling type to hear. Many are the times that the thinking type will criticize and watch in dismay and some consternation, while the others take these criticisms very personally and react in an illogically emotional manner. The feeling types of personality must understand that, while tact and diplomacy are high values for them, these don't enter the evaluative process of thinkers. They are simply pointing something out and would prefer it if the recipient would take it in the same spirit of helpfulness that it is given.

A grasp of type can perform wonders in resolving conflict. First, it promotes interpersonal understanding. If the other person is viewed as "different" rather than "wrong," intense feelings are much less likely to escalate. Also, if people know each other's basic mental sets, they will be able to communicate with each other much more effectively. The feeler will understand how important logic and reason are to the thinker and will try to accommodate this need in an effort to be understood. The thinker will be able to recognize the value in the personal and in individual motives and reactions to which the feeler is so attuned.

Myers has said that the feeling types need the thinking types to analyze, organize, find the flaws in advance, hold consistently to a policy and stand firm against opposition, while the thinking types need the feeling types to persuade, conciliate, forecast how others will feel, rouse enthusiasm, teach, sell, and appreciate the thinker.

The richest world—the most vital organization—recognizes, indeed, exalts, difference. A group that suppresses difference hardens the relationships among its members. Communication is cut off. Vitality is drained. The enormous opportunities for professional growth are stunted.

It might help you realize, for example, that if you are avoiding returning the "urgent" call from that client it is because you are probably a feeling type, and as a conciliator and harmonizer you find the potential for conflict disconcerting. This is a part of your job that requires conscious effort. It isn't second nature the way it might be to a thinking type, for whom conflict is often energizing and even welcomed. At the same time, that thinker needs to put conscious effort into hearing what the other person has to say, to make that individual feel understood. Either way, you have some natural gifts that ease the way and some that make you find other tasks more difficult. This is another reason a knowledge of personality type can be so salutary to the professionals in the law office environment.

In the pressure cooker of the law office, attorneys and professional staff focus their energies with enormous intensity. They are professional analyzers and problem solvers. And while their concentration is akin to a miner's lamp, illuminating its object with startling clarity, those concerns outside the field of attention remain unseen and are dismissed, often to the professional and personal regret of these individuals. Exploring interpersonal differences and individual strengths and idiosyncrasies is one path to expanding the field of vision and experience. It results in a more professional, tolerant and productive work environment and a wiser, more effective professional.

[1] The MBTI is a trademark of its publisher, Consulting Psychologists Press of Palo Alto, California.

[2] Oliver Wendell Holmes, "The Path of the Law," 10 *Harvard Law Review* 457.



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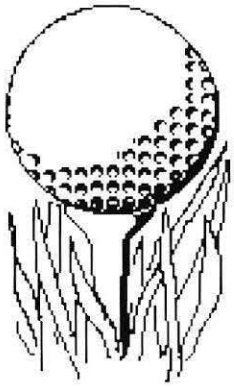
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CLIENT SATISFACTION PROGRAMS: WHY USE A CONSULTANT WHEN YOU CAN DO IT YOURSELF?

by **Gene B. Brandzel**

"...identifying problems when they are curable rather than terminal..."

There is much interest these days in taking stock of how your clients perceive their relationship with you and your firm. A convincing case has been made for regularly inquiring of clients how you and your firm are doing. Showing a client your interest in their satisfaction, identifying problems when they are curable rather than terminal, having a neutral time to discuss new ideas such as alternative billing arrangements, and discovering problems your client doesn't realize you can help with: all justify taking the chance you or your colleagues may hear some uncomfortable information. Agreed? If so, another question remains: who should help organize and assist you in supervising your client satisfaction program?

A few firms, either through the use of in-house staff or highly motivated lawyers (usually as a result of an enlightened compensation system which rewards them for their efforts) have designed and implemented their own effective programs. The vast majority of firms, however, have not done so, even though they know they should. I suggest that they are unlikely to do so unless they get professional help. Why? There are several reasons.

The major reason that law firms falter in putting client satisfaction programs in place is that designing and implementing a program takes a surprising amount of time. The demands of day-to-day practice and other tugs and pulls make it most difficult to coordinate schedules, assemble necessary information, implement the survey program, analyze the results, make necessary changes, and advise clients of those changes. There are many opportunities for substantial delays and inconsistent or inadequate follow-up.

Emphasis on billable hours discourages lawyers from directing their attention to other matters, even when those other matters impact income. It is typical for lawyers in private practice to put management and marketing issues on the back burner and devote their exclusive attention to day-to-day lawyering and maximizing their daily time entries. Putting a client satisfaction program on the back burner often results in the project falling behind the stove.

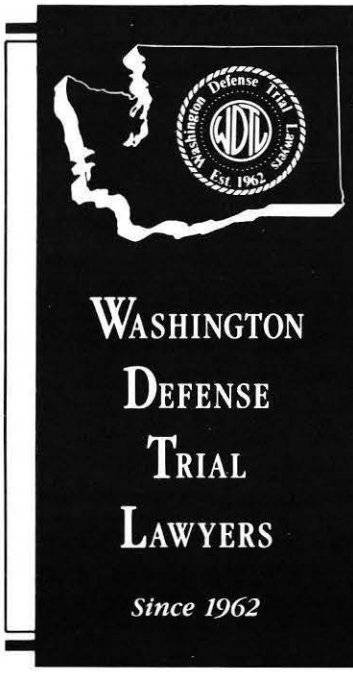
Fear of learning, or having your colleagues learn, that you are not as perfect or client-connected as you thought also lurks behind reluctant attitudes. Adjacent to this fear is ignorance. Professionals are often oblivious to the value of learning how their clients see the service they are receiving. Shock often accompanies client feedback. "I had no idea the client had those thoughts," is a familiar refrain. Dealing with fear and oblivion is necessary, though discomforting.

Will hiring a consultant help your firm deal with these obstacles? I suggest that in most instances, hiring a consultant is the only way your firm will implement a comprehensive, effective, long-term client satisfaction program.

A consultant is hired to devote the time exclusively to a task. There are no acceptable diversions. There is a personal commitment to completion. Once the results are in, the members of the firm will likely see the value of the program for both themselves and the firm. Continuation of the program is almost invariably easier after the lawyers experience the benefits. Irregular and inconsistent use of the program causes frustration within the firm, reflects its lack of professionalism and undermines its ability to get maximum benefit.

A consultant can help ensure that client interviews are conducted in an objective and professional manner. The consultant has no personal ax to grind and can advise lawyers, even where improvement or change is requested.

A consultant can make the difference in getting the job done in a professional



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and timely manner that enhances the financial security and the satisfaction of members of the firm on a cost-effective basis. Does it make sense to refrain from getting help from a consultant that will enhance ties with your clients when it is getting more difficult to land new clients and when you know that in most law firms about 80 percent of new business comes from existing clients?

If you are uncertain whether or not your firm's clients are satisfied with the services your firm is providing and whether or not you are getting all the law business you can from your clients, consult with an expert about establishing an effective and long-term client satisfaction program. The longer you wait, the greater your risk of having a curable client problem become a terminal one or having a competitor retained to undertake what your firm could have handled effectively.



Gene B. Brandzel *is the principal of Brandzel Consulting Group, a firm specializing in professional consulting services, including development and implementation of client satisfaction programs for professional firms. He is the former managing partner of a Seattle law firm who gave up private practice to devote full time to BCG.*

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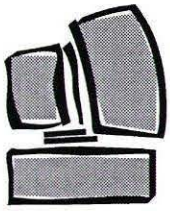
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CLIENTS UNDER STRESS

by **Steven A. Meyerowitz**

Royce," a panicked voice on the phone said, "I'm in deep trouble. I've just been served with these papers. This guy is asking for more money than I have."

That's how Royce H. Schulz, a partner with Broad, Schulz, Larson & Wineberg in San Francisco, described a phone call he received from a business owner he came to represent in a multimillion dollar lawsuit that was recently brought against the owner and his company by one of the company's distributors.

The result in that case, Schulz said, was quite satisfactory to his client—the plaintiff was able to win a judgment of only $90,000. But perhaps just as important as the suit's final resolution was the success Schulz had early in the case in calming his client and easing the emotional drain the case was having on him.

Dealing with the emotional aspects of clients involved in high-stress legal situations is not something that lawyers usually consider, especially if they represent what Schulz called "hired management that has no personal stake in the matter and whose jobs are, ordinarily, not on the line." But the human issue is one of the first things that a lot of lawyers must handle after they are retained on a new matter.

There are many kinds of legal situations in which clients become emotionally involved. A spouse in a divorce action, for example, feels anger, financial fear and concern that the cocoon is breaking apart," said Robert W. Denney, a law firm consultant and the president of Robert Denney Associates Inc., based in Wayne, Pennsylvania. Similar emotions are felt by parties to a business break-up.

A person who owns a company that is on the brink of financial failure "has highs and lows during the day, and gets up pretty early in the morning worrying about the business," said insolvency lawyer Gary A. Plotkin, a partner with the Encino, California, law firm of Plotkin & Rapoport. If a business receives notice that creditors have forced the company into an involuntary bankruptcy, the owners, who more than likely have not gone through a bankruptcy before, will worry that they will be kicked out of their offices and their jobs. They may be embarrassed about entering bankruptcy, and they will be concerned about financial ruin. Facing a financial calamity can be emotionally devastating.

"When people are in emotional stress, they need people to be tolerant of hearing their pain."

Clients in a trial (think of the word, "trial," which is defined as "an experience that puts strength, patience or faith to the test") may be the people most particularly caught up in the emotional trauma of the legal world.

The tension builds through a trial for every individual involved, whether plaintiff or defendant. Schulz recalled one lawsuit in which his client and he waited "three very stressful days" for the jury to reach a decision. "Before the verdict was about to be read, he turned to me and said, 'Gosh, this is dramatic,'" Schulz said.

When More Help is Needed

There is a difference, of course, between helping a client who is emotionally involved in a high-stress legal matter and handling a client with emotional problems. While it is certainly not a lawyer's job to determine whether or not someone is emotionally disturbed, a lawyer should be able to listen to a client and know when it might be appropriate to suggest that the client seek professional counseling.

For instance, "If a lawyer goes to sleep at night saying to his or her spouse, 'I have visions of [the client] murdering his business partner,' it can't be wrong to suggest to the client that he or she needs professional help," according to Dr. Beth Weinstock, a psychotherapist and organization development consultant from Narberth, Pennsylvania.

Statements made by a client that imply suicide or extreme rage, such as "I'm so depressed, I'm thinking of ending it all," or "I get so angry I want to kill my wife," may also be indications that the lawyers should recommend that the client see a psychologist or psychotherapist, Weinstock said.

A more difficult question occurs in the context of a client who does not suggest violence or extreme emotional disturbance but says something like "I'm sick of this matter, and I'm ready to wash my hands of it and just walk away." That may just be a normal reaction to a lengthy lawsuit and something that is said to vent some steam but that the client has no intention of acting upon.

Nonetheless, in that instance, and even where a client is just emotionally involved in a case and appears basically healthy, a lawyer should feel free to suggest psychological counseling to a client. "Attorneys should not think it's such a big deal to suggest that the client get someone else on their support team," Weinstock said.

When lawyers try to help clients who are emotionally involved in legal problems, there are several things that they can do.

Listen

"What is most helpful from lawyers is what is difficult for lawyers to do—listening and trying *not* to solve the problem," Dr. Weinstock said.

She believes that "when people are in emotional stress, they need people to be tolerant of hearing their pain." Because people in stress "worry that they'll burden others by their own emotionality," she said, a lawyer's willingness to listen to a client's problems should be particularly emphasized.

In a bankruptcy matter, for example, a lawyer should listen to the business owner describe how upsetting it is to go bankrupt. "Listen to him tell the things he tried to do to avoid bankruptcy, that he's concerned that he's a failure in his wife's eyes, that he thought he'd be able to support his children," she said.

Listening is also important in a dispute between business partners. If someone comes in, complains about a partner, and says, 'I think I'll have to sue him; I think I'm being taken advantage of,' and

the lawyer says, 'Yes, you're dealing with a bastard' before he knows all the facts, it could present a problem if two months later things have mended," Weinstock said. "Lawyers shouldn't emotionally jump on the bandwagon."

Divorce lawyers may want to have someone in their offices, such as a paralegal, to whom clients involved in a divorce can regularly speak and who will just listen to them talk about their problems, said Mary Ann Altman, a consultant with Altman & Weil Inc. in Ardmore, Pennsylvania. "Of course, if it's a legal matter, they'll want to talk to a lawyer; but if they are just calling to unburden themselves, they can talk to the paralegal," she said.

Comfort Your Client

After listening to a client's problems, a lawyer could try to comfort the client.

"Some lawyers talk about 'our' case, not 'your' case," Altman said. "That makes a client feel they're a part of the solution to the problem."

Comforting words also help to diffuse a difficult situation. In one case, a lawyer spoke to a company president who owned 25 percent of the company's stock, had total control of the business, and started out by saying he wanted to bring a lawsuit against his relatives who owned the rest of the company's stock and force them out, Denney said. But the lawyer got past the client's emotion and said, "What do you really want? Do you really want to fight with your relatives?" The businessman then decided to pursue the acquisition of the company without litigation, according to Denney.

Some lawyers talk about 'our' case, not 'your' case. That makes a client feel they're a part of the solution to the problem."

Explain How Things Work

To nonlawyers, the machinations of the legal system can be quite difficult to understand. Therefore, another good way to help clients deal with the emotional problems resulting from their involvement in the legal system is to explain how the system works.

During the three days Schulz and his client were waiting for the jury to return with a judgment in the suit brought by a distributor for the client's company, Schulz said he "talked to him, explained what the potential ways of dealing with a judgment were if it was disastrous, what the post-trial motions might be, and the points to pursue on appeal if it came to that."

Plotkin tries to deal with the concerns of business owners who receive notice that their companies have been put into involuntary bankruptcy by telling them "that the mere filing of an involuntary petition does not mean they are going to have to close their doors tomorrow and does not mean a trustee is going to have to be appointed. I tell them that the chances are they will continue to be able to operate as a debtor-in-possession with certain safeguards which probably should have been in place anyway, such as separate accounts for taxes and payroll."

In a more general vein, it is even important to just give information about the likely timing of the resolution of the legal problem. "If it's going to take six months," Altman said, "the client shouldn't expect results in six weeks."

Be Accessible

Clients under stress "tend to call you more during the day and attempt to dominate your time because they are in stressful situations," Plotkin said.

So, it is particularly important for lawyers in these kinds of cases to be accessible to their clients. That means, for one thing, that lawyers should be careful about how phone calls to their offices are handled. "The screening process of 'Can I tell him what it's about?' and 'Does he know why you're calling?' contributes to stress, and it is a negative in a hot practice," Altman said. "Have clients' calls get through to someone quickly," she added.

According to Dr. Weinstock, it is even a good idea for a lawyer to initiate phone calls to a client to find out "how he is doing, and to let him know that you are working on it."

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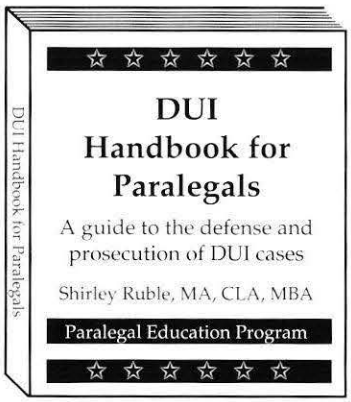
Finally, one of the best ways to settle a client's emotions is to keep the client informed as to the status of the legal problem. Altman goes so far as to say that lawyers should "furnish copies of almost everything to clients" so they will know "that pleadings are being filed and letters are being responded to."

For many clients, involvement with the legal system is not a frequent occurrence. Lawyers, though, are constantly handling lawsuits, difficult business and legal negotiations, and other law-related matters. Is it fair to think that lawyers should be able to understand or remember how emotionally draining the legal process can be for nonlawyers?

It is if you have the view of the legal profession that Royce Schulz has. In his mind, if a lawyer is good at dealing with people, the lawyer will never forget the significance of a lawsuit or other legal matter to a client. Law, after all, "is a people business," he said.

Steven A. Meyerowitz is a lawyer and writer living in New York.

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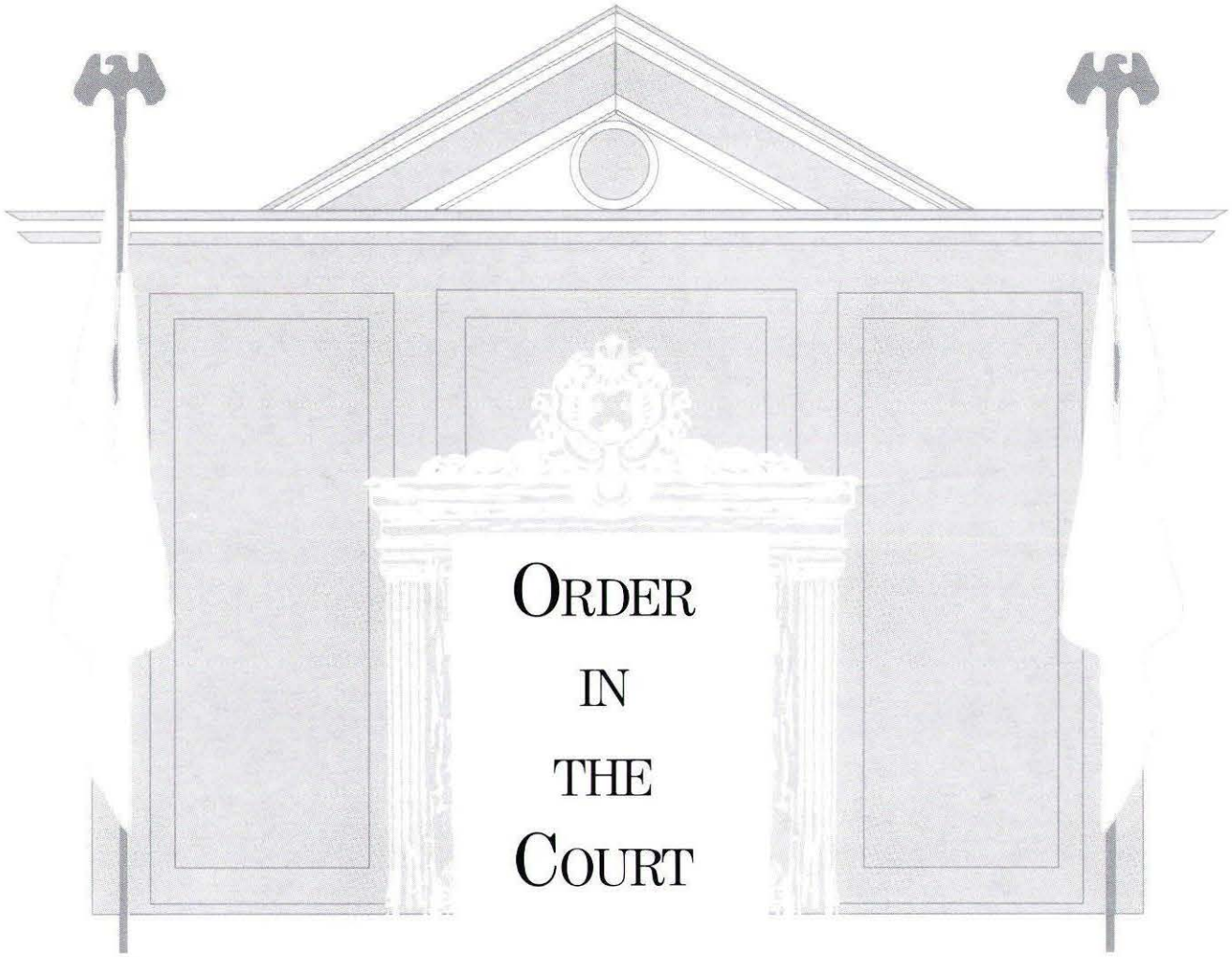
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THE COURTROOM DECORUM GUIDELINES

by **Charles K. Wiggins**

Editor's note—On behalf of the WSBA Court Congestion and Improvement Committee, the May 1993 *Bar News* published an interim report on, and a draft version of, the Courtroom Decorum Guidelines for comment by the bench and bar. This article gives the Guidelines in their final form.

The WSBA Board of Governors adopted Courtroom Decorum Guidelines in June 1994. The Superior Court Judges' Association endorsed the Guidelines in July, and the Washington Administrative Law Judges' Association in August. The Guidelines, which appear at the end of this article, will be presented to local bar groups and judges' associations in coming months, and this article introduces and explains them.

The Board of Governors has challenged Washington judges and lawyers to conduct trials more professionally by adopting the Guidelines. The bar and bench should accept this challenge and adopt the Guidelines to reverse the perception that professionalism is declining and that lawyers have lost their commitment to justice and fairness in the process of litigation.

Why Guidelines?

Courtrooms exist to administer justice. Our society has rejected the primitive mechanism of resolving disputes by force and violence and has chosen the courtroom as the place to resolve disputes peacefully under the rule of law. The Guidelines incorporate the philosophy that justice is best served by maintaining an atmosphere of dignity, order and mutual respect within the courtroom. An orderly courtroom enables all parties to be heard fully and emphasizes the importance of the court's task. It also encourages public respect for, and confidence in, a judicial process that will bring about a just result.

Many lawyers and judges have sensed that too often court proceedings are marked by conduct which distracts from the court's primary task of determining the truth and resolving disputes justly. The focus of trial shifts from the merits of the case to the demerits of the behavior of counsel when counsel engage in such tactics as personal attacks or sarcasm, ridicule of the opposing lawyer, arguments directly between counsel instead of to the court, unfounded accusations of unethical conduct, or lack of respect for the court or the judicial process. Studies on professionalism have called on law-

yers to end such abusive tactics.

At the same time, many new lawyers have joined the ranks of the bar. Fortunately, many new lawyers show the utmost respect for the court and opposing counsel while skillfully representing their clients. But others need guidance in advocating forcefully while maintaining the proper deference to the court, counsel, parties and witnesses. Some new judges similarly need a framework of guidelines to provide a ready set of principles for order within their courtrooms.

Purposes of the Guidelines

The Guidelines define an acceptable level of courtroom conduct in any courtroom in the state. Different counties have different practices, and different judges have individual preferences, but the lawyer who adheres to the Guidelines can be confident that his or her courtroom demeanor will be appropriate. Individual judges may expect counsel to follow special rules, but it will be up to the judge to advise the lawyer of those special rules.

The Guidelines will also assist judges in maintaining decorum within the courtroom. The Guidelines represent a consensus among the many lawyers and judges who worked on them, and among the Board of Governors, which is representative of lawyers throughout the state. Although the Guidelines should be applied flexibly; lawyers and judges should expect one another to respect and enforce them. The Guidelines provide a judge with a diplomatic way of gently reminding a lawyer that his or her conduct is inappropriate, by calling attention to the Guidelines and suggesting that counsel review them. They provide a ready reference for the new judge who is uncertain how forceful to be in maintaining courtroom decorum. They also serve as a useful educational device for teaching law students and new lawyers about courtroom decorum.

The Guidelines serve as an ongoing forum for discussions about appropriate courtroom conduct. The process of developing the Guidelines disclosed some divisions among lawyers and judges about courtroom decorum. Experience with the Guidelines will undoubtedly further expose such differences, and it will spark discussion of appropriate practices. The Guidelines are a living document, subject to periodic revision by the Court Congestion and Improvement Committee, which welcomes additional comment in the future, as the Guidelines are refined and improved.

Some Things Which are NOT Purposes of the Guidelines

Justice knows no single color, sex, socioeconomic class, accent, or particular etiquette. Any courtroom must remain open and available to all, and judges must strive to hear and consider all litigants and witnesses. Justice will never be fully rendered in a courtroom of automata where everyone looks and acts alike. The Guidelines strive to recognize this fundamental truth by calling for fairness, consideration and respect for all participants in the process. The Guidelines are not intended, and must not be used, to try to blend everyone into one homogenous, lowest common denominator. There is room within our courtrooms for a wide range of style and imagination, within the limits of appropriate respect for the judicial process and the other participants in the process.

Similarly, the Guidelines must never be used as an excuse for avoiding a decision on the merits of the dispute. The Guidelines were written to focus the court proceedings on the dispute, not on the conduct of the participants in the proceeding. The focus of the proceeding should never shift to the Guidelines themselves, or to disputes over the proper application of them. And the court should never refuse to consider the merits simply because of a perceived violation of the Guidelines.

Nor should the Guidelines ever be used as the basis for disciplinary proceedings or allegations of negligent conduct by counsel. The Guidelines are merely principles for courtroom conduct, and they do not establish a code of behavior or a set of rules enforceable through the disciplinary process. Such a misuse would pervert the Guidelines by shifting attention from the underlying dispute to the Guidelines themselves.

Application of the Guidelines

Each individual judge must decide whether and how to apply the Guidelines. The drafters intended that the judges' associations would decide collectively to use the Guidelines. Each individual judge has the discretion whether and how to apply the Guidelines, but the more uniformly they are applied, the more useful they will be to practicing lawyers. Individual judges may find particular Guidelines more or less helpful, and they may decide not to enforce some of the Guidelines, while emphasizing others.

Individual judges will be more inclined to adopt the Guidelines if they are supported by local bar associations, which can play an important role in this process if they bring the Guidelines to the attention of their members and the local bench, so that both lawyers and judges can collectively discuss the merits of the Guidelines and decide the extent to which they want to adhere to them. Practicing lawyers can adopt the Guidelines for their

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own use whether or not local judges adopt the Guidelines formally. Opposing counsel can also agree in a particular case to adhere to the Guidelines.

The Guidelines should be applied flexibly. In some situations, the court may conclude that some of the Guidelines simply should not apply. Similarly, lawyers may find it necessary to depart from individual Guidelines in a particular case. Flexibility is inherent in the notion of any "guideline." These are not rules which govern every single case, but principles designed to facilitate an orderly and just determination of a case. When a Guideline fails to further this basic goal, the lawyer should choose to depart from the Guideline.

COURTROOM DECORUM AND PRACTICE GUIDELINES

Preface

The pursuit of justice is a serious undertaking and conduct during the litigation process, both within and outside the courtroom, must at all times satisfy the appearance as well as the reality of fairness and equal treatment. Dignity, order, and decorum are indispensable to the proper administration of justice.

A trial is an adversary proceeding, and lawyers must advocate for their clients' positions. However, conduct that may be characterized as discriminatory, abusive, or obstructive impedes the fundamental goal of resolving disputes rationally, peacefully and efficiently. Such conduct tends to delay and often to deny justice.

Attorneys are privileged to participate in the administration of justice in a unique way, and are responsible to their own consciences, to their clients, to one another, and to the public to conduct themselves in a manner which will facilitate, and never detract from, the administration of justice.

A trial is a truth-seeking process designed to resolve human and societal problems in a rational and efficient manner. A lawyer's conduct should be characterized at all times by personal courtesy and professional integrity in the fullest sense of those terms. A judge's conduct should be characterized at all times by courtesy, patience, and fairness toward all participants. The courts belong to the people of this state. The guidelines are intended to facilitate access to the courts for the fair resolution of disputes, and should never be applied to deny access.

Application

The purpose of these guidelines is to provide lawyers, judges, and parties with a reasonable standard of conduct in judicial proceedings. However, these guidelines are not intended to homogenize conduct or remove individuality from the courtroom. To facilitate professional growth and foster voluntary compliance with these guidelines, the WSBA Court Congestion and Improvement Committee periodically reviews the guidelines. Comments are considered by the committee and changes are incorporated as needed.

All participants in judicial proceedings should voluntarily adhere to these guidelines. These guidelines shall not be used as a basis for litigation or for sanctions or penalties. Nothing in these guidelines supersedes or detracts from existing codes or rules of conduct or discipline or alters existing standards by which lawyer negligence may be determined.

Courtroom Decorum

I. *General Courtroom Conduct*

A. Always be prompt.

B. Stand when the judge enters or leaves the courtroom.

C. Do not make personal attacks on opposing counsel.

D. Do not interrupt. Wait your turn.

E. Enhancing courtroom decorum is a cooperative venture among bench and bar. It is appropriate to call to the attention of opposing counsel any perceived violations of these guidelines out of the presence of the jury.

F. After the court has ruled, ask the court's permission before arguing further.

G. Advise clients and witnesses of the formalities of the court, the appropriate guidelines, and any rulings on motions in limine. Encourage their cooperation. This applies both to attorneys and to pro se parties.

H. If there is a live microphone at counsel table, remember not to confer with others or rustle papers near the microphone.

I. Courtrooms equipped for videotaped reporting may require special precautions, such as remaining near a microphone.

J. Treat everyone in the courtroom with fairness, consideration, and respect. Refrain from conduct that discriminates on the basis of race, color, national origin, religion, creed, sex, age, disability, sexual orientation, or marital status.

II. *General Trial Conduct*

A. Offers of and requests for stipulations are appropriate to facilitate the presentation of a case, but should not be employed to communicate to the jury a party's willingness or unwillingness to stipulate.

B. During trial, maintain appropriate respect for witnesses, jurors, and opposing counsel, avoiding informality. Address adults by their titles or surnames unless permission has been given to use first names. Avoid referring to adults by biased and demeaning expressions or labels such as "girl," "gal," or "boy." Address jurors individually or by name only during voir dire.

C. Treat jurors with respect and dignity, avoiding fawning, flattery, or pretended solicitude. Suggestions regarding the comfort or convenience of jurors should generally be made to the court out of the jury's hearing.

D. During the opening statement and argument of opposing counsel, never inappropriately divert the attention of the court or the jury.

E. Avoid expressing an opinion to the jury about the testimony of a wit-

ness, a ruling of the court, or argument of counsel through exaggerated facial expressions or other contrived conduct.

F. When practical, give the court advance notice of any legal issue which is likely to be complex, difficult, and which you expect to require argument.

G. Do not argue the case in the opening statement.

H. Counsel should not express to the jury personal knowledge or personal opinions about the evidence.

I. Address your remarks to the court, not to opposing counsel except when extending necessary courtesies, e.g., thank you.

J. Only attorneys, parties, court personnel, and witnesses, when called to the stand, are permitted within the bar of the courtroom, unless otherwise allowed by the court.

III. *Examination of Witnesses*

A. When examining a witness, avoid undue repetition of the witness's answer.

B. Make objections for evidentiary reasons without delivering a speech or guiding a witness. Recapitulate testimony only as needed to put an objection in context.

C. If a witness was on the stand at a recess or adjournment, have the witness ready to proceed when court is resumed.

D. Attempt to anticipate witness scheduling problems and discuss them with opposing counsel and the court. Try to schedule witnesses in advance of trial.

IV. *Exhibits and Documents*

A. Premark exhibits with the clerk for identification prior to trial where appropriate. Hand all unmarked exhibits to the clerk for marking before using them in trial.

B. If practical, have photocopies of an exhibit for the court, opposing counsel, and the witness. Avoid illegible copies if possible.

C. Return all exhibits to the clerk at each adjournment.

D. Whenever referring to an exhibit, mention the exhibit number.

E. After an exhibit has been admitted, mark on it only with the court's permission. Avoid unnecessary markings. When referring to locations or features on exhibits such as maps or diagrams, indicate the locations by appropriate markings if they are not readily apparent from the documents.

F. Give to the clerk all papers intended for the court.

G. Show the proposed exhibit to opposing counsel prior to offering the exhibit in evidence.

V. *Scheduling*

A. When practical, consult opposing counsel before scheduling hearings and discovery appearances in an effort to avoid scheduling conflicts. Assert a scheduling conflict only if the requested time is not available, not to obtain any unfair advantage.

B. If opposing counsel fails promptly to accept or reject a time offered for hearing or discovery appearance, raises an unreasonable number of conflicts, or consistently fails to comply with this standard, agreement is not required.

C. Where time associated with scheduling agreements could cause damage or harm to a client's case, then a lawyer is justified in setting a hearing or discovery appearance without first consulting with opposing counsel.

D. Give notice of cancellation of appearances and hearings to all involved at the earliest possible time.

VI. *Preferences of Individual Judges*

Counsel are advised to determine the preferences of individual judges with respect to movement within the courtroom. Following are some examples of individual preferences.

A. Stand when addressing the court and when making objections.

B. Stand during opening statement and closing argument.

C. Approach the bench only with permission.

D. Maintain an appropriate distance from the witness and the jury.

E. In the presence of the jury, address the judge as "Your Honor."

VII. *Discovery*

A. Make reasonable efforts to conduct all discovery by agreement. Consider agreeing to an early voluntary exchange of information.

1. Comply with all reasonable dis covery requests in a timely manner.
2. Stipulate to facts unless there is a genuine dispute.

B. Conduct yourself in a professional manner and treat other lawyers, the opposing party, and all involved with courtesy and civility at all times. Clients should be counseled that civility and courtesy are required.

C. Be punctual in fulfilling all professional commitments and in communicating with the court and other lawyers.

D. Concentrate discovery responses on matters of substance and content, avoiding quarrels over form or style.

E. Clearly identify for other counsel or parties all changes made in documents submitted for review.

F. Fully respond to discovery, unless making a specific and clear objection warranted by existing law or a reasonable extension thereof. Do not produce documents in a manner designed to hide or obscure the existence of particular documents.

VIII. *Depositions*

A. Advise clients regarding appropriate behavior, attire and other matters involved with depositions and other proceedings.

B. Take depositions only when actually needed to ascertain facts or information or to perpetuate testimony.

C. Make only good-faith objections to discovery, and avoid objections solely for the purpose of withholding or delaying the disclosure of relevant information.



Seattle attorney ***Charles K. Wiggins*** *practices with Edwards, Sieh, Wiggins & Hathaway.*

CLE

Teaching Old Dogs New Tricks

by **Diane de Ryss**, Director of CLE

Seated in a conference room in downtown Seattle on a dreary November afternoon were a bankruptcy lawyer, a commercial litigator, a family lawyer, an environmental attorney, and about a half dozen others from across a broad spectrum of legal practices. They were deeply involved in a discussion, led by a construction law attorney, that went something like this:

> "Let's say your client is the Seattle Art Museum Board and they've decided *Hammering Man* should blend better with his surroundings. How many think you can tell them to go ahead and paint him beige?"
>
> A question is fired from the group: "What's the contract say?"
>
> "They have a bill of sale that says 'Sold to the Art Museum.'" The instructor counts hands and shows the tally on the overhead 11 - 4 in favor of advising the client to go ahead and paint. Next question on the overhead:
>
> "What if they want to move him?" Again the tally is made: 11-4 in favor of the move."Today's goal is to get all of you to agree on the correct answer. Let's talk about the 'moral' rights of an artist in his or her work. . . ."

What is this diverse group of attorneys doing? Despite the incongruity of the situation, these lawyers were bound by a number of common traits. They are among those attorneys who volunteer to speak for WSBA CLE seminars and who typically receive some of the highest evaluations from registrants. And they were sufficiently intrigued by the invitation to participate in a faculty training program that they gave up another day of billable hours.

A Dilemma Faced by Every Lawyer who has Taught CLE . . . and who Attends CLE

For the past year and a half, the WSBA CLE Committee and Department have been struggling with a central educational issue: CLE registrants always give the best evaluations when they can think,



participate, and get involved in a program. Listening to a straight lecture, while a good way to receive a quantity of information, doesn't usually achieve those other important educational goals.

Yet, with WSBA CLE faculty dominated by 500 volunteering speakers, the lecture remains the principle teaching tool used at seminars. Lectures are absolutely the most efficient to prepare. That streamlined preparation is a decided attraction for the volunteer who, having agreed to speak, must still face demanding clients, billable-hour requirements, and a family waiting at home for attention.

The question for WSBA CLE was clear: is it possible to marry two seemingly contradictory goals—efficiency for the volunteers and interactive education for the registrants?

The answer to that question is a resounding "Yes!" On November 11 WSBA CLE launched its first Faculty Training Program designed specifically to bring those two competing forces together.

"It Will Never Work When There are 150 Lawyers in the Room."

The 20 or so lawyers who attended the November program shared a commitment to CLE—and a healthy amount of skepticism.

Dr. Gordon Zimmerman and Alayne Casteel, the two guest instructors teaching this inaugural course, were peppered with tough questions and comments throughout the first hour. "Won't interactive learning work only if it is a skill you're trying to teach?" "How can you possibly teach black-letter law without straight lecturing?" "Maybe it would work with 20 people in the room, but it is impossible with 150 lawyers in the room."

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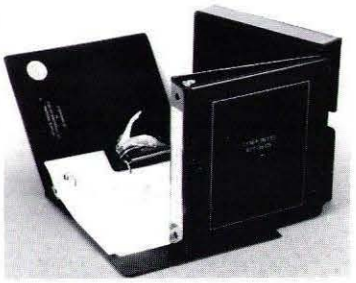
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Zimmerman and Casteel didn't flinch. They've heard these kinds of comments before: from judges whom they have guided through faculty training at the National Judicial College in Reno, from experienced litigators whom they've trained for the National Institute of Trial Advocacy, and from lawyers, court managers and other professionals who have attended their workshops.

They responded to that skepticism and laid out the building blocks for effective lecturing. The keystone: Good teaching is not about what you decide to teach. It's about figuring out what participants will learn, do or think when you are done. As one participant commented at the end of the course, "I learned to focus on learning objectives and let those objectives drive the course."

That shift in direction was a 180-degree turn from the usual approach lawyers take in preparing a presentation. The usual question "what will I cover?" was transformed into "what will they learn?"

"Will the Lawyers in the Back Row Please Fold Up Their Newspapers?"

The morning session, spent on core techniques, also served as a model of how to bring participants into the learning process. Zimmerman and Casteel posed questions to the group about how each of them learned and challenged them to explain why teachers even exist. After all, we can read 800 words a minute but can only speak or hear 200 words a minute. They played a 15-second game asking participants to decipher a visual puzzle—forcing them to consider the value of shifting their perspectives.

Having successfully flipped everyone's view to focus on learning objectives rather than topic coverage, Zimmerman and Casteel then had participants articulate learning objectives for specific topics the participants would present that afternoon. They challenged the group to structure the course tightly around those specifics. They also invited them to give up the control a straight lecture offers and develop techniques that prompt audience participation and quality learning.

Participants soon began to realize the objectives outlined on the invitation they had received from the CLE Department weren't just hype. They were grasping the central learning objective driving this course: How to really teach a tough audience and keep them interested and attentive. Or as was posed in the description of the program: "Can you make the lawyers in the back row fold up their newspapers?"

A few tricks of the trade were revealed along the way. In discussing the risks of interactive lecturing, Casteel encouraged participants to be courageous. "If you pose a question and the room is quiet, don't be afraid to wait them out. If you cave in, they'll know you'll always do that and you'll do the work for them."

Having spent a morning laying the groundwork on the rationale, techniques and goals of interactive lecturing, Zimmerman and Casteel put the group to work. Armed with a sandwich, blank overhead transparencies, and some notes from a prior or upcoming presentation, each participant began preparing a roughly 10-minute segment of a presentation. They were required to use one participatory technique and one transparency on the overhead projector.

"How Many Think the Seattle Art Museum Could Paint *Hammering Man* Beige?"

The lawyer who challenged the group with questions on the *Hammering Man* was trapped by his own success. Having successfully taught ten minutes on the seemingly dry topic of copyright law, he found the participants wanted to hear more. They had forgotten where they were.

Time after time, during the afternoon spent on presentations and critiques, lawyers found themselves forgetting their role as attorneys in a faculty training course and drawn into the topics taught: Covenants not to compete, whether to arbitrate or mediate a family law case, tax issues for limited liability companies, organizing for trial. . . .

> Take a piece of paper and draw a line down the middle. Write down these documents: a letter from a key employee of the defendant, the answers to interrogatories, the investigator's report.
>
> Where do you tell your paralegal to file each of those as they come in? Write that down. Now list where you would put those in your trial notebook.
>
> Are the names of the file and the sections of your trial notebook different for each document? Then, you're not organizing for trial from the outset of your case. And you're doing too much work because you'll have to organize twice. Think about organizing by witness.

The Tip of the Iceberg

During the coming year, WSBA CLE will be sponsoring at least two other faculty training sessions, intending to reach 80 - 100 lawyers this first year. While that is only about 20 percent of the 500 lawyers who volunteer each year, it is viewed as an important step forward. The current CLE Committee chair J. J. Leary comments: "WSBA CLE is now operating under a defined mission statement with a specific set of long-range planning objectives. One of those objectives is for 50 percent of those who teach at our seminars to have attended our faculty training program. We're to reach that goal by the year 2000. We have an excellent program underway to achieve that objective."

Both J. J. Leary and last year's CLE Committee Chair Tom Russell were among the participants at the inaugural program. During the prior year, Russell was instrumental in leading the CLE Committee toward faculty training and advising the CLE Department as the project was brought to completion. Having worked with Gordon Zimmerman at the National Judicial College, Russell says "I count myself among those that have been Zimmerman-ized—and have benefited greatly from that experience." J. J. Leary echoes his enthusiasm. "I came a skeptic— I left a believer."

CAMERAS IN COURT

Pro Bono videotape production called invaluable in 100-year sentencing decision

Although the use of videotape in the courtroom is becoming more and more commonplace, the impact of a dramatic 34-minute videotape during the November sentencing of Seattle stabbing victim Connie Freeburn's attacker led to the heaviest sentence for a nonmurder crime in Washington's history. Freeburn was raped, robbed and stabbed more than 20 times with a screwdriver on May 7, 1994, leaving her with brain damage and physical disability.

The videotape, produced pro bono by ProVideo Productions Inc. of Seattle, played a major role in King County Superior Court Judge Richard Jones' decision to impose a 100-year sentence on defendant Kevin Smith, observers said. As the judge and the victim's family and friends watched in horror, Connie Freeburn expressed her anguish by reenacting the

stabbing attack by using her fist and crying, "No! No!" The videotape shed light on how Freeburn's life has changed as she struggles to recover, and it includes interviews with Freeburn's doctors, a physical-therapy session and photographs of her life before the attack. Though such "day-in-the-life" videos are common in personal injury litigation, the Freeburn case marked the first use of videotape in a criminal sentencing.

King County Deputy Prosecutor Kathryn Goater approached the company about the job after hearing about ProVideo's reputation for "day-in-the-life" video projects. The company decided to produce the entire tape, valued at approximately $5,000, free of charge.

"The videotape was absolutely invaluable to this case," commented Goater. It brought Connie to the courtroom and allowed her to tell her story. The impact of Connie on videotape was enough to convince the judge the 100-year sentence was justified."

ProVideo Production's Chris Hazelmann was in the courtroom when the video played.

"Even though Connie is only capable of speaking a few words, the videotape allowed her to have a presence in the courtroom," he said. "It was tough to watch, especially for Connie's family and friends. But when the judge made his decision, it was a good feeling to know the video played a big part in justice being served."

As the only company to acquire actual footage of Connie since her attack, ProVideo was called on by local media for copies following the judge's decision. In addition to being used for virtually all of the local television news coverage—with the exception of some courtroom footage—the videotape was also used to obtain additional funding for the Freeburn family and Connie's medical expenses.

The company also recently completed an extensive round-the-clock documentation of the infamous Kingdome tile removal project.

ATTORNEY DISCIPLINE

Barrie Althoff named WSBA Chief Disciplinary Counsel

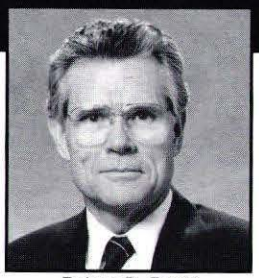
Barrie Althoff of Seattle was named Chief Disciplinary Counsel for the Washington State Bar Association November 9 by Dennis P. Harwick, Executive Director. As Chief Disciplinary Counsel, Althoff will head the WSBA's Legal Department—the group that investigates and prosecutes allegations of professional misconduct in the Washington legal profession.

Althoff has practiced law for 21 years—14 in private practice and the last seven in the Seattle office of the Securities and Exchange Commission, where he was Chief Enforcement Attorney. Before joining the SEC, he was a partner in the Seattle law firm of Foster Pepper & Shefelman. He is admitted to practice law in Washington and New York, and before the U.S. Supreme Court and numerous other federal courts. He received his law degree from Columbia University and has undergraduate and master's degrees from both Cambridge and Fordham universities.

"Mr. Althoff was the unanimous choice of all those involved in the search process," Harwick said. "His extensive experience in investigating and prosecuting complex violations of federal securities law, coupled with his significant private-practice experience, made him an ideal candidate. That experience was enhanced by Mr. Althoff's experience in supervising and managing interprofessional groups of attorneys, accountants and legal assistants." Althoff joined the WSBA staff on a full-time basis December 12.

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Lindsay T. Thompson,
Editor, Bar News

Seattle, December 2-3, 1994

Present: The President and Board of Governors. *Also Present:* Judy Andrews (King County Bar Assn. Young Lawyers Division); Thomas A. Campbell (Washington Assn. of Criminal Defense Lawyers, Friday); Jesse R. Castro (Filipino-American Legal Assn. of Washington); Barbara Clark (Legal Foundation of Washington, Friday); Bob Cole (WSBA General Practice Section); Judge Mary F. Gallagher Dilley (Administrative Law Judges Assn., Friday); Judge Judith R. Eiler (South King County Bar Assn., Saturday); Evelyn Fielding (Government Lawyers Bar Assn.); Dennis P. Harwick (WSBA Executive Director); Jim Kaufman (Washington Assn. of Prosecuting Attorneys); Colleen Kinerk (Washington Women Lawyers); J. Richard Manning (King County Bar Assn.); Judge Charles W. Martel (Superior Court Judges Assn.); Narda Pierce (Attorney General's Office); Jane Rhodes (South King County Bar Assn., Friday); Michele Sales (Legal Foundation of Washington, Saturday); Judge Janice Shave (Administrative Law Judges Assn, Saturday); Bradford C. Steiner (WSBA Young Lawyers Division); Lindsay T. Thompson (*Bar News* Editor); Sandy Watson (Washington Assn. of Municipal Attorneys); Judge Walter E. Webster, Jr. (Court of Appeals); and Robert D. Welden (WSBA General Counsel).

President's Report: President Ron Gould gave a detailed report of his work over the previous six weeks, calling on governors from time to time to expand and supplement his remarks. He told the Board that the Superior Court Judges Association's Judge-President, Evan Sperline, told him the Association considered the new courtroom decorum guidelines (see page 25, this issue) in October, liked them, and recommended them to all superior court judges for consideration.

Pro Bono: Does It Count Or Doesn't It?: During the president's report, he discussed the WSBA Legal Aid Committee's "Law Firm Challenge," a declaration of purpose for law firms to be urged to adopt. Governor Peter Ehrlichman wondered if the challenge, a commitment to perform volunteer legal services for the poor, was too broad—or narrow—in its definition of volunteer legal services: "activities of the firm undertaken normally without expectation of fee and not in the course of ordinary commercial practice and consisting of delivery of legal services to persons of limited means or to charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; (ii) the provision of legal assistance to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights; and (iii) other activities defined as 'public-interest legal services'" in a 1992 Board of Governors resolution.

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A lot of lawyers provide free legal services in areas not encompassed by the Challenge, he said. They're likely to read into this Challenge document that their sorts of work don't count any more. The prevailing view was that the Board is simply making services to the poor a priority among all types of free legal work lawyers do, and the Challenge was approved.

Nonlawyer Law Practice Legislation: The president also reported receipt of a letter from Attorney General Christine Gregoire expressing concern that the new WSBA Task Force on Nonlawyer Practice will be too little, too late in the face of an expected push to open up legal services to nonlawyers in the 1995 Legislature. The Task Force will be asked to come up with a plan of action pronto. The Board also added the president of the Administrative Law Judges Association to the Task Force, noting that many people appear before state administrative tribunals without lawyers.

Presidential Initiatives: The president told the Board his initiative on part-time employment and family leave model leave policies for law firms is out for comment by interested groups; that Governor Mary Fairhurst's Long-range Planning Committee has mapped out a strategy for its work; and that Governor Steve Toole is busy with Board outreach to minority and specialty-bar associations.

Other President's Report Items: The president announced the Board will meet with the Supreme Court in Olympia in January, and that liaisons will be allowed to attend. He appointed attorney Tim Weaver to be WSBA liaison to the Judicial Conference of the United States, and he called for more outreach by the bar to prosecutors after a meeting with the prosecutors' association. He and Governor Linda Dunn announced that the LASER program, designed to help teach high school students mediation skills in the hope they'll stop shooting each other, has gotten a $27,000 grant from the City of Seattle. The president concluded by noting that he had speeches scheduled before the Thurston, Whatcom, Walla Walla and Skagit County bars and is willing to speak where asked.

Executive Director's Report: Following up on the WSBA's October 28 orientation for committee chairs, Dennis Harwick said an ad hoc group composed of Ron Gould, Governor Pat Williams and WSBA Communications Director Mary Elizabeth St. Clair will look into ways to help committees with large memberships prune nonparticipants. He reported that the WSBA's Continuing Legal Education programs attracted more than 10,000 participants for the first time in 1993-94. Other parts of his report come up later in this one.

Rules Changes Considered to Create new Categories of Lawyer: The Board considered a proposal to allow lawyers admitted in other states to be admitted on motion (that is, no bar exam) in Washington to work as in-house counsel for companies here. President Gould said the rule will make Washington more competitive in attracting new companies if their house counsel don't have to sit another bar exam. Dennis Harwick told the Board Idaho has such a rule, and a side benefit has been that it draws house counsel into bar association activities where, before, they had been excluded. "They bring a lot of contributions to the general bar." Theresa Szeliga and several other members of the WSBA Corporate Law Department Section endorsed the idea.

The Board also considered a proposed change to APR 8 to allow older lawyers to assume house counsel or emeritus lawyer status. It would allow such lawyers to keep a hand in practice by working for legal services or other such programs under the supervision of an active attorney, and waive the annual CLE requirements. Presently, lawyers who retire must either pay dues and go to CLEs like active-practice lawyers even though all many want is to "stay a lawyer" and not have to go on inactive status. Both proposals will be circulated for comment and considered at the March 31, 1994, Board of Governors' meeting.

The Board approved some technical corrections to the WSBA bylaws to fix an accidental omission in the 1993 revisions, and to restore the penalty provision for lawyers suspended because they don't pay the annual license fee.

Finally, the Board approved an amendment to RLD 2.4(d)(4) to give review committees in disciplinary cases authority to issue admonitions when considering grievants' protests of conditional dismissals of complaints.

Snapshot of Us: As of December 1, 1994 there were 19,089 active members of the WSBA and 2,122 inactive members, for a total of 21,136 members.

Sooner or Later They Had to Come up for air: The WSBA Governance Task Force, which has been running below radar for some months, popped up in the persons of its cochairs, Wayne Blair and Moni Law. They presented a preview of a projected preliminary report which will presage a final report, with or without, depending on the Board of Governors' wishes and timetable, all manner of Really Useful Appendices.

The Task Force will offer two models for change—an expanded Board of Governors with seats dedicated to various interest groups, and a 114-member, $283,000-per-year House of Delegates, at least 37 of whose members (and as many as 13 more) would be from King County. The Board, concerned (as its Budget & Audit Committee reported) with "the tendency of this task force to go on and on," told it to get the preliminary report done by January. If the Board wants the Task Force to do anything else helpful, it will tell them.

THE WELDEN (*read* "Well-done") REPORT

The editor having been called away by the press of business, "Ace" Welden, cub reporter, seized the opportunity to move into the plush surroundings of the press box for the remainder of Friday's meeting.

How can he be two places at once? General Counsel Welden was called upon to review the history that led to the adoption by the Supreme Court of APR 15, establishing the Lawyers' Fund for Client Protection to replace the WSBA's Client's Security Program. Although the Supreme Court adopted APR 15 establishing the Fund effective September 1, 1994, they have not approved the procedural rules for the Fund nor approved the recommended $10 assessment on all active bar members to finance the Fund. After discussion, it was moved and seconded to reaffirm the Board's support for APR 15, to "strongly support" the adoption of the recommended $10 assessment for 1995, and to approve the procedural rules. Governor Ehrlichman moved to amend to strike the reference to " 1995." That amendment failed by a vote of 9 to

2, and the Board unanimously passed the original motion.

Another proposed court rule revisited: Earlier this year, the Board proposed an amendment to APR 12, the Limited Practice Rule for Closing Officers, commonly known as LPOs (Limited Practice Officers) to require that their trust accounts be subject to the same types of IOLTA requirements as lawyers' accounts are. This was suggested by the Legal Aid Committee as a new source of revenue for underfunded legal-service programs available for indigents. Because this proposal met with significant opposition from the escrow and title industries, the Supreme Court invited briefs and oral argument on it. The WSBA was represented on a voluntary basis by Seattle attorney Charles K. Wiggins.

After oral argument, Acting Chief Justice Barbara Durham wrote to President Gould that a majority of the Court had decided to consider the proposed amendment in its normal GR 9 rule-making cycle, meaning that it would be published in the *Advance Sheets* in January for comment open to the end of April. If adopted, it would become effective September 1, 1995. Justice Durham also asked the Board to comment on how the proposed amendment could be clarified to make clear it applied only to funds held by closing officers when engaged in the practice of law. Acting Chief Justice Durham noted that "APR 12 should avoid even the appearance of violating the separation of powers doctrine" and not usurp the legislative function of regulating escrow and title companies, banks and financial institutions.

Wiggins and Legal Aid Committee member Ken Davidson appeared before the Board with a redraft of APR 12. Davidson said that the new draft would hold LPOs to the same standards as lawyers, and that it would apply other requirements of RPC 1.1 4 to LPO accounts, such as the one barring an LPO from removing disputed funds from trust as fees until the dispute has been resolved.

Wiggins also pointed out that the new draft makes clear that it is addressing only funds in accounts maintained by LPOs and does not attempt to regulate escrow or title companies.

After further discussion, the Board voted to recommend the adoption the proposed amendments to APR 12 by a vote of 10 to 1, Governor Ehrlichman abstaining.

Who judges the judges? Returning to the Board's agenda was the issue of whether the WSBA ought to be involved in rating candidates in contested appellate court elections and related issues. The WSBA Judicial Recommendations Committee had been asked to make recommendations, but it had responded that those were policy issues for the Board to determine. An ad hoc committee was appointed, chaired by Governor Steve Toole, who reported back to the Board with recommendations.

Currently, the JRC and the Board prepare a confidential standing list for the Governor of Washington of "well-qualified" lawyers seeking appointment to the Court of Appeals or the Supreme Court. Generally, the last several Governors have appointed appellate judges from the Board's list. Occasionally, a lawyer on that standing list will run for election to an appellate judicial office. The question

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is whether a candidate for elective office whose name is on the Governor's confidential list can state during the campaign that the Bar found him or her "well-qualified" for appointment. Apparently this occurred in a race where one candidate had received the Bar's blessing, but the other had never even applied. The ad hoc committee recommended that persons seeking the Bar's endorsement for appointment be required to sign an agreement not to use the confidential judicial appointment qualification in any future election campaign.

But the major issue was the question of rating candidates in contested elections. The ad hoc committee concluded that the WSBA should become involved in rating candidates for contested appellate judicial elections, and it recommended appointment of a committee to develop guidelines and questionnaires for rating candidates, as well as standard interview questions. Governor Handmacher immediately noted that what was being recommended was rating candidates for the Supreme Court, and that if the Bar came down on the side of a losing candidate, the Bar would be in danger of offending the persons in control of this organization. Executive Director Harwick joined in, noting that generally those state bars which have bad relations with their supreme courts are those where the bar rates court candidates. Governor Fairhurst said she had a concern about a mandatory bar rating any candidates in contested elections. Governor Ehrlichman said he envisioned a semi-autonomous rating board, along the lines of the Disciplinary Board, which might effectively do this.

The issue of confidentiality of ratings given for appointed positions was continued to the January Board meeting. The contested-election rating issue was continued to March.

Governor Toole then discussed another recommendation from the ad hoc committee that a committee be appointed to "study all issues related to creating, publishing and funding a voter pamphlet" on judicial candidates for contested appellate positions. The King County Bar is currently organizing such a study committee, and the ad hoc committee thought the WSBA should join in that effort. The Board approved creation of the committee. Treasurer Handmacher then asked where the money was coming from to fund this committee. After examining the purse strings, the Board decided to authorize the committee and then let them come to the Budget and Audit Committee and make their case for funding.

More on Youth Violence: The Board's day ended with another session on curbing youth violence (see "The Board's Work," *Bar News,* November 1994, p. 28). The Board met with a student from Cleveland High School in Seattle, who is part of a group called "Peace and Effect" which is trying to promote harmony among the various racial and ethnic groups in Seattle schools. Also joining the Board were a representative from the Seattle School District, a Seattle police detective, and two King County Superior Court judges. The message seemed clearly to be that the most effective way to get the message to students that there are alternatives to violence is for other students to tell them. The Board will continue to explore this issue as it relates to the role lawyers may fill in curbing youth violence.

WELDEN EXITS—THOMPSON REAPPEARS

Saturday morning Friday Harbor lawyer and WSBA Editorial Advisory Board Chair Charles Jackson asked the Board to approve the third edition of the *Bar News*'s Editor's Handbook. The Handbook, first compiled in 1986 and revised in 1988, is the *Bar News*'s bible, a collection of rules, admonitions and history designed to keep editors on the straight, narrow and well-behaved.

Jackson told the Board a batch of rules made irrelevant by technology and changes in the WSBA were thrown out of the third edition, but that added to it was an appendix containing resolutions and directives of the Board of Governors and EAB since 1972. In future, policies adopted will be added to the appendix without the necessity, imposed by the previous editions, of bringing the entire book back to the Board of Governors for approval.

The Board of Governors unanimously approved the third edition and then considered a request by WSBA Communications Director Mary Elizabeth St. Clair to be given a four-page section in the *Bar News* each month for stories about WSBA activities. She told the Board that while they had directed her to refocus the department's mission on communication with members year before last, they had given her no vehicle for doing so. The *Bar News* can't cover some types of WSBA events because the editor is (a) the whole editorial staff, and (b) a practicing lawyer. In effect, the idea is to create a new means of communicating directly with WSBA members without the perceived filtering effect of having to deal with the *Bar News* editor.

Governor Jim Handmacher recalled that the Budget & Audit Committee had heard about this idea a year ago in the sunset review hearing on the *Bar News*. He thought, and several other governors agreed, that St. Clair should develop and figure the cost of a concrete proposal, run it by the *Bar News* editor and the Editorial Advisory Board for their approval, and then bring it to the Board of Governors. The matter will be taken up again in March.

***Coming Legislation*:** WSBA Legislative Committee chair Pat Aylward and a pack of colleagues presented the first cut of bills the Board was being asked to sponsor in the coming legislative session: some 400 pages of material (added to the 366 in the governors' regular briefing book for the meeting).

In brief, the Board approved having the

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WSBA support UCC amendments to correct other parts of the Uniform Commercial Code as they relate to Article 2A (that's Leases, all of you who didn't pay attention in class). After a presentation by Cam DeVore, they endorsed amendments to the Corporations Act (RCW Chapter 23B), revising the definition of "distribution" and amending the deadlock provisions to implement court decisions, and making some technical amendments to other sections. Dean Butler obtained the Board's approval of changes to RCW 6.15.020 to make clear that under Washington law a non-account holder can dispose of his or her one-half community property share of an IRA by will; of changes to the Uniform Limited Partnership Act (RCW Chapter 25) to adjust the provisions for withdrawal by a limited partner to comply with IRS views on table interests arising therefrom; and to amend RCW 83.100.070 to limit the maximum penalty for late filing of state estate tax returns to the lesser of 25 percent of the tax due or $10,000.

Don Percival presented technical corrections to the Washington Limited Liability Company Act passed last year. The Board supported the legislation 8-1, Governor Ron Perey voting no because he had not had a chance to study it.

Doug Lawrence obtained BOG support for amendments of the RCW Chapter 11.100 to bring it into conformity with the similar provisions of the Uniform Prudent Investor Act.

The Board voted to oppose the current incarnation of a bill to revise the duties and liabilities of real estate brokers virtually out of existence. Aylward told the Board talks are underway to effect a compromise, but on a motion by Ron Perey the Board chose to oppose it as it stands. If something new comes up, they'll look at it later.

Steve Tubbs and Doug Walsh presented proposed legislation to make the unauthorized practice of law a per se violation of the Consumer Protection Act. They noted that the Legislature has already done this for scores of other activities, many of considerably less significance than someone practicing law without a license. They pointed out this plan will make self-help possible, easing the burden of prosecutors who had trouble justifying going after crimes like this when violence and drugs are perceived by the public as much greater priorities. The Board agreed, and it voted to support the bill.

The president then asked if members of the Board thought the WSBA should take a position on tort reform legislation, given its potential for divisiveness among lawyers. After some discussion pro and con, the Board authorized the Legislative Committee to study the bills and make recommendations; the Board will decide what, if anything, to do then.

The Board also authorized WSBA lobbyist John Fattorini (another sighting) to push for a rollback of as much of the last session's B&O tax increase on services as he can get. Fattorini told the Board other areas of coming controversy include changes in foreclosure laws proposed by the Uniform Laws Commission ("a bill so weird people are calling for the abolition of the ULC"); judicial election reform; and a possible attack on indigent legal services providers' funding. He described the incoming House Judiciary Committee as significantly different from anything we have seen in a long time.

Wrap-up in Seattle: In other action, the Board approved the nomination of Spokane lawyer Carol Baker to the Limited Practice Board; approved the appointment of Seattle lawyer Tom Wales as chair of the WSBA Corrections Committee; heard a report on the activities of the King County Bar Association from its president, Mary Wechsler, and Executive Director, Alice Paine, and lunched with officers and trustees of the King County Bar Association, Washington State Trial Lawyers Association, and Loren Miller Bar Association. The Board heard a report from Professor and Associate Dean Stewart Jay of the UW School of Law on its plans to build a new law school. Governor Vickie Norris said her Task Force on Lawyer Qualifications is coming closer to a report, and the president announced he is still opposed to the articling of newly admitted lawyers. The subject will be put on the agenda for March 1995.

Lawyers' Assistance Program Director Barbara Harper gave the LAP report for its seventh year of operation.

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Notices of Interest to WSBA Members

WSBA Nondisciplinary Notices

Interim suspension: Spokane lawyer **Ronald D. Kappelman** (WSBA #12565, admitted 1982) has been ordered suspended pursuant to RLD 3.1 by order of the Washington Supreme Court dated October 6, 1994, effective immediately, pending the outcome of disciplinary proceedings.

Kappelman pled guilty to three counts of knowingly and unlawfully distributing cocaine in *United States v. Ronald D. Kappelman*, U.S. District Court for the Eastern District of Washington at Spokane, Cause No. CR-94-201-JLQ.

Interim suspension is pursuant to RLD Title 3 and is not a disciplinary sanction.

WSBA Disciplinary Notices

Censured: Seattle lawyer **Brian K. Leonard** (WSBA #18087, admitted 1988) was ordered censured by the Disciplinary Board on September 23, 1994, after a hearing, and based on the Hearing Officer's recommendation of a censure. As set out in the Hearing Officer's Finding and Recommendation, Leonard represented clients in a suit against several defendants. He met with two of the defendants, who he knew were unrepresented, at their home. He took his receptionist with him to witness statements made by the defendants. During the meeting, Leonard obtained a signed, written statement from the defendants. At the end of the meeting, he personally served the defendants with a Summons and Complaint.

Leonard did not adequately inform the defendants, either before or at the start of the meeting, that they were named as defendants in the lawsuit. The defendants' behavior during the meeting was totally inconsistent with that of people who knew they were defendants in a lawsuit. Leonard reasonably should have known that the defendants misunderstood his role in the plaintiff's suit against them, and he had an obligation to clarify his role.

The hearing determined that Leonard's conduct in failing to adequately inform the defendants about his role as the plaintiff's lawyer in a suit against them, in failing to make reasonable efforts to correct the defendants' misunderstanding about his role, and in failing to timely inform the defendants that they were named as defendants in the lawsuit, violated his oath as a lawyer, violated RPC 4.3 regarding dealing with unrepresented persons, and violated RPC 8.4(d) prohibiting lawyers from engaging in conduct that is prejudicial to the administration of justice.

Suspended: Seattle lawyer **Kenneth J. Cusack** (WSBA #17650, admitted 1988) was ordered by the Washington Supreme Court to receive reciprocal discipline pursuant to RLD 12.6, in the form of a sixty (60)-day suspension commencing on July 3, 1994, and ending September 3, 1994.

The reciprocal discipline is based on the June 3, 1994, order of the Supreme Court of the State of Alaska approving a stipulation for discipline by consent, in which Cusack agreed to be suspended from the practice of law in Alaska for a period of six (6) months, with all but sixty (60) days suspended. The discipline was imposed for violation of Alaska's Disciplinary Rules of the Code of Professional Responsibility: DR 1-102 (a)(4) (prohibiting conduct involving dishonesty, fraud, deceit or misrepresentation) and DR 6-101 (A)(3) (prohibiting neglect). Cusack violated DR 1-102 (A)(2) through his intentional deception of his clients concerning the status of their case and DR 6-101 (A)(3) through his neglect of an insurance case. These violations occurred while he practiced in Alaska.

Suspended: Seattle lawyer **David E. Grashin** (WSBA #19609, admitted 1990) was ordered by the Washington Supreme Court to receive reciprocal discipline pursuant to RLD 12.6, in the form of a nine (9)-month suspension commencing May 1, 1994.

The reciprocal discipline is based on the March 31, 1994, order of the Supreme Court of the State of Alaska approving a stipulation for discipline by consent, in which Grashin agreed to be suspended from the practice of law in Alaska for a period of nine (9) months. The discipline was imposed for his violation of DR 5-101 (A) of Alaska's Disciplinary Rules of the Code of Professional Responsibility by preparing and having his clients sign documents conveying interest and title to a condominium to himself without

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advising his clients of the extent to which his own interests in the transaction might influence his legal judgment, and without first obtaining his clients' informed consent to proceed; DR 2-106 (A) by obtaining and refusing to reconvey title to real property having an assessed value between $31,300 and $23,500 in payment of $2,500 in attorney's fees owed; DR 9-102 (B)(4) by failing to properly pay or deliver to his client, as requested, property in his possession which the client was entitled to receive; DR 1-102 (A)(4) by making false or misleading statements concerning the amount of attorney's fees owed and the manner in which representation was terminated; and DR 6-101 by making false and misleading statements. These violations occurred while he practiced in Alaska.

Suspended: Richmond, Virginia lawyer **Patrick D. Killebrew** (WSBA #14665, admitted 1984) was ordered suspended by the Washington Supreme Court from the practice of law for two (2) years, to be followed by two (2) years' probation. The effective date of the suspension is retroactive to June 29, 1993, the date of the commencement of Killebrew's interim suspension pursuant to RLD 3.1. The Court's order also contains conditions for his reinstatement to the Washington State Bar Association. The discipline is based upon Killebrew's 1992 felony conviction for possession of a Schedule I controlled substance. His arrest and conviction occurred in Virginia.

Disbarred: Oroville lawyer **William E. Garnet** (WSBA #7628, admitted 1977) was ordered disbarred by the Washington Supreme Court on September 29, 1994. The order of disbarment, which followed an order of default, was based upon Garnet's noncooperation with the Washington State Bar Association, deficiencies in the maintenance of his trust account and failure to file trust account affidavits, practicing law while suspended due to nonpayment of dues, neglecting client matters, making material misrepresentations to clients and others, failure to communicate with clients, failure to act with competence and diligence, and engaging in conduct demonstrating unfitness to practice law.

Disbarred: Seattle lawyer **Paul S. Ritchie** (WSBA #17894, admitted 1988) pursuant to a stipulation, was ordered disbarred by order of the Washington Supreme Court dated October 20, 1994. The discipline is based on Ritchie's stipulation that disciplinary proceedings would result in finding that he had misappropriated from his trust account the funds of nine clients totaling over $120,000, of which approximately $86,000 remains unreimbursed. When the misappropriations were discovered in June 1993, Ritchie transferred to inactive status with the Washington State Bar Association until the disciplinary proceedings were resolved. Ritchie is the subject of pending criminal charges in King County Superior Court.

Disbarred: Pursuant to a stipulation, Leavenworth lawyer **Tanya Pashkowski** (WSBA #17817, admitted 1988) was disbarred by order of the Washington Supreme Court on November 10, 1994, effective immediately. The disbarment arose from Pashkowski's misappropriation of funds from five clients, in violation of RPCs 1.14(b)(3), 1.14(c), 8.4(b) and 8.4(c). She also negotiated a check with a forged endorsement, in violation of RPC 8.4(b) and 8.4(c), and failed to maintain complete records of client funds, in violation of RPC 1.14(b)(3). The Supreme Court ordered that Pashkowski pay costs and expenses of $5,002.53, including audit costs.

Public Notices

Announcement of Mandatory Changes to the Domestic Relations Pattern Forms

The Office of the Administrator of the Courts published notice of a number of changes to Domestic Relations Pattern Forms in the November 11, 1994, issue of the *Advance Sheets*. The memos, which carry the full text of the changes as well as the forms, are available on-line on the WSBA's L.A.W. BBS computer bulletin board and by phone from the OAC forms line at (206) 705-5328. Questions may be directed to Bradley J. Hillis, legal analyst, at (206) 357-2128.

Forms affected by the changes are the decree of dissolution, temporary order (parentage), findings of fact and conclusions of law (parentage), parenting plan (parentage), residential schedule (parentage) and order of child support.

Attorney General's Office Opinion Released:

Wildlife - Claims against state - Risk management - Limitations on state's liability for elk and deer damage.

The Washington Attorney General has issued an opinion in response to a question posed by the Department of Wildlife, Robert Turner, Director. The question asked for the proper interpretation of statutes providing for the payment of claims for damages caused by deer or elk. Specifically, the Attorney General was asked to advise whether the limit of $2,000 on the amount which may be paid for a claim for damages caused by deer or elk applies only to those claims approved by the director of the department, or whether the limit continues to apply when the claim is subsequently processed by the Risk Management Office under RCW 4.92.040(5).

Synopsis of answer: In allowing claims against the state for damage caused to

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property by deer or elk, the Legislature has set a maximum limit of $2,000 per claim; this limitation applies both to claims settled and paid by the Department of Wildlife and to claims paid by the Legislature upon recommendation of the Risk Management Office. Cite as AGO 1994 No. 19. Narda Pierce, Solicitor General, is author of the opinion.

Annual Military Law Update Announced:

The 6th Judge Advocate General Detachment (LSO), Fort Lawton, Washington, announces that the 20th annual onsite continuing legal education program will be held at the University of Washington School of Law, Room 109, 1100 N.E. Campus Parkway, Seattle, on January 21 and 22, 1995, beginning at 7:30 a.m. each day. The military law seminar is open to all legal officers, both active and reserve, of all service branches and the National Guard. Civilians with an interest in military law are also invited to attend.

Anyone interested in attending should contact Doris Burre at (206) 281-3002. There is no registration fee; however, seating is limited. CLE credit has been requested from the Washington State Board of Continuing Legal Education.

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 more than 175 videos. A catalog of titles is available from the OAC; call Judicial Education at (206) 753-3365, ext. 3248, for a copy.

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

ANTENUPTIAL CONTRACTS

Premarital and marital contracts: a lawyer's guide to drafting and negotiating enforceable marital and cohabitation agreements. Chicago, IL: Section of Family Law, American Bar Association, ©1993. Pp. 242. ***KF529.P74* 1993**

ARCHITECTURE AND THE PHYSICALLY HANDICAPPED

Senn, Mark A., Barbara M. Japha, Karen Samuels Jones. *ADA's effect on the landlord/tenant relationship: special report*. New York: Wiley Law Publications, ©1993. Pp. 117. ***KF5709.3.H35S46 1993***

CHURCH AND STATE

Menendez, Albert J. *The December wars: religious symbols and ceremonies in the public square*. Buffalo, NY: Prometheus Books, 1993. Pp. 170. ***KF4865.M46 1993***

COMPUTERS

Skupsky, Donald S. *Legal requirements for microfilm, computer and optical disk records: evidence, regulation, government and international requirements*. Denver, CO: Information Requirements Clearinghouse, ©1994. Pp. 523. ***K564.C6S58 1994***

DIVORCE—TAXATION

McCaffrey, Carlyn S. *Structuring the tax consequences of divorce and separation*. Chicago, IL: Commerce Clearing House, ©1992-. 1 vol. (loose-leaf) ***LL***

FIREARMS

Malcolm, Joyce Lee. *To keep and bear arms: the origins of an Anglo-American right*. Cambridge, MA: Harvard University Press, 1994. Pp. 244. ***KF4558 2nd M35 1994***

INTELLECTUAL PROPERTY

Branscomb, Anne W. *Who owns information?: from privacy to public access*. New York, NY: Basic Books, 1994. Pp. 253. ***KF2979.B67 1994***

PRIVATE COMPANIES

Callison, J. William and Maureen A. Sullivan. *Limited liability companies: a state by state guide to law and practice*. St. Paul, MN: West Publishing Company, 1994. Pp. 710. ***KF1380.C35 1994***

VIDEO TAPES IN COURTROOM PROCEEDINGS—UNITED STATES

Thaler, Paul. *The watchful eye: American justice in the age of the television trial*. Westport, CT: Praeger, 1994. Pp. 262. ***KF8725.T47 1994***

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

The average coupon equivalent yield from the first auction of 26-week treasury bills in December 1995 is 6.63%. ***The maximum allowable interest rate permissible for January 1995 is therefore 12%.***

Compilations of the average coupon equivalent yields from past auctions of 26-week treasury bills, and past maximum interest rates of the past 10 years appear on page 48 of the June 1994 *Bar News*.

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Davis, Wright, Tremaine (DWT) (206) 622-3150
Idaho Law Foundation (208) 342-8958
King County Bar Association CLE (206) 340-2579
Northwestern School of Law of Lewis & Clark College (503) 768-6642
National Business Institute, Inc. (715) 835-7909
National Education Network (NET) (800) 637-0020
National Employment Law Institute (NELI): (415) 924-3844
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 Criminal Defense Lawyers (WACDL) (206) 689-8500
Washington Association of Prosecuting Attorneys (WAPA) (206) 727-8202
Washington Defense Trial Lawyers (WDTL) (206) 233-2930; fax (206) 628-6611
Washington State Bar Association CLE (WSBA CLE) (206) 727-8202; fax (206) 727-8320
Washington State Trial Lawyers Association (WSTLA) (206) 464-1011, (800) 732-9251
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January 1995

4 Seattle: Tort Law Update (moderated video). *Sponsored by* WSTLA.

6 Seattle: ADA Update. *Sponsored by* WSBA CLE.

6 Seattle: Violence in the Workplace. *Sponsored by* WSBA CLE.

12 Seattle: How to Manage the Big Case. *Sponsored by* WSBA CLE.

12 Seattle: Premises Liability (moderated video). *Sponsored by* WSTLA.

13-14 Olympia: WSBA Board of Governors meeting.

15 Deadline for March 1995 *Bar News*.

19 Spokane: 17th Annual Insurance Law Seminars. *Sponsored by* WSTLA.

19 Tacoma: Law and Medicine Symposium. *Sponsored by* Pierce County Medical Society. *For information:* (206) 627-7137.

20 Kirkland: Employment Law by Plaintiffs' Lawyers for Plaintiffs' Lawyers. *Sponsored by* Washington Employment Lawyers Association. *For information:* (206) 224-5626.

20 Seattle: A Primer on Probate (5th in a basic-skill series). *Sponsored by* UW CLE.

20 Seattle: 17th Annual Insurance Law Seminars. *Sponsored by* WSTLA.

20 Seattle: Legal Foundation of Washington Goldmark Luncheon.

20 Seattle: How to Read Financial Information. *Sponsored by* WSBA CLE.

20 Spokane: How to Avoid Unenforceable Contracts. *Sponsored by* WSBA CLE.

20 Seattle: Separating the Diamonds from the Rough: How to Determine Whether to Accept a Case and What to do Before Filing Suit. *Sponsored by* KCBA.

20 Seattle: Real Estate Institute. *Sponsored by* KCBA.

20 Seattle: Attorney General's Training Center. Sponsored by UW School of Law.

21 Seattle: 1995 Water Law Symposium. Sponsored by UW School of Law.

21-22 Seattle: 20th Annual Military Law Update. Details in "Digest," this issue.

24 Seattle: Washington Tax-exempt Organizations. *Sponsored by* National Registry of CPE Sponsors/Lorman Education Services. *For information:* (715) 833-3940.

25 Tacoma: Conflict Resolution '95. *Sponsored by* the ADR Board and the Moot Court Board of Seattle University School of Law. *For information:* (206) 591-2915 or (206) 591-6312.

26 Seattle: Proceeds of Collateral Under Article 9 of the UCC. *Sponsored by* DWT.

27 Seattle: How to Avoid Unenforceable Contracts. *Sponsored by* WSBA CLE.

27-29 Professional Mediation Skills Training. Sponsored by UW School of Law.

28 Seattle: American Academy of Matrimonial Lawyers' Greatest Hits. *Sponsored by* UW School of Law.

February 1995

2 SeaTac: Sexual Abuse. *Sponsored by* WSTLA.

3 Olympia: Elder Law. *Sponsored by* WSBA CLE.

3 Seattle: Essentials of Real Estate. *Sponsored by* WSBA CLE.

3 Portland: 24th Annual Estate Planning Seminar. *Sponsored by* Northwestern School of Law of Lewis & Clark College.

3 Seattle: NW Regional Immigration Seminar. *Sponsored by* Amer. Imm. Lwyrs. Assn., WA Chapter/NW Imm. Rights Project. *Contact:* Susan Taylor, (206) 382-0906.

10 Seattle: Elder Law. *Sponsored by* WSBA CLE.

10 Olympia: Essentials of Real Estate. *Sponsored by* WSBA CLE.

15 Deadline for April 1995 *Bar News*.

16 Seattle: CLE on the Nontraditional Family. *Sponsored by* WSBA CLE.

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

17 Tacoma: WSBA Board of Governors meeting.

17 Seattle: Planning for the Disabled and/or Elderly. (6th in a basic-skill series). *Sponsored by* UW CLE.

23 Seattle: Perfection of Security Interests by Filing, UCC Searches and Discovery of Secret Liens. *Sponsored by* DWT.

24 Seattle: Commercial Litigation. *Sponsored by* WSBA CLE.

March 1995

10-12 Phoenix: Sunbreak Seminar. *Sponsored by* WDTL.

15 Deadline for May 1995 *Bar News*.

17 Seattle: Putting It All Together (7th in a basic-skill series). *Sponsored by* UW CLE.

20-24 Phoenix: WSTLA Spring Break. *Sponsored by* WSTLA.

23 Seattle: Professional Seminar. *Sponsored by* WDTL.

30 Seattle: Survey of Restatement of Suretyship. *Sponsored by* DWT.

31-April 1 Bellingham: WSBA Board of Governors meeting.

April 1995

15 Deadline for June 1995 *Bar News*.

15 Seattle: New Defense Lawyer Workshop. *Sponsored by* WDTL.

27 Recent Developments and Assorted Issues in Real Estate and Construction Finance. *Sponsored by* DWT.

May 1995

18 Treatment of Unexpired Leases and Executory Contracts in Bankruptcy. *Sponsored by* DWT.

12-13 Spokane: WSBA Board of Governors meeting.

15 Deadline for July 1995 *Bar News*.

June 1995

15 Deadline for August 1995 *Bar News*.

16-17 Lake Chelan: WSBA Board of Governors meeting.

22 New Article 8 of UCC. *Sponsored by* DWT.

30 Seattle: Products Seminar. *Sponsored by* WDTL

July 1995

15 Deadline for September 1995 *Bar News*.

28-29 Winthrop: WSBA Board of Governors meeting.

August 1995

15 Deadline for October 1995 *Bar News*.

Committee Appointment Opportunities for WSBA Members

The Board of Governors of the Washington State Bar is called upon to make appointments to various boards, commissions and committees listed below. These vacancies are in addition to those on standing committees of the WSBA, 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 prior to 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 or residence are listed on the masthead of the *Bar News*.

Judicial Information System Committee (JISC): One Seat

(Call for applicants - April; Board action - June)

The three-year terms of James S. Turner (Bellevue) and William F. Baron (Seattle), who hold one seat jointly, expire July 31, 1995. The Committee is authorized under the Supreme Court's Judicial Information System Committee (JISC) Rules and RCW Chapter 2.56. Appointments must be of persons who have demonstrated an interest in, and commitment to, judicial administration and the automation of judicial systems and functions. The WSBA Board makes nominations for appointment by the Chief Justice. The Committee meets every other month for three hours. For information: Rick Coplen, Information Services, Office of the Administrator of the Courts, P.O. Box 41170, Olympia, WA 98504, tel. (206) 753-3365.

Commission on Judicial Conduct: One Seat

Call for applicants - March; Board action - May)

The four-year term of G. Douglas Ferguson (Everett) expires June 16, 1995. The four-year term of Margo T. Keller (Tacoma) expires June 16, 1996. The Commission is authorized under RCW Chapter 2.64. Members are eligible for appointment to one additional term, for a total of eight years' service. For more information: David Akana, executive director, P.O. Box 1817, Olympia, WA 98507, tel. (206) 753-4585.

JUVIS Advisory Committee: One Seat

(Call for applicants - November; Board action-January)

The term of James A. Doerty (Seattle) expires February 23, 1995. The Board assists the Office of the Administrator for the Courts in dealing with juvenile-criminal records. A familiarity with juvenile records and their uses in the criminal-justice system, as well as with computers, is recommended. Meeting expenses are paid by the OAC.

Statute Law Committee: One Seat

(Call for applicants - December; Board action - February)

The six-year term of Bernard J. Gallagher (Spokane) expires March 31, 1995. The six-year terms of Keith H. Campbell (Spokane) and James D. Hamilton (Vancouver) expire March 31, 1997. The six-year terms of Mary F. Gallagher Dilley (Seattle) and John G. Schultz (Pasco) expire March 31, 1999. The Commission is authorized under RCW Chapter 1.08. Five of its 12 members must be lawyers. It is the governing board of the Office of the Code Reviser, which serves as the bill-drafting arm of the Legislature and as the codifier and publisher of the *Revised Code of Washington*. The Committee meets four to five times per year; a per diem of $50 and travel expenses are paid by the Committee. For information: Dennis W. Cooper, Code Reviser, (206) 753-1440.

SHOULD THE MANDATORY DUES REFERENDUM BE ADOPTED?

YES

by **Howard K. Todd**

At the time of his death, Alva Long was circulating a petition which called for restrictions on the State Bar Association's use of the licensing fees, or "dues," it collects from its members. The restrictions he proposed were as follows:

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

Alva's purpose was twofold: first, to limit the use of funds raised under the government's regulatory authority to their appropriate public purpose; and second, to encourage the development of a voluntary bar association which would be more representative of the state's lawyers than the mandatory bar association has been.

His proposal was not unprecedented. Members of the District of Columbia Bar imposed similar restrictions on their association in 1980.[1] The Wisconsin State Bar was forced to change the way in which it funded its activities when a federal district court prohibited it from collecting mandatory dues for a period during the late 1980s.[2] Alva first introduced his proposal at a WSBA annual business meeting in 1992. He continued to promote it through a series of newspaper ads, personal appearances, and speeches until the day he died.

Alva's methods were unorthodox, but his message was simple. The Association would have to change, he said, if it were to be truly representative of the state's lawyers. Although he acknowledged the Bar's responsibility to uphold appropriate standards of practice, he was skeptical of the WSBA's commitment to the task, noting that it had assumed such various and conflicting roles that it was unable to handle any of them very well. He addressed his message to the members of the Association, urging them to reform it from within, while admonishing Bar leaders to recognize that it was vulnerable to legal challenges in court.

None of this was to deny that the state's lawyers have common interests, that they benefit from one another's society, or that they share a professional responsibility to the communities in which they live. Alva Long believed these things. He exemplified them in his professional life. But he did not consider them relevant to whether the state's regulatory authority should be used to fund the Bar Association's nonregulatory activities. An association which depends on state sponsorship is not independent, and Alva placed a high value on the Bar's independence. Moreover, an association which is assured of its members' involuntary financial support is less likely to address their fundamental concerns, and Alva recognized that the WSBA had grown increasingly distant from its members.

The Legal Community Has Changed

Washington lawyers were first required to belong to the Washington State Bar Association in 1933, when there were only about 3,000 of them.[3] There were no large firms, few "specialized" practices, and the canons of professional conduct were relatively uncomplicated. Lawyers had more in common with one another's professional interests. They had more in common with one another, period. Whatever justification there may have been for establishing a mandatory association, it was not a major undertaking. Annual dues were $5. The WSBA shared office space with the Seattle Bar Association and the state's Judicial Council. The first executive secretary was a former high school teacher. The WSBA was little more than a modestly funded association of like-minded professionals.

That situation has changed. There are now more than 18,500 lawyers admitted to practice law in Washington courts. Many of them do not live in Washington. Many of those who do are not practicing law, or are practicing part-time, or are in some other respects less committed to the profession than their predecessors were. Lawyers with active practices tend to identify with those who practice in similar fields, representing clients who are similarly situated. The bar is deeply fragmented, and the WSBA is, for the most part, less able to serve the needs and interests of the state's lawyers than the various specialty bars that have developed around the state.

There are exceptions, of course. The WSBA's practice sections are, essentially, specialty bars. They represent one of the most significant membership benefits the WSBA offers. Yet their importance reflects the overall lack of unity among the state's lawyers. Where once there was a general convention, open to all, there are now only mid-year conferences for those who are interested in various fields of practice. The state bar has become a collection of special interests rather than an association of like-minded professionals.

Special Interests Have Eroded the Bar's Unity

There is no denying that the State Bar Association has attempted to accommodate the various special interests which contend for its favor. That is the problem. The WSBA has lost sight of its members' common interests in the process of having accommodated one noisy constituency after another.

Consider the WSBA's professed commitment to self-regulation. Last year, the WSBA asked the American Bar Association to audit the state's lawyer discipline

program. The ABA recommended increasing the Bar Association's disciplinary staff. It also criticized the WSBA's adherence to a self-regulatory system, recommending a system of judicial regulation instead. Bar leaders might have responded to these recommendations in any number of ways, from rejecting them out of hand to funding additional positions in the disciplinary department. In the event, they acquiesced in the Chief Justice's decision to have a task force review the ABA's recommendations. So much for self regulation.

One might wonder why the WSBA had requested an evaluation of its disciplinary system in the first place. The answer lies in the fact that the members of the WSBA had just rejected a dues increase, and bar leaders were casting about for new reasons to justify increasing membership assessments. The ABA performed as if on cue. Its first recommendation was that the Washington State Bar Association approve a dues increase "earmarked for discipline."[4]

The task force appears to be carrying forward the same agenda, albeit under a different task. Shortly before his death, Alva distributed a letter which disclosed that a draft order had been proposed in the Supreme Court for "discussion purposes only," under which the Washington State Bar Association would be required to assess its members up to $115 apiece for lawyer discipline. The proposal appears to contemplate that the disciplinary assessment would be imposed on top of membership dues, as has already been arranged with respect to the Client Security Fund.[5] Since current membership fees are already sufficient to meet the Bar's disciplinary and other regulatory functions,[6] the proposed assessment would provide a windfall for the WSBA's non-regulatory programs. Or, as Alva said:

> It looks like the WSBA is trying to hang on to the money it collects from membership dues without using it for the kinds of things that justify making dues mandatory.

That may suit the interests of groups like the Young Lawyers Division, whose members are not required to contribute anything towards the annual $100,000+ appropriation disbursed in their name. It may suit the institutional interests of the WSBA itself, which continues to sponsor a CLE program despite the fact that it is largely duplicative of services available on the private market. And it may suit the interests of the various political and public-service groups who find the State Bar Association a convenient vehicle to convey their particular concerns to the Washington Supreme Court. But it has little to do with carrying out the membership's demand that dues be limited. And it has little to do with addressing the legal profession's responsibility to regulate itself.

The Bar's Regulatory Authority Is Limited

It is a measure of Alva's influence that the Board of Governors revamped its procedure for offering rebates on bar dues after Alva pointed out the disparities between the WSBA's program and constitutional restrictions on the use of mandatory dues for political purposes. That happened this fall, after Alva had presented his proposal to limit the WSBA's use of mandatory dues at the Association's annual business meeting. But the Board has yet to deal with Alva's constitutional arguments for limiting the WSBA's regulatory authority. These arguments derive from *Great Northern Railway v. Washington*, 300 U.S. 154, 81 L.Ed.2d 573, 57 S. Ct. 397 (1937), a case in which the United States Supreme Court held that members of a regulated industry cannot be required to pay more than the reasonable cost of their supervision and regulation under an exercise of the state's regulatory power. Alva entertained the quaint conceit that lawyers are as much entitled to due process and equal protection as railroads. It is the legal principle upon which his policy arguments are based.

Conclusion

Of course, there are all kinds of reasons why lawyers might choose to join a voluntary bar association. They include lawyers' economic interests, as well as any interests they may have in maintaining collegial relationships or working with other colleagues to improve the legal system. None of them requires a mandatory bar association. Alva's proposal allows plenty of time to make the plans necessary to continue those non-regulatory activities and programs that lawyers support. It also assures the continuation of all of the WSBA's regulatory activities and programs. The only programs and activities it jeopardizes are those that are neither regulatory nor likely to be approved of by the State's lawyers. That's a slender reed to justify the perpetuation of Washington's mandatory bar association.

Endnotes

[1] *See* 431 A.2d 521 (D.C. App. 1981).

[2] *See Levine v. Supreme Court of Wisconsin*, 679 F. Supp. 1478 (1988), rvrsd at 864 F.2d 457 (7th Cir., 1988).

[3] Historical references are based on A. Schweppe, "A Short History of the Washington Bar," *Washington State Bar News*, Dec. 1974, pp. 10-12.

[4] Peterson, Jan, "ABA Report on the Washington Lawyer Discipline System," *Washington State Bar News*, March 1994, p. 34.

[5] *See*, APR 15.

[6] According to the Executive Director, "the WSBA has never been in better financial shape." D. Harwick, *Washington Sate Bar News*, Sept. 1994, p. 15. This, at the conclusion of the first complete fiscal year *after* the dues increase was rejected.

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WSBA DEBATE

RESPONSE TO REFERENDUM PROPONENTS

by **Ronald M. Gould**

As president of the WSBA, I have been asked to comment on the potential referendum that is pending which was advanced by Alva Long, and the submission to the *Bar News* from Mr. Howard Todd. After Mr. Long's untimely passing, Mr. Todd agreed to provide the comments that had been anticipated from Alva Long.

First, I would like to say that I had great personal affection and respect for Alva Long, and I considered it a privilege to offer some comments at his memorial service. He was not perceived by me or other Bar leaders as a person making attacks on the Bar. Rather, he simply saw some of the issues differently, which was his privilege, and he didn't want all of us to take our positions and selves too seriously. I considered Alva Long a friend, having served with him on the Board of Governors, and I valued his advice. We often agreed, but also disagreed from time to time, as on this potential referendum. But this issue is not about Alva Long, nor about any personality. It is about how we as lawyers conduct our professional affairs in the state of Washington.

Accordingly, I would like to offer my comments in opposition to the proposed referendum, which—if advanced—would strip the WSBA of all power except for the authority to engage in admissions and discipline and related regulatory monitoring of CLE or trust accounts. It would leave the mandatory Bar a weak shell. It would destroy a WSBA structure that has developed over 100 years of service to its members and the public. The result urged by the referendum is neither required by law nor good policy.

The referendum's proposed limitation of WSBA functions to mandatory regulatory activities is neither required nor supported by the federal law of *Keller v. State Bar of California*, 496 U.S. 1 (1990), which provides that a mandatory bar association must provide a refund mechanism if it uses mandatory bar dues for political and ideological activities that are not reasonably related to regulating the legal profession or improving the quality of legal services. That case and its progeny assuredly do not provide that mandatory bar associations cannot use dues to serve their members and improve the administration of justice, to increase access to justice for the poor, to eliminate vestiges of discrimination or to engage in other purposes advancing the bar's contributions to justice and to public interests. There have, indeed, been a long line of cases following *Keller*, trying to identify activities that are "political or ideological" and not related to regulating the legal profession and improving the quality of legal services. A listing of cases and discussion dealing with *Keller* and its fine points were set forth in the September-October 1994 *Bar Leader*. Any of you interested in reviewing this line of cases can call me at (206) 583-8456 or Dennis Harwick at the WSBA (206) 727-8244, and we will send you a copy of the article. But I will not discuss the cases herein, because there is simply no support in them at all for the idea that mandatory dues can be used only for the technical regulatory functions of admissions, discipline, monitoring trust accounts and the like.

The 1937 *Great Northern Railway* case cited by Mr. Todd is demonstrably and totally inapplicable. It was decided long before *Keller*; it does not deal with bar associations; and it provides no persuasive support for the idea that the use of mandatory state bar dues for professional activities is unconstitutional when such activities improve the quality of legal services, aid professionalism, enhance the administration of justice, fight discrimination or further other such ends that help lawyers and the public.

It also seems to me that there is no strong precedent nationally for abandoning our mandatory bar, which is one of the best such bars in the country in terms of the quality of its programs, its staff and its lawyers' valued participation. Argument based on the Washington, D.C., Bar Association is dated. That bar is very different from ours. It does not represent a state. The D.C. Bar does not have responsibilities like those of ours based on Washington Supreme Court Rule GR 12. The activities of the Washington, D.C., Bar predate *Keller* and its progeny.

Neither is the reliance on the Wisconsin experience persuasive. Although the State Bar of Wisconsin converted temporarily to a voluntary bar, based on a federal district court ruling, that ruling was reversed by a federal appellate court, and the Wisconsin bar was reunified by order of its Supreme Court. There are 36 jurisdictions (states and territories), I understand, that have unified bars, while only 18 have voluntary bars, and two of these voluntary state bars, in Illinois and Tennessee, are now debating whether to become unified. In recent years, Hawaii converted to a unified bar, and both Wisconsin and Utah debated whether to be unified or voluntary and opted for unification. There is no trend to abandon unified state bars, and experience nationwide has shown that they are necessary and appropriate to advance the interests of the profession and the public.

Perhaps some members believe that a restriction of WSBA activities to mandatory licensing functions will limit dues; and, of course, many lawyers would appreciate paying less in mandatory dues to any organization. However, it is reasonable to anticipate that the long-range costs of a lawyer's life without a mandatory bar association performing legitimate functions would be greater. If the WSBA does not provide its traditional functions that aid the reputation of lawyers, improve the administration of justice and serve the public interest in the justice system, then other groups, such as the Legislature, will step in and fill the void. That would be more expensive than the dues paid at present to the WSBA. Moreover, the Legislature might seek to dictate such issues as mandatory pro bono work by lawyers, bonding requirements for lawyers with trust accounts, mandatory insurance requirements, and other measures that our members have felt were inappropriate and that were not implemented because of the Bar's self-governance.

Concerning our current and pending review of discipline in conjunction with our Washington Supreme Court, I believe that this cooperation is entirely appropriate. The WSBA operates under the Court's authority. The ABA initially came to visit us based on a joint invitation from the Washington Supreme Court, the Disci-

plinary Board and the WSBA, not solely at the WSBA's request. A joint task force to consider these recommendations is appropriate, and there is nothing wrong with the Bar and the judiciary working jointly to improve our system.

Even if there were, for the sake of argument, some additional cost to having a bar association perform functions beyond those strictly necessary to admit and discipline members, for several reasons it would be unwise to eliminate the WSBA's programs on a wholesale basis.

First, many WSBA committees, procedures and practices relate to improving the administration of justice. We have committees and sections working on issues and/or legislation relating to our justice system as well as proposing changes to court rules as changing times require them. It would be regrettable for the public if the WSBA were required to abandon these contributions.

Second, many WSBA programs have been aimed at helping young lawyers develop their skills and potential, and at eliminating discrimination and ensuring equal opportunity for all members of the Bar. The referendum's impact would disproportionately harm the young lawyers, women lawyers and lawyers who are members of racial minorities, all of whom are beginning—in larger and larger numbers—to take advantage of those programs.

Third, and perhaps most important, the referendum would eliminate WSBA programs that seek to enhance professionalism and attorney training at a time when we, the courts and the public need professionalism more than ever. Professionalism is more than just not committing ethical violations. It is setting and enforcing a high standard of honesty, civility, courtesy and integrity.

The constructive dissent of members is always useful and helps improve the organization. Please exercise your rights to communicate and to dissent by improving or eliminating particular programs, but not by seeking to eliminate totally the unified bar from all functions other than regulatory ones. There is no persuasive evidence suggesting that a voluntary bar can marshal the support to fulfill the members' needs statewide. No one knows what, if anything, would develop on a voluntary basis to replace what we would lose if the WSBA cut all nonregulatory programs.

The proposed referendum would require a limitation that is inconsistent with the Washington Supreme Court's Rule GR 12, which governs WSBA affairs. Many of the purposes set forth in the mandatory language of GR 12, and the activities specifically authorized by the Court, would be eliminated by a restriction of the WSBA to regulatory functions. GR 12 properly recites that the purposes of the WSBA shall include: "To promote and aid in the effective administration of justice," to "foster and maintain high standards of competence, professionalism and ethics among its members," to "promote the availability of legal services to all in need," to "carry on programs of legal research and education," to "provide a forum for the discussion of subjects pertaining to jurisprudence and the practice of law," to "foster camaraderie among members of the Bar Association and good will between the Bar Association and the public," to "promote the independence of the Bar Association and the judiciary of which it is a part," and to "promote the interests of the legal profession." These purposes could not be served under the proposed referendum.

The referendum would do nothing to improve the practice of law in our state. It would, to the contrary, eliminate the one organization that can speak positively for all lawyers.

I would like to express appreciation for our members who care enough about WSBA activities to argue any issue. Dissents about our rebate system focused my attention on that issue last year after I became president-elect, and they led to a reexamination of the rebate procedures we used. Although our procedure had been specifically affirmed in a federal court of appeals decision involving another bar association, the Board decided, as Mr. Todd mentions, to change the system this fall, so that members could hold back payment of specified dues that could not constitutionally be collected. I have no argument with the idea that Mr. Long's integrity and argument often have had a positive influence on the WSBA's activities, and some constructive changes have indeed been a tribute to his positive influence. But a referendum that would totally eliminate virtually all WSBA activities is not sound policy. It would, as a practical matter, eliminate the many positive benefits that our committees, sections and individual members provide through organized and unified activities. I ask each of you to support the basic premise that we can do more for ourselves as professionals and more for our communities by operating cooperatively. I hope that those who previously urged this referendum will think again and decide to join with us in positive activities relating to our policies, challenging particular programs if they wish, or suggesting other ones, but not seeking to dismantle our structure. Most importantly, if our bar were to be dismantled, there is no assurance that anything positive would arise on a voluntary basis. Let's work together and continue to improve the profession.

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FAMILY BAGGAGE

by LAP Staff

"I left home more than 20 years ago, at age 17, and moved 3,000 miles away. I rarely see my family, the one I grew up in. But when I return for family events, like weddings and funerals, I find myself right back where I was when I left —the youngest of six kids and practically invisible. They still treat me the same way. Even though I've been a successful attorney for almost two decades, no one ever asks my opinion about anything, even legal matters. I swear, if I weren't six-feet-two, they'd still be patting me on the head."

Like it or not, the legacies of our family of origin—the family in which we grew up—stay with us through adulthood.

We look in the mirror one day and say, "God, I've become an alcoholic just like Dad!"

We find ourselves, frustrated and impatient, saying words to our children we swore we never would—words that squelched our spirits when we were kids.

We catch a glimpse of a long-dead uncle in a gesture made by his grandson.

We find ourselves unconsciously arranging items on a table exactly the way Mom did or, in times of trouble, mumbling prayers under our breath just the way Grandma used to.

Family influences range from the conscious to the unconscious, from the dramatic to the subtle, and they are with us all the time. They are present in the recurrence of family themes, in the importance of birth order and gender, and in the ways all of these get played out in our families, generation to generation, and in our present lives.

We look in the mirror one day and say, "God, I've become an alcoholic just like Dad!"

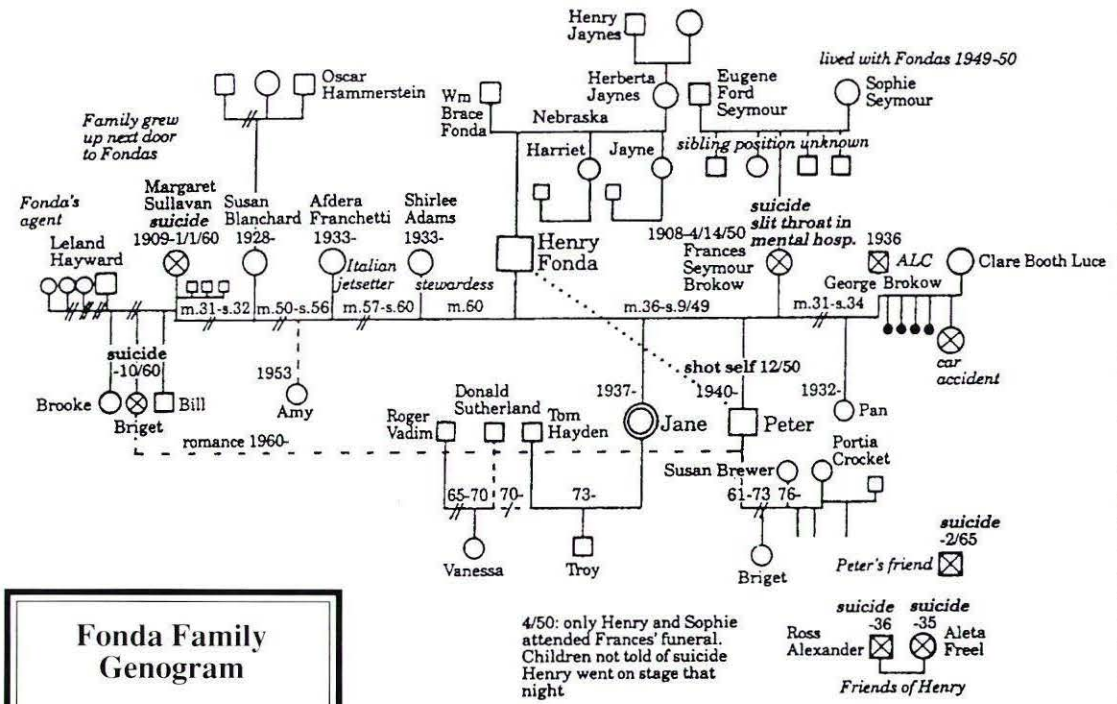
We find ourselves, frustrated and impatient, saying words to our children we swore we never would—words that squelched our spirits when we were kids.

Family Themes

To better understand our family themes, to get a grasp on just exactly what it is we carry with us, it is often helpful to create a genogram. (See the sample for the Fonda family, below.) This becomes a kind of map, or diagram, to aid in identifying those important factors that affect us so profoundly. Highlighting important events in family history and significant characteristic of individual family members provides new insight into dynamics and assumptions.

Family themes can be both positive and negative. For example, aging in many families is seen as an opportunity to maintain an active, rather than a sedentary, lifestyle. Physical health and fitness are valued, and people expect to live long and gratifying lives. In these families, getting older offers enhanced spirituality, reflection and introspection. Such attitudes toward aging are often carried from one generation to the next, through both words and modeling.

A common negative example is alcoholism, which typically appears generation after generation. Whether this is caused by hereditary factors or through learned behavior, or a combination of both, is not known. It is known, however, that an individual with a family history of alcoholism is at greater risk for developing a problem



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with alcohol than one without such a family history.

Similarly, depression and several other emotional conditions appear to have strong generational threads. The prevalence of suicide in the Fonda family genogram is an example. This genogram also illuminates the family theme of multiple marriages, generation to generation.

Other family themes include career paths ("I come from a long line of lawyers."), patterns of achievement ("We're all Phi Beta Kappa."), the meaning of names ("He's a Junior in more than just title."), political expectations (We've all served in the military.") and religious influence ("It seems that every generation has one who leaves the church.").

Birth Order

As illustrated in the opening example, birth order has a profound and long-lasting effect on us. This becomes particularly evident when we find partners and form our own family.

For example, when a first-born marries a first-born, there is frequently a struggle for power. Both are used to being in charge and being the primary decision maker. First-borns are accustomed to enjoying a place of special significance implying entitlement and recognition.

First-born children often have conflict with a parent who is also first-born. This can happen for the same reasons it happens with couples and often comes to a head when the child reaches adolescence and begins to assert his or her independence.

Later-born children, especially the "babies" in the family, often look to others to take care of them. When the youngest in one family marries the youngest from another, both may find themselves lost, afloat in a new sea, each waiting to be "rescued" by the other.

Birth order affects us not only in the family, but also in the workplace and in other situations where we must work cooperatively with others. Difficulties in relationships in these settings can often be attributed to role definitions that are in conflict with the ways in which people have functioned in their family of origin. Too many leaders, for example, can obstruct the successful achievement of goals, as can too many followers. Things run most smoothly when there is the same balancing of roles one finds in well-functioning families.

When a first-born marries a first-born, there is frequently a struggle for power. Both are used to being in charge and being the primary decision-maker. First-borns are accustomed to enjoying a place of special significance implying entitlement and recognition.

Gender

Growing up as the only female in a family with six brothers is a significantly different experience from that of growing up female with six sisters. Being the first male born after four females in a family is significantly different from being a male born among brothers. These are only two examples of the myriad of complex family configurations, based on gender, which influence a person's identity as an adult.

The value placed on the birth of a child of a particular sex is communicated to the child, sometimes very directly. The experience with our siblings of same and opposite sexes often form the prototypes for our later relationships with same- and opposite-sexed friends or significant others in our lives.

Our ideas and opinions about what it means to be a woman or to be a man come primarily from our families. Role models from preceding generations are often powerful influences in showing possibilities to young children, even if the only exposure is through family stories or photographs.

Family Patterns

When we have raised to awareness various family patterns, we can more easily recognize and identify them as they reappear. Making family legacies, both positive and negative, explicit helps people make more conscious and informed choices and appreciate their own unique and complex heritage.

The following questions address issues that clarify family influences. These, along with a genogram, bring into focus important areas for investigation and exploration. Pondering these questions can be a valuable and gratifying experience.

To live conscious and intentional lives is a worthy goal. Thoughtful reflection on both past and present family experiences helps shape our expectations and dreams for the future.

- What does birth order mean in my family?
- How important is gender in my family constellation?
- What did my family expect of me regarding:
  - career path?
  - religious orientation?
  - political leanings?
  - lifestyle?
- Who were my family role models?
- What were the family themes, both positive and negative?
- Which family patterns do I want to continue?
- Which family patterns do I want to break?
- How is my present family like my family of origin?
- How is my present family different from my family of origin?
- What are my priorities regarding my family? Where do I want to focus my efforts?

Nota Bene

LAP is a confidential service providing assessment and referral for a broad range of problems confronting lawyers. These include stress, burnout, depression, career dissatisfaction, alcohol and drug abuse. Contact the Lawyer's' Assistance Program at (206) 727-8268.

Every Tuesday at noon in the WSBA Presidents' Room (4th Floor, Westin Building), LAP sponsors a free job hunters' support group for WSBA members who are actively involved in the search for a new position. This is a drop-in group focusing on the exchange of ideas, job leads and job-finding ideas.

Special programs for the Support Group:
Jan. 17 Contract Lawyering the Current State of Affairs, Todd Fairchild.
Jan. 31 Stress Reduction Tips for Job Hunters. Steve Bernheim will share from his personal experience about finding ways to reduce stress while looking for a job.

Call Joyce Elven at (206) 727-8268.

LAP thanks Steve Bernheim, a peer counselor, for writing about the Job Hunters' Group in the November 1994 article attributed to Joyce Elven.

NEWS FROM HOME

Tim W. Dore of Seattle reports, "I am leaving Oles Morrison & Rinker after five years' practice with the torts group and am moving on as a deputy prosecuting attorney with the Civil Division of the Snohomish County Prosecutors' Office in Everett." Dore took up his new position October 17, 1994.

Bogle & Gates has announced that two patent lawyers have joined the firm, giving it "the capabilities of a full-service intellectual property practice." The two new attorneys are **Richard L. Hughes**, formerly a partner in the Seattle office of Townsend and Townsend Khourie and Crew, and **Philippe Y. Riesen,** who came to the firm from Fish & Neave in New York. In addition, **Nancy L. Nakayama**, formerly vice president and counsel to CS First Boston Pacific, Inc. (based in Tokyo), has joined the firm as senior attorney, focusing on international technology licensing, distribution, development and joint-venture transactions.

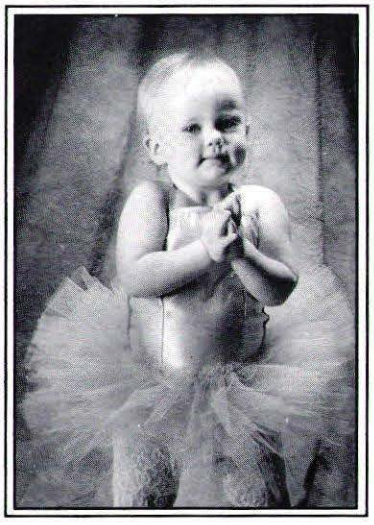
Craig Allen, a former U.S. Coast Guard officer, has joined the firm in its admiralty, oceans and transportation law section.

The firm has also announced that **Al VanKampen**, a litigation partner in the firm's Seattle office, has been elected chair of the WSBA Antitrust Law Section.

Richard Hill, a partner at Foster Pepper & Shefelman, is chair-elect of the American Bar Association's State and Local Government Law Section. The section has more than 6,500 members from both public and private sectors who concentrate on municipal and state law issues. He will assume office as chair of the section in August 1995. The firm has also added **Bradley W. Hoff**, **Robert Kunold, Jr.**, and **Philip N. Tanaka** as associates.

Thomas S. Hodge and **Michael J. Erickson**, formerly partners with Bogle & Gates, have joined the law firm of Heller Ehrman White & McAuliffe as partners in the corporate department of the firm's Seattle office.

Margaret A. Morgan has become managing editor of WSBA CLE publications. She was previously of counsel with Graham & Dunn in Seattle.



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Philip Marshall has been elected president of the Clark County Bar Association for 1994-1995. He is a partner in the Vancouver law firm of Marshall, Lane & Nichols. Other officers include **Scott A. Collier**, a vice president and president-elect; **Bronson Potter**, secretary; **Alison Greene**, treasurer; and **Michael Simon** and **Michael Higgins**, trustees.

Bellevue attorney **Douglas L. Cowan** has been elected to the Board of Regents of the newly-formed National College for DUI Defense. The College will provide an annual intensive-training program covering all aspects of defending a DUI case. Cowan is a partner with Cowan, Hayne & Fox in Bellevue, president of the Washington Foundation for Criminal Justice, and a frequent lecturer and author on the handling of drunk-driving cases.

Betts, Patterson & Mines added two new attorneys in October. **Jonathan Burke**, formerly a bankruptcy lawyer with Bogle & Gates, has joined the firm's creditors' rights and bankruptcy practice group. **Glenn Draper** is a recent graduate of the University of Washington School of Law. Before attending law school he was a bank examiner for the Federal Deposit Insurance Corporation.

Philip S. Harris, of the Portland office of Ericsson & Egan, P.C., taught a fall term class entitled "Hotel, Restaurant and Travel Law," an upper-level course at Mt. Hood Community College in Gresham, Oregon. The course was designed to educate future hospitality managers about the legal framework in which to make well-founded operating decisions. The course also covered litigation procedure, civil-rights protection, contracts, negligence, and licensing.

Bruce W. Hilyer, formerly of counsel to Culp Guterson & Grader, has opened his own office at 2000 Second Avenue, Suite 3000, Seattle, telephone (206) 233-2063 and fax (206) 386-7343. Hilyer's practice will continue to emphasize environmental liability and land use, business, health care, administrative law and general litigation.

Richard D. Campbell has joined the law offices of McCormick, Dunn & Black, P.S. as an associate. A Gonzaga law graduate, Campbell will concentrate in the areas of construction law and litigation for the Spokane firm.

Tom Lindley has been selected to serve

as a public member of the United States Delegation to the Ninth Conference of Parties of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The 20-member delegation is composed primarily of senior officials from the Departments of State and Interior. Lindley chairs the environmental and natural resources law department at Miller, Nash, Wiener, Hager & Carlsen, headquartered in Portland.

Walt Berhalter, an attorney and—since 1990—a field underwriter for Mutual of New York Insurance Company, has been awarded the Chartered Life Underwriter Degree by the American College in recent ceremonies in Seattle. Less than 5 percent of insurance professionals obtain this designation.

George A. Riemer, associate executive director and general counsel of the Oregon State Bar, was elected to fill a new position in the American Bar Association House of Delegates last October. Under ABA rules, the Oregon State Bar became eligible for a third delegate position when it passed the mark of 9,000 instate active members. The Oregon State Bar fills ABA House of Delegates positions through statewide mail ballot elections.

Ted S. O'Neal has joined Witherspoon, Kelley, Davenport & Toole in Spokane as an associate.

Michele C. Lechak and **Claudia M Balducci** have joined Riddell, Williams, Bullitt & Walkinshaw as associates.

Lane Powell Spears Lubersky has added **Charlene A. Launer** to its roster of intellectual property attorneys.

Terry P. Abeyta of Yakima has been chosen by the Washington State Trial Lawyers Association to write "Understanding Your Auto Insurance," a guide to help consumers better understand their auto insurance policies and coverage requirements. The brochure will be distributed at approximately 40 People's Law Schools throughout the state and will be made available at cost to more than 3,300 WSTLA members to provide to their clients.

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AMERICAN IMMIGRATION LAWYERS ASSOCIATION: WASHINGTON CHAPTER REPORT

by **FRANK H. PETMAN**

The Washington State Chapter of the American Immigration Lawyers Association (AILA) is one of 34 such chapters in the 3,800-member national organization, which has been in existence in some form since 1947.

It was at one time called the Association of Nationality and Immigration Lawyers, which resulted in an unfortunate acronym—ANIL—and was quickly changed.

Immigration law practice itself was once considered a poor cousin in the profession, but it is now a highly specialized, technical area of focus with practitioners in the most established law firms.

You might ask, "What do immigration lawyers do?" You know we represent refugees and those seeking asylum, but you might be surprised to learn that we also represent major U.S. and foreign corporations which must hire workers with skills not available in the U.S. or which must transfer managers or executives back and forth between their U.S. and foreign offices.

The Washington chapter of AILA has more than 100 members, making it the

10th-largest chapter in AILA, with the giants being New York, Texas, California and Florida. Our chapter is one of the most rapidly growing because of our state's geographically advantageous location for trade with Pacific Rim countries and because of the aesthetic attraction of Washington state for many international businesses.

The Washington chapter meets monthly and, in conjunction with the Oregon AILA chapter, holds an annual Northwest Regional Immigration Seminar at which State Department, Immigration & Naturalization Service and Department of Labor officials are featured. This year's seminar will be held at the Washington Athletic Club on February 3.

GREATER SEATTLE LEGAL SECRETARIES ASSOCIATION REPORT

by **LEANNA ANDERSON & LINDA KNISS**

The Greater Seattle Legal Secretaries Association (GSLSA) held its annual Bosses' Night on November 1, 1994 at the Westin Hotel, with the Honorable **Gerard M. Shellan** of the Judicial Arbitration and Mediation Services (JAMS) as the master of ceremonies. GSLSA presented awards for Boss of the Year, Legal Support Professional of the Year, and Member of the Year.

Boss of the Year was **Robert B. Gould**, from the Law Offices of Robert B. Gould. He was nominated by his support professional, **Sarah Ross**. The Legal Support Professional of the Year was **Lisa D. Miner**, PLS, from the law firm of Warren, Kellogg, Barber, Dean & Fontes, P.S. She was nominated by her boss, **Zanetta L. Fontes**. Miner was also Member of the Year; she was nominated by **Lisa A. Rudgers**, PLS, from the law firm of Stanislaw, Ashbaugh, Riper, Peters & Beal. Judges were Seattle area attorneys.

GSLSA holds monthly dinner meetings the first Tuesday of every month at 5:30 p.m. at the Holiday Inn Crowne Plaza in Seattle. All legal-support professionals are welcome to attend. For more information, call Lisa Miner, GSLSA vice president, at (206) 255-8678.

The Association is sponsoring the following CLE lunchtime seminars: Attorneys **John Henry Browne** and **Daniel T. Satterberg**, chief of staff for the King County Prosecutor's office, will speak on "Criminal Defense and Prosecution"; February 16, **Robert G. Stevens**, BA, MPM, will speak about "Interprofessional Relations." For further information, call **Shari Morisset**, PLS at (206) 447-9505 or **Denise Hoopes** at (206) 386-7693.

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LAW FUND REPORT

by **LAUREN MOORE**

Thank you to the thousands of Washington lawyers and law firms who made our third annual campaign a resounding success. LAW Fund received participation from every region of the state and every area of practice.

A thank-you is due to all of the hard-working LAW Fund Board members for their tireless efforts and dedication during the 1994 campaign: Hon. **Susan Agid**, **David Andrews**, **Jim Bamberger**, **Stan Bastian**, **Wendy Bohlke**, **Julian Dewell**, **Kirk Dublin**, **Dennis Duggan**, **Vern Fowler**, **Phil Hubbard**, **Mark Hutcheson**, **Roberta Katz**, **Martha Kongsgaard**, **Salvador Mungia**, **Claude Pearson**, **John Powers**, **Arnie Prentice**, **John Purbaugh**, **Karen Sayre**, **Ed Shea**, **Ada Shen-Jaffe**, **Paul Stritmatter**, **Jim Vander Stoep** and **Patricia Wagner.**

LAW Fund would also like to thank the "Double Your Dollars for Dean" campaign committee in Spokane County for its outstanding work on behalf of LAW Fund and in memory of LAW Fund founding president **Jack R. Dean**. A special thank-you to **Joseph P. Delay**, Hon. **J. Ben McInturff** (Ret.), Hon. **Smithmoore P. Myers** (Ret.), **and Richard McWilliams** for chairing the campaign, and a thank-you to **Jim Bamberger**, **Paul Bastine**, **Nancy Isserlis**, **Mike Ormsby**, **John Powers** and **Karen Sayre** for your energetic work as the campaign committee members.

LAW Fund is already working on the fourth annual campaign to lawyers and law firms. If you are interested in more information about LAW Fund, please write LAW Fund, 1326 Fifth Avenue, Suite 815, Seattle, WA 98101, or call (206) 623-5261.

PIERCE COUNTY REPORT

by **GEORGE S. KELLEY**

Prosecuting Attorney **John Ladenberg** was the winner of the TPCBA's war stories contest. This is an annual event, where members of the bench and bar compete to determine who can tell the best war story.

The rules are simple—the story must be semi-true and semi-clean and not last more than five minutes. The contest takes place at the November lunch meeting of the Association, and it is always well-attended. Over the last several years, judges have won—not because they are funnier (they are not), but because trials seem to produce the best stories.

John's story was about a nervous convenience store robber who appeared to be purchasing merchandise from the store when he pulled a gun and demanded money. He then fled, forgetting his wallet on the store counter. The police met him as he returned home from the robbery.

November was a good month for John as he also was selected by the legal secretaries as Boss of the Year and by the voters to another term as prosecutor. He was one of the few Democrats reelected to any job. Also, his sister, **Lissa Flannigan**, who works at **Don Winskill**'s office, was selected as Secretary of the Year.

Annon May, trial lawyer, died. He had suffered a long illness and was not recently active in the practice. His obituary said that his friends would know how to remember him, and he didn't care what his enemies thought. Some might think this a little strange, but you had to know Annon to appreciate it. **Steve Larson** recalled many years ago that he had settled a boundary line dispute with **Carson Eller** in the courthouse hallway. Carson expressed doubt that the settlement would take place as promised. Annon, who overheard the conversation volunteered, "Carson, if it was my case, not Steve Larson's case, and I told you that the case was settled, would that be good enough for you? Would you shake hands with me and spend the rest of the day out fishing?" When Carson said he would, Annon replied, "I know Steve Larson a lot better than you do. If he says something will get done, it will get done. I guarantee it. Now shake his hand, go on in to Presiding, and put the terms of the settlement on the record, and then go fishing." Which Carson did. I don't think anything more need be said in Annon's honor than that.

Charles Talbot and his associates have opened a new office at 5005 Center Street. **Linda J. King**, formerly with Gordon, Thomas et al. and the Department of Assigned Counsel, has ventured out on her own at the Henry Drum House on St. Helens Avenue. Ninety-three (93) new lawyers were admitted to the practice of law in Pierce County in recent swearing-in ceremonies.

WASHINGTON WOMEN LAWYERS: KING COUNTY CHAPTER

KCWWL was pleased to present its President's Award to **Roberta Cooper Ramo**, the president-elect of the American Bar Association at a November 9 ceremony. The ABA, founded in 1878, now has approximately 375,000 members nationwide. No woman has previously served as its president, a post Ramo will assume in 1995. With respect to women and minorities in leadership positions in the legal profession, she has stated, "I think it is very important for all of us not to be seduced by the idea that because you have one or two or three people that everybody can point to as having made it, whatever that means, that that's the end of the problem."

Named one of the Best Lawyers in America in corporate law, Ramo concentrates her practice in the areas of business law, real estate, health law and related matters including professional corporations, probate, estate planning and commercial real estate leasing.

IN MEMORIAM

Chester C. Adair

Seattle lawyer Chester Cole Adair, 87, died November 6, 1994. A native of Seattle, Cole graduated from Queen Anne High School before obtaining degrees from the University of Washington and its School of Law. He was called to the bar in 1932.

Entering practice in the depths of the Great Depression, Adair decided to try for a more secure position by running for Island County Prosecuting Attorney. He was elected and served until World War II, when he left Whidbey Island to serve in the Navy.

After the war, Adair returned to Seattle and established his practice there. During the course of his career, he served as president of the King County Bar Association; a member of the board of the Seattle Arthritis Foundation; and as "commodore for life" of the Seattle Yacht Club, to which he devoted decades of free legal service. He also gave free legal assistance to Forest Ridge Convent of the Sacred Heart, whose school five generations of women in his family attended.

Adair's wife, Alberta, died in 1987. Survivors include a sister, daughter, four grandchildren and four great-grandchildren.

William H. Ellis

A lawyer in Seattle since 1959, William H. Ellis, 62, died November 10, 1994. He was born in Missouri and raised in Olympia. After graduation from high school in 1950, Ellis graduated from Yale in 1954 and Stanford University School of Law in 1957.

Ellis worked for the State Code Reviser from 1957 to 1959, when he joined the law office of Eric Froberg in Seattle. In 1962, he joined Foster, Pepper & Riviera, where he practiced until 1985. That year he became a partner in the law firm of Ellis, Li & McKinstry.

Ellis served in the Washington State House from 1979 to 1983, and he enjoyed great success as a legislator, drawing on his background as a bill drafter. A lawyer who took his work seriously—even passionately—Ellis' last office was triple-insulated because of what his wife called "a tendency to holler."

An enthusiastic cyclist, Ellis was a founder and president of the Christian Legal Society. Survivors include his parents, a sister, his wife, and one son.

Frank James

Retired King County Superior Court Judge Frank James, aged 86, died on November 20, 1994, after a long illness. The court paid him special tribute with a December 12 memorial service celebrating his life, the many years he served on the bench and the contributions he made to the courts of Washington state. He is survived by his wife, King County Superior Court Judge Carmen Otero; three

children, Frank James Jr., Gwen Nixon and Keith James; seven grandchildren and five great-grandchildren.

James was admitted to the Washington Bar in 1930 and began his law practice in Seattle as a member of the Byers, Westburg and James law firm. During World War II, he left Seattle to serve as Lieutenant Commander in the United State Navy. He was stationed in the South Pacific area and with the military government in Korea.

Although there are, today, 48 judges sitting in King County, James was appointed to fill the newly created sixteenth superior court judge position in 1949 by Governor Arthur Langlie. In 1982, he was appointed by Governor Dan Evans, the first Chief Judge of the newly created Washington Appellate Court, Division 1, where he served until his retirement in September 1982.

Over the years, James held many offices in community organizations, including Medina Children's Services Director, Y.M.C.A. Adult Education School Director, Lions Club member, College Club Director, and Seattle Yacht Club Commodore; he participated in numerous legal and judicial activities.

While in college, in the days before female cheerleaders, he was Yell King at the University of Washington. He was a great story teller and a consummate actor, attracting a Hollywood contract offer during his years at the UW. He turned it down to study law, but he took every opportunity to participate in amateur productions. He was also an accomplished musician, and in his early career he made more money singing professionally than practicing law.

Although a judge for 33 years, an astute businessman and property developer, he will be remembered by his friends as an avid and accomplished sailor and expert skier, an addicted domino player and lucky fisherman.

Washington Lawyers Bid Farewell to Merrill Wallace

by Ronald E. Anderson

Merrill Wallace, a Bremerton lawyer since 1933, died on August 5, 1994. He became a living legend during his unprecedented practice and substantial public service spanning over six decades in Kitsap County. Merrill Wallace once said, "I was no Clarence Darrow, but I've loved every minute of it."

On September 16, 1994, the Kitsap County Bar Association sponsored a special memorial ceremony for Merrill before the public and members of the Kitsap County Superior Court sitting en banc.

The following remarks for and during this ceremony, edited by Wallace's last law partner, Ron Anderson, captured a flavor of the man, the amazing period he practiced in, and how his passing was the end of an era.

Bill Crawford, President, Kitsap County Bar Association:

Merrill Wallace was a founding member and the first president of the Kitsap County Bar Association in 1935 when there were, as I understand it, 14 members and practicing attorneys in Kitsap County.

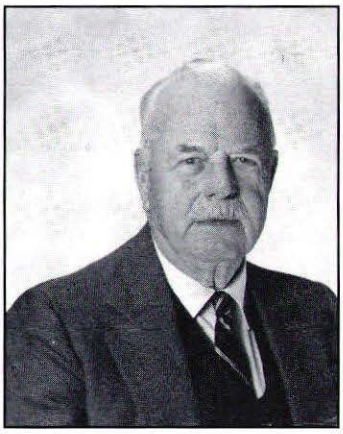
Sometimes we do things right. I think one thing the Bar Association did in some of our traditions is our wonderful 1993 luncheon program recognizing that Merrill Wallace had practiced law at that time for 60 years, which is unprecedented in this county and rarely happens anywhere. That is a lengthy practice. In that program there were a lot of stories and tales told, and Merrill Wallace held his own and had his own stories and corrected the record as he saw fit that day. It was a wonderful, wonderful day.

Merrill was described as a lawyer's lawyer. By that, he loved the practice of law. He derived a great deal of personal pleasure and satisfaction from the practice of law. He cared deeply for his clients. His clients cared deeply for him, and he enjoyed the company of and cared for his fellow lawyers, and in return, his fellow lawyers cared a great deal for him.

In recognition of that, there was the creation of the extraordinary Trustees Award. That is an award that was given to Merrill Wallace in recognition of his professionalism. It was given to him in recognition of his service to the public, and it was given to him in recognition of his service to this bar association. He was the recipient of the first Trustees Award this year. It is an award that I don't know when it will be given again. It's to be given in extraordinary circumstances, and that's why it was given.

Judge Leonard Kruse, Kitsap County Superior Court:

I loved Merrill Wallace. He was my friend for over half my life. Surely, there were periods when disagreements prevented us from communicating, sometimes for up to several years, but that did not dim my affection and appreciation for him.



Merrill Wallace

We can all agree that although Merrill will no longer be physically with us, the memories, the recollections, the spirit, if you will, will be for all who knew him forever, and I'll meet up with Merrill in the by-and-by, for I'm sure we're going to the same place, and I can again step up to the bar and retire to an awesome evening.

Merrill, may the road rise up to meet you. May the wind be always at your back. May the sun shine warm upon your face and the rains fall soft upon your fields, and until we meet again, may God hold you in the palm of his hand.

John Bishop, Bremerton lawyer:

An era has passed; his life spanned an amazing period. When Merrill graduated from law school in 1933, there was little concern with income tax or estate tax; there was no sales tax, no business and occupation tax; administrative agencies

did not exist, and all the law of the State of Washington was contained in the first 175 volumes of *Washington Reports* and *Remington Revised Statutes. Corpus Juris Secundum* was corpus juris, and *American Jurisprudence* was ruling case law. There were no copy machines, electric typewriters and, certainly, no fax machines. There were only 16 rules of the Supreme Court and no rules of the Superior Court.

Merrill practiced for 61 years, from 1933, keeping abreast of all of the developments of the law, which increased in content and complexity one thousand fold, in these days a "specialization." His kind will never be seen again, much to the regret of his many clients and friends. I will miss Merrill as a friend and adviser.

Arthur Langlie, Seattle lawyer, in a letter to the family:

My father and my uncles knew your father well and enjoyed a great fellowship with him over many years.

As a lawyer, your father was a legend in his own time—a consummate advocate and caring counselor.

In my opinion, your father was one of the outstanding members of the Washington Bar, and without a doubt one of the great practitioners in our state. We will all miss him.

I have enclosed a modest gift in his memory to the Merrill Wallace Scholarship Fund for Olympic College students.

Judge Robert Bryan, United States District Court:

I came to know Merrill in 1941, when my folks built a house across the street from where Merrill and Leona lived. I became a lawyer and practiced in Bremerton with my dad from '59 to '67, and in those years I tried cases against Merrill. I served as co-counsel with him in trials representing different defendants in the same case. We often negotiated with each other on behalf of our clients and had a lawyer-to-lawyer relationship.

As others here have said, I think the true indication of Merrill's professionalism as a lawyer was his relationships with his clients. I think that's the best gauge of his value to the cause of justice. He gave each client his candor, his loyalty, his fidelity, his zeal, his devotion. He gave each client the utmost of his ability and his learning.

The first Code of Professional Ethics, which was adopted in 1908, included this language: "A lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty."

As Merrill passes from us, he deserves in our hearts and in our memories that highest honor that a lawyer can reach. He earned and deserved his reputation for fidelity to the cause of justice and for fidelity to his clients. He was a fine man, a friend and among the very finest of lawyers.

Judge Jay Roof, Kitsap County Superior Court:

Merrill was a character. I won't relate particular incidents; we know of those. But I do believe that he was the last of a breed. I don't know whether it's the court rules or the law schools or political correctness, but lawyers and judges, for that matter, are becoming clones. I see no new characters coming out of the assembly line, so Merrill was unique. I will miss him and will miss his uniqueness.

I hear a common fear expressed by lawyers, that they're afraid that they'll turn out to be like Merrill Wallace, and by that they mean that they're afraid that they'll die while practicing law, and for them they figure that's a tragedy. For Merrill Wallace it was the ultimate compliment.

At his time in life he did not have to practice law. He chose to. He didn't have to go to every Bar meeting. He chose to. He didn't have to go in to the office the last day of his life. He chose to.

He died engaged in what he thought was the noblest of professions. Sometimes we need to be reminded of that, and for that reminder, Merrill, I thank you.

Merrill Wallace II:

A family thanks goes to the Kitsap County Bar Association for this special tribute to Wallace Senior, and I really think the other part, too, is the creation of the Wallace Senior Olympic College Scholarship, something that has been talked about, and what have you, and hopefully we can keep that going. With that I thank you all.

John Mitchell, Bremerton lawyer:

Merrill was clearly one of a kind. He spent 61 years practicing law. He probably had shoes older then some of the lawyers in this room. He advised four generations of my family and has become an integral part of their attitude toward the law and toward life.

Certainly, Merrill could be irascible. His comments at times were priceless. He was technically accomplished as a lawyer, but most of all, he really earned and honored the affection of his clients.

Merrill told you that he had three families, the first being his biological family, the second being his clients, and the third being his courthouse coworkers. He did honor to all of those families, but especially to his clients. They were more than just his friends, and they certainly weren't customers in any sense of the word.

He never forgot that he practiced law to help them and that they made it possible for him to continue doing what he loved so much to do.

His attitude towards clients, at least in my experience, was unique. He told me one day he never bought a law book or a piece of furniture for his office. His clients gave them all to him. I thought that was a unique perspective.

Judge James Maddock, Kitsap County Superior Court (Ret.), in a letter to the family:

Merrill was a fine lawyer and a man I had a great deal of respect for. When I came to Kitsap County in 1956, he was one of the "old timers" in the bar even then. What I remember the most about Merrill was that although he was a powerful opponent when he was on the other side of a case and would give no quarter, he loved the camaraderie of the practice. He was always fun to be around after court. I also remember how considerate he was of me as a new lawyer. I could always pick up the phone and ask Merrill for advice, and he would never hesitate to help.

After I took the bench, Merrill was always very respectful of the position of judge that I occupied. If anyone was entitled to address a judge by his first name it was Merrill as the most senior attorney in Kitsap County. But it was always "Judge." Nevertheless, it was always a pleasure to have Merrill in court. Not only was he always well-prepared, but he was always able to bring a little humor to the sometimes boring and mundane ex parte calendar.

Ron Anderson, Bremerton lawyer:

I practiced with Merrill for 11 years, since 1983, but he was much more to me than a lawyer I practiced with. He was my friend, my mentor, my partner, and he was like a father to me.

I loved Merrill and I greatly miss the man, but I do not have feelings this morn-

ing of great sadness. Instead I have a feeling of celebration. The celebration I have is with what Merrill gave me and that I had the honor to have known him. What Merrill gave me is what he taught me.

He gave me a half-century perspective of what it's like to be a lawyer. He said that a lawyer's word is his bond; that a lawyer's word is the most valuable asset that he'll ever have; that while the law is a business, it is foremost a profession, and that the client must come first; that the highest privilege of a lawyer is the opportunity to help people; that there's nothing wrong with caring about clients when representing them; that it's not the wealthy clients you worry about but the poor ones; that part of being a lawyer is public service; that it's okay to love the law and being a lawyer.

There's something else he taught me: that the law is the noblest of professions, and it's okay to take pride in being a lawyer.

He left us a sterling example, that of caring, and by the values he showed every day of his life, and by this example, he has left us all a very rich legacy.

Memorials

Memorials are requested to be sent to the Merrill Wallace Scholarship Fund administered by the Kitsap County Bar Association for Olympic College students, at 423 Pacific Avenue, No. 304, Bremerton, WA 98337.

This unique scholarship fund honors Merrill Wallace as the first president of the Kitsap County Bar Association in 1935, and for service on the first Board of Olympic College Trustees in 1946.

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Space-sharing. First Interstate Center, Seattle. Two offices available on 25th floor with full-service firm and other subtenants. Two conference rooms, library, receptionist. Fax, Lexis, PC network. Negotiable terms. (206) 382-2600.

Downtown Seattle office with secretarial station. Shares professional suite with small av-rated firm. Includes receptionist, conference room with view, library, kitchen, copier, fax, space for files and supplies. (206) 624-7373.

One Sound view office on 32nd floor of Smith Tower. Receptionist, fax, conference room, copier, kitchen, law library. Contact Connie Flores at (206) 343-9873.

SEEKS ASSOCIATION

Bellevue attorney with established real estate and business practice seeks affiliation with local-area firm practicing in complementary areas. Reply to Box 443, WSBA.

POSITION AVAILABLE

Attorney jobs—*National and Federal Legal Employment Report*, highly regarded monthly detailed listing of attorney and law-related jobs with the U.S. Government, other public/private employers in Washington, D.C., throughout the U.S. and abroad: 500-600 new jobs each issue; $34-three months; $58-six months. Federal Reports, 1010 Vermont Avenue N.W., #408-WB, Washington, D.C. 20005. (202) 393-3311. VISA/MC.

Senior labor and employment attorney: National law firm devoted exclusively to the representation of management in labor, employment and benefits law and related litigation seeks attorney with seven plus years of experience for proposed Seattle office. You will join a partner who will be relocating to serve existing local client base. Some portable business required. Interested persons should contact: Bradley W. Kampas, Esq., Jackson, Lewis, Schnitzler & Krupman, 525 Market Street, Suite 3400, San Francisco, CA 94105. Telephone: (415) 394-9400; facsimile (415) 394-9401. Jackson Lewis is an equal opportunity employer.

Short Cressman & Burgess is seeking a litigation associate with a minimum of four years of experience. We are a mid-sized downtown Seattle law firm with a substantial and varied commercial and construction litigation practice. We are looking for an associate with excellent academic credentials, litigation experience and a desire to build one's own practice. Please send a resumé to Andrew Maron, Short Cressman & Burgess, 999 Third Avenue, Suite 3000, Seattle, WA 98104.

Established law firm with strong litigation and business departments seeks lawyer with family law experience, commitment to working in that area of litigation, and the desire to become an associate to work with two partners who have established family law practices. High academic qualifications and excellent references needed. Contact Hiring Admin-

istrator, Culp, Guterson & Grader, 600 University St., 27th Fl., Seattle, WA 98101-3143.

Eastern Washington rural practice not far from Spokane desires association with someone with experience in personal injury, dissolution and general litigation. Opportunity to take over the practice in 10 years. Respond to Box 442, WSBA.

Edmonds lawyer seeks associate/ partner with experience in transactional real estate, business law, estate planning, litigation. Tax a plus. Great opportunity for attorney with client following. (206) 774-0233.

The Seattle office of Preston Gates & Ellis seeks an associate attorney to practice in its trust and estates department. Applicants must have two or more years' experience in the trust and estates area and top academic credentials. Submit resumé to Jane Preece, Preston Gates & Ellis, 701 Fifth Avenue, Suite 5000, Seattle, WA 98104-7078.

Leonard W. Moen & Associates is expanding its areas of legal representation and is seeking an associate for its North Seattle office, experienced in general business and real estate law with an existing clientele. Salary and bonuses based upon experience and clientele base. Please apply in writing in confidence to: Gretchen McCallum, Leonard W. Moen & Associates, 16400 Southcenter Parkway, #504, Seattle, WA 98188.

The Tacoma office of Williams Kastner & Gibbs is seeking a highly qualified associate with a minimum of one year's litigation experience, preferably in personal injury. Send resumé to Patti Christiansen, Williams, Kastner & Gibbs, PO Box 21926, Seattle, WA 98111-3926.

L.L.M./CPA: Kirkland CPA firm at Hersman Serles, P.S., is seeking individual with at least five years' experience in estate planning to manage a rapidly growing practice. Must work well with other attorneys and clients. Unique opportunity with a strong client base. Send resumé to: V. Serles, 25 Central Way, Suite #400, Kirkland, WA 98033, or call (206) 822-6557.

ERISA/litigation attorney: The Seattle law firm of Davies, Roberts & Reid is seeking an attorney for an expanding and challenging ERISA and employee benefits practice. At least two years of federal civil litigation or ERISA experience is preferred. Superior credentials are required. All inquiries will be kept confidential. Respond to: Hiring Committee, Davies, Roberts & Reid, 101 Elliott Avenue West, Suite 550, Seattle, WA 98119, Re: Litigation Attorney.

Eastside Legal Assistance Program seeks part-time attorney for new program representing domestic violence victims in temporary orders. Salary DOE; family law experience necessary, with commitment to equal access to justice. Resumés to ELAP, 16225 N.E. 87th St., #A5, Redmond, WA 98052.

Horenstein & Duggan, P.S., a full-service, av-rated law firm in Vancouver, WA, seeks to fill an associate position in its family law department. Experience in family law is helpful, but not required. The successful candidate will possess people skills and a sincere desire to work in family law.

Send resumé, references and description of experience and interest in family law to: Scott J. Horenstein, PO Box 694, Vancouver, WA 98666.

Denver: Five-attorney intellectual property law firm with large prosecution practice seeks EE patent attorney with two-plus years' patent prosecution experience. Send resumé, references and writing samples in confidence to William O'Meara, Klaas, Law, O'Meara & Malkin, P.C., 1999 Broadway, Suite 2225, Denver CO 80202.

WILL SEARCH

Charles Price Huey, Jr.: Anyone having knowledge or possession of an original will of Charles Price Huey, Jr., please contact Kathleen Wareham, MacDonald, Hoague & Bayless, (206) 622-1604.

Dan Todorovich: If anyone knows the whereabouts or has knowledge of the last will and testament of Dan Todorovich, call Patricia Davis, (206) 322-1072.

Ella Poch: Ella Poch, a resident of Puyallup, WA, may have prepared a will prior to her death on April 8, 1994. Anyone having any information about this, please contact attorney Rick Bathum, 1100 Griffin Avenue, Enumclaw, WA 98022; (206) 825-7424.

SERVICES

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

Forensic document examiner: previously qualified as an expert witness in state and federal courts. Law enforcement-trained. Only civil cases accepted. Contact James A. Green. (503) 485-0832.

Legal Research. High-quality briefs, memos, and motions, using the best libraries and latest technology, by highly qualified attorneys. Short turnaround available. Fax, modem, or mail. Satisfaction guaranteed. (206) 523-0297.

$59: Washington State Child Support Worksheets Computer Program. Save time and money by processing your worksheets in minutes. Also imputes wages and calculates taxes and FICA. (206) 759-6853.

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

Complex litigation in Oregon? We will co-counsel or pay contingent referral fee. Personal injury, medical malpractice, product liability, civil rights, commercial litigation and other complex matters. We have successfully litigated in the US Supreme Court, federal and state court and appellate courts in several western states. Call Willner & Heiling, P.C., (800) 333-0328 or (503) 228-4000.

Oregon accident? Unable to settle the case? Associate an experienced Oregon trial attorney to litigate the case and share the fee. OTLA member; references available. Zach Zabinsky, (503) 223-8517.

Wildfire experts: Staff of experts in suppression tactics, planning, training, fire danger, fuels, weather, fire behavior, large-fire reconstruction, natural-resource damage assessments. (406) 248-8307.

MISCELLANEOUS

Reduce office tension—Gearhart Getaway for working weekend, midweek retreat. Panoramic ocean view at our spacious penthouse condo inspires creativity. Golf, tennis, swimming for needed breaks. 50 percent discount midweek. (403) 221-4291.

One-third interest in waterfront three-bedroom house on Chiwawa River near Lake Wenatchee for sale. Call A. Salter, (206) 622-8484.

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JAN p41; FEB p40; MAR p55; APR p54.

Washington State Trial Lawyers Association Report

JAN p41; FEB p40; MAR p56; APR p54; MAY p55.

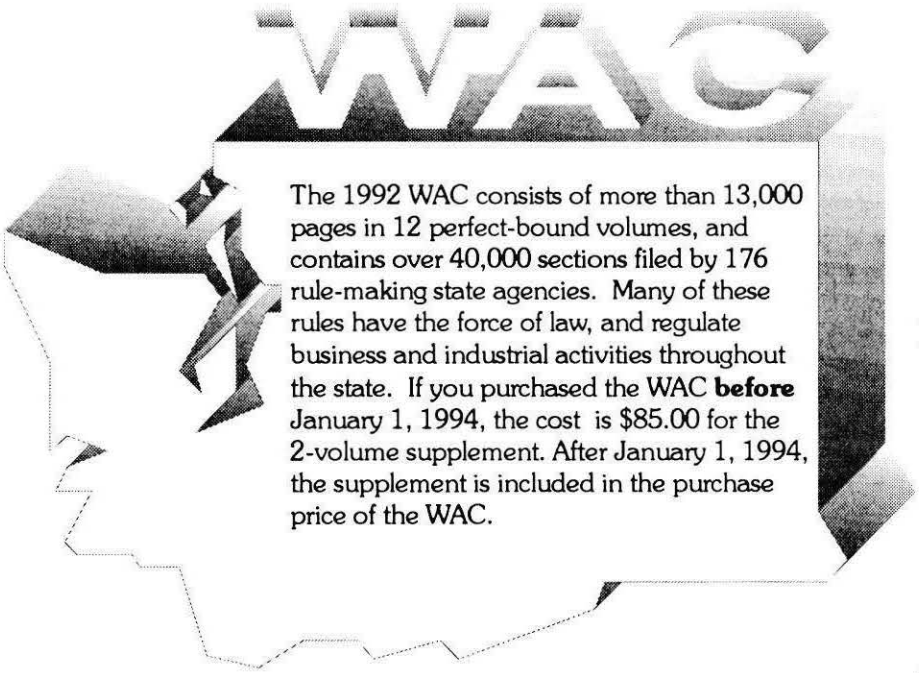
Washington Women Lawyers Report

JAN p42; FEB p41; JUN p55; JUL p58.

Yakima County Bar Association Report

JAN p42; FEB p42; MAR p56; APR p54; JUN p55; JUL p58; AUG p60.

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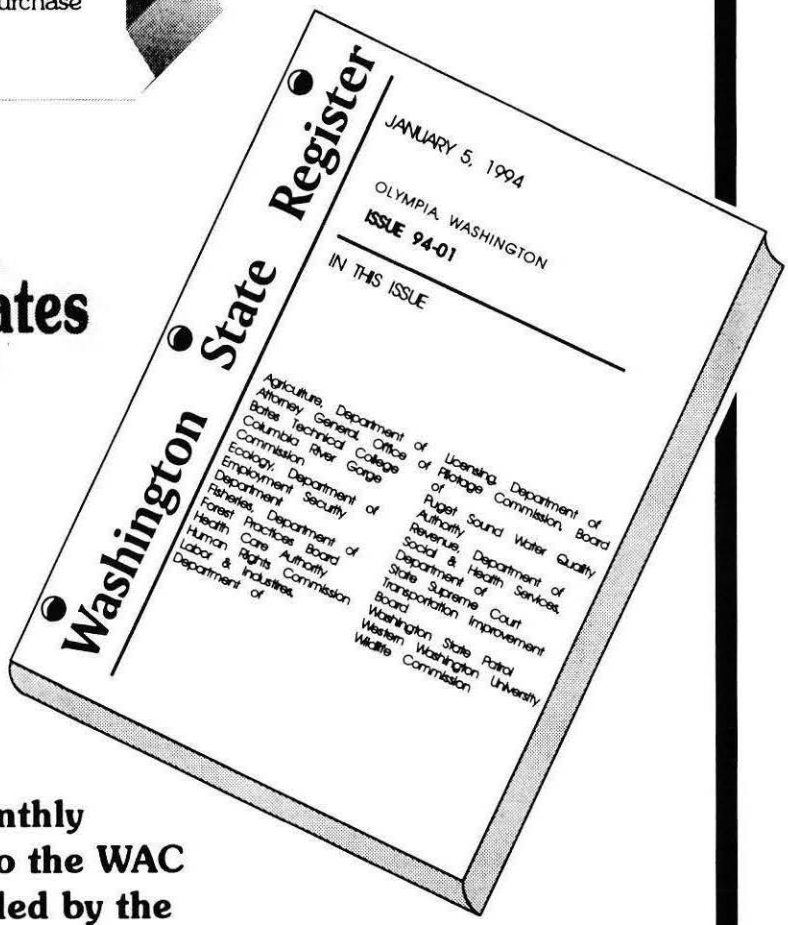


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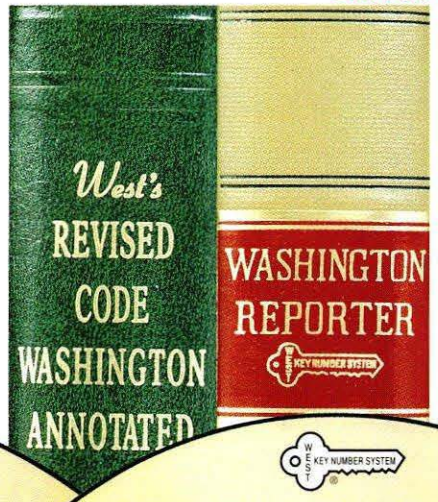
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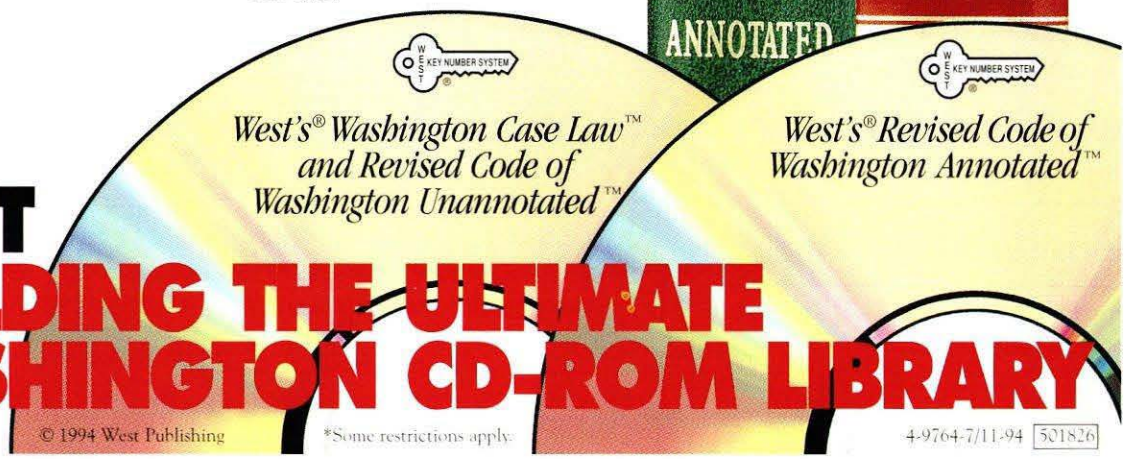
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