VOL. 52 NO. 6 FIVE DOLLARS

Washington State BAR NEWS

The Official Publication of the Washington State Bar
June 1998

Punishment or Rehabilitation? The Juvenile's Right to Trial by Jury

ALSO

NEW WASHINGTON PUBLICITY RIGHTS LEGISLATION

Free legal advice.

"The editorial efforts required to cross-reference all of Washington's primary law are substantial. The result is a very powerful research product. If you practice law in Washington, give CD Law a call."

—Information Today

"It may be malpractice not to have something like CD Law near at hand."

—Larry Johnson, Washington State Bar News

"Today, in Washington, the attorney who does not at least take a look at CD Law is in jeopardy of diminishing the productivity of his or her practice."

—Law Office Computing

In the opinion of these leading law and computing publications, CD Law is an indispensable resource for today's practicing attorney. How did they arrive at this conclusion?

For openers, CD Law offers the most comprehensive and complete Washington Law library with more than 35 databases–updated constantly. Plus, up-to-the-minute currency via CD Law OnLine and the Internet.

Further compelling evidence is the fact that CD Law's search software uses the most powerful, user-friendly technology available.

And speaking of friendly, no one else gives you such personal customer service and support–or such affordable terms with absolutely no hidden costs.

Judge for yourself with a FREE 30-day trial.

If your jury's still out, we invite you to try CD Law for 30 days free. We'll even provide training and a CD-ROM drive or an entire legal research PC to use during your free trial run. Just give us a call.

After all, the critics have done their research. Now it's time for you to do yours.

Ask about the CD Law CLE

(206) 623-1688 • Internet: www.cdlaw.com

CD LAW

Your search is over.

UNIVERSITY OF WASHINGTON SCHOOL OF LAW

announces the schedule for its

Graduate Program in Taxation

1998-1999 academic year
leading to the LL.M. degree

Curriculum & Faculty

Fall Quarter

(begins September 28, 1998)

Taxation of Corporations & Shareholders
Sam Donaldson, Esq. Egger Betts Austin, Bellevue

Federal Tax Controversies & Procedure
Darrell Hallett, Esq., Chicoine & Hallett, Seattle

Estate & Gift Taxation I
Ann Wilson, Short Cressman, Seattle

Property Dispositions & Transactions
Professor Meade Emory, Director, Graduate Program in Taxation

Federal Tax Research
Mary Hotchkiss, Esq., Librarian, U.S. Courts, Seattle

Compensation & Benefits I
Lee A. Thorson, Esq., Birmingham Thorson & Barnett, Seattle

Winter Quarter

(begins January 4, 1999)

Tax Accounting (Problems of Timing)
Steven L. Severin, Esq., Deloitte & Touche, Seattle

Taxation of Partners & Partnerships
Kim Snyder, Esq., Deloitte & Touche, Seattle

Income Taxation of Estates & Trusts
Professor Meade Emory, Director, Graduate Program in Taxation

International Taxation I
Gary Tober, Esq., Lane Powell Spears Lubersky, Seattle

Compensation & Benefits II
Lee A. Thorson, Esq., Birmingham Thorson & Barnett, Seattle

Exempt Organizations
LaVerne Woods, Esq., Davis Wright Tremaine, Seattle

Estate & Gift Taxation II
Ann Wilson, Short Cressman, Seattle

Business Planning
(Continues Spring Quarter)
Professor Richard O. Kummert, University of Washington

State & Local Taxation
John T. Piper, Esq., Michael Young, Esq., Bogle & Gates, Seattle; G. Kim Risenmay, Coopers & Lybrand, Seattle

Spring Quarter

(begins March 29, 1999)

Taxation of Trans-Pacific Transactions
Robert Baskerville, Esq., Davis Wright Tremanine, Seattle

Advanced Partnership Tax
Andrew Zuccotti, Esq., Stoel Rives, Seattle

Estate Planning
Professor Karen Boxx, University of Washington

Income Taxation of Intellectual Property
Michael Hardgrove. Esq., Coopers & Lybrand, Seattle

Advanced Corporate Tax Problem
Pamela A. Martin, Esq., Preston Gates & Ellis, Seattle

International Estate Planning
Griffith Way, Esq., Law Offices of Griffith Way, Seattle

Taxation of S Corporations
Keith Medleau, Esq., Office of the District Counsel, Internal Revenue Service, Seattle,

International Taxation II
Monica Gianni, Esq., Davis Wright Tremaine, Seattle

Limited Liability Companies
John D. Hollinrake, Esq., Bogle & Gates, Seattle

Estate Planning for Business Interests
Sam Donaldson, Esq. Egger Betts Austin, Bellevue

Federal Tax Research
Mary Hotchkiss, Esq., Librarian, U.S. Courts, Seattle

For information, please contact:

Professor Meade Emory, Director
Graduate Program in Taxation
Tel. No.: 206-543-9395
Fax. No.: 206-685-4469
E-mail: memory@u.washington.edu

or

Gloria Strickland, Program Coordinator
Telephone: 206-616-8340
E-mail: gstrickl@u.washington.edu

APPLICATIONS FOR FALL QUARTER 1998 MUST BE MADE ON OR BEFORE JULY 1, 1998

Washington State
BAR NEWS
June 1998

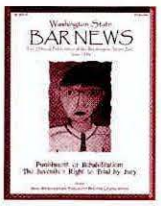
Articles


18


25

Columns

Departments



Cover design
by Beth Farrell

Sherrie Bennett *Editor (206) 283-4015*
Jennifer Klamm *Managing Editor (206) 727-8215*
Jack Young *Advertising Manager (206) 727-8260*
Doree Armstrong *Editorial Assistant (206) 727-8214*
Erik Schwab *Communications Secretary (206) 727-8213*
Communications Department e-mail: comm@wsba.org

Submission Guidelines

The *Bar News* encourages correspondence and article submissions. The submission deadline is the 15th day of the month for the second issue following, e.g., June 15 for the August issue. We request a 3 1/2" disk (in any conventional format) and hard copy at the time of submission. Please include a SASE if you would like your material returned. Article submissions should run approximately 1,100 to 3,500 words. Graphics and illustrations are welcome. Address all correspondence and submissions to: *Bar News* Editor, 2101 4th Ave., 4th Fl., Seattle, WA 98121-2330.

THE MISSION OF THE WASHINGTON STATE BAR ASSOCIATION IS TO PROMOTE JUSTICE AND SERVE ITS MEMBERS AND THE PUBLIC.

Published by
WASHINGTON STATE BAR ASSOCIATION
2101 FOURTH AVENUE
FOURTH FLOOR
SEATTLE, WA 98121-2330

M. JANICE MICHELS
Executive Director

Printed by Eagle Press, Redmond

Washington State Bar News (ISSN 886-5213) is published monthly by the Washington State Bar Association, 2101 Fourth Avenue, Fourth Floor, Seattle, WA 98121-2330, and mailed periodicals postage paid in Seattle, WA. $14.47 of a regular member's dues is used for a one-year subscription. The annual subscription rate for inactive members is $15. Nonmember subscription rate is $24 a year. Washington residents add 8.6% sales tax.

POSTMASTER: Send changes of address to WASHINGTON STATE BAR NEWS, 2101 4TH AVE, 4TH FL, SEATTLE, WA 98121-2330.

Printed with soy-based ink on recycled paper

ADVERTISING

DEADLINE: **Copy received - not postmarked - by first of each month for issue following.** No cancellations after deadline. For professionals and classifieds, submit check payment (to WSBA) and typed copy to BAR NEWS, 2101 4TH AVE, 4TH FL, SEATTLE WA 98121-2330. No phone orders.

DISPLAY: Contact Jack Young at (206) 727-8260.

ANNOUNCEMENT: WSBA members only. Contact Jack Young at (206) 727-8260.

PROFESSIONAL: Boxed ads preceding classifieds. **Advance payment required.** WSBA members only. $40/inch. Contact Doree Armstrong at (206) 727-8214.

CLASSIFIED: **Advance payment required.**
Members — $25/first 25 words; .25 ea. add'l word.
Nonmembers — $35/first 25 words; .75 ea. add'l word.
Blind-box number service — $7. (Responses will be forwarded.)
Contact Erik Schwab at (206) 727-8213.

NOTES: 1) Positions available are automatically posted on a 24-hour jobline [(206)727-8261], on the *Bar News* Web site (http://www.wsba.org) and in looseleaf binders at the WSBA offices for immediate consideration.
2) Qualifying experience for positions available: State and federal law allow minimum, but prohibit maximum, qualifying experience. No ranges (e.g., "5-10 years").

SELECTED WSBA TELEPHONE NUMBERS

General Information	**(206) 727-8200**	
Fax	**(206) 727-8320**	
Admissions	(206) 727-8209	
Jobline (recording)	(206) 727-8261	
Lawyer Assistance Department	(206) 727-8268	lad@wsba.org
Mandatory CLE credits/course accreditation	(206) 727-8271	
Order fulfillment for all WSBA products	(206) 733-5918	
WWW Homepage & *Bar News* online		http://www.wsba.org
Administration	(206) 727-8200	admstaff@wsba.org
Current WSBA CLE Seminars	(206) 727-8202	cle@wsba.org
Communications	(206) 727-8203	comm@wsba.org
Office of Disciplinary Counsel	(206) 727-8207	discipln@wsba.org
Licensing	(206) 727-8210	license@wsba.org

RE-ELECT JUSTICE BARBARA A. MADSEN
WASHINGTON STATE SUPREME COURT

Co-chairs

Dolores Sibonga, Seattle City Council, Ret.

Robert Brachtenbach, Chief Justice, Ret.

Vernon Pearson, Chief Justice, Ret.

John Clute, Dean Gonzaga Law School

Steering Committee

Hon. Elaine Houghton
Thomas Boeder
Ron Perey
Daryl Graves
Charles Wiggins
P. Cameron De Vore
Monte Hester
Dean Lum

Finance Advisor
Katy Jo Steward

- *"Integrity is an essential quality for a good judge. Barbara has that quality in abundance. Combine that with her strong work ethic, common sense, and her years of experience and you have my reasons for supporting Justice Madsen for re-election to the Washington Supreme Court."* Charles Wiggins — Attorney and former appellate judge

- *"Besides being a really great human being, Barbara Madsen is one of the most hard working and thorough justices I ever served with."* Robert Brachtenbach — Chief Justice, Washington Supreme Court, Ret.

- *"Over the past six years Justice Madsen has proven she is remarkably balanced and fair-minded. She has consistently upheld all constitutional rights. The Washington Affordable Housing Council proudly endorses Justice Barbara Madsen for the Washington State Supreme Court."* Greg Overstreet — Washington Affordable Housing Council (BIAW)

- *"Barbara has amazing energy and determination. Working with her on court issues I saw first hand her leadership qualities. Justice Madsen has the experience, intelligence and plain old common sense that we need on the Supreme Court."* Dolores Sibonga — Attorney and Seattle City Councilwoman, Ret.

- *"Supreme Court Justice Barbara Madsen is just the kind of person that the Washington State Council of Police Officers believes should sit on the Supreme Court. She is thoughtful and hard working and bases her decisions on the law and the State and Federal Constitutions."* Mike Patrick — Executive Director, Washington State Council of Police Officers

Endorsed by former WSBA Presidents:
Tom Chambers
Paul Stritmatter
Stephen E. De Forest
Joe Delay
James A. Vander Stoep
Patrick Comfort
F. Lee Campbell
Bob Redman

Also

Washington State Council of Police Officers
Washington Affordable Housing Council (BIAW)
Joint Council of Teamsters No. 28
Aerospace Machinists Industrial District Lodge 751
Washington Federation of State Employees
Washington Association of REALTORS

Paid for by the committee to Re-Elect Barbara Madsen • (253) 209-7588, P. O. Box 2933, Renton, WA 98056
Treasurer — Charles Rupnick

Letters

LeTourneau Feedback

■ Editor:

First you publish a letter from someone who evidently thinks we should do away with free legal services for those who can't afford to pay our fees, then follow that up with someone who thinks there is nothing wrong with pedophilia as long as the victim consented!! I cannot believe you published such trash in a professional publication. My one consolation is that the *Washington State Bar News* has a limited circulation so that the public doesn't have cause to dislike attorneys even more than they already do.

While you have published other letters I find offensive, the letter from Mr. Jared was the last straw, and I feel compelled to respond. What Ms. LeTourneau did was disgusting, sick, and illegal, and Judge Lau was easy on her considering what happened. A child of 13, boy or girl, does not have the emotional maturity to understand the ramifications of a sexual relationship. When a teacher, someone who is trusted to protect our children, is the one who initiates the sexual conduct, that makes it even more reprehensible.

I understand some men out there may think, "way to go," just like Mr. Jared. I, however, have male friends who were taken advantage of by an older woman when they were 13, 14, or 16. They have confided in me that, at the time, their response was the juvenile one of Mr. Jared's. Later, as mature adults (a status Mr. Jared evidently has not yet attained), they realized the harm such a sexual experience caused. I weep for any child who has had his/her innocence taken away, especially by an adult that he or she trusted. Mr. Jared's thoughts to the contrary, any child who has had such an experience has been harmed.

Denice L. Patrick
Lynnwood

■ Editor:

As both a teacher and a lawyer, I find that Mr. Jared seems to have ignored a critical piece of information in his concern about whether or not there is a victim, and whether Ms. LeTourneau's behavior should be a crime. The critical point he missed is that she was a teacher, and had a special obligation to her charges.

Even if we were to legitimize consensual relationships at 13 or 14, a prospect I don't relish, there is and ought to be a special prohibition for those in power relationships of any kind, especially for those who, like Ms. LeTourneau, teach in our primary and secondary schools. The opportunity for abuse is too great for society to allow anyone to believe this is appropriate behavior. There is and always has been an appropriate solution for those who we "truly in love": WAIT.

A second point apparently missed by Mr. Jared is that we don't allow victims to determine whether a crime has occurred. That is quite properly the responsibility of society through the prosecutor, courts and legislature. It is certainly possible, and I believe likely, that the young man in question and his family will, in fact, eventually recognize that they have been victimized. I am quite sure the school system, among others, has suffered suffi-

ciently to be called "victim." No, Mr. Jared, Ms. LeTourneau's sentence was not too harsh. It was hardly harsh enough.

TIMOTHY E. WILLIAMS
Kent

■ Editor:

I want to weigh in with Jeff Jared (April 1998 *Bar News*) in opposing the conviction and sentence of Mary LeTourneau.

The extremely harsh punishment imposed on this former schoolteacher is a miscarriage of justice. She has been sentenced to $7^1/_2$ years in prison. And for what? Has she committed some heinous crime?

No, she hasn't. She merely had a love affair with someone much younger. While her love affair may be different from most, I had always thought that in a free country we have the right to be different so long as we are not harming anyone else.

The moral basis for law is to protect our rights and to prevent men from willfully injuring one another. But when the law attacks peaceful, gentle people like Mary LeTourneau, the law itself becomes aggression.

There is no real crime on the part of Mary LeTourneau because her young lover, who was capable of becoming a father and who did so with her, has professed his love for her throughout the affair. Mary LeTourneau's conduct is entirely without force or fraud.

And furthermore, the teen-aged boy's family has no problem with Mary LeTourneau. They are on her side. So why should the state of Washington be involved at all?

The term "rape" as used in this case by the media and the courts is misleading. It is deceitful, Orwellian newspeak designed to inflame the public. Some truth should be applied to this so-called "crime" of Ms. LeTourneau's, and it should be renamed as what it is, which is consensual sex with a minor.

Twenty-five years ago, Mary LeTourneau's love affair would not have been a felony in this state, and may not have even been a misdemeanor. In the last several years, our society has gone insane with oppression, and not just about sexual matters, either.

Mary LeTourneau should be freed from prison immediately. And when the boy turns 16, this couple should be allowed to get married and should be given custody of their children.

Whatever happened to the traditional American value of just leaving people alone and letting them be free?

TOM STAHL
Ellensburg

ALJs Hard-working Professionals Who Develop Factual Records

■ Editor:

The article *Making a Case for Expanding Non-attorney Representation in Some State Administrative Hearings* contained some statements that demand response.

The article states,

> There are 60,000 case filings a year in Washington for state administrative hearings, and it is believed that legislation slated as 'welfare reform' is stressing not only state administrative processes, but also federal ones. For example, it was estimated that in 1997, more than 100,000 disabled children lost Supplemental Security Income (SSI). The lack of attorney representation for these tens of thousands of low-income persons at the administrative level was identified in the *Report* as a serious impediment to access to civil justice. By the time the few appealed administrative cases (estimated at 1 percent) reach superior court, the *damage has been done in terms of the record, which likely was not developed if there was no attorney involvement.* (emphasis added)

This paragraph and the article's title together mislead the reader by failing to appropriately distinguish between social services hearings at the state level and those at the federal level. I believe that in attempting to illustrate a real problem, the article does an inexcusable disservice to state level Administrative Law Judges (ALJs).

There are distinct differences between federal social services programs (such as SSI) and state-administered social services programs (such as TANF or General Assistance). As a small but significant example, appeals of SSI determinations are heard before ALJs employed by the federal government, and are appealable to federal court, not state superior court. I do not have the expertise to say how lack of attorney representation affects the conduct or outcome of hearings before federal ALJs.

However, I am quite familiar with state level hearings before the Washington State Department of Social and Health Services (which, again, does not determine eligibility for SSI, a federal social services benefit). Of the 60,000 annual state hearings requests mentioned in the article, some 25,000 arise before DSHS; ALJs employed by the Washington State Office of Administrative Hearings conduct these hearings. For many years, DSHS has provided in its rules for representation by virtually any person of the appellant's choosing (except a DSHS employee). The ALJs explain at the start of a DSHS hearing the litigant's right to be represented by anyone. But better than 90 percent of litigants in these hearings represent themselves, and representation by attorneys or paralegals is rare.

Nevertheless, in the absence of attorney (or other) representation, and under sometimes very adverse circumstances, the state level ALJs do routinely develop the factual records necessary to apply the law and make their decisions. DSHS procedural rules and state model rules of administrative procedure require them to do so, and they do it with concern for both the record and the litigants. The assertion that "the record . . . likely was not developed if there was no attorney involvement" is unwarranted when applied to state-level ALJs, fails to recognize the contributions of these hard-working professionals, and is worthy of correction, if not apology.

This should not be understood as criticism of what I think the cited paragraph

intends to illustrate, which is the indisputable need for trained representatives in many administrative hearings, including social services hearings at all levels. But the point should not be made, even by implication, at the expense of our state ALJs.

ELLEN G. ANDERSON
Review Judge, Board of Appeals,
Washington State Department of Social
and Health Services, Olympia

ANCIENS FARTISSIMUS URGES TIMELY EFFICIENCY

■ Editor:

I seem to have reached another plateau in my life — that of *Anciens Fartissimus*. I cannot mask the physical changes in my life (as Shakespeare wrote: "sans eyes, sans hair, sans teeth"); and I recognize that I am becoming downright cantankerous. It appears that there is a growing trend among lawyers — and not restricted to the newer members of the Bar — to be unable or unwilling to finish tasks and to conclude projects in a timely, unemotive, linear manner. The real "trick" to the practice of law is to finish what you start, and not leave clients and their files unattended. Call it "connecting the dots," if you will, but there is no substitute for completing all the steps required. Sometimes, those may consist of returning a telephone call to another lawyer, answering a client's question, keeping an appointment, responding timely to a pleading, meeting a deadline, or just showing up at a hearing.

Perhaps we are becoming too contrary a society and profession, in the belief that we may thereby be perceived as tougher or more important. In reality, tardy and unresponsive conduct only adds to the client's cost, irritates opposing counsel and frustrates or angers judges. One's independence is not manifested through dilatory or slothful antics in a case, but a lawyer's reputation (often a fragile possession) can be shattered beyond repair by not tending to her or his cases. Not infrequently, the client's cause is put at peril by a lawyer who does not complete the necessary steps in the correct sequence. "Creative lawyering" should not be confused with incipient malpractice. Unfortunately, I have seen many lawyers (some of whom were very bright and talented) who were incapable of implementing their own advice or case strategy — and the client and other parties were then forced to sweep up the litter.

As I grow further into my dotage, my professional practice lessens; and it should! While the erosion of the mentoring system in the law has had inevitable negative effects, it remains constant that a lawyer's obligation is to finish a project or get out of it quickly. Poor practices ultimately hold us all hostage; and frankly, they cannot be tolerated — period.

DANIEL M. CAINE
Seattle

BAR ASSOCIATION NOT "MORALITY POLICE"

■ Editor:

Although I do not morally approve of an attorney having a sexual relationship with a client, I do not believe that this is a matter that should be subject to attorney discipline. The abuses the rule was designed to prevent can likewise lead to additional abuse by distraught lovers, spouses or others who could attempt to

leverage the affair to their own advantage. The Bar Association should not enter the realm of "morality police." The rule should be ended.

DOUGLAS W. SCOTT
Bellevue

ETHICS REVIEW WINDOW DRESSING OPERATION

■ Editor:

Thirty years of practice as a physician in this state, along with as many years of experience as a somewhat frequently called "expert witness" in forensic medical/psychiatric matters, has given me a great deal of concern, if not abject fear, of the power of the Medical Quality Assurance Committee (formerly the Disciplinary Board) over a physician's practice and licensure.

Having witnessed a presentation by one of your previous appointed officers who for years headed your Bar organization entity that fielded various complaints, along with an assuring commentary by an A.G. who talked about the great efforts that were being made to preserve confidentiality in Bar investigations, I felt your organization certainly had a much more professional, ethical, and up-to-date procedure in place for the evaluation of complaints of lawyerly misconduct than we physicians have regarding allegations of medical misbehaviors.

I was wrong.

I complained more than three years ago that an attorney who'd hired me for expert testimony hadn't paid me and refused to return phone calls or acknowledge letters and billings. An appointee assigned by the Bar phoned him and received the same obfuscation, and after about eight to nine months told me he could do nothing more about this "professional."

Over a year ago I complained that an attorney had lied in open court that I'd called his client "honey" in my IME (which was recorded by that attorney) — he finally provided me copies of the tapes, which I then had analyzed by a nationally-known acoustic engineer. I provided the Bar with the evidence from this expert that indeed I hadn't used the (abusive in this context) word "honey," only to be informed that the Bar could not find that the "professional" (a former president of one of your associations) did anything wrong. This finding was affirmed by each level of appeal I sought within the Bar Association.

It occurs to me that your association may well consider obtaining a consultation from the Medical Quality Assurance Committee regarding adding a bit more of a draconian sting to your window-dressing operation regarding professionals' ethics. It does seem like the "conspiracy of silence" you used to accuse us in medicine of having has infected your own professional ranks.

G. CHRISTIAN HARRIS, M.D.
Seattle

CALLING THE ASS'S TAIL A LEG

■ Editor:

The liberal-collectivist world view has removed everything conceivable from private to the public sector, and now addiction, too, has been resorbed as a "pub-

lic-health problem." That is all very kind and understanding and touchy-feely, but it is not a sentiment I wish to have expressed on my behalf as a member of the Bar.

Addiction is an individual problem. If we are able to help someone through the self-destructiveness of addiction, it is imperative that we remain focused on reality and have the integrity not to lie about the addict's problem and enter her lie-based world.

Addiction is *not* a public-health problem; it is an individual's very complete moral failure to come to terms with reality and it is his failure to value himself. Calling it anything else is very sympathetic and fashionable, but, to invoke Abraham Lincoln's old saw, calling the ass's tail a leg just doesn't make it one.

LAUREN S. BAIN
Vashon Island

REGGIE WHITE AND OBACHINE: LET FREE SPEECH & FREE MARKETS DECIDE

■ Editor:

The ObaChine controversy leads me to ask: what's wrong with positive stereotypes? Green Bay Packer Reggie White got into trouble for them. After all, as most of his stereotypes were positive, shouldn't we be encouraging him? But in the long run, the market, not the government, should decide what's said (or displayed as art or ad) in pubic.

Market pressure is legal *censure*, whereas state action is illegal *censorship*, invoking the protections of the First Amendment. If Reggie White loses contracts and endorsements because of his speech, so be it; the market has decided against him. He shouldn't be able to cry foul, as the *government* didn't do anything to him, so the First Amendment doesn't apply. And, similarly, ObaChine shouldn't be able to complain if it loses business because of picketing and boycotts. This censure-censorship distinction is important.

Government censorship exercises pure — and unjust — coercion. Market pressure censure exercises indirect coercion, more akin to peer pressure. Market censure (what anthropologists call social ostracizing as social control) doesn't involve state action. If your friends don't invite you to their party because they don't like your art of politics, tough luck, because there is no state action upon which to cry foul. Remember, it is only the state that has the monopoly on police power and use of force, so it uniquely needs special constitutional controls which are in place: the First Amendment.

This is what is currently happening with both the Reggie White and ObaChine issues as robust, provocative debate rages over racial stereotypes. Boycotting and picketing — as well as extra patronizing — are good and free-market ways to control speech, or more accurately, fight speech with speech. If you support ObaChine's art, go to dinner there. If you don't, picket it and advocate a boycott. No coercion, just a true battle of ideas and peer pressure.

The U.S. Supreme Court held in 1941 (*AFL v. Swing*, 312 US 321) that picketing a business is protected speech — even when the purpose is to discourage patronage of the business. But this case runs counter to the recent trend in the expansion and renaissance of two common-law torts (a tort is a private civil plaintiff's action for money damages): (1) Disparaging a Business; (2) Interference With Contract or Business Relations.

It seems that First Amendment freedom should trump these free-speech-chilling torts. So if you like ObaChine's art, go to dinner there. If you don't, picket it and advocate a boycott.

JEFF E. JARED
Kirkland

✣ ✣ ✣

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.

✣ ✣ ✣

Environmental Hearings Office Process Simplified

■ Editor:

As chair of the Environmental Hearings Office, I appreciated Ms. Imbrogno's article urging expansion of non-attorney representation before administrative agencies, in the April *Bar News*. She acknowledged that the Environmental Hearings Office (EHO) has taken steps to simplify its process. However, she did not explain, in any detail, how the EHO facilitates non-attorney representation in the agency's quasi-judicial proceedings.

First, all four environmental boards comprising the EHO (the Pollution Control Hearings Board, the Shorelines Hearings Board, the Forest Practices Appeals Board and the Hydraulics Appeals Board) allow all of the following to serve as representatives in board proceedings: (1) attorneys licensed in any state; (2) officers, partners, owners, or employees of an association, partnership, corporation, organization, government agency or local government; (3) Rule 9 legal interns; and (4) any other individual designated by an entity as a spokesman, and approved by the presiding officer.

Second, the Board provides fliers written especially for non-lawyers, explaining the basic procedures of the Board. These are available to any person calling the Board, and, along with the Board's procedural rules, are sent to all the parties when an appeal is filed.

Third, the presiding officer assists pro se and non-attorneys, who are unfamiliar with the rules. To this end, each board has promulgated a rule which allows the presiding officer to relax the procedural rules for a party not represented by counsel.

Finally, the "Saturday filing" problem she noted in her article has been eliminated. This was accomplished when the Legislature, in 1997, passed a bill sponsored by the EHO. The problem was first recognized when the Court of Appeals nullified the rule of the Pollution Control Hearings Board (WAC 371-08-235), which, similar to the Superior Court Civil Rules, excluded Saturdays from the computation of time. *Beste v. Pollution Control*, 81 Wn. App. 330, 3441-41, 914 P.2d 144 (1996). This ruling meant that agencies governed by the Revised Code of Washington were prevented from developing procedural rules, analogous to the superior court rules. The Court acknowledged that the board closes on Saturdays (see RCW 42.04.060, authorizing state agencies to be closed on Saturdays.) RCW 1.1.040, originally adopted when Washington was a territory, included Saturdays, in the computation of time, for purposes of implementing the statutes of Washington. The Court distinguished *Stikes Woods Neighborhood Ass'n v. Lacey*, 124 Wn.2d 459, 880 P.2d 25 (1994), in which the Supreme Court held that, although there was a conflict between RCW 1.12.040, and CR 6(a), the court rule superseded the statute. *Stikes* 124 Wn.2d at 465-66. Nevertheless, the Court of Appeals noted the unfairness of this result, recognizing that the EHO is closed on Saturdays. Consequently, the courts left no alternative but a statutory amendment. Against this backdrop, EHO's proposed bill, excluding Saturdays from the computation of time, passed unopposed and unanimously in 1997. Laws of 1997, ch. 125, p. 664.

I note Ms. Imbrogno's comments regarding the stay procedures of the board. These are governed by statute. RCW 43.21B.320 provides the legal criteria for granting stays before the Pollution Control Hearings Board. Otherwise, the boards are governed, in reviewing stay requests, by the underlying statutes authorizing the permits under review the rules of superior courts, and, in regard to its own orders, the Administrative Procedure Act. Her suggestion that the boards be empowered to grant automatic status of state agency and regional air authority permits would affect the authority of the agencies whose permits we review, and would require state legislation.

The author's suggestion that the boards extend the time for appeal of their decisions to the courts raises an issue which affects all state agencies and is governed by the Administrative Procedure Act. Any change in this arena, likewise, would require a statutory amendment.

Our agency will be reviewing Ms. Imbrogno's article in full at our next meeting, as we continue to explore ways to improve the access to the boards and to facilitate the use, by the public, of their procedures.

JAMES A. TUPPER, JR.
Director, Environmental Hearings Office, Lacey

Mary Fairhurst
President

PRESIDENT'S CORNER

THE ART OF LISTENING

Stewards of justice listen to the dissent which has played — and continues to play — an important role in our justice system. Our nation was born because of dissent, and we have recognized the right and value of listening, closely and carefully, to those who have views different from our own.

We must work hard on our ability to listen; it is an art to be mastered.

"We must work hard on our ability to listen; it is an art to be mastered."

What are others really saying? Why is their message important to them? Why are they sharing it?

We must listen to our clients to understand their needs and perspectives. We must listen to opposing counsel to understand their positions. We must listen to those with whom we work to discover how to work together efficiently, effectively and harmoniously.

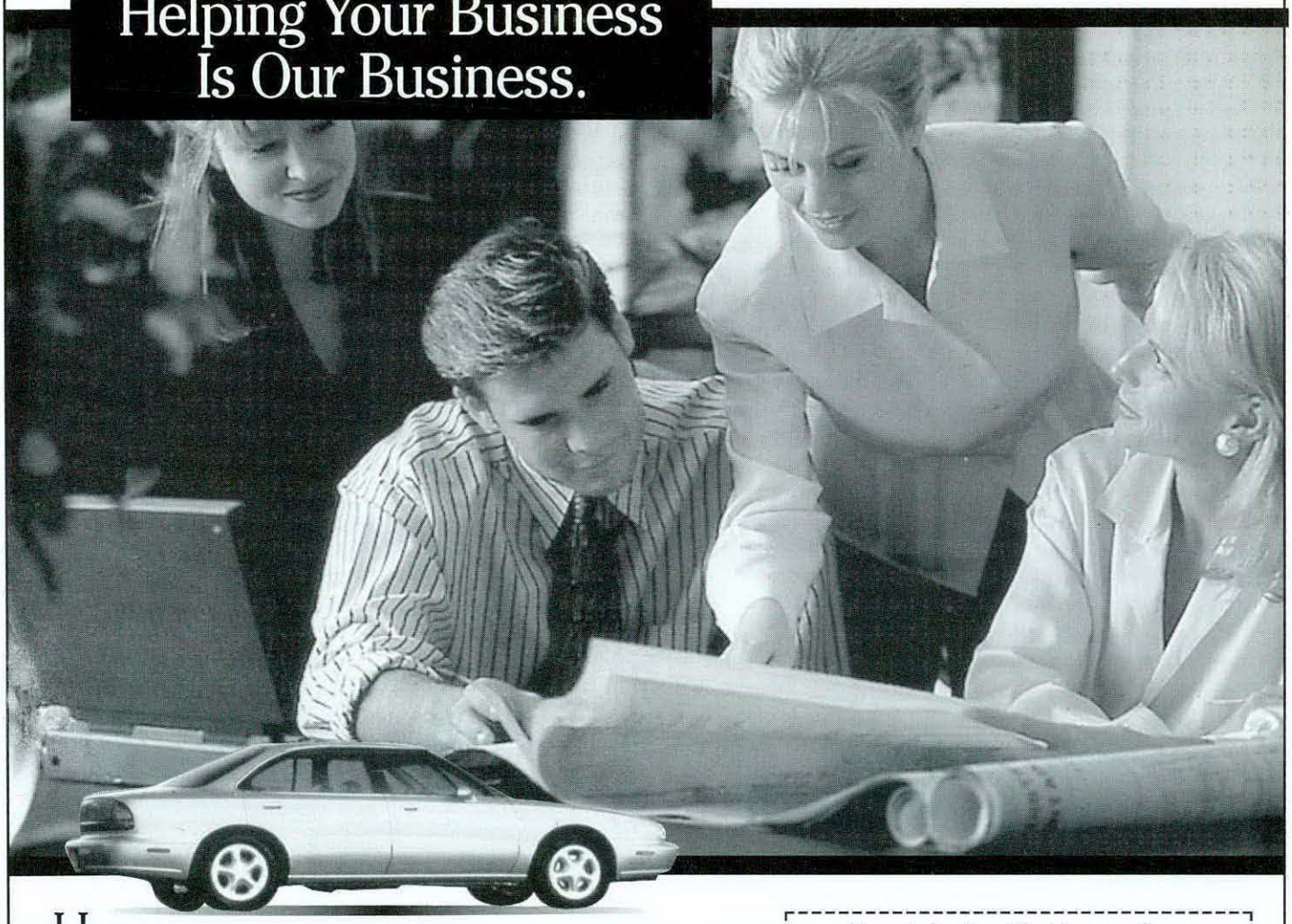
As lawyers, we want others to develop good listening skills, too. In alternative dispute resolution, mediators listen to both sides and act as conduits of messages. Arbitrators listen to both sides and make a decision. Jurors listen to both sides and decide on the facts. Judges listen to the arguments and decide the law. The Board of Governors listens to the members, public and staff and makes policy decisions.

Our Board has been complimented for its executive director search process, which relied heavily on listening to both members and staff. The governors asked for input on the characteristics, qualities and attributes for the position. Before the interview process, the Board and a search firm had listening sessions with the staff and members. On the first day, the Board scheduled a round of interviews so staff, directors, and members could ask questions of the finalists. Then the Board listened to post-interview input from the staff and members. The second day, the Board conducted an open interview at which it asked questions and listened to answers, and members and staff were again present to ask questions and listen to candidates' answers. When done, the Board heard from staff and members again before making the final decision. Some on the staff said that it was the first time they had been asked for their opinions and commented on how pleased they were the Board had really listened. King County Bar Executive Director Alice Paine, who took part the first day, was so impressed she made room on her busy calendar in order to participate the second day, and then she wrote an article about the process for the *King County Bar Bulletin*.

Those who have analyzed the art of good listening have named some of its qualities: listening without interrupting; being interested in and respecting what the speaker is saying; making sure you understand what the speaker is saying. Dr. Joyce Brothers said: "Listening, not imitation, may be the sincerest form of flattery."

The Board, President-elect Wayne Blair, Executive Director Jan Michels, the WSBA staff and I are committed to listening. Please continue to talk with us.

Helping Your Business Is Our Business.



Here's a business proposition from Avis because you're a member of the **Washington State Bar Association.** We'll give you special discounts at participating Avis locations. For example, you are eligible for **20% off** Avis Association Select Daily rates and **5% off** promotional rates. What's more, Avis has some of the most competitive rates in the industry. And, with the Avis Wizard® System, you'll receive our best available rate when you mention your Avis Worldwide Discount (AWD) number: **A640400.**

But Avis saves you more than money. Avis saves you time, too. **Flight Check®** offers up-to-the-minute flight information in our car rental area at major airport locations, complete with a computer printout. **Avis Cares®** helps you feel at home on unfamiliar roads with amenities like Weather Fax℠, Daytime Running Lights and a Travel Safety Information leaflet. During peak periods, at major airport locations, **Roving Rapid Return®** lets you avoid lines when you return your car. An Avis representative will meet you right at your car and can hand you a printed receipt within seconds.

And you can expect the most professional, most courteous service in the industry. Because Avis cars come with Avis people, and trying harder is what they do best. So make it your business to take advantage of all the member benefits that Avis has waiting for you. Just show your Avis Member Savings Card or Association Membership ID card at time of rental. For more information or reservations, call Avis at **1-800-698-5685**. And be sure to mention your Avis Worldwide Discount (AWD) number: **A640400**.

Especially For Washington State Bar Association Members

Save $15 Off A Weekly Rental!

Reserve an Avis Intermediate through a Full Size 4-Door car. Then present this coupon at a participating Avis location in the U.S. and receive **$15 off a weekly rental.** Subject to complete Terms and Conditions. For reservations, call your travel consultant or Avis at: **1-800-698-5685.**

TERMS AND CONDITIONS
Coupon valid on an Intermediate (Group C) through a Full Size four-Door (Group E) car. Dollars off applies to the cost of the total rental with a minimum of five days. Coupon must be surrendered at time of rental; one per rental. **An advance reservation is required.** May not be used in conjunction with any other coupon, promotion or special offer. Coupon valid at Avis corporate and participating licensee locations in the contiguous United States. Offer may not be available during holiday and other blackout periods. Offer may not be available on all rates at all times. Cars subject to availability. Taxes, local government surcharges, and optional items, such as LDW, additional driver fee and fuel service, are extra. Renter must meet Avis age, driver and credit requirements. Minimum age is 25, but may vary by location. Rental must begin by 12/31/98.

Rental Sales Agent Instructions.
At Checkout:
- In AWD, enter **A640400.**
- In CPN, enter **MUGK783.**
- Complete this information:
  RA# _____
  Rental Location _____
- Attach to COUPON tape.

AVIS® We try harder.

Avis features GM cars.

Jan Michels
Executive Director

EXECUTIVE'S REPORT

GETTING ACQUAINTED WITH THE WSBA

The first phase of my 100-day plan for getting acquainted with the Washington State Bar called for me spending time with the staff at headquarters. In this time, I have reviewed budgets, programs, initiatives, staff assignments, and the personnel system. I have had the pleasure of meeting one-to-one with over half of the staff and have enjoyed one all-staff meeting. I work regularly with the department directors and we meet as a group every week. As I listen and learn I can report that overall the WSBA IS A GREAT PLACE! I've always considered myself "in service." Mostly, that has been government, committee work, and on advisory boards. Influence, an action orientation, progress and tangible results have often seemed oblique and hard-fought. What I'm finding at the WSBA is real commitment and a "we can do that" attitude.

STRENGTHS AND WEAKNESSES

At the WSBA, we do have some structural anachronisms, and we do not always take full advantage of creative inspirations and new management approaches. We're not easy to reach through the phones, and our response times are sluggish. A new "member services" initiative needs more direction and support. The office also needs to take better advantage of electronic communication for registration, ordering and information management. I think that we're weak on central themes and broad strategic planning. On the other hand, even though we may lack the strength of common identity and purpose, I find that the many programs and functions aimed at our regulatory, support and assistance programs are strong and effective. Staff members are well-trained, competent and energetic. Many have a passion and commitment to their work that exceeds expectations and job requirements.

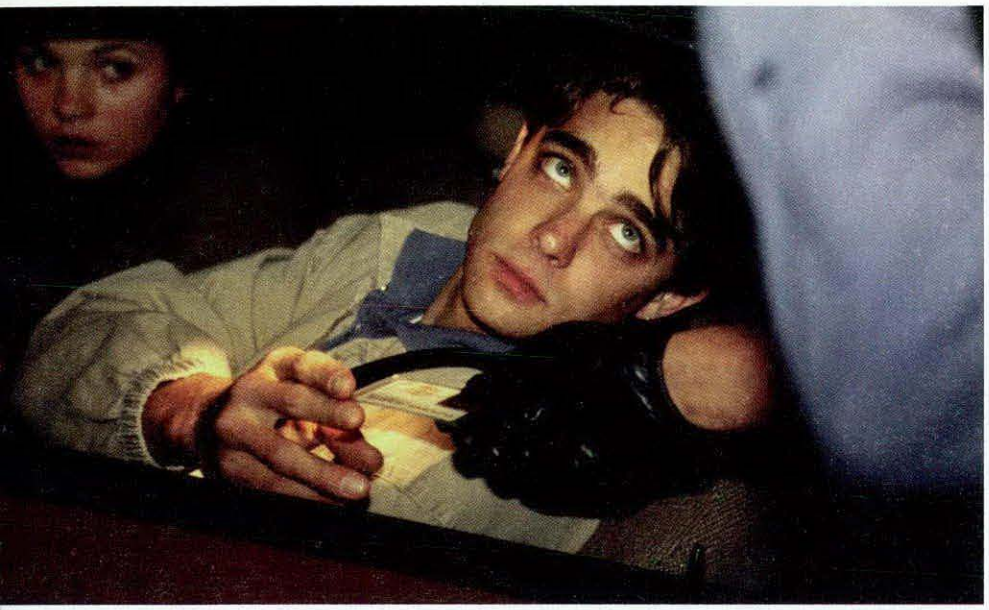
WHAT WE NEED TO DO

The WSBA office needs to respond to membership needs. At the WSBA, my service will be to provide inspiration, cohesiveness, and direction to this highly active, collaborative set of staff and functions. This service should show to WSBA membership in the following ways:

- clear and timely regulatory services,
- efficient and expedient ordering, registration and licensing,
- well-trained lawyer assistance (direct counseling, law office management assistance, alternate dispute resolution),
- reliable member services (accurate and speedy phone, mail and electronic responses),
- excellent staff support to sections and committees, and
- inclusive, supportive coordination with all law-related entities.

These goals will be the focus of my work at the WSBA office. Now, as promised, I turn to learning more about the needs, interests and roles of sections and committees.

PUNISHMENT OR REHAB



THE JUVENILE'S RIGHT TO TRIAL BY JURY

BY SUSAN CRAIGHEAD

"Explain it to me again," asked my 16-year-old client, charged with a Class A sex offense. "How come I don't get a jury trial?" I had just finished telling him that, if convicted, he would carry a conviction on his record for the rest of his life, would have to register as a sex offender for several years at a minimum, and could be locked up until he became 21.

"The law says you don't get to have a jury trial because you are not being punished, you are being rehabilitated," I told him.

"What's the difference?" he asked.

Indeed.

For decades, juveniles have been denied the right to trial by jury because the proceedings against them in juvenile court have not been deemed "criminal prosecutions" triggering Sixth Amendment protections. Juveniles can constitutionally be denied the right to jury trials only as long as the philosophical underpinnings of the adult and juvenile systems remain distinct, the U.S. Supreme Court held in *McKeiver v. Pennsylvania*, 403 U.S. 528 (1971). Historically, juvenile courts were established to guide and protect wayward youth, whereas adult criminal prosecution has always been designed to punish, stigmatize and deter.

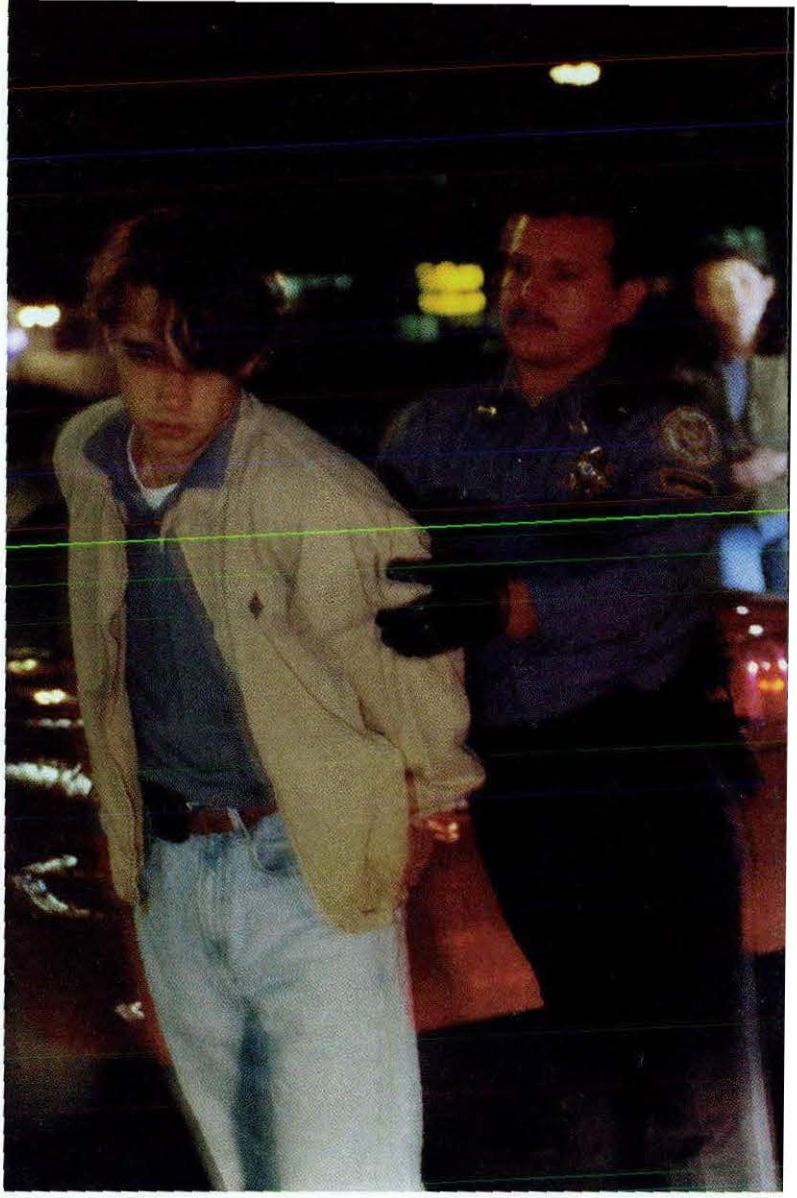
With changes to the Juvenile Justice Act enacted in 1997, however, the Washington Legislature all but erased the philosophical distinction between the two systems. As a result, attorneys across the state are demanding jury trials for juveniles, and the issue is once again pending in the appellate courts.

A word to those who came of age in the '50s, '60s and '70s: Things have changed. If your 13-year-old son broke another boy's nose on the playground, he could be charged with Assault in the Second Degree, a Class B felony. If he were found guilty by a judge, the conviction would stay on his record, available to employers, colleges, professional schools and the military for a minimum of 10 years. He would not be permitted to carry a firearm for the rest of his life (unless a court restored the right), eliminating careers in law enforcement and the armed services. And if your son happened to get in trouble again as an adult, that conviction would count towards his sentence as if it had happened when he was an adult. It would also disqualify him from all of the "rehabilitative" sentencing options available in adult court.

To be sure, he would probably be locked up for only a few days or weeks, but the standard range adult sentence for the same crime is only three to nine months. Juveniles can be incarcerated until the age of 21, although they are usually sentenced within the statutory standard range or, if warranted, to a year or two in a juvenile institution. The average adult felon in Washington serves about 15 months; clearly, many spend much less time behind bars than that.[1]

In any case, the constitutional right to a jury trial is not conditioned on the length of time an accused can be expected to be incarcerated. The right to a jury trial under the Washington Constitution attaches when one is accused of an offense that constitutes a crime. *Pasco v. Mace*, 98 Wn.2d 87, 99 (1982).

ILITATION?



Adults charged with misdemeanors, even those with 90-day maximum sentences, are entitled to trial by jury in Washington.

The denial of jury trials to juveniles is based on an anachronistic perception of juvenile court. It may be that the boy who breaks someone's nose might benefit from the attentions of a probation officer or from incarceration in an institution more like a training school than an adult prison. But this modicum of rehabilitation no longer justifies the deprivation of an essential constitutional right.

At one time, juvenile court judges exercised broad discretion to tailor treatment to individual children. Generally, they used that discretion wisely, even in extremely serious cases. Yet in recent years the Legislature has stripped the bench of much of its ability to respond to the individual needs of children by mandating that juveniles charged with serious offenses be automatically tried as adults, and by eliminating the court's ability to suspend incarceration to encourage kids to comply with probation. These changes reflect the Legislature's emphasis on punishing minors rather than allowing judges the opportunity to attempt to modify their behavior.

Today, the juvenile justice system is no longer private, informal, or primarily geared to respond to the needs of juveniles. It no longer spares children the stigma of criminality. As one legislator put it during floor debate in 1997, the revisions of 1997 "will help keep serious offenders from being able to hide their past when they turn 18."[2]

Quid Pro Quo

A bargain, pure and simple, lies at the heart of the denial of trial by jury to juveniles. Historically, in exchange for the benefits of the court's attention and for protection from the stigma of criminality, the juvenile sacrificed his or her legal rights.[3] The exchange was deemed constitutionally fair once essential due process rights, such as the right to counsel, were accorded the juvenile; the right to trial by jury was not extended to juveniles because it was feared jury trials would undermine the "private" and "informal" nature of the juvenile justice system.[4]

Until the creation of a juvenile court in 1905, juveniles accused of committing crimes in Washington were tried as if they were adults. Juveniles in this state were entitled by statute to jury trials until 1937. But even in the 1890s, before a separate juvenile court was created anywhere in the country, Washington judges were permitted to commit any child convicted of a crime to a state reform school instead of prison if "the accused is a proper subject therefor."[5] Thus, in our early years of statehood, the Legislature envisioned juveniles undergoing the same criminal trials as adults, but it created a Victorian sentencing alternative — the state reformatory.

With the Progressive Era at the turn of the century came the child savers who, rather than approaching juvenile misbehavior as crime, viewed it as a "disease that could be diagnosed and cured."[6] The so-called child-savers addressed themselves not just to young lawbreakers, but to children "in danger of growing up to lead an idle, dissolute life."[7] Despite their benevolent intentions, the system they created caused children to be locked up for years in abusive reform schools simply because they were poor and, often, immigrants.

Nonetheless, these early 20th-century reformers invented the juvenile court and conceived the notion of treating juvenile misbehavior differently from adult criminal activity. In contrast to the very public justice afforded adults, delinquency determinations were to be made behind closed doors. Within their discretion, judges could waive juvenile court jurisdiction and turn a child accused of committing a crime over to the proper authorities for trial under the criminal code. Clearly, juvenile court was never constituted to determine whether a child had committed a crime, but rather whether he or she had needs that could be addressed by the court.

Prior to 1977, when the Juvenile Justice Act overhauled the system, probation officers, not prosecutors, screened new charges. As recently as 1975, juveniles in King County were found delinquent only once; thereafter, new offenses were

termed "probation violations." The threshold question asked by the juvenile court was whether court intervention was in the child's interest, not whether a case could be proven against him or her.[8] Perhaps most important, juvenile records and proceedings were confidential until 1977.

It was against this backdrop of privacy and informality that the U.S. Supreme Court considered the right of a juvenile to a jury trial in *McKeiver*. The Washington Supreme Court also grappled with this issue in *Estes v. Hopp*, 73 Wn.2d 263 (1968). It is no wonder the courts feared that the introduction of trial by jury would fatally disrupt the informal and fundamentally benevolent proceedings of juvenile courts. As long as children were neither treated nor labeled as criminals, then jury trials were not constitutionally required.

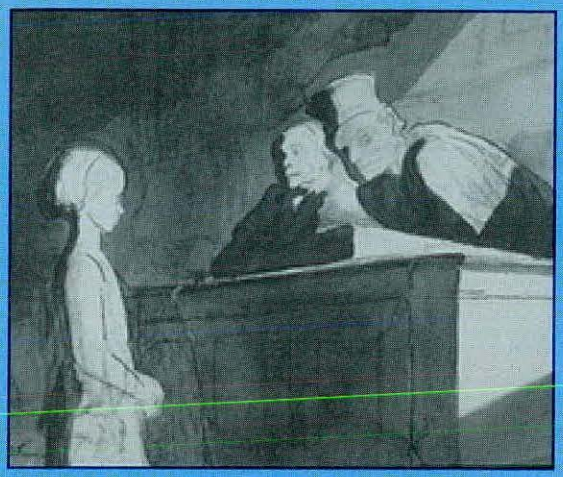
QUID PRO QUO IN TRANSITION

From the vantage point of 1998, the juvenile court of *Estes* and *McKeiver* has receded into folklore. The changes began with the Juvenile Justice Act of 1977, which created a juvenile court system procedurally analogous — but for jury trials — to the adult criminal process. Prosecutors, not probation officers, now were to make filing decisions based on the juvenile's conduct and the strength of the State's case. The Act established a parallel lexicon for juvenile court; juvenile "respondents" (not defendants) were to be "adjudicated" (not tried) to determine whether the allegation that they committed an "offense" (not crime) was "correct" (not guilty).

Washington became the first state to widen the approach of the juvenile justice process beyond an exclusive focus on the child to include "accountability" for his or her offense. The Act adopted a determinate sentencing grid, similar to the structure currently employed by adult courts. No longer were juvenile proceedings confidential.

The structural similarity between adult and juvenile court and the introduction of "accountability" (and thus punishment) to the juvenile system gave rise to demands for jury trials 20 years ago. In response, the Washington Supreme Court held that juveniles are not entitled to trial by jury as long as the juvenile system could be meaningfully distinguished on a philosophical basis from the adult criminal justice system.[9] The denial of jury trials to juveniles rested on the distinction between the retributive orientation of adult criminal prosecution and the rehabilitative focus of the juvenile system.

Since the enactment of the Juvenile Justice Act of 1977, Washington courts have been loath to critically examine the evolving purpose and philosophical underpinnings of the juvenile justice system. Twenty years ago, the dissenters in *State v. Lawley* saw clearly that the purpose of an adjudication proceeding was to ascertain whether a child had commit-



"In the 1890s . . . Washington judges were permitted to commit any child convicted of a crime to a state reform school instead of prison."

ted a crime; they recognized that the primary aim of the juvenile justice system was no longer to attend to the welfare of the offending child, but rather to punish him and serve society's demand for retribution.[10] These truths have only become more evident as the Legislature amended the juvenile-justice statutes and enacted and amended the Sentencing Reform Act for adults.

Underlying the courts' reluctance to acknowledge the obvious is an acute awareness of the potential cost of juvenile jury trials, in both financial and political terms. In 1987, after the integration of some juvenile convictions into adult sentence calculations under the Sentencing Reform Act, the court once again rejected juvenile jury trials. Its opinion began with the extraordinary observation that "[w]hile we recognize the importance of the right to trial by jury, we also recognize the realities of life, and the enormous impact that jury trials would have on the juvenile justice system."[11] The dissent pointed to this policy concern, not constitutional principles, as the best explanation for the majority's failure to recognize that the primary goal of the juvenile justice system was no longer rehabilitation, but condemnation, punishment, and deterrence.[12]

With the changes to the Juvenile Justice Act enacted in 1997, it is difficult to imagine how the court can continue to deny the reality that the juvenile-justice system in Washington has become a junior version of adult court — all the consequences without the bother. Once a state abandons the *parens patriae* juvenile-court model, the bargain underlying the denial of jury trials is broken. No longer can juveniles be denied their constitutional right to trial by jury.

Quid Pro Quo Bankrupt

Juveniles in Washington are now convicted of crimes; this is precisely what the early reformers sought to avoid. The essence of the juvenile court was supposed to be protecting children from the stigma of criminality while providing needed services. Today, we have come full circle, back to the Victorian model of punishment — without the trial by jury that our late 19-century forbearers guaranteed.

The 1997 revisions are at once minutely detailed and broadly expansive. Together with other changes over the past decade, they illustrate the evolution of the philosophy of juvenile justice in Washington from rehabilitation to retribution. Like any evolutionary process, vestiges of the past remain — but the tenor of the present system could not be much more punitive.

For example, the Legislature in 1997 adopted language equating the term "adjudication" under the juvenile code with "conviction" under the Sentencing Reform Act. For decades, appellate opinions performed semantic gymnastics attempting to avoid the inevitable conclusion that the Legislature was, in fact, moving toward convicting juveniles of crimes.[13] It may not be to the liking of the bench or the defense bar, but the Legislature has now made itself abundantly clear.

Once a child is convicted of a felony, it has become almost impossible to eliminate the conviction from the record. Criminal history available to the public includes juvenile convictions. Juveniles convicted of sex offenses are required to register as sex offenders and are subject to the same community notification procedures as adults. And a 1997 amendment requires that the court inform a child's school principal of most juvenile convictions.

Contrary to still-popular belief, juvenile records do *not* disappear once a minor reaches the age of 18. In 1997, the Legislature revised laws regarding the sealing of juvenile records to render them analogous to "wash out" provisions that cover adult felonies. Juveniles convicted of Class A felonies and sex offenses can never seal those records; those convicted of less serious felonies must wait five to 10 years to ask the court to seal the records, and then they are entitled to sealing only if they have never again been in trouble and all restitution has been paid.

Looking back on our own adolescence and early adulthood, we can appreciate the myriad collateral consequences an unsealed juvenile record might bring. Military recruitment regulations forbid inducting felons, even juvenile felons, into the armed forces. Many forms of public assistance can be denied if a household member has a drug conviction. Admission to college, professional schools and even the bar can be affected if not foreclosed by a felony record.

"And if a juvenile is charged with a felony as an adult, the Legislature has now completed integrating the juvenile system into the adult criminal-sentencing structure."

And if a juvenile is charged with a felony as an adult, the Legislature has now completed integrating the juvenile system into the adult criminal-sentencing structure. Previously, only certain offenses committed by older juveniles would count against adults under the age of 23; now all juvenile felonies count no matter how young the juvenile or how old the adult.[14] Not only does this make prison sentences longer, but juvenile history can now disqualify adults from all "rehabilitative" sentencing options in adult court, including the First Offender Waiver, Work Ethic Camp, and the Drug Offender Sentencing Alternative.

In many small (but philosophically significant) ways, the Legislature has transformed the juvenile system. Between 1985 and 1997, for example, the Legislature gradually restricted the ability of the juvenile court to waive restitution obligations or even consider the child's ability to pay. As one legislator commented, "If a kid commits a crime and there's actual damages, he needs to be held accountable for those damages . . . restitution ought to be mandatory and needs to hang with [juveniles] throughout their life . . ."[15]

Such concern with accountability, victims of crime, and a "just deserts" orientation are not necessarily bad. But they are not part of the "juvenile concept" praised as still full of promise by the U.S. Supreme Court in *McKeiver*. The "juvenile concept" is predicated on the belief that juveniles do not "choose" misconduct, but act due to environmental pressures beyond their control.

In Washington today, however, juvenile misconduct is explicitly viewed by the legislature as a "choice." There is nothing wrong with taking that approach. As Justice White pointed out, the states are free "if they extend criminal court safeguards (such as trial by jury) to juvenile court adjudication, frankly to embrace condemnation, punishment, and deterrence as permissible and desirable attributes of the juvenile justice system."[16]

Worst of Both Worlds

In many ways, juveniles in Washington now have the worst of both worlds. Convictions in juvenile court now carry all of the long-term stigmatizing ramifications of adult convictions, without the careful fact-finding process that trial by jury ensures. Defense attorneys and prosecutors carry case loads far in excess of their adult court counterparts, and in King County judges are expected to try, on average, more than one case an afternoon.

In King County juvenile court, 65 percent of juvenile cases are resolved at or before case-setting hearings, generally within two weeks of arraignment. In adult court, the median age of felony cases is 60 days. To veteran lawyers, juvenile court feels like a factory; to children and their parents, it feels like chaos. Even though some 14 percent of felonies are resolved at trial (compared to 7.6 percent of adult cases),[17] defense attorneys joke that they know what the verdict will be as soon as all of the State's witnesses show up.

Absent the prospect of a lengthy and unpredictable jury trial, prosecutors have little incentive to negotiate. Prosecutors know that judges almost always convict juvenile respondents. As a result, the system treats juveniles and adults who engage in the same conduct differently largely because adults have the right to trial by jury and juveniles do not.

In King County, for example, juvenile passengers in stolen cars are routinely charged with "Taking and Riding," a Class C felony. Adult passengers typically are not charged at all. While there appear to be no official statistics, anecdotally I can report negotiating more reductions of felony charges to misdemeanors in four months practicing in adult court than in 20 months in juvenile court.

"The Legislature wants juveniles to suffer all the consequences of criminal convictions without enjoying the same rights as adults."

There are good policy reasons for prosecuting kids when they do something potentially dangerous, like joy riding, just as there are good reasons to process juvenile cases quickly, while kids can still remember what they did wrong. The problem is that these policies hypothesize a juvenile court that is mainly geared toward paternally steering kids straight. Wishful thinking will not turn back the clock to the juvenile court that judges and advocates for children would like it to be.

There is no question that every so often the stars and the planets align correctly and the juvenile justice system can do something positive for a child. This is the goal of the many committed judges and lawyers on both sides who dedicate themselves to juvenile justice. And it is true that if skillfully employed, the Juvenile Justice Act allows the court to attempt to help juveniles.

But just because we sometimes are able to do good, we cannot ignore the lifelong consequences of a finding of guilt in juvenile court, any more than we can disregard the retributive philosophy that now undergirds the juvenile justice system.

The Legislature wants juveniles to suffer all the consequences of criminal convictions without enjoying the same rights as adults. The essence of juvenile court has been eviscerated. We must either restore the juvenile court's rehabilitative substance or restore the constitutional right of juveniles to trial by jury. The message from the courts and the bar must be clear: constitutionally, you can't have it both ways.

ENDNOTES

[1]"Statistical Summary of Adult Felony Sentencing," Washington Sentencing Guidelines Commission, at XX (1998). Average felony sentences for 1997 were 15.1 months.

[2]March 17, 1997, House Floor Action, Reel 3, 1:29:02, Comments of Rep. Benson.

[3]Becker, 14 *Gonzaga L.Rev.* 289, 292 (1979).

[4]*Estes v. Hopp*, 73 Wn.2d 263, 268 (1968).

[5]Hill's *Annotated Statutes and Codes of Wash. I*, Ch.IV, Sec. 1227 (1891).

[6]Becker, "Washington State's New Juvenile Code: An Introduction," 14 *Gonzaga L.R.* 289, 290 (1979).

[7]Ch. 160, Sec.1 (16), 1913 Wash. Laws at 521 (repealed, 1977).

[8]Reich, "The Juvenile Justice Act of 1977: A Prosecutor's Perspective," 14 *Gonzaga L.Rev.* 337, 338-342 (1979).

[9]*State v. Lawley*, 91 Wn.2d 654 (1979).

[10]*State v. Lawley*, 91 Wn.2d 654, 660, 662 (1979) (Rosellini, J., dissenting).

[11]*State v. Schaaf*, 109 Wn.2d 1, 3 (1987).

[12]*Id.*, at 28 (Goodloe, J., dissenting).

[13]*See, e.g., State v. Schaaf*, 109 Wn.2d 1, 15 (1987). ("For more than 70 years, this state has been trying to avoid accusing and convicting juveniles of crimes.")

[14]Nonviolent, non-drug juvenile felonies only count 1/2 point; everything else is scored the same as adult felonies.

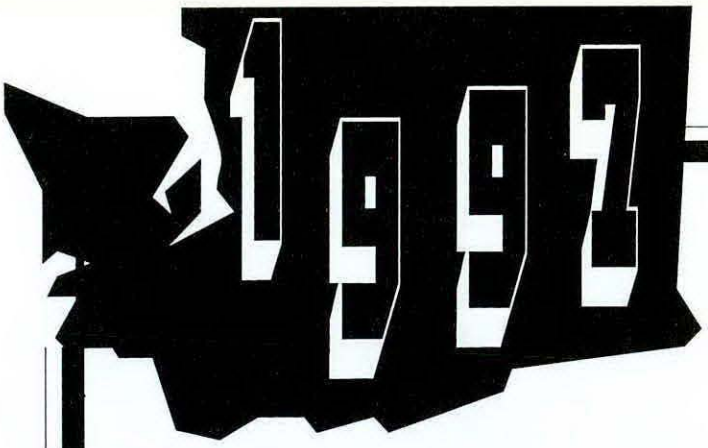
[15]February 6, 1997, Senate Law and Justice Committee, Work Session at 55:40, comments of Sen. Zarelli.

[16]*Pennsylvania v. McKeiver*, 403 U.S. at 553 (White, J., concurring).

[17]These statistics are based on the King County Criminal Department and Juvenile Offender Statistical Reports for March of 1998; the King County Prosecutor's Office reports that the trial rate for adult court is 10-14 percent.

✣ ✣ ✣

***Susan Craighead**, a 1993 graduate of Harvard Law School, is a Seattle-King County Public Defender and just completed a 20-month stint representing children in juvenile court.*



FOLIO. INFOBASE

RCW & WAC CD

As published by the Statute Law Committee, Office of the Code Reviser

- **The Revised Code of Washington, current through 1997 Special Session**
- **The Washington Administrative Code, current through noon, July 23, 1997**
- **The Washington State Constitution**
- **Pattern Forms by the Administrator for the Courts**

Each CD is licensed for 10 concurrent users. Licenses may be purchased for additional users. Passwords needed only for network licenses over 10 users.

Prepayment Required

- ☐ **I want RCW only for $50 + tax ($54.00)**
- ☐ **I want both RCW & WAC for $100 + tax ($108.00)**
- ☐ **I wish to purchase an additional RCW license for 10 additional users ($50.00 + tax)**
- ☐ **I wish to purchase an additional RCW/WAC license for 10 additional users ($100.00 + tax)**

Send your check to:

Office of the Code Reviser
PO Box 40552
Olympia, WA 98504-0552
Ph: (360) 786-6369

Name _____

Address _____

City _____ **St** **Zip** _____

New Washington

Publicity Rights Legislation

BY O. YALE LEWIS, JR.

On April 2, 1998, when Governor Locke signed ESHB 1074, a bill protecting personality rights, Washington became the 16th[1] state to enact legislation protecting what are known variously as rights of "publicity," "personality" or "persona."[2]

LEGISLATIVE HISTORY

Draft legislation was proposed by the Intellectual and Industrial Property Section of the Washington State Bar Association. That proposal, with various revisions, became ESHB 1074, which was originally sponsored in 1997 by Representative Larry Sheahan, the chair of the House Committee on Law & Justice, and Representative Dow Constantine, and actively supported in the Senate by Senators Stephen Johnson and Adam Kline of the Senate Committee on Law & Justice.[3] Representatives of the Washington State Bar Association, Allied Daily Newspapers and the Washington Music Industry Coalition testified in support of ESHB 1074.

PRIOR WASHINGTON COMMON LAW

Previously, Washington courts had generally recognized the existence of common-law privacy rights,[4] the fourth of which is the right not to have one's identity misappropriated for commercial purposes without authorization.[5] Nevertheless, Washington courts have never recognized right of "publicity" under Washington law. *See, e.g., Joplin Enterprises v. Allen*, 795 F. Supp. 349, 351 (W.D. Wash. 1992):

> This court is not willing to extrapolate, from Washington's recognition of a right to privacy, a descendible right of publicity applicable to this case or a remedy for interference with such a right under Washington law, especially given the fact that the Washington State Constitution places an even higher value upon the principle of free speech than the Federal Constitution.

PRINCIPAL PROVISIONS OF THE NEW ACT

Filling this void, the new Washington act (Act) declares that every natural person has a property right in the use of his or her name, voice, image or other specified indicia of his or her unique persona. This right is an intangible personal property right that is freely transferable by *inter vivos* or testamentary transfer. The right survives the person's death regardless of whether or not it was exploited during his or her lifetime (Sections 1, 2, and 3).

For most persons, the right lasts for 10 years after the person's death. For individuals whose personas have commercial

value, however, the right lasts for 75 years after death (Section 4).

Section 5 provides, in part, that any person who, without consent, uses or authorizes the use of a natural person's name, voice, signature, photograph or likeness on tangible products or to advertise tangible products or services, or for fundraising or solicitation of donations, has infringed the right established by Sections 1 and 3. In order to preclude an argument that has surfaced in other jurisdictions, Section 5 makes it clear that a charitable purpose does not excuse an otherwise infringing use or activity.

Section 6 expressly authorizes the superior courts of Washington to grant injunctions against infringement and provides a broad array of nonexclusive remedies for infringement, including destruction of the infringing material and statutory damages of $1,500. Reasonable attorneys' fees, expenses and court costs may be recovered by the prevailing party.

Subsection 8(1) provides an array of defenses (including comment, criticism, satire and parody, relating to matters of cultural, historical, political, religious, educational, newsworthy or public interest) that accommodate the freedom of expression guarantees of the United States and Washington constitutions. Adapting one of the holdings of *New York Times Co. v. Sullivan*, 376 U.S. 254, 84 S. Ct. 710, 11 L. Ed. 2d 686 (1964), subsection 7(1) also makes it clear that protected expression does not lose its protection merely because it is presented in the form of a paid advertisement. *Id.* at 267.

Subsection 7(2) elaborates upon certain of these defenses and delineates several highly specific "safe harbors" into which the Act does not reach: Single and original works of fine art not published in more than five copies and advertisements and sales of rare or fine products are excluded from the Act's ambit, and thus, an oil portrait of Elvis Presley, a sculpture of John Denver or a photograph of Ken Griffey, Jr. (not published in more than five copies) would not be subject to the Act and, therefore, would not require the subject's consent or constitute an infringement if published without consent. Similarly, literary works, theatrical works, musical compositions of films, radio, online and television programs, magazine articles, news stories, public-affairs reports, sports broadcasts and accounts and political campaigns are also excluded from the Act's ambit, so long as the use of the indicia or personality does not inaccurately claim or suggest an endorsement. An advertisement for any of the foregoing is also not subject to a claim of infringement.

Subsection 7(3) precludes class actions. Subsection 7(4) provides medial protection and Subsections 7(5) and 7(6) provide defenses for merely descriptive and/or incidental uses.

Section 8, in effect, recognizes the responsibility of the judicial system to determine the extent, if any, to which a spouse has any interest in the "personality" rights of his or her spouse.

How Does Washington's Statute Compare with the Laws of Other States?

Twenty-five other states have some form of statutory and/or common-law protection for the right of publicity, of which 15 have some form of statutory protection. *See* note 1, *supra*.

Persons Protected

The right of publicity is typically invoked by celebrities who have substantial value associated with their names and likenesses. But in most states, the right can apply to noncelebrities if their identities are used for commercial benefit without their consent. The Washington legislation explicitly protects the publicity rights of persons with no commercial value, although that protection has shorter post mortem duration than that provided for celebrities.

Protected Aspects of Persona

In most states that protect publicity rights, the right is violated when certain recognizable features of a person's identity or persona are appropriated without their consent for commercial benefit.[6] This can occur through the use of any of the following: names (including nicknames and professional, former and group names); likenesses (including drawings and portraits); images (including photographs, videos and the like); voices; imitations or impersonations (including lookalikes and sound-alikes); and biographical facts or statistical information about a person.

Among those states that protect personal rights by statute, no state other than Indiana protects as many aspects of the right of persona as Washington now does. A number of states (New York, Rhode Island, Utah, Virginia, Wisconsin, Massachusetts, Florida, Tennessee, Nebraska, Colorado, Nevada, Oklahoma and Texas) protect name and portrait or photograph or likeness, but only five states other than

Washington (California, Indiana, Nevada, Oklahoma and Texas) also protect voice and signature. Indiana, like Washington, protects distinctive gestures and mannerisms. Washington does this by incorporating within the definition of "likeness" "the distinctive appearance, gestures or mannerisms of an individual." Thus, for example, in Washington bushy eyebrows, glasses, mustache and cigar would be protected indicia or aspect of a certain persona.

Transferability and Descendibility

In addition to Washington, nine other states (California, Florida, Indiana, Kentucky, Nebraska, Oklahoma, Tennessee, Texas and Virginia) provide for personal rights to be transferable and descendible. In some of these, the right must be exploited during the person's lifetime to be descendible. This creates something of an anomaly in that, where prior commercial exploitation is a requirement of descendibility, descendants of a person who deliberately eschewed commercial exploitation of his or persona during his or her lifetime would be powerless to preclude exploitation by others after the death of the person with the rights. *See, e.g., Southeast Bank N.A. v. Lawrence*, 66 N.Y.2d 910, 489 N.E.2d 744, 498 N.Y.S.2d 775 (1985).

Washington has avoided this pitfall. The right survives death whether or not it has been exploited during the individual's lifetime.

Duration

The duration of post mortem rights varies, ranging up to 100 years (Indiana and Oklahoma). Tennessee law protects publicity rights indefinitely, so long as continuous commercial use is made of the persona. Washington law provides a 10-year post mortem right for individuals and 75 years for those whose persona rights have commercial value. While there is no requirement of exploitation during a lifetime, as a practical matter, demonstrating commercial value may be easier if there is a track record.

Retroactivity

Washington's statute applies retroactively to persons who died as long as 50 years prior to enactment. Only Indiana is more generous on this point, giving protection to persons who died at the beginning of this century.

Damages

Most states that statutorily protect publicity rights provide for punitive, exemplary or treble damages; these states include California, Florida, Indiana, Massachusetts, Nevada, New York, Oklahoma, Rhode Island, Texas, Utah and Virginia. *See, e.g., Waits v. Frito-Lay, Inc.*, 978 F.2d 1093 (9th Cir. 1992) (under California law, $2.5 million in damages were awarded for the use of a sound-alike of singer Tom Waits in a Frito-Lay commercial), *cert. denied*, 506 U.S. 1080, 113, S. Ct. 1047, 122 L. Ed. 2d 355 (1993). Washington does not. Washington does, however, provide for minimum or statutory damages of $1,500. Comparable damage provisions in other states range from $750 in California and Nevada to $2,500 in Texas.

Registration

Washington makes no provision for registration of rights of publicity. Four other states (California, Oklahoma, Nevada and Texas) provide for registration of the publicity rights of deceased individuals, thereby permitting registrants to put the public on notice as to who claims ownership of the rights and from whom consent must be obtained.

Consent

In every state, a person who wishes to use another's name, likeness or other aspect of identity can do so if he obtains that person's consent, and most statutes specify the type of consent required in that jurisdiction. Nine states (Indiana, Kentucky, Massachusetts, Nevada, New York, Rhode Island, Texas, Virginia and Wisconsin) require written consent. Seven states (California, Indiana, New York, Oklahoma, Tennessee, Virginia and Wisconsin) require that the consent be given prior to the otherwise infringing use. Washington is one of only three states (the others being Utah and Nebraska) in which there is no statutory requirement that the consent be either in writing or prior to the allegedly infringing use.

No state other than Washington statutorily provides that consent that is only "implied" or "oral" is adequate. One consequence, albeit unintended, might be complaints by persons who don't actually object to a particular unconsented use of their persona, but fear that inaction might be subsequently construed as "implied" consent to something to which they do object.

Defenses

Throughout the country, wherever there are disputes about publicity rights, one of the most uncertain and controversial areas of dispute involves the assertion of

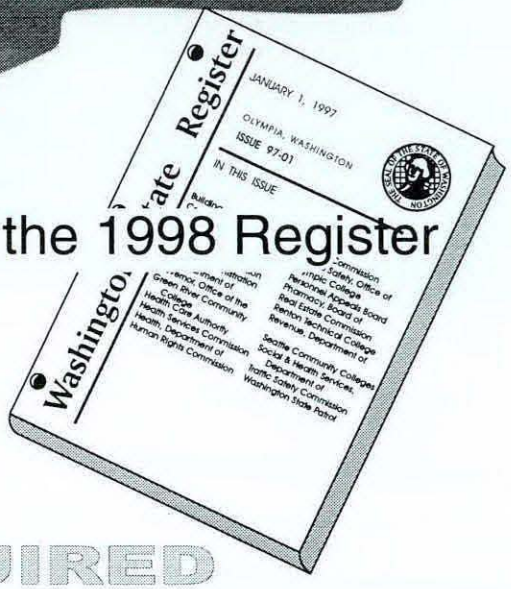
Official Washington Administrative Code

Current 1997 Edition [12 volumes]
includes
the 1998 Supplement [2 volumes]

$388.80

$360 + 8% sales tax

Agency Rules are the Law of the Land



If you do not already subscribe to the 1998 Register you can add it to your WAC order for $210.60 *($195+ 8%tax)*

Make checks payable to: Office of the Code Reviser
Send to: PO Box 40552 Olympia, WA 98504

PREPAYMENT REQUIRED

Please send ___sets of the 1997 WAC, including the 1998 Supplement at a cost of $388.80 ($360 + 8% tax) per set.

Price to include the 1998 supplement

I would like ____ subscriptions to the 1998 Washington State Register at $210.60 ($195 + 8% tax) per subscription.

State agencies and out-of state subscribers are not required to pay sales tax

Ship To: _____ Attn: _____

Address _____ Mail Stop _____

We cannot ship to PO Boxes

City _____ St ____ Zip _____

First Amendment defenses to claims of infringement. Usually, the courts conduct a fact-specific balancing test that compares the competing interests of the person's right of publicity with the public's right to be informed. The outcome often depends upon where the use falls on the continuum ranging from "news" (like current events and political commentary) and "public interest" (like fiction or satire), to "commercial speech" (like advertising). Most courts will focus on the primary message of the work in question. If the purpose of the reference is to sell or advertise an unrelated product, it is likely the work will be considered commercial speech and granted little or no First Amendment protection. *See, e.g., White v. Samsung Electronics America, Inc.*, 971 F.2d 1395 (9th Cir. 1992), *reh'g denied en banc*, 989 F.2d 1512 (9th Cir. 1993), *cert. denied*, 508 U.S. 951, 113 S. Ct. 2443, 124 L. Ed. 2d 660 (1993).

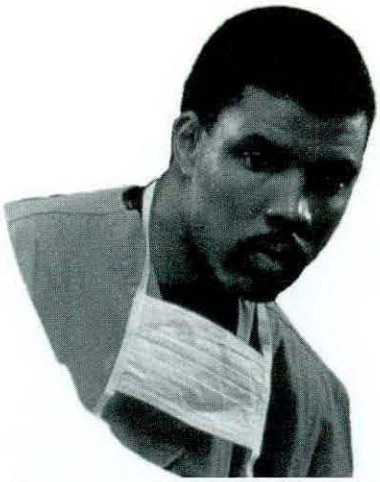
In contrast, if the principal purpose of the reference seems to be parody itself, rather than to advertise an unrelated product, the courts are more likely to find that the First Amendment prevails. *See, e.g., Cardtoon, L.C. v. Major League Baseball Players Ass'n.*, 95 F.3d 959 (10th Cir. 1996). In any event, news media have been given particularly wide latitude in publishing people's names and likenesses in contexts that have any arguable connection with news gathering and reporting. *See., e.g., Montana v. San Jose Mercury News, Inc.*, 34 Cal. App. 4th 790, 40 Cal. Rptr. 2d 639 (1995); and *Namath v. Sports Illustrated*, 80 Misc.2d 531, 363 N.Y.S.2d 276 (1975).

The following are examples of cases in which the First Amendment trumped the plaintiff's right of publicity: *Forsch v. Grosset & Dunlap, Inc.*, 75 A.D.2d 768, 427 N.Y.S.2d 828 (1980) (A photo biography of Marilyn Monroe by Norman Mailer); *Hicks v. Casablanca Records*, 464 F. Supp. 426 (S.D.N.Y. 1978) (a fictionalized account of the life of Agatha Christie); *Jackson v. MPI Home Video*, 694 F. Supp. 483 (N.E. Ill. 1998) (a videotape of a speech by Jesse Jackson); *New Kids on the Block v. News America Pub. Inc.*, 745 F. Supp. 1540 (C.D. Cal. 1990), *aff'd*, 971 F.2d 302 (9th Cir. 1992) (the use by a newspaper and magazine of the "New Kids on the Block" trademark in connection with a 900-number phone service to conduct polls regarding readers' favorite and "sexiest" members of the musical group); *Stern v. Delphi Internet Services Corp.*, 165 Misc.2d 21, 626 N.Y.S.2d 694 (Sup. Ct. 1995) (defendant was allowed to use an outlandish photograph of the backside of controversial talk show host Howard Stern in an advertisement for an online bulletin board service); *Cardtoons, L.C. v. Major League Baseball Players Ass'n.*, 95 F.3d 959 (10th Cir. 1996) (a set of collectible trading cards with parody cartoons of major league baseball players accompanied by humorous text); and *Elvis Presley Enterprises, Inc., v. Capece*, 950 F. Supp. 783 (S.D. Tex. 1996) (use of the trade name "The Velvet Elvis" by a nightclub, and the selling of frozen drinks called "Love Me Blenders" and a food item named "Your Football Hound Dog").

In other cases, the court has carefully explained why it rejected a strong First Amendment defense: *Zacchini v. Scripps-Howard Broadcasting Co.*, 433 U.S. 562, 97 S. Ct. 2849, 53 L. Ed. 2d 965 (1977) (use of a person's *entire* performance as a human cannonball in a news program); and *White v. Samsung Electronics America, Inc.*, 971 F.2d 1395 (9th Cir. 1992) *reh'g denied en banc*, 989 F.2d 1512 (9th Cir. 1993), *cert. denied*, 508

U.S. 951, 113 S. Ct. 2443, 124 L. Ed. 2d 660 (1993) (an advertisement showing a robot dressed in a costume and wig resembling Vanna White posing next to a game board like that of the renowned "Wheel of Fortune" game show). In *Cardtoons*, the court carefully explained why it found the First Amendment controlling. *Id.* 95 F.3d 959.

Most states that statutorily protect publicity rights also provide for some type of media or constitutionally required defenses: California, Florida, Indiana, Nebraska, Nevada, Oklahoma, Tennessee, Texas and Wisconsin. However, no state other than Washington has such a long list



of statutory defenses and express safe harbors, a result that is entirely consistent with Judge John Coughenour's observation in the *Joplin* case that ". . . the Washington State Constitution places an even higher value upon the principle of free speech than the Federal Constitution." *See* 795 F. Supp. at 351.

Similarly, although courts in other jurisdictions have dismissed claims of infringement on the grounds that the alleged infringing use was merely "incidental," no state other than Washington makes "incidental use" a statutory defense to an infringement claim. This is also true of the "merely descriptive" defense of Subsection 7(5), which is derived, in part, from established defenses to claims of trademark infringement.

Conclusion

The new Washington Act does not expressly address a number of important issues such as "(1) which states' substantive law should be selected when a nonresident files an infringement claim in Washington; (2) how courts should decide whether a protected indicium or persona is separate or community property; (3) the relationship among Washington personality rights and copyright, trademark and unfair-competition laws; (4) whether or not an alleged infringement which is outside of the explicit safe harbors of Section 7(2) may, nevertheless, be defended under the broad defenses of Section 7(1); (5) how courts should decide whether or not an allegedly infringing use is "merely descriptive and used fairly and in good faith to identify or describe something other than the individual or personality" (Subsection 7(5)); (6) how courts should decide whether the allegedly infringing use is an "insignificant, *de minimis* or incidental use" (Subsection 7(6)); (7) how courts should decide whether or not an indicium of persona that is asserted to be part of an infringing use is, in fact, identifiable with the plaintiff; (8) how courts should decide whether or not the principal purpose of an advertisement is to "comment" on a matter of protected speech; or (9) how the courts should decide whether or not Subsection 7(1) provides a defense to an advertisement for an Elvis Presley imitation.

These and other issues will undoubtedly be resolved over time by affected parties and the courts, based, in part, on the application of existing case law from the 25 states which already protect personality rights. In the interim, it is clear that, at a minimum, (1) all Washington residents will enjoy substantial protection against the unauthorized misappropriation of their identities to sell another person's product; (2) that this protection will survive their death for a specified number of years; and (3) lawyers and others who want to know whether or not a particular use is infringing will be able to make that determination with substantial certainty in the vast majority of situations in which the issue may arise.

Endnotes

[1]States with existing legislation include California, Florida, Kentucky, Massachusetts, Nebraska, Nevada, New York, Oklahoma, Rhode Island, Tennessee, Texas, Utah, Virginia and Wisconsin. Courts in 17 states have found these to be protected common-law rights: California, Connecticut, Florida, Georgia, Hawaii, Illinois, Kentucky, Michigan, Minnesota, Missouri, New Jersey, Ohio, Pennsylvania, Tennessee, Texas, Utah and Wisconsin. Legislation is pending in Illinois.

[2]The effective date of ESHB 1074 is June 11, 1998.

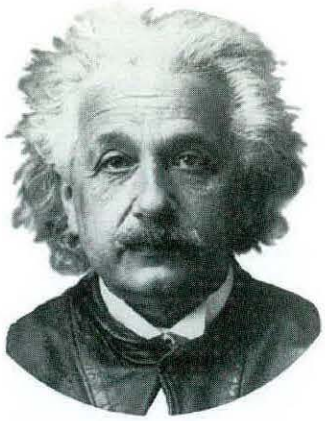
[3]Including Messrs. Constantine, Johnson, Kline and Sheahan, there are fewer than a dozen practicing attorneys in the Washington Legislature.

[4]*See, e.g., Eastwood v. Cascade Broadcasting Co.*, 106 Wn. 2d 466, 722 P.2d 1295 (1986); *Mark v. Seattle Times*, 96 Wn. 2d 473, 635 P.2d 1081 (1981), *cert. denied*, 457 U.S. 1124, 102 S. Ct. 2942, 73 L. Ed. 2d 1339 (1982). *See also LaMon*

v. City of Westport, 44 Wn. App. 664, 723 P.2d 470 (1986), *review denied*, 112 Wn2d 1024 (1989), *cert. denied*, 493 . . . U.S. 1074, 110 S. Ct. 1122, 107 L. Ed. 2d 1029 (1990); *Mark v. KING Broadcasting Co.*, 27 Wn. App 344, 618 P.2d 512 (1980), *aff'd* 96 Wn. 2d 473, 635 P. 2d 1081 (1981); *Hoppe v. Hearst Corp.*, 53 Wn. App. 668, 770 P.2d 203 (1989); *Jeffers v. City of Seattle*, 23 Wn. App. 301, 597 P. 2d 899 (1979). The Washington Supreme Court also has acknowledged the importance of an individual's name. *See State v. Hinkle*, 131 Wash. 86, 93, 229 P. 317 (1924) ("Nothing so exclusively belongs to a man or is so personal and valuable to him as his name. His reputation and the character he has built up are inseparably connected with it. Others can have no right to use it without his express consent, and he has a right to go into any court at any time to enjoin or prohibit any unauthorized use of it. Nor is it necessary that it be alleged or proved that such unauthorized use will damage him. This the law will presume").

[5]In a 1960 *California Law Review* article entitled "Privacy," Professor William Prosser divided the right of privacy into four distinct rights: (1) the right to be free of unwanted intrusion into private affairs or seclusion; (2) the right not to have embarrassing private facts publicly disclosed; (3) the right not to be presented to the public in a false light; and (4) the right not to have one's identity misappropriated for commercial purposes without authorization.

[6]Well-known cases in which protectible aspects of persona have been recognized include: *Haelan Laboratories, Inc. v. Topps Chewing Gum, Inc.*, 202 F2d 866 (2d Cir. 1953), *cert. denied*, 346 U.S. 816, 74 S. Ct. 26, 98 L. Ed. 343 (1953) (printing photographs of baseball players on chewing gum cards); *Grant v. Esquire, Inc.*, 367 F. Supp. 876 (S.D.N.Y. 1973) (combining the head of Cary Grant with the body of a model, as part of a fashion article); *Groucho Marx Productions, Inc., v. Day and Night Co., Inc.*, 523 F. Supp. 485 (S.D.N.Y. 1981), *rev'd on other grounds*, 689 F2d 317 (2d Cir. 1982) (imitating Groucho Marx's "persona" in a play) (dismissed because under then-applicable California law the right of publicity did not survive Groucho's death); *Bi-Rite Enterprises, Inc. v. Button Master*, 555 F. Sup. 1188 (S.D.N.Y. 1983) (using rock stars' names on T-shirts); *Carson v. Here's Johnny Portable Toilets, Inc.*, 498 F. Supp. 71 (E.D. Mich. 1980), *aff'd and rev'd in part*, 698 R.2d 831 (6th Cir. 1983) (using the phrase "Here's Johnny" as part of a name for a portable toilet); *Onassis v. Christian Dior - New York, Inc.* 122 misc. 2d 603, 472 N.Y.S.2d 254 (Sup. Ct. 1984), *aff'd*, 110 A.D.2d 1095, 488 N.Y.S.2d 943 (1985) (using a Jackie Onassis look-alike in a Christian Dior ad); *Midler v. Ford Motor Co.*, 849 F.2d 460 (9th Cir. 1988) (using a sound-alike of singer Bette Midler in a car commercial); and *White v. Samsung Electronics America, Inc.*, 971 F.2d 1395 (9th Cir. 1992), *reh'g denied en banc*, 989 F.2d 1512 (9th Cir. 1993), *cert. denied*, 508 U.S. 951, 113 S. Ct. 2443, 124 L. Ed. 2d 660 (1993) (an advertisement showing a robot dressed in a costume and wig resembling Vanna White posing next to a game board like that of the renowned "Wheel of Fortune" game show); and *McFarland v. Miller*, 14 F.3d 912 (3d Cir. 1994) (triable issue of fact as to whether or not the actor McFarland had become so inextricably identified with the name Spanky McFarland that its use would invoke the actor's identity).



✣ ✣ ✣

Seattle attorney ***O. Yale Lewis, Jr.*** *(Hendricks & Lewis) practices principally in the areas of commercial litigation, intellectual property, and sports, arts and entertainment law. He chaired the WSBA Intellectual and Industrial Property Section when that section developed the proposal that became ESHB 1074.*

There's one Lawyers' Liability Program sponsored by the Washington State Bar Association.

This is it.

As a member of the Washington State Bar Association, you can take advantage of one of the most comprehensive Lawyers' Professional Liability insurance programs in the United States. It's the only program sponsored by the Washington State Bar Association.

- Competitive Premiums & Limits up to $10 million
- Defense in Addition to Liability Limits
- Prior Acts Coverage for qualifying firms
- Annual Aggregate Deductible
- Mutual Selection of Defense Counsel
- Unlimited Tail Coverage Available

Firms and sole practitioners alike can find the coverage they want at competitive premiums based on the experience of Washington lawyers.

Compare coverage. Compare premiums. Contact Account Executive Pam Blake in Seattle at

(206) 224-7411 or
toll-free (800) 366-7411

Protecting those who represent others.

Sponsored by:
The Washington State Bar Association

Administered by:
Kirke-Van Orsdel, Incorporated

KVI

Underwritten by:
Reliance National
INSURANCE COMPANY

The Board's Work

BY SHERRIE BENNETT, *BAR NEWS* EDITOR

The Board of Governors met May 1-2 in Spokane, where Dean John Clute of Gonzaga Law School gave a report on Gonzaga's progress toward a new facility for the Law School. Members of the Board and liaisons participated in Spokane's Bloomsday Run on May 3.

RECIPROCITY RULE

The Reciprocity Committee has requested that the Board consider an across-the-board reciprocity rule, whereby the Supreme Court would be asked to delete from the current rules the requirement that all applicants pass the Washington State Bar examination. APR 1(b) would be amended to provide that lawyer applicants be admitted to practice in Washington upon meeting, to Washington State's satisfaction, those requirements imposed by their jurisdictions upon Washington lawyer applicants seeking admission to practice in those jurisdictions. Although no action will be taken on this suggestion until at least September, WSBA members can contact their representative Governor to voice an opinion concerning this suggestion.

ACCESS TO JUSTICE

Pat McIntyre, Mary Ellen Gaffney, Karen Sayre, Barbara Clark, Gail Smith, Ada Shen-Jaffe and Jim Bamberger gave an Access to Justice Network Report.. Various legal services funding options discussed included increasing superior and district court filing fees, instituting superior and district court "civil response fees" (to be paid when the responsive pleading in a civil matter is filed), a B & O tax surcharge on lawyers, law firms and for-profit ADR entities, a graduated B & O tax credit, and increasing attorney licensing fees. The Pro Bono and Legal Aid Committee has recommended proposing legislation establishing uniform procedures for determining indigence in the *in forma pauperis* process and authorizing courts to conditionally waive fees and allow payment of fees over time for those whose income is close to but above the level of indigence. The Committee also proposed a tax credit for lawyers and law firms that make voluntary contributions to civil equal justice organizations.

MALPRACTICE INSURANCE

Pam Blake of Kirke-Van Orsdel gave a progress report on the WSBA professional liability insurance program, which has been growing approximately 7 to 8 percent per month and has forced competitors to broaden coverage and adjust rate structures. Changes in policy provisions include a "loss only" provision that eliminates the need to pay the deductible against defense costs if the party suing you does not prevail, and a provision that allows a law firm more of a say in who defense counsel will be in the event of malpractice litigation.

MCLE TASK FORCE REPORT

After lengthy and laborious discussions over several months, the Board approved the MCLE Task Force's amendments to APR 11 and the MCLE Regulations, and referred the amendments and regulations on to the Supreme Court.

BYLAW AMENDMENT ON OPEN MEETINGS AND RECORDS DISCLOSURE . . . IS THE WSBA A FISH WITH LEGS?

In a spirited debate, the Board considered proposed amendments to the Open Meetings and Record Disclosure provisions of the board bylaws.

Referring to the WSBA's unique status as an arm of the Supreme Court, Roland Thompson of Allied Newspapers spoke of the WSBA as a "fish with legs, pinned in and trapped." This analogy prompted Governor Whitson to proclaim that "we may be a fish with legs, but we're not a public agency," voicing the concern of several Board members that adhering to open meetings and record disclosure requirements of governmental agencies would set an unfortunate precedent in the event of future litigation. Governor Theiler pointed out that the issue of whether the WSBA is a governmental agency is "not like adverse possession . . . the WSBA is a branch of the judiciary and not a public agency, no matter who asserts that it is." The discussion was tabled until the ad hoc committee assigned this topic can meet with counsel for Allied Newspapers to attempt to hammer out acceptable redrafted language for the amendments.

SUSPENSION FROM PRACTICE FOR NONCOMPLIANCE WITH CHILD SUPPORT ORDERS

The Board discussed the current proposed APR 16, which would provide for mechanisms to suspend an attorney who is more than six months delinquent in child support payments. Language has now been added to the draft to provide that "in the determination of whether a member is not in compliance with a support order, the member is entitled to the benefit of all legal and equitable defenses which are factually available to the member, whether the hearing is before the Department of Social and Health Services, a court, or the WSBA." Governor Powell commented that it was backwards and unfair to not require a showing of delinquency, rather than putting the burden on the WSBA member to prove an affirmative lack of delinquency. Governor Lee suggested that, from a practical standpoint, the rule allows a WSBA member a year to come up with a solution to the problem. Governor Lee also pointed out that, in all likelihood, "you know if you have a kid who needs financial support," suggesting that it might be difficult for some Board members to sympathize with lawyers who owe child support but have not taken steps to make payments or otherwise resolve the issues.

APPOINTMENTS

Donnelly Wilburn was appointed the interim chair of the amicus committee. A newly-formed committee to define the "practice of law" includes Governors Crossland and Whitson, Justices Callow and Anderson, retired Judge Noe, Bob Welden, Steve Tubbs, Narda Pierce, Zaneta Forbes, Marcella Fleming, Peter Jarvis and Peter Ehrlichman.

The Board appointed Scott Smith and Michelle Jones-Garling, and reappointed Chip Small, to the Access to Justice Board.

Changing Venues

HONORS

HONORS AND AWARDS

Lish Whitson, a partner in the Seattle law firm Helsell Fetterman LLP, has been inducted as a fellow in the American College of Trial Lawyers. His practice focuses on federal and state court civil litigation.

Thurston County Superior Court Judge **Daniel J. Berschauer** is the new president of the Washington State Superior Court Judges' Association (SCJA). Berschauer vows to spend the next year working to reverse the current trend of declining juror response rate and will promote more automation services for superior courts statewide.

Eight state judges and four lawyers have been appointed to a new Commission on Justice Efficiency and Accountability: Judges **C. Kenneth Grosse**, **Susan Agid**, **Barbara D. Johnson**, **Daniel J. Berschauer**, **Michael Donohue**, **Faith Ireland**, **Robert E. McBeth** and **Sara Derr**, and lawyers **Richard Broz**, **Everett Billingslea**, **Constance Procter** and **Paul W. Steere**.

Douglas P. Beighle was appointed to head the new commission.

Arline Joyce and **Diana Osborne**, two members of the Washington Association of Legal Support Professionals have been elected to the Board of Directors of the National Association of Legal Secretaries.

HAPPY 90TH BIRTHDAY . . . .

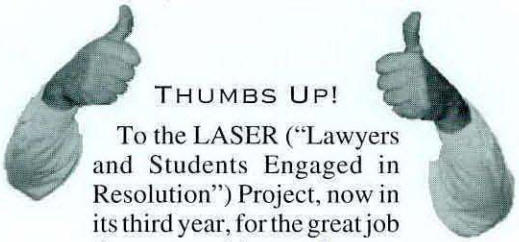
To **Fran LeSourd**, founding partner of the Seattle law firm LeSourd and Patten PS. He will be recognized by several community organizations for his contributions in celebration of his 90th birthday on June 22.

MOVERS AND SHAKERS

Seattle attorney **M. Margaret McKeown** has been appointed to the United States Court of Appeals for the Ninth Circuit. McKeown is widely published in the computer and trade secrets area of law and served as president of the Federal Bar Association of the Western District of Washington and co-president of Washington Women Lawyers.

Gail Bennett has become the co-chair of the Intellectual Property Practice Group at the Seattle firm of Foster Pepper & Shefelman PLLC. **Karen Boyle**, **Randal Johnson**, **Steven Jones**, **Roger Pearce** and **Susan Taylor** have become members of the firm in its Seattle office.

Lawrence J. Steele and **Paul M. Nordsletten** have been elected partners at the law firm of Lane Powell Spears Lubersky LLP in Seattle. **Sunny Kim** joins the firm as an associate in the areas of commercial litigation and intellectual property litigation. Also joining the firm in the labor and employment law area are **Clemens H. Barnes**, **Clifford D. Sethness** and **Linda D. Walton**.



THUMBS UP!

To the LASER ("Lawyers and Students Engaged in Resolution") Project, now in its third year, for the great job done recruiting volunteer lawyers to work with students in seven Washington counties. Interested lawyers can call 360-664-2476 to find out about volunteering in your area.

Two new attorneys, **Elaine S. Llewelyn** and **Brian J. Todd**, have joined the Seattle office of Heller Ehrman White & McAuliffe.

John R. Christiansen has joined the Miller Nash LLP firm, which also welcomes new associates **Brian W. Esler** and **Elizabeth R. Holohan**.

IN MEMORIAM

Yakima attorney and former WSBA president **Louis John Gavin, Jr.** died on December 2, 1997. A Rhodes Scholarship finalist and member of numerous honor societies, his legal career spanned nearly 60 years. His three most cherished accolades were a UW 1983 Distinguished Alumnus Award, a WSBA 50-year Award and the naming of the Yakima Chapter of the American Inns of Court as the "John Gavin Inn of court."

Northwest Justice Project attorney **Laurel Rubin** of Pasco died at age 30 on May 6 in an automobile accident. She began working for the Project in September 1996.

State Bar Highlights

Bar Leaders and Access to Justice Conferences Held Side by Side

On April 3-5 in Chelan a record number of participants attended the joint conferences for three days of sharing ideas on how to improve access to our justice system for low-income individuals and to give bar leaders an opportunity to network and communicate one-on-one about issues that affect the day-to-day leadership of bar associations. President Mary Fairhurst and President-elect Wayne Blair attended. The Board of Governors adjusted its meeting schedule in order to attend workshops at both conferences. Supreme Court Justice Talmadge and Linda Rexer, Executive Director of the Michigan Bar Foundation, keynoted joint events.

"Justice at Work" - Access to Justice Conference

Governor Gary Locke proclaimed April 3-5 "Equal Justice Weekend" in honor of the third annual conference. Attendees included 17 judges (including five Supreme Court justices); 11 administrative law judges; seven representatives from Washington state law schools; and seven representatives from the Oregon State Bar and the Oregon Campaign for Equal Justice. Participants got down to the nitty-gritty with workshops on Defined Task Representation/Unbundled Legal Services (when and how it is appropriate and ethical considerations); What's New in Technology; How to Promote Your Program (to funders, clients, the media and larger community); Alternative Dispute Resolution; Non-Attorney Involvement: Administrative Law & Advocacy; Role of the Judiciary: Promoting Pro Bono Involvement by the Private Bar; and Resource Development.

In a law-related education session, participants agreed to develop a basic state plan to increase public education about the law in this state, with the help of panel members Judith Billings, former superintendent of public instruction, and Larry Strickland, director of social studies for the SPI office. TV Washington, a public access channel, filmed a lively session on "Role of the Judiciary — Judicial Independence/Separation of Powers," which has been televised.

All of this would not have been possible without generous donations from: Barrie Althoff; American Board of Trial Advocates; Anderson Hunter; Bogle & Gates; Cable, Langenbach, Kinerk, Bauer & Leshner; Columbia Legal Services; Davidson, Czeisler, Kilpatric & Zeno; Davis Wright Tremaine; Garvey, Schubert & Barer; Gottlieb, Fisher & Andrews; Horenstein & Duggan; Julian C. Dewell; King County Bar Association; Legal Foundation of Washington; MacDonald, Hoague & Bayless; Perkins Coie; Preston Gates & Ellis; Schroeter Goldmark & Bender; Stritmatter Kessler Whelan Withey; Theiler Douglas Drachler & McKee; Washington State Bar Association; and Williams Kastner & Gibbs.

A conference report with recommendations will be published and distributed in June.

"Road to Leadership" - Bar Leaders Conference

Bar leaders learned valuable lessons on how to establish and maintain good relations with the public and the media, as presented by Susanne Rosenkranz of the Wiley Brooks Company. The WSBA Board of Governors discussed with participants some current issues facing the bar, and Rafael Gonzales and Anthony Butler of the WSBA Opportunities for Minorities in the Legal Profession Committee discussed diversity and minority issues facing the bar. The group also held round table discussions on leadership development, fundraising, legislative issues and member services. Barrie Althoff, WSBA chief disciplinary counsel addressed the conference about issues relating to professionalism, ethics and lawyer discipline.

In an effort to increase participation from smaller and rural bar associations, the WSBA provided scholarships for bar leaders who would not have been able to attend without some financial assistance.

The Speakers Bureau Needs You

The WSBA Speakers Bureau is a public education program that promotes public understanding of the law, increases citizen awareness of legal rights and responsibilities, and builds positive community relations. Through the Speakers Bureau, lawyers volunteer their time and expertise to help citizens understand how the legal system works and how the law affects their lives. Lawyers speak to civic, professional and school groups on a variety of different topics and may also volunteer to guide students through mock trial programs. The benefits to attorney-volunteers are numerous: honing speaking skills, educating and inspiring others, achieving great personal satisfaction, cultivating respect for lawyers and the legal system, and obtaining potential future clients.

We will be working to revive and rebuild the Speakers Bureau over the next several months. Until we have an up-to-date volunteer database, we will not be referring speakers. We are hopeful that we will have a satisfactory speaker pool by sometime in September 1998. At that point, we will resume accepting speaker requests and providing speaker referrals.

If you have ideas or questions or would like to join the Speakers Bureau, please contact the Law-Related Education Coordinator, Laurie Rosenfeld, at (206) 727-8226.

CONGRATULATIONS TO THE 388 NEW ADMITTEES FROM THE SPRING 1998 WSBA BAR EXAM!

Of the 504 applicants who took the exam, 77% passed.

Abronson, Louis Samuel, Anchorage, AK
Adams, Natalie S., Helena, MT
Aiken, Tina Marie, Seattle, WA
Aisaka, Steven K., Bellevue, WA
Ala'ilima, Charles Vo'a, Pago Pago, AS
Alexander, Stephanie Rachelle, Seattle, WA
Alien, Michele Z., San Jose, CA
Anderson, Matthew G., Seattle, WA
Arenson, Wendy Chase, Marina Del Rey, CA
Arim, Robert Michael, Olympia, WA
Arthur, Karen Jean, Redmond, WA
Atwood, Adina Ann, Seattle, WA

Bader, Mark Thomas, Tacoma, WA
Bales, E. Bradford, APO-AE
Barger, Glenn Earle, Wilsonville, OR
Barnes, John Adam, Seattle, WA
Barrett, Joshua M., Portland, OR
Bassin, Claudia, Seattle, WA
Bavand, Marisa M., Seattle, WA
Beeghly, Steven, Seattle, WA
Belden, Jodi Michelle, Snoqualmie, WA
Bennett, Kurt David, Tacoma, WA
Berg, Eric V., Pacifica, CA
Berg, Kevin G., Seattle, WA
Beyer, Michael R., Seattle, WA
Bhatia, Reena S., Lakewood, OH
Bhatia, Shilpa, Seattle, WA
Blair-Loy, John David, Pullman, WA
Blake, Christopher P., Seattle, WA
Blanchard-McLean, Ruth Ann, Seattle, WA
Blander, Andrea, Seattle, WA
Blythe, Kara, Kent, WA
Bond, Kirk S., Seattle, WA
Boswell, Michael Allen, Whittier, CA
Brice, Aimee D., Redmond, WA
Bristow, Susan Lee, Portland, OR
Britton, Brigid Conybeare, Seattle, WA
Britton, Mark S., Seattle, WA
Brosius, Heidi L., Bellevue, WA
Brown, Christopher S., San Jose, CA
Brown, Ellen Ann, Federal Way, WA
Brown, Jacqueline L., Columbus, OH
Bruya, Katherine, Auburn, WA
Buckley, Hilary E., Seattle, WA
Burton, Michelle Leroux, San Diego, CA
Butler, Matthew W., Silver Lake, WA
Byrd, Sophia Rose, Seattle, WA

Cameron, Dyana R., Seattle, WA
Capello, Danette Marie, Camas, WA
Carevich, Kristie Elizabeth, Seattle, WA
Carnell, Laura Stephanie, Seattle, WA
Carrington, Janis L., Olympia, WA
Carrol, Robert K., San Francisco, CA
Cass, Jennifer Maud, University Place, WA
Castillo, Hortensia, Arlington, WA
Castro-Woolery, Clemencia, Kent, WA
Charney, Bonnie Lorence McCarthy, Spokane, WA
Chee, Ryan Michael, Beijing, P.R.C.
Chihak, John Joseph, Jr., Seattle, WA
Chontos, Leslie Peter, Lynnwood, WA
Christensen, David Andrew, Portland, OR
Christensen, Eric Lee, Bothell, WA
Christensen, Steven L., Portland, OR
Christenson, Heather T., Seattle, WA
Chrusciel, Sophia E., Bainbridge Island, WA
Clapp, Douglas C., Washington, DC
Clark, Charmaine Lynette, Carson City, NV
Clay, Michael Edward, Evansville, IN
Coggan, Rand-Scott, Redmond, WA
Cohen, Michael Asher, Portland, OR
Cohn, Gary C., Midland, MI
Colbert, Esther Louise, Seattle, WA
Cole, Stacy L., Portland, OR
Collier, Ryan Wesley, Salem, OR
Collins, Nancy P., New York, NY
Conforti, Mark W., Sparks, MD
Conner, Kevin W., Ocean Shores, WA
Conway, Mary J., Seattle, WA
Cottrell, Robert Glen, Seattle, WA
Crews, Richard A., Beaverton, OR
Cushman, Daniel C., Seattle, WA

Dabalos-McMahon, Lisa, Tacoma, WA
Dale, Sheila Annette, Hood River, OR
Davis, Steven Clark, Seattle, WA
Day, Sharleen A., Scottsdale, AZ
Dearie, Raymond J., Jr., Syracuse, NY
De Giacomo, Rosamond Jean, Seattle, WA
De Jong, Brent Adrian, Bellingham, WA
De Pasquale, Anna, Seattle, WA
De Roos, Carolyn Louise, Friday Harbor, WA
Dethlefs, Steven R., Spokane, WA
Devore, Linda Jacqueline, Tacoma, WA
Diamond, Gregory T., Bainbridge Island, WA
Diefenderfer, Mark, Seattle, WA
Diekemper, TracyAnne, Seattle, WA
Dockstader, Adam J., Seattle, WA
Domeika, John P., Seattle, WA
Donohue, Cathlin, Dayton, WA
Doyle, Thomas K., Portland, OR
Duncan, Hollis Wayne, Edmonds, WA
Dupris, Joseph Calvin, Mountlake Terrace, WA
Duyck, Daniel Leroy, Milwaukie, OR

Eakman, Steven P., Seattle, WA
Easley, S. Christopher, Gig Harbor, WA
Edwards, Gary M., Gig Harbor, WA
Egboh, Tobechi Christian, Schaumburg, IL
Eklund, Gregory Lee, Federal Way, WA
Eldridge, John Robert, Vancouver, WA
Eltringham, John Robert, Bellevue, WA
Engle, Christopher Thomas, Seattle, WA
Escamilla, Eduardo, Seattle, WA

Falling, William Matthew, Seattle, WA
Farrall, Gary F., Federal Way, WA
Fick, James George, Bellevue, WA
Fleck, Oliver Adrian, Blaine, WA
Fliegel, Frederick Martin, Seattle, WA
Foley, Wade William, Bothell, WA
Ford, Stephen Robert, Seattle, WA
Forman, Dana Michelle, Beaverton, OR
Fosbre, William Cody, Tumwater, WA
Foster, Cameron D., Seattle, WA
Frank, Rainer Armin, Lebanon, OH
French, Jeffrey Albert, Chula Vista, CA
Frischmeyer, Linda E., Vancouver, WA

Gaar, William E., Portland, OR
Gadd, Michael S., Seattle, WA
Gain, Sharon Lee, Bonney Lake, WA
Gallia, Natalie N., Seattle, WA
Gangle, Michael L., Wilsonville, OR
Gardunia, Dawn R., Seattle, WA
Geary, Elizabeth Diane, Ridgefield, WA
Gibbens, Laurie R., Krick, Tacoma, WA
Gibbs, Christine M., Anchorage, AK
Gilbert, John Alexander, Seattle, WA
Gilchrist, Claire Marie, Portland, OR
Gingrey, Marya Ann, Seattle, WA
Gleason, John M., Lacey, WA

Goodfried, Michael Brian, Kirkland, WA
Gray, Cassandra, Seattle, WA
Grecco, Diane, Coeur d'Alene, ID
Green, Clifton, Kent, WA
Green, Cory L., Canada
Greer, Suzanne Rae, Seattle, WA
Gregorek, Richard James, Jr., Redmond, WA
Griffin, Mark Christopher, Seattle, WA
Griswold, Valerie A., Mill Creek, WA
Grossgart, Christopher Patrick, Sacramento, CA
Gudmundson, Robert Dean, Seattle, WA
Gunther, Marilyn R., Seattle, WA
Gustafson, Ronald E., Edmonds, WA

Hale, Matthew T., Seattle, WA
Hall, Anne Elizabeth, Olympia, WA
Hansen, Katherine Marie, Stockton, CA
Harbison, Lisa A., Bellevue, WA
Harris, Julia L., Seattle, WA
Hartley, John Patrick, Arlington, VA
Hartley, Julianne, Seattle, WA
Harvey, Diane, Freeport, NY
Haskell, Lawrence Henry, Federal Way, WA
Hawe, Kathe M., Seattle, WA
Hays, Timothy F., Olympia, WA
Hecmanczuk, Gail Hunter, Tacoma, WA
Heipt, Erik J., Seattle, WA
Heitman, Tonya Elizabeth, Seattle, WA
Hemingway, Edward James, Edmonds, WA
Hemmen, Mary Helen, Olympia, WA
Hendershott, Gregory Alan, Seattle, WA
Henry, Janis Carol, Seattle, WA
Hester, Lance M., Gig Harbor, WA
Hintze, Gary A., Seattle, WA
Holman, R. Craig, Redmond, WA
Hong, Jennifer L., Arlington, VA
Hooper, Melissa R., Seattle, WA
Hoover, Gregory Scott, Costa Mesa, CA
Hosaka, Seiichi, Eugene, OR
Hoskins, W. Conrad, Dayton, WA
Houck, Lori L., Seattle, WA
Hughes, Scott A., Seattle, WA
Humphreys, Angela L., Maple Valley, WA
Humphreys, Thomas Lee, II, Puyallup, WA

Ingram, Kristin Mace, Portland, OR

Jaundalderis, Benita Arija, Seattle, WA
Jayaram, Krishnan Christopher, Portland, OR
Jensen, Carl Ernest, Seattle, WA
Johnson, Matthew G., Puyallup, WA
Johnson, Scott Wayne, Richland, WA
Johnston, Rachel Yvonne, North Bend, WA
Jones, Guadalupe A., Fall City, WA
Jones, Phillip B.C., Seattle, WA

Kalb, Evelyn R., Colville, WA
Kallis, M. Jeffery, San Jose, CA
Kantor, Sharon Rosalie, Danville, CA
Kendall, Juliana Theresa, Federal Way, WA
Kenney, Marita J., Des Moines, WA
Kerney, James P., Seattle, WA
Kesala, Victoria Ann, Vancouver, WA
Kim, Haeran, Seattle, WA
King, Russell S., Seattle, WA
Kirschner, Michael Kevin, Issaquah, WA
Klein, Erika Katherine, Boise ID
Knopf, Brian P., Spokane, WA
Ko, Andrew W., Seattle, WA
Ko, Stephanie R. Wan Yee, Renton, WA
Kolb, William Sanders, Seattle, WA
Kowalski, Tonya, Spokane, WA
Krikorian, Brian Haig, Woodland Hills, CA
Krueger, Margaret Judith, Pullman, WA
Krueger, Sheryl Rae, Vancouver, WA
Kuntz, Leslie Lynn, Coulee Dam, WA
Kurkoski, Patrick James, Hillsboro, OR

Laforte, Stephen J., Seattle, WA
Lake, Taylor A., Olympia, WA
Lampson, Elizabeth E., West Linn, OR
Lane, Edward Lawrence, Bellevue, WA
Lange, John Robert, Bainbridge Island, WA
Larsen, Timothy Alan, Seattle, WA
Larson, Karin L., Kent, WA
Lawrence, Elizabeth A., Bellevue, WA
Lear, Julia, Seattle, WA
Lee, David G., Seattle, WA
Lee, Michael Sungwhan, Kent, WA
Lehrhaupt, Liesel E.T., Spokane, WA
Lengnick, Sonja L., Seattle, WA
Leo, Enrico Salvatore, Seattle, WA
Leonard, Remy Stephanson, Everett, WA
Lessoff, David S., Vancouver, WA
Levin, David Seth, Seattle, WA
Levis, Kara M., Woodinville, WA
Lickley, Stephanie, Torrance, CA
Lin, Albert H., Bellevue, WA
Lince, Kristin Elizabeth, Kirkland, WA
Little, Carla Diane Chapman, Redmond, WA
Llewelyn, Elaine S., Mercer Island, WA
Lookabill, Mary Elizabeth, Bellingham, WA
Lyell, Sean A., Portland, OR

MacMillan, John Roderic, Portland, OR
Mansfield, Johnathan Edward, Seattle, WA
Marcouiller, Barbara A., Mercer Island, WA
Marks, Douglas B., Sandpoint, ID
Marshall, Clifford Lyle, Hoopa, CA
Matesi, Michele M., Portland, OR
Mays, Dale D., Bend, OR
McAdams, Jana Kimberly, Los Gatos, CA
McBryde, Bridget Noreen, Bothell, WA
McCormack, Timothy B., Shoreline, WA
McGoodwin, John Albert, Tacoma, WA
McIntee, Daniel Colin, Seattle, WA
McKenna, Elizabeth Ann, Seattle, WA
McLaughlin, Ellen Marie, Selah, WA
Melehan, Elizabeth C., Wailuku, Maui, HI
Mildenberger, Mark B., Seattle, WA
Miller, Aileen B., Havre, MT
Miller, Jeffrey S., Birmingham, AL
Miller, Lori Ellen Smith, Spokane, WA
Minick, Wendy S., Seattle, WA
Mitchell, Nina Marie, Bainbridge Island, WA
Mitterer, Karen Lynn, Kirkland, WA
Monson, Miles D., Hillsboro, OR
Moore, Vincent Joseph, III, Pasadena, CA
Moran, Kathleen, Spokane, WA
Morrissette, Kenneth, Jr., Seattle, WA
Moss, Dennis Judson, Olympia, WA
Mowry, Anne Margaret, Everett, WA
Murphy, John Anglin, Tacoma, WA

Nelson, Paul Stewart, Seattle, WA
Nelson, Steven D., Central, SC
Neumiller, Paul Alan, St. Helena, CA
Norris, Kenneth Michael, Richland, WA
Nwizugbo, Martin Emeka, Seattle, WA

Ocampo, Paul Serrano, Tacoma, WA
O'Connor, Michael Ryan, Portland, OR
Okell, Patrick R., Seattle, WA
Olding, Francis X., Seattle, WA
Osemene, Justin Chinedu, Seattle, WA
Osgood, Vicki L., Lynnwood, WA
O'Sullivan, Kathleen M., Seattle, WA
Owen, Leslie Woodruff, Olympia, WA

Pai, Chao-Chang David, Bothell, WA
Parker, David W., Woodinville, WA
Parrotta, Sandro, Canada
Paxton, Heather K., Spokane, WA
Pearson, Krista M., Gig Harbor, WA
Pederson, Gerald Ramsay, Portland, OR
Pennell, Rebecca Louise, Spokane, WA
Peterson, Pamela E., Pasco, WA
Phelan, Sean M., Yakima, WA
Phillips, Michael John, Seattle, WA

FYI nformation

HIGHLIGHTS *continued*

Pickett, Mason Jones, Richland, WA
Pickett, William Dalson, Portland, OR
Poulin, Richard Arthur, Seattle, WA
Puzzo, Thomas E., Seattle, WA

Raap, Marty Matthew, Coeur d'Alene, ID
Rabdau, Matthew D., Portland, OR
Redford-Hall, Judith Anne, Spokane, WA
Reinholdtsen, Kelly Jean, Seattle, WA
Ridgley, Susan Margaret, Seattle, WA
Roadhouse, John Shepard, Evanston, IL
Roberto, Susan E., Ellensburg, WA
Robson, Paul Louis, Tacoma, WA
Rodriguez, Betsy, Tacoma, WA
Rosenberg, Adam Joseph, Seattle, WA
Rozencwaig, Jodie B., Seattle, WA
Rubanowitz, Shalom, Lake Forest, CA
Rudden, R. Julia F., Seattle, WA
Ruiter, Leslie Caryl, Seattle, WA
Russell, Tamara Ella, Portland, OR
Russillo, Craig Gerard, Portland, OR
Rylander, Kurt Marcus, Ridgefield, WA

Santiago, Saegleo, Woodbridge, VA
Sargent, Robert W., Post Falls, ID
Saunders, Leonard Douglas Marne, Seattle, WA
Schifrin, Kristi Ann, Seattle, WA
Schumacher, Karen Lise, Tacoma, WA
Shadian, Hertsel, Kirkland, WA
Sharma, Suchi, Seattle, WA
Sheehy, Marian, Seattle, WA
Siegmund, Susan Lynn, Spokane, WA
Simmonds, Karen Helena, Seattle, WA
Slater, Jill Hunter, Seattle, WA
Smith, A.V. (Lonny), Hood River, OR
Smith, Deborah Carrington, Portland, OR
Smith, Heather B., Fresno, CA
Smith, Paul S., III, Seattle, WA
Smith, Ted Aubrey Vincett, Fresno, CA
Snow, Stefanie Hunter, Bellevue, WA
Somers, Holly J., Portland, OR
Soong, Jimmy, Issaquah, WA
Speir, Shelly K., Fircrest, WA
Storie, Michael William, Tempe, AZ
St. Pierre, David Brian, Gig Harbor, WA
Su, Peter C., Seattle, WA
Sugiyama, Kelly J., Renton, WA
Sunderland, Sean, Redmond, WA
Sutton, Randall Avery, Miami, FL
Swanson, Shelby L., Bellevue, WA
Swenson, Raymond Takashi, Richland, WA

Talmadge, Adam Philip, Lake Oswego, OR
Taw, Harold, Seattle, WA
Taylor, Lee J., Seattle, WA
Taylor, Rachel Rebecca, Tacoma, WA
Teppner-Dremousis, Jennifer Anne, Seattle, WA
Thangkhiew, Kalkadora, Vancouver, WA
Thomas, Achiyamma Indu, Kent, WA
Thomas, Sally Ferguson, Portland, OR
Thompson, Michael J., Hood River, OR
Tirpak, John, Seattle, WA
Toll, Steven Jeffrey, Issaquah, WA
Torem, Adam Erik, Spanaway, WA
Tracy, Sue A., Seattle, WA
Traywick, Kevin W., Seattle, WA
Trefethern, Randall James, Seattle, WA
Trierweiler, Todd Alan, Portland, OR

Unger, Rachel A., Portland, OR

Vail, Debra Lee, Pacifica, CA
Valier, Michelle Lamy, Bellevue, WA
Venezia, Lauren, Seattle, WA
Vienneau, Robert Allen, Woodinville, WA
Villaflor, Jessica Dano, Seattle, WA
Vondriska, Carolyn J., Vancouver, WA

Waggoner, Benjamin C., Kirkland, WA
Waggoner, Kristen Kellie, Kirkland, WA
Wagner, Eric Roland, Rodeo, CA
Walker, Diane Marie, Post Falls, ID
Wallace, Gregory G., Philadelphia, PA
Wang, Xiaoqiu, Seattle, WA
Ward, Richard Roch, Washington, DC
Wax, Brian Keith, Lake Forest, IL
Whatley, Jennifer L., Everett, WA
Wiggins, Henry William, Tacoma, WA
Williams, Brenda Elizabeth, Issaquah, WA
Williams, Brendan Wayne, Tumwater, WA
Williams, Carrie Ann, Seattle, WA
Williams, Rebecca L., Seattle, WA
Winsor, Gale W., Tacoma, WA
Wittkop, Mindy L., Eugene, OR
Wojcik, Matthew R., Portland, OR
Wolf, William J., Seattle, WA
Wong, Angela Kay, Seattle, WA
Wood, Thomas R., Portland, OR
Worley, Lynn Marie, Roslindale, MA
Wu, Angela, Seattle, WA
Wu, Sheen Y., Portland, OR

Yee, Richard S., Freeland, WA
Yelle, Patricia Ellen, Vancouver, WA
Yoshida, Miyuki, Seattle, WA

Zabel, Cynthia A., Battle Ground, WA
Zion, Cory Beth, Milwaukie, OR
Zolbrod, Morilun, Everett, WA

HARLEYS AND THE LAW

It's time once again for the Annual Black Hills Motor Classic Continuing Legal Education Seminar at Horsethief Lodge in Hill City, South Dakota, August 3-9. Leather-clad lawyers will head to South Dakota along with thousands of other Harley-Davidson lovers for their annual pilgrimage to Sturgis, interspersed with CLEs for the legal types.

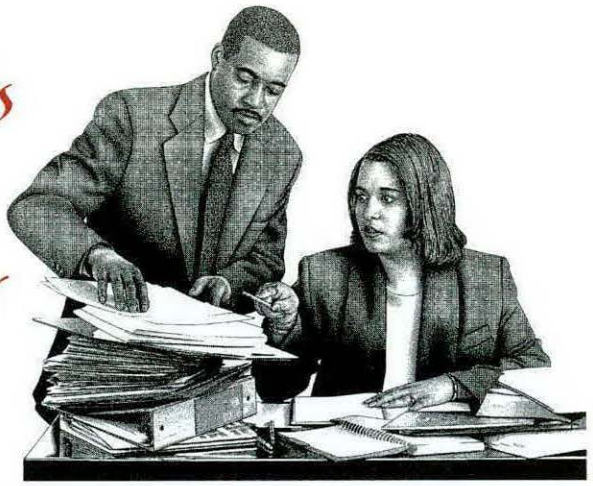
Street Legal Motorcycle Club of Minneapolis hosts, and Edmonds attorney Irene Leonard will present a seminar titled "Plain Language Contracts." A total of seven seminars are planned and registration costs $95.

For registration and lodging information, contact M. Kevin Snell, president of Street Legal Motorcycle Club, c/o 4700 Norwest Center, 90 S. 7th St., Minneapolis, MN 55402.

USURY RATE

The average coupon equivalent yield from the first auction of 26-week treasury bills in May 1998 is 5.318 percent. The maximum allowable interest rate permissible for June is therefore 12 percent. 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 52 of this issue, and in the online edition of the *Bar News* at http://www.wsba.org/BarNews/usuryrate.html

Ethical Responsibilities of Lawyers Regarding Nonlawyer Assistants



BY BARRIE ALTHOFF
WSBA CHIEF DISCIPLINARY COUNSEL

Nonlawyer assistants are a valuable and necessary part of lawyers' practices, allowing lawyers to serve their clients more effectively and economically. This article outlines the ethical responsibilities a lawyer has under the Rules of Professional Conduct (RPCs) with respect to nonlawyer assistants.

Overview of RPC 5.3

RPC 5.3 sets out a lawyer's basic ethical responsibilities "with respect to any nonlawyer employed or retained by or associated with a lawyer." These responsibilities apply whether the nonlawyer is an employee, an independent contractor, or a volunteer. The rule's approach is primarily one of preventative maintenance. It requires that reasonable efforts be made, through preventative measures and supervision, to assure that a nonlawyer's conduct is "compatible" with the professional obligations of the lawyer.

The terms "nonlawyer" and "nonlawyer assistants" are not defined in the RPCs. They appear to include anyone not admitted to (and anyone suspended or disbarred from) practice in the jurisdiction in which the lawyer practices. In many law offices, nonlawyer assistants outnumber lawyers. The nonlawyers may include, among others, firm administrators, paralegals or legal assistants, law school interns or "summer associates," Rule 9 interns, paralegal interns, investigators, secretaries, computer specialists and data processing clerks, docket and file clerks, librarians, switchboard operators, receptionists, messengers, accountants and bookkeepers, human resources administrators, and marketing or client development staff. For prosecutors, "nonlawyers" would include, in at least some situations, police and others assisting or associated with the prosecutor. (See, for example, RPC 3.8(e) regarding restrictions on extrajudicial statements). Regardless of the tasks or functions of the nonlawyers, the lawyer has ethical responsibilities with respect to them.

RPC 5.3(a) describes the responsibilities of "a partner in a law firm" as that term is defined in the RPCs, while RPC 5.3(b) describes the responsibilities of a "lawyer having direct supervisory authority" over a nonlawyer. In many cases, of course, the partner may also be the directly supervising lawyer, and in many cases the provisions of RPC 5.3(a) and (b) will overlap. Both RPC 5.3(a) and (b) require the partner or lawyer to make "reasonable efforts."

Duties of a Partner

RPC 5.3(a) requires that "a partner in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the [nonlawyer] person's conduct is compatible with the professional obligations of the lawyer." If the partner has made those reasonable efforts, yet nevertheless a nonlawyer's actual conduct violates the required ethical standards, the partner will have satisfied his or her requirements under RPC 5.3(a). He or she may still have liability, however, for that nonlawyer's conduct under RPC 5.3(b) if he or she directly supervised the nonlawyer, or under RPC 5.3(c), discussed below, if he or she ordered or ratified the conduct or failed to timely remedy it.

The "terminology" section of the RPCs defines the term "partner" as denoting "a member of a partnership and a shareholder in a law firm organized as a professional corporation," and the terms "firm" or "law firm" as denoting "a lawyer or lawyers in a private firm, lawyers employed in the legal department of a corporation or other organization and lawyers employed in a legal services organization." Thus, as the term "partner" is defined, it does *not* include sole practitioners, nor does it include senior lawyers who are not partners or shareholders in a professional corporation, nor does it include heads of corporate or governmental legal departments, since they are not organized as professional corporations. Thus, none of these lawyers is subject to RPC 5.3(a). Each will, however, likely be covered by RPC 5.3(b), which imposes similar obligations, and RPC 5.3(c). Cf. Hazard & Hodes, *The Law of Lawyering* (Second Edition), §5.1:201 and §5.3:201.

The "measures" with which RPC 5.3(a) requires that a partner make "reasonable efforts to assure that the firm has in effect" will vary with the firm and the nature of the nonlawyers. They would likely include normal hiring interviews and reference checks to verify the apparent honesty of the nonlawyer job candidate. The partner would also want to assure that procedures are in place to verify that a nonlawyer job candidate is not a suspended or disbarred lawyer since Rule 1.1(h) of the Rules for Lawyer Discipline and *WSBA Formal Opinion 184* (1990) prohibit practicing with, or in cooperation with, or maintaining an office with, a suspended or disbarred lawyer, and RPC 5.5 prohibits a lawyer from helping a nonlawyer practice law. The "measures" would likely also include establishment of conflicts checks for non-

lawyer assistants to verify that, for example, a secretarial or paralegal job candidate was not currently employed at a law office representing an opposing party, since such a person would likely have had access to confidential information. If he or she were so employed, it would be necessary to determine whether "screening" in some way could remedy the conflict so as to meet the spirit of the conflict of interest provisions set out in RPCs 1.7 through 1.11.

The "measures" would likely also include inquiring into the training and skills of the nonlawyer to assure that he or she can do the required tasks and understands the lawyer's ethical obligations. In hiring an inexperienced paralegal, for example, the partner might want to ascertain whether the person graduated from a paralegal training program approved by the American Bar Association Standing Committee on Legal Assistants, as such programs must train paralegals in various ABA specified criteria, including training in legal ethics. The only paralegal programs in Washington currently approved by the ABA are those at Highline, Edmonds, Spokane and Skagit Valley Community Colleges.

If the firm wants to hire a nonlawyer who does not already have the requisite substantive or ethical training, the partner should make reasonable efforts to ensure that his or her office has procedures in place initially to train the employee, and on an ongoing basis, update nonlawyers so that they understand the ethical standards applicable to lawyers. All nonlawyers, regardless of their job functions, should be trained in the RPC 1.6 provisions requiring confidentiality since all are likely to have access to confidential client information.

Depending on the nature of the nonlawyer's duties in the office, it may also be appropriate that he or she have at least a general understanding of the RPC 1.3 provisions requiring diligence and promptness, the RPC 4.1 requirement of truthfulness to third persons, the RPC 4.2 restrictions in communicating with persons represented by counsel, and the RPC 4.3 provisions relating to dealing with unrepresented persons.

The failure of a lawyer to establish preventative procedures and to supervise nonlawyer staff engaged in the unauthorized practice of law is a common violation of RPC 5.3. Indeed, most of what paralegals do in a law office would be unauthorized practice of law if it were not done under the supervision of a lawyer. Wolfram, *Modern Legal Ethics* (1986) §16.3.2. Thus, nonlawyer staff should also understand RPC 5.5 and other restrictions relating to the unauthorized practice of law. *WSBA Formal Opinion 18* (1952), for example, concludes that it is unethical for a lawyer to permit a client to file pleadings using the lawyer's name without the lawyer being involved as to each case. Similarly, *WSBA Formal Opinion 80* (1962) concludes it is unethical for the lawyer to sign pleadings prepared by nonlawyer employees of a collection agency client without the lawyer having any file on the facts of the cases and where the lawyer merely refers inquiries on the cases to the collection agency. Cf. *WSBA Formal Opinion 76* (1960). Aside from issues of unauthorized practice of law, in each of these cases the lawyer would in effect have been failing to assure that the conduct of a person acting as a nonlawyer assistant (in these cases, the client) was compatible with the ethical obligations of the lawyer.

Nonlawyers should also understand and

implement, particularly if the firm has a volume practice or relies heavily on nonlawyers to communicate with its clients, the RPC 1.4 provisions governing communication with clients. This is particularly important since many disciplinary grievances have their origin in alleged failures by lawyers and their staff to satisfy this duty to communicate with clients.

If the firm's nonlawyers assist in billing and collecting fees, or otherwise handle money or client property, the careful reference-background checks referred to above to verify the nonlawyer's apparent honesty are especially important. Other "measures" that may be appropriate are possibly the bonding of any such nonlawyers, the establishment and implementation of internal monetary controls and procedures, and the training of such staff to assure that they understand the RPC 1.5 provisions relating to fees, the RPC 1.14 provisions relating to preserving client funds and property, and the importance and practical mechanics of properly handling trust accounts. As irregularities in maintaining a lawyer's trust account are a frequent basis for lawyer discipline, it is imperative that a lawyer's nonlawyer staff be carefully trained and supervised in handling client funds and property, particularly because the lawyer's fiduciary duties with respect to the trust account are not delegable. Likewise, the partners should assure that the nonlawyer understands the RPC 5.4 prohibitions on sharing fees with nonlawyers.

Duties of Directly Supervising Lawyer

RPC 5.3(b) sets out the responsibilities of a lawyer who has direct supervisory authority over a nonlawyer. It applies whether the lawyer is a sole practitioner, a partner, an employed lawyer, a contract lawyer, or of counsel, and whether the lawyer works in a private law office, or a governmental or corporate law department. To a large degree, it duplicates the responsibilities of RPC 5.3(a), but only as to nonlawyers under the direct supervision of a lawyer. For a sole practitioner, of course, this includes all of his or her nonlawyer assistants. The rule requires that the direct supervisory lawyer "shall make reasonable efforts to ensure that the [nonlawyer] person's conduct is compatible with the professional obligations of the lawyer." Although it clearly envisions that a lawyer can ethically delegate certain duties to nonlawyers, including the day-to-day operation of a lawyer's trust fund, as noted above, a lawyer's fiduciary duty with respect to client funds cannot be delegated.

A large part of a supervising lawyer's required efforts under RPC 5.3(b) will be to make sure that the nonlawyer in fact receives sufficient training, and that adequate procedures have been followed to meet the RPC 5.3(a) requirement to make "reasonable efforts." It will also include the careful supervision and monitoring of the nonlawyer, oversight and review of his or her work product and communications with clients and third parties, and the prompt investigation and remedy of any suspected irregularities. For example, violations of RPC 5.3(b) include failure of a lawyer to supervise a bookkeeper who embezzles funds, or a paralegal who is engaged in the unauthorized practice of law, or an office manager whose negligence results in neglect of case files or failure to maintain properly a litigation or client conflict docket. If the directly supervising lawyer has made reasonable efforts to ensure that the nonlawyer's conduct meets the requisite ethical stan-

dards, however, and yet the nonlawyer's actual conduct violates those standards, the lawyer will have satisfied his or her requirements under RPC 5.3(b) and will have no liability under that provision. He or she may still have liability, however, under RPC 5.3(c) for the conduct.

LIABILITY OF LAWYER FOR NONLAWYER MISCONDUCT

RPC 5.3(c) specifies under what circumstances a lawyer is liable for a nonlawyer's conduct which, if engaged in by a lawyer, would be ethical misconduct. If the nonlawyer engaged in such misconduct, the lawyer may also be subject to discipline, of course, for failure to meet the requirements of RPC 5.3 (a) or (b). Generally, however, a lawyer is not subject to discipline for the misconduct of a nonlawyer unless the lawyer ordered, ratified, or failed to timely remedy the conduct.

RPC 5.3(c) states that the lawyer is responsible for a nonlawyer's misconduct if "(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or (2) the lawyer is a partner in the firm . . . or has direct supervisory authority over the [nonlawyer] person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action." Thus, the directly supervising lawyer does not have a vicarious liability, but only accessory liability, and only if the lawyer falls into one of the two specified categories. In any event, the conduct of such a partner or supervising lawyer who falls within those categories would also appear to violate RPC 8.4(a), which states that it is unprofessional conduct to "violate or attempt to violate the rules of professional conduct, knowingly assist or induce another to do so, or do so through the acts of another."

CONCLUSION

To a large extent, RPC 5.3 merely requires what any prudent lawyer is very likely already doing. The burdens imposed on partners and directly supervising lawyers in connection with using nonlawyer assistants are far less than the very significant benefits of using them to serve clients and free the lawyer from directly performing many tasks. As most lawyers and clients well know, the dedicated work of the lawyer's paralegals, secretaries, and other nonlawyer staff makes it possible for the lawyers to serve their clients effectively and economically.

For a complete copy of any disciplinary decision, call the Washington State Disciplinary Board at (206) 727-8252 leaving the case name and your address.

DISBARRED

James L. Weerts (WSBA No. 13768, admitted 1983), formerly of Vancouver, Washington, has been ordered disbarred pursuant to a Stipulation to Disbarment, approved by the Supreme Court on February 25, 1998, and effective that date. The discipline is based upon his having abandoned his law practice, resulting in several grievances, and his misuse of client funds.

Weerts closed his Vancouver, Washington law office in fall 1993, but did not advise several clients. The clients encountered substantial difficulties in locating Weerts over many months. He was suspended from the practice of law in Washington State in June 1994 for failure to pay his license fees. He continued to do legal work in two cases, however, and in one case he collected legal fees from the Washington client, although he knew he was suspended from the practice of law. In another case, in summer 1994, he erroneously believed that the client's case was settled and advised the client to begin paying reduced support based on a change of custody. Later, a garnishment action was begun based on the existing support order that had never been modified. His failure to keep clients informed of his practice location violated RPC 1.4 (communication with clients). By failing to give his clients notice of his June 1994 suspension, he violated RLD 8.1 (notice to clients upon suspension). By continuing to represent the clients while knowing that he been suspended from practicing law, he violated RLD 8.2 (practicing law while suspended).

In a separate personal injury case, Weerts failed to account for and deliver a client's settlement funds which were owed to a medical provider. The case was settled in September 1993 for $16,500, and Weerts advised the client that he would pay $1780 to a medical provider. The settlement funds were deposited in trust, and disbursed as outlined in the settlement statement provided the client, except the medical bill was not paid. Instead, Weerts spent the funds initially withheld for the medical provider on personal obligations. His failure to pay or deliver to the client or the medical provider, as requested by the client, funds which they were entitled to receive, violated RPC 1.14 (b)(4) (prompt delivery to client or to third party of client funds) and RPC 8.4 (c) (dishonesty). In 1996, a civil judgment for economic and punitive damages was entered against Weerts on this claim.

Weerts was suspended from the practice of law in Washington in 1994 for failure to pay Association license fees and to comply with continuing legal education (APR 11) requirements. He did not seek reinstatement to active status during these proceedings. In fall 1997, Weerts stipulated to disbarment and agreed to

pay specific restitution to three clients and to pay any civil judgments entered against him by reason of the professional misconduct outlined in the stipulation. The Stipulation was approved by the Disciplinary Board in December 1997, and by the Supreme Court on February 25, 1998. Weerts represented himself. The Bar Association was represented by Disciplinary Counsel Christopher Sutton.

REPRIMANDED

Edmonds lawyer Charles M. Greenberg (WSBA No. 17661, admitted 1988) has been ordered reprimanded pursuant to a stipulation for discipline approved by the Disciplinary Board on January 27, 1998. The discipline is based on Greenberg's conduct involving misrepresentation to a client, in violation of RPC 8.4(c), and failure to reasonably assure his partners' conformity to the Rules of Professional Conduct, in violation of RPC 5.1.

Greenberg was a partner in one firm from March 1991 through April 1994, and had previously worked with partners Wade Dann and John Radder at another firm where Dann was a partner and Radder and Greenberg were associates.

In 1990, while an associate at one firm, Greenberg changed initials on a Work in Progress (WIP) report at Dann's direction. While at the other firm, Greenberg instructed the bookkeeper to change the initials of an associate to his own, or delete the initials all together, on eight WIPs. This conduct violated RPC 8.4(c).

In 1991, a client informed Dann that he would like a specific construction claims' analyst employed by the firm to work on his matter. This analyst was not available, so a different analyst worked on the matter. Greenberg later learned that when it came time to bill the client, Dann instructed that the initials of the requested analyst be substituted for those of the analyst who actually worked on the matter.

In February 1992, another client informed Dann that he no longer desired to have a particular analyst work on his matter. From February through June 1992, the analyst continued to work on the client's matter and prepared law firm billing records that reflected this work. Dann and Radder altered those billing records by removing the analyst's initials and substituting Radder's initials to conceal the fact that the analyst continued to work on the client's matter.

During the first half of 1992, Greenberg became generally aware of the ongoing initial-switching on client billings detailed above. Greenberg did not actively participate in the initial-switching activities of Dann and Radder. However, Greenberg did not report these activities to the Bar Association, nor did he voice his objections to the firm or take other action to stop or remedy the practice until some months after he learned of the practice. This conduct violated RPC 5.1. Greenberg's conduct is mitigated by several factors, which affected the sanction imposed.

Respondent Greenberg represented himself. Disciplinary Counsel Sachia I. Stonefeld represented the Association.

✦ ✦ ✦

Thomas G. Krilich (WSBA No. 2973, admitted 1967), of Tacoma, has been ordered reprimanded and placed on probation for three years, pursuant to a stipulation for discipline approved by the Disciplinary Board on January 27, 1998. The

discipline is based on Krilich's failure to diligently pursue a client's matter, in violation of RPC 1.3, and failure to keep the client informed of the status of the matter, in violation of RPC 1.4(a).

In November 1993, Krilich agreed to represent a corporation in the collection of a judgment. He took some initial action shortly after being hired. The client made several attempts to reach him by phone in the first half of 1994. He did not answer or return the telephone calls. In May and June 1994, the client wrote him letters inquiring as to the status of his efforts to collect the judgment. In August 1994, he responded by letter to the client's inquiries. In May and August 1995, the client sent registered letters to him requesting an update on his efforts to collect the judgment. Krilich failed to proceed against the debtor corporation and did not have any further communication with his client after his letter in August 1994.

The discipline is based on the aggravating factor that Krilich received a reprimand and censure in 1994 for violations of RPC 1.3 and 1.4(a). The conduct is mitigated by the fact that the client suffered no actual injury, and any potential injury was remote and speculative. Krilich has been placed on a three-year period of probation during which he must meet with a practice monitor to ensure that he timely prosecutes client matters and keeps clients reasonably informed about the status of their matters.

Brian A. Putra represented the respondent. Disciplinary Counsel Sachia I. Stonefeld represented the Association.

SUSPENDED

Thomas D. Lofton (WSBA No. 25893, admitted 1996) of Kirkland, Washington, has been ordered suspended for 60 days, commencing March 30, 1998, and ending May 29, 1998, by Order of the Supreme Court of Washington. The Supreme Court's order of reciprocal discipline, pursuant to Rule for Lawyer Discipline ("RLD") 12.6, is based on the Oregon Supreme Court's August 12, 1997, Order approving a Stipulation for Discipline in which Lofton agreed to be suspended from the practice of law in Oregon for a period of 60 days, commencing September 1, 1997.

Between 1992 and 1995, Lofton was employed as an associate or corporate counsel by Secure Benefits, Inc. ("Benefits"), formerly known as Security Benefits Inc., a for-profit corporation in the business of selling estate planning documents, investment and insurance services, and related products. Benefits was owned by a nonlawyer. During the course of his employment, Lofton provided legal advice and trained nonlawyers who gathered personal and financial information from individuals and marketed Benefits' estate planning documents and services, forwarding payments therefor to Benefits. He also provided legal services and advice to many of the individuals who purchased the documents and services from Benefits, and was compensated therefor by Benefits. In one situation, after he began to prepare estate planning documents for certain clients of Benefits, the clients changed their minds and asked Benefits for a refund. Lofton represented Benefits against those clients in trying to reach a settlement of the fee dispute.

The discipline was imposed for Lofton's stipulated violations of various disciplinary rules of the Oregon Code of Profes-

sional Responsibility. He violated DR 3-101(A) and DR 3-102(A) by aiding nonlawyers in the unauthorized practice of law and sharing legal fees with nonlawyers; DR 5-101(A) by failing to satisfy the conflict of interest full disclosure requirements of DR 10-101(B); DR 5-105(E) by representing multiple current clients with actual or likely conflicts of interest; and DR-105(C) by representing a client against a former client in the same or significantly related matter in which he had represented the former client. These violations occurred while Lofton practiced in Oregon, and before he was licensed to practice law in Washington state.

On October 29, 1997, the Washington State Bar Association (the Association) provided the Washington Supreme Court with certified copies of the Oregon Supreme Court Order imposing discipline on Lofton and the Oregon Stipulation for Discipline, and asked the Court to issue an appropriate reciprocal discipline order pursuant to RLD 12.6. Thereafter, the issues were briefed. The Washington Supreme Court considered *en banc* the reciprocal discipline matter, denied Lofton's motion for oral argument, and imposed the reciprocal discipline.

Respondent was represented by Kurt Bulmer of Seattle, Washington, and Peter Jarvis of Portland, Oregon. The Association was represented by Disciplinary Counsel Leslie Ching Allen.

ADMONISHED

Michael E. Carroll (WSBA No. 13092, admitted 1983) of Tacoma has been ordered admonished by a Review Committee of the Disciplinary Board. The admonition is based on Carroll's contact with a represented party regarding the subject matter of the representation, in violation of RPC 4.2.

Carroll, as a party (and not in his professional capacity), disputed fees of an architect he hired to perform work on a building owned by Carroll. The architect hired a lawyer to represent him in the matter. Between February 10, 1995, and March 30, 1995, Carroll and the lawyer communicated via telephone and mail regarding the matter. In a letter, the lawyer offered to settle for a certain amount on behalf of the architect. After receiving that letter, Carroll contacted the architect directly by telephone and spoke to an employee of the architect's firm. During that conversation, the employee reiterated that the architect intended to pursue the collection through its attorney. Nevertheless, a discussion regarding settlement ensued, and the parties settled the fee dispute with the employee for an amount below the previous offer.

Respondent Carroll represented himself. Disciplinary Counsel Sachia I. Stonefeld represented the Association.

✦ ✦ ✦

Antonio Salazar (WSBA No. 6273, admitted 1975), Seattle, has been ordered admonished and assessed costs of $1087.95 following a disciplinary hearing. The discipline is based upon Salazar's failure to respond promptly to written requests for information and to provide copies of clients' files in multiple disciplinary investigations which were pending in 1995. The Association was required to issue a *subpoena duces tecum* to obtain Salazar's responses and client files.

The Hearing Officer was Claire Cordon of Seattle. Respondent represented himself. The Bar Association was represented by Disciplinary Counsel Maria S. Regimbal.

Calendar

This information is submitted by providers. Please check with providers to verify CLE credits approved.

To announce a seminar, please send information to:
WSBA, *Bar News* Calendar
2101 4th Avenue
4th Floor
Seattle, WA 98121-2330.
fax: 206-727-8320
e-mail: comm@wsba.org

Alternate Dispute Resolution

Interest-based Mediation — The Process: Philosophies, Proficiency and Procedures
June 22-26, July 20-24, Aug. 3-7, Oct. 19-23 – Spokane. 40 CLE credits (incl. 1 ethics). By Fulcrum Institute 509-838-2799.

Representing Your Client in Arbitration and Mediation
Aug. 14 – Seattle; Aug. 21 – Mt. Vernon. CLE credits TBA. By WSBA CLE and ADR Section 206-727-8202.

Getting to the Next Level for the Experienced Mediator
Sept. 24, 25 – Seattle. 6.5 CLE credits estimated. By WSBA CLE 206-727-8202.

Business Law

Northwest Public Finance Conference
June 8-9 – Seattle. 8.75 CLE credits. By American Banker/Bondbuyer 212-803-8210.

Succession Planning for Family-owned Businesses
June 18 – Seattle. 6.5 CLE credits. By Cambridge Institute 703-790-9595.

How to Advise Nonprofit Organizations
June 26 – Seattle. 7.25 CLE credits (incl. .75 ethics). By WSBA CLE 206-727-8202.

Advising Business Clients About Distribution and Marketing Law
July 17 – Seattle. 6.75 CLE credits (incl. .75 ethics) estimated. By WSBA CLE 206-727-8202.

Branching Out: Franchising and Distribution
July 30 – Seattle. 6.5 CLE credits. By Lorman 715-833-3940.

Consumer Complaints and Unfair Business Practices
Aug. 7 – Seattle. CLE credits TBA. By WSBA CLE 206-727-8202.

Pitfalls for the Business Lawyer
Sept. 10 – Seattle. CLE credits TBA. By WSBA CLE 206-727-8202.

Computer Law

Computer Law
July 24 – Portland, OR. CLE credits TBA. By OSBA CLE 503-684-7413.

Construction

OSHA and Construction
July 23-24 – Seattle. 8.5 CLE credits. By Healthcare Safety 520-818-1333.

Creditor/Debtor

Bankruptcy Seminar
June 5-6 – Winthrop. 9 CLE credits (incl. .25 ethics). By Bankruptcy Bar Assn. for the Eastern District of WA 509-248-4282.

Successful Judgment Collections in WA
June 16 – Seattle. 6.5 CLE credits (incl. 1 ethics). By NBI 715-835-7909.

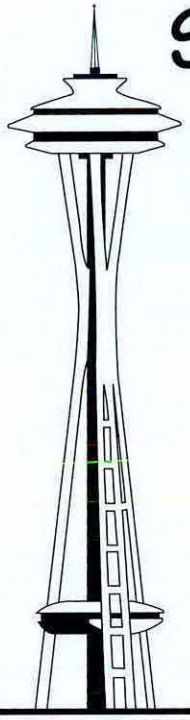
Overview of Creditor-Debtor Law
Sept. 25 – Seattle. CLE credits TBA. By WSBA CLE 206-727-8202.

Criminal Law

The Fifth Annual Criminal Justice Institute
Sept. 24-25 – Seattle. 10 CLE credits estimated. By WSBA CLE and Criminal Law Section 206-727-8202.

Education

School Law Issues in WA



Summer Traveler's Special

For Out-of-State Attorneys and those residing in Northern, Eastern, Southern Washington & the Peninsula.

By living out-of-state or outside King, Pierce, Snohomish or Kitsap Counties, we know that your participation in our Seattle seminars is harder to achieve. We would like to see you this summer, so for you, we've lowered the seminar tuition to $110 for full-day, "live" WSBA-CLE seminars offered in July & August in Seattle and we've arranged for you to receive special discounts from local hotels.

Join us in Seattle this Summer for a Seminar, Great Weather and Exciting Seattle Events like Mariners Games, the Bite of Seattle and Seafair.

CLE *To register, see page 3 of your Spring/Summer Source Catalog or call WSBA-CLE at (206) 727-8202 for a brochure*

JULY 1998

7/9/98	Strategies for Taxable Estates (6.25 CLE credits) #820SEA
7/17/98	Navigating the Rules of Evidence (6.5 CLE credits est.) #832SEA
7/17/98	How to Advise Clients on Distribution & Marketing Law (6.0 CLE credits est.) #828SEA

AUGUST 1998

8/7/98	Handling Consumer Act Cases (CLE credits TBA) #812SEA
8/14/98	Representing Your Client in Arbitration & Mediation (CLE credits TBA) #851SEA
8/26/98	Collecting from & Communicating with Clients (CLE credits TBA) #838SEA

WSBA-CLE
TRAVELER'S COUPON
Hotel Discount
Ramada Inn Downtown Seattle
2200 Fifth Avenue (800) 272-6232

$119 single/$129 double
(includes complimentary full American breakfast)

- Make your reservations early. Special rates are offered on a space-available basis
- Mention WSBA-CLE Traveler's Coupon Special when making your reservation with the hotel
- All room rates are subject to state & local taxes
- Offer good in July & August, 1998 ONLY in conjunction with a WSBA-CLE Seminar

WSBA-CLE
TRAVELER'S COUPON
Hotel Discount
The Warwick Hotel, Seattle
401 Lenora Street (800) 426-9280

$118 single or double
(includes complimentary breakfast, parking & local calls)

- Make your reservations early. Special rates are offered on a space-available basis
- Mention WSBA-CLE Traveler's Coupon Special when making your reservation with the hotel
- All room rates are subject to state & local taxes
- Offer good in July & August, 1998 ONLY in conjunction with a WSBA-CLE Seminar

WSBA-CLE
TRAVELER'S COUPON
SEMINAR DISCOUNT

Attend a one-day, "live" WSBA-CLE Seminar in July or August, 1998

for only $110!

- Offer only good for WSBA Members residing **outside KING, PIERCE, SNOHOMISH OR KITSAP** Counties
- Not valid with any other coupon, pass, or discount
- Coupon MUST be attached to your registration form
- Offer good for one-day, "live" WSBA-CLE seminars held in Seattle in July or August, 1998.

CLIP & ATTACH TO REGISTRATION FORM

TRAVELBN98

June 30 – Seattle. 6.5 CLE credits (incl. 1 ethics). By NBI 715-835-8525.

EMPLOYMENT

Family and Medical Leave Update and Roundtable
June 9 – Seattle/Bellevue. CLE credits TBA. By Foster Pepper & Shefelman PLLC 206-447-2881 or KRIEK@foster.com.

Employment Law
July 16 – Portland, OR. CLE credits TBA. By OSBA CLE 503-684-7413.

Employment Law Update
June 25 – Seattle. 6.25 CLE credits. By WSTLA 206-464-1011.

The Law and the Independent Contractor
July 29 – Seattle. 6.5 CLE credits (incl. 1 ethics). By NBI 715-835-7909.

Comprehensive Longshore Seminar
Aug. 18 – Seattle. 13.5 CLE credits. By The Longshore Institute 713-227-5665.

Handling Discharges Roundtable
Sept. 15 – Seattle/Bellevue. CLE credits TBA. By Foster Pepper & Shefelman PLLC 206-447-2881 or KRIEK@foster.com.

ESTATE PLANNING

The Limited Partnership in WA: Key to Asset Protection and Estate Tax Savings
June 18 – Bellevue. 7.25 CLE credits (incl. .5 ethics). By NBI 715-835-7909.

Mastering Estate Planning Techniques
June 26 – Portland, OR. CLE credits TBA. By Oregon State Bar CLE 503-684-7413.

Strategies for the Taxable Estate
July 9 – Seattle; July 10 – Spokane. 6.25 CLE credits . By WSBA CLE 206-727-8202.

The Estate Planner's Guide: Estate Planning with Will Substitutes
(video replays with live moderator)
July 16 – Port Hadlock; Sept. 10 – Vancouver. 6 CLE credits. By WSBA CLE 206-727-8202.

How to Handle Federal Estate Tax Returns
Sept. 11 – Seattle; Sept. 18 – Spokane. 6 CLE credits estimated. By WSBA CLE and RPPT Section 206-727-8202.

FAMILY LAW

Domestic Violence Training for Rural and Tribal Courts
June 5 – Omak; Jul. 24 – Pomeroy; Sep. 29 – South Bend. 6.75 CLE credits. By Office of the Administrator for the Courts 360-705-5341.

Family Law Section Annual Meeting
June 26-28 – Ocean Shores. 14 CLE credits (incl. 1 ethics). By WSBA CLE and Family Law Section 206-727-8202.

Handling Domestic Relations Cases
July 10 – Portland, OR. CLE credits TBA. By OSBA CLE 503-684-7413.

Essentials of Family Law
Sept. 11 – Seattle; Sept. 17 – Tacoma. CLE credits TBA. By WSBA CLE and Young Lawyers Division 206-727-8202.

GENERAL

The Lawyer's Tool Box: Nuts & Bolts for New Practitioners
June 3 (bankruptcy), 10 (family law), 17 (criminal law), 24 (estate planning); July 1 (civil litigation), 8 (business law), 15 (real estate) – Seattle. 2 CLE credits each. By WSBA CLE 206-727-8202.

Second Annual Intercounty GAL Forum
June 4 – SeaTac. 5.75 CLE credits full-day; 2.5 a.m.; 3.75 p.m. By WSBA CLE 206-727-8202.

The Winning Brief
June 5 – Seattle. 6.5 CLE credits. By LawProse 214-691-8588.

The CD Law CLE
June 5 – Seattle; Aug. 7 – Whistler, BC. 3 CLE credits. By Unger & Baumann 360-452-7688 or mbaumann@tenforward.com.

Communication in the Courtroom
June 10 – Bellevue; June 14 – Bellingham. 7.5 CLE credits. By Carl Grant 206-364-5289.

Effective Client, Seminar and Public Presentations
June 15, July 15 – Seattle. 3 CLE credits. By SpeechPower 206-583-8383.

Successful Judgment Collections in WA
June 16 – Seattle. 6.5 CLE credits (incl. 1 ethics). By NBI 715-835-8525.

Dynamic Presentation in the Courtroom
June 25 – Seattle. 7 CLE credits. By Courtroom Performance Inc. 800-818-6755.

How to Get and Keep Good Clients in Tomorrow's Legal Marketplace
June 25 – Portland, OR. CLE credits TBA. By Oregon State Bar CLE 503-684-7413.

INSURANCE

Recent Developments in Insurance Law
July 31 – Spokane. 6.5 CLE credits. By Lorman 715-833-3940.

INTELLECTUAL PROPERTY

Computer Law Institute
June 5 – Seattle. 6.5 CLE credits. By WSBA CLE 206-727-8202.

High-technology Protection Summit: Intellectual Property for the 21st Century
July 24-25 – Seattle. 15.25 CLE credits. By Center for Advanced Study and Research on Intellectual Property 206-685-2996.

LANDLORD/TENANT

The Internet as a Law Office Tool
June 5 – Seattle; Aug. 8 – Whistler, BC. 3 CLE credits. By Unger & Baumann 360-452-7688 or mbaumann@tenforward.com.

Evictions and Landlord/Tenant Law in WA
June 10 – Seattle. 6.5 CLE credits (incl. 1 ethics). By NBI 715-835-7909.

LAW OFFICE MANAGEMENT

Collecting from and Communicating with Clients
Aug. 26 – Seattle. CLE credits TBA. By WSBA CLE 206-727-8202.

Winning Strategies for the Successful Private Practitioner
(for new admittees only) Sept. 24 – Seattle. 6.75 CLE credits estimated. By WSBA CLE 206-727-8202.

LITIGATION

Trial Evidence: Doing It Right
June 4 – Portland, OR. CLE credits TBA. By Oregon State Bar CLE 503-684-7413.

The Art of Persuasion: Cross and Close
June 12-13 – Chelan. 8 CLE credits (incl. 1 ethics). By WACDL 206-623-1302.

Winning the Battle of the Experts
June 19 – Seattle. 5 CLE credits (incl. 1 ethics). By Lorman 715-833-3959.

Product Liability
June 24 – Seattle. CLE credits TBA. By WSTLA 206-464-1011.

Litigation Section Midyear
June 26-27 – Chelan. 8 CLE credits (incl. 1 ethics). By WSBA CLE and Litigation Section 206-727-8202.

Litigation Skills
June 26 – Seattle. CLE credits TBA. By WSTLA 206-464-1011.

Lawyers are from Mars, Jurors are from Venus
June 26 – Seattle. 6.75 CLE credits pending. By WSTLA 206-464-1011.

WSTLA 1998 Annual Meeting and Convention
July 9-12 – Stevenson. CLE credits TBA. By WSTLA 206-464-1011.

Navigating the Rules of Evidence
July 17 – Seattle; July 24 – Olympia. 7 CLE credits (incl. 1.5 ethics) estimated. By WSBA CLE 206-727-8202.

Federal Civil Litigation
July 23 – Seattle. 6.5 CLE credits. By Lorman 715-833-3959.

Litigating the Class Action Lawsuit
July 28 – Seattle. 6.5 CLE credits (incl. 1 ethics). By NBI 715-835-8525.

PERSONAL INJURY

Clinical Aspects of Low-impact Accidents
June 6 – Seattle. 7.25 CLE credits. By Daniel P. Dock 218-525-2033.

REAL ESTATE

Standard Provisions in Real Estate Documents with Drafting Tips
Sept. 11 – Seattle; Sept. 18 – Spokane. 6 CLE credits estimated. By WSBA CLE and RPPT Section 206-727-8202.

REAL PROPERTY, PROBATE & TRUST

RPPT Section Midyear
June 5-7 – Stevenson. 11.5 CLE credits (incl. 1 ethics). By WSBA CLE and RPPT Section 206-727-8202.

Eminent Domain
June 18-19 – Seattle. 10.5 CLE credits. By LSI 206-567-4490.

Average Coupon Equivalent Yields from the Auction of 26-week Treasury Bills: 1988 to Date

These are the average coupon equivalent yields from the auction of 26-week treasury bills from December 1986 to date. The highest rate of interest permissible under RCW 19.52.020(1) is computed by the addition of four percentage points or is 12% per annum, whichever is higher.

The yields shown on the chart are those applied to the month shown, computed on the coupon equivalent for the first market auction average in the month preceding, as specified in the statute.

These limits apply to loans which are made during the designated month. Note: Any loan made pursuant to a commitment to lend at an interest rate permitted when the commitment is made is lawful.

The average coupon equivalent yield from the first May 1998 auction of 26-week treasury bills applicable to the computation of the maximum allowable interest rate for June 1998 is 5.318 percent. According to the state treasurer's office, the maximum allowable interest rate for June 1998 is 12%. Note that when the equivalent bond yield is below 8%, the maximum interest allowable remains at 12%.

MONTH	YIELD	RATE
1988		
January	6.42%	12.00%
February	6.67%	12.00%
March	6.41%	12.00%
April	6.20%	12.00%
May	6.21%	12.00%
June	6.41%	12.00%
July	7.05%	12.00%
August	7.04%	12.00%
September	7.52%	12.00%
October	7.79%	12.00%
November	7.86%	12.00%
December	8.13%	12.13%
1989		
January	8.73%	12.73%
February	8.86%	12.86%
March	9.04%	13.04%
April	9.18%	13.18%
May	9.38%	13.38%
June	9.16%	13.16%
July	8.44%	12.44%
August	8.05%	12.05%
September	8.12%	12.12%
October	8.31%	12.31%
November	8.36%	12.36%
December	7.89%	12.00%
1990		
January	7.69%	12.00%
February	7.93%	12.00%
March	8.15%	12.15%
April	8.22%	12.22%
May	8.24%	12.24%
June	8.28%	12.28%
July	8.03%	12.03%
August	8.01%	12.01%
September	7.56%	12.00%
October	7.75%	12.00%
November	7.59%	12.00%
December	7.41%	12.00%
1991		
January	7.31%	12.00%
February	6.92%	12.00%
March	6.91%	12.00%
April	6.36%	12.00%
May	6.06%	12.00%
June	5.87%	12.00%
1991, continued		
July	5.98%	12.00%
August	5.98%	12.00%
September	5.85%	12.00%
October	5.63%	12.00%
November	5.30%	12.00%
December	5.00%	12.00%
1992		
January	4.56%	12.00%
February	4.00%	12.00%
March	4.08%	12.00%
April	4.28%	12.00%
May	4.16%	12.00%
June	3.91%	12.00%
July	3.84%	12.00%
August	3.42%	12.00%
September	3.40%	12.00%
October	3.00%	12.00%
November	2.86%	12.00%
December	3.37%	12.00%
1993		
January	3.57%	12.00%
February	3.38%	12.00%
March	3.19%	12.00%
April	3.14%	12.00%
May	3.13%	12.00%
June	3.07%	12.00%
July	3.32%	12.00%
August	3.32%	12.00%
September	3.35%	12.00%
October	3.12%	12.00%
November	3.17%	12.00%
December	3.35%	12.00%
1994		
January	3.37%	12.00%
February	3.39%	12.00%
March	3.51%	12.00%
April	3.88%	12.00%
May	4.16%	12.00%
June	4.57%	12.00%
July	4.70%	12.00%
August	4.92%	12.00%
September	4.93%	12.00%
October	5.08%	12.00%
November	5.61%	12.00%
December	5.93%	12.00%
1995		
January	6.63%	12.00%
February	6.73%	12.00%
March	6.38%	12.00%
April	6.29%	12.00%
May	6.18%	12.00%
June	6.12%	12.00%
July	5.59%	12.00%
August	5.71%	12.00%
September	5.64%	12.00%
October	5.54%	12.00%
November	5.62%	12.00%
December	5.53%	12.00%
1996		
January	5.42%	12.00%
February	5.25%	12.00%
March	4.99%	12.00%
April	5.00%	12.00%
May	5.26%	12.00%
June	5.35%	12.00%
July	5.43%	12.00%
August	5.43%	12.00%
September	5.34%	12.00%
October	5.61%	12.00%
November	5.28%	12.00%
December	5.29%	12.00%
1997		
January	5.24%	12.00%
February	5.32%	12.00%
March	5.00%	12.00%
April	5.40%	12.00%
May	5.52%	12.00%
June	5.60%	12.00%
July	5.06%	12.00%
August	5.12%	12.00%
September	5.41%	12.00%
October	5.35%	12.00%
November	5.21%	12.00%
December	5.34%	12.00%
1998		
January	5.408%	12.00%
February	5.339%	12.00%
March	5.296%	12.00%
April	5.334%	12.00%
May	5.201%	12.00%
June	5.318%	12.00%

STOKES LAWRENCE, P.S.

is pleased to announce

DONALD B. MYERS
Commercial and Environmental Litigation

LAURA J. BUCKLAND
Commercial Litigation, Class Action and Appellate

have become Shareholders

MARK E. MAYNES
Commercial Litigation and Subrogation

ALISON G. IVEY
Business Transactions, General Corporate and Real Estate

CARL J. MARQUARDT
Commercial Litigation

LESLIE C. RUITER
Trademark, Copyright, Licensing, Unfair Competition and Software Protection

JOHN M. HALL
Corporate Finance, Securities Regulation, Corporate and Business Planning

have become Associates

HEATHER C. FRANCKS
Commercial Litigation, Class Action and Antitrust

has become Of Counsel

and the firm name has changed

Established in 1981, Stokes Lawrence continues to provide comprehensive legal services emphasizing business planning, general corporate, finance and international law; mergers and acquisitions; communications law; antitrust and unfair trade practices; consumer and advertising law; environmental law; real estate; intellectual property; labor and employment; mediation and arbitration; estate planning and probate; and domestic relations.

800 Fifth Avenue, Suite 4000
Seattle, Washington 98104
206-626-6000

BLAIR, SCHAEFER, HUTCHISON & WOLFE, LLP

is pleased to announce that

Scott W. Swindell

has been named a partner in our firm.

Mr. Swindell holds an LL.M. in taxation and practices in the areas of business organization and tax planning, planning and taxation for complex estates and trusts, and real estate transactions and exchanges. He is licensed in Washington and Oregon.

Blair, Schaefer, Hutchison & Wolfe, LLP
105 West Evergreen Blvd., Suite 200
Vancouver, Washington 98660
WA: (360) 693-5883; OR: (503) 285-4103
FAX: (360) 693-1777

Fain Sheldon Anderson & VanDerhoef, PLLC

is pleased to announce that

LISA W. WONG

has joined the firm
emphasizing civil litigation with a focus on medical/dental malpractice defense, disciplinary actions, privileging/licensing disputes

First Interstate Center
999 Third Avenue, Suite 3610
Seattle, WA 98104
Phone: (206) 749-0094
Fax: (206) 749-0194

LARRY E. HALVORSON AND MICHAEL B. SAUNDERS

ARE PLEASED TO ANNOUNCE THE OPENING OF THEIR NEW LAW FIRM

HALVORSON & SAUNDERS
P.L.L.C.

7100 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
(206) 467-1575
FAX (206) 386-7856

We will continue to specialize in the areas of labor law, employment litigation, and employer counseling.

KELLER ROHRBACK LLP

IS PLEASED TO ANNOUNCE

MARGARET E. WETHERALD

HAS BECOME A PARTNER OF THE FIRM

AND

MARIANNE E. JONES
ALEXANDER B. PERKINS
SUZANNE R. PARISIEN

HAVE BECOME ASSOCIATED WITH THE FIRM

1201 Third Avenue
Suite 3200
Seattle, WA 98101-3052
(206) 623-1900

MARTIN BISCHOFF

Martin, Bischoff, Templeton, Langslet & Hoffman LLP

MARTIN, BISCHOFF, TEMPLETON, LANGSLET & HOFFMAN LLP IS PLEASED TO ANNOUNCE THE RELOCATION OF ITS PORTLAND OFFICE TO PIONEER TOWER

Effective February 1, 1998

OUR NEW ADDRESS IS:
900 Pioneer Tower
888 SW Fifth Avenue
Portland, Oregon 97204

OUR PHONE AND FAX NUMBERS WILL REMAIN THE SAME:
(503) 224-3113 phone
(503) 224-9471 fax

JOHN L. LANGSLET
JONATHAN M. HOFFMAN
JAMES C. HOWE
LAURA VAN HARLINGEN POTTER
MARY ANNE S. RAYBURN
JAMES T. DUNN
JOHN W. KNOTTNERUS
DOUGLAS G. PICKETT
PHILIP A. RUSH
MICHAEL J. FARRELL
JULIE K. BOLT
BRIAN K. RUESS

OF COUNSEL
FRED M. AIRI
JANET M. BRIGGS

MILLS MEYERS SWARTLING

IS PLEASED TO ANNOUNCE

CARYN GERAGHTY JORGENSEN

(FORMERLY ASSOCIATED WITH
WILLIAMS & MONTGOMERY, LTD
CHICAGO, ILLINOIS)

AND

GRETCHEN A. GRAHAM

(FORMERLY ASSOCIATED WITH
LANE POWELL SPEARS LUBERSKY LLP
SEATTLE, WASHINGTON)

HAVE JOINED THE FIRM AS ASSOCIATES

Wechsler, Besk, Erickson, Ross & Roubik, LLP
is pleased to announce that

DOUGLAS P. BECKER

has joined the firm as a Partner.

Mr. Becker served as 1997 WSBA Family Law Section Chair and was honored as its 1992 Family Law Attorney of the Year.

The firm's name has been changed to

WECHSLER, BECKER, ERICKSON, ROSS, ROUBIK & HUNTER, LLP

The firm will continue its emphasis on complex family law matters, including mediation and arbitration services.

We extend our best wishes for success to departing partner Lawrence R. Besk as he opens his new practice with Thomas G. Hamerlinck in Bellevue.

701 FIFTH AVENUE
5700 COLUMBIA SEAFIRST CENTER
SEATTLE, WA 98104-7094
PHONE (206) 624-4900 FAX (206) 386-7896

WINTERBAUER & DIAMOND P.L.L.C.

A PROFESSIONAL LIMITED LIABILITY COMPANY
FOR THE PRACTICE OF EMPLOYMENT AND LABOR LAW
COUNSELING AND LITIGATION

IS PLEASED TO ANNOUNCE THAT

DANA TONKIN CHAPMAN

HAS JOINED OUR FIRM

MS. CHAPMAN IS A 1996 GRADUATE OF SEATTLE UNIVERSITY LAW SCHOOL AND A 1991 GRADUATE OF MOUNT VERNON COLLEGE IN WASHINGTON, D.C.

THE FIRM IS ALSO PLEASED TO ANNOUNCE THE EXPANSION AND RELOCATION OF ITS OFFICES TO

THE IBM BUILDING
1200 FIFTH AVENUE, SUITE 1910
SEATTLE, WASHINGTON 98101

TELEPHONE: (206) 676-8440
FACSIMILE: (206) 676-8441

Professionals

Calif/Wa Dual-licensed

Michael A. Aronoff
Foshaug, McGoran, Sawyer & Aronoff, P.S.

Available for referrals, consultation or association on California matters. Heavy family law background. 20 years' experience in California.

(253) 874-0189
fax (253) 874-8005

Tax Deferred Exchanges

Rebecca A. McIntyre is available as intermediary for Section 1031 like-kind exchanges.

Rebecca A. McIntyre
Ten Thirty One Intermediary, L.L.C.
1000 Second Avenue, Suite 3500
Seattle, Wa 98104
Tel: (206) 624-0926 (888) 385-0926
Fax: (206) 292-0494

Canada

Gregory L. Samuels
Trial Lawyer in Washington & British Columbia
(800) 222-6332

Appeals

Rob Lawrence-Berrey is available for referral or assistance on civil appeals. An objective and fresh view often reveals overlooked facts and arguments.

Rob Lawrence-Berrey
Finney, Falk & Lawrence-Berrey
117 N. 3rd St., Suite 201
Yakima, WA 98901
(509) 453-5604

Burn Injuries

William S. Bailey, 1991 WSTLA Trial Lawyer of the Year, is available for association or referral of fire, explosion and burn injury cases.

Fury Bailey

1300 Seattle Tower
1218 Third Avenue
Seattle, WA 98101-3021
(206) 292-1700 or
(800) 732-5298

Referrals, Associations and Consultations in

Immigration Law Matters

Robert H. Gibbs
(19 years' experience)

1111 - 3rd Avenue
Suite 1210
Seattle, Washington 98101
(206) 682-1080

State & Local Tax

Frank Dinces is available for consultation and referral on any aspect (planning, audits, litigation or lobbying) of state and local taxation.

With over 10 years of focused experience, Mr. Dinces seeks to represent clients being audited, engaging in major transactions, pursuing legislation, challenging tax assessments, seeking tax refunds or under investigation for tax evasion or fraud.

THE DINCES LAW FIRM

Seattle Office
720 Olive Way, Suite 1300
Seattle, WA 98101-1812
(206) 713-1287

Pierce County Office
4607 Saddleback Drive NW
Gig Harbor, WA 98332-7859
(253) 858-1400

Professional Malpractice

Joseph J. Ganz
is available for consultation, association or referral of substantial claims of professional malpractice.

2101 - 4th Ave., Suite 2100
Seattle, WA 98121-2319
Phone: (206) 448-2100
Fax: (206) 441-4363

Medical Negligence & Product Liability

Chemnick, Moen & Greenstreet is available for referral or association in plaintiff's medical negligence and product liability claims.

The firm's staff includes a nurse-attorney and a nurse-paralegal. Patricia K. Greenstreet and Eugene M. Moen are past chairpersons of WSTLA's Medical Negligence Section. Paul W. Chemnick organized WSTLA's Product Liability Section and served as its first chairperson.

Chemnick, Moen & Greenstreet
450 Market Place Two
2001 Western Avenue
Seattle, WA 98121
(206) 443-8600

Construction Site Injuries

William S. Bailey, 1991 WSTLA Trial Lawyer of the Year, is available for association or referral of construction site injury cases.

Fury Bailey

1300 Seattle Tower
1218 Third Avenue
Seattle, WA 98101-3021
(206) 292-1700 or
(800) 732-5298

Lawyer Ethics & Discipline
Former WSBA Chief Disciplinary Counsel

Leland G. Ripley
2442 N.W. Market St., #409
Seattle, WA 98107
(206) 781-8737
fax (206) 782-8111
e-mail: lawethics@juno.com

Title 11 RCW

Bruce G. Hand (admitted 1969) is available for assistance, referral, mediation, or arbitration in matters governed by Title 11 RCW.

Bruce G. Hand, P.C.
4122 - 128th Ave. SE, Ste. 301
Bellevue, WA 98006
(425) 747-0968

Dental Malpractice & Disciplinary Proceedings

John J. Greaney announces his availability for referral of

1) plaintiffs' claims of dental malpractice, and
2) representation of healthcare providers in disciplinary matters.

(425) 451-1202, Bellevue

Disciplinary Proceedings
Personal Injury
Products Liability

Stephen L. Henley, Sr.
1325 Fourth Avenue, Suite 1700
Seattle, WA 98101-2509
Telephone 206-343-0191
Fax 206-682-8636
Internet SHenleysr@aol.com
Since 1976

Announces his availability to

(1) Represent health care providers in disciplinary matters and

(2) Represent plaintiffs in complex personal injury and products liability cases

Local Improvement Districts

Blair B. Burroughs, author of the Real Property Deskbook chapter on the subject, is available for consultation or referral on matters relating to local improvement districts.

Lawler & Burroughs, P.C.
(206) 682-0191

Entertainment Law

Neil Sussman is available for consultation and referral on entertainment law matters, including music, film, theater and television.

10727 Interlake Avenue North
Seattle, WA 98133
(206) 363-8070

Halvorson & Saunders P.L.L.C.

Labor Law, Employment Discrimination, Wrongful Termination, Sexual and Racial Harassment, Wage and Hour

7100 Columbia Center
701 Fifth Avenue
Seattle, WA 98104
(206) 467-1575

Appellate Consultant

Heather Houston

Offering an appellate perspective on every phase of your case. Fifteen years' experience evaluating, briefing, and arguing appeals. Former law clerk to Justice Robert F. Utter, Ret.

Gibbs Houston Pauw
1111 Third Avenue #1210
Seattle, WA 98101
(206) 682-1080

Higher Education Law
Education Law

Thomas K. Dalglish, J.D., Ph.D.

Former counsel to state universities, state Superintendent of Public Instruction. University teaching, research, administrative experience. 20+ years public, private practice of law.

Available for referrals, consultation, association or mediation in disputes involving faculty, students.

Thomas Killin Dalglish
5215 Ballard Avenue NW
Seattle, WA 98107
(206) 706-1000

Vehicle Crash-Worthiness

Paul W. Whelan
of the law firm
Stritmatter Kessler Whelan & Withey
is available for association or referral in cases related to motor vehicle crash-worthiness, including cases involving fuel-system integrity, such as Chevrolet C/K series pickup trucks.

Seattle Office:
1200 Market Place Tower
2025 First Avenue
Seattle, WA 98121
(206) 448-1777

Appeals

Douglass A. North announces his availability for referral, consultation or association on appellate arguments and briefs.

Douglass A. North

Maltman, Reed, North, Ahrens & Malnati, P.S.
1415 Norton Building
Seattle, Washington 98104
Telephone (206) 624-6271

Labor and Employment Law

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

(206) 441-7816

Life Insurance Denials

James S. Sorrels is available for referral or association.

(425) 778-8558

Personal Injury

John Alexander of Adler Giersch, P.S., announces his availability for trial of plaintiff's personal injury lawsuits.
(206) 682-0300

Childhood Abuse Repressed Memory

Steve Paul Moen is available for assistance & referral of cases involving sexual abuse, delayed recall & mental health counseling.

Shafer, Moen & Bryan, P.S.
Hoge Bldg., Seattle
Tel: (206) 624-7460

Criminal Charges

Lori K. Gustavson, specializing in the defense of major felony allegations, is available for referral

(206) 624-1060

Appeals

"A discourse on argument on an appeal would come with superior force from the judge who is in his judicial person the target and trier of the argument . . . Supposing fishes had the gift of speech, who would listen to a fisherman's weary discourse on fly-casting . . . if the fish himself could be induced to give his views on the most effective methods of approach?" — John W. Davis

Charles K. Wiggins
Former Judge, Court of Appeals
(206) 780-5033

Class Actions

Christopher L. Stamos and **James E. Freeley** announce their availability for referral, consultation or association on class actions.

Christopher L. Stamos, WSBA 6296
James E. Freeley, WSBA 11251

2120 State Avenue NE, Suite 101
Olympia, WA 98506
(360) 754-7667
Fax: (360) 754-0249

Calif/WA Dual-License Personal Injury Brain & Spine Injury

AV Martindale-Hubbell Attorney Certified as a Civil Trial Advocate by the National Board of Trial Advocacy available for referrals or association of California (San Francisco Bay Area and Northern California) matters or trial in State or Federal Courts.

Michael M. Shea
Shea & Shea
408-292-2434 Phone
408-292-1264 Fax

Pence & Dawson

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

(206) 624-5000

Classifieds

Reply to WSBA* Bar News *Box Numbers at WSBA Bar News Box ___, Bar News Classifieds, 2101 4th Avenue, 4th Floor, Seattle, WA 98121-2330.

FOR SALE/WANTED

For sale: West's RCWA, $1,000; Washington Reports, $1,200; Washington Appellate Reports, $700; Washington Practice, $1,500; Washington Digest, $1,000. Six-drawer filing cabinets, 36w x 75h, $300 apiece. 360-676-5226.

SPACE AVAILABLE

Prime location: 10501 Aurora Ave. N. 1,300 square feet. 206-523-2034.

Portland branch? Spacious office in professional lawyers' building near courthouse at SW 6th and Clay in downtown Portland. Pleasant work environment includes receptionist, personalized telephone answering, library with fireplace, conference room, kitchen, fitness center, shower, closed file storage, secretarial space and all usual equipment. Parking available. $500 to $650. 503-226-3607.

Laurelhurst: professional office sharing arrangement. Share amenities with CPA, consultants, insurance professionals. NE 45th, great location. Great marketing, networking opportunity. Space available mid-June. Please contact Carol 206-523-0519.

Downtown Seattle: large western-view office available. Tasteful decor, relaxed atmosphere. Receptionist, conference rooms, computerized library. Secretarial station available. 206-624-9392.

Modern, upscale attorney office for rent or sublease in Queen Anne Square, 200 Mercer Street, Seattle. Rent is approximately $614 per month, plus telephone expenses. Includes use of library and waiting area. Call J.M. Morgan 360-754-1976.

Sweeping, unobstructed view of Olympics or Mt. Rainier (First Interstate Building, 41st floor). Elegant law office near courthouse. Reasonable rates include

receptionist, basic messenger service, mail delivery, fax, two conference rooms, law library, fully equipped kitchen. AnnaMarie 206-624-9400.

Ballard: office space available in long-established Ballard law office; secretarial space and/or share secretary; library, fax, copier, parking; close to banks and post office. Call Jonsson 206-783-4100.

POSITION AVAILABLE

Family law litigation associate needed by fast-growing Seattle firm. Experience preferred, but we will train the right person. Please send résumé to Foreman Law Firm, 506 2nd Ave. #1720, Seattle, WA 98104-2348.

Minzel & Associates is a temporary placement agency for lawyers and paralegals. We are looking for quality lawyers and paralegals who are willing to work on a contract basis for law firms, corporations, solo practitioners, and government agencies. If you are interested, please call 206-328-5100 for an interview.

Wanted: Lawyers to be Judge Advocate Officers in the Army Reserve. Prior military experience preferred but not required. Mail résumé to: Commander, 6th JAG Det., Building 572, Fort Lawton, WA 98199-5099. 206-281-3002.

Vandeberg Johnson & Gandara seeks one attorney for its Seattle office. The successful candidate will have large firm training, a portable business/securities/real estate or complementary practice, and a desire for a sophisticated, large-firm practice in a congenial, low-overhead smaller firm setting. Résumés only, please, to: Hiring Coordinator, Vandeberg Johnson & Gandara, 600 University St., Ste. 2424, Seattle, WA 98101.

Lawyer: mid-sized AV-rated regional law firm seeks a tax-estate planning lawyer in our Portland, Oregon, office to complement an existing tax/estate practice. Applicant should have an L.L.M. in taxation and two or more years' experience in predominantly an estate planning practice. If you possess excellent qualifications and are interested in a dynamic new practice environment, please send or fax a résumé to: David A. Coyle, Weiss, Jensen, Ellis & Howard, 2600 Pike Tower, 500 Pike Street, Seattle, WA 98101. Fax 206-623-4363.

Business transactions and securities associate attorneys: Karr Tuttle Campbell seeks a business transactions attorney to join its business and finance department and a securities attorney to join its corporate finance practice group. Both positions require a minimum of two years' experience. Candidates must have superior academic credentials and excellent writing and communications skills. Competitive salary DOE. Send applications to: Carol Anne Nitsche, Karr Tuttle Campbell, 1201 Third Avenue, #2900, Seattle, WA 98101. All inquiries confidential.

Quality attorneys, law clerks and paralegals sought to fill temporary and permanent positions in law firms and companies throughout Washington. Contact Legal Ease, LLC 425-822-1157.

Seattle intellectual property firm seeks highly qualified attorney. Candidates with computer science background and at least two years of legal experience are preferred, but the firm will consider recent graduates having strong technical background. An attorney with at least some established clientele is preferred but not required. Send résumé in confidence to: Delbert J. Barnard and Joan H. Pauly, Barnard, Pauly & Bellamy, PO Box 58888, Seattle, WA 98138-1888.

Commercial litigation: five-attorney firm in downtown Seattle (AV-rated) is seeking associate with at least three years' experience. Firm's practice is high-level commercial litigation, largely in federal court. We enjoy what we do and are good at it. We want an energetic and well-rounded attorney to share our practice. Résumés to WSBA *Bar News* Box 556.

Attorney jobs: Harvard Law School calls our publication "probably the most comprehensive source of nationwide and international job openings received by our office and should be the starting point of any job search by lawyers looking to change jobs." Each monthly issue contains 500-600 current (public/private sector) jobs. $45/three months. Contact: *Legal Employment Report*, 1010 Vermont Ave. NW, Ste. 408-WB, Washington, DC 20005. 800-296-9611. Visa/MC/AmEx. Web site: www.attorneyjobs.com.

Regional, niched tax and estate planning law firm seeks sole practitioner or small group practice with substantial estate planning experience for affiliation of counsel, merger, or other relationship to service our firm's Seattle clients. Reply to WSBA *Bar News* Box 557.

Adelstein, Sharpe & Serka seeks an associate with strong academic credentials and an interest in business and transactional work. Please send your résumé and cover letter to Adelstein, Sharpe & Serka, attn.: Jeff Fairchild, PO Box 5158, Bellingham, WA 98227-5158. All inquiries will be kept confidential.

Position available for senior attorney with well-rounded experience to manage Chelan branch office for Wenatchee-based, 10-attorney firm. We are seeking a person with strong academic credentials, proven experience in all areas of the law, and a commitment to live and work in a small-town environment. Reply to: Office Manager, Foreman, Arch, Dodge, Volyn & Zimmerman, PS, PO Box 3125, Wenatchee, WA 98801.

Lawyers needed full- and part-time. Two or more years' experience. General practice firm. Respond to calls from members of organization re variety of legal questions. Spanish-speaking a plus. Résumé to: Hiring Partner, 2200 6th Ave. #1122, Seattle, WA 98121.

Cozen and O'Connor, a full-service national law firm, seeks an associate with a minimum of two years' experience to join the insurance coverage department of its Pacific Northwest regional office in Seattle. Please send all résumés and inquiries to Daniel P. Mallove, Hiring Partner, Cozen and O'Connor, Suite 5200, Washington Mutual Tower, 1201 Third Avenue, Seattle, WA 98101-3071. 206-340-1000.

Patent attorney, ZymoGenetics: we are seeking a patent attorney with at least three years' experience preparing and prosecuting biotechnology patent applications. State and Patent Bar membership, excellent written and oral communication skills, and exceptional attention to detail are a must. The successful candidate should perform independently and creatively within a team environment. Technology licensing and contract preparation skills, as well as client counseling experience, is preferred. ZymoGenetics offers intellectual challenge, state-of-the-art facilities and a research-oriented work atmosphere. Salary is commensurate with experience and ZymoGenetics offers an excellent benefits package, including a tuition reimbursement program. Please apply in confidence by sending a cover letter noting job reference #95R398 and a detailed résumé of your work experience and academic background to: ZymoGenetics, attn.: Human Resources, 1201 Eastlake Avenue East, Seattle, WA 98102. Fax 206-442-6658. EOE.

Associate sought by nine-attorney insurance defense firm. Insurance litigation experience helpful. Excellent opportunity to learn a great deal.

Please send résumé and letter of interest to: Administrator, 400 Mercer, Ste. 308, Seattle, WA 98109.

Well-established Spokane firm looking for an associate with the desire and ability to work in a trial practice law firm. Position available for an associate interested in working with supervising attorney whose practice focuses on plaintiff's actions involving medical negligence, product liability and toxic torts. Salary is negotiable and depends upon life and legal experiences. Send résumé and writing sample to: WSBA Bar News Box 542.

SERVICES

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

Minzel & Associates is a temporary placement agency for lawyers and paralegals. We provide highly qualified attorneys and paralegals on a contract basis to law firms, corporations, solo practitioners, and government agencies. Jeff Minzel, who worked at Davis Wright Tremaine for a number of years, carefully screens all attorneys and paralegals. Highlights of the screening process include a personal interview, a detailed review of the applicant's legal and non-legal work experience, a review of the applicant's educational background, an evaluation of the applicant's legal skills, reference checks, a review for bar complaints and malpractice suits, and verification of good-standing status. These lawyers and paralegals can help you enhance profits, control costs, manage growth, increase flexibility, improve client service, and increase career satisfaction. For more information, please call us at 206-328-5100 or e-mail us at M-and-A@msn.com.

Expert, human factors: specializing in injuries to children and the elderly. Internationally published researcher. Opinion letters, depositions, trial strategy, testimony, product testing, reconstructions. W. Andrew Harrell, Ph.D., J.D. 403-492-3545; aharrell@gpu.srv.ualberta.ca.

California litigation/collection: California attorney ready to assist you in your California needs: domesticating judgments, jurisdictional challenges, collections, depositions, litigation. Rick Schroeder 818-879-1943.

Career change: Berkshire Associates is looking to help attorneys develop a career in the financial services industry. Our associates are trained to work in the areas of insurance analysis, estate planning, retirement programs and investments. Please call for a confidential briefing. Berkshire Associates, 11130 NE 33rd Pl., Ste. 150, Bellevue, WA 98004. John Peterson, CLU 425-739-1361.

Quality attorneys, law clerks and paralegals: more than 300 pre-screened local contract attorneys, law clerks and paralegals are immediately available for legal work at any level, from the most basic support tasks to the most complex attorney work. Contact Legal Ease, LLC 425-822-1157.

Legal support services: drafting, briefs, discovery, documentary analysis, research, trial preparation. Complex commercial, civil litigation and business agreements. Yale and Stanford Law graduate. Colorado Bar member. High-quality work. Very experienced. Hourly. William Goldstein 206-322-2204 or 206-720-0782.

Forensic document examiner: questioned document examinations/expert testimony. Trained by the Secret Service, and practicing law enforcement document examiner. Civil cases only. Robert M. Hill, Associated Document Laboratories, 206-256-9893.

Expert witness/investigator: investigated wage-and-hour matters and testified for plaintiffs in Taco Bell litigation. Federal wage-and-hour investigator for 32+ years. Employers concerned about Labor Department audit, contact Robert B. Hackler 360-331-4290.

Nurse/legal consultant: licensed nurse since 1978. Five years' experience with malpractice and personal injury cases, medical record reviews/summaries, research, etc. References. Lori Stewart, RN, BSN 509-928-7304.

Forensic document examiner: trained by Secret Service/US Postal Crime Lab examiners. Court-qualified. Currently the examiner for the Eugene Police Dept. Only civil cases accepted. Jim Green 541-485-0832.

Your senior clients can wipe out debts and stop monthly payments with a US-government–backed reverse mortgage from Seattle Mortgage. Call 800-233-4601.

Losing your intern this summer? Desk a mess? We can help! Research and writing from trial court to U.S. Supreme Court. Satisfied clients across Washington and in B.C. Reasonable rates. Available evenings and weekends, rush jobs fine. Fraser Robinson Speir, Attorney Outsource. 253-564-3669, fax 253-564-3552.

Interested in referrals? I receive inquiries in family law, personal injury and immigration. I practice criminal defense, trial and appeal. If you are interested in building your referral base, let's talk. Douglas Stratemeyer 206-684-9397.

Expert witness: retired AVP professional liability claims with total of 31 years' experience. Expert witness past 12 years: basically CA and NV, but have testified in all courts nationwide. Insurance good faith, insurance contract evaluation/comparison, insurance claims and insurance management practices. Insurance agent/broker professional liability. Arbitration of insurance cases. George Ochsner, PO Box 417, Brinnon, WA 98360-0417. 360-796-3592. Fax on request.

Locate anyone. Defendants, witnesses, debtors, heirs. No charge if not found. Flat rate $245. Nationwide database search and full-scale investigation. Manhunt Investigations 800-335-HUNT.

WILL SEARCH

Sammy Okemah: looking for will of Sammy Okemah of Puyallup, WA, died 01-26-98. Call 253-272-9459.

MISCELLANEOUS

Lump sums cash paid for remaining payments on seller-financed real estate notes and contracts, business notes, structured settlements, annuities, inheritances in probate, lottery winnings. Since 1992. www.cascadefunding.com. Cascade Funding 800-476-9644.

Scottsdale: deluxe two-bedroom home in gated community with all amenities including car. Get ready for summer tennis in the desert. Golf just minutes away. June through September now available. $1500 per month. 509-865-2050.

Whistler week: Sunday, July 26 – August 2, 1998. Deluxe two-bedroom, two-bathroom condo with panoramic view of golf course, Whistler and Blackcomb Mountains, ski runs, pool, hot tub, TV, VCR, fully equipped kitchen, washer/dryer, sleeps six. $US 150/night. 253-472-6213, ask for Art or Bev.

Inform your clients: top dollar paid for structured settlements and lottery winnings. Heartland Capital Funding 800-897-9825. Professional annuity funding for you and your client.

Kihei, Maui: deluxe one- or two-bedroom non-smoking condos. Located directly on four-mile sand beach. Panoramic ocean views, pool, BBQ. Winter rates from $110 one-bedroom, $155 two-bedroom. Summer rates from $95 one-bedroom, $135 two-bedroom. 800-877-3826.

THE FULL POWER OF WESTLAW NOW ON THE WORLD WIDE WEB.

Introducing a whole new world of research power on the Web.

At westlaw.com.™

Now you can tap into the full power of the Westlaw® legal and business research service whether you're at the office, at home or on the road.

And full power it is! You get the same vast content, the same powerful searching and the same great ease-of-use as Westlaw.

All just a mouse click away with your favorite browser.

Most important, westlaw.com delivers Web-based research results you can trust. In a password-protected environment.

Plus you're backed by 24-hour support from West Group Reference Attorneys.

So wherever you go, you can find whatever you need.

It's one more way West Group is using powerful new technology to deliver information on your terms.

To learn more, visit westlaw.com today. Or request a FREE brochure at 1-800-757-WEST (1-800-757-9378).

westlaw.com™

INFORMATION ON YOUR TERMS™

WEST GROUP

Bancroft-Whitney • Clark Boardman Callaghan • Lawyers Cooperative Publishing • Westlaw® • West Publishing