Washington State Bar News

Vol. 50 No. 1, January 1996

The official publication of the Washington State Bar

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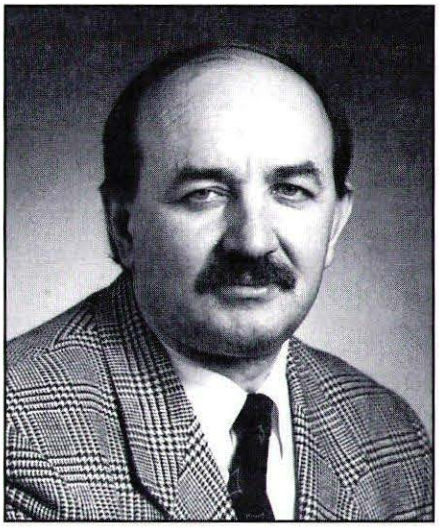

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Editor:

In my article "Computerized Lawbooks?" (*Bar News*, December 1986), I proposed that a not-for-profit effort be set up to produce a low-cost legal research CD ROM.

Now, nine years later, I am pleased to announce that the disk is ready. It has the full text of Washington 2d and Washington Appellate reports, together with the RCW and WAC current as of December 1995. Both DOS and Windows search programs are included.

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EDWARD V. HISKES
Richland

In Defense of Nullification

Editor:

If Mr. Darrow is concerned about inconsistent jury verdicts (letter to the *Bar News*, November 1995) then he should wholeheartedly support HJR 4205, the jury nullification bill, because it will promote the kind of juries that have over time been quite consistent. The long run of history shows that true constitutional juries which are a fair cross section of the community have been remarkably consistent in identifying and punishing those intentional acts which are morally wrong, or *malum in se*, such as murder, robbery, and rape. Those same juries have also stood fast against the oppressive *malum prohibitum* laws which kings, presidents, and legislatures have sought to use to stifle freedom.

Presently, the government destroys the cross sectional nature of the jury by striking off all dissenters to the law at issue in the case and leaving nothing but government partisans on the jury. That is not a constitutional jury. HJR 4205 will correct this by forbidding the striking of jurors who have expressed a willingness to use their power of nullification. This will insure that every time a defendant is on trial there will likely be jurors on his jury who are opposed to the very law the defendant is being tried upon, assuming there is significant opposition to that law in the community. This will have the rapid effect of paring down bad laws by a pattern of acquittals and hung juries. To have respect for law we must have laws that people respect.

It should be pointed out that contrary to Mr. Darrow's aversions, inconsistent jury verdicts are sometimes a very good thing. They can be the start of a movement toward freedom. In Massachusetts in 1765 in the case of *Slew v. Whipple* the jury ruled that slavery was illegal, an inconsistent jury verdict for the time. But this inconsistent jury verdict started a trend, and within 20 years slavery, having been abolished by juries, was gone from Massachusetts. Would we be willing to give up the verdict of *Slew v. Whipple* merely because it was inconsistent with other verdicts of the time? The first nullification verdicts in alcohol prohibition cases were no doubt inconsistent with others at the time and yet a trend toward freedom was established that in 12 years overthrew alcohol prohibition.

Mr. Darrow also fears that the reasonable doubt standard will suffer if juries know of their power of nullification. As important as the reasonable doubt standard is in run of the mill criminal cases, its importance pales in comparison with the importance of the jury's true purpose, which purpose is the protection of freedom and the Constitution by nullifying oppressive laws.

As Thomas Jefferson explained the role of the jury in a letter to Thomas Paine in 1789 — "I consider trial by jury as the only anchor yet imagined by man by which a government can be held to the principles of its constitution." Or as George Bernard Shaw expressed the paramount importance of jury nullification to the role of the jury — "The power of the jury on occasion to deliver an accused person from both the police and the letter of the law is the sole reason for its existence."

In the classic jury nullification case the facts are not in dispute and so reasonable doubt is of no consequence in such a case. The Quaker who helped a fugitive slave in 1852 did not rely upon the reasonable doubt standard, but relied instead upon the jury's power to rise above the law to reach justice. Likewise, the recent acquit-

tal of marijuana defendants in Madera County, California, who called the news media and then planted sterile hemp seeds in front of TV cameras, had nothing to do with reasonable doubt. Fair cross sectional juries who know about their power of nullification may eventually produce consistent verdicts of acquittal for the marijuana defendants that Mr. Darrow was concerned about in his letter.

HJR 4205 is a fresh breath of First Amendment air which informs the jury of the truth about its power to judge the law and which prevents the government from stacking the jury with government partisans. To paraphrase the most influential libertarian in all of history — Jesus Christ — "If the juries know the truth, the juries will make us free."

TOM STAHL
Ellensburg

To suggest that jury nullification is necessary to protect "freedom and the Constitution" reminds me of that old quote, "In order to save it, we had to destroy it."

To equate jury nullification with a constitutional democracy is to equate black with white. Laws are made in a democratic milieu; jury nullification, by definition, ignores the results of that process. It is contradictory to endorse a constitutional democracy on the one hand, and support a jury's right to ignore the laws made pursuant to that environment on the other.

You state that jury nullification "will have the rapid effect of paring down bad laws by a pattern of acquittals and hung juries. To have respect for law we must have laws that people respect." I agree with your conclusion, but not your methodology. One of the quickest ways to change a bad law is to enforce it rigorously; not to disregard it. Disregarding particular laws only fosters contempt for all laws in general.

An earlier letter printed in the Bar News *(Sept. '95) also alluded to HJR 4205. For our readers' information, we reprint the full text of this resolution below. It is currently in the House Committee on Law and Justice. - Ed.*

HOUSE JOINT RESOLUTION 4205

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state there shall be submitted to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article IV, section 16 of the Constitution of the state of Washington to read as follows:

Article IV, section 16. (1) Judges shall not charge juries with respect to matters of fact, nor comment thereon, but shall declare the law, except as provided in subsection (2) of this section.

(2) An accused or aggrieved party's right to trial by jury, in all instances where the government or any of its agencies is an opposing party, includes the right to inform the jurors of their power to judge the law as well as the evidence, and to vote on the verdict according to conscience.

This right shall not be infringed by any statute, juror oath, court order, or procedure or practice of the court, including the use of any method of jury selection that could preclude or limit the empanelment of jurors willing to exercise this power. This right shall not be infringed by preventing any party to the trial, once the jurors have been informed of their powers, from presenting arguments to the jury that may pertain to issues of law and conscience, including (a) the merit, intent, constitutionality, or applicability of the law in the instant case; (b) the motives, moral perspective, or circumstances of the accused or aggrieved party; (c) the degree and direction of guilt or actual harm done; or (d) the sanctions that may be applied to the losing party.

Failure to allow the accused or aggrieved party or counsel for that party to so inform the jury shall be grounds for mistrial and another trial by jury.

Life is Never a Dress Rehearsal

Editor:

I read with interest the article "Stepping Away From the Law" in the November 1995 *Washington State Bar News*. I am one who has walked in the shoes of the author.

Unlike the anonymous author's statement, while in law school "almost immediately I knew I had made the wrong career decision . . .," I remained naive well through my 13th year of private practice. I continued to rally my spirit and the spirit of the staff around me by advocating honesty and fair dealing, a sense of professional commitment and a genuine desire to be of service to my clients. My naiveté also fell victim to one of the great lies of modern man: hard work would automatically equate to success which in turn would equal wealth, satisfaction, love, acceptance and client goodwill.

Alas, at age 39 I looked at my many successes as a lawyer (and by all material standards they had been many — as the author would agree, great pay, superb benefits, power and prestige) and concluded it would never get any better than what I was experiencing at that point in my professional career. The question I asked myself was "what do I do for the next 25 or 30 years?" I concluded my ambitions were not being met by the benefits of being a qualified journeyman attorney.

I relied on my experience as a business owner, my formal education, and some of the legal advice I had given to clients over the years, not to mention the lessons I had learned from trial work, and went to work as a senior executive for a national corporation.

Working in a corporate environment I was almost immediately left speechless when I found people that were warm and nurturing and willing to work on projects with common strategic goals. Rather than the hostile, negative and often time destructive attitude that exists in the legal profession I found co-workers to be cooperative, results oriented and driven for mutual benefits.

Query: When was the last time you worked with opposing counsel to obtain a mutually agreeable goal? Even in periods of mutual agreement my experience generally was there was incessant posturing, fee justification, wrangling and acrimonious bellicose babble. Many cases were "over-lawyered" and "under-resolved."

I am continually amazed as I contact

former colleagues who say that some day they are going to get out as well. I have concluded that much of this is that bellicose babble I experienced while in private practice. Most of these people will spend their lives miserable, wondering about getting out. For those people who still consider the alternatives, listen to the calm quiet voice of experience,

> life is never a dress rehearsal;
> and a person contemplating
> jumping over a large chasm
> cannot elect to do so in two bounds.

For me, I chose not to contemplate, complain and wonder any longer. I also had the benefit of a supportive spouse, good timing and probably good luck. Having all of those benefits I can now look back into the institution and without reservation conclude that there is little difference between the inmates and the guards — none of them have the keys — the only difference is the level of medication they take.

My status as an attorney made me proud; my career as an attorney left me disappointed. Thank you for the thoughtful articles. Keep up the great work.

DONALD A. O'NEILL
Phoenix, AZ

More on Catholicism & Recusal

Editor:

I didn't read the poor thing itself [John Tomasin's letter in the Sept. '95 *Bar News*]. But the responses were so rancorous and so devoid of any knowledge of the Catholic faith that the issue should be clarified. I am an atheist, the worst kind: a lapsed Catholic. I memorized my catechism for nine years. I also discussed Catholic theology extensively with priests with doctorates in theology.

Concerning matters of faith, the Pope is the sole and only arbiter on earth of the will of God. There is no dispute on this issue in Catholic dogma or theology, it has been laid to rest for centuries. In these matters it is 'he who must be obeyed' if one is to attain eternal salvation. More to the point, you cannot be Catholic and dispute the Pope's authority in matters of faith. If you are Catholic you accept the Pontiff in matters of faith. If you dispute what the Holy Father reveals as an item of "FAITH" you can't be Catholic. In modern parlance 'it's a definitional thing.' I have just restated the same idea several times because no one seems to get the point.

Now, when a Catholic is told as a matter of faith that abortion is a sin against God and the teller is His Holiness and the object of the telling is a Catholic and a legislator in this country then the long arm of religion has reached into politics. (Whew! Try saying that sentence in one breath.) The Catholic legislator is an oxymoron in this situation. She or he must oppose abortion on any level if he or she wants to be Catholic, wants eternal salvation with Jesus Christ.

The letters chastising poor Mr. Tomasin seem to feel that there is nothing to worry about because a number of prominent Catholic politicians put aside their faith for some reason they deemed more important than that old pooh bear "eternal salvation." The writers seemed to zero in on the simple-minded idea that a Catholic President would be taking orders from the Vatican (sounds like a Tom Clancy book) or that that simple-minded idea is being propounded here and in documents espousing ideas similar to the ones in this letter. It is not a simple idea. It is a simple *virtue* we are discussing. I would love to see all the Catholics on the Supreme Court write their opinions openly in terms of their religious burden. But of course the justices (judges, bureaucrats, and elected officials too) won't do that because they'd lose those jobs, that prestige, power, their place in history, invitations to cocktail parties for the elite, chances for rubbing elbows with the rich and famous. Making a person a federal judge at any level is as good a way to make a human being as close to being god or god-like as mankind has ever been able to devise. However, if you are promoted to "supreme" Justice you get power *and* something no other public official in this country has: reverence, that is, you are revered. Only a saint or a good Catholic would give all that up — for virtue.

Of course, it's easy for me to take the high road in this letter. I opted out [of Catholicism] early so I wouldn't have to make choices that defined me as untrue to what I otherwise claimed was the core of my existence. I have a real problem with lying — about important things.

FABIAN ACOSTA
Seattle

I think you miss the point of those responding to Tomasin's letter. Everyone carries a set of beliefs with him or her when they become judges. Not just Catholics. Everyone.

For example, you are a self-professed atheist. If you were a judge, should you disqualify yourself from school prayer cases? Religious discrimination cases? Disputes concerning tax-exempt status of religious organizations? Of course not.

You may argue that this analogy is imprecise because, unlike Catholics, you are not called upon to act contrary to a higher religious figure. However, as you state in your letter, you do "have a real problem with lying"; thus, in your case, your "higher figure" would be your own conscience. If your conscience dictated that school prayer was balderdash, even though — hypothetically, let's say — the Constitution specifically permitted it, how would you rule? Or, more to the point, should you be permitted *to rule?*

Barring an individual from sitting as a judge because of his or her religious or political beliefs is a highly dangerous precedent, because none of us would be immune from such scrutiny. That is why the rating of Justice-elect Sanders as "not qualified" by the King County Bar Association — almost certainly because of his conservative political beliefs, ignoring his vast appellate experience — was so disturbing. We must distinguish between political or religious beliefs on the one hand, and an individual's competence to sit on the bench on the other.

Reassuringly, the public was more comfortable with this distinction than the evaluating committee, when it elected Sanders, but defeated the property rights initiative he espoused. That is why it is important to continue to elect judges — so that everyone can have their say — as opposed to allowing committees to appoint them — where a small group can skew the selection. - Ed.

WSBA Governance FAX POLL page 28

Elections, Past and Future

by **Hal White**
Bar News *Editor*

No sooner had the dust settled from the November general elections than the Board of Governors began its deliberations regarding the number and type of individuals which can run for and/or sit on the Board. I have a few thoughts about both events.

In a surprise to many, Richard Sanders defeated incumbent Roselle Pekelis in the state's Supreme Court race. Disappointingly, however, the same excuses were offered by the losing side that are always offered whenever an incumbent judge loses a race: The spelling or pronunciation of a name.

According to the *Seattle P-I*, "Paul Elliott, campaign manager for Pekelis, said that name appeal was the key factor in her defeat."

The Seattle Times stated that "Chief Justice Barbara Durham figures Pekelis fell victim to the phenomenon that swept away Keith Callow in 1990 — name unfamiliarity. Absent information about judicial races, voters tend to look for something in the name, Durham said. And Pekelis, which is of Russian descent, isn't so easy to pronounce as Sanders."

These are, at best, disappointing beliefs. But at least Elliott's statements were understandable. To admit that 53% of the voters preferred what your opponent represented is a painful admission. Better to hide behind the fallacy of name pronunciation, and thereby diminish the significance of the victor's accomplishment.

But Justice Durham also parroted the mistaken notion that Sanders won because of his name. Let's examine that assertion.

This urban legend originated when Justice Charles Johnson defeated incumbent Keith Callow in a 1990 Supreme Court race. Apparently unwilling to believe that voters would defeat Callow because of a campaign fully as weak as his opponent's, supporters decided that people must have voted for Johnson because they liked his name better. But his supporters ignored the fact that Callow spent virtually nothing on his campaign ($10,176); had never run in a statewide race as an incumbent; and was not even among the top two candidates in a Supreme Court race two years later, when he certainly enjoyed greater name recognition than the ultimate victor, Barbara Madsen.

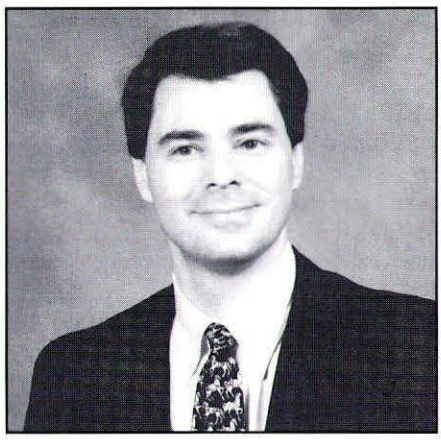
Proponents of this myth also ignore the fact that a candidate for the other Supreme Court position in that election — Gov. John Spellman — enjoyed massive name familiarity, and he *lost*; by a greater margin than Callow.

If you want another example of the fallacy of name recognition, consider the more recent Supreme Court race of Janice Niemi, who had significantly greater name recognition than Gerry Alexander; she lost, too.

> ***"A judicial seat, once obtained, is not a personal fiefdom — despite the old boys' sophistry that challenging a sitting judge is déclassé."***

Other examples abound. One of the more famous in our state was when Brock Evans ran for Congress. Pundits throughout the district hypothesized that a candidate with the first name of Brock Adams (this was prior to Brock Adam's subsequent difficulties) and the last name of Dan Evans would do extremely well on the basis of name recognition alone. He was trounced.

Some may nevertheless argue that the 1995 election of Jeanette Burrage to the King County Superior Court was an example of name recognition; after all, she had run for both the Supreme Court and Court of Appeals within the past 12 months. However, if her victory was due to name recognition, it was a very strange type of recognition.



Hal White

In her 1994 race for the Supreme Court, Burrage received 43% of the vote. In her subsequent race for the Court of Appeals, she received 41% of the vote. In her November race for the Superior Court, she received 34% of the tally. Name recognition is supposed to *increase* your vote totals, not *decrease* them. I submit that people are focusing merely on the fact that she *won*, rather than on the circumstances of her victory, which allowed her to win with a plurality of the vote in a five-candidate race. I don't believe I'm going too far out on a limb when I say that her chances of winning a two-person race in a run-off election would be problematical.

Of course, there *is* an alternative to the conceit that an incumbent only loses because of an unattractive name: An increasingly intelligent and demanding electorate. A state which would unseat a sitting Speaker when he sued his own constituents over term limits would not hesitate to defeat a justice who failed to convey why he should remain the incumbent. Re-election is not a right. A judicial seat, once obtained, is not a personal fiefdom — despite the old boys' sophistry that challenging a sitting judge is déclassé. Rather, re-election is a privilege. The voters learned nothing about Callow during his six years on the Supreme Court, and thus decided that virtually any challenger would be superior to a detached, uncommunicative incumbent. Johnson's

name didn't win the election for him; Callow's *lack of communication* did.[1] The electorate realizes that an insulated, prolonged judicial tenure is not necessarily a good thing; consequently, they demand that judges communicate with them in exchange for this honor — or suffer the consequences. Judicial candidates ignore this responsibility increasingly at their peril.

Justice-elect Sanders understood this. He communicated extensively with the voters. Agree with him or not, you couldn't help but know how he stood on the issues. Pekelis, on the other hand, conveyed absolutely no position on any issue to the electorate. The real surprise is that she lost by only a 53-47 margin.

Amazingly, however, some people use Sanders' victory, together with the defeat of Referendum 48, to demonstrate that voters don't know what they're doing. To the contrary, it *proves* they know what they're doing. Unlike the Screening Committee of the King County Bar Association (see the Editor's response to F. Acosta's letter on page 9), the electorate was able to distinguish between a flawed referendum, and the impartiality of a candidate who backed that proposal. This distinction is crucial, and the public grasped it; the public realized that liberals aren't the only candidates that can render just decisions despite their political beliefs; conservatives can too. So can moderates. So can socialists, Catholics, Jews, Evangelicals, and blacks. To believe otherwise is bigoted; moreover, to promulgate the fallacy of name pronunciation — whenever a candidate of contrary religious or political viewpoint prevails — is an extrapolation of that bigotry, and deserves to be rooted out wherever it is encountered.

Thus, although I am personally relieved that Referendum 48 failed, I applaud the election of Justice-elect Sanders — because it demonstrates that the electorate possesses the intelligence to make such a crucial distinction.

* * *

On a separate topic, our Board of Governors will soon be making decisions regarding possible changes in the way our Association is governed. At present, we are governed by a Board comprised of 11 Governors: one each from the nine congressional districts, and two at-large governors elected from King County (home — for better or worse — to half of Washington's lawyers). Each governor serves a three-year term. Our current system also has a President, who serves for one year, and can vote only in the event of a tie between the governors.

> ***"None of us — even those who were storm troopers in an earlier life — deserve the chaos that a room full of 100 lawyers would create for our Association."***

A recent task force has recommended that the present system be scrubbed in favor of an "ABA-like" house of delegates system. Failing that, the task force recommended the creation of an expanded Board of Governors, which would include such unelected additions as a "diversity representative," a "citizen representative," and a "young lawyer representative." It is estimated that the house of delegates system of governance, which would be in *addition* to an expanded Board of Governors, would consist of more than 100 lawyers, and cost an additional $295,000 per year.

None of us — even those who were storm troopers in an earlier life — deserve the chaos that a room full of 100 lawyers would create for our Association.

I am confident, however, that the present Board realizes that adding so many politicians to the mix won't help our Association. What I fear, however, is that the sheer anticipation generated by a task force report will cause the Board to instigate the lesser of the two evils: an expanded Board. This option, which would cost an additional $75,000 per year, falls under the heading of, "If it ain't broke, why fix it?"

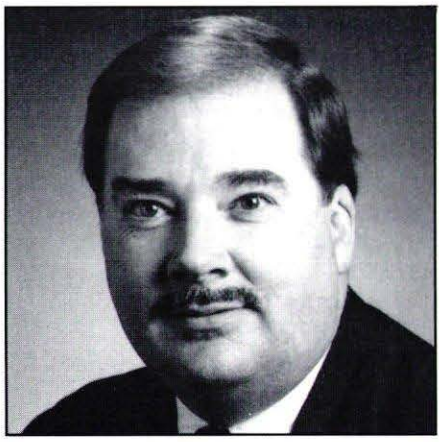
For the past several months, I have watched the Governors at work. I have been impressed with their combination of collegiality and professionalism, as well as their attention to the concerns of individual Association members. The addition of several non-democratically elected members to the Board is both unwise and unnecessary. Such additions will be accountable to no one in the Bar; no constituents will have elected them; and they will add no voice to the Board which is not already available to anyone who wishes to attend a Board meeting. In no other setting have I witnessed an elected body more receptive to the opinions and comments of members who merely choose to show up at meetings. We do not therefore need to insult members of our minority bars by the imposition of a quota system. As Dick Manning related in his letter to the Governors on behalf of the King County Bar Association, "our Board members of color questioned the wisdom as well as the selection process of a 'diversity representative.'"

However, I do suggest one change to our Governors: the addition of an out-of-state representative to the Board. Currently, each of the congressional districts possesses one governor, with the exception of King County, as explained above. However, *we have more out-of-state members than exist in eight of our nine congressional districts.* Thousands of members of our association are barred from their right to democratic representation. It is an injustice to fellow members of our bar who, through no fault of their own, are unable to live within the boundaries of our state. This is an embarrassing omission which should be rectified as quickly as possible.

Notwithstanding that point, however, I believe that it frequently requires courage — sometimes a *lot* of courage — to simply maintain the status quo. But sometimes that is what is necessary. All change *isn't* improvement; all proposals *aren't* progress. This is such a time. With the exception of adding a democratically elected out-of-state representative, the Board of Governors should stay the course — and resist change for change's sake.

[1] A mistake he didn't make in his 1984 Supreme Court race (which he won by over 300,000 votes) even though he had little name recognition, and was outspent by his opponent.

The WSBA Joins the Internet



Dennis P. Harwick

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

Happy new year!

What better time for the WSBA to join the Internet with its own Web site? Actually, the WSBA Web site (or "home page") has been "under construction" (to use an Internet term) since last fall. It was unveiled at the Board of Governors meeting on December 1, 1995, then featured at the WSBA CLE "Internet and the Law" on December 6.

Part of the delay in unveiling the WSBA Web site was making sure that we got the perfect Internet address, which is: **http://www.wsba.org.** In the interim, the Web site has been living at http://www.nwlawyer.net/wsba. I can't go any further without giving credit to two unpaid volunteers whose expertise and labors made the WSBA Web site possible: Sam Foucault (a WSBA member) and James Cameron. Sam and James are affiliated with Northwest Lawyer, an Internet provider to the legal community.

Although the potential uses of the Internet are myriad, the WSBA Web site has two principal purposes at this time: information and communications.

Information: The WSBA Web site is loaded with information for both WSBA members and for the public. WSBA members can find a listing of upcoming WSBA CLEs, a summary of MCLE requirements, a list of the Board of Governors, annual licensing information, summaries of the WSBA Sections, a breakdown of WSBA membership counts by county, and a list of WSBA member services — to name just a few. Members of the public can learn about the WSBA, find out the requirements for taking the bar exam, and get details on filing grievances against lawyers who violate the Rules of Professional Conduct.

No Web site would be complete without a set of FAQs (frequently asked questions). We have a 21-item list that includes lawyer referral services, access to LAW BBS, and the telephone number for the legislative hotline.

Communication: The WSBA Web site provides another vehicle for communicating with the WSBA staff. We will develop an e-mail address for the WSBA itself (you can e-mail me directly at barchief1@aol.com). I know that only a fraction of the WSBA membership currently uses external e-mail, but the number is growing. For example, WSBA President Ed Shea (ED TC@aol.com) and I conduct much of our day to day business by e-mail.

What the WSBA Web Site is Not: It is not a research vehicle. There are lots of commercial providers (LEXIS, Westlaw, etc.) who provide on-line legal research. You will find lots of law school and law libraries on the Internet. You will find volumes of useful information on the WSBA's own L.A.W. BBS service. Consequently, we did not duplicate the research data bases here. At this point, we are not even ready for on-line CLE registrations, annual licensing, or publication sales — but give us time.

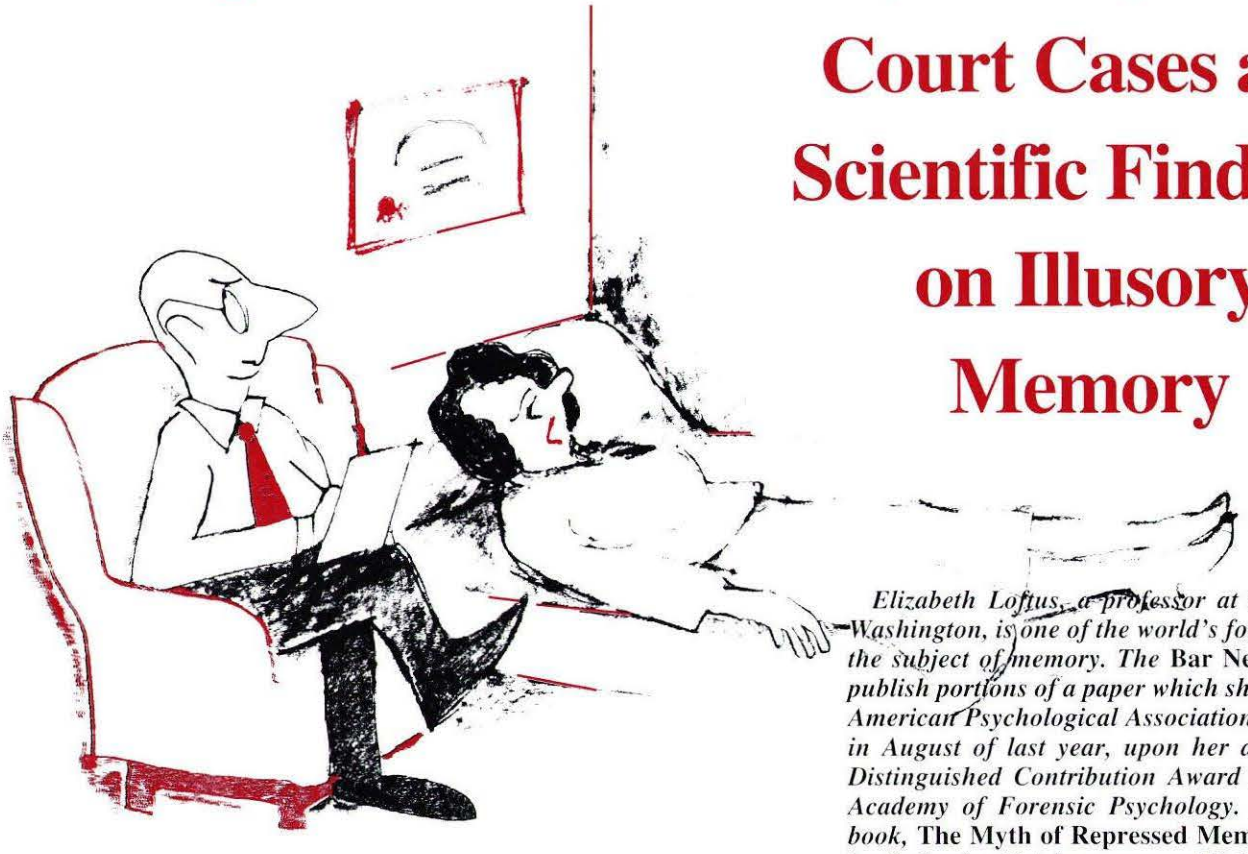
What I do know is that the WSBA hit the Internet with the most extensive information of any state bar association (we are approximately the 4th or 5th state bar with a Web site, depending on what you count as a Web site). I know that our Web site will evolve to better serve both members and the public. Let me know what you think about our Web site!

The Missing Column: Some of you may have noticed that I did not have a column in the December issue of *Bar News*. It was the first time in over a decade that I didn't get a column in a monthly bar magazine. Like many middle-aged children, I got the unexpected call that I was needed at home. Within the course of a couple of hours, I was at a Boise hospital with my mother and siblings to attend to the details of my father's final days. Suddenly, a column for *Bar News* wasn't that important.

I write this not to engender sympathy — there was nothing unique about my experience. It did, however, remind me that there are more important things than spending those last couple of hours at the office, and that finding yet another letter to the editor from someone you've never met excoriating you for some slight — real or imagined — is not going to be the worst thing that can happen to you that month, week, or day. As we start a new year, renew your priorities. There's time to write that column later.

Repressed Memory Litigation:

Court Cases and Scientific Findings on Illusory Memory



Elizabeth Loftus, a professor at the University of Washington, is one of the world's foremost experts on the subject of memory. The **Bar News** *is honored to publish portions of a paper which she presented at the American Psychological Association Annual Meeting in August of last year, upon her acceptance of the Distinguished Contribution Award by the American Academy of Forensic Psychology. Her most recent book,* **The Myth of Repressed Memory**, *co-authored by Katherine Ketcham, was published in 1994 by St. Martin's Press.*

by **Elizabeth Loftus**

The 1990s ushered in the decade of repressed memory litigation. People all over North America have emerged from psychotherapy accusing their fathers and mothers, their uncles and grandfathers, their former neighbors, their former teachers and therapists, and countless others, of sexually abusing them years before. Their accusations stem from memories they had apparently completely repressed until various therapeutic interventions excavated their mental remnants and made their presence known. With new-found memories in hand, these abuse "survivors" confront their family members or former acquaintances. Hundreds of them have taken their alleged abusers to court, forcing them to pay damages. In many cases, defendants have also found themselves enmeshed in criminal proceedings, and more than a few have been sent to jail.

This repressed memory litigation is not about child abuse in general. Child abuse is a serious problem in our society. According to one report[1], in 1992 alone there were 175,000 substantiated reports of child abuse in this country. Moreover, those 175,000 cases may be an underestimate since many child molesters commit their crimes with impunity. I heartily applaud many of the efforts to combat the real child abuse problem, and to sternly punish true perpetrators.

This litigation is also not about the large numbers of genuine victims who have known of their abuse their whole lives, and only recently summoned the courage to tell a trusted friend or therapist about it.

Rather, repressed memory litigation is typified by cases like that of Mary D.,[2] who sued her father, claiming that she had been abused from infancy until age 23. After more than six months of counseling, Mary recalled that she had been manually penetrated and masturbated by her father when she was an infant, and later when she was about 2 or 3 years old. Her therapist, she said, informed her that many of her psychological problems were connected to such abuse, and that her repression was a natural psychological response.

Background

In 1989, legislation went into effect in Washington that permitted people to recover damages for injuries suffered as a result of childhood sexual abuse within three years of the time they remembered the abuse.[3] The legislature invoked a novel application of the "delayed discovery doctrine," which states that the statute of limitations does not begin to run until the plaintiff has discovered the facts that are essential to the cause of action. The assertion in repressed memory cases is that the memory of abuse could take decades to remember.

At least 28 states have adopted similar legislation, although some states differ from Washington and limit the discovery

> ***" . . . there is virtually no support for the idea that clients in therapy routinely have extensive histories of abuse of which they are completely unaware."***

period to a set number of years after a triggering event, such as the age of majority (e.g., in Idaho it is five years after the age of majority). A discussion of the positions taken by various state legislatures — and their uncritical proclamations about repressed memories — can be found in a recent law review article.[4]

At the heart of such legislation is a fundamental set of assumptions: That we banish traumatic experiences from consciousness because they are too horrifying to contemplate; that we cannot remember these forgotten experiences by any normal process but only by special techniques; that these techniques produce reliable recovery of memory; that before such recovery, these forgotten experiences cause miserable symptoms and problems in our lives; and that by excavating and reliving the forgotten experiences we can be cured.

In point of fact there is no cogent scientific support for this repression folklore, and ample reason to believe that extraordinarily suggestive prolonged searches for hidden memories can be harmful. There are grounds to believe that such practices, while confined to a small minority of practitioners, involve large numbers of patients given the sheer number of patients who seek psychotherapy in any given year. This is not to say that people cannot forget horrible things that have happened to them; most certainly they can. But there is virtually no support for the idea that clients in therapy routinely have extensive histories of abuse of which they are completely unaware. Yet an unfounded faith in the repressed memory ideology has led some clinicians to engage in practices that are risky, if not dangerous, in terms of their potential for creating false beliefs and memories.

As a consequence of this legislative activity, juries are now hearing cases in which plaintiffs are suing their parents, relatives, neighbors, teachers and others for acts of childhood sexual abuse that allegedly occurred 10, 20, 30 even 40 years earlier, but were only recently remembered.[5]

Repressed Memory Litigation

Repressed memory cases are difficult to defend. Plaintiffs' attorneys understandably view this with favor. As one lawyer put it: "An abuser cannot dispute being somewhere at a certain time when that somewhere and time has not been clearly established in the first place. . . . [This] makes it difficult for the perpetrator to directly disprove the abuse."

Conversely, defendants try to show the highly suggestive nature of the therapeutic process. Frequently that process involves invasive techniques such as age regression, guided visualization, trance writing, dream work, body work, hypnosis, and sodium Amytal ("truth serum").[6] Numerous research and clinical psycholo-

> ***". . . Over the next few years, Vynette would 'remember' abuse by her mother, father, uncles, neighbors, and many other people with whom she had contact."***

gists have raised grave concerns that these activities are fostering the creation of false beliefs and memories that implicate innocent people.[7] Indeed, some have referred to the litigation resulting from "recovered memory therapy" as "witch hunts of the '90s."

Hundreds of people have taken advantage of the new legislation and brought suits in which they claim their memories resurfaced in therapy.[8] There were 800 such cases in 1994, three-quarters of which were brought in civil court.[9] Because there is usually no corroborating evidence, the classic repressed memory trial ends up as a credibility contest between the accuser and accused. Invariably, the process of therapy is on trial. Recently, however, lawsuits have also been brought by "retractors," who claim that they were led to believe that they were sexually molested, but now realize their memories were false.

Retractor cases

As of 1994, some 300 individuals had retracted their sex abuse allegations, and some had sued their former therapists, achieving six figure settlements or jury verdicts.[10]

One example is Laura Pasley, an employee of the Dallas Police Department, who walked into her Texas therapist's office with one problem, bulimia, and walked out with another: incest (Pasley, 1993). Pasley was hypnotized. She joined group therapy. She had flashbacks that her therapist insisted were actual data from her past. Every dream she reported was, according to her therapist, what actually happened to her, no matter how bizarre. Her required reading included *The Courage to Heal*, *The Child Within*, and other books that contain some highly suggestive advice. For instance, *The Courage to Heal* tells readers: "If you think you were abused and your life shows the symptoms, then you were."[11] Laura would eventually "remember" group sexual abuse, a dead man hanging from a rope, and being sexually abused by animals.

She spent four years with unsubstantiated beliefs and memories, eventually became disenchanted and angry with her therapist, and finally realized that her memories were false. Only then was she able to put her estranged family back together. She sued her former therapist for malpractice and obtained a sizable six-figure settlement.[12] Diana Halbrooks obtained a successful jury verdict against the same therapist.[13]

The largest retractor verdict occurred in 1995 in a case against Diane Humenansky (1995).[14] Humenansky, a St. Paul psychiatrist, tried to defend herself against accusations that she induced patients to recall false memories of childhood abuse. The first trial against her was brought by a former patient, Vynnette Hammane, and her family, alleging that Humenansky subjected

Vynnette to an increasingly suggestive and coercive program of mind-altering drugs, hypnosis, and threats designed to get her to remember abuse.

Vynnette began therapy with the psychiatrist on September 20, 1988, for treatment of generalized anxiety. She had no memories of physical or sexual abuse, even when explicitly asked. Over the next few years, however, Vynnette would "remember" abuse by her mother, father, grandmother, uncles, neighbors, and many other people with whom she had contact. She remembered abuse at age 9 months and even at 3 months. She remembered being forced to have a baby at age 8. She remembered satanic ritual abuse with numerous dead babies being served buffet style. She developed more than 100 different personalities, including a dog, a baby angel, and one called "Just Me."

Vynnette Hammane and her family were awarded over $2.6 million dollars. More than $2 million was for pain and suffering, lost earnings and medical expenses up to the time of trial. An additional $461,000 was for future damages. Vynnette's husband was awarded $210,000 for loss of partnership.

Third-party cases

Another set of cases are brought by people *implicated* by repressed memories — the "third party" cases. These individuals take the offensive by filing negligence suits against therapists who helped produce the accusations. They demand compensation for the psychological upheaval, the ruined reputations and careers, and the breakup of families that inevitably follow the supposed recall of childhood abuse.

"The criminal prosecution . . . was based on the memories of his daughter, Laura B., who claimed that her father molested her from the ages of 5 to 23, including raping her just days before her wedding."

One California father, Gary Ramona, sued after he became convinced that his daughter's recent accusations of abuse were based on false memories generated by misguided therapy.[15] Ramona's daughter, Holly, claimed that she had been molested by her father between the ages of 5 and 16, including numerous times with the family dog, Prince.

Holly's "memories" arose only after she began therapy as a sophomore in college. Holly's therapist had told her during an initial therapy session that 70-80% of people who suffered from the eating disorder which Holly complained of were child sex abuse victims — a misleading if not purely erroneous piece of information. Holly attended group therapy sessions in which sexual victimization was discussed. Holly was subjected to the barbiturate sodium Amytal, and when she expressed reservations about her memories, she was assured – incorrectly — that lying while under the influence of sodium Amytal was impossible without training.

Holly's father, Gary Ramona, sued not only the therapists who treated his daughter, but the hospital where a portion of the treatment took place. The Ramona case was considered the "first successful courtroom challenge to practitioners of 'recovered-memory' therapy."[16] It was the first case where a jury awarded damages against a therapist for "implanting or reinforcing" false memories in a case brought by a relative of the patient. Typically, the therapist's duty of care is to the client, and only clients can sue for negligence. But Ramona, the client's father, was permitted to sue the therapist, causing some commentators to suggest that this raises "the specter that anyone who is harmed by a false memory may, in the future, recover damages."[17]

Another third-party case arose after Kathleen Sullivan consulted a psychologist and, under hypnosis, remembered abuse by an older sibling.[18] Kathleen told her parents about her recovery of repressed abuse memories, and they subsequently sued the psychologist for "intentional and reckless infliction of emotional distress and for the injury to the family relationship."

In discussing the psychologist's culpability, the Court noted that parents may not generally sue for damages caused by malpractice against a (live) child, but the record in this case suggested that the psychologist, Dr. William Cheshier, specifically directed his actions, in part, against the parents and their interests. He allegedly imposed a false memory in Kathleen Sullivan, instructed her to break contact with her parents if they disagreed with her memory, and prevented the parents from taking some reasonable steps to inquire into the validity of the memory.

Combined Retractor and Third-party Plaintiffs

A combined "retractor" and "third party" case found its way into a courtroom in Pittsburgh. Nicole Althaus developed memories of her parents molesting her as a teenager, then recanted after a heartbreaking 14-month separation from them. She joined her parents in suing the psychiatrist, and a jury awarded $272,000 in compensatory damages.[19] Details of this case can be found in an extensive series of articles that appeared in the *Pittsburgh Post-Gazette*.[20]

Unusual Cases

Disputes about repressed memories have also led to legal difficulties for more unusual defendants. One therapist was charged by the State of Washington with negligence and incompetence in the "recovered memory" treatment of a woman who accused her father of sexually abusing her as a child.[21] The woman, GM, saw therapist Linda Rae MacDonald from 1989 to 1993. GM's therapist validated GM's memories of alleged childhood ritual and sexual abuse without seeking any verification or exploring alternative interpretations.

GM's health deteriorated, requiring medication and hospitalization. The State ordered the therapist's license suspended for five years and fined her $5,000. To reduce her suspension and her fine, she was required, among other things, to have her practice supervised, submit semiannual reports, pay costs and fees, and complete numerous college level courses in abnormal psychology, mental health, law, and ethics.[22] GM still believes her father molested her.

Two highly unusual legal cases were filed by retractors against authors whose books have been implicated in the development of their false memories.[23] Kimberly Mark sued her therapists and the author of *The Courage to Heal Workbook*. She claimed that the book's author represented that she had special knowledge in helping adults, including those with no memories of childhood sexual abuse. Moreover, the author allegedly taught Mark to unconditionally believe that "recovered memories" are historically accurate and true and worthy of belief. Mark suffered severe mental anguish and emotional distress as a result. Deborah David, who was led to believe that she was a victim of satanic ritual abuse, and suffered multiple personality disorder as a consequence, also sued her therapists, and the authors of *The Courage to Heal*, for fraud and misrepresentation. David alleged that the book was ultimately used to induce false delusions of childhood sexual abuse. The author-defendants were ultimately dropped from these suits.

Problems of a different kind faced a Florida woman, Donna Serritella, who was charged with insurance fraud after she tried to get Nationwide Insurance Company to pay for her recovered memories of sexual abuse.[24] According to news reports, Serritella was nearly involved in an auto accident but escaped without injury — either to herself or to her car. Approximately nine months later she contacted her insurance company, stating that she had flashbacks of sexual abuse caused by the near accident. She demanded $25,000. While pursuing her demand, she also sued her alleged abuser, and he filed a countersuit contending slander and malicious prosecution. During that case, evidence emerged that she had remembered abuse on numerous occasions preceding her near-accident. At last report, Serritella was being held in jail in lieu of $5,000 bail.

Some patients sue without retracting. In one instance, a patient successfully sued a psychiatrist for malpractice who had injected her with "truth serum" over 140 times in an effort to uncover memories of child abuse.[25]

One of the strangest cases of repressed memory led to freedom for a rather surprised defendant from Minnesota. Dennis Truwe had been convicted of criminal sexual conduct in early 1994. A juror in the trial belatedly realized — after conviction but before sentencing — that she had been sexually abused in childhood. Had her history been known at the time of jury selection, she would not have been chosen. The judge declared a mistrial. Truwe was tried again, and acquitted.[26]

Criminal Repressed Memory Cases

Criminal prosecutions based upon formerly repressed memories of murder have now occurred in a number of states. For example, in 1994 a jury convicted an Indiana woman, Anita Vega, of involun-

tary manslaughter in the 25-year-old death of her toddler daughter. Vega's oldest daughter said she had suppressed the memory until she began having nightmares about it in 1992, after getting counseling.[27]

However, the most famous is the case of George Franklin, convicted of murder after his daughter, Eileen, claimed she witnessed a murder 20 years earlier, repressed the memory, and then remembered. Franklin's conviction was recently vacated on appeal.[28] A battle over therapy records typically ensues during such litigation, pitting the patient's right to privacy against the accused's constitutional right to defend.[29]

A judge in a New Hampshire court recently put the issue of repressed memory on stage as he refereed a vigorously fought scientific battle.[30] The criminal prosecution of Joel Hungerford was based on the memories of his daughter, Laura B., who claimed that her father molested her from the ages of 5 to 23, including raping her just days before her wedding. A couple of years later she began therapy, and recovered these memories. In a companion case, the prosecution of John Morahan was based upon memories of a former student, Sarah F., who claimed that her teacher had raped and impregnated her when she was 13. More than five years later, while in therapy, she recovered this memory.

What was unusual about the New Hampshire case was that the judge ruled the State had the burden of proving that the phenomenon of memory repression — and the process of recovery through therapy — had gained general acceptance in the field of psychology. Moreover, the State had to establish this by showing the validity of the methodology underlying the testimony, and its application to the facts at issue.

During the subsequent hearing the defense filed motions for discovery, arguing that the therapy records were necessary to challenge the reliability of repressed memories in pretrial proceedings. In the words of the defense psychiatrist, "It is critical for an expert familiar with the practice of psychotherapy to assess the degree to which . . . suggestive influences may have been operating in the hands of the complainant's therapist. This can only be done by allowing the expert to review the therapist's notes and reports."

The subsequent examination indicated that Laura B. had initiated therapy due to symptoms of clinical depression and sexual problems in her marriage. She had no memories of any sexual abuse, but her sister claimed to be recovering memories of abuse by the father, and Laura B. then wondered about her own history.

Laura B. began therapy in 1992 with Susan Jones, MSW. One of Jones' stated goals was to recover memory of possible sexual abuse. Jones had a joint therapy session with the two sisters during which the sister's claims were discussed. During nine months of therapy, involving approximately 100 sessions with Jones, Laura B. would begin to "remember" abusive episodes, including an unremembered rape that occurred two days before her wedding a few years earlier. These recollections were induced via visualization techniques, dream interpretation, analysis of body pains, and more. It became clear from the records that Jones "educated" Laura B. about repression and other concepts, affirmed Laura's memories, and validated her abuse.

Therapy records were also made available concerning the alleged victim in the companion case, 21-year-old Sarah F. While the facts of her allegations were somewhat different, an analysis in her case revealed that she had attended a "therapeutic boarding school," and her memories were recovered using hypnosis, "inner child therapy," and other activities aimed at digging out suspected abuse. She accused many other individuals before settling on her seventh grade teacher, defendant Morahan, whom she claimed raped her when she was 13.

After a two-week hearing in which the science of memory, memory repression, and its applicability to the instant cases were thoroughly aired, the judge ruled that the State had not met its burden, and the women would not be permitted to testify at trial. In reaching his opinion, the judge found that the psychotherapy used in these cases was highly suggestive, and "not scientifically reliable" (p. 33 of ruling).

Psychological Science on Suggestibility

Dr. Diane Humenansky testified repeatedly during her trial (see p. 17) that she did not believe in false memories. She refused to acknowledge that anything she

might have done could have led her patient to develop false recollections about the past, and to experience the devastation that such recollections caused. Yet expert witnesses presented several forms of evidence to demonstrate that the power of suggestion can create false memories.

Moreover, it is clear that questionable practices occur in many counselor's offices. In one instance, a private investigator went undercover into a therapist's office, posing as a patient, complaining of nightmares and sleep disorders. On the third visit the therapist informed the investigator that she was an incest survivor.[31] In another instance, Cable News Network sent a reporter with a hidden video to a therapist. The reporter complained of feeling depressed and having recent relationship problems with her husband. In their first session, the therapist diagnosed her as a "classic" incest survivor. When the reporter questioned the therapist about her lack of memory during a second session, the therapist responded that her reaction was typical because her trauma was so awful.[32]

Misinformation Studies

Large memory distortions have now been found in hundreds of studies, involving a wide variety of materials. Misleading post-event information can alter a person's recollection in a powerful, even predictable manner. Courtroom lawyers, political leaders, pollsters and psychologists have long understood this.

For example, Hyman and his colleagues[33] successfully implanted in the minds of adult subjects some rather unusual childhood memories. In one study, college students were asked to recall actual events — as reported by their parents — together with one false event. The false event was either an overnight hospitalization for a high fever with a possible ear infection, or a birthday party with pizza and a clown. Parents confirmed that neither of these events had happened, yet subjects were told that they had experienced one of the false events at about the age of 5.

The subjects tried to recall the experiences that they thought had been supplied by their parents, under the belief that the experimenters were interested in how people remember shared experiences. In all, 74 true events were presented to subjects, and they remembered something about 62 (84%) of these in the first interview and 65 (88%) in the second interview. As for the creation of false memories, no subject recalled the false event during the first interview — similar to repressed abuse cases — but four of 20 subjects (20%) did "remember" by the time of the second interview. One subject "remembered" that the doctor was a male, but that the nurse was female — and also a friend from church.

In a second study, Hyman et al. (1995) tried to implant three new false events that were rather unusual, such as attending a wedding reception and accidentally spilling a punch bowl on the parents of the bride. In this study, 205 true events were presented to subjects, and they remembered something about 182 (89%) of these in the first interview. As for the false events, again no subject recalled these during the first interview, but 13 (25%) did so by the third interview. For example, one subject initially had no recall of the wedding "accident," stating: "I have no clue. I have never heard that one before." By the second interview the subject said: ". . . It was an outdoor wedding and I think we were running around and knocked something over like the punch bowl or something and, um, made a big mess and of course got yelled at for it."

In a third study[34], the false punch bowl event was used again. In all, 218 true events were presented to subjects, and they remembered something about 74% in the first interview and 85% in the second interview. False memories were expressed by less than 1% of the subjects during the first interview, but by 27% during the second interview. One subject, during a second interview, remembered extensive detail about the unfortunate man who had punch spilled on him: ". . . a heavy-set man, not like fat but like tall and big kind big beer belly, and I picture him having a dark suit on, like grayish dark and like having grayish dark hair and balding on top, and, uh, I picture him with a wide square face and I just picture him getting up and being kind of irritated or mad . . . ."

Taken together, these and other studies show that people will falsely recall childhood experiences in response to misleading information, and in response to the social demands inherent in repeated interviews.[35]

Imagination Inflation

One therapeutic technique that may create false childhood memories involves imagination. This experimental approach induces subjects to imagine events that they don't recall. To explore the impact of deliberately inducing subjects to imagine a counterfactual past, I and my collaborators demonstrated that one simple act of imagining a childhood event increases a person's confidence that the event actually happened — a phenomenon called "Imagination Inflation."[36]

In this study, subjects were asked about a long list of possible childhood events (e.g., broke a window with your hand) and they told us the likelihood that these events had happened to them as a child. Two weeks later, subjects were instructed to imagine that some of these events had actually happened to them. We confined our analysis to items that the subjects explicitly said were unlikely to have happened in the first place. They then responded for a second time about the likelihood of possible childhood events.

Consider one of the items. "Imagine that it's after school and you are playing in the house. You hear a strange noise outside, so you run to the window to see what made the noise. As you are running, your feet catch on something and you trip and fall." While imagining themselves in this position, subjects answer questions such as "What did you trip on?" They are asked to further imagine: "As you're falling, you reach out to catch yourself and your hand goes through the window. As the window breaks, you get cut and there's some blood." While imagining themselves in this predicament, they answer questions such as "What are you likely to do next?" and "How did you feel?"

> ***"Wrap the skin of imagination tightly around yourself, and it becomes you."***

A one-minute act of counterfactual imagination led to positive changes in a significant minority of subjects. After engaging in this act of imagination, 24% of subjects increased their confidence that something like this actually happened to them. For those who had not imagined the event, only 12% showed a corresponding increase. The other items used in this study showed similar increased confidence after imagination.

These findings show that even a single act of imagining a known counterfactual event can increase the belief that the event happened. We and others have expressed concerns that imagination may be one of the steps down the royal road to creating false memories.[37] If so, therapists may need to think twice about the wisdom of using or recommending imagination strategies for the express purpose of eliciting allegedly buried abuse memories. Wrap

> ***"With both organized medicine, in general, and psychiatry, in particular, having grappled with false memories . . . it seems time for practitioners to recognize their reality."***

the skin of imagination tightly around yourself and it becomes you.

Dreams and False Memories

Some psychotherapists believe that dreams give insights into an unremembered traumatic past, or that dreams should be used as a resource for reconstructing early sexual abuse. In fact, there is virtually no cogent support for the belief that dreams replicate traumatic experience (Brenneis, 1994). Yet therapists sometimes treat patients with this unsupported belief in mind. Such activities can create problems in the following way: If therapists discuss a topic during a waking session, material about this topic may, as a consequence, get into the patient's dreams at night. When the dreams are discussed at the next waking session, and (mis)interpreted as if they are evidence of a traumatic past, the patient may come to falsely believe and misremember a past that never happened, except in the patient's dream.

Consequently, numerous commentators have worried about the potential harm that can occur as a result of sexualized dream interpretation.[38] In fact, Guiliana Mazzoni and I reported three experiments which showed that after a subtle suggestion, subjects falsely believed that items from their dreams had actually occurred (Mazzoni & Loftus, 1995). The possibility that these questionable therapies could lead a patient to a false belief that sexual abuse occurred is more than a passing risk.

In Conclusion

Given the extensive and growing literature on suggestion and false memory creation, it is hard to see how knowledgeable therapists can seriously refuse to acknowledge the potential for false memories.

The American Medical Association has been quite clear in asserting that the current use of recovered memories of childhood sexual abuse is fraught with problems of potential misapplication, in part because it is "not yet known how to distinguish true memories from imagined events in these cases."[39] The American Psychiatric Association has acknowledged that memories can be significantly influenced by a trusted person who suggests abuse as an explanation for symp-

toms/problems, and that repeated questioning may lead individuals to report memories of events that never occurred.[40]

With both organized medicine, in general, and psychiatry, in particular, having grappled with false memories in this way, it seems time for practitioners to recognize their reality. We should be able to unite behind the pursuit of genuine perpetrators of childhood abuse, while still being skeptical of allegedly derepressed memories. As one physician has aptly noted, skepticism of such memories is important, because of their inherent unreliability, and because of the tragic consequences when they are false.[41]

Endnotes

[1]Sauer, Mark & Okerblom, Jim. (1993, Sept. 6) *Trial by therapy*. National Review, pp. 30-39.

[2]*Mary D. v. John D.*, 264 Cal. Rptr. 633 (Cal. App. 6 Dist.) (1989).

[3]RCW 4.16.340.

[4]Julie M. Kosmond Murray (1995). *Repression, memory, and suggestibility: A call for limitations on the admissibility of repressed memory testimony in sexual abuse trials.* 66 U. of Colorado Law Review 477-522.

[5]Poole, D.A.; Lindsay, D.S.; Memon, A. & Bull, R. (1995) *Psychotherapy and the recovery of memories of childhood sexual abuse: U.S. and British practitioners' opinions, practices, and experiences.* Journal of Consulting and Clinical Psychology, vol. 63, pp. 426-437.

[6]*See*, for example, *Mateu v. Hagen* (King County Superior Court Cause No. 91-2-08053-4; June 9, 1993) where the defense successfully argued that unconventional techniques such as psychodrama, hypnosis, and age regression had been used to implant memories.

[7]Lindsay, D. Stephen & Read, J. Don (1994) *Psychotherapy and memories of childhood sexual abuse: A cognitive perspective.* Applied Cognitive Psychology, vol. 8, 281-338.; Frankel, F.H. (1993) *Adult reconstruction of childhood events in the multiple personality literature.* American Journal of Psychiatry, vol. 150 pp. 954-958; Hochman, John (1994) *Recovered memory therapy and false memory syndrome.* Skeptic, vol. 2, pp. 58-61; Loftus, E.F. (1993) *The reality of repressed memories.* American Psychologist, vol. 48, pp. 518-537; Loftus, E. F. & Ketcham, K. (1994) The Myth of Repressed Memory. NY: St. Martin's Press.

[8]The rush to enact such legislation may be abating. In response to the false charges made against Cardinal Joseph Bernardin, Douglas Kmiec, a Notre Dame law professor, said the case may prompt some legislatures, which have liberalized their laws allowing evidence obtained through hypnosis in sexual abuse cases, to rethink their changes (*The Seattle Times*, March 6, 1994, p. A16).

[9]FMSF Legal Survey. FMS Foundation Newsletter, July/August 1995, p. 11. The False Memory Syndrome Foundation, 3401 Market St., Suite 130, Philadelphia, PA 19104.

[10]Lindsay, D. Stephen & Read, J. Don (in press) *"Memory work" and recovered memories of childhood sexual abuse.* Psychology, Public Policy, & the Law.

[11]Bass, E. & Davis, L.. The Courage to Heal (Harper & Row, 1988) p. 22.

[12]Pasley, L.E. (1993) *Misplaced trust.* True stories of false memories (E. Goldstein & K. Farmer, eds.). Boca Raton: Sirs Publishing; pp. 347-365.

[13]Blow, Steve (1995, May 21) *Memories almost split this family.* The Dallas Morning News, p. 35A.

[14]deFiebe, Conrad (1995, June 19) *Psychiatrist is accused of planting memories.* Minneapolis Star Tribune, p. A1. Gustafson, Paul (1995, Aug. 1) *Jury awards patient $2.6 million.* Minneapolis Star Tribune, p 1B.

[15]*Ramona v. Isabella*, No. 61898 (Super. Ct. Napa County, Cal., May 13, 1994).

[16]Geyelin, Milo (1994, May 17) *Lawsuits over false memories face hurdles.* Wall Street Journal, pp. B1, B7.

[17]Schneider, Jeffrey G. (1994, August) *Legal issues involving "repressed memory" of childhood sexual abuse.* The Psychologist's Legal Update. (Published by National Register of Health Service Providers in Psychology, Wash DC.) pp. 1-16.

[18]*Sullivan v. Cheshier*, 846 F.Supp. 654 (N.D. Illinois 1994).

[19]New York Times (1994, Dec. 17) *Parents Win Suit against Psychiatrist in Sex Case*, p. A9.

[20]*See*, e.g., Schmitz, Jon (1994, Nov. 22) *Malpractice jury told of 'nightmare'*

in false abuse case. Pittsburgh Post-Gazette, p. C1. Schmitz, Jon (1994, Dec. 17) *Jury finds psychiatrist negligent in treatment.* Pittsburgh Post-Gazette, p. A1.

[21]Associated Press. (1995, Feb. 22) *Therapist faces charges in case of 'recovered memory' of sex abuse.* Seattle Post-Intelligencer, p. B5.

[22]*In the Matter of the Disciplinary Action concerning the Counselor Registration of: Linda Rae MacDonald.* (1995, July 11) RC 94012. Agreed findings of fact, conclusions of law and order. State of Washington, Department of Health Counselors, pp. 1-7.

[23]*Kimberly Mark v. John Zulli, Hypnosis Training Institute et al.* Complaint filed in April 1994 in Superior Court of the State of California for the County of San Luis Obispo. *Deborah David et al. v. Arlton M. Jackson et al.* Complaint filed in June 1994 in the Superior Court of the State of California for the County of Sacramento (Case 540624).

[24]Henry, Kaylois (1995, May 12) *Fraud charge cites claim of recovered memory.* St. Petersburg Times, p. 1.

[25]*Joyce-Couch v. DeSilva*, 602 N.E.2d 286 (1991).

[26]Duchschere, Kevin (1995, May 9) *Once convicted, Maple Grove man now free.* Minneapolis Star Tribune, p. 2B.

[27]Sacramento Bee, July 30, 1994, *Mother guilty of child's '60s death*, p. A24; New York Times, August 7, 1994, *Daughter with nightmares helps to convict mother of a killing*, p. 34.

[28]*Franklin v. Duncan*, 884 F.Supp. 1435 (N.D. Cal. 1995). Among other reasons, the court vacated because the judge had denied the defense the ability to show that the specifics of the daughter's memory had been reported in the media before her testimony. Nevertheless, the prosecutor had been permitted to argue that Eileen's memory could only have been produced by a person who had actually witnessed the event. See Loftus & Ketcham (1994) for a further account of this matter.

[29]*See* Loftus, E.F; Paddock, J. R; & Guernsey, T.G. (1996) *Patient-psychotherapist privilege.* University of Richmond Law Review, in press.

[30]*State v. Joel Hungerford* (St. 94-45-7) & *State v. John Morahan* (St. 93-1734-6) Superior Court, Northern District of Hillsborough County, State of New Hampshire. Notice of decision, May 23, 1995. See also Gorman, Christine (1995, April 17) *Memory on Trial.* Time Magazine, pp. 54-55.

[31]E.F. Loftus, *The Reality of Repressed Memories*, American Psychologist (1993) vol. 48, pp. 518-537.

[32]*Guilt By Memory.* (Cable News Network (CNN) television broadcast, May 3, 1993).

[33]Hyman I.E.; Husband T.H.; Billings F.J. (1995) *False memories of childhood experiences.* Applied Cognitive Psychology, vol. 9, pp. 181-197.

[34]Hyman, I.E. & Billings, F.J. (1995) *Individual differences and the creation of false childhood memories.* Unpublished manuscript, Western Washington University.

[35]False memories are not limited to adults. According to a March 13, 1994 column in *The Seattle Times* (p. M8), "One study by researchers at UCLA and the State University of New York asked 72 girls, ages 5 to 7, about medical treatment they had received. Almost 10 percent of those who had not received genital or anal exams reported they had. In a similar study of 3-year-olds, the false reports were even higher."

[36]Garry, M.; Manning, C.; Loftus, E.F. & Sherman, S.J. (1995) *Imagination inflation.* Unpublished manuscript, University of Washington.

[37]*The Courage to Heal* cites this story, of a woman who was disturbed by the fact that she couldn't remember specific memories of physical abuse by her father, as a "good model if you don't have specific pictures to draw from": "I obsessed for about a year on trying to remember, and then I got tired of sitting around talking about what I couldn't remember. I thought, 'All right, let's act as if.' ... [so] That's how I acted. I had the symptoms. Every incest group I went to completely empathized." (P. 82; 1988.)

[38]E.g., Lindsay & Read, 1995.

[39]American Medical Association (1994, June 16) Council on Scientific Affairs. CSA Report 5-A-94. *Memories of Childhood abuse.* (Reprinted in Shepard's Expert and Scientific Evidence Quarterly, 1994, vol. 2, pp. 459-463).

[40]American Psychiatric Association (1993, December 12) Board of Trustees Statement on memories of sexual abuse.

[41]Gordon, Barry (1995, July 13) *Review of The Myth of Repressed Memory.* The New England Journal of Medicine, pp. 133-134.

WSBA Legislative Positions

by **John Fattorini**, *WSBA Legislative Representative*

(Due to the hundreds of bills introduced in the Legislature each session, it is impossible to describe every proposal which may interest our members. Nevertheless, the following is a list of the more significant bills on which our Association has taken a position. For more information, our readers may wish to contact Pat Aylward, WSBA Legislative Chair, @ (509) 662-3685; or the Legislative Hotline, @ (800) 562-6000. This issue's "Board's Work" also summarizes legislation considered by the Board in its December meeting. - Ed.)

SHB 1018 By House Committee on Law & Justice (originally sponsored by Representatives Padden and Appelwick). **SUPPORT**

Amending the Washington uniform limited partnership act.

Revises provisions regulating the withdrawal from and dissolution of a limited partnership.

HB 1019 By Representative Padden. **SUPPORT**

Transferring certain interests in Individual Retirement Accounts.

Revises provisions relating to the transfer of a community property interest in an Individual Retirement Account at the death of an account holder spouse.

HB 1092 By House Committee on Law & Justice. **OPPOSE**

Consolidates mortgage, real estate contract, and deed of trust foreclosure procedures.

SHB 1097 By House Committee on Law & Justice (originally sponsored by Representatives Sheahan, Appelwick and Padden). **SUPPORT**

Waiving penalties for certain estate tax returns.

Provides a waiver when the delinquency was the result of circumstances beyond the control of the responsible person.

SHB 1182 By House Committee on Law & Justice (originally sponsored by Representatives Hickel and Appelwick). **SUPPORT**

Modifying the Uniform Commercial Code.

Makes technical amendments to the UCC.

HB 1504 and SB 5404 By Representatives Horn, Romero, Cairnes, Costa, Van Luven, Kremen, Stevens, Cole, Appelwick and Quail. **OPPOSE**

Creating a lien for real estate brokers.

Declares that a broker shall have a lien upon commercial real estate in the amount due to the broker. Establishes the conditions, requirements and procedures for the enforcement of the lien. Declares that prior recorded liens and mortgages have priority over a broker's lien.

SHB 1220 By House Committee on Law & Justice (originally sponsored by Representatives Sheehan and Appelwick). **SUPPORT**

Modifying options for payment of retirement allowances.

Designates the procedures and requirements of a determination of an obligee as a survivor beneficiary if the department has been served with a dissolution order 30 days prior to the member's retirement.

HB 1618 By Representative Appelwick. **SUPPORT**

Removing ordinary health care expense from the child support economic table.

HB 1619 By Representative Appelwick. **SUPPORT**

Revising child support provision for day care expenses.

Provides that if a child support obligor pays more than his or her proportionate share of the actual expenses of day care, the obligor shall be entitled to a credit in the amount of the overpayment.

HB 1620 By Representative Appelwick. **SUPPORT**

Removing the advisory status of the child support economic table for combined incomes of $5,000 and more.

Revises RCW 26.19.020 to provide that the economic table is presumptive for combined monthly net incomes up to and including $7,000.

HB 1659 By Representatives Meilke, Quail, Crouse, Costs, Kremen and Cooke. **OPPOSE**

Regulating real estate brokerage relationships.

Declares that a licensee who enters into a brokerage relationship with a principal shall be limited to representing only that principal in the transaction. Specifies the duties of a seller's/landlord's agent and dual agent. Establishes compensation limits. Provides for vicarious liability and imputed knowledge tests.

SHB 1907 By House Committee on Law & Justice (originally sponsored by Representative Appelwick). **SUPPORT**

Revising restrictions on residential time for abusive parents.

Limits a parent's residential time with a child if the parent a) resides with a person who has been convicted of a sex offense, or b) has been convicted as an adult of a sex offense under RCW 9A.64.020, 9.68A or 9A.44.

Corporation Act - Proposed changes to the Washington Business Corporations Act relating to provisions regarding "significant business transactions" (i.e., state anti-takeover legislation). **SUPPORT**

Domestic Relations - Legislation will authorize out-of-state residents to file divorce in Washington if respondent is a resident of state. The present RCW authorizes only a resident of this state to file a petition for dissolution. However, there are situations where the Respondent is residing in this state and this is the only state that has jurisdiction. As the law stands, a Petitioner could be prevented from seeking assistance in our courts if he/she is not a current resident of the state. This is an especially difficult problem in Vancouver and other border areas of the state. If a party moves out of state at separation, this state may be the "home state" under the Uniform Child Custody Jurisdiction Act and, therefore, filing must occur in Washington, but the law does not permit it. **SUPPORT**

Limited Liability Companies - Clarifies Washington Limited Liability Act; eliminate traps that have resulted in rejected filings; incorporate recommendations received from Washington Secretary of State's office; clarifies agency authority of members in member-managed LLCs. **SUPPORT**

B & O Tax on Professional Services - Seeks to decrease the B & O tax of 2.5% on attorneys and other service professionals.

SUPPORT

RESULTS

of

THE WASHINGTON STATE BAR NEWS

FAX POLL

In last month's *Bar News*, we asked your opinion regarding the continuation of funding for the Legal Services Corporation. We asked you to check one of five statements which most reflected your views. The results:

1. **71%** believed Legal Services funding should be increased.
2. **8%** believed Legal Services funding should remain the same.
3. **2%** believed Legal Services funding should be decreased to the level of the Senate bill.
4. **9%** believed Legal Services funding should be decreased to the level of the House bill.
5. **11%** believed Legal Services funding should be eliminated.

Because the percentages were rounded, the total does not equal 100%. Overall, 65 valid responses were received which, according to the experience of other magazines, is within the average range of responses.

In late November the House and Senate conference committee agreed upon the $278 million figure. President Clinton has threatened to veto the overall budget bill, which would include Legal Services funding.

Your Comments:

"Legal Services lost sight of its mission and became an ideologically driven organization pursuing its own agenda."

Matthew J. Dudley, Spokane

"As a current staff attorney at Spokane Legal Services Center, I see the need for legal services in the low-income community on a daily basis. A loss of funding will mean even more low-income individuals will go without needed legal services."

Teresa Faust, Spokane

"The needs of families in our county, hard hit by the loss of timber and fishing-based jobs, have increased significantly in the last decade. The need for help with bankruptcies, evictions, child support modifications, and dissolutions for poor people require that Legal Services funding be increased."

Jessica Schreiber
Port Angeles

"Few doubt the valid need for LSC funding, but given the degree of zealousness too often experienced with LSC attorneys without sufficient application of the principles of common sense and ... legal dispute resolution, it should not come as a surprise to LSC that a backlash is coming."

J. Eric Gustafson
Yakima

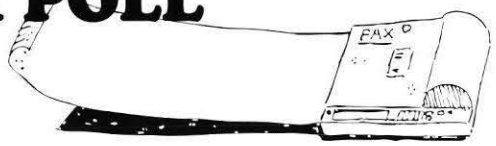
"Have we become so mean and parsimonious as a society that we are unwilling to adequately fund a patently successful program that provides critical assistance to our most needy and disenfranchised citizens? If so, God help us."

Gordon W. Griggs, Everett

Although these statistics accurately reflect the viewpoints of the individuals who responded, they do not necessarily reflect the overall opinion of the WSBA membership.

THE WASHINGTON STATE BAR NEWS

FAX POLL



What is your opinion regarding the proposed changes in WSBA governance? A task force report has recommended that our association adopt an "ABA-like" house of delegates system, composed of approximately 114 lawyers, in addition to an expanded Board of Governors. The projected cost of this option is an additional $295,000 per year. Failing this, the task force recommended an expanded Board without a house of delegates system. This expanded Board would include a "diversity representative," a "young-lawyer representative," and a "citizen representative." It would also replace the two at-large King County Governor positions with two additional Seventh District representatives. The projected cost of this option is an additional $75,000 per year. For further details of these proposals, review pages 18-26 of the July *Bar News*.

Please check the statement which most reflects your opinion, along with any comments or qualifications which you may have, and fax (or mail) this entire page to the number below. No cover sheet is necessary. Please, only one vote per attorney.

1. _____ I support the existing Board of Governors format.

2. _____ I support the expanded Board of Governors format.

3. _____ I support the House of Delegates format.

4. _____ I support an alternative format (see comments, below).

Comments:_____

_____

_____

_____

Name and city of faxing attorney (required): _____
(This will not be published, unless your comments are chosen for publication along with the poll results in the February *Bar News*.)

Fax your response by January 10 to:
(206) 727-8320

Or, mail your response by January 8 to:
Washington State Bar Association
Attn.: Hal White, *Bar News* Editor
2001 Sixth Ave., Suite 500
Seattle, WA 98121

Please send suggestions for future fax polls to the above address.

by **Hal White**
Editor, Bar News

Executive Director Dennis Harwick opened the December 1 meeting in Bellevue by unveiling the WSBA Homepage on the World Wide Web. Maestro Sam Foucault, who has devoted many pro bono hours to this project, provided a guided tour of our Association's residence on the Internet. This Homepage should provide various opportunities for WSBA members, including the ability to obtain CLE forms and, eventually, register for CLEs. The WSBA Internet address is: **http://www.wsba.org**. During the tour, Governor Pat Williams also expressed a keen interest in the underutilized potential of "hot links," and will chair a task force exploring new and creative uses for this sizzling concept.

Dennis Harwick also detailed discussions with his counterparts in the Utah, Idaho, and Oregon bars regarding CLE compliance for multistate-bar members. A prospective comity agreement (known as the "Boise Protocol"), tentatively holds that CLE compliance in the member's principle state of practice will suffice for requirements in other states where the member is licensed. On a related matter, he also informed the Board that WSBA CLE registration is on target for the current year.

The Board then voted to recommend Robert Stein for reappointment to the Limited Practice Officer Board. The Governors also formed a "Task Force to Review the Law Clerk Program." To achieve a balanced perspective, the Board decided to accept one application from each of the following categories: a law school representative; a graduate of the law clerk program; a tutor in the program; and a non-tutored attorney. Frank Slak will be asked to serve as chairman. Applications for this committee should be forwarded to Governor Steve Crossland, at P.O. Box 19, 139 S. Worthen, Wenatchee, WA 98807-0019. Applications are also being accepted for the Revenues Task Force. Applicants should contact President Ed Shea at P.O. Box 2368, 1816 N. 20th Ave., Pasco, WA 99302. In further action, Pamela Bartlett, Mary Averett, and Deborah Russell were appointed to the Character & Fitness Committee.

Dave Horn and Scott Smith then appeared before the Board to ask its endorsement of a Resolution regarding the "Final Report of the King County Bar Association Task Force on Lesbian and Gay Issues in the Legal Profession." Upon deliberation, the Board unanimously adopted the following language concerning this report: "The Board of Governors has received and reviewed 'In Pursuit of Equality: The Final Report of the King County Bar Association Task Force on Gay and Lesbian Issues in the Legal Profession.' We commend the members of the Task Force for their work. We condemn all bias, including bias against gays and lesbians, in our profession and in the legal system. We urge all attorneys and judges to review the Report. We will disseminate the Report to our sections' and committees' chairs for review and discussion. We will ask them to provide us feedback by the May, 1996 meeting. We will refer Task Force Recommendation 49 [which would amend RPC 8.4(g) to delete the 'prohibited by law' language; - Ed.] to the 'RPC' and 'Opportunities for Minorities' committees for their review and recommendation, and for a report to the Board by said May meeting. We look forward to working with other members of the bar to work toward the elimination of all bias."

During the lunch break, the Governors and liaisons then received a report by Randy Gordon, President of the East King County Bar Association (EKCBA). Mr. Gordon lauded the performance of the Eastside Legal Assistance Program which, in 1993, won the Pro Bono Award for its service to the disadvantaged in East King County. Gordon also noted that EKCBA has commissioned a task force to study unnecessary expenses involved in litigation (this should keep the committee busy), and is looking forward to the completion of the Eastside Justice Center in the long-term, and obtaining space for an eastside law library in the short term. Afterwards, President Ed Shea briefly discussed the need for the WSBA to increase revenues in order to continue as a fully functioning, independent bar association.

In the afternoon session, the Governors heard a presentation by the Access To Justice Board. ATJ Chairman Paul Stritmatter provided an overview of that organization's recent activities and goals, while Nancy Isserlis and John McKay, chair of the Equal Justice Coalition, provided information on the Jan. 1, 1996 combination of Washington's three legal-service entities into one corporation, the Northwest Justice Project (NJP). Judge Paul Bastine then discussed the congressional restrictions which may be placed on LSC funds (Dec. *Bar News*, p. 41; Sept. *Bar News*, p. 56), and attempted to obtain a leg up in the competitive bidding process for such funds by asking the Board for an endorsement of NJP's application. The Governors did not act on this request.

Phyllis Selinker then discussed the Courthouse Facilitator Program, which began in 1993, and ATJ's attempts to expand this program into other counties. This program provides a courthouse facilitator which assists pro bono litigants in local courthouses, and has been successfully implemented in Snohomish County. Mary Alice Theiler also informed the Board of a possible telephone access line (using either a 1-800 or 1-900 number) to provide legal assistance, and a possible WYLD pilot project in King County which would assist moderate-income individuals in legal matters at little or no cost. Finally, Ken Davidson explained that budgetary cuts have laid off 30 lawyers from the state's three legal-service corporations, and the resultant need to recruit as many as 1,000 lawyers throughout Washington to provide pro bono activities to pick up this slack.

On the legislative front, WSBA lobbyist John Fattorini and Legislative Committee Chair Pat Aylward introduced Gordon Tanner and Don Percival, who discussed legislation affecting their respective sections. Briefly summarized, the Board opposed the Broker's Lien Bill (SSB 5404), which would allow real estate agents to place liens on real property; supported minor corrective amendments to the power-of-attorney statute (RCW 11.94.010(3)); supported housekeeping changes relating to Limited Liability Companies; and supported revisions in the corporations act which delete the "death penalty" for certain actions by domestic corporations.

Family Law Chair Mary Hammerly then discussed various pieces of family law legislation. The Board supported an amendment to RCW 26.09.030, which would allow out-of-state residents to file for divorce in Washington if the respondent is a Washington resident; supported SHB 1907/SSB 5676, which would increase judicial discretion in certain child visitation situations; supported a proposed change to RCW 26.19.020, which would

either annualize health care expenses, or exclude such calculations completely, depending upon which was more politically viable; supported HB 1620 (amending RCW 26.19.020), which would raise the ceiling on presumptive income to $7,000; opposed a bill which would allow license suspension by administrative process for failure to pay child support; and supported HB 1619, which would authorize a parent who had overpaid day care or other specific expenses to recoup such expenditures (amending RCW 26.29.080(3)).

Turning to the most important topic of the day, the Board then received testimony on the issue of WSBA governance (see July *Bar News*, p. 18; this issue, p. 10). Apart from actual members of the task force, only three individuals offered oral testimony, and only ten individuals or groups submitted letters. With the exception of the task force itself and the Young Lawyers Division, there appeared to be little support for the proposal to create a WSBA House of Delegates. However, the Governors will continue to accept members' comments until their formal vote on the task force recommendations at the February 9 meeting in Vancouver, WA.

On December 2, the Governors continued their analysis of lawyer discipline (see August *Bar News*, p. 15). Except for discussions regarding funding for the proposed changes (to be addressed at the February 9 meeting), the Governors completed their preliminary deliberations on this topic. Due to the importance and length of the modifications, a summary of the proposed changes is featured in this issue's "Ethics & the Law" department.

At the request of Governor Peter Ehrlichman, the Board then formally recognized and commended Federal District Court Judge Walter T. McGovern for his 25 years of service on the bench.

The Board then received the report of the Presidential Search Task Force. The applicants for the position of WSBA President for the Oct. '96 - Sept. '97 term were Tom Chambers, former president of the Washington State Trial Lawyers Association, and Wayne Blair, former president of the King County Bar Association. The Board heard presentations from both former Governors, and were unanimous in their belief that either individual would serve admirably as president. After an extensive discussion, the Governors selected Tom Chambers as the WSBA president-elect.

IOLTA Financial Institutions

Approved Financial Institutions as depositories for Lawyer Trust Accounts:

Pursuant to Rule 13.4 of the Rules for Lawyer Discipline and an amendment to RPC 1.14(a) (both effective March 1, 1991) lawyer trust accounts can be maintained only in financial institutions which are approved because they have filed with the Disciplinary Board an agreement to report to that Board in the event any properly payable instrument is presented against a lawyer trust account containing insufficient funds, whether or not the instrument is honored. Following is a list of all approved financial institutions as of November 29, 1995. Direct inquiries regarding the list to the Disciplinary Board, c/o Counsel to the Disciplinary Board, Washington State Bar Association, 2001 6th Avenue, Suite 500, Seattle, WA 98121-2599, (206) 727-8280.

American First National Bank
American Marine Bank
American National Bank
Baker Boyer Bank
Bank Northwest
Bank of Bellingham
Bank of California
Bank of Fairfield
Bank of Grays Harbor
Bank of Latah
Bank of Northshore
Bank of Pullman
Bank of Sumner
Bank of the Pacific
Bank of the West
Bank of Vancouver
Bank of Whitman
Bellingham National Bank
Cascade Community Bank
Cashmere Valley Bank
Centennial Bank
Central Washington Bank
Central Valley Bank, N.A.
Citizens First Bank
Citybank
Columbia Bank
Columbia National Bank
Columbia Savings Bank, Federal Savings Bank Commerce Bank of Washington, N.A.
Continental Savings Bank
Coulee Dam Federal Credit Union
Cowlitz Bank
Credit Union Puget Sound
Edmonds National Bank
Enterprise Bank of Bellevue, N.A.
Evergreen Bank
Farmers and Merchants Bank
Farmers State Bank
First Community Bank
First American State Bank
First Bank of Washington
First Savings Bank of Renton
First Federal Savings Bank of Washington
First Heritage Bank of Snohomish
First Independent Bank, Downtown Office
First Interstate Bank of Washington, N.A.
First National Bank of Port Orchard
First National Bank in Spokane
Frontier Bank/Branch Operations
Grant National Bank
Great Northwest Bank, A Savings Bank
Great Western Bank
Heritage Bank
Harbor Community Bank
Home Security Bank
Horizon Bank
Horizon Credit Union
Industrial Credit Union
Inland Northwest Bank
Intalco Employees' Credit Union
InterWest Savings Bank
Islanders Bank
Key Bank of Puget Sound
King County Medical Society Credit Union
Kitsap Bank
Klickitat Valley Bank
Metropolitan Federal Savings and Loan Association of Seattle
Mid State Bank
Mt. Rainier National Bank
National Bank of Bremerton
National Bank of Tukwila
North Cascades National Bank
North Pacific Bank
North Sound Bank
Northwest Community Bank
Northwest National Bank
Northwestern National Bank
O Bee Credit Union
Olympia Credit Union
Olympic Savings Bank
Pacific First Bank, FSB
Pacific Northwest Bank
Peoples State Bank
Pioneer National Bank
Pioneer Savings Bank
Prairie Security Bank
Public Employees Credit Union
Puget Sound Bank
Puyallup Valley Bank
Redmond National Bank
Riverview Savings Bank
San Juan County Bank
Seattle-First National Bank
Security Pacific Bank Washington, N.A.
Security State Bank
Silverdale State Bank
Skagit State Bank
Social and Health Services Federal Credit Union
Sound Banking Company
Sound Savings and Loan Association
Spokane Catholic Credit Union
Spokane Police Credit Union
Spokane Postal Credit Union
Spokane Teachers Credit Union
State National Bank of Garfield
Sterling Savings Association
Summit Savings Bank
Timberland Savings Bank
Towne Bank of Woodinville
Twin County Credit Union
Twin Harbors Credit Union
U.S. Bank of Washington
United Health Services Credit Union

United Savings and Loan Bank
United Security Bank
Valley Commercial Bank
Valley Community Bank
Washington Federal Savings and Loan Association
Washington First International Bank
Washington Mutual Savings Bank
Washington State Bar Association Credit Union
Washington Trust Bank
Whatcom State Bank
WestOne Bank, King County
WestOne Bank, Pierce County
Wheatland Bank, The
Whidbey Island Bank
Yakima Valley Bank

Judicial Interviews

WSBA Judicial Recommendation Committee to Schedule Interviews:

The WSBA Judicial Recommendation Committee is accepting applications from attorneys and judges seeking consideration for appointment to potential appellate court vacancies. Interviews are scheduled on a space-available basis for either March 22, 1996, or May 31, 1996. Candidate questionnaires are due at the WSBA office by 5 p.m. on February 15, 1996, for the March meeting and 5 p.m. on April 16, 1996, for the May meeting.

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

To schedule an interview, contact the WSBA at 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599, telephone (206) 727-8200, and obtain a questionnaire. Please specify whether you need the questionnaire designed for a judge or an attorney.

Usury Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in December 1995 is 5.42%. ***The maximum allowable interest rate permissible for January 1996 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 72 of the June 1995 *Bar News*.

Board Volunteers

Helping Hands for the Disabled, a nonprofit group which runs housing for disabled adults, seeks members for its board of directors. They meet in Kirkland on the second Tuesday of each month. Contact Wendy Shoemaker at (206) 441-6300.

M.A. in Russian Law

The Academic Law University of the Russian Academy of Sciences offers a one-year M.A. in Moscow: study all areas of Russian law and practical experience through a legal-internship program. Intensive Russian-language training is provided if needed. Contact: Prof. A.M. Dula, Registrar, Academic Law University, 5718 Westheimer, Ste. 1515, Houston, TX 77057-5733; tel. (713) 977-9693; fax (713) 977-1543.

Resignation

King County lawyer Richard J. Fast (WSBA #7118, admitted 1976) was permitted to resign as a member of the WSBA with discipline pending, effective November 8, 1995.

CALENDAR
Phone Numbers

- Davis, Wright, Tremaine (DWT): (206) 622-3150
- King County Bar Association CLE (KCBA): (206) 624-9365
- University of Washington School of Law (UW CLE): (206) 543-0059; (800) CLE-UNIV
- 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

Calendar information is submitted by providers. Please check with providers to verify information. Send submissions to: Washington State Bar Association, *Bar News* Calendar, 500 Westin Bldg., 2001 Sixth Ave., Seattle, WA 98121-2599. Fax (206) 727-8320. Questions? Call (206) 727-8214.

January 1996

5 Seattle: **Lifetime Giving: Planning and Procedures** (1/2 day). By WSBA CLE and Real Property, Probate and Trust Section. 3.25 CLE credits approved.

5 Seattle: **Fiduciary Income Taxation: A Practical Guide** (1/2 day). By WSBA CLE and Real Property, Probate and Trust Section. 3.25 CLE credits approved.

5 Seattle: **Family Law Skills Training Certificate Program, Session 4**. By UW CLE. 3 CLE credits approved.

12 Seattle: **Leadership & Supervisory Skills for Women**. *Also Jan. 29 in Bellingham; Jan. 30 in Bellevue; Jan. 31 in Tacoma; Feb. 1 in Olympia; Feb. 22 in Everett; Feb. 23 in Seattle.* By The National Businesswomen's Leadership Association. Call (800) 258-7246.

9 Tacoma: WDTL Membership Dinner Meeting.

12-13 Olympia: WSBA Board of Governors meeting.

12-14 & 27-28 Seattle: **Professional Mediation Skills Training Certificate Course**. By UW CLE. 35.75 CLE credits pending.

19 Seattle: **The Essentials of Handling Adoption**. By WSBA CLE. 6.5 CLE credits pending.

19 Seattle: **The Law Office Management Institute and Legal Expo Exhibit Hall**. By WSBA CLE, Law Practice Management Section, and Puget Sound Chapter of Assoc. of Legal Administrators. 5.5 CLE credits pending.

19 Seattle: **Corporate Counsel Institute and Legal Expo Exhibit Hall**. By WSBA CLE and Corporate Law Department Section. 6.5 CLE credits pending.

19 Spokane: **Take Control of Your Workload**. By Gonzaga University School of Law. Contact Marge Buck, (800) 572-9658 ext. 3725. 6.5 CLE credits pending (including 3 ethics).

19 Seattle: **Estate Planning Certificate Program, Session One** (of seven). By UW CLE. 4 CLE credits pending.

20-21 Seattle: **21st Annual Military Law Update**. By Army Judge Advocate General's School/6th Legal Support Division. Call (206) 281-3002. 9.5 CLE credits approved.

25 Seattle: **Proposed Revisions to Article 9 and Sticky Article 9 Problems**. By DWT. 1 CLE credit pending.

25 Seattle: **Choosing Your Retirement Plan**. By KCBA.

26 Seattle: **Suing the Government: What You Should Know About Public Sector Liability**. By WSBA CLE. 6.5 CLE credits approved.

26 Seattle: **Family Law Skills Training Certificate Program, Session 9**. By UW CLE. 3 CLE credits approved.

26 Seattle: **1996 Water Law**. By UW CLE. 7.25 CLE credits pending.

27 Seattle: **Agricultural Finance**. By UW CLE. 6.5 CLE credits pending.

February 1996

1 Seattle: **A Practical Approach to Building Your Deposition Skills**. By WSBA CLE. *Also in Olympia Feb. 9.* 6.75 CLE credits pending.

9 Seattle: **Mediation: Making it Work**. By WSBA CLE. 7.75 CLE credits pending.

9-10 Vancouver: WSBA Board of Governors meeting.

15 Seattle & Spokane: **Elder Law**. By WSBA CLE and Elder Law Section. 5.75 CLE credits approved.

22 Seattle: **Survey of Recent Restatement of Suretyship**. By DWT. 1 CLE credit pending.

23 Seattle: **Representing Commercial Property Owners and Property Managers.** By WSBA CLE and Real Property, Probate & Trust Section. 6 CLE credits (and 0.75 ethics) pending.

23-24 Vancouver, BC: **Northwest Securities Institute**. By WSBA CLE and Business Law Section, in cooperation with Oregon State Bar CLE Committee & Securities Section. 12 CLE credits pending.

29 Address/phone changes not already noted on annual licensing renewal forms for 1996 *Resources* directory must be received by Data Processing Department **by noon** to be included. **No exceptions**. Call (206) 727-8217/8276.

March 1996

1 Seattle: **Directors' & Officers' Liability**. By WSBA CLE. 6.25 CLE credits pending.

1 Spokane: **State & Local Tax Deskbook**. By WSBA CLE and Taxation Section. *Also in Seattle March 8.* 6 CLE credits (est.).

5-7 Bellevue: WSBA Bar Exam. Call (206) 727-8209.

8 Seattle: **Estate Planning for Small to Medium Sized Estates**. By WSBA CLE. 6.75 CLE credits pending.

12 Seattle: WDTL Membership Dinner Meeting.

15 Bellevue: **Employment Law Institute**. By WSBA CLE. *Also VIA•CLE — delivering live CLE to your office over your phone.* 6.5 CLE credits (est.).

21 Seattle: **Revisions to Article 5**. By DWT. 1 CLE credit pending.

21 Olympia: **Planning and Compelling Discovery**. By WSBA CLE. *Also in Seattle March 28.* 6 CLE credits (est.).

22 Seattle: **The Seventh Annual International Law Institute**. By WSBA CLE and International Practice Section. 7 "live" CLE and 1.5 A/V credits pending.

22-23 Tacoma: WSBA Board of Governors meeting.

21-24 Phoenix: **WDTL Sunbreak Seminar**.

Remembering Satan

Lawrence Wright, 205 pp., softcover, $12. Vintage Press, 1995, (800) 793-2665.

reviewed by **Robert C. Cumbow**

It's hard enough to imagine how a victim can remember something that never happened. More provocative is trying to imagine how an accused *perpetrator* — with everything to lose and nothing to gain — can remember things he never did.

Lawrence Wright's *Remembering Satan* is a straightforward journalistic account of a bizarre Washington state criminal case that epitomized a national phenomenon. Wright's style is crisp and matter-of-fact, and his approach is as close to classic objective journalism as one is likely to find in the post-Watergate generation of *auteur* investigative reporters. In fact, it is precisely because he recounts the story objectively that his book so chills its reader.

One morning in late 1988 Paul Ingram, an officer with the Thurston County Sheriff's office, was arrested by his colleagues in connection with acts of child sexual abuse that had been recently remembered by his adult daughter. In the course of the investigation, two other Ingram children, Ingram himself, and eventually, with great difficulty and reluctance, even Ingram's wife began to remember the abuse.

As the memories emerged, the abuse grew from a few isolated instances to a pattern that spanned the entire lifetimes of Ingram's sons and daughters, intensified to embrace the most hideous depravities imaginable, and broadened to include as perpetrators not only Ingram but his wife, some neighbors, and several other Thurston County Sheriff's officers. The more the victims and accused perpetrators recalled, the less consistent the memories became; and not one shred of physical evidence was ever produced to support any of the accusations. Indeed, the memories became increasingly inconsistent with verifiable fact: the Ingram girls claimed to have scars where they had none, and one claimed to have had a child ritually aborted and slaughtered, though a physician's examination proved she had never been pregnant.

None of the inconsistencies or lack of evidence kept Paul Ingram from going to prison.

The Ingram case — and Wright's accounting of it — calls into question the whole concept of what memory is, how we remember, and how remembering is different from fantasizing (if it is). The epistemological implications of this inquiry neither escape nor intimidate Wright. Never becoming overly scientific or technical in his analysis, he faces up to the challenge of charting the Freudian and post-Freudian theories implicated by repressed memory syndrome. He tackles with aplomb the notion of repressed memories as masks for other memories or unresolved feelings, and Freud's shift in emphasis from repressed memory of actual trauma to repressed memory of feelings, desires, fears too deep and complex to be resolved by the conscious mind — accompanied perhaps at times by the need to find an enemy to blame for those troublesome, buried emotions.

Through it all, Wright keeps his focus. *Remembering Satan* is not about repression, or remembered abuse, or repressed memory in general; it is specifically about repressed memory of satanic ritual abuse, which emerged in the 1980s as a specifically identifiable American cultural phenomenon, recalling the witch hunts of 16th century Europe and 17th Century New England, and the more recent and less phantasmagorical Red Scares of the 1950s. Indeed, Wright joins others in suggesting that the satanic ritual abuse phenomenon may have arisen as a replacement for fear of Communism, coincident with the collapse of Communism in the Eastern Bloc in the late Eighties. (Interestingly, he makes nothing of the potent fact that some of the earliest accusations of ritual abuse were directed at day care centers — a natural emblem of the collectivist lifestyle Americans were trained to fear during the Fifties.)

Wright cites one researcher as acknowledging that "In the end, we (as clinicians) cannot tell the difference between believed-in fantasy about the past and viable memory of the past. Indeed, there may be no structural difference between the two." But if there is, finally, no discernible difference between fantasy and memory, how can we trust our own minds? If "memory . . . continually reinvents personal history," how can we base our actions on what we think we know about ourselves? Of course, the other possibility — that ritual satanic abuse is all too real and that the abusers exercise some sort of mind control over the victims, and perhaps over themselves as well — leads in the same direction: an inability to rely on one's own memory of one's actions and feelings. These are scary questions, which Wright leaves his readers to ask and answer for themselves.

The facts in the case point, disturbingly, toward the possibility that the source of the Ingrams' memories may have been the investigation itself. The investigators, believing they had hold of a case that might prove, finally, that satanic ritual abuse of the kind reported in numerous

"The facts in the case point, disturbingly, toward the possibility that the source of the Ingrams' memories may have been the investigation itself."

cases across the country was real, clung to their conviction that "something *must* have happened," long after efforts to assemble a coherent factual pattern had bogged down in a welter of contradiction and uncertainty. The investigators became victim advocates, doubting both Ingram's memory and his *lack of* memory, and coming, perhaps, to exercise themselves a kind of mind control over both victims and suspects. Dr. Richard Ofshe, a social psychologist, demonstrated the likelihood of this by actually evoking from Paul Ingram a "memory" of an event that not only did not happen but *could not have happened*. A predisposition to believe the complaining victim is certainly not a bad thing; indeed, most criminal investigations necessarily begin with a victim's complaint. But believing a victim merely because he presents himself as a victim begs the question when there is doubt that any victimizing behavior ever actually occurred in the first place.

The Ingram case may have been instrumental in Washington's becoming the first state to adjust the statute of limitations for certain tort claims to allow an action to be commenced within three years from the date the cause of action is *remembered*. The case has other serious implications for the law as well. Like all witch hunts, both literal and metaphorical, cases like the Ingram case invert our philosophy of criminal justice, presuming guilt rather than innocence. If the accused admits the acts, we have a confession; if he does not, we tell ourselves (and him) that he is "in denial" — because, as victim advocates, we *know* that *something* must have happened.

As his trial approached, Paul Ingram evolved a notion of two "kinds of memory," one of which he called "my normal memory," the other of which, increasingly, became a repository of constructed fantasies of things that "*must have* happened." Later, in prison, he categorized what he thought of as his "memories" into three classes: "Definitely Happened," "Not So Definitely Happened," and "Not Sure."

Wright concludes his examination of the Ingram case with the suggestion that memories, which should hold a family together, can destroy a family and the individuals that comprise it when those memories become vehicles for the expression of suppressed fears and resentments — what he calls "a tragic courtship of buried longings forced into public view" evoking "the sexual power that underlies the dynamics of the family."

If Wright's book is ultimately unsatisfying, it is only because the questions raised by the Ingram case haven't been answered. The phenomenon of remembered satanic ritual abuse has not gone away. Paul Ingram remains in prison. Pointedly, the open-endedness of Wright's book mirrors the often frustrating inconclusiveness of our judicial process — which is, after all, *only* a process, and not (whatever we may tell ourselves) a search for the whole truth.

Robert Cumbow *is an attorney with Perkins Coie in Seattle, and he chairs the WSBA Editorial Advisory Board.*

Changes To Discipline System Given Tentative Approval

by **Barrie Althoff**, *Chief Disciplinary Counsel*
& **Randy Beitel**, *Disciplinary Counsel*

Over the last several months the WSBA Board of Governors has considered the 42 changes to our discipline system recommended by the ABA Standing Committee on Professional Discipline and the WSBA Joint Task Force On Lawyer Discipline ("JTF") appointed by the Washington Supreme Court and the WSBA.* In addition to more promptly resolving lawyer discipline matters, the recommended changes would considerably broaden our focus to include additional consumer and member services and assistance. The Board has debated and taken "straw votes" on virtually all the recommendations. None of these decisions, however, is final. These proposals will be reconsidered at the Board of Governors' February 10, 1996, meeting in Vancouver, WA, with a "big picture" review of how all the changes fit together, and the most difficult task of all, deciding what we can and cannot afford. This article alerts members where the Board is going with these changes and encourages you to discuss your concerns with your Governor.

Keep Discipline at the Bar.

The Board agreed with the JTF to reject the ABA recommendation that discipline be transferred to the Supreme Court. The JTF felt that improvements in our discipline system could be made more expeditiously and economically by keeping discipline at the Bar rather than creating a new agency at the Court.

Create a Department of Professional Conduct.

At the crux of many of the recommendations is a vision which broadens the focus of lawyer discipline beyond just prosecuting and punishing lawyer misconduct. Acting to adopt this vision, the Board voted to transform what has been known as the WSBA Legal Department into the Department of Professional Conduct. Thus, the Board approved the JTF recommendations to help those who are willing to be helped by creating a Practice Assistance Program (skills training, office management, mentoring) and continuing strong support for the Lawyers' Assistance Program. The Board also approved alternatives to traditional discipline, voting to accept the JTF recommendations to develop a mediation program (both lawyer/client & lawyer/lawyer) as well as a diversion program for less serious misconduct. The Board also approved the JTF recommendation to adopt mandatory fee arbitration. However, the Board decided to wait until other new programs are up and running before considering the JTF recommendation of an Office of the Ombudsman (a resource and referral option for consumer inquiries and complaints).

More Timely and Improved Resolution of Grievances

In 1995, the Board added eight new disciplinary counsel positions. In time, this will reduce the backlog of disciplinary cases and keep new matters current. Moreover, the Board approved JTF recommendations to utilize professional investigators under the direction of disciplinary counsel; to issue prompt notices of dismissal; to send Disciplinary Board Review Committee dismissal orders to grievants within 14 days; and to institute a 45-day time limit on grievants protesting dismissal of their grievance (there currently is no time limit). The Board concurred with the JTF in rejecting the ABA recommendation of cursory dismissal letters, retaining the current practice of giving a detailed analysis of the basis for a dismissal. The Board also concurred with the JTF recommendation to change references in the Rules for Lawyer Discipline from "conditional dismissal" to "dismissal."

The Board approved the JTF recommendation to require Hearing Officers to write their own findings, conclusions and recommendations, and to file these within 30 days after a hearing. The Board concurred with JTF recommendations that the Supreme Court continue its expedited policy for discipline matters and that the Court consider a procedure whereby motions for interim suspension are quickly heard, including a provision that motions for interim suspension made while the Court is in recess be heard by the Chief Justice or the Chief Justice's designee, subject to review by the full Court. The Board agreed with the JTF recommendation that the Supreme Court adopt an interim suspension show-cause procedure to immediately transfer to "disability/inactive" status any lawyer who alleges in the course of a disciplinary proceeding the inability to assist counsel. In response to recommendations for various time lines, the Board also directed staff to prepare appropriate time lines for processing of disciplinary matters for consideration by the Board.

Refining Volunteer Use

The JTF recommended use of somewhat fewer, but better trained and supported, volunteers. The Board approved the JTF recommendation to reduce the number of Special District Counsel from 340 to 75, and that said counsel be appropriately trained and monitored by the Chief Disciplinary Counsel. Although the ABA recommended reducing the pool of hearing officers from 94 to no more than five, the JTF recommended a pool of 35

hearing officers. The Board retained the power to appoint hearing officers, and deferred until a later date any decision on the number of hearing officers and whether such officers should be paid. The Board adopted the JTF recommendation that hearing officers should be assigned by the chair of the Disciplinary Board, and that the Disciplinary Board should monitor their performance.

Clearly Defined Roles

The JTF also recommended that the roles of various components of the discipline system be more clearly defined:

Supreme Court: The Board agreed with JTF recommendations that the Court retain authority to *sua sponte* review Disciplinary Board decisions as well as hear appeals by disciplinary counsel or respondents, and that the Court adopt a procedural rule establishing a time limit for initiating *sua sponte* review.

Board of Governors: The Board concurred with the JTF recommendation that the Governors continue to have access to confidential disciplinary information in furtherance of its managerial oversight role. The Board also agreed with the JTF recommendation that disciplinary counsel no longer be required to obtain approval of the Board of Governors to appeal a Disciplinary Board decision to the Supreme Court. The Board tabled the JTF recommendation that appeals from the Character and Fitness Committee on petitions for reinstatement (after disbarment) be considered by the Disciplinary Board rather than the Board of Governors. Moreover, the Board rejected the ABA's recommendation that the Governors be taken out of the loop for amending the Rules for Lawyer Discipline.

Disciplinary Board: The Board agreed with the JTF recommendation that the Disciplinary Board should apply an appellate standard for review of hearing officers' findings of fact, but retain de novo review of conclusions of law and recommendations, and that matters be remanded to the hearing officer for any new evidence. The Board also agreed with the JTF recommendations that the Disciplinary Board should not automatically review hearing officer decisions except in cases of recommendations for suspension, disbarment, or transfer to disability/inactive status; that the right of appeal by disciplinary counsel and the respondent be retained; and that the Disciplinary Board may *sua sponte* review a hearing officer's decision within the prescribed standards. The Board also agreed with the JTF recommendation that the Disciplinary Board have full-time counsel with staff support.

Ethics Calls: The Board agreed with the JTF recommendation that neither disciplinary counsel nor counsel to the Disciplinary Board should answer ethics advice calls. Staffing of this function was left to the discretion of the Executive Director.

Disciplinary Counsel: The Board agreed with JTF recommendations that the Office of Disciplinary Counsel act as the prosecutorial arm, and that non-disciplinary activities of disciplinary counsel be limited to the discretion of the Executive Director. The Board also approved the JTF recommendations that disciplinary counsel promulgate uniform written policies regarding the screening, investigation, dismissal, referral, and prosecution of cases, and that these policies include the investigation of all allegations concerning client funds and lawyer trust accounts.

Professional Development

The Board concurred with JTF recommendations providing training programs for all disciplinary system personnel, both staff and volunteers; adoption of general written criteria for evaluation of disciplinary staff; structuring the agency to allow employees to grow professionally; and providing formal communication between disciplinary staff and the Board of Governors Discipline Committee.

How Will We Pay For This?

If we are to implement these improvements, the cost of lawyer discipline will increase. Just how much is not yet determined, but the Board of Governors will be looking at cost estimates in February. The ABA's No. 1 recommendation is that we need to properly fund lawyer discipline. The JTF recommended that this be accomplished either by a separate mandatory Supreme Court assessment for discipline, or by a provision that the portion of the WSBA budget used for discipline not be subject to referenda. The Board of Governors has deferred this decision until the February Board meeting.

These proposed changes are significant and will affect your practice of law. They will institute new programs to better serve both our members and the public. Let your Governor know by February 10 what you think of these proposals.

* For a more complete discussion of these recommendations, *see*: "Redefining Lawyer Discipline in Washington: A Multifaceted Approach," *Washington State Bar News*, August 1995, pp. 15 - 19. For a copy of the report itself, call the WSBA Communications Department at (206) 727-8213.

Tom Chambers of seattle chosen as wsba president-elect

Seattle lawyer Tom Chambers, a former WSBA Governor, was elected by the Board of Governors to succeed current WSBA President Ed Shea in September 1996. Chambers, who served on the WSBA Board of Governors from 1990-93, has also served as president of the Washington State Chapter of the American Board of Trial Advocates, served on the board of WSTLA, and is currently state chair of the Lawyer-Pilots Bar Association. He also chaired the Access to Justice Task Force which designed the 1-year-old Access to Justice Board.

Chambers estimates that he has spent 25 percent of his time during the last 15 years participating in numerous lawyer group activities, from holding office to working on committees, task forces and boards.

According to his application letter, he sees several issues looming ahead for the Board in the coming years, chief among them is access to the justice system; preparing for future changes in WSBA governance; reaching out to all constituencies within the Bar; and possibly instituting a "Law Fair," which would give specialty bars and sections an opportunity to share their specialized knowledge with the rest of the Bar.

"I hope to remind members of the bar that we are members of the judicial branch of government, and that the founding fathers knew when they founded three branches of government that the rich and the powerful and the majority would have their way with the legislative branch, and that the rich and the powerful and the majority would have their way with the executive branch. And that it would fall to the judicial branch to protect the poor, the powerless and the minority, and that lawyers, each and every one of us, are members of the judicial branch of government."

As for what he hopes to gain from the presidency, Chambers said, "I like lawyers, love the practice of law, and it's been my discovery that I always get more back than I put into lawyer groups. I expect that I'll make some cherished friendships and meet some wonderful and interesting people."

Chambers will take over the presidency at the Bar's annual business meeting on Friday, September 6, 1996. ◆

1996 wsba board of governors election

Four positions on the WSBA Board of Governors will be up for election this year: the governors representing the Third, Sixth, and Eighth Congressional Districts, along with one of the King County at large positions. Those positions are currently held by Mary Fairhurst (Third District), Dan Hannula (Sixth District), Steve Toole (Eighth District), and Linda Dunn (King County at large).

The WSBA Bylaws provide that any member in good standing, except a member previously elected to the Board of Governors, may be nominated for the office of governor from the district in which he or she *resides* by filing a petition signed by at least twenty (20) active members of the WSBA *residing* in that congressional district.

Nominating petitions are available from Brynn Hancock at the WSBA Office, 500 Westin Building, 2001 Sixth Avenue, Seattle, WA 98121-2599; (206) 727-8244. Petitions must be received by the executive director of the WSBA by 5 p.m. on March 1, 1996. The Board of Governors determines the official dates of the election. Ballots are usually mailed around the first of June and counted approximately the first of July.

Note: The *Bar News* intends again this year to include in its May issue a section carrying statements of 100 words or fewer from all the nominated candidates. Those statements should accompany the nominating petitions. ◆

WSBA fiscal year 1995 financial results

The WSBA's 1995 fiscal year ended September 30. The accounting firm of Dodd, Wing & Co., P.C., is in the process of completing its audit of our financial statements. They will issue their report to the Board of Governors in January or February.

The preliminary, unaudited results for the year show that the WSBA finished 1995 with revenues exceeding expenses by about $285,000. $120,000 of this amount represents the net revenues of the 21 Sections, and is allocated to a reserve for the Sections. $87,000 represents the net revenues of CLE programming (both CLE seminars and CLE deskbooks, audio and video tapes and other publications), which is allocated to a reserve for CLE. The remaining $78,000 is added to the Bar's general reserve.

The Bar had a break-even budget for fiscal 1995. Total revenues for the year were just slightly over budget, by 1.4%. Expenses were slightly under budget, by 2.3%. These results were achieved by tightly controlling expenses, thanks to efforts by staff, members and the Board of Governors.

If you would like a copy of the Bar's audited financial statements when they become available, or a copy of the Bar's 1996 budget, please contact Pat Dieken, Director of Finance and Administration, at (206) 727-8241.

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The total number of registrants for WSBA CLE seminars in fiscal year 1995 was 10,419. That number doesn't include the thousands of others who bought course-books, deskbooks and audio/video seminars.

Just when you thought it was safe to go back on the bulletin board . . .

The L.A.W. BBS (Legal Access in Washington Bulletin Board System) has been experiencing technical difficulties for several months now. Here's why:

The L.A.W. BBS is run by a volunteer-based support group of about a half dozen lawyers in the Seattle area who have the technical background to work with bulletin boards. (No Bar dues goes to the BBS; it is supported solely by subscriptions. The Bar provides space and oversight).

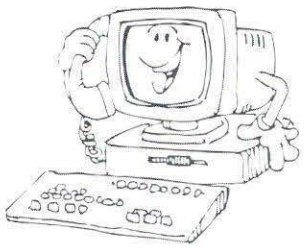
The problems with the BBS are many. It began in August when some of the old equipment began to fail, no longer able to support the system. The group's only viable option was to upgrade the machines. However, that hardware upgrade led to conflicts and failures that included hard drive failures, which ended up destroying the BBS software, associated configurations, as well as the third-party software that managed and integrated the various database functions. It all had to be rebuilt and restored.

Since then the group has experienced various hardware driver conflicts, limitations inherent to DOS, and persistent conflicts coordinating software and hardware, including Windows 95, which was installed and then removed.

Current status: just one of the eight nodes is active (a node is a modem connection). That means only one person can dial in and connect at a time. That node/number is the main BBS line at (206) 727-8312. You can monitor the status of the BBS by calling (206) 727-8314 for a voice mail message from the volunteer group. Messages are checked daily.

To compensate for time lost, the approximately 350 subscribers, who were subscribers at the time that the system failed in August, will be given an additional day for every day the system is down. ◆

WSBA goes to cyberspace and beyond!!



The WSBA has officially launched itself into Cyberspace with a web site (or homepage) on the Internet. (See the executive director's column on page 13.) Akin to a giant yellow pages listing, our homepage currently provides information to both the public and WSBA members about Bar services, policy and procedures. Debuting at the December Board of Governors meeting and presented at the recent "Internet and the Law" CLE, our virtual address is now http://www.wsba.org. The web site was created and designed by attorney Sam Foucault and James Cameron, who donated their time and a temporary address via Northwest Lawyer, an Internet provider to the legal community.

The number of computer and Internet users nationwide grows exponentially; in June this year there were only about 81 firms/lawyers on the Internet, today there are about 400 on-line. With legal resources becoming more widely available on the web, attorney Sam Foucault of Northwest Lawyer sees the Internet as a cost-effective tool for the solo practitioner, in-house counsel, or in this case, the Bar. "Maximizing our access to the public and lawyers on the Internet will make the most of limited staff resources and funds at minimal expense," says Executive Director Dennis Harwick.

Currently the Bar's web site is maintained and will be updated by Denise Covington in the Bar's data processing center. She is trained in HTML, the Internet language. Ken Yu, the WSBA's resident desk-top publisher, will assist her by converting forms, such as CLE materials, into Internet format that maintains the look and feel of documents on the Internet. Together, they will input information. Eventually, with additional e-mail sites, the Bar hopes to be able to get information out. This "interactive" capability holds the possibility that members can pay licensing dues, register for CLEs or purchase Bar publications without leaving their desks. Another venture under consideration is linking the L.A.W. Bulletin Board Service to the Bar's web site. But for now we are only on the on-ramp to the information superhighway. So...log on and buckle up. ◆

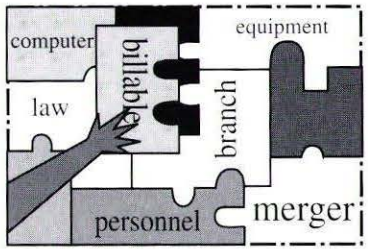
The law office management institute and expo is back!

After a one-year hiatus, WSBA CLE has again teamed up with the Law Practice Management Section and the Association of Legal Administrators to present the January 19, 1996, Law Office Management Institute and Expo at the Seattle Convention Center.

Focus on Small to Mid-Sized Firms

This year's program includes a special track of programming for small and medium sized firms. Because those firms generally operate without an administrator, their lawyers are looking for solutions as they grapple with personnel, business and other management questions.

John Redenbaugh, WSBA CLE's Associate Director, has worked with the ALA and the LPM Section in designing and planning this program. John notes that the afternoon panel discussion "Solving Critical Problems" is a valuable session for the attorney in the smaller office. "Dean Brett (of Brett & Daugert in Bellingham) will be working with that panel, pawing through the problems lawyers in small firms face day to day." The panel, which includes a CPA, as well as attorneys from Walla Walla, Mount Vernon and Seattle, will look at everything from how firm decisions are made to understanding how to use a budget as a management tool. They'll be taking questions from the audience and proposing solutions.



Additional topics available in this track of programming include employment and personnel issues, capitalization considerations and handling the challenging client.

It's Like Three Seminars in One

Another hallmark of the Institute is the concurrent sessions. With three tracks of programming running simultaneously, attorneys and law office managers can tailor the program to their own particular educational needs.

In addition to the track for small to medium sized firms, attorneys can also attend sessions on communications issues. Topics include the Internet, client communication and interoffice communication skills, a review of software, and discussion of how the pace of practice can impact quality of practice.

The third track looks at organizational and structural issues that law firms must face. A session on choices of entities will focus on the recent option of forming professional limited liability companies. The afternoon sessions include a critical look at the Americans with Disabilities Act and what firms ought to be doing to comply, and staffing and training issues that arise as law firms encounter technology.

Key Note Address

This year's Institute is marked by a special presentation by Ward Bower, a principal with Altman Weil Pensa, well recognized globally as a leader in legal management consultation. Mr. Bower brings a remarkable depth of expertise and analysis in strategic planning, organizational development, and compensation plans for law firms.

Notes Redenbaugh, "Because of the importance of Ward's presentation, we knew we had to isolate it on the schedule. Everyone will want to attend this important address." Mr. Bower will discuss the strategies successful law firms will employ in the emerging marketplace, including targeted marketing, positioning, management quality and technological innovation. He will include a planning model for law firms.

Mr. Bower also will hold a follow-up workshop on how a law firm can get a competitive advantage in the new legal marketplace.

EXPO Hall

Throughout the day, the EXPO Hall will be open. This year, the Institute welcomes over 40 exhibitors. Always popular with those attending the Institute, the EXPO is a remarkable array of vendors and products of particular interest to lawyers and law firms.

Anyone can attend the EXPO — and, it's free.

Registration Information

Registration for the Law Office Management Institute is $149; $169 if received after January 5. That includes entry to all of the Institute sessions, the comprehensive course book, and admission to the EXPO Exhibit Hall. To register, call Jerrie Bennett at the WSBA CLE offices: (206) 727-8202. ◆

Supreme court rejects proposed "House Counsel" and "Emeritus" membership and acts on other proposed rule amendments

On December 11, 1995, the WSBA was advised that "the Supreme Court rejected the proposed amendments regarding the licensure for in-house and emeritus attorneys (APR 8(f) and (g)). The Court thought that these changes set a bad precedent and could create conflict problems." These two proposals would have created new forms of limited licenses to practice law. See "The Board's Work", *Bar News*, January 1995, p. 34; July 1995, p. 37.

Also, the Supreme Court returned the proposal to amend RLD 11.1 for reconsideration in light of the ongoing consideration of major changes in the disciplinary process by the Board of Governors. The proposed amendment would have opened the discipline system more to public scrutiny and accountability. See "Public Scrutiny — The Price of Self-Regulation?", *Bar News*, July 1994, p. 44.

The Supreme Court also rejected proposed amendment to IRLJ 3.6, and returned a proposed amendment to IRLJ 3.2 for redrafting. They also forwarded a proposed amendment to SPR 98.16W to the Superior Court Judges Association for comment before publication, and requested that the Board of Governors advise the Court of its views regarding an amendment to CrRLJ 2.1(c).

The Supreme Court adopted amendments to CrR 4.2(g) and CrRLJ 4.2(g)[written statement on plea of guilty], effective upon publication.

Other proposed amendments to the IRLJ, CrR, CRLJ, CrRLJ, and RAP will be published in the Washington Reports Advance Sheets for comment.

Your call is important . . .

Each day, on average, the WSBA receives 4,000-5,000 telephone calls. That's not a typo: 4,000-5,000 a day; 600 each hour; 10 each minute! While many of these are called to direct dial numbers, a large volume of calls are directed to the WSBA main switchboard number or one of the department general numbers. During the annual license renewal period (December through March), when members are calling to verify CLE attendance and credits, to discuss membership status changes, and to clarify questions they have regarding the WSBA, the average number of calls increases to 6,700 daily.

For this reason, bar staff are often taking other calls, and callers are routed to voice mail. We attempt to provide quick and informative service where possible through recorded messages, and our goal is to return any phone message within 24 hours.

Voice mail can be frustrating, particularly when all you want is to talk to a "real person" to get an answer to a simple question. But please bear with us while we handle all of the requests for service. Be assured that your call is important, and we will call you back if you leave a message. Thanks. ◆

Licensing reminders

Annual licensing forms were mailed on Dec. 9, so all members should have received theirs by now. The form and fees are due back by Feb. 1, 1996. Call (206) 727-8271 if you didn't receive a form.

CLE Credits

If you are in CLE reporting Group 1 (admitted through 1975 and in '91) you are required to report CLE credits by Feb. 1. If you did not obtain 45 credits by Dec. 31, 1995, you must still file the compliance form by Feb. 1, make up the delinquent credits, file a supplemental compliance form, and pay a late filing fee by May 1. You may earn up to 15 credit hours from audio/videotapes. If you were a CLE speaker you may claim a maximum of 10 credits (for your preparation time) for each hour of presentation.

New CLE Ethics Requirement

In accordance with the recent amendment to Admission to Practice Rule 11, the CLE ethics requirement will be phased in beginning this year, 1996. This will **not** affect CLE reporting Group 1 members (who are reporting this month). They will need to report six ethics credits at the end of their next reporting cycle, 1996-98. But, as previously announced in *Bar News*, Group 2 members, whose three-year reporting cycle ends in 1996, will be required to report two ethics credits. Similarly, Group 3 members, who next report in 1998, will need four ethics credits. By 1998 the ethics requirement will be fully implemented so that all members report six ethics credits for each three-year reporting cycle.

Resources Membership Directory

The WSBA *Resources* membership directory can be ordered on the licensing form ($15.15 WA members, $14 out of state members). As your name and address is culled directly from your licensing form, be sure we have your correct information for publication in *Resources*. Any changes must be received by the Data Processing Department by **noon on Feb. 29** to be included in the 1996 *Resources* — no exceptions. Call (206) 727-8217/8276. The directory will be available in early May. If you do NOT want your address or phone listed in *Resources* you must request confidentiality in writing to the executive director. The only situations considered for non-inclusion are physical threats, stalking, etc. ◆

If you have timely Bar-related news, activities or business, or a funny story that would be of interest to your co-members, call, mail or fax it to us and we will help spread the word in upcoming *FYI* editions. Call us at (206) 727-8203 or fax us at (206) 727-8320.

Recovering From Losing a Big Case

In my misery, I searched for a story by a lawyer who had lost a big case. Someone who could share my pain and, hopefully, give me some insight on how he had survived every lawyer's worst enemy — failure. I found no articles to help me, only hundreds of stories about million-dollar verdicts and huge settlements. I knew I wasn't the first lawyer, or the last, to lose a trial. It happens every court date. But always silently. Without comment. Without sharing. Ours is not a profession to openly discuss one's failings — to talk about losing.

I seemed doomed to my quiet anguish forever.

I can still feel the scene in detail. The jury, 12 honestly nice people who had spent three weeks listening to lawyers and witnesses, returned to the jury box and the foreman (the man I had hoped would lead the panel) handed the verdict form to the clerk, who, in turn, handed it to the judge. Momentarily the judge read the verdict:

"Question No. 1. Was the defendant negligent?

Answer: No."

I didn't know whether to faint or throw up — I almost did both. After 15 days in a wrongful-death trial the jury had rendered a defense verdict. We had not convinced them of the defendant's negligence. We had lost.

In a daze, I congratulated my opponent and thanked the jurors that I could find for their attention during the lengthy trial. Then I left. Numb. Wanting to cry but being unable to because of my internal restraint. Not wanting to accept what had happened. Wondering if my old job in the sawmill might still be open. Questioning my professional judgment and ability.

"I'll survive. I'll be fine," I gallantly said. But I didn't survive and wasn't fine nearly as quickly as I expected. Like most lawyers, I had gotten consumed by my case. I had such a belief in the justness of our cause and my preparation of the case that, though I gave lip service to the possibility of a defense verdict, my heart never believed it for a minute. I was totally unprepared when the verdict came. In addition to feeling terrible for my client, I felt a great personal rejection by the jury. I had opened my heart and soul to them and told them as honestly as I could why we deserved a substantial verdict. They (those 12 fine folks that I would be proud to have to my house for dinner any night) gave my client — and me — nothing. Though I had been turned down by experts during my dating years, the rejections hadn't, all added together, hurt this bad.

The response from my colleagues varied dramatically. My friends were sympathetic and supportive. They knew I loved the case and felt we had a good claim. They also knew that someday the tables would be turned and I would be supporting them. Other colleagues talked about my obvious inability to judge the merits of the case and regaled my defeat. My mentor heard my pain and said:

> You'll never recover. No good lawyer — no lawyer who cares — ever does. But if you do recover, and many lawyers can't, you will have matured a great deal. If you can't recover, as many lawyers I've seen over the years, you'll be an easy mark. You'll practice scared and never have the courage to take a worthy case to the wall again. It will hurt for a long time, but you've got to recover, you've got to survive.

Somehow, I did. For a time I was gruff with my wife, my kids and the folks in my office. For weeks I had periodic mental lapses during which I'd retry parts of the case in my mind. But slowly my kids, my friends, my wife and my colleagues made me laugh. After a while I could talk about the trial without my stomach cramping. I've gone over the trial hundreds of times in the past four months and by every analysis we had to take the case to trial. The insurance company had offered virtually no money, and we did what we had to do. We took the chance of a trial and, in this particular case, came up empty-handed.

Since that trial, I've tried two minor cases and noticed the changes in me from my three-week adventure. The confidence. Knowing how to prepare. The composure. In many ways, I went into the trial as a boy and came out a man.

I survived. Not easily, but as a better lawyer. Probably a better person. Certainly less critical of non-prevailing parties. And, most importantly, as a lawyer who isn't as afraid to fail.

I've been there.

Men's Group

If this story strikes a familiar note, and you would like to talk with other men who practice law about how they deal with those and other inevitable losses, call the LAP at (206) 727-8268 for information about a group on the subject, to begin soon. It will be led by Steve Feldman, J.D., Ph.D. (Seattle lawyer and psychologist).

KING COUNTY

Preston Gates and Ellis reports that **Paula Elaine Boggs**, a firm partner and member of the ABA House of Delegates, has been appointed a member of the ABA Standing Committee on Constitution and Bylaws and cochair of the ABA Litigation Section of the Business Torts Committee. The firm also announces a major expansion of its environmental practice into California with the addition of **Roger Lane Carrick** and **David B. Sadwick** to the Los Angeles office and the addition of **Suzanne Sorknes** to the corporate practice as a partner.

Greg Bell, **Carmen Flores** and **Del Kilde** have joined Foster Pepper Shefelman as associates in the firm's Seattle office and **Nancy Driano** has joined the taxation practice group as an associate. The firm has also received the Second Annual Community Service Award from the Association of Legal Administrators, Puget Sound Chapter. Their major community service project last year was a landscaping project at the Cal Anderson House, an apartment complex for people with AIDS. The firm also donated $32,000 to the project.

J. David Andrews, senior partner of Perkins Coie, received a National Leadership Award from the Leukemia Society of America for his dedication to the fight against leukemia.

James (Jay) E. Hadley has joined Ryan, Swanson & Cleveland. He was formerly with Culp, Guterson & Grader.

Karr Tuttle Campbell announces that **Mike Liles, Jr.**, after 24 years as a partner with Bogle & Gates, has joined the firm's Seattle office as a shareholder and corporate finance chair.

Joshua Rosenstein has joined the Bellevue law offices of Hanson Baker Ludlow and Drumheller, P.S.

Cynthia L. Alderete-Medjo and **David G. Schoolcraft** have joined Reed McClure as associates.

Davis Wright Tremaine in Seattle has added **Monica Brown Gianni** as an associate to the firms's tax law practice group.

Heller Ehrman White & McAuliffe has added seven associates to its Seattle office. **Adam B. Brotman**, **Audrey Hwang** and **Jonathan K. Wright** have joined the firm's business law practice; **Nancy A. Pacharzina** is an environmental associate; **Kristin D. Anger** is with the labor & employment practice; and **Anna E. Muzzy** and **Lori Lynn Phillips** are members of the litigation practice.

Ron Ward received the WSTLA President's Special Recognition Award for his commitment to educate lawyers and the public about the law and our legal system, his exemplary service to the community and to the organization.

LAW FUND
by **LAUREN MOORE**

Thank you to all of the lawyers and law firms who contributed to the LAW Fund 1995 Annual Campaign. The private bar has reason to be proud in Washington state. LAW Fund's contributions and donor pool continue to increase each year.

Congratulations to **Pat Arthur** of Evergreen Legal Services for receiving the 1996 Goldmark Distinguished Service Award from the Legal Foundation of Washington. The Goldmark Award is given for exceptional efforts to assure equal access to justice and recognizes work that has a positive impact on low-income residents of Washington.

It is now more important than ever that the private bar support civil legal services programs for the poor in Washington state. LAW Fund Board members are working to encourage every member of the bar to: make a financial contribution to LAW Fund; make a financial contribution to your local pro bono program; volunteer with your local pro bono program; and become involved in access-to-justice issues in our state.

To learn more about LAW Fund, or to become one of the first to make a contribution to our Fifth (!) Annual Campaign in 1996, please contact: LAW Fund, 1326 5th Avenue, Ste. 815, Seattle, WA 98101, or call (206) 623-5261. LAW Fund is a 501(c)(3) not-for-profit corporation, and your contributions are tax-deductible.

LAWYERS CAMPAIGN FOR HUNGER RELIEF
by **JOHN WOOD**

"For these are our children . . . we will all profit by, or pay for, whatever they become."
James Baldwin

The Washington State Lawyers' Campaign for Hunger Relief will be 5 years old this year. Founded in 1991, the Campaign continues to seek funds from Washington's legal community to contribute to five agencies that care directly for at-risk children.

In November, Campaign chair **Robert Mussehl** distributed $8,000 to four of those agencies: the Emergency Feeding Program, The Campaign to End Hunger, The Children's Alliance and CARE. The remaining program, the Summer Sack Lunch Program, received funds earlier in the year.

"We were happy to get something out to these groups in plenty of time for the holiday season," Mussehl said.

The need for help in this area is not diminishing by any means. A recent report from a state organization, called "Washington Kids Count," said that our children are worse off economically and socially than they were a year ago. That study placed blame for low performance in school on economic conditions and poor nutrition, which go hand in hand.

"It's hard to learn when you're facing teen pregnancy, inadequate nutrition, crime, substance abuse and family problems," the organization's director, **Rick Brandon**, said.

The report said that one-third of the children in Washington are growing up in families with incomes that do not meet basic living expenses.

It isn't hard to see what this is doing to the generations who will be governing and working here in the next century. Think of the impact it will have on welfare costs, medical care, crime and the educational system. To say nothing of the present suffering of thousands of children.

It is imperative that any of us with the means to do so contribute something to organizations that help relieve poverty and hunger. Your donation to LCHR goes directly to that cause.

We are more available than ever. We now have a home page on the Internet: wslchr@speakeasy.org. More traditional contacts work, too: (206) 622-3000 and 1111 Third Ave., #2626, Seattle, WA 98101. We are open to your ideas as well as your donations.

WASHINGTON ASSOCIATION OF LEGAL SUPPORT PROFESSIONALS REPORT

by **PIEGI FLYNN**

On September 15-18, 101 legal-support professionals attended the Washington ALSP Fall Board Meeting in Tukwila, hosted by the Greater Seattle Legal Secretaries Association. **Mark Barber, 1995-96** president of the Washington State Trial Lawyers Association, was the keynote speaker at the Saturday business meeting.

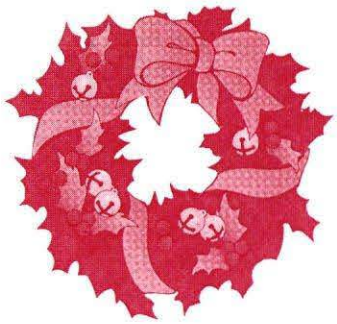
Greater Seattle LSA raised money and collected canned food for the Renton Food Bank.

There were 15 members who sat for the Certified Professional Legal Secretary examination and three members who sat for the Accredited Legal Secretary examination in September. For information regarding the certification programs, call **Louise Akramoff**, at (360) 428-7298 or **Lugene Borba**, at (509) 882-5901.

Fort Vancouver LSA will host the winter board meeting January 19-21 in Portland, Oregon. Two concurrent seminars are offered on Friday from 1:30-5:30 p.m. Attendees can choose between a PLS Topic seminar and a "Written Discovery Panel Discussion" on "Employment Law, Family Law, Medical Malpractice and Personal Injury." There is also a leadership workshop, "Macros for Membership," from 4-6 Friday evening. Two concurrent seminars are offered on Saturday morning: first-session topics are "Paternity and OSE" and "Right-to-die Panel Discussion" covering "Legal, Ethical, and Medical Concerns." Second-session topics are "Family/Joint Custody" and a continuation of the "Right-to-die Panel Discussion" covering "Criminal Liability." For information regarding the educational seminars, please contact **Eleanor Johnson**, at (509) 455-9555 or **Victoria Heindel** at (206) 623-9900.

The Washington Association of Legal Support Professionals announced the winners of its annual heritage awards at their May annual meeting.

Toni Martin, Wenatchee: Two Homestead Awards, small chapter — the first for the way Chelan-Douglas County LSP advertises in the local bar news, local newspapers and vice president's role in the follow-up of potential new members; and the second for outlining the setup of a study group for the Professional Legal Secretary/Accredited Legal Secretary certification examinations.



Lisa Hanses, Stanislaw Ashbaugh, Seattle: the Conestoga Award, large chapter, for a presentation made before the Puget Sound Association of Legal Administrators to demonstrate how membership in Greater Seattle Legal Secretaries Association enhances a legal-support professional's commitment to the field, and for devising a way for firms to financially support membership in the association.

Virginia de Lay, Preston Gates & Ellis, Seattle: the Pioneer Award and the Homestead Award, large chapter, for outlining the work the association does with the King County Bar Association, the courts and other associations in marketing the association; **Yvonne Thomas**, Seafirst Bank Legal Department, Seattle: a Homestead Award, large chapter, for explaining their program for Court Observance Week. One item that impressed the judges was the number of parties in attendance at the presentation.

Lorraine Larson, Bellevue: a Homestead Award, large chapter, for outlining how the weekly Eastside Legal Clinic operates with the volunteers, together with duties and sample forms which are used.

WASHINGTON DEFENSE TRIAL LAWYERS REPORT

by **BETH A. JENSEN**

As 1995 comes to an end, WDTL looks forward to a busy 1996. We begin the year with a membership dinner meeting on January 9 at the Tacoma Sheraton. WDTL Yakima Trustee **Mark Watson** has promised to find an interesting dinner speaker. On March 12, the membership dinner meeting will be back in Seattle at the Washington Athletic club. WDTL Trustee **Terry Hall** is responsible for that evening's dinner speaker. To chase the gloomy days of winter away, WDTL has again planned a "Sun Break" seminar which will be held this year at the Scottsdale Stouffer Cottonwoods Resort March 21-24. Program chair **Roy Umlauf** has designed a program consisting of two morning sessions focusing on case evaluation and settlement negotiation with afternoons left open for watching spring training baseball games and golf. In April, WDTL will sponsor a seminar on "defending the head injury case." WDTL goes east of the mountains in May with the Yakima Judges' Reception on the 2nd and the Spokane Judges' Reception on the 3rd. The 1996 member convention will be August 1-4 at the Resort at the Mountain in Welches, Oregon, at the base of Mount Hood.

Of special note is the appointment of **Tom Merrick** to the WSBA Court Rules Committee. The committee could have a distinct impact on personal-injury defense practice this year, since the committee will be reviewing the Civil Rules.

PROFESSIONAL & CLASSIFIED ADVERTISING INFORMATION

Professional: Boxed ads, as on page 50. WSBA members only. $40/inch. Billed at publication.
Classified: ***Advance payment required.***
Members — $25/first 25 words; .25 ea. add'l word.
Nonmembers — $35/first 25 words; .75 ea. add'l word.
Blind box number service — $7. (Responses will be forwarded to you.)
Deadline: Ad copy (typed, doubled-spaced) due with payment first of the month for the issue following (i.e. Jan. 1 for Feb. issue). No cancellations after deadline. No phone/fax orders.
Send to: *Bar News*, WSBA, 500 Westin Bldg., 2001 Sixth Ave., Seattle, WA 98121-2599.
Notes:
1) Position Available ads are automatically posted on a 24-hour jobline [(206) 727-8261] and in placement binders at the WSBA offices for immediate consideration.
2) State and federal law allow minimum, but prohibit maximum, qualifying experience, e.g. no ranges.

WASHINGTON WOMEN LAWYERS STATE BOARD REPORT

by **TIFFANIE KILMER**

WWL's gender bias committee will present a training seminar for faculty, staff and students at the University of Washington on January 17. To register, contact WWL at (206) 622-5585.

Participate in the WWL history project by sharing your story on videotape. For more information, contact Patricia Kaiser, vice president public relations/history, at (206) 323-9112. Women of color and women outside of the greater Seattle area are encouraged to participate to ensure that the rich diversity in our state is documented in the project. To purchase a copy of the WWL 25th Anniversary video shown at the Annual Dinner, please send a check for $25, plus $5 for postage and handling to WWL at P.O. Box 25444, Seattle, WA 98125-2344.

The WWL 1996 Speaker's List is now available — please contact the WWL office to obtain a complimentary copy. The WWL Biannual Membership Directory of *current* WWL members will be published in the spring of 1996. To check your membership status or join WWL, please contact Tiffanie Kilmer, WWL executive director, at (206) 622-5585 by February 15.

The Annual Women's Legislative Reception, cosponsored by the WWL Capitol Chapter, will be held on February 5 at 6 p.m. at the Olympia Center for Performing Arts. The Second Annual WWL Leadership Development Conference will be held in June of 1996 — watch for future details.

Barbara A. Isenhour

and

Sean R. Bleck

Formerly with Evergreen Legal Services

are pleased to announce the formation of

ISENHOUR BLECK, L.L.C.

The firm will emphasize practice in the areas of:
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STOEL RIVES LLP

We are pleased to welcome the following lawyers
who joined our Seattle office in 1995:

Geoffrey G. Revelle
Corporate Finance & Securities,

and

Christopher J. Voss
Corporate Finance & Securities.

We are pleased to announce that

John E. Poffenbarger,
Estate and Business Planning,

has become a partner in the firm.

January 1996

600 University Street, Suite 3600
Seattle, WA 98101
Telephone (206) 624-0900
Facsimile (206) 386-7500
Internet http://www.stoel.com

WHALEN & FIRESTONE LLP

is pleased to announce that

R. Broh Landsman

formerly a partner with
Helsell, Fetterman, Martin, Todd & Hokanson
of Seattle, Washington
has joined the firm as a partner.

January 1, 1996

1221 Second Avenue, Suite 410
Seattle, Washington 98101
(206) 624-7900

PROFESSIONAL

Labor and Employment Law

William B. Knowles is available for consultation, referral and association in cases involving employment discrimination, wrongful termination, wage claims, unemployment compensation and federal employee EEOC or Merit System Protection Board appeals.

(206) 441-7816

Pence & Dawson

Bob Dawson announces his availability for trial of plaintiff's personal-injury lawsuits.

(206) 624-5000

Malaysia

Dan Wershow is available for consultation, association or referral in Malaysian legal matters.
Fulbright scholar, 1990.

(206) 223-5500

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Major Seattle law firm seeks ERISA lawyer. Salary DOE. Please send resumé to *Bar News* Box 477.

Construction litigation associate: Mid-size Spokane law firm needs construction attorney with a minimum of two years' experience. Background with military JAG or governmental agency, construction, architecture or engineering preferred. Send resumé to Richard W. Relyea, Winston & Cashatt, 1900 Seafirst Financial Center, Spokane, WA 99201.

Litigation attorney. Davis Wright Tremaine, a national law firm with 11 offices, seeks an attorney for its Richland, Washington, office with a minimum of three years' experience in litigation. A background in employment law, construction law and government contracts would be a plus. Candidates must have excellent academic credentials, writing skills and references as well as the ability to assume responsibility for client matters. Send resumé to Debbie Barker, Davis Wright Tremaine, 2600 Century Square, 1501 Fourth Avenue, Seattle, WA 98101-1688.

Small downtown Seattle insurance defense firm is looking for an associate with a minimum of three years of litigation experience in Washington. Potential for partnership. Reply in confidence to *Bar News* Box 478.

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The Spokane office of Lukins & Annis, P.S. is seeking an associate attorney with a minimum of one year's experience and a strong tax background for work in the areas of personal tax planning, business transactions, and estate planning. We are a 50-attorney firm with offices in three locations, and eight attorneys have tax LL.M.s. Applicants should have excellent academic credentials and interpersonal skills and a desire to build one's own practice. Please send a resumé to Robert H. Douthitt, Lukins & Annis, P.S., 717 West Sprague Avenue, Suite 1600, Washington Trust Financial Center, Spokane, WA 99204.

Business attorney — Landerholm, Memovich, Lansverk & Whitesides, a 23-attorney firm in Vancouver, Washington, with a thriving business practice, seeks a business tax associate with an LL.M. in taxation. The attorney's practice will focus on the formation of, and tax planning for, closely held corporations, partnerships and limited liability companies and unique federal tax issues involving the structuring of cross-border (Washington-Oregon-California) mergers and taxable and tax-free acquisitions. The position involves frequent client contact and responsibility for negotiations and appeals with state departments of revenue and the Internal Revenue Service. Must have strong academic credentials and an ability to manage rapid practice growth in a thriving business practice. We offer a competitive compensation, bonus and benefits package. Please send resumé, law school transcript and a short writing sample to Director of Administration, Landerholm, Memovich, Lansverk & Whitesides, P.S., PO Box 1086, Vancouver, WA 98666.

Experienced business lawyer with some existing client base to join firm with active business practice. Send resumé and description of practice in confidence to Vandeberg Johnson & Gandara, c/o Daniel Gandara, 3200 Seafirst Columbia Center, 701 Fifth Ave., Seattle, WA 98104.

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Employment Law Attorney — Landerholm, Memovich, Lansverk & Whitesides, P.S., A 23-attorney law firm in Vancouver, Washington, seeks an experienced employment law attorney for an associate position in the firm's thriving business practice. Applicants must have three years' experience in counseling business clients on a broad range of employment matters including ADA compliance, personnel handbooks, wage and hour requirements, employment contracts, employee terminations, claims of discrimination, and other personnel policies and practices. Labor law background and litigation experience helpful but not mandatory. Candidates must demonstrate an ability to manage rapid practice growth and possess a superior academic background and excellent writing skills. Please send resumé, law school transcript, and a short writing sample to Director of Administration, Landerholm, Memovich, Lansverk & Whitesides, P.S., PO Box 1086, Vancouver, WA 98666.

Three-person, established McCall, Idaho, firm seeking associate. Minimum two years' experience preferred. Respond to Millemann, Pittenger & McMahan, Attn: Steven J. Millemann, Box 1066, McCall, Idaho 83638.

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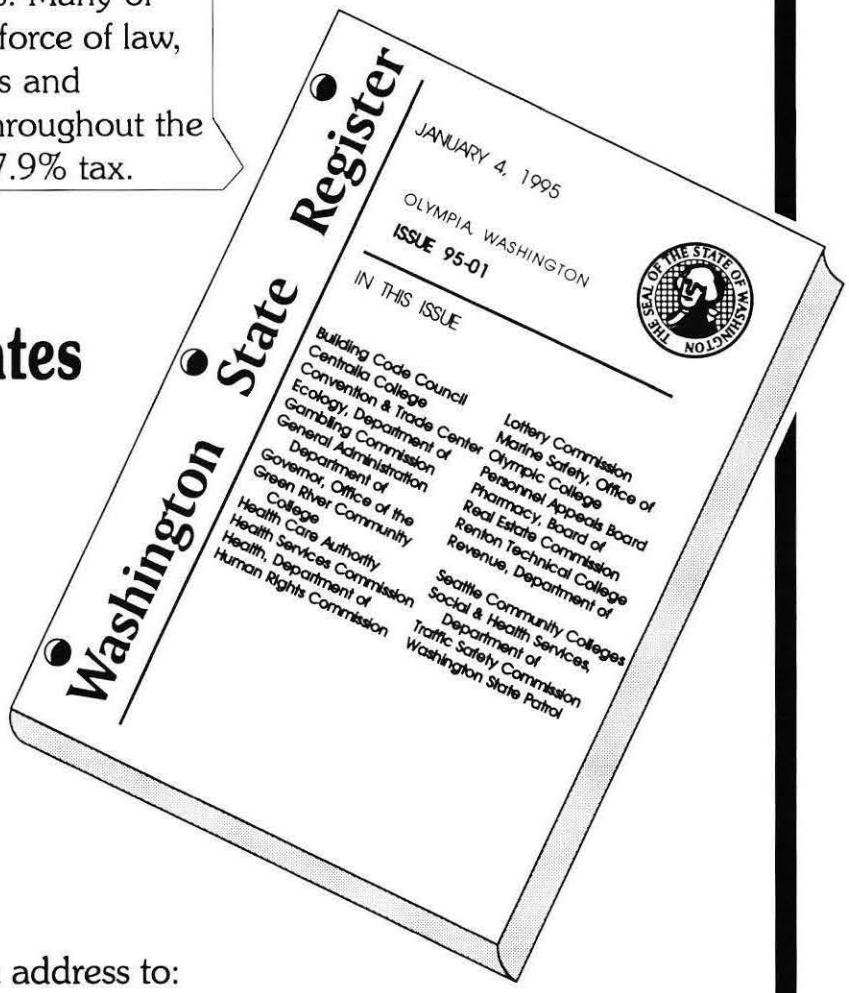

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