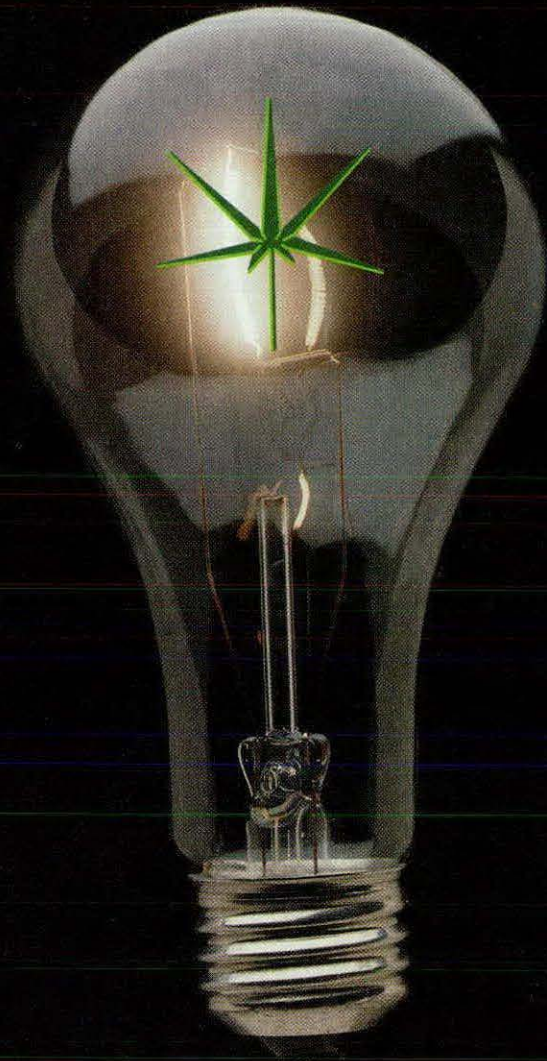


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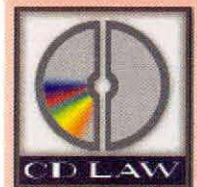
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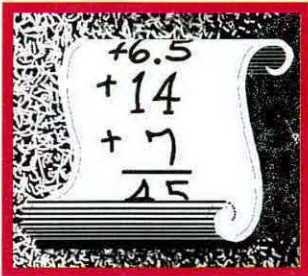


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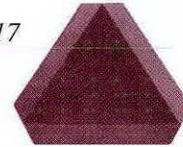
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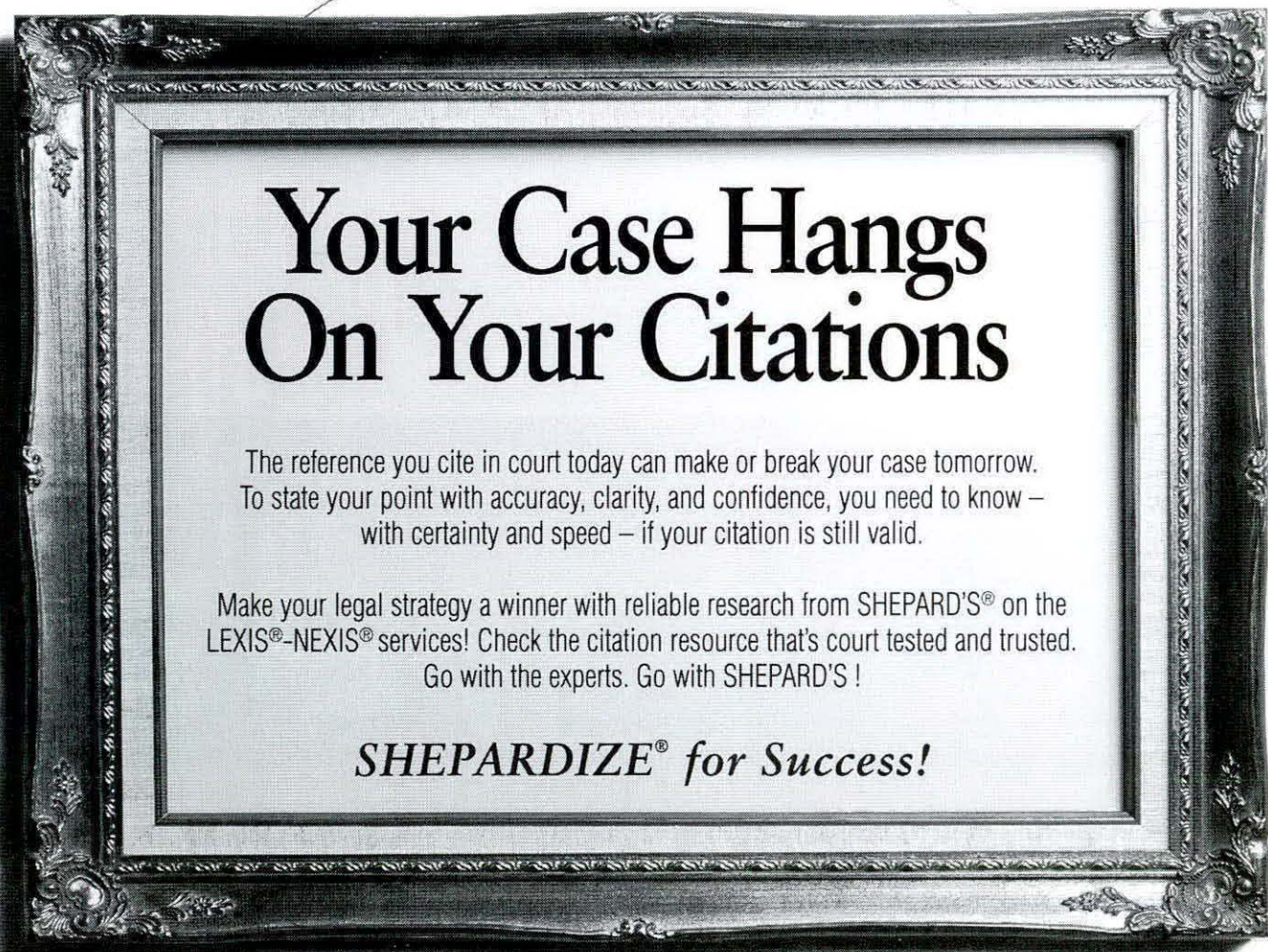


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BANNING PENS AS DANGEROUS WEAPONS?

Editor:

I was recently in Southwest District Court for King County. When passing through the security screening, I laid my money clip in the tray before proceeding through the metal detector. The security guard told me that I would have to take my money clip back to my car because it had a knife in it and knives were outlawed in the courthouse. Since security screen-

ing was implemented, this is the first time that I have been instructed to take my clip back to my car. The guard told me that a knife as short as one inch could penetrate the heart. Obviously, he couldn't be talking about the one-and-a-quarter-inch penknife in my money clip that hasn't been sharpened since I got the clip as a gift in 1989.

As I thought about this, I began to wonder if we shouldn't consider banning ball point pens or other sharp objects

which we carry with us, such as car keys. I would imagine that the roller ball pens which many of us carry, measuring over five inches long, could do much more damage than my penknife, which won't even cut skin! Perhaps, the persons responsible for these rules should consider banning the metal clasps which we use in our file folders, since they could do a lot of damage to a person.

Quite frankly, if I had a client who was as paranoid about personal safety as appears to be the case here, I would strongly suggest that the client get mental-health help. However, these concerns may not be unfounded. There is always the person, like me, who will take their money clip (or other device containing a penknife) into the restroom with them, go to the last stall (the one which is dark and cold), and there, out of the constant view of the surveillance cameras and the ever-vigilant eyes of courthouse security, remove the penknife from the money clip, and savagely and with reckless abandon HACK the offending thread from my suit coat.

ALVIN D. MAYHEW, JR.
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EDITORIAL FEEDBACK

Editor:

Your editorial caught me at a moment when I had a few minutes free in the afternoon, so I will write you a short letter. By and large, I have enjoyed the coverage and discussion found in *Bar News* for the last 25 years. I have some specific comments regarding the issues that you raise which I would love to share with you.

Fax Poll: Given the minuscule response the fax poll has received, it should be eliminated. Initially, the questions asked tend to be "hot button" issues which spark extreme reactions. Secondly, not enough members of the Bar respond to make the results statistically valid, or even as persuasive as political polls. Save the pages for something else, please.

Ethics & the Law, The Board's Work, Editor's Page, The President's Corner, and Executive's Report are all useful and occasionally interesting and well-written. If we are to have an integrated Bar which has any kind of awareness of what the organization is doing, all of these columns should be continued. While it

might be argued that the Editor's Page is simply a soap box for an unelected and nonrepresentative speaker, I think it important to continue this editorial column both as part of the munificent compensation the editor receives and because it is important to know how the editor feels about her work. Further, to the extent that you and past editors use this column to discuss topics that would otherwise not come to the attention of the Bar, it serves another useful purpose.

Calendar: The Calendar concentrates too much on the King County metropolitan area. I know that this is where most of the lawyers live and/or work; however, going through the calendar to find something of interest to those of us who would have to commute to Seattle makes it not worthwhile for me.

Lawyers' Assistance Program: The Lawyers' Assistance Program's columns are neither particularly uplifting nor informative. While this sort of anonymous confession may serve as an object lesson to many, it seems a waste of paper to me. It is important to continue to publicize the LAP and, to the extent this page serves such a purpose, it is useful. However, if possible, I would prefer to see a different way of keeping the availability and efficacy of the LAP in front of the Bar.

FYI: I thought FYI was initially introduced as a set of insert pages which had a shorter lead time than the remainder of the magazine. As such, it is a more timely notification of things that are happening or have just happened than the remainder of the *Bar News*. I would keep it.

Changing Venues: Frankly, I don't remember what "Changing Venues" is exactly, but if it is what I think it is — the replacement of "Around The State" — I don't think it is worth the space. Back when the Bar had a much smaller number of members and folks were much better acquainted with each other, the "Around The State" columns were a good way to keep up with distant friends. However, with our current Bar size and the spotty reporting, it is only friends of the reporter or our more famous colleagues who make it into this column. The column also becomes a sounding board for allegedly humorous events such as the annual awards that Clark County used to publicize, most of which were inside jokes for those practicing in and around Vancouver.

By and large the articles in the *Bar News* are on topics that I would otherwise not peruse and are reasonably well written.

Thanks to you and your predecessors for putting in the immense amount of time necessary to keep the *Bar News* going. I certainly don't resent a portion of my dues funding the *Bar News*.

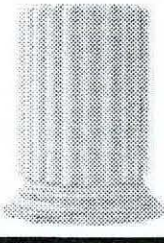
DANIEL A. RAAS
Bellingham

■ TOBACCO SETTLEMENT
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Editor:

I read with interest Christine Gregoire's tobacco wars article titled "Process & Progress" (*Bar News*, September '97). My interest related not to the substantive debate regarding the obvious and well-known health risks of smoking and chewing tobacco. Rather, as the article's title indicated, I was interested in reading

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an account of how intrusive and powerful our government has become in "taking care" of its citizens. I write to comment on that aspect.

First, let's get some things straight. I don't smoke or chew — never have. In fact, I really don't care much for smoking or chewing, so I like sitting in non-smoking sections in restaurants. I don't own any stock in tobacco companies. I don't represent any tobacco companies. I know a fair number of people who have smoked and whose health suffered because of it. I like children as much as anyone — I guess that's why I have four kids of my own. If I have a bias, it's in favor of personal freedom and concomitant responsibility. I say all these things, not because any of them are relevant, but because the anti-tobacco folks seem to pursue with relish ad hominem attacks against those who do not hold the "true faith" of their crusade. Well, tough darts — let's talk the issue, not the people.

Ms. Gregoire stated the litigation had four major objectives. A little analysis shows the flawed nature of each objective as one to be pursued by government resources. Furthermore, Ms. Gregoire's implied protestations to the contrary notwithstanding, one should read those objectives in light of any rational concept of personal freedom and all the other "bad products" consumed by millions of Americans each day. Finally, the proposed settlement should be reviewed to see whether it really meets any of those objectives, or whether there is a darker objective which is sought.

Objective 1: Protect our children by stopping the marketing of tobacco to kids and reducing youth access to tobacco.

Premise: It seems these days that any government step can be fully justified by alleging it is "for our children." Reminds me of the "national security" justification used in the 1950s and '60s for myriad programs like the interstate highway system, space exploration and student loans. In a metamorphosis over the last 50 years, we have arrived where no child is responsible for his own actions, and his parents are certainly not responsible, either. Because of this absence of personal responsibility, the state must step in and rescue everyone. Consump-

tion of tobacco products by minors has long been illegal. The dangers of tobacco consumption have been the subject of government warnings and general knowledge for over 30 years.

Achievement: The settlement gets rid of Joe Camel and the Marlboro Man, and addresses vending machines. Big deal. We're talking about an age group which has little trouble obtaining beer, marijuana, cocaine and other illicit drugs. And Ms. Gregoire really believes the settlement will effectively reduce children's access to tobacco? Don't quote me studies — go down on the streets of Seattle for a few evenings, and then try to tell me we have "reduced access."

Objective 2: Provide full disclosure to the public about the health effects of tobacco products.

Premise: This information has been available to any half-way intelligent consumer. Does Ms. Gregoire really believe the average American does not know of the dangers of smoking or chewing? Informed personal risk management is the basis of everyday life. We have lots and lots of information. We just need to allow people to make their own decisions based upon that information. And guess what? We also must

allow people to enjoy the rewards of good personal decisions and suffer the consequences of bad personal decisions because they are, after all, personal decisions.

Achievement: There is a balance between "full disclosure" and just what a consumer will take time to read, absorb and act upon. The government warnings introduced in the '60s already tell consumers that tobacco consumption will kill them and their babies. Ask any smoker what additional health information would motivate him to quit. Ask any teenager who's being given his first cigarette what additional health information would motivate him to resist peer pressure.

Objective 3: Protect consumers by reforming the business practices of tobacco companies.

I confess to a little ignorance as to how this objective differs from the previous two. I guess it's better to have a long list of objectives than a short one. I also guess I can incorporate my previous responses by reference.

But beyond the initial responses, it is imperative to note that tobacco is still a legal product. In fact, not only may the tobacco companies continue to sell tobacco, the state is now going to take a share of the

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profits. Like any shareholder in a company, the state now has a natural incentive to maximize its returns from tobacco sales. This result will only obtain if consumption is increased. I suspect that most of the "profits" will be made by exporting tobacco to citizens of countries who are not so "fortunate" to have our wonderful legal system and selfless attorneys general.

Objective 4: Provide relief to the states and individuals for their tobacco-related health care costs.

Premise: Life is the primary cause of death. From the day one is born, one begins the dying process. Life expectancy — even for smokers — has been dramatically increased in the last 50 years. However, life still has risks. Many of these risks cannot be controlled by individuals, but others can. No one is required to go mountain climbing, play hockey, eat butter, drink beer or smoke cigarettes. For many people, some of these activities are psychologically or physically addictive. Does this mean there is no longer any personal responsibility for the consequences of these activities?

The premise is that the government has and will spend money to care for those who have made bad choices which resulted in adverse health consequences. But what kind of motivations is the govern-

ment creating by this premise? Simply put: Incentives matter. If there is no personal responsibility for bad choices, and if, in fact, the consequences of those bad choices are mitigated by others, then more people will make bad choices.

Further, where does this premise logically lead us? It leads to similar claims against liquor companies. Who can argue that alcohol is addictive to many, and that the health consequences of alcohol consumption cost Medicaid and Medicare programs billions each year? (We have already started down that road. Alcoholic beverages carry remarkably similar "government warnings." We have had a few unsuccessful attempts at personal litigation, like the Jack Daniels lady in Seattle. If the tobacco deal goes through, liquor will be next.) The premise leads to similar claims against dairy companies. Who can argue that the consumption of fat in the form of dairy products is not overly attractive to millions of our citizens — even our children! — and results in obesity and billions spent by Medicaid and Medicare each year? It leads to similar claims against bowling alleys. Who can argue that many a senior citizen has taken a fall at a bowling alley, resulting in high costs for Medicare? None of us being responsible for any of these choices, the state must step in to save us from ourselves.

Achievement: Well, if the settlement proponents are to be believed, there certainly is a large pile of cash to be divided amongst the victors. Looks can be deceiving, though. Much of the money is contingent upon unpredictable events. In addition, the premise is that the states will use this money to fund Medicare and Medicaid programs, thus reducing the need for the state treasury to fund these programs through the traditional source: taxes. Does anyone really believe that government spending or taxes will be reduced as a result of this settlement? All the settlement does is release a certain amount of money for the state to waste elsewhere. I am reminded of the humanitarian aid sent to Iraq, which merely frees Saddam Hussein to spend more of his resources on rebuilding his military.

This is really what the litigation has come down to: State governments have found another revenue source for spending. This one looks good, because, unlike direct taxes (or even federal revenue sharing) which are somewhat visible to the public and subject to public debate and repeal, this one has many superior qualities: (1) It is like an endowment fund which keeps on giving; (2) It is indirect and hidden, and therefore much less subject to public protest and repeal; (3) It is paid for largely by smokers, a currently unpopular group; and (4) It is to be sanctioned by federal law and a consent decree, neither of which have been subject to repeal very frequently.

The system has failed in an essential goal of recognizing the right of Americans to freedom, including the freedom to do stupid things, so long as they are willing to accept the consequences. For all its vaunted reverence for freedom, America has now become more regulated, more oppressive, and more taxed than the vast majority of the inhabitants of this globe. It has occurred slowly, like the proverbial frog in the slowly boiled pot of water, and therefore has gone mostly unappreciated.

We now have a legal system which can, simply by declaring something to be bad for our children, generate tremendous costs, impose oppressive litigation, and single out one industry for punishment. But instead of imposing our usual concept of punishment, the state acts like a

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Why Some Lawyers Make A Fortune... While Others Struggle To Earn A Living

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TRABUCO, CA - Why do some lawyers get rich while others struggle just to get by? The answer, according to California lawyer David Ward is not talent, education, hard work, or even luck. "The lawyers who make the big money are not necessarily better lawyers," Ward says. "They have simply learned how to market their services."

Ward, a successful sole practitioner who once struggled to attract clients, credits his turnaround to a little-known marketing method he stumbled across six years ago. He tried it and almost immediately attracted a large number of referrals. "I went from dead broke and drowning in debt to earning \$300,000 a year, practically overnight."

Ward points out that although most lawyers get the bulk of their business through referrals, not one in 100 has a referral system, which, he maintains, can increase referrals by as much as 1000%. "Without a system, referrals are unpredictable. You may get new business this month, you may not," he says.

A referral system, by contrast, can bring in a steady stream of new clients, month after month, year after year. "It feels great to come to the office every day knowing the phone is going to ring and new business will be on the line," Ward says.

Ward, who has taught his referral system to lawyers throughout the U.S., says that most lawyers' marketing is, "somewhere between atrocious and non-existent." As a result, he says, the lawyer who uses even a few simple marketing techniques can stand out from the competition. "When that happens, getting clients is easy."

Ward has written a report entitled, "How To Get More Clients In A Month Than You Now Get All Year!" which reveals how any lawyer can use this marketing system to get more clients and increase their income. For a FREE copy, call 1-800-562-4627 for a 24 hour FREE recorded message.

parasite, keeping the host alive while sucking out the juices for its own profit. The state leaves the "bad industry" in place to sell its wares, and becomes a partner in its profits.

Further, Ms. Gregoire points to litigation as the saving grace of this matter, because our Congress and legislatures have failed us. I am always suspicious of those who must rely on the "evolving understandings" of our common law as it has been perverted in the last 50 years. Ms. Gregoire can point out previous efforts to protect us from ourselves, and can argue *parens patriae* all she wants: There is no question that the legal basis of the tobacco litigation is a quantum leap from previously accepted common law. One would have hoped that our judges would have deferred such a sweeping advance to the people through their elected representatives. Of course, the quantum leap was never finally tested, but the magnitude of the settlement instructs us all regarding the perception of where the judges were headed.

I am not persuaded by Ms. Gregoire's noting the lobbying efforts made by tobacco companies. If all one has to do to get a judge-made law is cry that democracy has failed us, then we are in a sorry state indeed.

Ms. Gregoire says we should not look at any one aspect of the settlement, but should examine its whole. I agree. When one conducts such an examination, real fear for our continued freedom is the only rational reaction. Non-smokers should recognize the real basis of this battle. It has nothing to do with the harmful effects of tobacco. It has nothing to do with "saving our children." Rather, it is an example of the state seeking perpetually endowed spending and greater power through oppressive conduct very foreign from the democratic process. It is scary.

MARC D. BOND
Anchorage, AK

MANDATORY FEE
ARBITRATION RULE
UNFAIR AND INAPPROPRIATE

■ Editor:

Most lawyers would agree that fee disputes are distasteful and do not enhance the lawyer's public image. The creation of a workable arbitration procedure which is available for clients or lawyers to re-

solve such disputes is an excellent idea. However, the proposed Mandatory Fee Arbitration Rule has provisions which are unfair and inappropriate.

This rule would give a client the exclusive right to decide whether to arbitrate or litigate a fee dispute while denying the lawyer freedom of choice in that regard. This rule would require the lawyer to inform the client of this choice and require the lawyer to then cooperate with the Bar Arbitration staff or suffer disciplinary penalties. This rule would create a new bureaucracy and more expense but it lacks appropriate provisions regarding

the choice or qualifications of arbitrators. At the same time it makes arbitration mandatory in the case of fee disputes between lawyers and gives the client the absolute power to decide whether to arbitrate or litigate such issues.

This is an ill-conceived rule because it is unfair in its application, mandatory on members and creates another bureaucratic branch of this Association. An association representing lawyers should not advocate a rule with such provisions.

PAUL N. LUVERA
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30-DAY MONEY BACK GUARANTEE

Editor's note: The following letter, originally sent to WSBA Governor Peter Ehrlichman, is being published at the writer's request.

MANDATORY FEE
ARBITRATION PROPOSAL
A SOLUTION IN SEARCH
OF A PROBLEM

■ Editor:

I write to express concerns over the mandatory fee arbitration proposal now under consideration by the Board of Governors. I do not understand why such a rule is necessary — it strikes me as a solution in search of a problem. Is the WSBA really overwhelmed by complaints from clients over their lawyers' fees? A colleague of mine has served for years on the voluntary fee arbitration panel, and reports that there have been very few requests for his services. Likewise, I have for many years included in my standard contingent fee agreement a provision that the client may petition the court to determine the reasonableness of my fee. I have yet to have a single client make such a petition, or even ask me about it later.

The Bar Association is in many ways a trade association, and one must question why our elected representatives are considering a proposal that takes away the valuable rights of the Association's members without any demonstrable concomitant benefit. If an important public interest were at stake, it might make sense, but I have not seen any evidence of any important public interest, nor has the *Bar News* carried any such justification. It could be argued that medical care is an even more fundamental and universal need than legal representation, but I do not see anyone proposing mandatory arbitration of doctors' fees.

I question the constitutionality of mandatory fee arbitration. A lawyer's right to his or her fee is a property right, and it is not clear to me how the Bar Association can purport to unilaterally deprive our members of the right to trial by jury of what is in truth a contract dispute. When clients behave unreasonably, the idea that the wronged lawyer must pay a non-refundable fee to collect what he or she already is owed (or to defend the right to keep a fee already paid) merely adds insult to injury.

Finally, the proposal is extremely burdensome. It provides for a six-year statute of limitations, during which presumably any client who decides *years* after his or her case has been concluded that s/he would like to contest the fee can require the lawyer to justify the fee charged, even on the most routine case. Such a rule would vastly increase the amount of record-keeping required to justify any fee for several years after a case has been concluded including cases (such as personal injury or criminal defense) where a contingent or a flat fee has been charged.

Many lawyers do not keep time records for these types of cases, but presumably must now begin doing so, or risk being unable to justify the fee charged four, five or six years later.

This mandatory fee arbitration is a terrible idea. It harms the Board of Governors' constituents (practicing members of the Bar) without any showing of a compelling need. It should be voted down.

ANDREA A. DARVAS
Seattle

Readers are invited to submit letters of reasonable length to the editor. They should be typed on letterhead and signed. Due date is the 15th of the month for the second issue following. The editor reserves the right to select excerpts for publication or edit them as may be appropriate. Signatures in excess of three names will be printed only in exceptional circumstances, at the sole discretion of the editor.

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Mary Fairhurst

STEWARDS FOR JUSTICE: A CALL TO SERVICE

You are licensed to practice law in Washington. With this authority and privilege comes responsibility. I have heard lawyers and others say, "Law is about fees, fees, fees." I disagree. I believe law is about service and the responsibility to serve.

This column addresses the call to be stewards of justice.

Justice is not limited to the meaning it has in the legal system. More fundamentally, and philosophically, justice is a human virtue or good habit which all of us must develop if we are to live up to our best nature. A just person treats others fairly, honestly and takes no more than is due. A steward is a person who is given or assumes responsibility for others' affairs. As stewards of justice, we must respect and adhere to the highest principles of living under the law.

Stewards of justice act when they see injustice. Stewards of justice use common sense and good judgment to make the law work. Stewards of justice are problem solvers, not part of the problem. Stewards of justice work to make the law work in the real world. Stewards of justice work to ensure the doors of the justice system are kept open and accessible to all. Stewards of justice act civilly and ethically.

I fear if the attorneys and judges don't work together as stewards of justice, there will be no "just" justice system.

Recently, we have witnessed a serious decline in public confidence and support of our justice system. The warning signs are disturbing. As advocates of the law, how can we not be troubled by the emergence of common-law courts? As advocates of the law, how do we square the founding principle of "Equal Justice For All" with today's reality that justice is out of reach for more and more

Americans? As advocates of the law, don't we have to question what is in store for a justice system which is being inundated by a litigious society? As advocates of the law, how do we explain the increasing number of challenges to traditional legal concepts, such as attorney-client privilege and attorney work product?

I was a political science major at Gonzaga University before I attended Gonzaga University School of Law. As an undergraduate, I relearned in my political science classes the role of the judiciary and the importance of the judiciary in tri-partite government.

I am shocked and alarmed that many today do not understand what we could consider basic civics. I am convinced that our system of justice is the best and worth defending and preserving.

Stewards of justice act when they see injustice.

Our system of justice is described perfectly in the

preamble of the attorneys' rules of professional conduct:

The continued existence of a free and democratic society depends upon recognition of the concept that justice is based upon the rule of law grounded in respect for the dignity of the individual and the capacity through reason for enlightened self-government. Law so grounded makes justice possible, for only through such law does the dignity of the individual attain respect and protection. Without it individual rights become subject to unrestrained power, respect for the law is destroyed, and rational self-government is impossible.

The preamble continues:

Lawyers, as guardians of the law, play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship with and function of our legal system. A consequent obligation of lawyers is to maintain the highest standards of ethical conduct.

In his address to the American Bar Association in 1972, Chief Justice Warren Burger said:

Ideas, ideals, and great conceptions are vital to the system of justice, but it must be more than that — there must be delivery and execution.”

So, how do we strive to enhance and maintain confidence in the justice system? By being stewards of justice.

If you believe, as I do, that the law is the most vital tool we have to protect rights, solve real problems, and provide fairness, then you also recognize your responsibility to be stewards of justice. In future columns, I will expound on what it means to be stewards of justice.

* * * ANNOUNCEMENT * * *

On September 25, 1997, Washington State Bar Association Executive Director Dennis Harwick announced his resignation. The Board of Governors, President, and President-elect thank Dennis for his service to the Washington State Bar Association over the last seven years.

We appreciate Dennis' commitment and contributions to the Bar Association. He will remain Executive Director through December 1997 and will be available in a consulting capacity through

June 1998. We wish Dennis the very best in his future endeavors.

The Board will immediately begin a search for the new executive director. The BOG search committee consists of Lish Whitson, Bill Nielsen, Marijean Moschetto, and Richard Eymann. The process we will be using is still being devised. We welcome your thoughts and input. We look forward to hearing from you as we plan together for the future of our Association.

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Dennis P. Harwick
Executive Director

THE ANNOUNCEMENT

As many of you have heard by now, I will be leaving the Washington State Bar Association at the end of this year. When I came to the WSBA in late 1990, I committed to five to seven years, and this December will mark the close of my seventh year as your Executive Director.

When I arrived at the WSBA, we had virtually no reserves and were deferring the payment of some bills until licensing fees started arriving a month or so later. Most of the staff was working on typewriters, not computers. And the WSBA itself was under attack from its members.

I am proud of what has been accomplished these past seven years. Although the most obvious achievement has been restoring the financial health and stability of the WSBA (which still has the lowest membership fees of any western unified bar association), the most important achievement has been the significant increase in the institutional credibility of the WSBA with its members. In my first *Bar News* column seven years ago, I wrote, "Good management is good politics." I believed it then and I believe it now.

I leave the WSBA confident that I leave stronger programming in each and every department: CLE, Licensing, Office of Disciplinary Counsel, Administration, Legislative, Communications, and the Lawyer

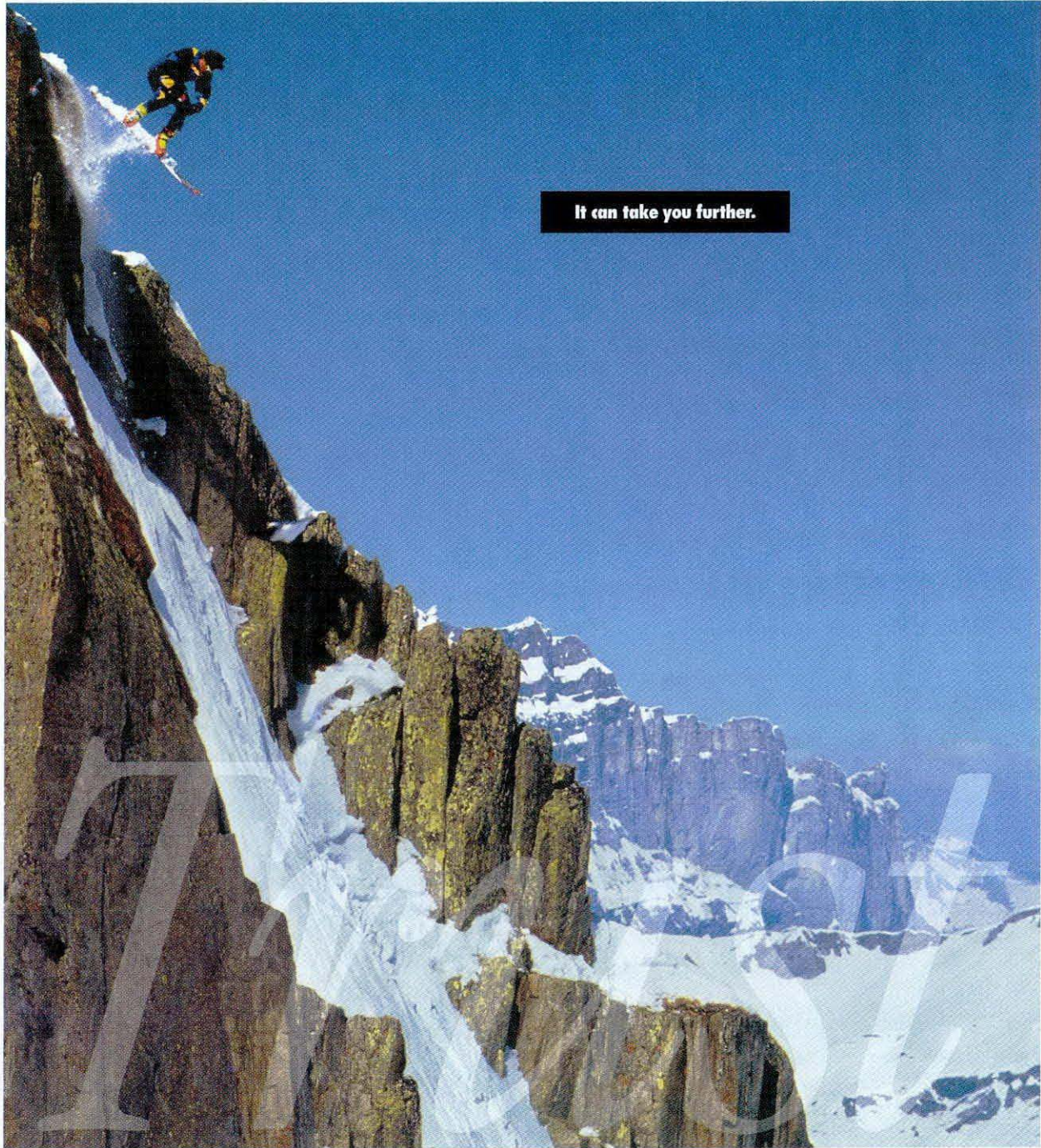
Assistance Department. Most of our accomplishments are objective: more and better CLE programming, faster handling of disciplinary grievances, better tools and working conditions for our staff, etc. Others are more subjective, but equally important: better member service, more clearly defined priorities, stronger relations with constituent groups.

Along the way, the WSBA has been a national role model on a number of fronts: our Access to Justice efforts, our Lawyers' Assistance Program, and our innovative CLE programming. Our senior staff people are highly regarded by their peers throughout the country.

The Executive Director's position, by definition, will be the lightning rod for complaints and cheap shots. It goes with the territory. And it would be disingenuous to claim that these have been easy years. They have not. In recent months, there has been a widening gap between what the Board of Governors and I believe to be the appropriate role of the Board in managing the staff of the WSBA and in the level of support I've had from the Board. So it is time for me to move on.

Since I have at least one more column, I'd better save some comments and observations for later.

EXECUTIVE'S REPORT



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Unsafe at *Hyper Speed* ?



Managing Risk on the World Wide Web

by DAVID BRENNER

Today, the commercialization of the Internet is moving at warp speed. Less than a decade since the Internet began to emerge into public consciousness, Internet commerce appears poised for triple-digit growth as a vast array of large and small companies race to solve security problems and develop electronic financial services. This summer, the Comptroller of the Currency issued the first national charter for a virtual bank.¹ Virtual strip malls and virtual strippers are popping up all over cyberspace.² Stock offerings go out over the Net, and cyberspace companies like Netscape have put millions of dollars in the pockets of happy investors. Hundreds of companies have developed and are marketing products to facilitate Web site design, speed data transmission, secure online commerce, and enable sophisticated and speedy customer service between virtual merchants.

Assuming the Internet commercial revolution continues, Washington state is likely to be at ground zero for future developments. Microsoft, having rapidly transformed itself into the 800-pound gorilla of the Internet, is now locked in a high-stakes battle with cable television companies to bring the Net to the nation's cable viewers over blazingly fast, low-cost cable boxes.³ In addition to Microsoft, the Silicon Forest is home base to some of the most sophisticated pioneers of Internet commerce, publishing, and broadcasting, including such companies as Progressive Networks (an industry leader in sound and video data compression), Starwave (a Paul Allen company which is among the most viewed "broadcasters" on the Internet) and Amazon.com, which calls itself the world's largest virtual bookstore.⁴ The significance of Internet commerce for Washington lawyers extends well beyond representation of Internet companies like the above, however. Today, many businesses and law firms would not consider their marketing and corporate identity programs complete without a Web site.

There is now a lot of money at stake and for better or worse, the rule of law is coming to the Internet, both in the form of judicial decisions and in current and future legislation. Whether those rules will be an appropriate response to the new technological possibilities of the Internet is an open question. On the one hand, the Internet is merely a new medium for communicating information and conducting commerce, not a new legal jurisdiction. It should not upset the basic substantive law which has developed for intellectual property rights and commercial transactions generally. On the other hand, the technology of the Internet does present some new and unique issues.

WEB RISKS

Here are some of the more significant battlegrounds in the clash between Internet lawlessness and the protection of traditional property and personal interests.

Cybersquatting. The Internet is essentially a vast system of individual computer sites, linked by high-powered computers called servers. An address on the Web is called a "domain name" and every address must be different. Domain names to date have been assigned and registered through a private, non-governmental organization called Network Solutions, Inc. (NSI). In the early 1990s, registration was conducted strictly on a first-come, first-served basis.

Some enterprising early Net surfers recognized the commercial value of domain names long before corporate America did. These "cybersquatters" registered Web addresses for some of the most famous names in capitalism, in hopes of ransoming the registration back to the trademark owner for a quick five-figure turnaround. Some companies ransomed their names, but others fought back, citing trademark infringement and trademark dilution under the newly enacted Federal Trademark Dilution Act of 1995,⁵ and other theories.⁶ Once presented with the issue, courts have had little difficulty enforcing the federally sanctioned trademark property interests over any property right conferred by the private registration scheme governing the Internet.⁷

To limit cybersquatting, Network Solutions, the domain name clearinghouse, adopted a new policy in 1995 to require domain name applicants to warrant that the applicant has the right and a bona fide intent to use the domain name, and that its use by the applicant will not interfere with the intellectual property rights of any third party in any jurisdiction.⁸ Applicants are also required to have operational name service from at least two Internet servers to prevent warehousing of domain names. Network Solutions contractually reserves the right to withdraw a domain name upon receipt of an order from a U.S. court or arbitration panel that the name rightfully belongs to a third party, or upon provision of sufficient evidence of misuse or failure to use.

Despite these changes and court rulings, domain name conflicts have continued to spawn litigation, in part because companies with similar trademarks desire the same domain name.⁹ In a related development, Network Solutions' more-or-less self-awarded monopoly over the assignment of addresses is under attack by various coalitions of Internet companies and activists.¹⁰

Copyright and Trademark Infringement in Content. Individual Web site operators,¹¹ online service providers,¹² operators of electronic bulletin boards and chat groups,¹³ and persons participating on such bulletin boards and in such groups,¹⁴ have all been held liable or restrained from trademark and copyright infringement in connection with the use of other people's intellectual property. Sometimes courts have restrained what might have been thought to be classic free speech because a trademark was infringed. Thus, a disgruntled ex-employee of Gateway 2000, the South Dakota mail-order computer manufacturer, was restrained from using the Gateway logo and trademarked Holstein cow patterns on his "Gateway 2000 Sucks" Web site.¹⁵

Hyperlinks and "Framing."

"Hypertext," the concept of text documents that contain hyperlinked words that refer to other Web sites, is fundamental to the operation of the World Wide Web. The ability to jump to another site by pointing and clicking on a hyperlinked term is what makes the Web (relatively) easy and fun to explore. Yet at least two recent lawsuits have challenged uninvited linking to other sites.

In *Ticketmaster Corp. v. Microsoft Corp.*,¹⁶ Ticketmaster has charged that Microsoft's link from its entertainment listings site to Ticketmaster's site dilutes the value of Ticketmaster's trademark and infringes copyrighted material. Ticketmaster's suit claims the right to

control how Internet users access its site. The suit objects to a hyperlink which directs the user to a part of the site which bypasses other material Ticketmaster wants the user to see first. If upheld, Ticketmaster's claim of expansive property rights to the navigation of its site would prevent so-called "deep links" into any site other than its homepage, the part of the site which is designed to introduce the rest of the site. The case is a classic instance of metaphor shaping law. Ticketmaster analogizes its site to a physical store in which its home page is the entrance; Microsoft points out that technically, no part of Ticketmaster's site is less accessible than any other.

"Framing" presents a related issue. Some Web site operators design their sites to create a frame around the screen which remains after the user hyperlinks to a second Web site, in effect surrounding the new material with advertising or logos from the original site. In *Washington Post v. Total News*,¹⁷ a number of online news organizations sued a Web site operator whose page would remain in place and "frame" new material from other Web sites after the users hyperlinked to the new sites. Essentially, the frame created a picture within a picture similar to a television set. The news organizations which operated the other sites claimed copyright and trademark infringement and false advertising, based chiefly upon the allegedly false association which would be created between the images on the frame itself and the images incorpo-

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rated inside the frame. The case has settled, but the framing issue remains a significant one. The fundamental question is the degree to which Web site operators have the right to control how their material appears on a user's screen.

Defamation. Although the normal rules of defamation apply equally to the Internet, there are several aspects of the Internet which are unique. One is the ease of access. It used to take a lot of money to make a statement to a large audience. Newspapers, broadcasters, billboard businesses, and advertising agencies all acted as gatekeepers to the world of broad-band media. Out of concern for their own liability, they toned down injudicious content. But now, for less money than it takes to place a four-line used-car ad in the local paper, anyone can buy a Web site design program or post a comment on a bulletin board. Without any experience in publishing or knowledge of the law, it is readily possible to disparage a product or defame a person before a (theoretically at least) worldwide audience. Defamation liability is no longer solely the province of newspapers

"Sometimes courts have restrained what might have been thought to be classic free speech because a trademark was infringed."

and broadcasters and the people they quote.

A second unique issue is who is liable among the various parties to the posting. The originator of the defamatory message is legally in no different a position in cyberspace than in hard copy print or broadcast media. The greater degree of anonymity in bulletin board postings and chat group conversations, however, makes it less likely that original sources will be identified.

If individual originators can be found, defamation actions against them may become more common. Most homeowners' policies do contain defamation coverage for non-business activities, as President

Clinton discovered in finding funding for his defense of the defamation element in Paula Jones' sexual harassment suit.¹⁸

If the originator can't be found or is judgment-proof, libel plaintiffs must look to the entities which facilitated communication of the defamatory statements, i.e., an online service provider like America Online (AOL) which links users to the Internet, a bulletin board or a chat-room operator, or other links in the electronic chain. There is a substantial legal debate, however, as to the potential liability of these entities. Again, the fundamental issue is one of metaphor. Are these entities like the telephone company, which cannot or does not attempt to monitor or control conversations over its wires, or like newspapers and talk shows, which have a substantial say in what goes out through their media? Courts split early on this issue, with one court finding an online provider that claimed to operate solely as a distributor of information not liable.¹⁹ A second court found liability for a service provider which had claimed to monitor postings.²⁰

After these cases, Internet companies

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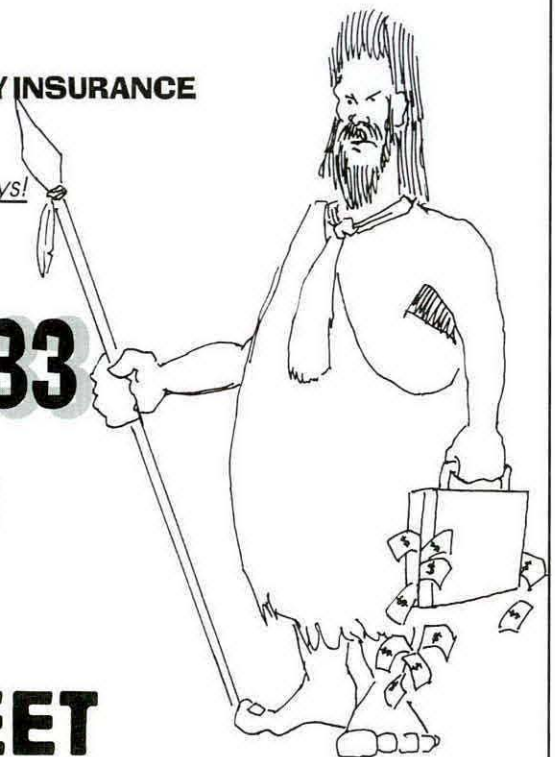
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prevailed on Congress to include in the Telecommunications Reform Act a provision stating that "no provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider."²¹ This protection can be eliminated, however, depending on whether the content provider is an employee or contractor. The strength of the new legislative shield is presently being tested in a \$30 million defamation case brought by Clinton White House advisor Sidney Blumenthal against America Online and a Web site operator named Matt Drudge, who provides content to AOL but may or may not be its employee.²²

A third way in which online defamation raises unique issues relates to the test for public figure/private figure status. Following *New York Times v. Sullivan*,²³ whether a libel plaintiff is a public figure or a private figure plays a fundamental role in determining the standard of care to which a publisher will be held liable. In Washington, like many states, whether a libel plaintiff is a public figure for a particular story may turn on whether the plaintiff could access media to present his

"The conversational nature of much Internet content may cause individual users to more freely reveal private facts about others . . ."

side of the story.²⁴ Given the ability of libel plaintiffs to respond in-kind to a bulletin board posting or Web site slur, it may be more difficult for online defamation plaintiffs to retain the private figure status which carries an easier burden of proof.

Invasion of Privacy. The conversational nature of much Internet content may cause individual users to more freely reveal private facts about others that are not of public interest than would any reputable newspaper or broadcast. Apart from such invasions of a third party's privacy, however, courts have dealt with two other means by which the Internet user's privacy can be invaded. One kind

is intrusion through "spamming," the sending of unsolicited e-mails, usually for advertising purposes. Nothing infuriates Internet users more than this practice, which amounts to online telemarketing. In a closely-watched case last year, AOL secured a preliminary injunction against a spammer who was sending 650,000 messages per day to AOL subscribers and allegedly disrupting AOL member services.²⁵ Another court resorted to the hoary common law tort of "trespass to chattels" to punish a spammer.²⁶ Members of Congress and various state key legislators have introduced bills intended to foreclose the receipt of unwanted e-mail, although these may not withstand First Amendment scrutiny.²⁷

At the same time spamming is coming under fire, many Internet companies are exploring so-called "push" technology designed to send messages to pre-screened and targeted audiences. In many cases, the audience for this information has agreed to receive it, reducing the "spam" factor. But in some cases, "push" technology is being sent without permission, with targeting supplied by "cookies." "Cookies" are small software programs implanted by a Web site server on the

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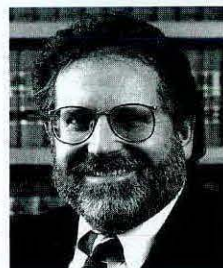
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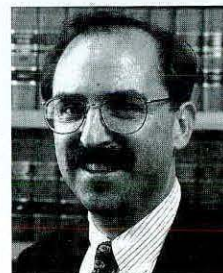
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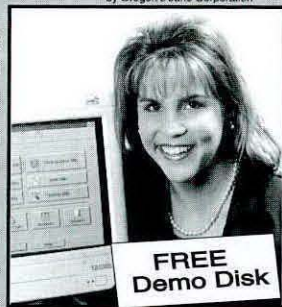


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browsers of visiting users so that each time the user connects to the site, the operator will know who is visiting. When compiled with other data, this gives the Web site operator information on the preferences of its visitors, and allows the creation of highly sophisticated marketing databases.²⁸ Proposed legislation would eliminate this kind of surreptitious data collection.²⁹

Finally, the multimedia nature of the Web, the ability to easily digitize images into a design, and the no-limits attitude of Webizens combine to make the misappropriation of a celebrity's image or likeness particularly likely. Sometimes, the celebrities who object are surprising. Howard Stern, ordinarily no shrinking violet, sued unsuccessfully to prevent the use of his name and picture on an electronic bulletin board devoted to debating his candidacy for mayor of New York.³⁰

Many celebrity fan sites on the Web have been tacitly ignored by media and entertainment companies because they are a form of promotion and are not commercially oriented. However, commercial use of celebrity images has brought swift reactions from celebrities.³¹ Commercializing dead celebrities presents a risk as well; many states recognize an enforceable property interest in their image and likeness.³²

Unfair Business Practices/False Advertising. Nothing exempts Internet-based advertising from the reach of ordinary consumer protection statutes. The Federal Trade Commission and state consumer agencies have pursued Web merchants for false claims in such business ventures as credit restoration,³³ computer equipment sales,³⁴ and miracle AIDS cures.³⁵

Obscenity. The paradigmatic legal overreaction to the Internet to date is the Communication Decency Act,³⁶ which among other things attempted to regulate the publication and dissemination of obscene materials on the Internet. As has been widely reported, the Supreme Court struck down the obscenity provisions of the statute earlier this year in *Reno v. ACLU*,³⁷ holding that regulation of "indecent transmissions" and "patently offensive displays" violated the First Amendment. The Court afforded the highest level of First Amendment protection to Internet speech.³⁸

Jurisdictional, Regulatory, and Tax Issues. The worldwide scope of the Internet, and the manner in which information is communicated on it, raise substantial jurisdictional and regulatory conundrums. Messages on the Internet pass in the form of digital "packets" by the most convenient or least congested route. Such packets may literally pass through many different states and foreign countries in the course of reaching their eventual destinations. "Spamming" (unsolicited e-mail) can result in the publication of the same message in dozens of different states and foreign countries. Web sites are more stationary sources of information, operating in a specific locale but available to contacts worldwide. Their hyperlinks "transfer" visitors to Web sites operated in other states and foreign countries. To what extent these various forms of Internet communication satisfy jurisdictional requirements for suit or trigger regulatory oversight are open questions.

Courts have reached different conclusions about the type of Internet-related activity sufficient to trigger long-arm jurisdiction in the United States.³⁹ These cases suggest that simply maintaining a Web site that can be accessed from any state is unlikely to be sufficient. However, many Web sites are no longer one-way billboards for their operators, but have interactive features which invite visitors to ask questions, provide comments, download software, or place orders for goods. Such interactivity significantly increases the risk of a finding of purposeful targeting and, hence, jurisdiction.⁴⁰

The location of a "sale" through the Internet is also important for state taxing authorities and regulators. Web merchants must consider whether and where their product is regulated. Rare wine sales are a particularly popular form of Internet commerce, but liquor control authorities in several states have threatened to prosecute virtual wine merchants for violating state liquor laws.⁴¹ Which state is entitled to sales tax on Internet sales is another hotly debated issue, especially as orders are placed for relatively big ticket items like computer hardware.⁴²

INSURING WEB RISK

Trying to avoid all of these risks is the front line of risk management for Web site designers, operators, merchants and content creators. A critical second line of

defense is having the right insurance for unanticipated liabilities.

The main coverage section of standard form commercial general liability (CGL) policies usually limits coverage to injuries resulting in tangible property damage or bodily injury. However, most such policies also contain two additional coverage sections, called advertising injury coverage and personal injury coverage. These parts of the policy cover liability for money damages arising out of specified causes of loss.

In the case of the advertising injury coverage, the specified causes of loss include "infringement of copyright, title or slogan," and "misappropriation of style of doing business." Copyright offenses obviously fall with the former, while a number of courts have concluded that the latter offense includes trademark and trade dress infringement.⁴³ In the case of personal injury, the causes of loss include defamation.

There are some important restrictions, however. In the case of advertising injury coverage, the loss must arise in the course of "advertising." What constitutes "advertising activities" is a much-litigated question. Some courts have held that "advertising" includes virtually any form of solicitation,⁴⁴ while others have required a broader audience.⁴⁵ Furthermore, the loss must be caused by the advertising itself, not by commercial activity which has prompted the advertising. In Washington, a claim that copyrights were infringed in the course of "marketing" has been held sufficient to state the required nexus.⁴⁶

A further restriction on both of these coverages is that they are not intended to insure companies in the business of advertising, publishing, or broadcasting. However, these business categories do not easily fit the rapidly changing landscape of cyberspace, in which software companies are morphing into the cyberspace equivalent of television networks, and Web site designers are becoming fixtures in and out of advertising agencies.

Aside from these subsets of CGL coverage, any Web site operator, merchant of services or goods, or other commercial traveler on the information highway ought to consider errors and omissions (E&O) and directors and officers (D&O) coverages. These coverages are intended to cover economic losses arising out of the

negligent performance of services and managerial responsibilities.

Some newly emerging policies specifically oriented to intellectual property and Internet activity eliminate the old distinctions between types of businesses covered. These new policies focus instead on the types of claims that a company actively involved in Internet commerce may face. Without such a reorientation, there is a good chance that Internet liability will provoke a new wave of coverage disputes as policyholders and insurers face off over differing expectations about the insurance they bought and sold.

CONCLUSION

The Internet is a new medium for commerce and the exchange of information, not a new land as some utopians originally predicted. The rule of law is beginning to discipline the more unruly aspects of the Internet. The same principles that govern ordinary commerce apply to the Internet as well, but some of its technological aspects present legal issues that will take years to address. In the meantime, thoughtful Webizens (and their attorneys) should consider their legal risks, examine their insurance policies, and generally behave as responsibly in the virtual world as they would in the real world.

Endnotes

¹Olaf de Senerport Domis, "Virtual Bank's National Charter Gets Green Light from OCC," *American Banker*, Aug. 29, 1997, at 2.

²Vic Sussman, "Small Operators Can Make Big Killings on the Web," *USA Today*, Aug. 20, 1997 at A-1 (describing success of pornography entrepreneurs).

³See, e.g., "Microsoft Facing a Challenge Over Internet-Cable TV Link," *New York Times*, September 11, 1997, at 1.

⁴Barnes & Noble would disagree with this appellation; they have sued Amazon.com over their advertising claim to being "Earth's biggest bookstore." Barnes & Noble insists that Amazon.com is not a "bookstore," but is only a "book broker." "Amazon.com Contends Rival Must Charge Tax," *Seattle Times*, Aug. 22, 1997 at E-1.

⁵15 U.S.C. §1125(c).

⁶See, e.g., *Hasbro, Inc. v. Internet Entertainment Group, Ltd.*, No. C96-130WD, 1996 U.S. Dist. LEXIS 11626 at *1 (W.D. Wash. Feb. 9, 1996) (use of domain name "candyland.com");

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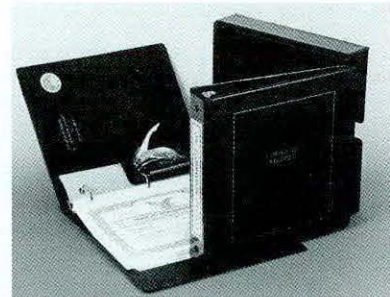
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Intermatic, Inc. v. Toeppen, 947 F. Supp. 1227 (N.D. Ill. 1996) (cybersquatter registered hundreds of domain names including "deltaairlines.com" and "eddiebauer.com"); *Inset Sys. Inc. v. Instruction Set, Inc.*, No. 95CV-01314, 1996 U.S. Dist. LEXIS 7160 (D. Conn. April 17, 1996); *MTV v. Curry*, 867 F.Supp. 202 (S.D.N.Y. 1994).

⁷*Id.* But see, *Gateway 2000 Inc. v. gateway.com, Inc.*, 1997 U.S. Dist. LEXIS 2144 (E.D.N.C., Feb. 6, 1997) (refusal to preliminarily enjoin use of "gateway.com").

⁸Network Solutions' policy is avail-

able at <http://rs.internic.net/policy/internic.domain.policy>.

⁹ See e.g., *Desknet Systems, Inc. v. Desknet, Inc.*, 42 U.S.P.Q.2d 1954 (1997) (plaintiff had registered "desknet" as its domain name, but defendant claimed first use).

¹⁰David Post, "Who Has Domain Over Domain Names?" *The American Lawyer*, September 1997, at 80.

¹¹E.g., *Malarkey-Taylor Associates, Inc. v. Cellular Telecommunications Industry Assn.*, 929 F. Supp. 473 (D.D.C. 1996)

(online information service called "Go Wireless Now" posted on a Web site infringed trademark of an electronic bulletin board called "WirelessNOW"); *Playboy Enterprises, Inc. v. Frena*, 839 F. Supp. 1552 (M.D. Fla. 1993) (Web site operator copied photos with Playboy trademark on them, obliterated some trademarks, and placed his own advertisement on the photos.).

¹²E.g., *Religious Technology Center v. Netcom Online Communications Service*, 907 F. Supp. 1361 (N.D. Cal. 1995) (online service provider contributorily liable for posting of copyrighted Scientology materials on bulletin board). The Church of Scientology has been particularly active in protecting its copyrighted works.

¹³*Central Point Software, Inc. v. Nugent*, 903 F.Supp. 1057 (E.D. Tex. 1995) (bulletin board service encouraged its subscribers to post copyrighted software on the board where it could be downloaded for free by subscribers).

¹⁴*Sega Enterprises Ltd. v. MAPHIA*, 857 F. Supp. 679 (N.D. Cal. 1994) (members of a bulletin board uploaded pirated software and downloaded games transmitted by others).

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¹⁶No. 97-3955 (C.D. Cal. 1997).

¹⁷97 Civ. 1190 (S.D.N.Y. 1997).

¹⁸See "Clinton's Insurance Ending in Jones Case; Settlement Unlikely," *Seattle Times*, September 10, 1997, at 1.

¹⁹*Cubby v. Compuserve*, 776 F.2d 135 (S.D.N.Y. 1991).

²⁰*Stratton Oakmont v. Prodigy*, 1995 N.Y. Misc. LEXIS 229 (N.Y. Sup. Ct. 1995).

²¹Pub.L.No. 104-104, 110 Stat. 56 (1996), codified at 47 U.S.C. §230(c)(1)(1997).

²²See *Wall Street Journal*, Friday, August 29, 1997 at B-1, "Will Threat of Libel Suits Chill Cyberspace Chatter?"

²³376 U.S. 254, 84 S.Ct. 710 (1964).

²⁴E.g., *Clardy v. Cowles Publishing*, 81 Wn. App. 53, 61, 912 P.2d 1078 (1996).

²⁵*America Online, Inc. v. Cyber Promotions, Inc.*, Civ. Action No. 96-462 (E.D. Va. April 19, 1996).

²⁶*CompuServe, Inc. v. Cyber Promotions, Inc.*, No. C2-96-1070 (S.D. Ohio Feb. 3, 1997).

²⁷See Ronald S. Bell, "Internet Litigation," *Computer Litigation Journal*, July 1, 1997 at 19 (summarizing recent state

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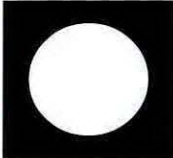
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and federal legislation to control spamming and harassing e-mail).

²⁸ For a more technical discussion of "cookies," see James F. Breisford, "Online Liability Issues: Defamation, Invasion of Privacy and Negligent Publishing," 482 *PLI/Pat* 471, 503-06 (1997).

²⁹ Edward J. Markey, "A Privacy Safety Net: Why Web Commerce Needs a New Law," *MIT's Technology Review*, Aug/ Sep. 1997, at 29 (explaining need for federal legislation that he has sponsored).

³⁰ *Stern v. Delphi Internet Services Corp.*, 626 N.Y.S.2d 694 (Sup. Ct. 1995).

³¹ Rodney Dangerfield has sued his own Web site designer, alleging that the company pirated his name and likeness to market their services. Marla Dickerson, "Out of Humor Rodney Dangerfield Sues O.C. Firm Over Web Site," *Los Angeles Times*, June 26, 1997, at D-1. See also Ross Kerber, "Online: Vigilant Copyright Holders Patrol the Internet," *Wall Street Journal*, Dec. 13, 1995, at B-1.

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³³ E.g., *FTC v. Corzine*, No. Civ. S-94-1446 (E.D. Calif. 1994).

³⁴ *FTC v. U.S. Telemidia, Inc.*, No. CIV. 96C-1440 (N.D. Ill. March 13, 1996).

³⁵ *Commonwealth of Massachusetts v. Marjorie Phillips*, No. Civ. 96-00661 (Mass. Super. Ct., April 2, 1996).

³⁶ 47 U.S.C. §223(a), (d)-(h) (1996), enacted in February 1996 as Title V of the Telecommunications Act of 1996, P.L. No. 104-104.

³⁷ No. 96-511, 1997 U.S. LEXIS 4037 (June 26, 1997).

³⁸ See Richard Raysman and Peter Brown, "Reno v. ACLU — The First Amendment Meets the Internet," *New York Law Journal*, July 8, 1997, at 3.

³⁹ Compare *Panavision International, L.P. v. Toepfen*, 938 F.Supp. 616 (C.D. Cal. 1996) (employing Ninth Circuit's test of purposeful availment to find Internet contacts sufficient to support personal jurisdiction) and *Inset Systems, Inc. v. Instruction Set, Inc.*, 937 F.Supp. 161 (D. Conn. 1996) (employing test of whether defendant could anticipate being hauled into court to support personal jurisdiction) with *Bensusan Restaurant Corp. v. King*, 937 F.Supp. 295 (S.D.N.Y. 1996) (applying additional factor of whether defendant conducted continuous

business in state to find no personal jurisdiction based solely on Web site contact).

⁴⁰ *Zippo Mfg. Co. v. Zippo Dot Com*, 952 F. Supp. 1119 (W.D. Pa. 1997).

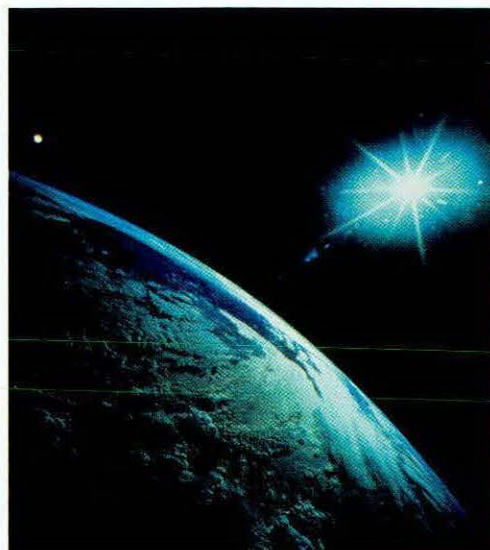
⁴¹ Eun, Kyung Kim, "New Laws Could Dry Up Mail-Order Alcohol Market," *Seattle Times*, Aug. 21, 1997, at D-1.

⁴² Sen. Ron Wyden (D-OR) and Rep. Chris Cox (R-CA) have introduced a bill, the Internet Tax Freedom Act (HR 1054, S 442), that would create a moratorium on new Internet state taxes; the bill is opposed by many state and local officials. A copy of the bill is available at <http://thomas.loc.gov>. See also "Amazon.com Contends Rival Must Charge Tax," *Seattle Times*, Aug. 22, 1997 at E-1.

⁴³ E.g., *Dogloss, Inc. v. Northern Ins. Co.*, 907 F. Supp. 1383 (C.D. Col. 1995); *Poof Toy Products, Inc. v. U.S. Fidelity and Guaranty Co.*, 891 F. Supp. 1228 (E.D. Mich. 1995). But see *Advance Watch Co., Ltd. v. Kemper Nat. Ins. Co.*, 99 F.3d (6th Cir. 1996).

⁴⁴ E.g., *Sentex Systems, Inc. v. Hartford Acc. & Indem. Co.*, 882 F. Supp. 930 (C.D. Col. 1995), aff'd. 93 F.3d 578 (9th Cir. 1996).

⁴⁵ *Monumental Life Ins. Co. v. Fidelity & Guaranty Co.*, 94 Md. App. 505; 617



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⁴⁶ *Federal Ins. Co. v. Microsoft Corp.*, No. C92-610D, 1993 U.S. Dist. LEXIS 5468 (W.D. Wash., Apr. 14, 1993).



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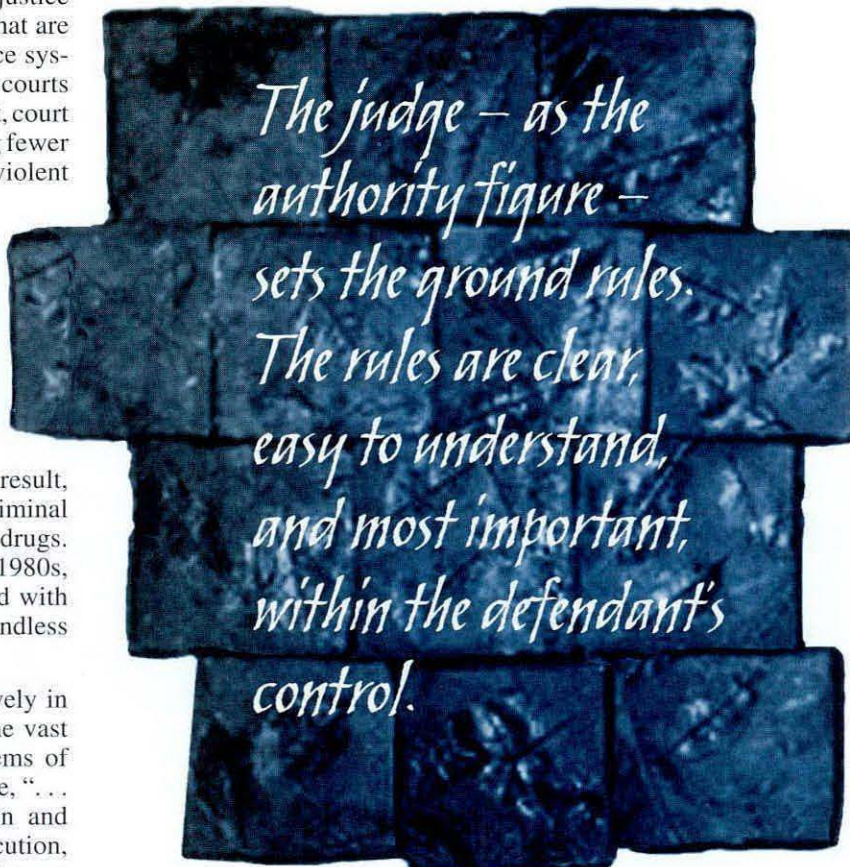
On August 1, 1994, the first defendant was admitted to the King County Drug Diversion Court. This was a small, but critically important, step in the criminal justice system's ongoing response to the deluge of drug cases that are threatening to inundate, if not bankrupt, our entire justice system. Since the mid-1980s, many state and local criminal courts have been flooded with felony drug defendants. As a result, court dockets have become overloaded with drug cases, leaving fewer and fewer resources available to adjudicate serious, violent felonies. It has become increasingly clear that incarceration in and of itself does little to break the cycle of illegal drug use and that drug abuse treatment is demonstrably effective in reducing both drug abuse and other drug-related crime.

For several decades, illicit drug use has shaped and defined the criminal justice system. In many jurisdictions, the single largest criminal category is drug offenses, with alcohol and other drug use a contributing factor in the majority of all other crime categories. As a result, increasing numbers of individuals are caught up in the criminal justice system because of their use of alcohol and other drugs. With the crack cocaine epidemic taking hold in the mid-1980s, the criminal justice system found itself in crisis, choked with cases that consumed increasing resources in a seemingly endless revolving door of drugs and drug-related crime.

Although drug charges are easily managed substantively in most courts (only a small percentage go to trial, and the vast majority of those end in conviction), they pose problems of volume and recidivism. And if, as Rudyard Kipling wrote, "... insanity is doing the same thing over and over again and expecting different results," cycles of drug arrest, prosecution, conviction, and incarceration doom the drug user and court personnel to an insane existence.

Early efforts to stem the tide of drug cases only seemed to complicate the situation. Legislative changes redefining criminal codes and escalating penalties for drug sales did not provide relief from the crushing burden of alcohol and drugs. Attempts by judges to refer addicts to treatment often yielded meager gains, either because the few alcohol and other drug (AOD) abuse treatment programs were full and waiting lists were long and/or because cooperative working relationships between criminal justice agencies and AOD treatment providers were inadequate or nonexistent. In addition, the majority of drug abusers ordered by judges to participate in treatment did not remain involved in the process long enough to develop the behavior skills necessary for long-term abstinence.

It became increasingly clear that our traditional adversarial system of justice, designed to resolve legal disputes, was not particularly effective at addressing the major underlying issues of alcohol and other drug abuse. Moreover, many features of the court system seemed to have produced the unintended consequence of contributing to continued AOD abuse instead of curbing it. The drug-using offender quickly learns how to work within the existing framework and acts accordingly, manipulating and/or evading the court and program personnel. With few



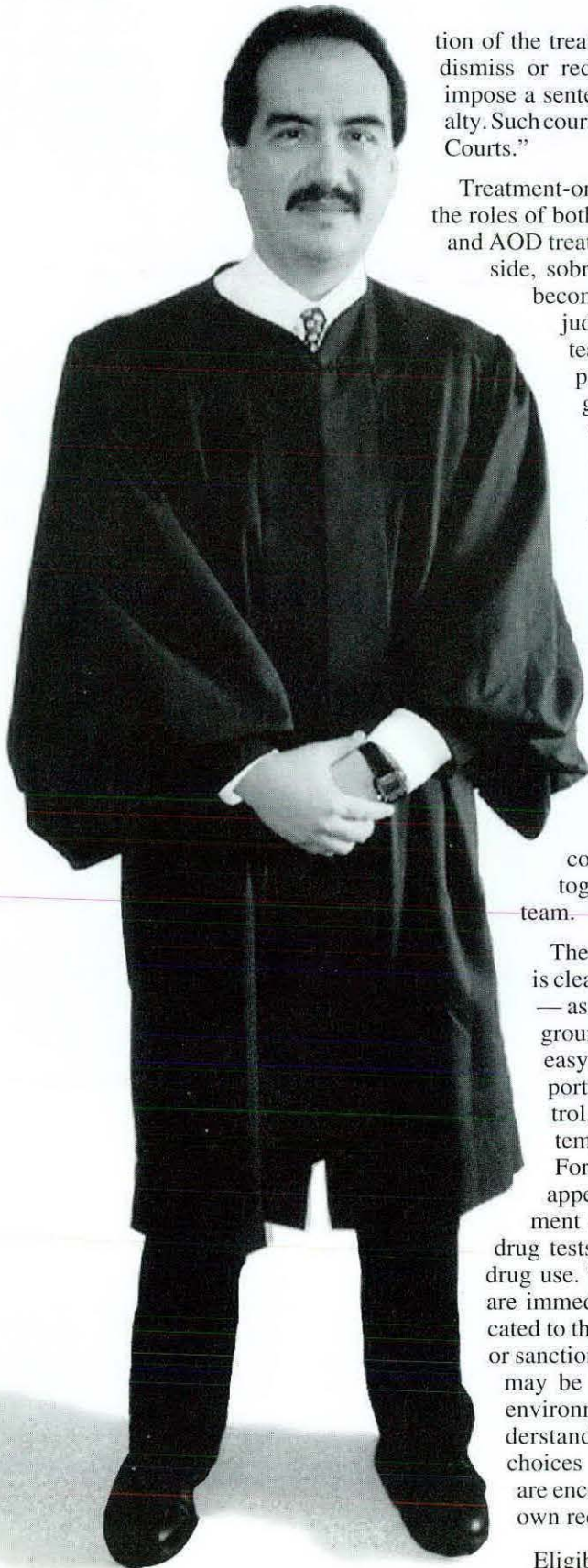
The judge – as the authority figure – sets the ground rules. The rules are clear, easy to understand, and most important, within the defendant's control.

immediate consequences for continuing AOD use (and often no consequence at all), with pressure to get cases off the dockets through plea bargains, with sentences beginning months or even years after the offense, and with no meaningful way to identify and respond to continued use, it is little wonder that many began to lose faith in the ability of the criminal justice system to deal effectively with offenders dependent on alcohol and other drugs.

In the midst of this difficult situation, a few forward-thinking and innovative jurisdictions began to reexamine the relationship between criminal justice processing and AOD treatment services. It became increasingly apparent that treatment providers and criminal justice practitioners shared common goals: stopping illicit drug use and related criminal activity. Both fields had unique capabilities and resources which, if combined in partnership, might enhance the effectiveness of each. Thus, the concept of treatment-oriented courts was born.

Focusing on individuals whose major problems stem from alcohol and other drug use, these courts compel individuals into AOD treatment and supervise them throughout the treatment process. In exchange for successful comple-

Approach to Drug-related Crime



tion of the treatment program, the court may dismiss or reduce the original charge, not impose a sentence or offer some lesser penalty. Such courts have become known as "Drug Courts."

Treatment-oriented drug courts transform the roles of both criminal justice practitioners and AOD treatment providers. On the justice side, sobriety (rather than punishment) becomes the primary goal and the judge is the central figure in a team effort. On the treatment side, providers are now free to focus greater energy on assisting participants instead of enforcing sanctions. Drug courts create new and different roles for judges, prosecutors and defense attorneys. In a drug court these players are not adversaries in the traditional sense, but rather work together in concert for the sole purpose of helping defendants become drug-free. To facilitate an individual's progress in treatment, the prosecutor and defense counsel must be ready and willing to shed their traditional adversarial courtroom relationship and work together as members of a unified team.

The environment of the Drug Court is clear and unambiguous. The judge — as the authority figure — sets the ground rules. The rules are clear, easy to understand, and most important, within the defendant's control. It is a performance-based system, with measurable expectations. For example, the defendant either appears in court and attends treatment sessions or does not, and the drug tests reveal either drug use or no drug use. The measures of performance are immediately and directly communicated to the judge, who rewards progress or sanctions noncompliance. The system may be tough, but it is fair. It is an environment which the defendant understands: a system in which clear choices are presented and defendants are encouraged to take control of their own recovery.

Eligibility for Drug Court is simple:

only defendants charged with drug possession are accepted, with no "dealers" allowed. Prior convictions do not preclude participation, with the important exception that anyone with a prior violent conviction or a sex offense is not allowed to participate out of a concern for public safety. Once a defendant is diverted into Drug Court, he or she is given a simple choice: instead of a trial or a plea to the alleged charge, the defendant is given the option of entering into a long-term substance abuse treatment program closely monitored by the Drug Court judge. If the defendant successfully completes the program, usually 12 to 14 months in duration, the charge is dismissed with prejudice. If a defendant is not successful in completing the program, the judge reads the police report of the underlying incident and decides whether or not the defendant is guilty based solely on the report.

Once a defendant is accepted into the Drug Court, the team's focus is on the participant's recovery, not the merits of the pending case. The role of the prosecuting attorney is to protect the public's safety by ensuring that the client complies with all program requirements and by participating in the court's coordinated strategy for responding to noncompliance. The role of the defense counsel in drug court is that of a counselor-at-law, assembling all necessary information to assist the client in making an informed choice about the best choices for him or her. This nonadversarial role is significant because the court does not arbitrate in the usual fashion and instead has the opportunity to address addiction-related issues.

Few offenders enter the court's programs with rehabilitation on their minds. They are in denial, and are there mostly to beat the system and avoid incarceration. The challenge is to keep them in the program until sobriety and attitudinal changes can occur. This may be difficult to accomplish, since the drug-using offender is often an expert at avoiding responsibility, making excuses for his or her failures and evading the court and its programs.

The Drug Court Judge recognizes the limitations of judicial coercion as a drug

rehabilitation tool and rejects the notion that program failure is necessarily the result of the willful defiance of judicial authority (and, therefore, punishable as a kind of contempt of court). In its place Drug Court Judges have installed a new, more pragmatic judicial intervention strategy. That strategy relies on the constant development of an ongoing, working relationship between the judge and the offender and the use of both positive and negative consequences to encourage compliance.

By increasing the frequency of court hearings, as well as the intensity and length of judge/offender contacts, the Drug Court Judge becomes a powerful motivator for the offender's rehabilitation. It is not uncommon to have a courtroom hearing where the only two parties who speak are the judge and the defendant, with the prosecutor, defense attorney and treatment provider all remaining silent. In such a setting, a certain rapport is slowly built up between the court and

an individual defendant. Since this relationship may be carried on for many months, it becomes a very valuable tool for impacting the defendant's subsequent behavior. The judge has the direct ability to reach an offender as a hands-on motivator, showing concern as well as toughness. As appropriate, the judge assumes the role of confessor, taskmaster, cheerleader and mentor, in turn exhorting, threatening, encouraging and congratulating the participant for his or her progress or lack thereof.

Positive reinforcement is better than negative sanctions, but both are useful and important in shaping behavior. Drug Court judges around the country regularly hand out diplomas, T-shirts, key chains, coffee mugs and other memorabilia to successful program participants. For many offenders, a drug court graduation is the only graduation they have ever attended. The judge often introduces the defendants individually, telling the audience of how this particular individual was able to progress to recovery. The audience is often included in the event and spouses and children are present to watch a successful participant in their moment of recognition.

On the other hand, it is just as important for the audience to see sanctions meted out for program failures. Responding to failure, however, requires a sense of balance. Offenders are admonished for their failures and at the same time encouraged in their ultimate ability to succeed. Most Drug Court judges handle program failures, as well as remands into custody, early on in their calendars so that all offenders present have the opportunity to see the consequences of failure. It's amazing what effect even a single day's incarceration can have on both the offender and the audience.

It is axiomatic that offender accountability is the cornerstone of successful drug treatment. It is also the reason why Drug Courts hold such strong public appeal. The general public is tired of hearing stories about criminal defendants "beating the system" or manipulating it to their advantage (and usually the public's disadvantage). Overall, it quickly becomes obvious that the treatment program requirements are more demanding than the applicable sanctions received through traditional adjudication. It is common to hear both successful and unsuccessful participants comment that "if I

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had known how tough this was going to be, I would have just taken the jail time!"

Recognizing the diversity of existing programs, as well as the need for greater uniformity, the National Association of Drug Court Professionals directed that a Drug Court Standards project be developed, with its mission being to establish a set of national standards for Drug Courts. This document, published in 1997, sets out the 10 key components in establishing a successful treatment-oriented Drug Court. It also emphasizes the need for appropriate program design to ensure greater ease of long-term evaluation for the future.

While there may still be considerable legitimate debate as to the effectiveness of treatment-oriented courts among state and federal officials, there is absolutely no question from those of us in the trenches that Drug Courts work. While those who have worked in such a court have hundreds of anecdotal stories to tell about successes and failures, the numbers alone tell the real story. According to the July 1997 GAO report, from 1989 to 1994 there were a total of 34 Drug Courts in the United States. As of March 1997, there were 161 operating Drug Courts with an additional 154 programs in various developmental stages. Drug Court programs are operating in 38 states, the District of Columbia and Puerto Rico and were being planned or studied in eight of the remaining 12 states and Guam.

In the state of Washington, King County began its program in August of 1994, Pierce County followed suit about six months later, and Spokane County started its Drug Court in January of 1996. All three of these programs are currently being evaluated by independent evaluators and hopefully we will have more available data as to effectiveness and long-term impact on drug use and drug-related crime in the near future. In the meantime, several other Washington counties are engaged in the process of either working on feasibility studies or preparing to start up their own Drug Court programs. These counties currently include Clallam, Clark, Kitsap, Snohomish, Thurston, Whatcom and Yakima.

Debate about the ever-increasing cost of incarceration at the local and state level is providing us with an opportunity to further develop new and innovative programs that can treat drug-using offenders

in their own communities with minimal incarceration, criminal recidivism and cost. The challenge continues to be to prove that Drug Courts and court-ordered

rehabilitation programs can work, to the benefit of the individual participant as well as to the benefit of society as a whole.



Judge Ricardo Martinez would like to thank the National Association of Drug Court Professionals for the use of their material in preparing this article.

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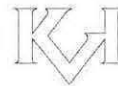
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The Board of Governors of the Bar Association met in Walla Walla on October 17 and 18. Present at the meeting were Governors Steve Crossland, Dick Eymann, Walt Krueger, Dennis Laporte, Terry Lee, Dick Manning, Marijean Moschetto, Don Powell, and Mary Alice Theiler.

President Mary Fairhurst, who presided over her first meeting with an iron gavel, reported that the Criminal Justice Institute which she attended was a very good program which brought together many elements of the legal community. She also reported on a speech she gave at Gonzaga Law School, a radio talk show she spoke on in Chelan and a handmade quilt made by and presented to her by members of Washington Women Lawyers.

MANDATORY FEE ARBITRATION

Mandatory fee arbitration topped the Board's agenda once again. Governor Moschetto and WSBA staffer Randy Beitel led the discussion. Several governors expressed serious concerns regarding the general concept of mandatory fee arbitration and reported on the large amount of negative feedback from constituents. The Board then went on to discuss several specific provisions of the proposed rule and attempted to eliminate clearly unacceptable suggestions and began to narrow alternatives. The consensus was that if an attorney and client had no agreement on whether arbitration of fee disputes would be binding, *de novo* review should be allowed (except perhaps in situations where the party wanting *de novo* review had not appeared at arbitration). There was unanimous agreement that the time limit for taking advantage of mandatory fee arbitration should be much shorter than previously discussed, perhaps 60 to 90 days. The Governors also seemed to prefer that existing statute of limitations rules not be changed and thought that the prevailing party in arbitration should be allowed to collect the costs of arbitration. The group was less cohesive on the issue of whether a bond should be required of the client requesting arbitration. Some Governors felt a full bond should be required while others thought a bond in an amount equal to some percentage of the amount owed would be sufficient. The Board will ad-

dress these issues again at the December meeting.

MCLE TASK FORCE REPORT

The results of the MCLE Task Force were presented by J.J. Leary and former governor Ron Perey. The task force made the following recommendations:

(1) That the present structure of the MCLE Board as a semi-independent entity should be retained.

(2) That CLE credit should not be given for "meritorious work" (such as drafting desk books or doing pro bono work) unless it otherwise meets other accreditation standards, such as being written materials presented to a group of at least five attorneys, with some element of "interactivity" involved.

(3) That the "Boise Protocol" of comity be adopted.

(4) That the MCLE Board should formally adopt its current practice of having a Board member approve applications by the CLE Department of the Bar Association, rather than having Bar-appointed staff review them.

(5) That the MCLE Board should retain its present policy of not granting appeals for denials of course credit.

(6) That the Board of Governors examine whether the exemption for state and federal legislators should be continued.

(7) That the Board of Governors recommend that the Supreme Court adopt a revised APR 11, to include the following significant changes:

(A) Course providers would be allowed to teach legal ethics, professionalism and professional responsibility in a broader, more meaningful way while still meeting the ethics/professionalism component.

(B) The MCLE Board would be given the power to set fees and fines for failure to comply with the rules.

(C) The MCLE Board and the WSBA would enter into an operating agreement to formalize the staffing and budgeting authority of the MCLE Board.

(D) CLE providers would report attendance to the Bar Association, which would be responsible for recording and keeping track of members' attendance and providing each member with reports on a semi-annual basis.

(E) The Board of Governors would

be removed from the appeal process for MCLE delinquencies.

(F) Records and information contained in attorney compliance reports would not be available to any providers, including the CLE Department of the WSBA.

(G) CLE courses would be accredited primarily on the basis of content as legal education rather than on the basis of those attending.

(H) Alternative dispute resolution courses would be specifically listed as areas which may be approved as legal education.

(I) Private law firms and governmental agencies would be allowed to provide continuing legal education, although they could not be accredited providers.

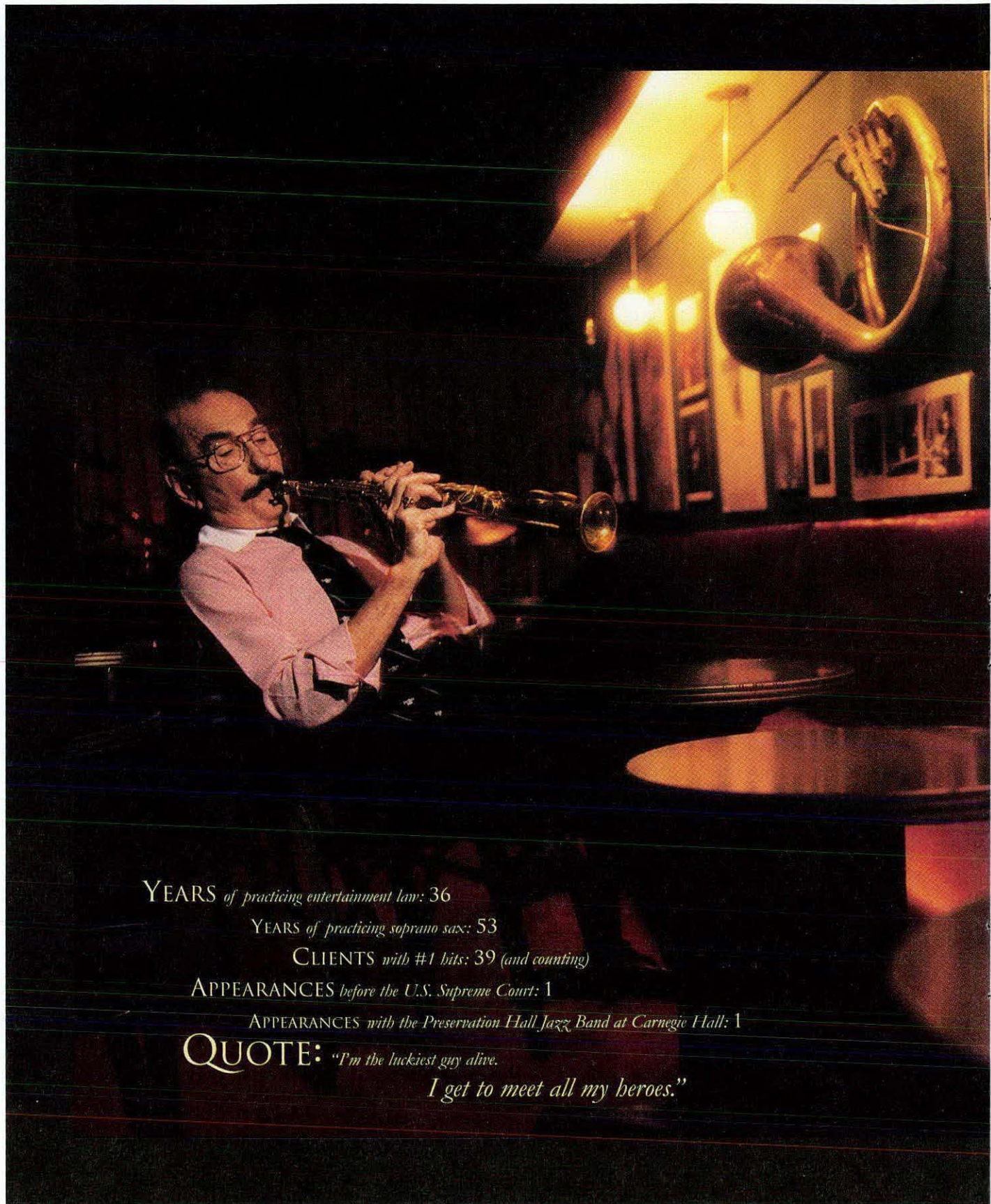
(J) Accredited sponsoring agencies would not need to seek pre-approval of their courses.

(K) The MCLE Board would be given clearer authority to adopt policies consistent with the MCLE Regulations.

General Counsel Bob Welden praised the recommendations as representing a "culture change" toward member service orientation, rather than a "police state" mentality where members were not accommodated well.

TELE-LAWYER PROPOSAL

Governor Powell led the discussion of the telephone hotline program proposed for low-to-moderate income people desiring legal advice over the telephone. Seattle attorney Stuart Heath reported to the Board that he had been working with several other lawyers on a similar proposal for several years. He questioned the necessity of WSBA approval of a specific hotline when it appears that there is more than one commercial proposal currently in the works. Governor Crossland pointed out WSBA history of not endorsing for-profit products. Governor Theiler spoke of the hotline as a real opportunity for the WSBA to positively impact the lives of low-to-moderate income people barely exceeding legal services income requirements, who have no other access to legal services. Governor Moschetto said that volunteer legal services personnel were concerned that the hotline would compete with their programs. Governor Krueger mentioned that he thought many lawyers would take calls from potential clients who only required 15 minutes of



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YEARS of practicing soprano sax: 53

CLIENTS with #1 hits: 39 (and counting)

APPEARANCES before the U.S. Supreme Court: 1

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time to solve simple legal issues. Governor Eymann questioned whether the program would protect the Bar Association if incorrect advice was given. A motion to not support or endorse the Tele-Lawyer program or any similar business was tabled until the Board's December meeting.

LEGISLATIVE REPORT

Ellen Conedera Dial reported on the Legislative Committee's recommendations to support the following legislation which will be proposed in the upcoming legislative session:

(1) Revisions to the Washington Business Corporation Act which would clarify the intent of the current statute that, in determining whether all shares of a given class of stock have the same rights attached to them, one may look to "facts ascertainable outside" the articles of incorporation or the documents evidencing rights, options or warrants.

(2) Adoption of a Revised Uniform Partnership Act proposed by the WSBA's Business Law Section. The principal advantages were described as greater stability in partnerships, clarification of the

nature of the relationships between partners, clarification of the nature of a partnership, moving more towards an entity theory and providing for conversions and mergers of partnerships.

(3) Adoption of a Trust and Estate Dispute Resolution Act proposed by the Real Property, Probate and Trust Section. This act is an effort to further improve upon a 1984 bill which streamlined the probate process and is intended to update existing procedures of nonjudicial resolution of trust and estate issues, add mediation and arbitration to the dispute resolution process, clarify venue rules and provide limited statutory immunity to persons serving as special representatives.

(4) Adoption of Provisions for Testamentary Disposition of Nonprobate Assets, which would permit disposition under a will of assets that are otherwise outside of a probate, including the testator's interest in a revocable living trust, multi-party bank accounts and transfer-on-death securities accounts.

(5) Amendments to the Washington Uniform Transfers to Minors Act which are intended to provide adequate mechanisms under the Act so that insurance companies will be able to properly honor a beneficiary designation on a life insurance policy to the "insured's children or to the issue *per stirpes* of a deceased child" even if the designation stipulates that a distribution to a beneficiary under the age of 21 would be made to a custodian under the Act.

(6) Amendments to the Estate and Transfer Tax Act and the Uniform Estate Tax Act intended to update references to the Internal Revenue Code.

Ellen Conedera Dial also reported on the following legislative efforts not yet ready for formal recommendations:

(1) Amendments to the Deed of Trust Act affecting whether beneficiaries can unilaterally reconvey, the effect of satisfaction and one-act rules on guarantors, the definition of "agricultural or farming purposes" and deletion of the ability of a domestic corporation to be a trustee.

(2) A bill which would require custodial parents to give notice to the non-custodial parent before changing a child's place of residence, and permitting the non-custodial parent to contest a proposed relocation.



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APPEALS

John Mele has the experience, enthusiasm and flexibility you need in an appellate lawyer. Mr. Mele worked on over 80 decisions during his clerkship with the Washington Court of Appeals. In private practice, he has addressed nearly every civil issue on appeal, from contract interpretation to equal protection, offers of judgment to jury instructions, slip-and-fall liability to lost profits. In the last five years alone, he has worked on over 60 appeals before Washington and Oregon appellate courts, and the 9th and 10th Circuits. Mr. Mele is available for consultation, briefing and argument, and will consider a variety of fee arrangements.

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SUPREME COURT RULES REPORT

President Fairhurst reported that the GR 9 proposal submitted to the state Supreme Court would need to be redrafted to include broader dissemination of proposed rules, as the Court wanted to see more input from other groups, and address the issue of when a hearing, if any, should be held.

Daniel Nye, chair of the KCBA Committee on Sexual Minorities, and Lindsay Thompson from Washington Legals addressed the Board regarding the current status of proposed CR 8.4(g) and Initiative 677 (which would prohibit discrimination of employees because of their real or perceived sexual orientation). President Fairhurst expressed a desire to hear directly from members of the Washington Supreme Court as to their thoughts on CR 8.4(g).

APPOINTMENT

John Powers was appointed as an alternate on the Commission on Judicial Conduct.

SENIOR LAWYER SECTION?

The Board voted to send a letter to Philip DeTurk requesting a report which meets bylaw requirements regarding a budget, operating plan and other details necessary to form a potential Senior Lawyer Section.

The average coupon equivalent yield from the first auction of 26-week treasury bills in October 1997 is 5.21%. **The maximum allowable interest rate permissible for November 1997 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 32 of the June 1997 *Bar News*, and in the online edition of the *Bar News* at <http://www.wsba.org/BarNews/usuryrate.html>.

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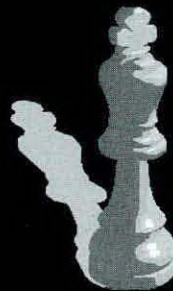
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Ahlf, Scott K., Olympia, Wa
Ahn, Sohee, Seattle, Wa
Allen, Patricia Lee, Seattle, Wa
Allen, Sherri, Seattle, Wa
Almerez, Jr., Arthur Thomas, Seattle, Wa
Amkraut, Robert N., Seattle, Wa
Anderson, Andrea, Washington, Dc
Anderson, Kenneth W., Seattle, Wa
Anderson, L. Sean, Spokane, Wa
Anderson, Rachelle Elizabeth, Spokane, Wa
Anderson, Robert W., Seattle, Wa
Andrews, Susan Carol, Seattle, Wa
Anstey, Gina Renee, Seattle, Wa
Aoyama, Randy Jiro, Seattle, Wa
Aral, Dilek, Fife, Wa
Arends, Lynn H., Seattle, Wa
Army, Patricia, Issaquah, Wa
Arndt, Melissa Dawn, Gainesville, Fl
Arnold, Rachel Ruth, Seattle, Wa
Austin, Frank B., Seattle, Wa
Aza, Cheryl D., Bellingham, Wa
Bailey, William Somers, Mercer Island, Wa
Baker, Randy Perry, Seattle, Wa
Baker, Susan N., Walla Walla, Wa
Ballnik, Michael Gordon, Seattle, Wa
Banks, David Scott, Bainbridge Island, Wa
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Barrio, Margarita Iris, Everett, Wa
Bartell, Kristin N., Spokane, Wa
Bassett, Joseph E., Tacoma, Wa
Basso, Andrea Frances, Penfield, Ny
Beatty-Walters, Robert H., Lake Oswego, Or
Becker, Todd M., Seattle, Wa
Beer, Christopher S., Seattle, Wa
Behnke, Lance Wyrill, Mercer Island, Wa
Bell, Jacqueline Elizabeth, Seattle, Wa
Bencze, Stephan, Los Angeles, Ca
Berger, David N., Bellevue, Wa
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Bernbaum, Laurie Beth, Seattle, Wa
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Berry, Timothy G., Seattle, Wa
Bhaskar, Shalini Christa, Renton, Wa
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Bjornerud, Kristi Anderson, Medina, Wa
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Bolton, Laurie Jean, Seattle, Wa
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Borso, Heidi Hildeng, Tacoma, Wa
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Bowers, Jeanette Marie, Woodinville, Wa
Bowser, Carol Nicole Berg, Puyallup, Wa
Boyle, James D., Snohomish, Wa
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Brady, Matthew R., Seattle, Wa
Brandes, Ramona Coral, Gig Harbor, Wa
Brangwin, John Michael, Spokane, Wa
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Brown, Kristen M., Scottsdale, Az
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Dawson, Che' Carlyle, Seattle, Wa
Dawson, Wayne Garrett, Kenai, Ak
Day, Stephen John, Arlington, Wa
De Boer, Thomas A., Spokane, Wa
De Cerce, Kathryn L., Seattle, Wa
DeForrest, Mark Edward, Anacortes, Wa
De Imus, Carlos C., Seattle, Wa
De Lange, Marlo, Tacoma, Wa
Delisle, Allison Marie, Bellevue, Wa
De Matteis, Tracie, Federal Way, Wa
Denton, Andrea Elizabeth, Seattle, Wa
Dernbach, Jeffrey C., Anaheim, Ca
Devine, Elizabeth R., Weehawken, Nj
Dikeakos, Stephanie P., Seattle, Wa
Dillon, Nina M., Kirkland, Wa
Dixon, Sarah Ashley, Seattle, Wa
Dorn, Trilby Constance Elizabeth, Seattle, Wa
Douglas, Scott Alexander, Washington, Dc
Dugger, Connie Maureen, Portland, Or
Dunlavey, Walter F., Seattle, Wa
Dunn, Arin M., Seattle, Wa
Duprey, Donald John, Bainbridge Island, Wa
Dykstra, Peter H., Olympia, Wa
Eby, Louis Keene, Seattle, Wa
Eckels, Jane D., Seattle, Wa
Eddy, Clint Alan, Seattle, Wa
Edwards, Lea, Seattle, Wa
Ekstrom, Alexander Carl, Seattle, Wa
Eller, William L., Spokane, Wa
Ellich, Vera, Renton, Wa
Ernst, Wendy Anneke, Bellevue, Wa
Evans, Cindy R., Tumwater, Wa

Faison, Eric A., Des Moines, Ia
Faltens, Daira Siluija, Kent, Wa
Farr, Carol, Issaquah, Wa
Farr, Robert D., Spokane, Wa
Fartoutchnaia, Maria A., Tacoma, Wa
Ferguson, Sandra L., Ocean Shores, Wa
Fernandes, Marianne Larragan, Seattle, Wa
Field, Elizabeth Shippen, Spokane, Wa
Finch, Peter Gerard, Clayton, Mi
Firestone, Julie H., Virginia, Mn
First, Ronald Alan, Tacoma, Wa
Fisher, William D., Seattle, Wa
Fleming, Yemi D., Seattle, Wa
Fleury, Christina Marie, Tumwater, Wa
Floyd, Lana M., Tacoma, Wa
Foley, Bryce E., Bothell, Wa
Fowles, Dwayne C., Lind, Wa
Fox, Maria C., Seattle, Wa
Frank, Michelle Loren, West Bloomfield, Mi
Frantz, Hilary S., Seattle, Wa
Fredrickson, Dena M., Houston, Tx
Freeman, Matthew J., Alexandria, Va
Frey, Anthony, Spokane, Wa
Frost, Jodi L., Tacoma, Wa
Fryhling, Jennifer Soo, Seattle, Wa
Gaffney, Cherise M., Seattle, Wa
Gagnon, Andree G., Woodinville, Wa
Galli, Erin Kathleen Clark, Portland, Or
Garka, Mark Wesley, Auburn, Wa
Gartner, Gabriel B., Kirkland, Wa
Gaston, Mary Pedersen, Spokane, Wa
Gheewala, Parag, Vancouver, Wa
Gjuristic, Adrian Deforest, Seattle, Wa
Glogowski, Katrina Eve, Seattle, Wa
Goeke, James Andrew, Spokane, Wa
Goff, Robert Kendall, San Diego, Ca
Goldman, Jill Heather, Seattle, Wa
Goldsmith, Julie, Bellevue, Wa
Goolsbee, Susan, UK
Gortner, Julianna M., Seattle, Wa
Grabowski, Jr., Theodore Joseph, Santa Rosa, Ca
Grace, Stephen Andrew, Seattle, Wa
Graham, Katherine Elizabeth, Fircrest, Wa
Graham, Steven M., Kent, Wa
Green, Melanie Joy, Spokane, Wa
Greene, Jeffrey J., Seattle, Wa
Greenlee, Jennifer Ada, Seattle, Wa
Greifzu, Carl W., Pasadena, Ca
Grennan, Nancy Buonanno, Stanwood, Wa
Grossmann, Heather Lynn, Spokane, Wa
Gruben, Kevin L., Bothell, Wa
Gunn, Todd D., Seattle, Wa
Gunter, Daniel Joseph, Eugene, Or
Gustavson, Lara Rochelle, Seattle, Wa
Hadley, Jerrilynn, Tacoma, Wa
Haeck, Benjamin J., Seattle, Wa
Hahn, III Robert C., Spokane, Wa
Hamatani, Robert Hiroshi, Seattle, Wa
Hamilton, Mark Gregory, Seattle, Wa
Hanlon, Pamela Jen, Seattle, Wa
Hansell, Jodi Lynne, England
Hantze, Melanie K., Olympia, Wa
Hardy, Marc William, Millcreek, Wa
Harkins, Jason Lewis, Bellingham, Wa
Harper, Gregory Louis, Kirkland, Wa
Hauser, Stacy Ragen, Eugene, Or
Hay, Frederick Becker, Spokane, Wa
Hayward, Lisa Rediger, Seattle, Wa
Hedlund, Sharon Lee, Mead, Wa
Helgeson, Kristi Lynn, Seattle, Wa
Helmberger, Marne Jo Horstman, Tacoma, Wa
Hemphill, Michael M.K., Tacoma, Wa
Hentschell, Mark J., Seattle, Wa
Herr, Tracy A., Redmond, Wa
Heublein, Jennifer A., Seattle, Wa
Hinderer, Paul, Kent, Wa
Hinnen, Todd M., Spokane, Wa
Hole-Curry, Leah Beth, Olympia, Wa
Holland, Heidi S., Spokane, Wa
Holman, Michelle Diane, Portland, Or
Holmgren, Bradley Vaughn, Medical Lake, Wa
Holtom, Kimbrey Anne, Seattle, Wa
Homan, Jean P., Tacoma, Wa
Homme, O. Jason, Seattle, Wa
Honig, Gregory David, Scottsdale, Az
Hood, Stephen W., Spokane, Wa
Horner, Chad, Federal Way, Wa
Horner, Charles Richard, Seattle, Wa
Horton, David P., Poulsbo, Wa
Hsu, Wei-Fu, Seattle, Wa
Hudak, Todd M., Tacoma, Wa
Huddleston, Jennifer Ann, Tacoma, Wa
Huff, Andrew C., Poulsbo, Wa
Hughes, Jonathan C., Seattle, Wa
Huguelet, Charles T., Anchorage, Ak
Huizinga, Anne-Marie, Seattle, Wa
Hulbert, James T., Bellingham, Wa
Hull, Christopher Scott, Seattle, Wa
Huse, Thad Anthony, Spokane, Wa
Isaacs, Cynthia Ann, Renton, Wa
Ivey, Alison G., Seattle, Wa
Jacobs, Jennifer Anne, Mill, Creek, Wa
Jacobson, Kristin Marie, Seattle, Wa
Jakkola, Andrea Marie, Spokane, Wa
Jensen, Brian Edward, Mount Vernon, Wa
Jensen, Jeannette Adams, Seattle, Wa
Johnson, Daniel Foster, Seattle, Wa
Johnson, Scott M., El Toro, Ca
Johnsonbaugh, Deena, Seattle, Wa
Johnston, Sandra Elaine, Tacoma, Wa
Jolley, Jennifer Lea, Seattle, Wa
Jolly, David Nelson, Seattle, Wa
Joly, Janine Elizabeth, Bothell, Wa
Jones, Clarence C., Seattle, Wa
Jones, Jonathan Brett, Seattle, Wa
Jones, Peter E., Port Orchard, Wa
Jorgensen, Caryn Geraghty, Seattle, Wa
Jorgensen, Laura Elizabeth, Auburn, Wa
Julian, Patrick M., Seattle, Wa
Kahrs, Michael Charles, Bellevue, Wa
Kakos, Anna K., Seattle, Wa
Kambich, Kenneth L., Tacoma, Wa
Kaminski, Kimberly A., Vancouver, Wa
Kan, Liang, Seattle, Wa
Kannin, IV, John Joseph, Mercer Island, Wa
Kao, Su Y., Seattle, Wa
Karjeker, Christy Arden, Seattle, Wa
Kaufold, Kurt Gerard, Tacoma, Wa
Kaylor, Courtney Anne, Sacramento, Ca
Kaz, David Brian, Seattle, Wa
Keegan, Carla Barbieri, Seattle, Wa
Keena, Kathryn M., Bellingham, Wa
Keith, Brandon Scott, Walla Walla, Wa
Kelley, Jason Scott, Seattle, Wa
Kelly, Robert Daniel, Seattle, Wa
Kendermore, Drake R., Seattle, Wa
Kennedy, David Michael, Tacoma, Wa
Kennedy, James M., Albuquerque, Nm
Kick, Adam Nathaniel, Seattle, Wa
Kim, Elizabeth Curie, Tacoma, Wa
Kim, Joanie Yung Mee, Kent, Wa
Kim, John L., Seattle, Wa
Kim, Mark Han-Ku, Spokane, Wa
Kim, Sunny C., Seattle, Wa
King, Jennifer L., Mercer Island, Wa
King, Jodi R., Medina, Wa
Klauser, James J., Bothell, Wa
Klein, Heather, Bellevue, Wa
Kneip, Kasey, Bellevue, Wa
Knibb, Shaunta Marie, Kirkland, Wa
Ko, Derek Neil, Renton, Wa
Kolouskova, Duana Theresa, Bellevue, Wa
Kratz, Philip L., Federal Way, Wa
Krening, Eric Timothy, Honolulu, Hi
Kreutz, Jeffrey Martin, Yakima, Wa
Krigbaum, Matthew Jason, Naperville, Il
Kristof, Michael Anthony, Seattle, Wa
Kroese, Ira J., Seattle, Wa
Krummeck, Kim, Seattle, Wa
Kuhner, Gretchen, Tacoma, Wa
Kvistad, Catherine Elizabeth, Edmonds, Wa
La, Huy Quoc, Seattle, Wa
Labarge, Sandra, Seattle, Wa
Lancaster, Brad Allan, Seattle, Wa
Landry, Elizabeth S., Seattle, Wa
Larsen, Steven James, Spokane, Wa
Lauman, David W., Tacoma, Wa
Lavitt, Robert H., Seattle, Wa
Le, Edward Nguyen Vu Khai, Arlington, Tx
Leaf, Elisa M., Tacoma, Wa
Ledwith, Julian Elizabeth, Spokane, Wa
Lee, Angela R., Everett, Wa
Lee, David William, Edmonds, Wa
Lee, Hyun S., Seattle, Wa
Lee, Marisa Angela, Seattle, Wa
Lee, Sharon Chung Hyun, Seattle, Wa
Leek, Shoko Iwata, Edmonds, Wa
Lehman, Mary Kate, Seattle, Wa
Leinbach, Robert D., Seattle, Wa
Le Master, Matthew David, Seattle, Wa
Lemos, Tessa T., Pasco, Wa
Leonhard, Matthew Brent, Bellingham, Wa
Leslie, Roger J., Tacoma, Wa
Lew, Kimberley Michelle, Seattle, Wa
Lin, Christa Tzu-Hsiu, Honolulu, Hi
Lin, Eric Ping, Seattle, Wa
Lincoln, Lawrence R., Seattle, Wa
Lind, Michael S., Tacoma, Wa
Linder, Kevin, Seattle, Wa
Liscow, David, Tacoma, Wa
Lombardi, Lisa, Seattle, Wa
Long, Brita Anne Christine, Lynnwood, Wa

HIGHLIGHTS *continued*

Long, Regina Renae, Tacoma, Wa
Loop, Thomas Erik, Seattle, Wa
Lopez, Cynthia Bawanan, Tacoma, Wa
Louthan, Richard A., Seattle, Wa
Lubienski, Maria Lisa, Woodinville, Wa
Lucas, Cynthia Trel Maxin, Renton, Wa
Lufkin, Michael Gregory, Seattle, Wa
Luna, Felix G., Seattle, Wa
Luna-Green, Michelle, Tacoma, Wa
Lundwall, Ann M., Apopka, Fl
Lustick, Jeffrey Alan, Spokane, Wa
MacDougall, Bennett Allen, Bellevue, Wa
MacLaren, Krista J., Vashon Island, Wa
MacLean, Chauncey Alan, Seattle, Wa
MacNichols, Jeffrey Patrick, Seattle, Wa
Madigan, Heather, Wenatchee, Wa
Maher, Tamara B., Portland, Or
Mancuso, Laura Lynne, Spokane, Wa
Mar, Jeannie Mayre, Seattle, Wa
Marble, Gina L., Seattle, Wa
Marcuse, Andrew Wightman, Seattle, Wa
Margolis, H. Geoffrey, Seattle, Wa
Markham, Cheryl L., Seattle, Wa
Marsalis, Steven W., Spokane, Wa
Martin, David Daniel, Seattle, Wa
Martin, Paula M., Vancouver, Wa
Martinson, Lee Ann, Seattle, Wa
Marzetti, Christopher L., Seattle, Wa
Matarangas, Nicholas R., Seattle, Wa
Mathis, Andrew Tobin, Seattle, Wa
Maultsby-Nettles, Geri R., Tacoma, Wa
Maxwell, Odin, Spokane, Wa
McBroom, Maurin, Chicago, Il
McCabe, Jordan Broome, Spokane, Wa
McCarty, Hannah Wenaha, Juneau, Ak
McCaulou, Kim Elaine, Renton, Wa
McCullagh, James Robert, Seattle, Wa
McGuinness, Timothy, Seattle, Wa
McKelvey, Jennings C., Seattle, Wa
McKenna, Molly Caitlin, Seattle, Wa
McKillop, Christopher J., Milwaukie, Or
McLaughlin, James P.F., Federal Way, Wa
McLean, Margaret C., Tacoma, Wa
McMahon, Lisa Morley, Seattle, Wa
McNeill, Lisa, Los Angeles, Ca
Megard, Jr., Bruce W., Seattle, Wa
Mendoza, Jr., Salvador, Prosser, Wa
Merritt, Jr., Thomas Butler, Hollis, Nh
Meyn, William Hamilton, Seattle, Wa
Michalik, Albert S., Redmond, Wa
Miller, Marcus Jay, Tacoma, Wa
Milstein, Jonathan William, Seattle, Wa
Mingo, Kim Michelle, Vancouver, Wa
Mitchell, Jr., Ferdinand H., Spokane, Wa
Moore, Andrew B., Seattle, Wa
Moore, Heather Stuart, Seattle, Wa
Moore, Jason S., Spokane, Wa
Moore, Judson Ramsay, Naches, Wa
Morales, Clarissa, East Wenatchee, Wa
Morishima, James Kinjiro, Seattle, Wa
Morris, Scott A., Spokane, Wa
Morrow, Adam, Bellevue, Wa
Mulfinger, Kirk Robert, Bainbridge Island, Wa
Munson, Jr., Carl A., Yakima, Wa
Murphy, Shawn Michael, Yakima, Wa
Myers, Catherine Marie, Arlington, Va

Nadelman, Jessica, Bainbridge Island, Wa
Nanda, Seema, Seattle, Wa
Nash, Douglas George, Milwaukie, Or
Nauta, Teresa L., Seattle, Wa
Nelson, Eric, Seattle, Wa
Nelson, Tamara Kristine, Puyallup, Wa
Nelson, Troy Y., Spokane, Wa
Nester, Mary A., Portland, Or
Netterfield, Kyle Denney-Joel, Kirkland, Wa
Newlin, Gary E., Seattle, Wa
Ng, Angus Y., Longview, Wa
Nghiem-Phu, Hong-Vy, Seattle, Wa
Nguyen, Duc H., Kirkland, Wa
Nielander, Timothy Everett, Seattle, Wa
Nolte, Kyle Warren, Spokane, Wa
Norton, Tait O., Jacksonville, Fl
Novak-Krajewski, Alexa, Albuquerque, Nm
Obert, Mark Gene, Salem, Or
O'Brien, III Joseph Edward, Corvallis, Or
O'Brien, Jr Michael D., Clackamas, Or
Okada, Daniel Mitsugi, Seattle, Wa
Okorodudu, Jr., Abraham, West Deptford, Nj
O'Loughlin, Melissa Ann, Seattle, Wa
Olsen, Angela L., Port Orchard, Wa
Olson, Jill Andrea, Seattle, Wa
Opperman, Trudy Johnson, Issaquah, Wa
Ordinartsev, Oleg, Seattle, Wa
Oseguera, Kerri, Seattle, Wa
Osterman, Peter Russell, Playa Del Rey, Ca
Over, Robert S., Seattle, Wa
Owen, Sandra D., Renton, Wa
Park, Karl Yongsuk, Federal Way, Wa
Park, Ricky J., Federal Way, Wa
Parkes, Thomas J., Gig Harbor, Wa
Pedersen, Dana R., Bellevue, Wa
Perkins, Alexander Barlow, Seattle, Wa
Petersen, David Lee, Houston, Tx
Peterson, Jennifer, Seattle, Wa
Peterson, Kurt Bradley, Olympia, Wa
Pfost, Lisa Rae, Portland, Or
Pheasant, Joann Leigh, Seattle, Wa
Pilkington, Laura M., Mercer Island, Wa
Piller, Claude, Seattle, Wa
Pitcher, George S., Tualatin, Or
Plaster, T. Chad, Portland, Or
Pody, Dean H., Seattle, Wa
Pope, William Gerard, Spokane, Wa
Portteus, Kathryn R., Gig Harbor, Wa
Potter, Dennis Lynn, Seattle, Wa
Powell, Andrea K., Tacoma, Wa
Prescott, Thomas John, Point Roberts, Wa
Preston, Jr., Castromo L., Kirkland, Wa
Prewitt, Janet L., Portland, Or
Price, Allan Lane, Kirkland, Wa
Price, Jeffrey Lee, Pullman, Wa
Price, Randall Lee, Mercer Island, Wa
Prior, Michael T., Seattle, Wa
Pritchette, John J., Bellevue, Wa
Prohaska, V. Frank J., Tulsa, Ok
Prukop, Jr., Harold Kent, Issaquah, Wa
Pyle, Gail Luhn, Edmonds, Wa
Quinn-Loerts, Meredith, Olympia, Wa
Rader, Julie Kristine, Bellevue, Wa
Radtke, Derek P., Spokane, Wa

Ramming, Brian Joseph, Spokane, Wa
Rao, Christopher R., Seattle, Wa
Ray, Kyle G., Kirkland, Wa
Reardanz, III, Leslie E., Edmonds, Wa
Reinken, W. Michael, Spokane, Wa
Rejab, Sammad I., Beaverton, Or
Rendahl, Nicole Marie, Bremerton, Wa
Rhodes, Susan Pezzullo, Seattle, Wa
Rice, Darren W., Kirkland, Wa
Richards, Robert A., Seattle, Wa
Richardson, Dana L., Seattle, Wa
Richardson, Runo Christopher, Des Moines, Wa
Rieth, Nathan Robert, Moscow, Id
Rios, III, Manuel Francisco, Spokane, Wa
Ripley, Brenton Mandl, Pasco, Wa
Ritts, Gregory James, Bothell, Wa
Rodne, Jay R., Spokane, Wa
Rodriguez, Daniel J., Tacoma, Wa
Roers, David Scott, Tacoma, Wa
Rogers, Robert Manning, Seattle, Wa
Rogers, Scot F., Seattle, Wa
Rosenberg, Lisa Michelle, Seattle, Wa
Rosenman, Stephen Jay, Mercer Island, Wa
Rosenthal, Gabriel S., Seattle, Wa
Roussel, Horace Lee, Tacoma, Wa
Roylance, Bradley N., Yakima, Wa
Rubbright, Kendra L., Seattle, Wa
Rutherford, Crystal Grace, Bellevue, Wa
Ruzumna, David, Seattle, Wa
Ryan, Rodney Alan, Bellevue, Wa
Ryman, Danielle Marie, Spokane, Wa
Sadler, Jeffrey Howard, Allyn, Wa
Sager, Edward P., Everett, Wa
Sam, Kenneth G., Seattle, Wa
Samuel, Vini Elizabeth, Tacoma, Wa
Sanchez, Jose Luis, Mission Viejo, Ca
Sand, Kari L., Lakewood, Wa
Sanders, Brent D., Seattle, Wa
Sands, Jennifer K., Wenatchee, Wa
Saraf, Irene Basloe, Seattle, Wa
Sargent, Anne-Marie E., Seattle, Wa
Sassalos, S. Paul, Seattle, Wa
Sato, John Jay, Seattle, Wa
Schmidt, Kelli L., Seattle, Wa
Schneiderman, Paul Laurence, Seattle, Wa
Schubert, III, Kenneth Levi, Seattle, Wa
Schuler, Mark A., Des Moines, Wa
Schwarzwalder, Brian Anthony, Seattle, Wa
Seago, Lori Lynn, Tenino, Wa
Seburn, Suzanne Imes, Moses Lake, Wa
Seelig, Melanie J., Seattle, Wa
Seitz, Stacey L., Seattle, Wa
Selin, Sean Eric, Spokane, Wa
Senescu, James David, Redmond, Wa
Shea, Elizabeth Helen Bucholz, Tacoma, Wa
Shea, Terrye, Seattle, Wa
Shea, Thomas J., Washington, Dc
Sheehan, Michael David, Seattle, Wa
Sheeran, Catherine M., Tacoma, Wa
Sherman, Cynthia J., Seattle, Wa
Sherwood, Jr., John F., Bellevue, Wa
Shoemaker, Kathleen V., Normandy Park, Wa
Shore, James M., Bainbridge Island, Wa
Shultz, Jr., Mack Harrison, Bellevue, Wa
Simmons, Jerrie Marie, Seattle, Wa

Simpson, Edward Lamar, Redmond, Wa
Simpson, Theresa Anne, Seattle, Wa
Sinden, Amy, Philadelphia, Pa
Sisley, John Charles Drake, Seattle, Wa
Sitver, Amy Lisa, Seattle, Wa
Sleight, Scott R., Seattle, Wa
Sligar, Benjamin Riverbed, Tacoma, Wa
Sloan, Karl F., Tacoma, Wa
Smith, Gardner E., Seattle, Wa
Smith, Jonathan S., Bellevue, Wa
Smith, Katuria E., Seattle, Wa
Smith, Mona, Bellevue, Wa
Smith, Scott Gordon, Seattle, Wa
Smith-Moffit, Kristy, Spokane, Wa
Smithson, Chad, Tacoma, Wa
Snyder, Bryan, Seattle, Wa
Sorenson, David P., Seattle, Wa
Sorohan, II, Lawrence J., Seattle, Wa
Sowers, Jayson W., Seattle, Wa
Speir, Bonnie D., Fircrest, Wa
Speir, Tiffany Lei, Fircrest, Wa
Spohr, David William, Washington, Dc
Stahl, Eric, Seattle, Wa
Stapleton, Trevor, Seattle, Wa
Stehr, Kevin Christian, Bellevue, Wa
Stein, Jerry Harvey, Los Angeles, Ca
Steinbach, Samuel Carter, Seattle, Wa
Stellwagen, John Mathias, Seattle, Wa
Stephenson, Guy C., Portland, Or
Stephenson, Neil Kenneth, Snohomish, Wa
Sterrett, Rachel Elizabeth, Spokane, Wa
Stevens, Brant, Spokane, Wa
Stirbis, Gary S., Tacoma, Wa
Stoa, Gordon R., Liberty Lake, Wa
Stowe, Daniel E., Greenacres, Wa
Strouss, Cynthia, Seattle, Wa
Stueve, Timothy Glenn, Marysville, Wa
Sugarman, Travis S., Olympia, Wa
Sullivan, Eunice Nelson, Ypsilanti, Mi
Swain, Dianne, Seattle, Wa
Sylvester, Jane C., Washington, Dc
Szymanski, Ellen L., Seattle, Wa
Tangel, Tawnya M., Spokane, Wa
Tangeman, Amy Jo, Tacoma, Wa
Taylor, Nathaniel Lee, Seattle, Wa
Telquist, George E., Spokane, Wa
Templeton, Glen Evan, Everett, Wa
Thomason, Benjamin Cooper, Spokane, Wa
Thrall, Julie, Seattle, Wa
Tobin, Christine Marie, Eugene, Or
Todd, Brian David, Seattle, Wa
Todd, Christy A., Tacoma, Wa
Tollefsen, Stephen N., Everett, Wa
Toth, Ingrid Elisabeth, Portland, Or
Tran, Catherine Hong, Kirkland, Wa
Treadwell, Karin Siegfried, Woodinville, Wa
Trimingham, Erin Michelle, Bellingham, Wa
Trinidad, III, Joveliano Cyboski, Seattle, Wa
Tsai, Philip Colin, Seattle, Wa
Tse, Bianca Kwok-Man, Renton, Wa
Tucker, Scot Duncan, Seattle, Wa
Turner, Terry Lynne, Tacoma, Wa
Tutsch, Elisabeth Michelle, Seattle, Wa
Tyler, Karen Lee, Seattle, Wa

Tyrian, Julie Anne, Federal Way, Wa
Uhl, Edward Alan, Seattle, Wa
Underwood, Kent W., Tacoma, Wa
Valenta, Jennifer Ann, Seattle, Wa
Valenzuela, Regino Max, Tacoma, Wa
Value, Felicia Renee, La Conner, Wa
Van Moppes, Elizabeth L., Tacoma, Wa
Van Ornum, Andrew Joel, Seattle, Wa
Vasil, Monika, Seattle, Wa
Vaughn, II, Michael Whitworth, Spokane, Wa
Vining, Karen Lee, Kirkland, Wa
Volk, Andrew M., Seattle, Wa
Vorous, Debbie Jean, Carmichael, Ca
Wagnild, Zachary Charles, Tacoma, Wa
Wahlig, Christina Emile, Seattle, Wa
Walden, Kimberly Ann, Lake Stevens, Wa
Walden, Lisa Nicole, Snohomish, Wa
Walker, Brian A., Portland, Or
Walker, Douglas Mitchell, Potomac, Md
Wallace, Kevin R., Bellevue, Wa
Wallis, Richard Ross, Spokane, Wa
Walton, Raymond Brent, Seattle, Wa
Wandler, Jason Richard, Tacoma, Wa
Wang, Cheng, Seattle, Wa
Wang, Peter Yi-Ning, Seattle, Wa
Warfield, Kathleen Rhea, Federal Way, Wa
Warner, Trinh Pham, Seattle, Wa
Warring, Carl Perry, Spokane, Wa
Watson, Sarah Lynn, Tacoma, Wa
Weeks, Erin E., Portland, Or
Weigel, Douglas Kenneth, Eugene, Or
Weiss, Josh, Seattle, Wa
Welch, Cecilia Allison, Bainbridge Island, Wa
Wender, Andrew M., Bellingham, Wa
Wenzel, Peter A., Seattle, Wa
West, Jr., Russell Charles, Reno, Nv
Whang, Jennifer, Seattle, Wa
Wheaton, II, Dwight, Seattle, Wa
Wheaton, Melvin E., Kirkland, Wa
White, Curtrice M., Seattle, Wa
White, Dean Edward, Spokane, Wa
White, James A.D., Seattle, Wa
White, Rory G., Tacoma, Wa
Whitney, Jill Tuttle, Normandy Park, Wa
Williams, Adrienne S.W., Steilacoom, Wa
Williams, Cynthia Diane, Mercer Island, Wa
Willis, Jeffrey L., Bainbridge Island, Wa
Winemiller, Jonathan Kelley, Lakewood, Wa
Wing, Jesse Andrew, Chicago, Il
Winters, Kevin M., Seattle, Wa
Winters, Paul Eric, Portland, Or
Winters, Trude Germaine, Seattle, Wa
Wiswall, Courtney W., Portland, Or
Wittner, Brett Lorin, Gig Harbor, Wa
Woehler, Jason L., Browns Point, Wa
Wolf, Heather, Bellingham, Wa
Wong, Amy Ahmee, Olympia, Wa
Wong, Lisa W., Seattle, Wa
Wong, Vincent Jung Fai, Indianapolis, In
Wood, James R., Albuquerque, Nm
Woodruff, Michele A., Medical Lake, Wa
Woolston, Derek W., Kirkland, Wa
Wright, Jennifer L., Seattle, Wa

Yokoyama, Bev J., Spokane, Wa
Young-Clifton, Heather Marie, Tacoma, Wa
Yu, Lien Chun, Seattle, Wa
Zamboni, Peter Thomas, Shoreline, Wa
Zamudio, Gregory De Quina, Mill Creek, Wa
Zanipatin, Jeannette R., Tacoma, Wa
Zevin, Matthew J., Hermosa Beach, Ca
Zieger, Jon M., Seattle, Wa
Ziegler, Morgan Geoffrey, Tacoma, Wa
Zitkovich, Kelly Ann, Seattle, Wa
Zoellner, William Christopher, Seattle, Wa
Zona, Dean J., Walla Walla, Wa
Zorich, Carolyn R., Spokane, Wa

UPCOMING APPOINTMENTS

The WSBA Board of Governors will make several appointments at its Dec. 5 meeting in Bellevue, WA. The following appointments will be effective Jan. 1, 1998: one three-year term on the Board for Judicial Administration (BJA), one two-year term on the Legal Foundation of Washington Board of Trustees, and two three-year terms on the Northwest Justice Project Board of Directors.

The Board for Judicial Administration is composed of representatives from each level of courts in the state of Washington, along with two representatives from the WSBA, and is chaired by the Chief Justice. It is an advisory group that assists the Chief Justice and Supreme Court in addressing issues of concern to the judiciary, including adequate funding.

The Legal Foundation of Washington is a private, not-for-profit organization to promote equal justice for those who are very poor or vulnerable through the administration of IOLTA and other funds. Trustees should have a demonstrated commitment to and knowledge about the need for legal services and how these services are provided in Washington.

The Northwest Justice Project is a not-for-profit organization which seeks funding through the federal Legal Services Corporation to provide civil legal services to low-income people. Board members should have an interest in, and knowledge of, the delivery of quality legal services to the poor.

Members interested in any of these appointments should contact their Governor or write to the Executive Director at the Bar office by Nov. 21, 1997.

BY BARRIE ALTHOFF, WSBA CHIEF DISCIPLINARY COUNSEL

As lawyers we sometimes lose track of what it means to be professionals and forget what we as lawyers are all about. By necessity we spend most of our professional lives focusing our attention on our paying clients. Sometimes we forget that as professionals we have obligations not merely to represent our paying clients, not merely to comply with the ethical rules, but also to provide access to justice for those who cannot afford our services, and more generally, to work to uphold and to strengthen the rule of law in our society. Sometimes we also inappropriately pursue our financial wants to the detriment of our clients' needs and of justice.

We know that being a professional means more than merely not violating the Rules of Professional Conduct ("RPCs"). Those rules merely describe the "minimum level of conduct below which no lawyer can fall without being subject to disciplinary action."¹ As lawyers we are inclined to look at the RPCs as merely another set of rules to be narrowly, strictly and technically construed, especially if the rules would prevent us from doing what we want to do. While the RPCs themselves suggest that they should "point the way to the aspiring" and that it must ultimately be up to the individual lawyer to "test the extent to which his or her actions should rise above minimum standards," surely none of us as professionals aspires merely to "get by" ethically. We know our obligations to the profession and to society go beyond merely getting by, and for personal fulfillment we know we must give more than we receive. That is why we are professionals.

When we were admitted to the bar we took an oath that we would "never reject, from any consideration personal to [ourselves], the cause of the defenseless or oppressed."² In short, we agreed to provide access to justice for the defenseless and the oppressed. Since then, looking at our own and our family's perceived "needs" and at the incomes of our colleagues, our clients, or others, we are sometimes swayed by the Sirens' query of "why do some lawyers make a fortune

while others struggle to earn a living?" The Sirens tell us that we can increase our income by as much as 300%, that we can go from dead broke and drowning in debt to earning \$300,000 a year, all by learning how to market our legal services.

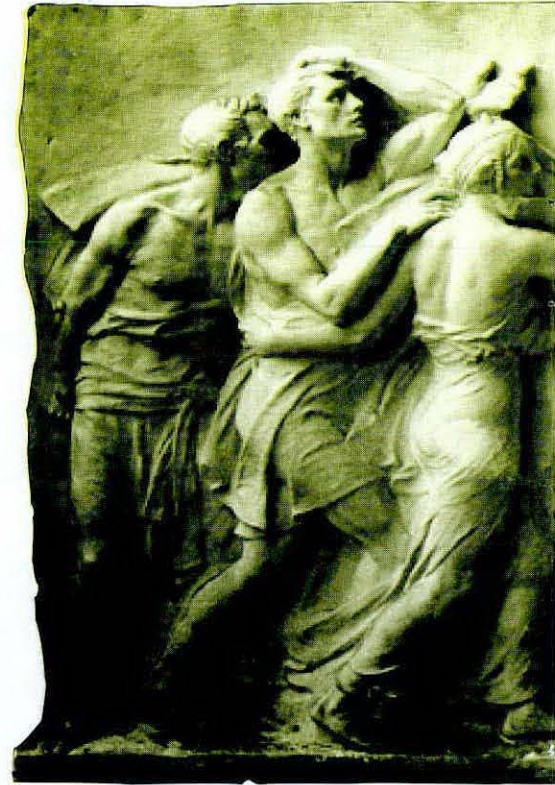
The Sirens do not ask if their message is consistent with never rejecting the defenseless and the oppressed. Rarely do we as lawyers market our legal services to the less fortunate, since these persons rarely can afford our services. Thus, marketing our services is intended to benefit us personally, not those in need. In our hearts we know what the Sirens will never tell us, that if we are in fact never to reject the defenseless and the oppressed as we have sworn, we must, as many of us have consciously done, significantly lower our financial expectations in the practice of law. We and our families must do with less so that all may have justice. Justice, being so valuable, does not come cheap. William Wordsworth bemoaned that "getting and spending we lay waste our powers . . . we have given our hearts away."³ Have we as lawyers given our hearts away to the Sirens of marketing and of income? Are our hearts found in our wallets?

Aside from our oath, why should we care about never rejecting the defenseless and the oppressed? Unless the defenseless and oppressed in a society have access to justice, there is no true justice in that society. President Kennedy observed, "If a free society cannot help the many that are poor, it cannot save the few who are rich."⁴

Hesiod, 2,800 years ago, wrote:

Here is the law, as Zeus established it for human beings; as for fish, and wild animals, and flying birds, they feed on each other, since there is no idea of justice among them; but to men he gave justice, and she in the end is proved the best thing they have.⁵

Will we as lawyers stand by while people feed on each other, or will we protect those who cannot protect them-



selves? Thucydides, 2,400 years ago, quotes Pericles as describing the city-state of Athens as one where "in settling private disputes, everyone is equal before the law" and where "we obey the laws . . . especially those which are for the protection of the oppressed."⁶ Have we lost that devotion to protecting the oppressed? Elsewhere Pericles criticizes states which:

. . . devote only a fraction of their time to their general interests, spending most of it arranging their own separate affairs. It never occurs to any of them that the apathy of one will damage the interests of all. Instead each state thinks that the responsibility for its future belongs to someone else, and so, while everyone has the same idea privately, no one notices that from a general point of view things are going downhill.⁷

If we as lawyers are not willing to sacrifice for justice and to fight for the oppressed, who will? If we spend most of our time arranging our own or our clients'

the Rules



every man against every man, this also is consequent, that nothing can be unjust. The notions of right and wrong, justice and injustice, have there no place. Where there is no common power, there is no law; where no law, no injustice. Force and fraud are in war the two cardinal virtues. Justice and injustice . . . are qualities that relate to men in society, not in solitude.⁸

Today, many of our forgotten citizens live in "continual fear, and danger of violent death" and have lives that are "solitary, poor, nasty, brutish, and short." These are the defenseless of our society whom we have sworn never to reject — the abused, battered or abandoned wives and children; the impoverished persons living in inner cities or economically depressed rural areas; unemployed and underemployed minorities; the drug — and alcohol — addicted; the nonEnglish-speaking immigrants exploited by dishonest lawyers and employers or abused by renegade police; the quietly and desperately poor elderly, and so many more. Will marketing our services help them? Will aspiring to only the minimum level of acceptable ethical conduct serve them? Will we help them know justice?

Our ethical guidelines, the RPCs, are built on a premise that lawyers will not turn away the defenseless and the oppressed. The preamble to the RPCs, building upon Hesiod's, Pericles' and Hobbes' words of long ago, reminds us,

The continued existence of a free and democratic society depends upon recognition of the concept that justice is based upon the rule of law grounded in respect for the dignity of the individual and the capacity through reason for enlightened self-government. Law so grounded makes justice possible, for only through such law does the dignity of the individual attain respect and protection. Without it, individual rights become subject to unrestrained power, re-

spect for law is destroyed, and rational self-government is impossible. Lawyers, as guardians of the law, play a vital role in the preservation of society.

Law is a noble profession because for generations we lawyers have been proud to work, in drudgery and without public recognition, for justice and to assure the respect for the dignity of the individual. When at the end of a hard day of work, our children, spouses or companions ask of us, or we ask of ourselves, "What did you do today?" will we say that we tripled our income by marketing our services, or will we say we played "a vital role in the preservation of society" by fighting for the defenseless and the oppressed? What are our ethical aspirations? Are we willing to pay the necessary financial price to make those aspirations real? Or do we instead just want to leave justice to someone else and pretend not to notice that as a result justice is going downhill?

ENDNOTES

¹Preliminary statement to the Rules of Professional Conduct.

²Admission to Practice Rule 5(d). Rule 6.1 of the Rules of Professional Conduct also provides that "A lawyer should render public interest legal service. A lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to persons of limited means" The rule is merely aspirational, however, and no discipline will result from failure to render public interest legal service.

³William Wordsworth, "The World Is Too Much With Us; Late and Soon," lines 2-3.

⁴President John F. Kennedy, Inaugural Address, January 20, 1961.

⁵Hesiod, translated by Richard Lattimore, "The Works and Days," p. 51, lines 276-280 (Ann Arbor, The University of Michigan Press, 1959).

⁶Thucydides, translated by Rex Warner, *History of the Peloponnesian War*, Book Two, Chapter 4, p. 117 (Baltimore, Penguin Books, 1954).

⁷*Ibid*, Book One, Chapter 11, page 93.

⁸Thomas Hobbes, *Leviathan*, Part I, Chapter 13.

separate affairs, who will look after the legal needs of the defenseless? Who will notice or care if justice is going downhill? Who will then want or be able to do anything about it?

More than any other group in our society, lawyers — whether in private practice or as prosecutors, defense counsel or as judges — are the guardians of justice and of the constitutional liberties we cherish. If lawyers do not preserve the rule of law, if we do not demand justice for all, the consequences to all are devastating. In 1651, Thomas Hobbes described the state of society not built on a rule of law:

In such condition there is no place for industry, because the fruit thereof is uncertain; and consequently no culture of the earth; no navigation, nor use of the commodities that may be imported by sea; no commodious building . . . ; no arts; no letters; no society; and, which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short To this war of

DISCIPLINARY NOTICES

CENSURED

Yakima lawyer Mariano Morales, Jr. (WSBA No. 19213, admitted 1989) has been ordered censured, pursuant to a stipulation for discipline, approved by the Disciplinary Board on August 19, 1997. The discipline is based upon his disclosure of confidential information, in violation of RPC 1.6.

A potential client contacted Morales on the telephone regarding possible representation in an employment dispute. He told the potential client that he did not handle employment matters and referred her to another lawyer. He then telephoned the potential client's supervisor, whom he knew, in an effort to warn him that the potential client was contemplating litigation. Unbeknownst to Morales, he did not speak to the supervisor but to a different employee, who was a friend of the potential client. He told this individual that the potential client had contacted him about filing a lawsuit against the employer, and that the employer should get its files in order in the event that the potential client hired another lawyer.

Respondent was represented by Kurt M. Bulmer. The Bar Association was represented by disciplinary counsel Joanne S. Abelson.

Spokane lawyer F. Dale Jurdy (WSBA No. 16030, admitted 1986) has been ordered censured by the Disciplinary Board, pursuant to a stipulation to discipline, approved by the Disciplinary Board August 19, 1997. The discipline is based on neglect of a client's matter regarding residential placement of children.

In mid-August 1992, the client's ex-husband, a Spokane resident, refused to return their two children to the care of the client, who resided near Olympia, at the conclusion of the children's summer visitation. The ex-husband instead petitioned the Spokane Superior Court for primary residential placement (custody) of the children. The court ordered temporary placement of one child with the ex-husband, ordered an immediate visit between that child and the client, ordered immediate return of the other child to the client's care, and appointed a Guardian ad Litem (GAL) to prepare a report regarding appropriate residential placement.

With the assistance of another lawyer, the client successfully petitioned for a writ of habeas corpus to obtain release of the children from the father. After visitation with the one child, that child was returned to the ex-husband pursuant to the court's order for temporary placement.

On September 28, 1992, the client hired Jurdy (and delivered a \$1,000 advance-fee deposit) to represent her in defending

against the ex-husband's petition for placement of the children with him and to bring a contempt motion to recoup the costs of the habeas corpus proceeding. The client was concerned that the ex-husband's recent deep involvement in a fundamental religious faith, and his incessant phoning of the children when in her care, was leading to a sort of "programming" of the children against their mother, who was not of that faith. The client therefore specifically requested that Jurdy subpoena the ex-husband's telephone records and that he speak to one or more of the religious-influence experts she had located, about the possibility of providing expert testimony at hearing.

The client terminated Jurdy's services July 29, 1993. A hearing had never been held nor a GAL report ever filed. During the period of representation, Jurdy did not bring a contempt motion, did not attempt to subpoena or request production of the ex-husband's phone records, did not conduct any formal discovery, did not investigate or gather information to defend against the ex-husband's petition (except to write one letter to the children's school principal), did not advise the client that delay in bringing her case to hearing would adversely impact her position, did not take action to compel preparation of the GAL report or bring the GAL's delay to the court's attention, did not note the case for trial, and did not take steps to resolve the case without hearing. In addition, Jurdy did not return numerous phone calls from the client and did not attend office appointments with the client.

After the representation was terminated, Jurdy removed the \$1,000 advance-fee deposit from his trust account and paid it to himself as fees, although he had never provided an accounting of time or costs or the method of calculating his fee to the client.

By failing to communicate with, and advise, the client, Jurdy violated RPC 1.2(a), 1.3, and 1.4. By failing to investigate or develop the client's case or bring it before the court, Jurdy violated RPC 1.3. By failing to timely account for the client's advance fee deposit or provide the manner of calculating his fee and by failing to remove fees from his client trust account as earned, Jurdy violated RPC 1.14. Jurdy will pay restitution to the client of \$1,000 plus interest from January 1, 1994.

Disciplinary counsel Joy McLean and Julie Shankland represented the Bar As-

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sociation; Lynn McKinney represented the respondent.

Maple Valley lawyer David S. Engle (WSBA No. 21935, admitted 1992) has been ordered censured by the Disciplinary Board, pursuant to a stipulation to discipline, approved by the Disciplinary Board August 19, 1997. The discipline is based on improper withdrawal from representation in a client's child support modification matter and on failure to prepare, or to properly supervise the client's lawyer, in preparing her case for trial.

The firm of Hessinger & Associates employed Engle as its managing lawyer. The firm represented the client in seeking a decrease in her child support obligation. The court issued an order setting case schedule when the firm filed the action. The order set trial by affidavit for January 13, 1995, discovery cut-off at December 23, 1994, and affidavit filing deadline at December 30, 1994. Separate contempt proceedings regarding nonpayment of support arose between the client and her ex-husband in November 1994, and the court set a review hearing in that matter for March 13, 1995.

On December 2, 1994, the lawyer assigned to the client gave notice of his intention to leave the firm's employment on December 17, 1994. During the two weeks before his departure, he did not take steps to prepare the affidavits or otherwise prepare the client's case for trial. When the lawyer left the firm, a notice of substitution of counsel was not filed; the lawyer thus remained counsel of record in the client's case. (That lawyer's actions were the subject of separate disciplinary inquiry.) The client's file was given to another lawyer in the firm who directed the file be taken to Engle because that lawyer indicated he could not handle the case.

Engle reviewed the client's file and decided the firm should withdraw from representation. Staff drafted a notice of intent to withdraw, with a signature line for the counsel of record. On December 28, 1994, Engle signed the notice "David S. Engle WSBA 21935 for" just above the printed name of the counsel of record. The counsel of record did not know about, consent to, or authorize use of his name in a notice of intent to withdraw. Engle filed the notice December 29, 1994. The notice indicated an effective date of January 10,

1995, and a next court date as a review hearing on March 13, 1995. The firm and its employees took no further action on behalf of the client.

The client contacted Engle on January 12, 1995, and early on January 13, 1995, to request his assistance with her trial on January 13, 1995. Engle had an assistant call the court to inquire whether there was a trial set, but the assistant called the wrong department and thus failed to verify there was a trial. Engle did not believe the client had a trial on January 13, 1995, and did nothing further. The client's trial occurred on January 13, 1995, with the client appearing, unrepresented and unprepared. At the conclusion of the trial, the court dismissed the client's petition and imposed \$750 in attorney fees because, the court found, she had not presented any grounds for modification, and the petition was not brought in good faith.

By causing a withdrawal from the client's case effective three days before trial, without taking steps to protect her ability to properly present the case at trial, Engle violated RPC 1.15(b) & (d). By failing to prepare or to assure that someone else prepared the client's case for trial, Engle violated RPC 1.3 and/or 5.1.

Disciplinary counsel Joy McLean represented the Bar Association; Engle represented himself.

Seattle lawyer Theresa Jean Gibbons, formerly known as Theresa Gibbons Odom (WSBA No. 19293, admitted 1990), has been ordered censured pursuant to a stipulation for discipline, approved by the Disciplinary Board in August 1997. The discipline is based upon a misrepresentation made by Gibbons when submitting materials for publication in the Judicial Voters Pamphlet for the fall 1996 judicial elections.

Gibbons was an unsuccessful candidate for King County Superior Court judge in the fall 1996 elections. The Office of the Administrator of the Courts (OAC) had the responsibility of publishing a Judicial Voters Pamphlet for the fall 1996 judicial elections. The deadline for submitting materials to OAC for publication in the voters pamphlet was 1 p.m. on Friday August 9, 1996, and all candidates were informed of that deadline. Any materials postmarked before August 9, 1996,

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and received by OAC by August 12, 1996, would also be timely.

On August 9, Gibbons called and told OAC that her materials had been mailed but returned to her because she had left off OAC's post office box number. She was told that if she could not get the materials to OAC by 1 p.m. that day, the materials might still be accepted if she submitted the returned envelope intact by August 12, with the candidate information inside and the August 8 postmark on the envelope.

On August 12, 1996, Gibbons delivered her materials to OAC inside an envelope bearing an August 8, 1996, postmark. The envelope had been used by a third party to mail something to Gibbons, and Gibbons had placed new mailing labels over the original recipient and sender addresses. Gibbons knew that she had not used the envelope to mail her materials to OAC. When Gibbons was told that her materials were late and would not be accepted, she stated that she had called on the 9th, and she pointed out the August 8 postmark on the envelope. OAC accepted the materials. The materials were not published in the voters pamphlet, however, because OAC subsequently

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determined that Gibbons had not used the envelope to mail materials to OAC, but instead a third party had used it to mail items to Gibbons, and it bore that third party's postage meter stamp.

Given Gibbons' knowledge of the importance of the postmark date, her use of an envelope with an August 8 postmark date and her actions in indicating that postmark when she hand-delivered the materials on August 12 were a misrepresentation about whether her materials were being submitted within the deadline for inclusion in the Judicial Voters Pamphlet. These actions violated RPC 8.4(c), which prohibits lawyers from engaging in conduct involving misrepresentation, and subject Gibbons to discipline pursuant to RLD 1.1(a) and RLD 1.1 (i).

Respondent was represented by Leland G. Ripley. The Bar Association was represented by disciplinary counsel Jean K. McElroy.

REPRIMANDED

Seattle lawyer Michael A. Atkins (WSBA No. 18828, admitted 1989) has been ordered reprimanded pursuant to a stipulation for discipline, approved June 12, 1997.

In 1993, Atkins represented the victim of an alleged criminal assault. No civil action was filed; criminal charges were, however, brought against the alleged assailant. In the course of Atkins' representation, he called both the alleged assailant and his appointed criminal lawyer. Atkins made statements to both individuals which were reasonably interpreted by them as an offer that, in exchange for money, the victim would make a statement that the incident was an accident and would not disclose her address to the prosecutors. By making these statements, Atkins violated Rule of Professional Conduct 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit or misrepresentation) and/or Rule of Professional Conduct 8.4(d) (conduct prejudicial to the administration of justice.)

The hearing officer was Thomas Bigsby of Everett. Respondent was represented by Leland G. Ripley. The Bar Association was represented by disciplinary counsel Maureen Devlin and Julie Shankland.

For a complete copy of any disciplinary decision, call the Washington State Disciplinary Board at (206) 727-8280, leaving the case name and your address.



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NONDISCIPLINARY NOTICES

INTERIM SUSPENSION

Lawyer Thomas A. Gish, Sr. (WSBA No. 00318, admitted 1968) was ordered suspended from the practice of law pending the outcome of disciplinary proceedings by Supreme Court order entered September 11, 1997.

Interim suspension is pursuant to RLD 3.1 and is not a disciplinary sanction.

WITHDRAWAL OF FORMAL OPINION 189
AND ADOPTION OF FORMAL OPINION 194.

On September 11, 1997, the Board of Governors approved the recommendation of the Rules of Professional Conduct Committee to withdraw Formal Opinion 189 (1991) and to adopt Formal Opinion 194, as follows:

FORMAL OPINION 194

DISCLOSURE OF CLIENT INFORMATION TO TREASURY DEPARTMENT ON IRS FORM 8300

Issue: What is a lawyer's obligation regarding compliance with the U.S. Treasury Department IRS Form 8300 which asks the disclosure of the identity of a client making cash payments of more than \$10,000 to the lawyer, as required by federal law and regulation when the client or the client's attorney has asserted that the client's identity is a secret?

Short Answer: A lawyer is obligated to comply with the requirements of federal law and regulations that IRS Form 8300 be filed under circumstances requiring it. However, the identity of a client paying more than \$10,000 to a lawyer may be a "secret" as defined in the Rules of Professional Conduct when it is "information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client." In those circumstances, the attorney may not disclose client identifying information except as permitted by RPC 1.6. Refusal to make such disclosure may result in the issuance of a summons to the lawyer, and the lawyer must properly respond to any efforts to enforce the summons.

Discussion: Section 6050I of the Internal Revenue Code of 1986, as amended, requires that any person who is engaged in a trade or business and who, in the course of such trade or business, receives more than \$10,000 in cash in one transaction or in two or more related transactions, must file a return with the U. S. Treasury Department. The return, which is to be made on IRS Form 8300, requires various information about the cash transaction, including the name, address, and tax identification number of the person from whom the cash was received.

It is our opinion that a lawyer must disclose to a client that if the client pays

the lawyer more than \$10,000 in cash, the lawyer must comply with the requirement that IRS Form 8300 be returned as required by law. A lawyer must also disclose to the client that the lawyer may be compelled by court order to identify the client if the identity of the client is not provided in the original Form 8300 return. However, the lawyer may not disclose to the Treasury Department, through the filing of Form 8300 or otherwise, any information pertinent to the client's identity, when the client or the client's attorney has asserted that the client's identity is a secret, without the informed consent of the client or pursuant to other circumstances permitting disclosure as specified in Rule 1.6 of the Rules of Professional Conduct.

RPC 1.6 provides in part that:

(a) A lawyer shall not reveal confidences or secrets relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in section (b)

* * *

(b) A lawyer may reveal such confidences or secrets to the extent the lawyer reasonably believes necessary:

- (1) To prevent the client from committing a crime; or
- (2) To establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, to respond to allegations in any proceeding

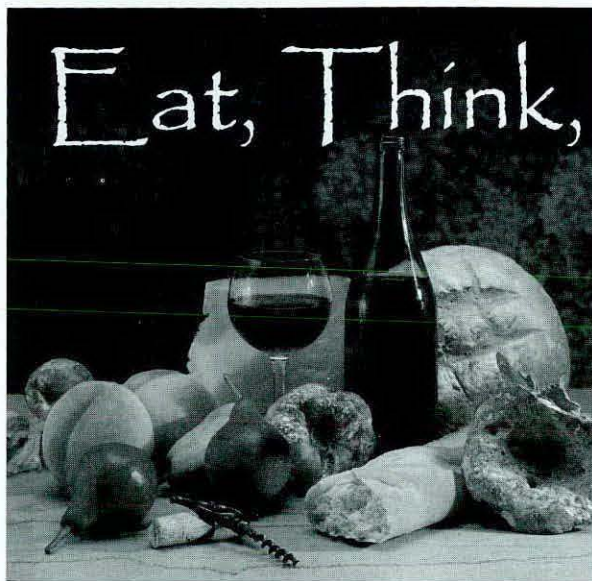
concerning the lawyer's representation of the client, or pursuant to court order.

* * *

"Confidence" is defined by the RPC Terminology section as "information protected by the attorney-client privilege under applicable law." *See also, Dietz v. Doe*, 131 Wn.2d 835, 935 P.2d 588 (1997). "Secret" is defined as "other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client." For a discussion of the distinction between "confidence" and "secret," as well as additional reasoning equally supportive of our conclusions herein, see Formal Opinion 183 (1990).

An assertion by a lawyer of the inability to disclose information on IRS Form 8300 because of the requirements of RPC 1.6 may result in the service of a summons upon the lawyer pursuant to 26 U.S.C. §7602, seeking the withheld information. An IRS summons is not self-enforcing. United States district courts instead are authorized to enforce a summons upon a proper showing. §26 U.S.C. §7402(b) and 7604. *See, U.S. v. Blackman*, 72 F.3d 1418 (9th Cir. 1995).

If a summons is served upon a lawyer, the lawyer must continue to decline to disclose client secrets except in compliance with RPC 1.6. If the government then seeks enforcement of the summons through the federal courts, the lawyer must respond properly and litigate the issue of disclosure. If ordered to disclose by a judge, a lawyer may then do so in compliance with RPC 1.6, which permits a lawyer to reveal client secrets to the extent the lawyer reasonably believes necessary "pursuant to court order."



Eat, Think, & Be Merry

BY ERIC LUCAS

(REPRINTED WITH PERMISSION FROM *NORTHWEST HEALTH* NOVEMBER/DECEMBER 1996)

Silver clinks on bone china. Candlelight makes crystal glisten. Holiday music cascades from the stereo. The table is set with a Pacific Northwest feast — roast turkey (with oyster stuffing), mashed potatoes, candied yams, pumpkin pie, cornbread, stewed cranberries — much of it from the garden just outside. A prayer precedes dinner, and then we all raise goblets for a toast.

The dark red color of a fine cabernet sauvignon makes the glasses look like stemmed garnets. We honor our togetherness, prosperity, and health, and drink deeply. This is Thanksgiving at my house, a celebration matched at millions of American homes on November's last Thursday. It is one of our few national traditions that, in their sturdiness and age, match those in older cultures. But one of the most common parts of this tradition also happens to be intensely troubling for quite a few participants.

Liquor has marked human celebrations for millennia, and for all of that time it has meant trouble for many users — 20 million to 40 million adults nationwide, according to some estimates.

Holidays exemplify the confounding double-edged nature of alcohol consumption. It's a simple pleasure for most users. It symbolizes many things, from national tradition to religious sacrament. As a drug, which it undeniably is, ethyl alcohol offers relaxation and release to those who

treat it with respect. For those who don't . . . well, here we enter a cultural and medical maze as complex and contentious as any facing us in the 1990s.

What's social drinking? What is problem drinking? What's alcoholism? Who decides? What can and should be done for those with drinking problems? Who's going to do it?

"Considering the interplay of alcohol with creativity, genius, villainy, and so many diverse elements of our lives, ongoing tension over morality, health and the disease model of alcoholism is inevitable," nationally respected Massachusetts clinician Dr. Thomas L. Deblanco editorialized recently in *JAMA* — *The Journal of the American Medical Association*.

"Society's standards have changed a lot — and in a healthy direction," says Dr. Tom Horst, unit physician for Group Health's ADAPT (Alcohol & Drug Abuse Program of Treatment.) But, he adds, "the result has also been some confusion."

Alcohol use and abuse take place along a broad spectrum, the consequences of which range from benign (even beneficial, some argue) to disastrous. Slightly more than 60 percent of American adults drink, the vast majority with little or no trouble. The rest experience problems ranging from episodic binges to chronic health and life troubles, including physical disease and death. Healthcare re-

sponses should be similarly varied, but always based on common sense.

"Where does social drinking phase into problem drinking? The answer is: Where problems begin to occur," says Dennis Donovan, director of the University of Washington's Alcohol and Drug Abuse Institute. "And when problems occur, problem reduction is the appropriate strategy."

SOBERING STATISTICS

The precise term used by clinicians these days is "harm reduction," a pragmatic bit of language reflecting a relatively new, pragmatic approach to the whole issue of alcohol use and abuse. Until the 1930s, alcoholism was considered a lost cause, medically and culturally. Over the past half-century, the Alcoholics Anonymous, 12-step abstinence approach has meant recovery for millions. But that answer has been invoked, and has seemed most appropriate, for chronic, severe alcoholics — those with a demonstrable physical addiction to the drug.

Medical experts now estimate that chronic alcoholics make up 3 to 5 percent of the population, or six to eight million adults. For them, the traditional scenarios remain crisis or family intervention, followed by inpatient or intensive outpatient treatment, with the ultimate goal being their abstinence from drinking.

However, many individuals who exceed healthy drinking limits aren't considered chronic substance abusers. They are the people earning newfound attention from healthcare providers.

"There are a lot of folks out there who don't fit the diagnosis of alcohol dependence in a clear-cut way," says the Cop's Dr. Horst. "We're trying to tell people, healthcare providers and patients alike, not to get hung up on labels. Let's focus on how much dysfunction there is and how much improvement can be made."

MINIMIZING RISK

Problems are what elicit *assistance*. Care providers might offer problem drinkers a "controlled drinking contract" experiment, in which they are asked to limit their drinking to two nights a week for a month and see how it goes. An individual worried about pressure to drink at holiday family gatherings might be advised to lay in a store of non-alcoholic beverages beforehand and seek support from other family members who don't drink. A member who finds himself habitually intoxicated after his golf game on Sunday might think about changing his partners or scheduling routine.

These physician-patient transactions are called "brief interventions" — compact, user-friendly versions of the intense, confrontive interventions sometimes engaged in with chronic alcoholics by family members, friends, employers and healthcare providers. In this case, the idea is not complete life change, but habit modification.

"These are individuals for whom minimization of harm and risk is the most sensible goal," explains Donovan. He says

that similar European studies have shown positive preliminary results.

National statistics reflect an ever-growing awareness of the consequences of alcohol abuse. Drunk-driving fatalities declined steadily from the mid-'80s to 1994, with a slight increase last year ('95) to 17,274. The percentage of alcohol-related highway fatalities has plunged from 52 percent to 41 percent over that same period of time, according to the National Highway Traffic Safety Administration.

The decline in drunk driving has corresponded to an increase in treatment for alcohol abuse. In 1979, 2 percent of Americans had sought help for alcohol problems sometime in their lives; by 1990, the figure had risen to 5 percent. According to Horst, patients are the ones who bring the topic up with their healthcare providers "surprisingly often." Unfortunately, the more severe the alcohol abuse, the less likely a patient is to ask for help in the first place. Denial of the problem tends to be an intrinsic part of it, and alcohol abuse is still growing among young women and the elderly.

"That's why the part we stress most to

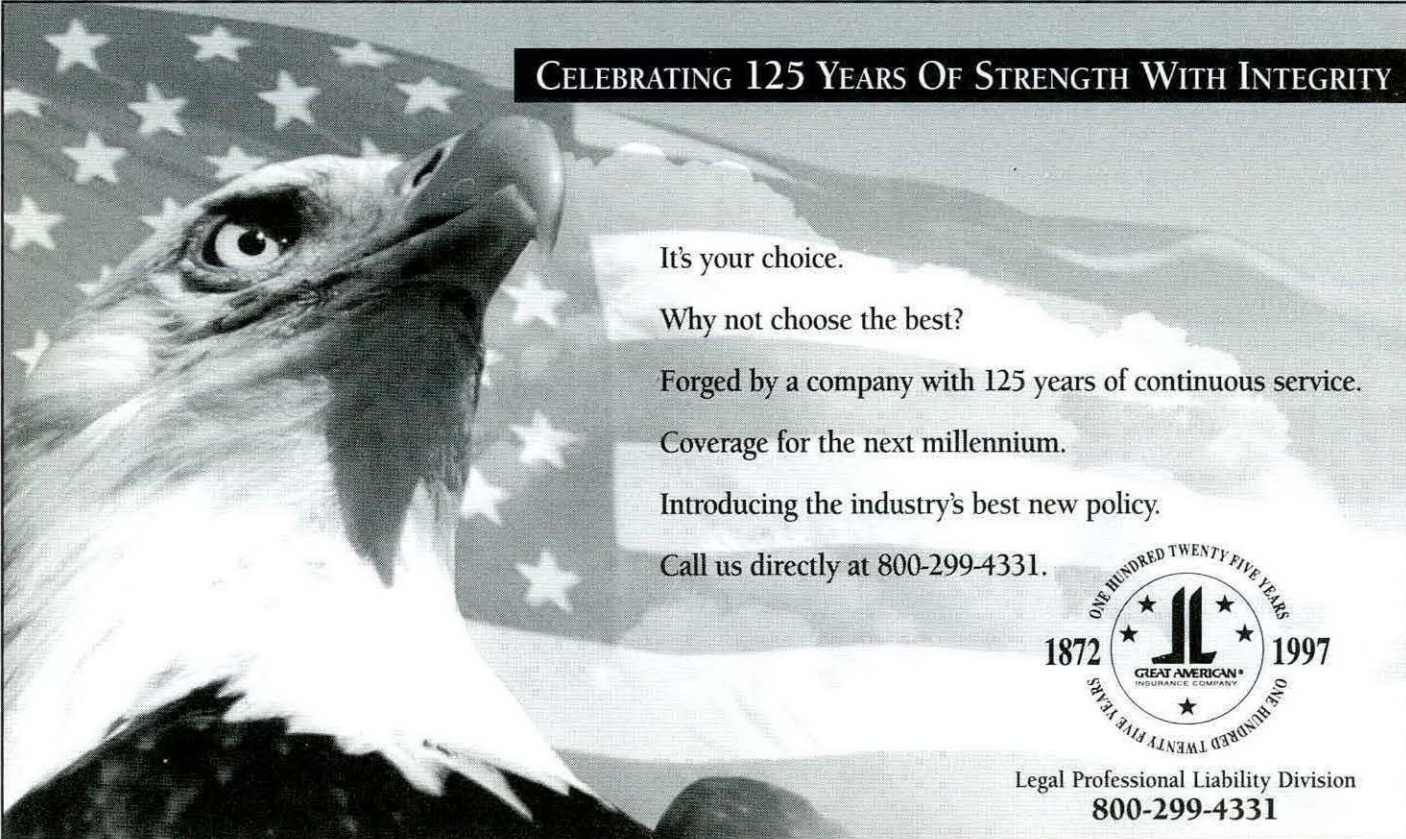
everybody is the need for clear and honest communication," says Horst. "It's often helpful to have information from other family members. Sometimes, in fact, they'll be the ones to bring up the subject. But in the end, only one person can truly decide there's a problem that needs to be addressed: the individual himself."

This year, as usual when we toast the holidays at my house, my glass will be filled with sparkling apple cider. I've been clean and sober for 13 years now — half my adult life. The years of trouble that preceded that are history, but I'm glad to see the medical profession take a more active interest in identifying and addressing alcohol problems as early as possible.

Seeing the new year in with a clear mind and peaceful heart is my holiday tradition. The old toast *Salud!* translates to "To your health!" To me, it means exactly that.




For more information, call the Lawyers' Assistance Program in confidence at (206) 727-8268.



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- Attend a November or December WSBA-CLE Seminar or Moderated Video Replay
- Earn A/V credits by attending our December CLE on Video Roundup Series or by listening to or watching WSBA-CLE Audio and Video Seminars (call for a list of tapes)

NOVEMBER SEMINARS

- 11-6 & 7-97 / CLE credits: 15.25 (including .75 Ethics)**
42nd Annual Estate Planning Seminar (#805)
 Location/Cost: WA State Convention & Trade Center - Seattle \$365
- 11-7-97 / CLE credits: 5.0 (including .75 Ethics)**
Consumer Protection, Antitrust & Unfair Business Practices Conference (#816)
 Location/Cost: Cavanaugh's on Fifth Avenue - Seattle \$169
- 11-14-97 / CLE credits: 6.5**
1997 Fall Real Estate Conference (#807)
 Location/Cost: Seattle Center (Northwest Rooms) - Seattle \$179
- 11-14-97 / CLE credits: 3.0 Ethics (per session)**
Ethical Dilemmas for the Practicing Lawyer (#808) (am) session for the Litigator/ (pm) session for the Business Lawyer
 Location/Cost: Cavanaugh's Columbia Center - Kennewick \$90 (am or pm) or \$169 (full day)
- 11-21-97 / CLE credits: 6.75 (including 1.0 Ethics)**
Killer Cross-Examination (#818)
 Location/Cost: Seattle Center (Northwest Rooms)- Seattle \$209
- 11-21-97 / CLE credits: 3.0 Ethics (per session)**
Ethical Dilemmas for the Practicing Lawyer (#808) (am) session for the Litigator/ (pm) session for the Business Lawyer
 Locations/Cost: Cotton Tree - Mount Vernon
 DoubleTree Inn at the Quay - Vancouver \$90 (am or pm) or \$169 (full day)

DECEMBER SEMINARS

- 12-5-97 / CLE credits: 1.5**
How to Work Smarter, Not Harder - Building & Maintaining Your Practice (#803SE1) 1.5-hour Tele-Seminar - participate via your phone - earn "LIVE" credits!
 Location/Cost: Your phone (Tele-Seminar) \$99 (if received by 11/21) \$109 (if received between 11/22-11/30) *group rates available
- 12-5-97 / CLE credits: 6.0 (est.)**
Water Law (#863)
 Location/Cost: Airport Hilton- Seatac \$185
- 12-11-97 / CLE credits: 6.5 (including .75 Ethics) (est.)**
Best of CLESM 1997 (#810) Two half-day programs
 Location/Cost: Seattle Center (NW Rooms)- Seattle \$100 (am or pm) \$169 (full day)
- 12-11-97 / CLE credits: 6.5 (including .5 Ethics) (est.)**
Collection of Judgments (#813)
 Location/Cost: Cavanaugh's Fourth Avenue - Spokane \$169

DECEMBER SEMINARS CONT.

- 12-12-97 / CLE credits: 1.5**
How to Work Smarter, Not Harder - Increasing Your Productivity & Profitability (#803SE2) 1.5-hour Tele-Seminar - participate via your phone - earn "LIVE" credits!
 Location/Cost: Your phone (Tele-Seminar) \$99 (if received by 11/30) \$109 (if received between 12/1-12/5) *group rates available
- 12-12-97 / CLE credits: 7.0 (including .5 Ethics)**
How to Draft Wills & Other Estate Planning Documents (#809)
 Location/Cost: Cavanaugh's Fourth Avenue - Spokane \$169
- 12-19-97 / CLE credits: 6.5 (including .5 Ethics) (est.)**
Collection of Judgments (#813)
 Location/Cost: WA State Convention & Trade Center - Seattle \$169
- 12-19-97 / CLE credits: 7.0 (including .5 Ethics)**
How to Draft Wills & Other Estate Planning Documents (#809)
 Location/Cost: WA State Convention & Trade Center - Seattle \$169

MODERATED VIDEO REPLAYS

- A Practical Approach to Building Your Deposition Skills (#612)**
 CLE credits: 6.75 - earn "LIVE" credits! \$130
- 11-4-97** Ingram, Zelasko & Goodwin - Aberdeen
- Promoting Diversity & Eliminating Bias in the Legal Profession (#861)**
 CLE credits: 6.5 Ethics - earn "LIVE" credits! \$169
- 11-20-97** Off Broadway Meeting Place - Vancouver
- 12-1-97** Attorney General's Conference Center - Lacey
- 12-3-97** WA State Convention & Trade Center - Seattle
- 12-4-97** DoubleTree Yakima Valley - Yakima
- 12-4-97** WSU Extension Shold Business Park - Port Hadlock
- 12-10-97** Gonzaga University Schoenberg Center - Spokane

CLE ON VIDEO ROUNDUP (#836)

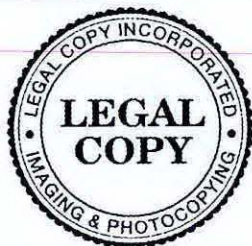
- 12-15-97** (am) Irving Younger: Discovery [4.0 A/V credits]
 (pm) Irving Younger: Jury Selection [3.0 A/V credits]
 (full day) Wrongful Discharge or Just Dismissal? [5.75 A/V credits]
- 12-22-97** (am) Irving Younger: Cross Exam [3.0 A/V credits]
 (pm) Irving Younger: Hearsay [3.0 A/V credits]
 (full day) How to Handle and Win Your First Trials [7.0 A/V credits]
- 12-29-97** (full day) Estate Planning with Will Substitutes [6.0 A/V credits]
 (full day) Promoting Diversity & Eliminating Bias in the Legal Profession [6.5 Ethics CLE credits]
- Location:** WSBA Conference Center, 4th Floor - Seattle
Cost: \$90 for each 1/2 day program/\$169 for each full day program

Calendar

NOVEMBER

- | | | | |
|-----|---|--|---|
| 1 | TRAINING ON GOVERNMENT ETHICS
Olympia
By WA State House of Representatives (360) 786-7736
2.25 CLE ethics credits | Seattle
By WSBA CLE and Estate Planning Council of Seattle (206) 727-8202
15.25 CLE credits (incl. .75 ethics) | Vancouver
By WSTLA (206) 521-6559
6.75 CLE credits (incl. 1 ethics) |
| 3 | 1997 WA STATE JUVENILE JUSTICE CONFERENCE: IMPLEMENTING WA'S NEW JUVENILE LAWS
Seattle
By WA Council on Crime and Delinquency (206) 461-3421
5.5 CLE credits | 7 | 14TH ANNUAL CONSUMER PROTECTION, ANTITRUST AND UNFAIR BUSINESS PRACTICES CONFERENCE
Seattle
By WSBA CLE and Consumer Protection, Antitrust and Unfair Business Practices Section (206) 727-8202
5 CLE credits (incl. .75 ethics) |
| 3 | MOOT COURT COMPETITION: CLIENT COUNSELING
Seattle
UW School of Law Moot Court Honor Board (206) 543-8387
5 CLE credits | 7 | EMPLOYMENT, LABOR AND HUMAN RESOURCES LAW AND PRACTICE SERIES: DISCRIMINATION LAW
Seattle
By UW CLE (206) 543-0059/(800) CLE-UNIV
CLE credits TBA |
| 4 | PRESERVING FAMILY FARMS
Mt. Vernon
By Skagitonians to Preserve Farmland (360) 336-3974
4 CLE credits | 7 | EXPERT WITNESSES
Port Angeles
By Clallam Co. Bar Assn. (360) 457-3327
1.25 CLE credits |
| 4 | A PRACTICAL APPROACH TO BUILDING YOUR DEPOSITION SKILLS
Aberdeen (video replay with live moderator)
By WSBA CLE (206) 727-8202
6.75 CLE credits | 7 | CREATING CHANGE: WORKING TOGETHER FOR ACCOUNTABILITY
Seattle
By Greater Puget Sound Domestic Violence Conference Planning Committee (253) 798-2981
5.5 CLE credits |
| 4 | INTERNET AND ELECTRONIC COMMERCE TRAPS FOR THE UNWARY
Seattle
By UW CLE (206) 543-0059/(800) CLE-UNIV
CLE credits TBA | 7 | MEDICAL NEGLIGENCE
Seattle
By WSTLA (206) 521-6559
6.25 CLE credits (incl. .5 ethics) |
| 5 | RAISING PRIVATE EQUITY CAPITAL
Seattle
By UW CLE (206) 543-0059/(800) CLE-UNIV
7.25 CLE credits | 7 | SUBROGATION & REIMBURSEMENT: LAND MINES IN PERSONAL INJURY PRACTICE
Seattle
By KCBA (206) 340-2572
7 CLE credits (incl. 1 ethics) |
| 6 | USE OF ELECTRONIC DATA IN LITIGATION
Tacoma
By City of Tacoma (253) 591-5444
3.5 CLE credits | 10-14 | LAUNCHING A NEW BUSINESS VENTURE
Seattle
By UW CLE (206) 543-0059/(800) CLE-UNIV
CLE credits TBA |
| 6-8 | AFM FAMILY MEDIATION
Seattle
By UW CLE (206) 543-0059/(800) CLE-UNIV
CLE credits TBA | 11 | WRITING TO WIN
Seattle
By KCBA (206) 340-2572
6.5 CLE credits |
| 6-7 | 42ND ANNUAL ESTATE PLANNING SEMINAR | 11 | LOST IN THE M.I.S.T. OF L.I.S.T. |
| | | 12 | SCHOOL LAW IN WA
Seattle
By NBI (715) 835-8525
6.5 CLE credits (incl. 1 ethics) |
| | | 12 | TRUCK ACCIDENT LITIGATION IN A NUTSHELL
Spokane
Also in Seattle 11/14
Truck Litigation Resource Center (800) 292-5855
3 CLE credits |
| | | 13 | ADVANCED MEDIATION SKILLS TRAINING
Seattle
By WA Law Institute (206) 726-9337
7 CLE credits (incl. 2 ethics) |
| | | 13 | INSURANCE LAW
Spokane
Also in Seattle 11/14
By WDTL (206) 521-6559
5.5 CLE credits |
| | | 13 | CURRENT ISSUES IN COMMERCIAL REAL ESTATE TRANSACTIONS AND TITLE INSURANCE
Seattle
By Chicago Title Insurance Co. (206) 628-5673
4 CLE credits |
| | | 14 | 1997 FALL REAL ESTATE CONFERENCE
Seattle
By WSBA CLE (206) 727-8202
6.5 CLE credits |
| | | 14 | EMPLOYMENT LAW
Seattle
By WSTLA (206) 521-6559
6.5 CLE credits (incl. .25 ethics) |
| | | 14 | ETHICAL DILEMMAS FOR THE PRACTICING LAWYER
Kennewick
Also in Mt. Vernon & Vancouver 11/21
By WSBA CLE (206) 727-8202
3 CLE ethics credits for A.M. or P.M. session; 6 all day |
| | | 14 | EMPLOYMENT, LABOR AND HUMAN RESOURCES LAW AND PRACTICE SERIES: WORKPLACE STANDARDS AND BENEFITS
Seattle
By UW CLE (206) 543-0059/(800) CLE-UNIV |

- | | | |
|--|---|---|
| <p>CLE credits TBA</p> <p>14 TRIAL AS TV
Seattle
By UW CLE (206) 543-0059/
(800) CLE-UNIV
CLE credits TBA</p> <p>18 MOOT COURT COMPETITION:
JESSUP INTERNATIONAL
Seattle
UW School of Law Moot Court
Honor Board (206) 543-8387
5 CLE credits</p> <p>18 SUCCESSFUL DIVORCE
MEDIATION
Seattle
By NBI (715) 835-8525
6.5 CLE credits (incl. 1 ethics)</p> <p>18-19 ADA UPDATE 1997: AVOIDING
LAWSUITS THROUGH PROPER
IMPLEMENTATION AND COMPLI-
ANCE TECHNIQUES
Bellevue
By Council on Education
Management (509) 326-4800
12.25 CLE credits</p> <p>20 PROMOTING DIVERSITY AND
ELIMINATING BIAS IN THE
LEGAL PROFESSION
Vancouver (video replay with live
moderator)</p> | <p>By WSBA CLE and Clark Co. Bar
Assn. (206) 727-8202
6.5 CLE ethics credits</p> <p>20 THROUGH THE EYES OF THE
DEFENSE
SeaTac
By WSTLA (206) 521-6559
5.5 CLE credits</p> <p>20 WA REAL ESTATE TITLES
AND TITLE INSURANCE
Seattle
By HalfMoon (715) 835-5900
6.5 CLE credits</p> <p>20 ADVANCED CONSTRUCTION LAW
IN WA
Seattle
By NBI (715) 835-8525
6.5 CLE credits (incl. 1 ethics)</p> <p>20 COMMUNICATION IN THE
COURTROOM
Bellingham
Also Bellevue 12/9, Tacoma 1/9,
Wenatchee 1/15
By Carl Grant (206) 364-5298
7 CLE credits</p> <p>20-21 EMERGING ISSUES IN
NATURAL RESOURCES LAW:
RESOURCES AS COMMODITIES,
ENVIRONMENTAL CON-
STRAINTS AS OPPORTUNITIES</p> | <p>Seattle
By LSI (206) 567-4490
15.5 CLE credits</p> <p>20-21 INTRODUCTION TO 401(K)
PLANS
Seattle
By Pension Publications of
Denver (303) 759-1004
13.5 CLE credits</p> <p>20-22 EDUCATION LAW ASSOCIATION
ANNUAL CONFERENCE:
25 YEARS AFTER YODER
Seattle
By Education Law Association
(937) 229-3589
15.25 CLE credits</p> <p>21 LIKE-KIND REAL ESTATE
EXCHANGES
Seattle
By Lorman (715) 833-3940
6.5 CLE credits</p> <p>21 JUDGMENT ENFORCEMENT
Seattle
By Lorman (715) 833-3940
6.5 CLE credits</p> <p>21 KILLER CROSS-EXAMINATION
Seattle
By WSBA CLE (206) 727-8202
6.75 CLE credits (incl. 1 ethics)</p> |
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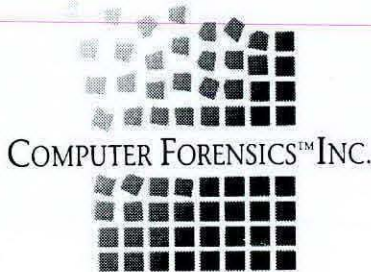


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21 NONPROFIT LAW AND LEADERSHIP
Seattle
By UW CLE (206) 543-0059/
(800) CLE-UNIV
CLE credits TBA

24-25 FUNDAMENTALS OF WA ENVIRONMENTAL LAW COMPLIANCE
Seattle
Government Institutes
(301) 921-2345
10.75 CLE credits

DECEMBER

1 PROMOTING DIVERSITY AND ELIMINATING BIAS IN THE LEGAL PROFESSION
Lacey (video replay with live moderator)
Also in Seattle 12/3, Port Hadlock and Yakima 12/4, Spokane 12/10
By WSBA CLE and local bar assns. (Spokane: Legal Community Housing Project) (206) 727-8202
6.5 CLE ethics credits

3 CONFLICTS OF INTEREST IN LITIGATION
Seattle
By KCBA (206) 624-9365

4 CLE ethics credits
4 ADVANCED MEDIATION SKILLS TRAINING
Bellevue
By WA Law Institute
(206) 726-9337
7 CLE credits (incl. 2 ethics)

5 HOW TO WORK SMARTER, NOT HARDER IN YOUR LAW PRACTICE: BUILDING AND MAINTAINING YOUR PRACTICE
Tele-seminar
By WSBA CLE (206) 727-8202
1.5 CLE credits

5 WATER LAW
SeaTac
By WSBA CLE (206) 727-8202
CLE credits TBA

5-6 NEGOTIATION STRATEGY
Seattle
Negotiation Strategy Institute (805) 642-7748 ext.6
12.5 CLE credits

9 RESIDENTIAL & COMMERCIAL EVICTIONS IN WA
Seattle
By NBI (715) 835-8525
6.5 CLE credits (incl. 1 ethics)

10 WA FORECLOSURES,

REPOSSESSIONS & JUDGMENTS
Seattle
Also in Tacoma 12/17
By Heritage Professional Publishing (615) 331-4422
6.25 CLE credits

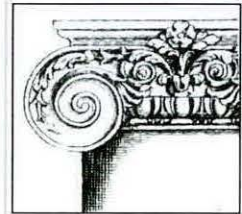
11 WHAT EVERY ATTORNEY SHOULD KNOW ABOUT FINANCE AND ACCOUNTING
Seattle
By Sequoia Professional Development (202) 955-9373
7.5 CLE credits

11 BEST OF CLE
Seattle
By WSBA CLE and General Practice Section (206) 727-8202
6.5 CLE credits (incl. .75 ethics) estimated

11 REAL ESTATE EXCHANGES UNDER S1031 I.R.C.
Spokane
Also in Bellevue 12/18
By Center for Professional Seminars (206) 454-9449
7.5 CLE credits

11 HOW TO HANDLE COLLECTION OF JUDGMENTS
Spokane

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Announcements

- Also in Seattle 12/19
By WSBA CLE and Creditor-Debtor
Section (206) 727-8202
6.5 CLE credits (incl. .5 ethics)
estimated (full day)
- 11 WA BOUNDARY LAW AND
ADJOINING LANDOWNER
DISPUTES
Lynnwood
Also in Seattle 12/12
By PESI (715) 833-5296
6.25 CLE credits
- 12 HOW TO WORK SMARTER,
NOT HARDER, IN YOUR LAW
PRACTICE: INCREASING PRO-
DUCTIVITY AND PROFITABILITY
Tele-seminar
By WSBA CLE (206) 727-8202
1.5 CLE credits
- 12 HOW TO DRAFT WILLS
AND OTHER ESTATE PLANNING
DOCUMENTS
Spokane
Also in Seattle 12/19
By WSBA CLE and Young
Lawyers Division (206) 727-8202
7 CLE credits (incl. .5 ethics)
- 12 PRODUCT LIABILITY
Seattle
By WSTLA (206) 521-6559
CLE credits TBA
- 15 CLE VIDEO ROUNDUP
Seattle (also 12/22, 12/29)
By WSBA CLE (206) 727-8202
CLE credits TBA
- 16 LEGAL ETHICS IN WA
Seattle
By NBI (715) 835-8525
3.25 CLE ethics credits
- 17 WA CONSTRUCTION CLAIMS
Seattle
By PESI (715) 833-5296
6.5 CLE credits
- 18 HOW TO DRAFT WILLS
AND TRUSTS
Seattle
Also in Spokane 12/19
By NBI (715) 835-8525
6.5 CLE credits (incl. 1 ethics)
- 18 WA EMPLOYMENT
AND LABOR LAW
Bellingham
By Lorman (715) 833-3940
6 CLE credits
- 18 ETHICS IN ALTERNATIVE
DISPUTE RESOLUTION
Seattle
By KCBA (206) 624-9365
2 CLE ethics credits

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and regret for our loss that

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ANDREW OGNALL
*Corporate & Real Estate
Portland*

*Have Become Associates with the Firm
Fall 1997*

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AND
JUDITH L. ANDREWS

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HAS BECOME A SHAREHOLDER AND WILL
CONTINUE HIS GENERAL PRACTICE
WITH EMPHASIS IN THE AREAS OF
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CHANGE IN THE FIRM NAME TO

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- 2) representation of healthcare providers in disciplinary matters.

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former adjunct professor of law at UPS and former in-house counsel for North Pacific Insurance Co., is available for consultation, association or referral in matters involving all types of insurance coverage, as well as arbitration and mediation in civil, tort and contract litigation.

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1218 Third Avenue
Seattle, WA 98101-3021
(206) 292-1700 or
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1620 SW Taylor Street
Portland, Oregon 97205
(503) 229-1819
(503) 229-0360 (fax)

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Lynnwood office space: share with four attorneys. Possible referrals. Respond by letter to 4303 198th St. SW, Lynnwood, WA 98036.

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Spokane law firm seeks an attorney with at least two years' litigation experience. Member of Washington and Idaho bar preferred. Please submit résumé to Leveque & Kirkpatrick, P.S., attn: Kevin Mickey, 1717 S. Rustle Rd., Ste. 102, Spokane, WA 99224.

Sussman Shank Wapnick Caplan & Stiles LLP solicits applications for an associate position as a commercial law-

yer within its Creditor's Rights practice group. Applicants should have a minimum of four years of meaningful commercial bankruptcy and business litigation experience. Bankruptcy experience should be in representing business creditors and business Chapter 11 debtors. Litigation experience should be in representing business and commercial entities. Admission to practice in Oregon is required. Admission in Washington is a plus. Competitive compensation and benefits. Please send letter of application and résumé to: Administrator, Sussman Shank Wapnick Caplan & Stiles LLP, 1000 SW Broadway, Ste. 1400, Portland, OR 97205.

Downtown Seattle litigation firm seeks associate attorney with at least two years' litigation experience. Reply to WSBA Bar News Box 539.

Northwest Justice Project (NJP) is a not-for-profit corporation providing civil legal services to low-income persons statewide. The following positions are available: (1) *Wenatchee*. Attorney with experience in poverty law to provide general legal services. Some supervisory responsibilities. Spanish fluency strongly preferred but not required. (2) *Seattle*. Attorneys and paralegals with expertise in poverty law for Coordinated Legal Education, Advice and Referral system (CLEAR); additional position requiring expertise in legal issues specific to senior citizens. Client interviews by telephone; brief service ranging from verbal/written advice to negotiating a resolution on client's behalf; using computerized system for accurate recording of client information, conflict checking, case notes, case management and determining appropriate referrals; preparing legal education materials. Attorney applicants must be members of WSBA or willing and able to take next bar exam. Proficiency in a foreign language a plus. Send résumé, references and writing sample to: Susan Encherman, NJP, 401 2nd Ave. S., Ste. 407, Seattle, WA 98104.

Stoel Rives LLP seeks six-lawyers to fill positions in the following practice groups in the firm's Seattle office. Stoel Rives LLP offers the opportunity to participate in a well-established and growing law practice. Excellent academic record, writing ability and client relationship skills are required. *Construction and design:* attorney with a minimum of two years' experience advising clients with transactions and litigation involving construction projects. *Employee benefits:* at-

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Assistant City Attorney I/II: The city of Vancouver, WA, is seeking qualified candidates for an opening for an assistant city attorney I/II. Membership in the Washington State Bar and a license to practice law in the federal courts are requirements for this position. Application materials are available at the Human Resources and Risk Services Department, 703 Broadway, Ste. 500, Vancouver, WA 98660, or call (360) 696-8419. Completed application, résumé, and a one-page description of your legal experience will continue to be received and screened until this position has been filled. Equal Opportunity Employer.

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Established small Eastside firm with selective general and litigation practice, including business, injury, probate and family law, is accepting résumés and writing samples for an associate position. In addition to legal duties, the position requires community and public service involvement and an ability to "hit the ground

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Spokane law firm with practice limited to plaintiff personal injury/medical malpractice looking for associate. Broad life experiences outside of law preferred. Must be admitted to practice in Washington. Please send résumé and writing sample to WSBA *Bar News* Box 542.

Treece, Richdale, Malone, Corning & Abbott, a 12-attorney firm in North Seattle, is accepting résumés for an associate position. The position requires a minimum of two years' litigation experience. Excellent writing and analytical skills are a prerequisite. All responses will be held in confidence. Send letter of application and résumé to: Betty Fox Paulsen, PO Box 70467, Seattle, WA 98107.

Corporate counsel: Van Waters & Rogers, North America's largest chemical distributor, has an opening for a corporate counsel in our human resources department located at our corporate headquarters in Kirkland. Responsibilities include providing advice to managers on labor and employment law issues, handling legal matters, and negotiating labor agreements. Requires at least four years' experience in labor/employment law practice; extensive knowledge of labor and employment laws; excellent communication, interpersonal, leadership, and organizational skills. Must be willing to travel. We offer competitive salaries and an excellent benefits package. Please submit your résumé by e-mail to jobs@vwr-inc.com, or fax (206) 889-4123, attn: CC0997. Equal Opportunity Employer.

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Staff attorney: seeking an attorney to provide civil legal services for low-income members of the Colville Confederated Tribes. Work includes legal research, evaluation of cases, and preparation and litigation of a variety of civil cases. Salary \$32,749+ DOE. Indian preference will be applied. Send résumés to Steven D. Aycock, Colville Tribal Legal Office, PO Box 150, Nespelem, WA 99155. For further information call (509) 634-8861.

Family law attorney: Seattle family law firm looking for associate attorney with aggressive attitude and experience in family law. Please send résumé to: Michael V. Fancher, Goldberg, Fancher & Jones, PLLC, 2200 6th Ave., Ste. 1200, Seattle, WA 98121, or e-mail to: mfancher@gfj.com.

Litigation Associate: 11-attorney, AV-rated Portland business firm seeks a litigation associate with a minimum of two years' experience in commercial litigation. Contract, real estate, collections and employment experience desirable. Excellent academic record, writing ability and client relationship skills required. Applicant should be a member of the Oregon State Bar. Qualified applicants should send letter and résumé (no calls, please) to Monica O'Brien, Gleason, Scarborough, McNeese, O'Brien & Barnes, P.C., 5410 SW Macadam Ave., Ste. 100, Portland, OR 97201-3824.

Olympia: plaintiff's personal injury law firm seeks aggressive associate with a minimum of two years' experience. Salary negotiable. Send résumé and cover letter to Terry Church, Morris & Church, 1601 Cooper Pt. Rd. NW, Olympia, WA 98501. (360) 866-7100.

Central Puget Sound Regional Transit Authority seeks staff attorney to provide general legal services to support the commuter rail, light rail, transit, finance and human resources departments. The staff attorney will be expected to provide routine legal advice to the RTA staff on a broad variety of municipal law issues as they arise, including land use, environ-

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Associate attorney sought by well-established, medium-size, general practice law firm in Kitsap County. Please send brief description of professional goals, résumé, references and writing sample to: Associate Attorney Recruitment, 600 Kitsap St., Ste. 202, Port Orchard, WA 98366.

Experienced business lawyer with some existing client base to join downtown Seattle firm with active business practice. Send your résumé and a description of your practice in confidence to Kinne Hawes, Vandeberg Johnson & Gandara, 600 University St., Ste. 2424, Seattle, WA 98101-1192.

Established firm seeks experienced attorney for full-time employment in Oak Harbor branch. At least two years' experience preferred. Working knowledge of domestic, bankruptcy and other areas of general practice desired. Send résumé and cover letter to: Michael J. Tario, Tario & Associates, 119 N. Commercial St., 10th Fl., Bellingham, WA 98225.

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Forensic engineer: board-certified forensic examiner specializing in fire reconstructions and accident analysis; autos/fires/P.I./product failure/construction defect. Ref: Martindale-Hubbell Law Directory, Best's Directory of Recommended Insurance Attorneys and Adjusters. Contact: John Caudron, MSS, BCFE (909) 598-8919.

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MISCELLANEOUS

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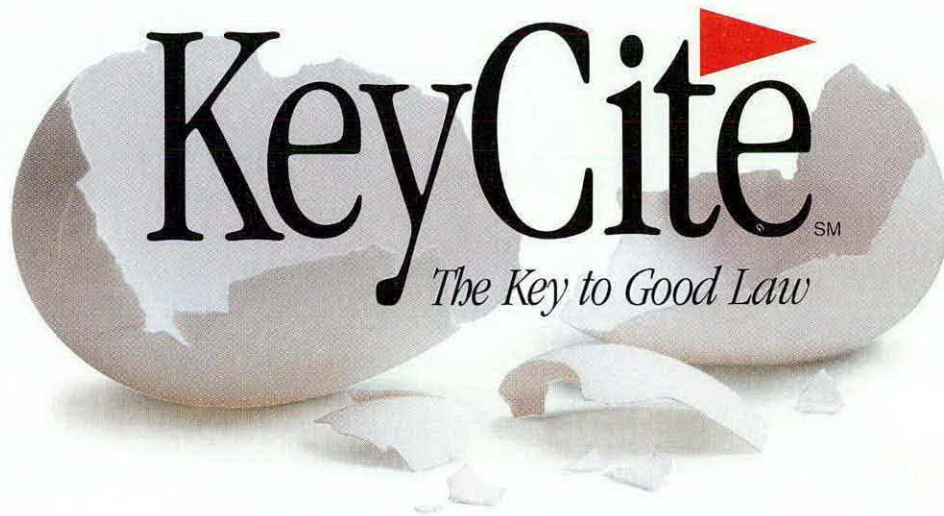


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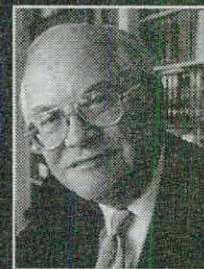
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UNITED STATES IMMIGRATION

SECTION 245(i) Adjustment of Status

AND GROUNDS OF INADMISSIBILITY

QUESTIONS AND ANSWERS



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CONTINUING RESOLUTION BY CONGRESS LIKELY TO CONTINUE SECTION 245(i) UNTIL OCTOBER 23, 1997

After House floor discussion on September 26, 1997 it seems likely that the House (on September 29, 1997) and Senate (on September 30, 1997) will pass a three-week extension of Section 245(i) (until October 23) as part of a broad Continuing Resolution (CR) that will keep the Federal Government running for the short term. No Continuing Resolution has been passed yet. If passed next week, this CR would extend Section 245(i) for only this short period. A further extension of Section 245(i) will be the subject of discussion between the House and Senate appropriators as they meet in early October to resolve differences between the Senate and House Commerce, Justice, State bills, once the House passes its bill (probably on September 28, 1997).

Making Decisions: This Report is not intended as legal advice but simply to provide you with information that can assist applicants in making their decisions. If, as expected, a Continuing Resolution is passed and Section 245(i) is extended for an additional three weeks, persons who were not eligible to file an application under Section 245(i) on or before September 30, but could file one in October, would be able to remain in the United States rather than have to leave on or before September 27. This includes anyone with a priority date that would become current on October 1. It also includes DV98 Lottery winners in this country, who can only file applications for adjustment of status on October 1 or later. As the new fiscal year begins on October 1 and more visas will become available in the backlogged categories, this could affect decisions by applicants to stay or leave the United States before September 30, 1997.

Additional Information from INS: Prior to the latest news about a likely Continuing Resolution, INS Field Operations issued a Memorandum that instructs District Offices and Service Centers to permit the receipt of Section 245(i) adjustment applications until midnight on September 30. Applications will be considered to be filed for deadline purposes if they have been received by midnight on September 30. It is not known at this time what changes INS will make in its procedures in the event that Section 245(i) is extended for three weeks by a continuing resolution by Congress.

SECTION 245(i) ADJUSTMENT OF STATUS AND GROUNDS OF INADMISSIBILITY QUESTIONS & ANSWERS

Q What are the new bars to admission relating to unlawful presence, and how will they apply to people who marry U.S. citizens?

- A**
1. The law has new 3 and 10-year bars to admission for those who have been unlawfully present in the U.S. The bar is triggered by the person's departure from the United States after having been unlawfully present for a certain period of time, and generally applies when the person either files an application for a visa to come back to the U.S., or when the person seeks admission at a U.S. Port of Entry.
 2. Those who have a prior period of unlawful presence of more than 180 days, but less than 1 year and left on their own before they were put in removal proceedings will be subject to the 3-year bar. The bar is counted 3 years from the date of their departure from the U.S.
 3. Those who had a prior period of unlawful presence of 1 year or more will be subject to the 10-year bar. The bar is counted 10 years from the date of departure or removal from the U.S.

LATEST NEWS

House provision extended, helps so

WASHINGTON POST

WASHINGTON — The House on September 29 passed a provision that extends for three weeks a controversial provision that allows immigrants to remain in the country while they seek adjustment of status.

The provision mitigates a tough rule in the law that presents large numbers of people with a wrenching choice: leave the country indefinitely or stay and risk a future as perpetual illegal residents.

With the temporary extension of Section 245(i) on September 30, 1997, eligible illegal residents can remain in the United States while seeking adjustment of status. The House agreed to the extension as part of a continuing resolution measure that passed by a vote of 355-57. The extension will last until October 1, 1997.

Immigrants'-rights advocates hailed the measure that allows them to rally support for a permanent law that would give a breathing room to illegal immigrants who have been in the country for years. They said it simply postpones a debate in the House on whether to extend the extension.

SOURCE: *The Seattle Times*, Sept. 30, 1997

4. All illegal aliens, including those who marry U.S. citizens, are subject to the new bars of inadmissibility. Most spouses of U.S. citizens — except for those who are already in the U.S. — can apply for adjustment of status in the U.S. to regularize their status. The law has exceptions for those who can apply for their immigrant visas abroad. Since the new bar won't apply in most cases, unless they have been in the U.S. on a prior occasion (but after 4/1/97), the extension that does not require them to apply for adjustment of status under Section 245(i).
5. Other persons besides immediate relatives (spouses, parents, and children) of U.S. citizens who are eligible for visas available visa number, but who arrived without a visa, can apply for adjustment of status.

- b. The law specifies two specific groups in these tolling provisions. They are:
 - (1) Those with pending applications to extend their temporary stay; and
 - (2) Those with pending applications to change from one temporary visa category to another.
- c. In order for the tolling to apply, however, the person must have filed the application on time (i.e. before his or her stay expired) and must not have worked without permission either before the application was filed or while it was pending.

Q How can an alien apply for a waiver of the unlawful presence grounds of inadmissibility?

A 1. Applicants abroad:

a. Generally speaking, when the person is applying for a visa at a U.S. consular post abroad, the waiver application is filed with the consular post considering that visa application. The consular post forwards the waiver application to the overseas INS office in that jurisdiction. INS then notifies the consular post of its decision. If INS approves the waiver application, the consular officer can issue the visa if the person is not inadmissible on any other grounds (or has a waiver for those other grounds).

2. Applicants in the U.S.:

a. Generally speaking, when the person is applying for adjustment of status in the U.S., the waiver application is filed with the INS office considering the adjustment of status application, or application is made to an Immigration Judge in immigration court proceedings.

Q What is Section 245(i) adjustment of status?

- A** 1. Section 245(i) of the Immigration and Nationality Act allows certain persons who are eligible for an immigrant visa but who are unlawfully in the United States to remain and adjust status in the United States upon payment of a \$1,000 surcharge rather than return home to apply at the U.S. Consulate.
- 2. This provision is currently scheduled to terminate on September 30, 1997.
- 3. If this statutory provision is not extended, INS will process those Section 245(i) applications which were properly filed on or before September 30, 1997.
- 4. After that date, these individuals must obtain their immigrant visas overseas at the appropriate U.S. Consulate Offices.

Q Who can apply for Section 245(i) adjustment of status?

- A** 1. Normally, to apply for adjustment of status, the person must show that he or she was lawfully admitted or paroled, maintained status while in the United States, and did not work without authorization at any time

which may form at INS District Offices as Se

Q If Section 245(i) sunsets, does INS have any doing any further adjustment of status application

- A** No.
 1. If Section 245(i) is not extended, the law will adjustment of status applications from applied worked without authorization, or who have c
 2. Moreover, the law does not give INS a accept such adjustment of status application

Q Are there alternatives to Section 245(i) for an adjustment of status?

- A** The only alternative is departure from the United States for the required period of absence, then reentering the United States by a U.S. consular officer.

Q What is Section 245(i) adjustment of status?

- A** 1. The Commission includes Section 245(i) adjustment of status.
- 2. The H-1B visa is not included in Section 245(i).
- 3. It is possible to include other categories.

Q Should the bar on the States Citizenship and Immigration Services Section 245(i) adjustment of status expire?

- A** 1. As those who are in the United States, a permanent resident or any time in a marriage.
- 2. However, marriage procurement by an alien in the United States is permanent and obtainable.
- 3. In addition, fraud, spousal procurement, and statute.

Q How many people have applied for Section 245(i) adjustment of status?

- A** 1. Known as the "me" ma'affi' req'tion' 154-
- b. Per-
- c. Fal-
- d. Co-

LOOMING DEADLINES

How immigrants will be affected by upcoming deadlines (Some immigrants fit in more than one category):

What: All foreigners who entered U.S. illegally or overstayed their visas. About 2 million nationwide.

What: 180-day grace period beginning on April 1, 1997, ends. If they leave the United States after the deadline, they will be barred from returning legally for three years.

When: Saturday, September 27, 1997.

Who: Central American refugees who entered the United States fewer than 10 years ago and await asylum. About 300,000 nationwide from El Salvador, Guatemala and Nicaragua.

What: They are temporarily protected from deportation because the Clinton Administration reversed a strict INS interpretation of the 1996 Immigration Reform Act on July 10. But Congress needs to pass key legislation to lift an annual cap of 4,000 immigrants visas before the refugees can become legal residents if they qualify.

When: Tuesday, September 30, 1997. Last day this year Congress can act.

Who: Immigrants who overstayed their visa and await a new visa or permanent residency, particularly foreign employees. At least 150,000 nationwide.

What: End of Section 245(i) of the Immigration and Nationality Act allowing those who overstay to pay \$1,000 fine while awaiting a new visa without leaving the country.

When: Tuesday, September 30, 1997.

Who: Undocumented and out of status aliens.

What: End of the visa waiver program.

When: Tuesday, September 30, 1997.

Who: All designated foreign travelers allowed to enter the United States without a visa. About 12.5 million annually, including 4 million from Japan and millions more from Europe.

SOURCE: The Seattle Post-Intelligencer, September 25, 1997.

against a federal agency (18U.S.C. 371).

Q How many people have applied for Section 245(i) adjustment of status?

there an estimate as to how many people are

SECTION 245(i) CHOICE FACING ILLEGAL ALIENS BECOME 'EXILES'

With Congress highly unlikely to renew a regulation that would allow illegal immigrants to live in the United States while their permanent resident visa applications are pending, nearly two million immigrants who will be faced with a difficult choice.

The veritable Hobson's choice for these immigrants would be whether to leave the U.S. and then wait, perhaps years, abroad to pick up their "Green Card" when their visa numbers become valid, or forget about the "Green Card", and remain in the U.S. in an illegal status.

But if these immigrants opt for the latter choice and are apprehended, it could mean being deported and then having to wait either 3 or 10 years outside of the U.S. before they can be eligible for a green card in the future.

The regulation on which the very futures of these immigrants and their families depend is one that was approved by Congress in 1994 that allowed for illegal immigrants - - if they pay a fine of \$1,000 - - to stay in this country once they are on a short list for legal residence. (Section 245 (i)).

That regulation expires on Sept. 30. The Clinton Administration is in favor of extending it, but the House and Senate are divided over the issue, which is currently bogged down in the Federal budget process and is not expected to be resolved by month's end.

Meanwhile, a new law that requires all illegal immigrants to leave the country is set to take effect on Sept. 27 and this imminent double deadline that is virtually around the corner has thrown residence applicants across the country into a panic.

Immigration lawyers, radio shows, immigration advocacy groups and the Internet have been bombarded with anxious queries by thousands of immigrants wondering whether they should purchase a plane ticket, quit their jobs, leave their families — or go underground and live the life of an illegal immigrant out of status and hope for the best.

Under the new law if individuals are in the U.S. and are out of status (for example, their visa has expired or they have no documentation) and they leave the U.S. for whatever reason, they will be barred from reentering the United States for a period of 3 to 10 years, depending on the length of time the individual was illegal.

Judy Golub, of the American Immigration Lawyers Association, said, "People are agonizing about what to do, and lawyers don't know what to advise them because the situation is so uncertain."

She said that if the 1994 regulation is allowed to expire, "people will have to choose between becoming exiles or outlaws."

There are many proponents of immigration reform, however, who believe that those people who entered the United States illegally, or overstayed their visas after they expired, don't deserve special consideration.

These proponents argue that this is in a way the "laundering" of their immigration status by these people who then cut ahead of those who have waited abroad patiently for years for their "Green Card" applications to be current so that they can immigrate legally.

A spokesman for Rep. Lamar Smith — Texas Republican who chairs the House Immigration Subcommittee and has been a fierce advocate for immigration reform and has introduced bill after bill to drastically reduced the levels of immigration into the U.S., said, "This regulation says to someone in a foreign country, 'Go ahead and enter illegally, and we will bend over backwards to give you legal residency.' That is entirely the wrong message to send."

Many immigrants who will be affected by the Congress's inaction feel helpless and vulnerable on how to deal with the impending situation. The American Immigration Lawyers Association cited one example of a legal resident from India,

a research chemist living in Seattle, Washington, writing about the plight of his wife, a Japanese immigrant who has a "Green Card" since 1995.

That person, in his entreaties to the Association, has said, "I am a taxpayer. We own a home and are contributing to the economy. It is an injustice if, in the name of the law, the United States prevents us from becoming citizens who have realized their American dream."

The Association said such examples abound and that such whole families can be broken apart because a spouse is on a waiting list, under the law, would have to leave and wait until a visa number is current.

According to the Immigration and Naturalization Service, an estimated 2 million to two million applicants are in line to become legal permanent residents through sponsorship by American relatives or employers.

The wait depends on their country and the relationship. The backlog is much longer for relatives of "Green Card" holders who are U.S. citizens.

Until three years ago, all "Green Card" applicants from certain countries had to travel to their countries to get their final papers making them eligible for permanent residence.

But in 1994, Congress enacted the regulation allowing applicants to stay on by paying the \$1,000 fee as a way to streamline the process for immigrants living in the U.S. and to cut down the number of applicants at Consulates abroad, as well as to generate extra income for the government.

Up until now, the regulation was a most convenient one for applicants, including thousands of professionals, scientists and students who gladly paid the \$1,000 to save themselves from the expense of returning to their native country to pick up the visa at the Consulate.

But on Sept. 27, this convenience will expire and if applicants do not leave the country by this date later try to pick up their visa at Consulates abroad they will be prohibited from coming back for 3 to 10 years.

If they had stayed illegally in the U.S. after April 1, 1994, and after returning for 10 years.

Only residence visa applicants who have already purchased their visas are exempt from the reentry ban.

Supporters of renewing the regulation, who range from business groups to a number of business associations, have argued that if families intact, it also generates millions of dollars, mostly from the fees for coming down hard on illegal immigrants.

Last year, the INS was richer by nearly \$140 million from the fees on residence applicants.

Rep. Lincoln Diaz-Balart, Florida Republican, said, "It is the Government's job to let people adjust their status here if they can. It is not to avoid disrupting families and businesses, and raise revenue."

Diaz-Balart asserted that it "would be absurd to let the government counter this argument by saying that by forgiving illegal immigrants the fee, the Federal government is thinking of only cost and not of undermining the letter and spirit of the 1996 immigration law."

According to these groups, restrictions on illegal immigrants are meaningless if the regulation is extended or renewed.

SOURCE: *Indian Abroad*. Sept. 26, 1997

"Q&A's" — Continued from previous page.

visitors for pleasure and allowed a six-month length of stay.

2. Any time beyond that six-month period of stay would be considered unauthorized stay.
3. The INS will be able to track Canadians' length of stay within the United States when INS establishes departure and arrival records for every alien entering the United States, as mandated by the new immigration law.

Q The new grounds of inadmissibility only affect those illegal residents who leave the country and try to re-enter (Section 212(a)(9)). What kind of a mes-

A This issue is in the process of evaluation at this time. The INS is currently reviewing appropriate accommodations and deploy resources to handle the expected increase in applications between now and then.

Q What happens if a legal permanent resident has a pending application for adjustment of status but is caught in the backlog, and his/her visa number becomes available? What should he/she do on that to apply for adjustment of status?

A An application for adjustment of status can be filed when a visa number becomes available. So in this case, the applicant should file an application for adjustment of status as soon as possible.

UNDOCUMENTED ALIENS MAY GET A REPRIEVE FROM D

WASHINGTON — Tens of thousands of undocumented immigrants anxious about the scheduled end of a law that has shielded them from deportation apparently may get a three-week reprieve.

Congress next week is likely to temporarily retain a provision in immigration law — otherwise due to terminate Sept. 30, 1997 — that allows some undocumented immigrants who are eligible for legal status to remain in the country, even though they're still awaiting approval.

The reprieve is scheduled to be attached to must-pass legislation that will keep the government running at the start of the new fiscal year on October 1, 1997.

Immigrants around the country are concerned that if the provision expires, they would risk deportation by remaining in the United States illegally or be forced to return to their home countries and wait months, perhaps years, before gaining legal status.

The Clinton Administration, immigrant rights advocates and a number of businesses are urging Congress to enact the controversial waiver permanently.

"Anybody who cares about business, anybody who cares about families," cares about the provision, Gayle Nathanson at the American Immigration Lawyers Association said.

But critics said the law opens a "gaping loophole" for undocumented immigrants.

"Why wait your turn in your own country for months or years going through the process legally when you can sneak into the freest, wealthiest country in the world illegally and then become a legal resident just as quickly as the poor sap who stayed home?" wrote Rep. Dana Rohrabacher, R-Calif., in a recent letter to Congressmen.

At issue is a portion of the Immigration and Nationality Act known as "Section 245(i)".

Generally, prospective immigrants must become permanent residents of the United States who would then apply for permanent resident status by paying a \$1,000 fee.

People who have since expired visas were offered work based visas through a program. An estimate of the number of people with legal status under the law is unclear how many.

Enacted in 1996, the law automatically grants status to a version of the application. The Department of Commerce, Justice and State includes language in the House version is still pending the provision for undocumented immigrants.

SOURCE: Seattle P

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