

Washington State BAR NEWS

The Official Publication of the Washington State Bar

JUNE 1999

The Lawyer as Hero: A Pride of Lions, a Justice of Lawyers

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How a Mild-Mannered
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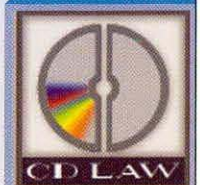
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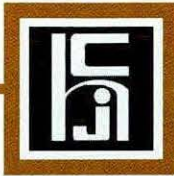
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JUNE 1999

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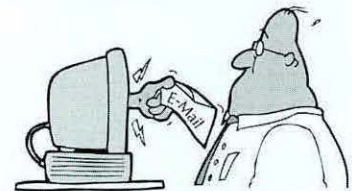
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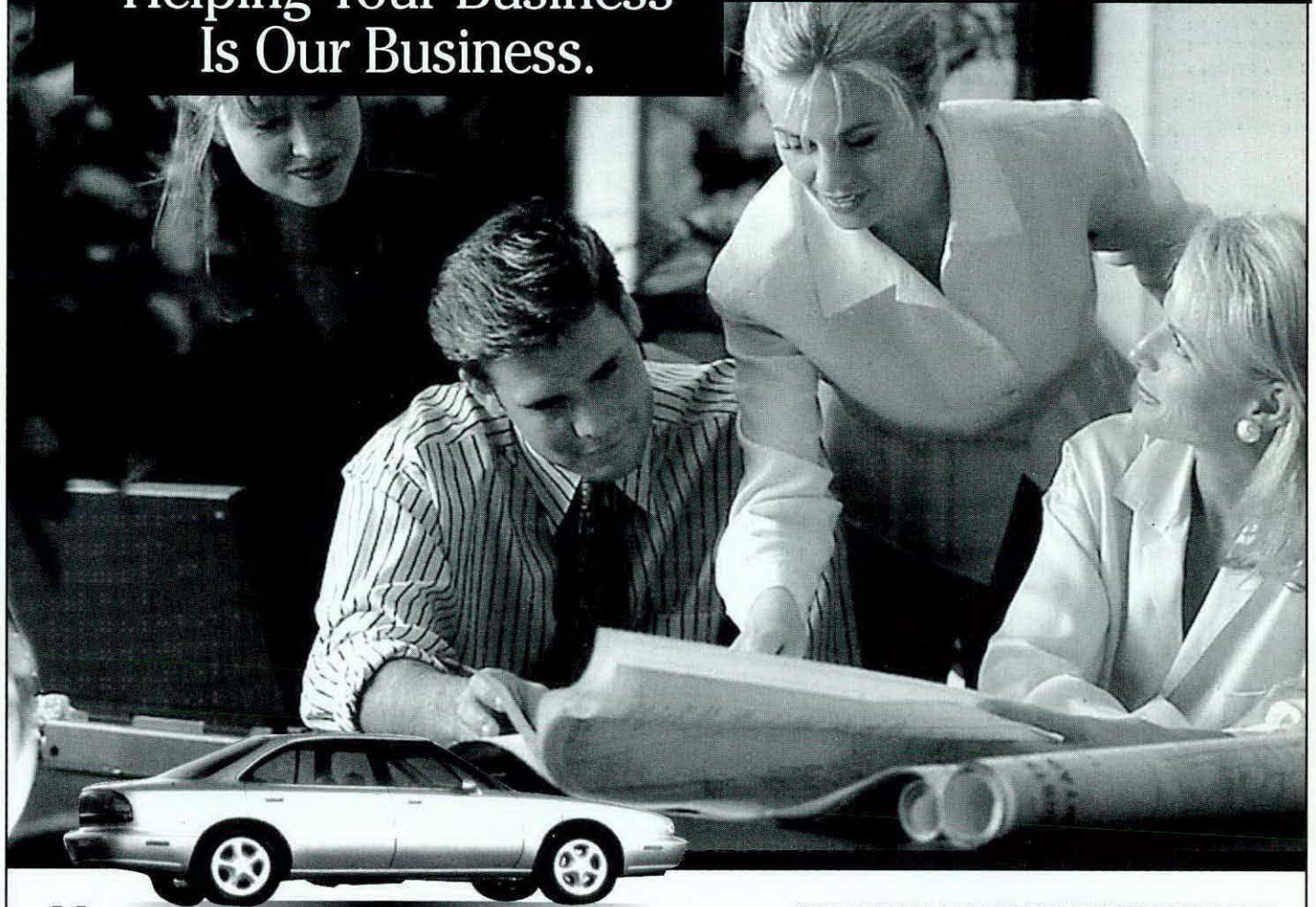
Cover design by
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Washington State Bar News (ISSN 886-5213) is published monthly by the Washington State Bar Association, 2101 Fourth Avenue, Fourth Floor, Seattle, WA 98121-2330, and mailed periodicals postage paid in Seattle, WA. \$12.67 of a regular 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.

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Editor:

I read the article in the April *Bar News* regarding reciprocity in admission to practice in this state [Wayne Blair, "Is Reciprocal Admission of Lawyers a Good Idea?" p. 15]. As an attorney that has gone through that process, I think I have comments worth merit regarding this situation.

At the time I took the Washington State Bar, I was admitted and in active practice in California for approximately 17 years. I had sworn that I would never take another state bar examination, but wound up eating those words, as I desired to relocate to this area.

I was stunned that I would have to take the entire bar examination notwithstanding my 17 years in private practice. However, once I began studying for the Washington State Bar Exam, I learned there is something extremely unique about this exam as compared to California. The California Bar Exam is traditionally geared toward thinking and filling up blue books with everything from common law to emerging legal trends. It is a highly esoteric bar exam. On the other hand, I found that the Washington State Bar Exam was geared towards a practice in this state and did require some general knowledge of current Washington state law.

Despite 17 years of practice and dealing with the real world in California, I still had burned into my mind the common law crimes and common law torts. I had to unlearn all of those for the Washington State Bar Exam. The exam was a real hands-on approach in that it *does* deal with current Washington law.

I would suggest that a limited form of reciprocity be adopted. It could be in the form of a shortened bar exam with questions primarily highlighting areas of prime importance in dealing with Washington law, such as criminal law, family law, etc. Done this way, the applicant could rely on his or her background but still be able to distinguish the considerable difference between the two states. I feel that this would be an equitable solution to the problem.

*Michael A. Aronoff
Federal Way*

Moose (Elk) Head Contest Article Great

Editor:

The article [Greg Lawless, "Improve Your Accounts Receivable with a 'Name the Moose (Elk) Head' Contest," *Bar News*, April 1999, p. 13] was absolutely great! I haven't had a good laugh like that for a long time.

Please include more humorous articles (or even cartoons) in future issues. How about another one by Greg Lawless?

*Janis Hutchinson
Legal Assistant, Everett*

Creative Secretarial Communication Editor:

This is a brief summary of the system of remote secretarial assistance that I use out of my home. This system could be useful to the practitioner either as a primary resource or as an adjunct to services available at the office.

The assistance has been particularly useful during trial. Documents dictated after trial can be transmitted and transcribed in the evening. The attorney can download and print the documents early the next morning.

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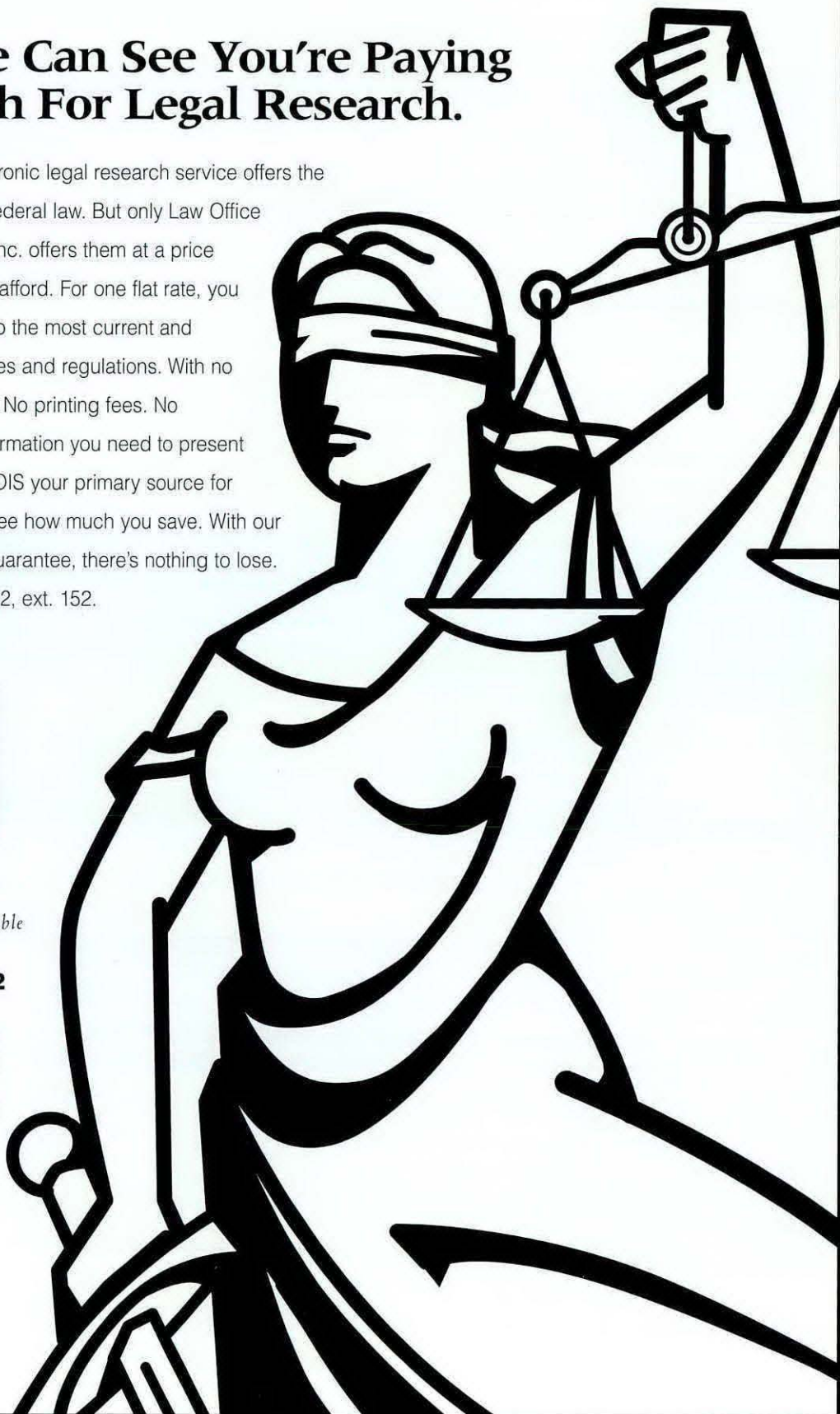
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Both the attorney and the remote secretary have computers, modems and the required word processing programs. Transfers are made over the Internet. The secretary needs to have a grasp of using the whole computer in addition to operating the word-processing application. I have tried to use available software rather than becoming committed to special-purpose legal or virtual-office programs.

The first procedure is the transfer of dictation. Phone patches can be used to make real-time transfers. It is more convenient to upload voice files so the secretary can download them when convenient. The issue here is compressing the audio files in order that they can be transferred in a fraction of the time it takes to run the tape.

A virtual recorder incorporating good compression may be downloaded from the Purevoice/Qualcomm website at <http://www.eudora.com/purevoice/pluginDL.html>. The dictation is transferred from the dictaphone into the microphone jack of the sound card and recorded as an audio file. The file is then transmitted as an attachment to an e-mail message and played on the secretary's virtual recorder. The output from the sound card is patched into and recorded on the remote transcriber.

This process will be abbreviated in the future. The new handheld dictaphones use PC cards that can be inserted directly into a PCMCIA drive (often built into laptops). The audio file may then be selected and attached directly. Olympus, BVP and others have proprietary systems available that include transcription pedals for the secretary's computer. The pedal is plugged into the sound card and the computer becomes the transcriber.

The secretary keyboards the dictation and places the resulting file into the directory (folder) dedicated to the client. When all documents are completed, they are attached to an e-mail message and sent to the attorney. The attorney downloads the files when convenient, edits and prints. The edited file should be returned to the secretary with instructions to overwrite the previous draft.

Handwritten timesheets are fed into a sheet-fed scanner and the resulting image file transmitted to the secretary. The trans-

ferred file is opened in Windows using the imaging utility or a browser. The images may then be printed as graphics and typed by the secretary. The text is returned to the attorney for printing and transmission to clients as invoices.

Once a bookkeeping system is established on both computers, the ongoing chore of posting checks and cash receipts may be performed by the secretary. In QuickBooks, the expense accounts may be categorized to correspond to the lines of Schedule C. Designating notes can be made on the check register entries and

cash receipts. Their images can be transmitted to the secretary as in the case of time sheets. The secretary posts them to the designated expense account and "backs up" the completed work. The back up file (extension .qbb) is attached and transmitted to the attorney, who "restores" the office program with the new file. This incorporates the new postings. Schedule C may be prepared directly from the profit and loss report generated by the program. The secretary submits his/her itemized hourly charges to the attorney every month. E-mail from the secretary is saved

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until the charges are settled. The service provider's saved-mail screen provides a record of the work transmitted and its size in bytes. The charges may be reviewed against the service provider's screen.

Cordless and cellular broadcasts of client confidences raise ethical questions. E-mail should not be subject to these concerns as it is a point-to-point communication system that is not readily intercepted. Encryption would not seem to be a technical problem, if warranted.

In conclusion, this system of remote secretarial services is a logical utilization

of the computer tools now available to attorneys. Ms. Heidi M. Powell was of the greatest assistance to me in making it work.

*John Q. Powers
Seattle*

Dr. Kervorkian's 10-Year Sentence Is Wrong

Editor:

Dr. Kervorkian's 10-year sentence (possible parole after seven years) is too long. A long-term solution to the right-to-die and assisted-suicide problem would be for

each state to add a paragraph to their homicide statutes. It would allow an exception (or complete defense) for murder when it is "mercy killing." This would tide us over until courts finally uphold the right to die, which they'll surely do in the next 20 years.

Such a paragraph could read:

It shall be a complete defense to a charge of murder or manslaughter if the defendant was performing a mercy killing. Mercy killing shall be defined as the ending of the life of a person (after that person's informed consent) by a licensed physician after two other licensed physicians have approved.

These safeguards, guaranteed by statute, would prevent abuses. With this built-in exception to murder, we wouldn't have injustices like that of Dr. Kervorkian's. It seems the law has yet to catch up with medical technology. Our legislators better get cracking.

*Jeff E. Jared
Kirkland*

Becca Bill

Editor:

I would like to commend the authors of the article "The Becca Bill: Is the Cure Worse than the Disease?" [*Bar News*, April 1999, p. 19] for both their insight and courage.

We have turned the clock back to a time where children can now be shackled and jailed for talking back to their parents or cutting school, all in the name of a benevolent government that simply wants to "help" them.

In reality, however, the At-Risk Youth program offers precious little help to children. Instead, it is a mechanism through which children, mostly teenagers, are punished with only passing regard for due process, and often for simply behaving like teenagers.

Rare is the child in the At-Risk system who has not been the victim of some truly terrible parenting. Yet the system does absolutely nothing to hold the parents accountable or offer any types of services to help fix problems in the family. Instead, Suzie faces jail if she doesn't wash the dishes or sasses her folks, with no regard

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Why Some Washington Lawyers Get Rich... While Others Struggle To Earn A Living

TRABUCO, CA - Why do some lawyers make a fortune while others struggle just to get by? The answer, according to California lawyer David Ward, has nothing to do with talent, education, hard work, or even luck. "The lawyers who make the big money are not necessarily better lawyers," Ward says. "They have simply learned how to market their services."

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

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

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

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

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

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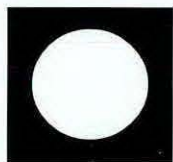
Most of us who handle these cases day in and day out would have far fewer concerns if the name of the law were changed from At-Risk Youth to Families At Risk, and its focus changed from punishing

teenagers to helping families.

Ms. Chaney and Ms. Kysar had the courage to say that jail should not be used as a form of behavior modification in this context. Would that someone, anyone, in our legislature had had similar courage, we might now have a system in place that

reflected a true and considered concern for the welfare of children and families instead of the hysterical and emotional reaction to a perceived social problem that is the Becca Bill.

*John F. Hayden
Port Angeles*



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Kudos to Barrie Althoff

Editor:

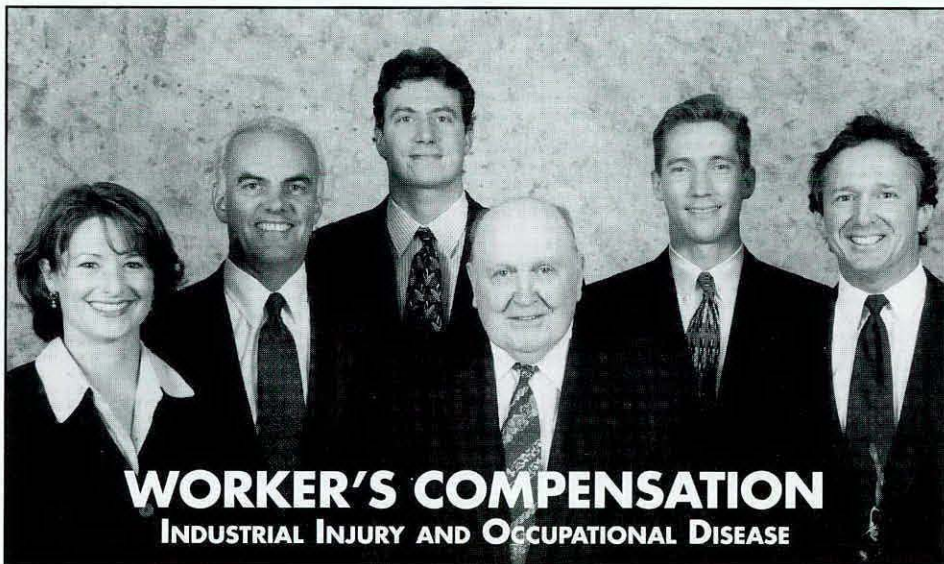
The April *Bar News* carried a letter from Attorney Christopher Hodgkin which was critical of WSBA Disciplinary Counsel Barrie Althoff. Although I generally agree with what Chris had to say about the Bar Association, Barrie deserves to be cut a little slack.

In particular, Barrie should be recognized for the work he has done in organizing numerous free CLE seminars around the state, several of which are now available on the freecle.com website. Much of this work has been done outside of normal workday hours, on his own time, and at nominal expense to the WSBA. For example, when Barrie put on a free CLE program here in Richland, he drove his personal car, a 1975 Ford Pinto, across the mountains from Seattle on a Saturday morning, gave an exhausting multi-hour, solo presentation, and then drove back to Seattle that night.

Disagreements concerning the need for new disciplinary rules are inevitable. Regardless of these, Barrie deserves credit for his enthusiastic support for free CLE.

*Edward V. Hiskes
Richland*

Readers are invited to submit letters of reasonable length to the editor. They should be typed on letterhead, signed and, if possible, also provided on disk in any conventional format. Letters may also be sent via e-mail to comm@wsba.org. Due date is the 15th of the month for the second issue following. The editor reserves the right to select excerpts for publication or edit them as may be appropriate. Signatures in excess of three names will be printed only in exceptional circumstances, at the sole discretion of the editor.



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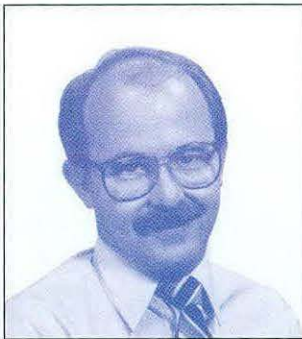
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There Were So Many Red Flags, I Couldn't Shut My Door

by Jeff Tolman
Guest Editor

Perhaps the biggest determining factor of how satisfying a lawyer's practice is, and will continue to be, is the lawyer's ability to see the warning signs of impending failure. Can the client in front of you be satisfied by any result or by any quality or quantity of your work? If the answer to any of these questions is "no," the client will be a problem and your life will be miserable. Let her be someone else's problem, not yours.

Below is a partial list of red flags or warning signs. Any clients with five points or more should not be taken unless they have the entire anticipated cost of the litigation to pay in cash, up front. Clients with three or four points should be treated with caution. Have your Notice of Intent to Withdraw ready; you will probably need it. A client with one or two points is a normal client: traumatized and looking for help from family, friends and you.

Five-Point Red Flags

- More than two lawyers have already represented the potential client in the matter she is seeing you about. There are already too many bad experiences for you to succeed.
- More than one family member attends the initial interview with your potential client. Everything will be done by committee. Every word you utter will be interpreted by committee members. Confusion, indecision and, in the end, a breakdown of communication will occur.
- A new spouse or significant other attends the consultation and speaks more than your potential client.
- The first thing your potential client tells you is that he has no money. Although his honesty will get him into heaven, his poverty will be contagious.

Three-Point Red Flags

- Your client brings in a list of questions (which is good), but the questions are in several different handwritings. He's already gotten votes on how the matter should proceed. Your advice will count as only one vote — the same as the guy your client met yesterday at Happy Hour.
- Internet printout accompanies your client. Her chat room will be evaluating your advice and progress nightly.
- When you greet the client in the lobby, she says, "You're two minutes late. My time is just as valuable as yours." While her time is valuable, and while you should be on time, an adversarial relationship has already been formed by your client.
- A stopwatch has been brought in by your potential client or the client watches the second hand of his watch with greater intensity than he listens to your advice. This client will never

see the bigger picture and will get stuck in every detail. Justice is painted with a big brush, not individual, tiny strokes.

- Your client argues with your advice. The fact that you have represented clients in 300 divorce cases and this is his first divorce is meaningless to him. He will argue with you about his case now, and will argue with you about his bill later.
- Your client complains that you are not returning her call soon enough, no matter how quickly you call her back.
- Your client wants you to be mean, no matter what the cost or ramifications. This client's hostility can, and often will, be directed as easily against you as the current opponent.

Two-Point Red Flags

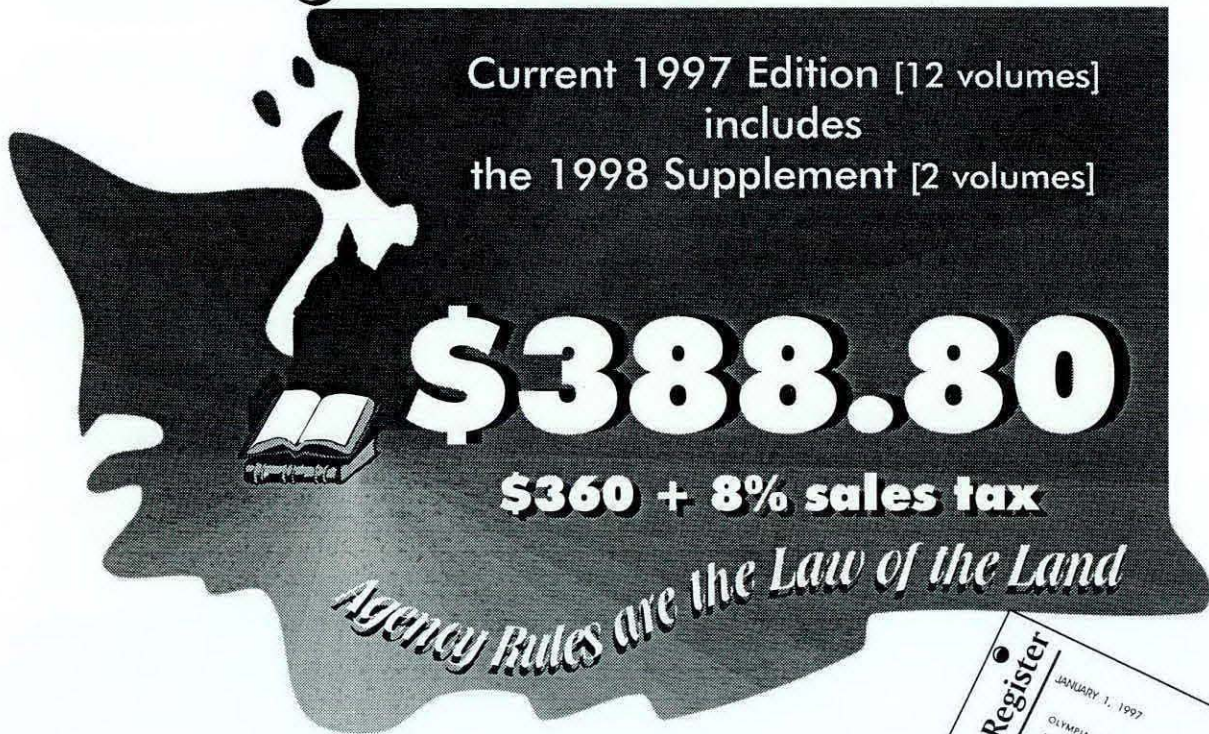
- The client wants you to meet him in the evenings or on weekends, always. Occasionally this is fine, but it shouldn't become the norm.
- When you mention to your client that she hasn't made a payment in two months, she shrugs it off and doesn't respond. There are many good reasons why payments aren't made. If your client can't think of one, there isn't one.
- Your client says, "I don't care what this costs, it's the principle of the thing," more than once in your initial meeting, and then has you bill him for the consultation.

One-Point Red Flags

- The client wants you to be a counselor rather than a lawyer. You aren't trained for that role and can, unwittingly, do great damage.
- You find the client wants you to tell him what to do. "Just tell me..." he starts his dialogues. You need to share his burdens, but must have a give-and-take relationship. You are not Geppetto and he is not Pinocchio.

Recently, a wonderful young lawyer called me, quite distraught over receiving his first bar complaint from a dissatisfied client. After he explained the facts of the case, I asked him why he had taken the case. He gave me the unfortunate real answer: "He had a couple of hundred dollars and I needed the money." I asked him if he saw any warning signs when initially meeting with the client. He said, "There were so many red flags, I couldn't shut my door." Now he knows the answer to the problem of a client with little money and big issues. In the long run, it is better to have interviewed a client and said "no" to representing her, than to ignore the messages of predestined failure being screamed at you. ☞

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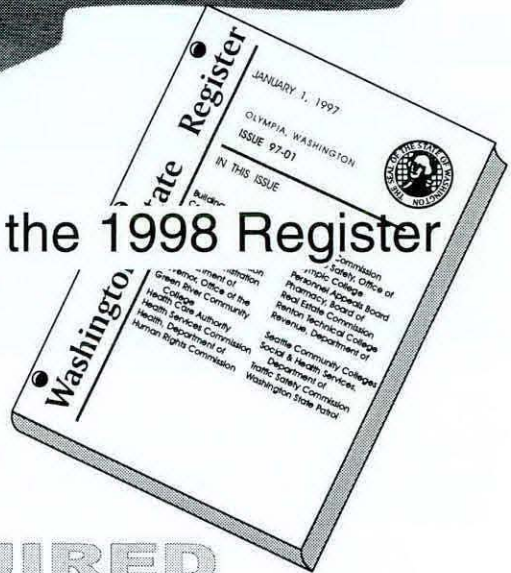
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Professionalism and Civility: Are We Making Any Progress?

by **M. Wayne Blair**
President

When Bill Gates was President of the Washington State Bar Association in 1986, his theme for the year was improving professionalism. Twelve years later, in 1998, ABA President Jerome Shestack chose "Promoting Professionalism" as the central issue of his term in office. Linda Strout, President of the King County Bar Association, wrote her May 1999 column for the *King County Bar Bulletin* on professionalism. The WSBA Long-Range Strategic Planning Committee has held many town meetings with lawyers over the past three months in Bellevue, Kennewick, Wenatchee, Bellingham, Vancouver, Spokane, Seattle, Tacoma, Everett and Olympia, and at the Washington Young Lawyers Division Annual Meeting. One of the issues consistently raised by members in these town meetings is the unsatisfactory state of professionalism and civility by, between and among lawyers. Clearly, it continues to be an issue. I believe, however, we are making progress.

Although often used, the term *professionalism* remains conceptually vague. Having read much in the last decade about professionalism within the legal profession, I would describe it as having four basic features: (1) a commitment to lifelong learning of the law in which the lawyer is constantly striving to improve his or her skills and knowledge; (2) an adherence to the highest ethical standards, including integrity and civility; (3) service to one's clients with competence, dedication and independence; and (4) service to the legal profession and to the public, including a commitment to promote justice, improve the legal profession, and provide pro bono legal services.

The aspect of professionalism that I wish to focus on in this column is "civility." It is one of the areas that most challenge lawyers in their practices, which are inherently adversarial.

As president of the King County Bar Association in 1987-88, I initiated a project to develop guidelines of professional courtesy at the suggestion of lawyer Maria Regimbal. Over the next year, a committee of the King County Bar Association developed these guidelines, which were approved by

the Board of Trustees in January 1989 and revised in 1992. These professional courtesy guidelines are a statement of principles intended to guide individual conduct beyond the minimum requirements for lawyers found in the Rules of Professional Conduct. They are not rules, and are not intended to be treated like rules. These guidelines are worthy of your consideration. The 10 basic principles are:

The aspect of professionalism that I wish to focus on in this column is "civility." It is one of the areas that most challenge lawyers in their practices, which are inherently adversarial.

1. A lawyer should treat others with courtesy and respect.
2. A lawyer should honor promises or commitments.
3. A lawyer should never knowingly deceive another.
4. A lawyer should make reasonable efforts to schedule matters with other counsel by agreement.
5. A lawyer should be timely in responding to other lawyers, and considerate of their time.
6. A lawyer should not seek sanctions against opposing counsel for mere tactical advantage.
7. A lawyer should not make unfounded accusations of unethical conduct about opposing counsel.
8. A lawyer should be punctual.
9. A lawyer should seek informal agreement on procedural and preliminary matters.
10. A lawyer should not engage in invidious discrimination.

Copies of these Guidelines of Professional Courtesy, with explanation, are available through the King County Bar Association at 206-624-9365. While the guidelines in essence describe common courtesy, imagine how much easier our relations with others would be if we all acted accordingly.

Early in my term as WSBA President, Judge Thomas S. Zilly of the U.S. District Court for the Western District of Washington wrote to me. He had two lawyers who had so misbehaved in his court that he ordered them to attend a WSBA seminar on professionalism and civility within the next six months. The lawyers reported back to him six months later that no such seminar existed. Judge Zilly was astonished. Although the WSBA has an eth-

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My 31 years of practicing law convinces me that lawyers can be effective advocates and at the same time be decent people who are courteous and respectful of others.

ics component in all of its seminars, no specific seminar on professionalism and civility was available. I am pleased to report that this circumstance is about to change.

Following up on Judge Zilly's letter, Jan Michels and I met with Judge Zilly, and then with the WSBA Professionalism Committee, chaired by Ed Wolfe. As a result, the Professionalism Committee, in collaboration with the WSBA's Office of Disciplinary Counsel and Continuing Legal Education Department, is sponsoring the seminar "Ethics, Professionalism and Civility: The Hard Questions" on Friday morning, September 24 in downtown Seattle. The Professionalism Committee promises an interesting and interactive program with a panel of experts, including Judge Zilly.

My 31 years of practicing law con-

vinces me that lawyers can be effective advocates and at the same time be decent people who are courteous and respectful of others. While many anecdotes remain of the troubling conduct of some lawyers, most of us take our obligations as professionals seriously and treat others with the same courtesy and respect that we desire.

I believe that we are making progress to be civil and professional, despite many reports to the contrary. Lawyers, I believe, are more aware of acting professionally and are in my opinion doing better. Of course, I cannot prove this statement. It is simply an observation from having worked with and talked to many lawyers in this state over the past few years. We need quite simply to continue to emphasize professionalism in our practices, and, as we work together, to strive for continuous improvement. ✍

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by Jan Michels
WSBA Executive Director

What Is the WSBA Website?

Anyone with Internet access can type the WSBA website address (www.wsba.org) and access a wealth of information, tools and links.

Hint: Becoming familiar with the website and learning to use it for your business benefit may take a few hours of practice. Make short visits to the site to see what is there and let what you see sink in before going back for a second session. Each session, dig a little deeper into the choices.

Is the Website About the WSBA? YES

From the introductory page, website visitors can click on a "Site Index" to get information about WSBA programs and services. There are pages of frequently asked questions about the WSBA; introductory comments from the President and Executive Director; and news about current WSBA programs, events and initiatives.

Is the Website a Reference Tool? YES

A "Quick Information" section lets website visitors look up member information (in the WSBA lawyer database), job listings and opportunities for volunteer service. (See page 54 for a related article about e-mail addresses in the lawyer database.) The "Site Index" provides an alphabetical listing of everything on the website. A calendar of upcoming WSBA CLE seminars is available. Many sections list executive committee contact information or links to websites of special interest to members. The Alternate Dispute Resolution Section has a unique online directory of ADR providers.

Is the Website a Newspaper or Magazine? BOTH

The latest issue of *Bar News* appears first on the website, with key articles dating back to 1997 in an archive. Many sections post information relevant to their members, such as meeting calendars and legislative updates. Click on LOMAP/Practice Gems/Archive and read through recent practice tips.

Is the Website a Research Tool? YES

The "Law-related Web Links" choice under "Quick Information" is a vast resource for databases of RCWs, Court Rules, the legislative calendar, government data, case law and much more. Members can save themselves hours of search-

ing for this type of information by simply surfing to it from www.wsba.org.

Is the Website a Practice Tool? YES

In this information age, our burden is *too much* information. It is easy to get overwhelmed with diverse opinions, multiple sources of advice from many angles, and the usual lawyer's sense of never really finishing the research relevant to a decision. The WSBA website offers practice hints, law office management advice, and information screened and recommended by your peers as relevant and helpful. Visit the section pages to see how much help this information can be. Other features soon to be available are online CLEs and a manual about "Picking and Using Technology."

Can I Do Business with the WSBA on the Website? YES

Many sections and the YLD offer interactive communication and contact via e-mail. The Law Practice Management and Technology Section even has RealAudio recordings of section events. This is a growth area, and in the near future you will see more interactive services on the WSBA website, such as committee preference forms, CLE publication orders and section dues forms.

What's Coming on the Website? You Name It — We Hope to Say YES

The WSBA's job is to give members all the tools and help we can. The World Wide Web is becoming not just an adjunct to doing business, but an essential tool for living in the information age. Our member survey has shown us that up to 60 percent of WSBA members use e-mail and the Internet to some degree. We're using our website for hot news, practice hints, filtered information and quick-find directories, and the site of choice for links to databases. We're also looking at the possibility of setting up a permanent computer-training lab for members. Most of our current inventory of planned website enhancements are in direct response to what members and sections have asked for on the "Raising the Bar" survey or at town or section meetings. Please continue to inform and educate us at the WSBA about what you want and need — your requests become what we want to do. ☞

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King County's Mental Health Court

An Innovative Approach for Coordinating Justice Services

It is rare that an idea to improve on our system of justice gets virtually unanimous support and commitment. Yet, the concept of creating a Mental Health Court in the King County District Court has done just that. From its first mention over one year ago through its implementation in mid-February, the idea that we can do a better job in handling misdemeanor cases involving mentally ill defendants has received tremendous support. This support has included not only the commitment of time and energy from literally hundreds of planning participants, but also the necessary financial backing. The general consensus going into this project was that it was "the right thing to do" for many reasons.

In August 1997, retired Seattle Fire Captain Stanley Stevenson was fatally stabbed by a man later found to be criminally insane. That tragic incident has been the catalyst for some sweeping and innovative changes in the criminal justice and public health systems in which mentally ill offenders are handled. Shortly after the Stevenson incident, King County Executive Ron Sims formed a statewide task force of individuals representing the key treatment and legal service systems involved with the mentally ill. The task force included judges, prosecutors, public defenders, police, mental health professionals, mental health board, family advocates and government officials. Retired Justice Robert Utter was selected to chair the Mentally Ill Offenders Task Force. After an intense two months of meetings, the Task Force Report was issued with numerous recommendations for change and the implementation phase began. The civil and criminal laws under which these cases come before the Superior Court and the Courts of Limited Jurisdiction have been revised to give the courts far more options in dealing with this complex population. One of the numerous system changes recommended was a pilot Mental Health Court project to test whether an alternative approach to handling cases for mentally ill misdemeanants could be more effective than the regular court system in reducing jail time and recidivism, and in providing better linkages to the mental health treatment com-

There is some evidence that, with the movement to substantially reduce the use of state mental hospitals as a treatment option for the mentally ill, the numbers of mentally ill in the community who receive inadequate or even no treatment has increased.

munity. Executive Ron Sims asked King County District Court Presiding Judge James Cayce to chair a Mental Health Court Task Force for the purpose of further exploring this specific recommendation.

The issues that the Mental Health Court Task Force convened to address in Washington state are similar to issues faced by numerous localities nationwide. There is some evidence that, with the movement to substantially reduce the use of state mental hospitals as a treatment option for the mentally ill, the numbers of mentally ill in the community who receive inadequate or even no treatment has increased. Furthermore, some have hypothesized that, in fact, an emerging trend is the "criminalization" of mental illness: that the mentally ill are landing in jails and prisons with increasing frequency due to issues related more to their illness and less to the crimes they may have

committed. The National Alliance for the Mentally Ill estimates that 25 to 40 percent of the mentally ill today will come in contact with the criminal justice system for one reason or another.¹

National research studies have documented that the numbers of mentally ill incarcerated in jails and prisons is a significant percentage of the overall jail and prison population. One source indicates that more than seven percent of the incarcerated are diagnosed as having one of the three serious mental disorders (schizophrenia, bipolar disorder and major depression) and that more than 50 percent have other mental health diagnoses.² A study completed in 1997 indicated that the numbers were even higher — more than 10 percent of the incarcerated population had a diagnosis of a serious mental disorder. This study indicated that in jails (rather than prisons), nine percent of men and 18.5 percent of women in custody were seriously mentally ill. This rate of serious mental illness is four times higher than the rate in the general, non-incarcerated population.³

The growing number of mentally ill in the jail and prison population is problematic for a number of reasons. There is the concern that many individuals are arrested for behavior that probably could have been better addressed through the mental health treatment system. Another concern is that jail and prison environments may further aggravate, rather than improve, mental

health conditions. Finally, there is evidence that the mentally ill are arrested and jailed more frequently and have longer average jail stays than the general population. A 1991 study of mentally ill offenders in the King County Jail showed that inmates with misdemeanor charges admitted to the Jail's Psychiatric Unit had an average length of stay three times longer than that of other misdemeanants.⁴ The longer jail stays for this population in King County may be partially attributed to concerns about releasing inmates without a treatment alternative.

In February 1998, Judge Cayce and 10

others from King County, the City of Seattle and Jail Alternative Services visited Broward County, Florida, to observe the then only operating Mental Health Court in the United States. All trip participants, including judges, attorneys and treatment providers, were enthusiastic about what they saw and how well they thought the model could be implemented, with some modifications, in King County. The Mental Health Court Task Force met initially in April 1998 to explore how the Court could work cooperatively with other criminal-justice agencies and the treatment community, and

to develop specific recommendations for a King County Mental Health Court model. In August 1998, a final Mental Health Court Task Force report was released which outlined a proposed blueprint for the pilot court. After the report was released, King County Budget Office staff worked with the various partner agencies to secure funding.

Resources for King County's pilot Mental Health Court project came from three sources: leveraged existing funds and staff, additional new county funds, and an externally funded grant. The Prosecuting Attorney's Office, the Office of Public Defense, and the District Court have all absorbed portions of the staffing costs of this program. Additional new funds from the County General Fund, the County Criminal Justice Fund, and the County Mental Health Fund have been temporarily allocated to this project. The treatment funds allocated for the pilot project are coming from the County Mental Health Division's "fund balance," a non-renewable source of funding. If the pilot proves successful, a more permanent source of treatment dollars will have to be secured. A final funding source for the pilot came from the federal Bureau of Justice Assistance, which provided an 18-month grant of \$150,000.

The pilot King County District Court Mental Health Court was launched on February 17, 1999. On April 29, 1999 the pilot court program was dedicated to the memory of Captain Stanley Stevenson. Many of the program policies and procedures are being established as the project unfolds. But the important elements of the model, as outlined by the Mental Health Court Task Force Report, are all in place. The Mental Health Court differs from a regular court in three fundamental respects. First, the cases are heard on a separate calendar and are all handled by the same core team of professionals. Second, there is an increased emphasis on linking the criminal justice system and the mental health treatment system. Third, the participants in this program receive increased court supervision.

As proposed by the task force, cases referred to the Mental Health Court program are transferred from the regular calendars and set on their own calendar. Mental Health Court cases receive extra

We're Turning a Few Heads.



Hon. Robert F. Utter
Washington State
Supreme Court (Ret.)

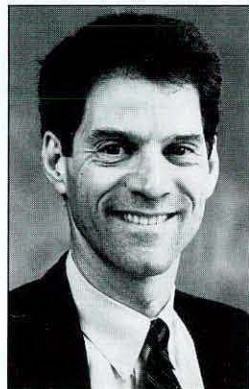
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On behalf of her family, Jeanne Lagerquist (center) accepted a plaque dedicating the Mental Health Court program to the memory of her father, Captain Stanley Stevenson, during the formal April 29, 1999 kickoff ceremony for the court.

courtroom time, ensuring that the intricacies of the case are addressed and that the defendant is fully engaged in the proceedings. In regular courtrooms, judges may rotate and different prosecutors and defense attorneys may appear for hearings. All cases handled in the King County Mental Health Court are seen by the same judge, prosecutor, public defense team (with the exception of those represented by private counsel), treatment community liaison, and probation officer. The core team approach ensures that defendants work with a limited number of individuals who become familiar with the specifics of their case and treatment needs. This approach also ensures that the court team gains growing expertise in mental health issues and the relatively complex legal issues that can arise.

The second manner in which the Mental Health Court differs from other court venues is the emphasis on creating and maintaining a strong linkage with the mental health treatment community. A Court Monitor functions as a liaison between the court and the treatment community. The Court Monitor links the defendants with appropriate community treatment resources and monitors both the defendants' and the service providers' compliance in fulfilling the elements contained in each individualized treatment plan. In addition, each defendant's mental health case manager is encouraged to join his or her client in court for hearings to report on progress, both successful and unsuccessful. Case managers are encouraged to strengthen their clients' personal support networks, and family members are also welcomed and encouraged to participate.

The third important component of the Mental Health Court model is that defendants who opt into the program receive greater supervision and support. As mentioned above, case managers and family members are encouraged to be actively involved in a defendant's case. Mental Health Court cases are scheduled for more frequent review hearings than are regular cases. Also, Mental Health Court defendants on probation are

assigned to a mental health specialist probation officer who carries a reduced caseload. Regular probation officers may have caseloads of up to 300 cases; the Mental Health Court probation officer has a caseload capped at 20-40 cases, so that these cases may be given intensive supervision as is warranted.

Mentally ill misdemeanor offenders are not required to appear before the Mental Health Court; rather, the program is an alternative for

those who are interested in and committed to seeking treatment to ameliorate the mental health conditions that contribute to their unlawful behavior. Defendants are given a choice of "opting in" to Mental Health Court if they are willing to waive a trial on the merits of their case and are willing to comply with a supervised treatment plan. Based on experience to date, defendants who do choose to opt into the program are likely to be offered either a deferred or a reduced sentence. An important exception to the voluntary nature of this program is for cases in which competency is at issue: defendants in these cases may be referred to Mental Health Court, regardless of their preference, until the competency issues can be resolved. The Mental Health Court will not accept a defendant into this alternative court program if the defendant's mental health condition does not appear to be of a serious nature and to be a contributing factor in the alleged crime. The Mental Health Court program is not simply a jail-diversion program — out-of-custody defendants are equally eligible to participate, and in-custody defendants are not automatically released, as many present a significant public-safety risk.

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During the first two months of operation, the court received referrals for 49 misdemeanor defendants, approximately six referrals per week, who were identified as having either a serious mental disorder, dementia, a brain injury or a developmental disability. The early experience of the Court indicates that many of the Court's cases are very complex. Thirty of the defendants, roughly 60 percent of the total group, were not enrolled in mental health treatment services at the time of referral. Eighteen of the defendants, roughly 35 percent of the total group, presented with housing issues; nine de-

fendants had unstable housing arrangements; and nine defendants were homeless. Fourteen of the defendants, roughly 30 percent of the total group, presented with a dual diagnosis of a serious mental illness and a drug or alcohol addiction, and needed referrals to MICA (mentally ill/chemically abusing) treatment services. Defendants with a housing and/or a dual diagnosis treatment need are very difficult to place if they are also either acutely psychotic or have a history of committing violent acts. Additionally, many of the defendants (at least 25 percent) have active cases in other court jurisdictions in-

cluding municipal courts, superior court, and other counties, making case planning more complicated due to other outstanding warrants or probation requirements.

One early outcome of the Mental Health Court pilot project has been that service gaps in the currently available community services continuum have been highlighted. Appropriate in-patient MICA services are not available and crisis or transitional housing for this population is also not readily available. Additionally, in this era of managed care, contingency funds for wraparound service needs (such as temporary medication coverage or transportation costs) are also difficult or impossible to obtain. The Mental Health Court team will likely be undertaking a grant-writing campaign in hopes of securing additional, non-county funds for the unmet needs of this pilot program.

Cases heard in Mental Health Court so far vary widely in terms of the defendants' current charges and past criminal histories, the degree to which their mental illness impacts their life functioning, and their ancillary service needs. Some defendants referred to Mental Health Court are facing their first criminal charge. An example is 19-year-old Mr. Smith,⁵ facing a domestic violence assault charge for allegedly hitting his mother, with whom he lives. Mr. Smith's mother appeared with him at his first Mental Health Court appearance and explained that he had been an honor student, soccer player and a band member in high school, but that he had experienced his first mental break about a year ago and has not been the same since. Mr. Smith's mother believes that his assaultive behavior is attributable to his mental disorder and is not indicative of a battering problem. Mr. Smith had not been enrolled in formal mental health services at the time of his first appearance with the court, and his mother requested assistance in facilitating this process. His mother also requested assistance in locating appropriate alternative housing for him because she fears for the safety of her young, disabled granddaughter, who also lives in her home. As the treatment team works to find appropriate resources for Mr. Smith, the legal team will determine whether he appears competent to assist in his own defense and proceed to trial,

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**Vernon A. Smith,
Partner**

Founder, National College of DUI
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Foundation for Criminal Justice;
Member, Washington & National
Associations of Criminal Defense
Lawyers; Lecturer, DUI defense
seminars; NITA graduate

Cases heard in Mental Health Court so far vary widely in terms of the defendants' current charges and past criminal histories, the degree to which their mental illness impacts their life functioning, and their ancillary service needs.

and will work with him to explain the benefits and tradeoffs if he opts into the program.

Another case involves a defendant with a more chronic mental health disorder and criminal history. Although there are indications that Ms. Jones⁶ began experiencing symptoms of a mental disorder at least 10 to 15 years ago, she had been a high-functioning member of the community — a multilingual mother of two small children, a teacher, and a doctoral student close to completing work for her Ph.D. More recently, however, Ms. Jones' mental condition has seriously deteriorated. She is divorced, is no longer employed, has become well-known to the staff in the Prosecutor's office, and is considered to be quite dangerous. Over the last five years she has acquired a lengthy history of various stalking, assault and trespassing charges all related to her compulsion to contact a few men she dated or was married to previously. All of Ms. Jones' prior charges had to be dismissed because of her incompetency to assist in her own defense or proceed to trial. Ms. Jones appeared before the Mental Health Court in early March with a new set of charges. She was found to be incompetent, but the charges were not dismissed, as she was eligible for hospitalization for the short period of time allowed under the new law for competency restoration. Ms. Jones' competency was successfully restored after a few weeks' stay at Western State Hospital and she returned to Mental Health Court. Ms. Jones communicated to the Court for the first time that she accepts that she has a mental illness and that she will most likely need to commit to lifelong treatment. Ms. Jones accepted a plea agreement offered by the prosecutor, which suspended jail time in return for strict compliance with a supervised mental health treatment program and other probation conditions, including weekly visits with her probation officer.

As demonstrated by the case examples outlined above, our early experience with this project indicates that a number of misdemeanants who appear before King

County District Court present challenging public safety concerns and have complex treatment needs. As we noted above, it is rare that an idea to improve on our system of justice gets virtually unanimous support. However, it has been with the cooperation, top to bottom, of all three branches of government in King County and the community mental health treatment system, that the initially vague concept of a Mental Health Court has resulted in a project that we are proud to say is receiving both local and national recognition. It is our opinion, after our first few months of operation, that the Mental Health Court is a vast improvement over the old way of handling the mentally ill misdemeanor population. We see a positive difference in the defendants' personal level of satisfaction with their role in the system, the use of our limited jail resources, and in protecting public safety. *LN*

James D. Cayce was appointed to the bench in the Aukeen Division of King County District Court in 1992. He is now in his third year as Presiding Judge of the District Court. Among his other responsibilities, Judge Cayce committed time to chair the task force which led to the creation of the Mental Health Court pilot and he now presides over the Mental Health Court calendars. Kari Burrell is the Program Manager for King County District Court's Mental Health Court program. She holds a Masters of Public Policy degree and has a background in social service program management.


Questions regarding the Mental Health Court pilot project may be directed to the Office of the Presiding Judge, King County District Court, W-1034 King County Courthouse, 516 Third Avenue, Seattle, WA 98104, 206-296-3594.


NOTES


- 1 Fox Butterfield, *By Default Jails Become Mental Institutions*, New York Times, March 5, 1998, and Ray Coleman, *How to keep the Mentally Ill Out of Jail*, Corrections Managers' Report, October/November 1998.
- 2 National GAINS Center, *The Prevalence of Co-Occurring Mental and Substance Abuse Disorders in the Criminal Justice System*, Just the Facts series, Spring 1997.
- 3 Fox Butterfield, *By Default, Jails Become Mental Institutions*, New York Times, March 5, 1998.
- 4 Policy Research Associates, Inc. *Diversion and Treatment Services for Mentally Ill Detainees in the King County Correctional Facility*, December, 1991.
- 5 A pseudonym.
- 6 A pseudonym.


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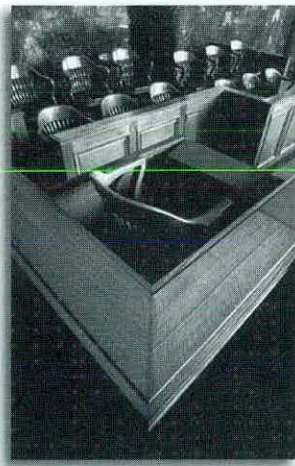
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Assailed and reviled,
modern descendents of a proud lineage,
lawyers today forget themselves and their heritage.
But it is not too late to awaken and to remember...

The Lawyer as Hero: A Pride of Lions, a Justice of Lawyers

by Randolph I. Gordon

A Revolutionary Is Born: *Wherein We Learn How a Mild-Mannered Advocate Takes Arms Against a Sea of Troubles*

Something inside snapped. I had chuckled forgivingly in the past. I had played the part of generous critic, knowledgeable expositor, and defensive apologist. I had listened as our political leaders referred to “legal technicalities” with implicit disparagement and written it off to political pandering. I had, like each of you, shifted uncomfortably as my profession, my chosen life’s work, was demeaned. I had even, I am ashamed to admit, laughed to show what a good-natured guy this lawyer could be.

“O! That this too too solid flesh would melt,
Thaw and resolve itself into a dew;
Or that the Everlasting had not fix’d
His canon ’gainst self-slaughter!”
(*Hamlet*, I.ii.129)

Then, I awakened, screaming mad. I no longer could find humor in H. L. Mencken’s statement of purpose for lawyers as “permitting scoundrels to commit their swindles without too much risk.” I could no longer laugh — or pretend to laugh — at lawyer jokes. I knew that I would not be easy to restrain the next time someone wisely uttered his only Shakespeare, quoting Dick, the butcher of Ashford, in a scene of low comedy for this insightful public policy pronouncement: “The first thing we do, let’s kill all the lawyers.” (2 *Henry VI*, IV.ii.75)

And, thereafter, in the circles and squares of meetings with my comrades in the Bar, I would periodically launch into tirades about...about...well, who knows what it was about! But I was sick and tired and not going to take it anymore!

There were a few things of which I was certain. I knew that, little by little, my comrades in the Bar had become disheartened, beaten down by the execration of the media. I knew that despite all of our noble intentions we had an albatross of negative public imagery hung about our necks. In short, we had become an easy (too easy!) one-liner. Thousands of examples abound. One example will suffice.

Reading the “Week in Review” in the Sunday *New York Times* on February 21, 1999 (a quiet morning in which I was, as usual, minding my own business), I came across an article by one Richard Perez-Pena entitled “Making Law vs. Making Money: Lawyers Abandon Legislatures for Greener Pastures.” Speaking of six new members of the New York State Legislature, all holding seats formerly held by lawyers, he noted: “Throw a



‘res ipso loquitur’ at them and you’re likely to get blank stares. Not a lawyer in the bunch.” I wanted to point out that the blank stares might be well deserved because he had misspelled the famous Latin phrase: *It’s res ipsa loquitur!* But, I held my comments in abeyance, assuming that a typographical error had occurred. And besides, the article might have something to offer.

Mr. Perez-Pena went on to say: “State legislatures have always had their farmers, teachers, engineers and entrepreneurs, but from the early days of the Republic, no group has been as *over-represented* as lawyers.” Now, I confess, I bridled a little bit at the “over-represented” crack. After all, although I would not expect the author to have mastered this much Latin, the word “legislature” does derive from the Latin “*legis*” and literally means “proposers of laws.” One might expect that students of the law would be particularly useful in such a body. Hopeful that the author’s statistics were more accurate than his orthography, I noted that he went on to report: “In states with the big cities that have high concentrations of lawyers, the drop has been especially pronounced. In 1969, 61 percent of New York’s state

legislators were lawyers; today, 34 percent are. In California, the figure has fallen to 22 percent from 48 percent 30 years ago."

The author then asks: "So where have all the lawyers gone? Not surprisingly, the answers have to do with money." Now, I am not so thin-skinned as you may think, but umbrage was beginning to be taken. (If you have become inured to abuse, substitute your choice of ethnicity, religion, or other minority wherever someone talks about lawyers and see if you still like it.) And if the venality of lawyers was not yet trumpeted sufficiently for you to "get it," the above-referenced author (hereinafter "so-called author") continues: "Lawyers still dominate Congress, where the annual salary is \$133,600 and the expense allowances are generous. According to *Congressional Quarterly*, 43 percent of the seats in Congress are held by lawyers, but even that figure is well below the 58 percent held in 1969."

After allowing that legislating is now a full-time job, the so-called author (hereinafter referred to as "the ignorant, lawyer-bashing, so-called author") opined: "Another factor dissuading lawyers from entering public life was the post-Watergate wave of financial disclosure laws, which forced lawyer-lawmakers in many states to reveal more than they might want to about their practices and their clients." The implication, too subtle for me on first reading, is that lawyers may have something to hide — besides their venality — like being sneaky or corrupt. If you did not pick up on this point, the next sentence should help: "When he was Assembly Speaker in California, Willie L. Brown, a Democrat who is now the Mayor of San Francisco, had an active law practice, and was frequently accused of conflicts of interest." So, there, lawyers would at least impliedly be accused (where there's smoke ...) of conflicts of interest.

And then, as a parting shot, the ignorant, lawyer-bashing, so-called author (hereinafter "Mr. Perez-Pena") quotes one of the newly elected nonlawyer legislators who asks: "Besides...wouldn't a legislature with fewer lawyers be a little less combative?" Mr. Perez-Pena responds with a cheap one-liner: "Res ipso loquitur. [It's res ipso loquitur, you blockhead.] The thing speaks for itself."

So, there you have it. In one mainstream publication, it is suggested that lawyers are, as a class, venal, sneaky, self-serving, possibly corrupt and contentious. (And this article is a *mild* example of the prevalent media assault. Pardon me for noticing.)

I beg to differ (although I shouldn't have to beg). In my experience as both trial lawyer and mediator, I have seen too many lawyers reduce their fee to help settle

In one mainstream publication, it is suggested that lawyers are, as a class, venal, sneaky, self-serving, possibly corrupt and contentious.

a case to the satisfaction of a client to believe them venal. As a special district counsel to the Washington State Bar Association, I have seen too many good lawyers serve their clients with integrity in adversity to believe them self-serving. And, as a citizen observer of the recent goings-on in Washington, D.C., I find little evidence that Congress, with the lowest proportion of lawyer-legislators ever, is less contentious.

After — or perhaps it was during — one of my outbursts at a King County Bar Association meeting, I found I was not alone in my perception of being treated unfairly. Then and there, we resolved that we were not going to take it anymore. The King County Bar is *doing* something for its members which has long needed doing. It has embarked upon a comprehensive public-relations campaign to remind our community of the value of lawyers and the selflessness of our membership: millions of dollars of time given away through pro bono services and clinics in King County alone to fill with meaning those words in the Pledge of Allegiance "and justice for all." We are engaged in a noble enterprise: protecting the rights of the poor and the disempowered, and promoting a society of laws and principles. Lawyers even, in the words of Joseph Campbell, perform the "hero deed" of "making it possible for men and women to come to full human maturity through the conditions of contemporary life."

How does this square with the assaults on us which would not be tolerated for any other class of citizen? Venal. Self-serv-

ing. Corrupt. Contentious. The lawyer as scapegoat. The lawyer as predator. The lawyer as hit man. The lawyer as thief. The lawyer as snake. The lawyer as weasel. The lawyer as punchline.

It doesn't.

I much prefer this: the lawyer as American hero.

Oh, my dear comrades, will you not rise up in defense of your proud lineage?

The Land that Law Built:

Wherein the Author

Submits that Lawyers Were Instrumental in Founding the World's Greatest Democracy — and Sustaining It

Our profession has fallen farther than many in the eyes of

our fellow citizens. More than any other nation on earth, America was founded and molded by lawyers and students of the law.

We hear the Constitution referred to as "the law of the land." So far, so good. There were 29 lawyers at the Constitutional Convention, which generated a document with 40 signatories. By my count at least 22 of the 41 individuals serving as President (23 of 42 presidents if you count Cleveland twice) were students of the law or practiced the law as members of the bar: Adams, Jefferson, Monroe, Jackson, Van Buren, Fillmore, Pierce, Buchanan, Lincoln, Hayes, Arthur, Cleveland, Harrison, McKinley, Taft, Wilson, Harding, Franklin D. Roosevelt, Johnson, Nixon, Ford and Clinton. (Theodore Roosevelt dropped out of Columbia Law School to enter politics; FDR did not complete his law degree at Columbia, but was admitted to the New York Bar in 1907.)

Alexander Hamilton, John Marshall, John Jay, Daniel Webster, Henry Clay and John C. Calhoun, Abraham Lincoln (and Stephen Douglas), Louis Brandeis and Oliver Wendell Holmes helped shape our country. Let's not forget the Confederate Secretary of War and later Secretary of State, Judah Benjamin, who wrote the treatise on commercial transactions which remained a standard text until this century (*Benjamin on Sales*), or the many other Civil War leaders who were lawyers in peacetime, including Union Secretary of War Edwin Stanton.

The Supreme Court, which has breathed life into our Constitution for

over two centuries, has been filled to the brim with lawyers. Chief Justice John Marshall, who helped establish the laudable principle of reviewing legislation for constitutionality, inherited his law practice indirectly from Thomas Jefferson, the author of the Declaration of Independence. Monroe disfavored the ratification

of the Constitution without its amendment to include a raft of legalistic technicalities commonly known as the Bill of Rights. And from these rights flowed new technicalities requiring judicial interpretation: free speech, freedom of the press, freedom of religion, freedom of association, jury trial, right to counsel, due pro-

cess, privacy. But, alas, the devil is in the details. From illegal wiretapping (based on unconstitutional "seizure" of "property," as the Founders did not prohibit eavesdropping) to the question of when life commences, to neo-Nazis marching down the streets of a Jewish neighborhood in Skokie, to dozens of congressmen filing an action for Supreme Court review seeking interpretation of the War Powers Act on the eve of the Gulf War, to, yes, impeachment proceedings, we are a nation built upon legal "technicalities." Alexis de Tocqueville, a keen observer, noted after his tour of young America: "All political problems become legal problems."

It does not take an archaeologist to unearth the original Bill of Rights to understand all too clearly that it is written in "legalese." Those legal "technicalities" excoriated by the press are the same principles which constitute the "rule of law." Politicians who assail lawyers and legal technicalities and even, in a double slam against lawyers and Jewish law, "Talmudic hairsplitting," are cutting away at the fragile web of legal principles which protect our most sacred personal freedoms. There is a high price to be paid if public confidence in the legal system collapses.

The rate of erosion of that public confidence is troubling. The American Bar Association recently sponsored a comprehensive nationwide survey on the U.S. justice system among the general population.¹ About one-third of the respondents reported having extremely high confidence or being very confident in the federal courts (excluding the Supreme Court, which enjoyed the high confidence of half the respondents), in judges, and in the justice system overall. Strong confidence in the U.S. Congress is shown by only 18 percent of the respondents. Strong confidence in lawyers is shown by only 14 percent of the respondents.

It needs to be said. Respect for lawyers and respect for the law are not separate: lawyers are part of a legal system which is the unifying principle of American society. Both patriotism and pragmatism support our upbraiding those who are drilling holes in the hull of our ship of state. Lawyers invented and sustain America. Our basic legal rights, constitutional and contractual, and remedies, personal and commercial, require lawyers to implement them. The Constitution is not "self-ex-

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ecuting." It requires a society respectful of the law and legal principles to give meaning to esoterica such as "the right to counsel" or "the right to a jury of one's peers" or "freedom of speech, religion and the press."

My contention is simple: if you do not like lawyers, you are not going to like this country one bit. This is the land that law built.

The Evils of Statistics: *Wherein the Author Addresses One Particularly Virulent Factoid Used by the Forces of Darkness to Bash Our Profession*

For years, when the economic ills of our country were catalogued, people never failed to note that productivity was hampered by over-regulation, over-legislation, lawyers and lawsuits. In that negative context, one statement was commonly heard: America has more lawyers than the rest of the world's nations combined.

Abraham Lincoln once asked an adversary in court: "How many legs does a sheep have?" (Some people report that he asked how many legs a horse had, but seeing as ovines and equines have the same number of legs, I suppose we can stick with the sheep.) The man replied (correctly, it so happens, for both sheep and horses): "Four." "And," Lincoln continued, "if you were to call the tail a leg, how many legs then?" "Five." Lincoln smiled and responded: "No...because calling the tail a leg doesn't make it so." So it is with factoids.

Factoids are mental viruses. Like viruses, which are not quite living and not quite dead, factoids reproduce and spread through vectors. Communicated from human mouth and ear and eye directly to the human mind, they infect the host, who then acts to transmit the contagion to other human minds. Factoids thrive on ignorance and prejudice because they have been so often repeated and because they are consistent with what we already think we know. The most believable and scandalous (albeit false) factoids are the most contagious and virulent.

How often have you heard the fact(oid) that the United States has more lawyers than the rest of the world's nations combined or, among the more sophisticated, more lawyers per capita? Not so. According to Washington State University Law Professor Ray August, this country actu-

Contrary to myth, the United States ranks only 35th in the number of law providers (LPs), and has only approximately 9 percent of the world's lawyers.

Country	Population	Total LPs	LPs per 10,000	Rank
Vatican City	738	357	3,482.38	1
Uruguay	2,964,052	53,579	180.76	2
Argentina	31,144,775	287,828	92.42	4
Italy	57,350,850	527,553	91.99	5
Mexico	81,860,566	311,572	38.06	24
Germany	60,989,419	208,176	34.13	30
Japan	122,124,293	387,200	31.71	32
United States	243,084,000	691,834	28.45	35
Canada	38,857,943	53,171	18.43	49
United Kingdom	56,845,195	96,593	16.99	52

Source: Management Review, December 1992

ally had only 9.4 percent of the world's 7.3 million lawyers in 1987. In 1992, that percentage was lower. As for the per capita claim, we must first turn to Mark Twain for inspiration. Twain said there were "lies, damn lies, and statistics." Well, it turns out that it all depends on what you consider a lawyer. In the United States, all lawyers are permitted to appear in court, although only a fraction regularly do, and only a smaller fraction are trial lawyers. If you count as "lawyers" all those who are permitted to go to court, you would count

every American lawyer. In England, however, only barristers would be counted; solicitors who do all sorts of other legal work would not be counted. Likewise, in Japan, only *bengoshi* go to court and would be counted; non-*bengoshi*, who do everything we would call legal work except court appearances, would not be counted. If you consider all "law providers" (LPs), you discover something amazing: the United States ranks 35th in the number of LPs, after Vatican City, Germany, and Japan! The sidebar above says it all.

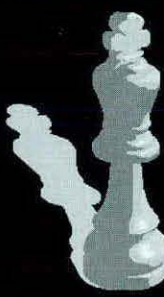
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Now that the American economy seems to be thriving compared with the economies of many other nations, I suppose lawyers are due some credit. (I wouldn't hold my breath. You'd better save these statistics for the next downturn.)

The Joy of Statistics: Pro Bono Math — Wherein the Author Demonstrates that Lawyers are Generous to a Fault and Should Start Keeping Track

We lawyers are so generous, we don't even keep track. Neither does the public. If all

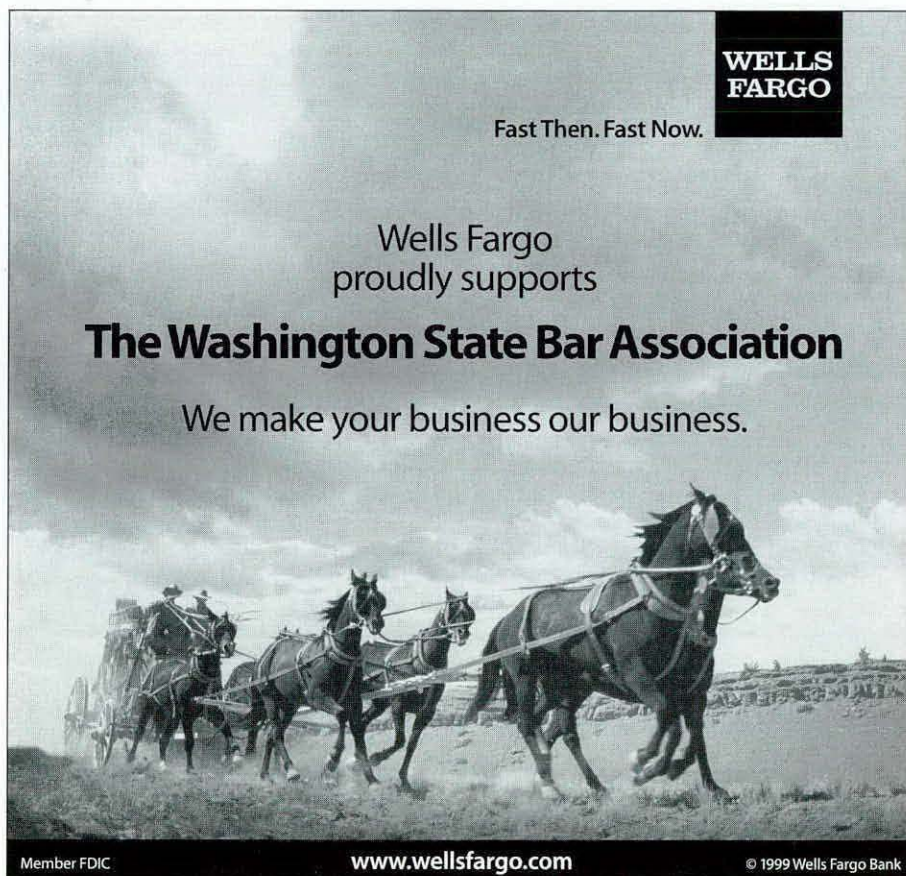
our pro bono work were pooled together, stadiums and coliseums across the country would sport the names of jurists and bar associations rather than banks and insurance companies. How does Lawyers Field sound for a ballpark?

Unfortunately, state bar associations across the country just do not "get it." They apparently believe that the public will be impressed if pro bono is made mandatory. They forget that members of a group who beat up on themselves are more likely to be beneath contempt than above reproach. By mandating generosity, all that happens is that the public thinks it is lawyers' *obligation* to support the legal system, not theirs. Now, I don't mind bailing out the SS [Sinking Ship] *Equal Justice*, so long as no one keeps on drilling holes. [See sidebar at left]

I propose we keep track of our pro bono generosity on a *voluntary* basis and expose it to the public eye. Maimonides, a Jewish philosopher who lived in 12th-century Spain, instructs that the highest form of charity is that given anonymously to someone you do not know. He reasoned that in the case of such charity, the benefactor does not even (as the reformed Ebenezer Scrooge surely did) derive pleasure from seeing the joy his or her benefaction produces. Yet, I do not believe even Maimonides would have expected the donor to remain silent when accused of being ungenerous and venal. When *we* members of the bar have given, it has been without the hope of public praise. The least our bar leaders can do is point out that a system of justice can no more be maintained on the backs of attorneys and judges than a police force on the backs of police officers or a sewage treatment plant on the backs of sewer workers or a public transit system on the backs of bus drivers.

The fact is, you don't have any idea how much money is given away *voluntarily*. Neither did I, and the figures are not easily come by. But, the math of pro bono is relatively simple. It amounts to *billions*. [See sidebar on next page]

Let us talk about contributions a little closer to home. Well, just considering the King County Bar Foundation's estimated value of Community Legal Services programs for the year 1998, we see that members of KCBA expended \$388,400, served directly or through appointed counsel over 7,244 clients, and provided legal services



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valued at \$2,207,772. Divided among the approximately 5,000 members of the King County Bar, we are looking at having contributed \$519 per lawyer — and that doesn't include any of the volunteer work done by individual lawyers not reported, or any work of the Eastside Legal Assistance Program (ELAP) or other pro bono programs — adding thousands to the number of clients assisted. It also does not take into account any bar association work, efforts by lawyers to improve the legal system, volunteer service using their legal skills without charge on behalf of the many charitable organizations lawyers support, appointments by the courts for low fee or no fee, serving as mandatory arbitrators at a fraction of our customary charges, or serving as *pro tempore* judges to ease the pressure on an underfunded court system. Nor does it consider the innumerable client discounts, low-fee services, free advice, and other ways in which attorneys attempt to keep the costs of legal representation down. But don't tell anyone we give it away for free. It might get in the way of our public image, so carefully cultivated, of being savvy.

The Lawyers of Utopia: *Wherein the Author Contends that What Made Utopia "Utopian" was the Fact that Every Citizen was...a Lawyer, and Concludes his Remarks to the Reader by Battling, Singlehandedly, Half a Millennium of Anti-intellectual Western Tradition*

If all men were reasonable, law would be unnecessary. So stated Spinoza. His heroic clarity brought upon him the ironic fate of too great a success: the modern age accepts as platitudes principles for which he risked his life. His *Tractatus Theologico-Politicus (A Treatise on Religion and the State)*, published anonymously in 1670, was placed in the *Index Expurgatorius* of the Church and banned by the civil authorities. What did he say? That law is necessary to resolve conflicts within society. That the state ideally should infringe upon no liberty, but free each citizen from the fear of violence. If the state becomes a vehicle of oppression serving its own purposes, Spinoza held that even the unjust law should be obeyed so long as reasonable protest and free discussion were available to secure change. If the philosophy of Spinoza lacks the poetry and mystery of others, perhaps it is because his beliefs have

The ABA Model Rule Means Billions from Lawyers to the Public

The ABA Model Rule is noteworthy because, for the first time, it seeks to quantify the amount of pro bono service lawyers are expected to provide. It establishes an aspirational goal of 50 hours of pro bono service per lawyer per year. That's about \$5,000-6,000 per lawyer per year. With somewhere between 700,000 and 1 million lawyers (however you count them) the ABA has, in effect, proposed giving away another \$5 billion to keep the justice system functioning. No, don't bother, I'll do it for you: that means that lawyers by this measure alone would be contributing (in addition to their tax dollars and bar dues used to regulate themselves free of charge to the public) 16 times as much as the entire U.S. population contributes towards the Legal Service Corporation. By my calculations, this makes lawyers, who are, after all, no more than 1/265th of the U.S. population, more than 4,250 times as generous per capita. Feeling generous yet?

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become the prose of the modern age. Spinoza placed law within the framework of a dynamic human society, as a means of conflict resolution or "social contract" in an age when law was more readily perceived as derived from God and enforced by His Sovereigns. By the standards of his time, Spinoza has made heretics and revolutionaries of us all.

We know that humankind, despite its virtues, is not uniformly reasonable, and that laws are necessary. But, imagine, for a moment, a utopian society.

Sir Thomas More, in his *Utopia* [translation: "no place"], states of the Utopian

people:

They have but few laws; for to people so instruct and institute very few do suffice. Yea, this thing they chiefly reprove among other nations, that innumerable books of laws and expositions upon the same be not sufficient. But they think it against all right and justice that men should be bound to those laws which either be in number more than be able to be read or else blinder and darker than any man can well understand. Furthermore they utterly exclude and banish all proctors and sergeants at the law, which craftily

handle matters and subtly dispute of the laws; for they think it most meet that every man should plead his own matter and tell the same tale before the judge that he would tell to his man of law.... [T]he judge with a discreet judgment doth weight the words of him whom no lawyer hath instruct with deceit.... This is hard to be observed in other countries, in so infinite a number of blind and intricate laws; but in Utopia every man is a cunning lawyer; for, as I said, they have very few laws [and] the plain, and gross meaning of the laws is open to every man.

Even today, centuries later, we still hear the echoes of Sir Thomas More when politicians suggest scrapping the Internal Revenue Code *in toto* or slashing the Revised Code of Washington down to size. How many laws do you need? If only life in the modern age could be made simpler and *every citizen simply would do what we all agree is right. Right?*

Despite the changing composition of legislatures noted by Mr. Perez-Pena, the flow of new legislation does not seem to be slowing. It is undoubtedly true that lawyers are victimized by a pervasive punitive sentiment which attributes to lawyers responsibility for the uncontrollable complexity of modern life. If only the truth were known: lawyers are servants, not masters, of that complexity. In short, lawyers are the grease which helps the complex machinery of modern, heterogeneous, diverse, dynamic society run. The very diversity and heterogeneity which lends our country its dynamism and creative energy makes it difficult to assume that all will simply agree, even on basic values. The law must be the translator of myriad societal expectations among a diverse people.

In the modern world, it is just as impossible for every person to be their own lawyer as it is for every person to be their own farmer, blacksmith, lumberjack, miner, wheelwright, shipwright, tanner, shoemaker, tailor, baker, cooper, grocer, merchant, seamstress, weaver, shepherd, preacher, priest, physician, nurse, soldier, sheriff, banker, accountant, printer, mechanic, innkeeper and jester. Only in the most primitive society imaginable, with a system of crude, degraded justice, could any person hope to act effectively as their own "cunning lawyer." And, even then,

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the natural difference in personal gifts would make the law the servant of the well-spoken, not the righteous.

So, a visit to *Utopia* quite literally takes us "nowhere." Rather than regarding it as a society without lawyers, it is properly regarded as a society so homogenous in social expectation that few laws are needed and "every man is a cunning lawyer." Imagine that. Utopia is a bar association!

By contrast, consider the conspicuous absence of lawyers in the twinned nightmare visions presented in George Orwell's *Nineteen Eighty-four* and Aldous Huxley's *Brave New World*. In the totalitarian regime created by Orwell, human society was neither dynamic nor free. Humans were mere spokes to the hub of the State, an inhuman antisociety. Huxley himself described *Brave New World* as a society "in which the attempt to re-create human beings in the likeness of termites has been pushed almost to the limits of the possible." There is no need for law, much less lawyers, in an insect world. In such a world, freedom is meaningless.

Conclusion: *Wherein the Author Reminds Us that Even in this Best of All Possible Worlds, Lawyers Must Nonetheless Act Collectively to Remind the Public of the Virtues of their Noble Profession*

The most insidious consequence of discrimination is the alteration in self-concept it produces in its victims. Will you join with me to reaffirm the lawyer's special place in America?

1. I believe in the law as an honorable profession and, with few exceptions, my colleagues to be decent and honorable people.
2. I believe that the practice of law is a learned profession; that love of knowledge is the parent of perspective, and perspective the parent of humor; and that both perspective and humor are the keys to the resolution of conflict.
3. I believe that the best traditions of the legal profession enable it, operating in a democratic, pluralistic society, to assist in the mediation of interpersonal and societal conflict, to protect constitutional principles, and to empower and liberate individuals to achieve their

full human potential. To paraphrase Mark Twain's reflections on his days as a riverboat pilot on the Mississippi, I can think of no work I have loved so well.

So it is that over two decades into the practice of law, I find myself hoping, together with my colleagues, to engage in a

Even today, centuries later, we still hear the echoes of Sir Thomas More when politicians suggest scrapping the Internal Revenue Code in toto or slashing the Revised Code of Washington down to size.

great tug-of-war over the public perception of lawyers — against the shortsighted, cynical, mean-spirited and avaricious.

I no longer laugh at lawyer jokes.

I know we are integral to what makes the American experiment work. I am proud of the work we have done. I am proud of our contribution to the public discourse and the analysis we bring to issues of public concern. I am proud of our review and comment respecting proposed

legislative initiatives. I am proud of our work on behalf of civic and charitable organizations, however humble. I am proud of our support for the rights of our clients, the rights of the public, and the court system. I am proud of our work on behalf of the dispossessed, the disempowered, the oppressed.

I am proud of being part of a collective noun with my colleagues: a *justice of lawyers*. ☞

Randolph I. Gordon is a frequent contributor to Bar News, past President of the East King County Bar Association, and co-recipient of the 1998 WSTLA

Public Justice Award. He currently serves as a Trustee for the King County Bar Association, a special district counsel for the Washington State Bar Association and adjunct faculty at Seattle University Law School. He is a principal of the Bellevue law firm of Casey Gordon Davis, PS, and a lawyer.

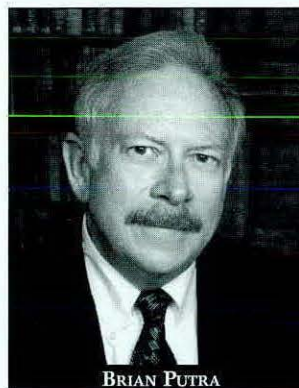
NOTE

1 *Symposium II: Public Understanding and Perceptions of the American Justice System* (February 1999).

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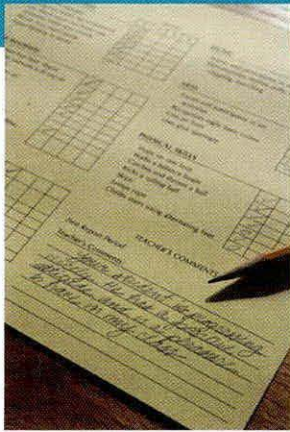
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The Becca Bill: The Rest

by Mary Yu, Kaki A. Dimock and Shannon Anderson

The April issue of Bar News included an article on some of the difficulties of implementing the recently enacted Becca Bill.

This article outlines some of the reasons for continuing to improve upon and maintain the strategies underlying the Becca Bill.

The Becca Hedman story is just one among many tragic stories of young people whose lives and deaths are difficult to comprehend.¹ Her traveled path was heartbreaking, and any two-sentence summary of it will simply not do justice to the multiple facts and circumstances surrounding this person's life, even with the benefit of hindsight. We do know, however, that a young person was allowed to self-destruct while systems and institutions designed to assist young people were at a loss for finding a meaningful entry point into her life.

The Washington State Legislature responded to this tragedy by enacting legislation which recognized the family and community-based institutions as primary entry points for intervention into a young person's life. Furthermore, within the context of other laws which safeguard the right of a child to be free from domestic abuse or violence, the Becca Bill was designed to include other actors in a young person's life who can do something before it is too late.

Contrary to assertions made by critics of the law, the primary goal of the Becca Bill is *not* to have juveniles "locked up in juvenile detention."² Rather, the goal is to provide protective services to children and families before a child is allowed to self-destruct.³

The legislature recognizes there is a need for services and assistance for parents and children who are in conflict. These conflicts are manifested by children who exhibit various behaviors including: Running away, substance abuse, serious acting out problems, mental health needs,

and other behaviors that endanger themselves or others.⁴

The legislative intent is clear and specific and should be read in its entirety before presumptively assuming that detention is the goal and that children's "rights" are endangered. Nothing could be further from the truth. These findings and intent do serve, however, as the framework for evaluating whether the cure really *is* worse than the disease. The underlying operative principle of the Becca Bill is that early detection and intervention are the key to preventing a pattern of "Beccas." Is the law perfect? No. Are the resources to implement it adequate? No. Is the work of implementing the bill worth the effort? Yes!

Detective Maryann Parker of the Seattle Police Department's Sexual Assault and Child Abuse Unit, formerly with Seattle Team for Youth, an innovative program designed to identify and provide services to at-risk kids, believes that this law provides communities, parents and youth specific tools to address a child's unique needs and allows for the mobilization of support from many areas. "The ARY/CHINS process gives us time and opportunity to obtain an accurate assessment of the child's situation and to find out what is available to them from their family and from community-based resources. This process can help us to hold parents accountable for the safety and well-being of their children, if necessary, and, unlike many similar processes, it allows children a voice in the courtroom." Detective Parker remembers one case in which the law allowed her to pick up a

of the Story

child who was so severely addicted to heroin that she weighed 90 pounds and was unable to care for herself. Detective Parker credits the law with saving this particular girl's life.

King County Superior Court Judge Patricia Clark also remembers cases in which the Becca Bill allowed concerned family members to take action to protect a child. Judge Clark points to the ways in which the law provides community support for the efforts of parents who had no recourse prior to the passage of the Becca Bill. "The ARY/CHINS provisions in the Becca Bill make it possible for the community to protect children from being harmed or harming themselves. While the bill is not perfect and it is often difficult to access services, the Washington State Legislature is bringing other resources to bear on this issue. We are all trying to redirect and coordinate resources so that these kids and families get the services they need."

An examination of the law and its implementation provides compelling evidence that the effort is not only worthwhile, but has proven successful in enough cases that the experiment of making truant or at-risk youth the center of public policy deserves our continued attention and resources. As this forum is too limited to accurately examine the ARY/CHINS and truancy process in detail, what follows is a description and analysis of the truancy provision contained in the Becca Bill.

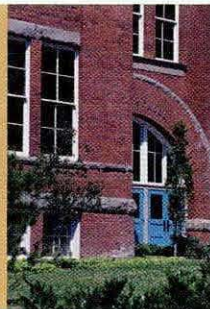
Truancy Petitions

Last year, there were 4,841 truancy peti-

tions filed in King County Superior Court.⁵ The number of hearings totaled 3,941.⁶ These numbers are staggering, but school districts report that 80 percent of those students who have had a truancy petition filed against them have successfully returned to school. This phenomenon is supported by the Office of the Administrator for the Courts, which recently reported that 87 percent of truancy petitions filed statewide do not require a contempt motion to ensure compliance with the court's order to attend school.⁷ Just as impressive is the fact that countless numbers of students are returning to school without a petition being filed, because of the new policy focus on accountability for attendance and staying in school.⁸

In accordance with the truancy provisions of the Becca Bill, school districts are required to file a truancy petition when a child has seven unexcused absences within

Since the proceedings are not criminal and the goal is to get the child back into school, the truancy hearing does not involve legal counsel.



a month and actions by a school district to reduce the absences are not successful.⁹ The statutory requirements imposed upon school districts prior to filing a petition include (1) informing the parent of such absences and the implications for additional unexcused absences; (2) scheduling a parent conference; and (3) taking concrete steps to reduce the absences by schedule adjustments, providing vocational services, and assisting the parents and/or students to obtain supplementary services that might address the underlying causes of the truancy.¹⁰

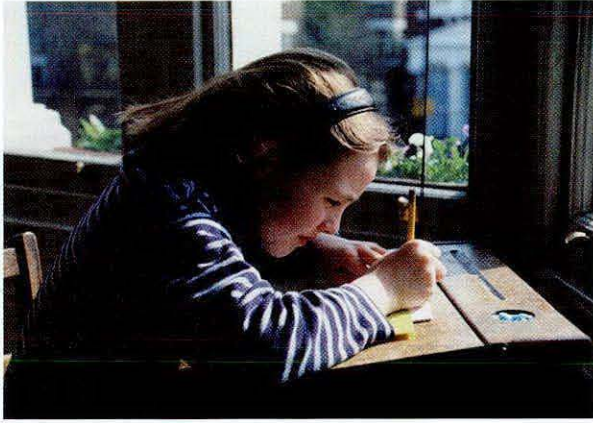
Because of the mandatory filing timelines, school districts in King County generally file a petition with a motion for a stay. The temporary stay allows the schools to undertake additional interventions before involving the court any fur-

ther. If the additional interventions are not successful, a hearing is scheduled. Since the proceedings are not criminal and the goal is to get the child back into school, the truancy hearing does not involve legal counsel. The statute specifically permits school districts to be represented by a nonlawyer representative.¹¹ If there are facts sufficient to support the allegations in the petition, the court then orders the child to return to school. A typical court order might include a requirement for regular school attendance without any unexcused absences or tardies, drug and alcohol evaluation, and regular meetings with the school counselor. In most cases, there is no factual dispute about the absences. Rather, the more significant challenge lies in addressing the underlying reasons for the truancy.

The cases actually heard by the court are the cases that need more attention.

Some are resolved quickly and others require intense monitoring by the court. As expressed by King County Court Commissioner Kimberley Prochnau, "For many of these youth, all they need is a wake-up call before they get too far down the road. The fact is that the majority of cases are successfully resolved. We often serve as a facilitator for connecting young people to their families, schools and social service entities. In my opinion, it is worth the court's time and resources if I can make a difference in just one kid's life."

Although most of the school districts report that the majority of truant youth return to school, the bulk of the school district's time and resources end up being spent on the smaller number of students who have serious social problems or learning disabilities. School districts are reimbursed approximately \$80 per petition filed, but there has been no monetary appropriation for reimbursing school districts for the actual costs of the more time-consuming social interventions. These interventions range



from mental-health counseling to substance-abuse counseling and/or providing specialized learning environments for students.

Not all of the interventions require intense social services and some simply require flexibility by all parties. For example, in a case where earning academic credit midway through the school year became the primary concern for the returning youth, the court and school struck a compromise where the student would earn partial credit for returning to school. The court recognized that there was no incentive to return to school unless some credit would be provided. The school district accepted the challenge and in response designed an alternative program for the child which gave the student at least some academic credit. The truancy statute does not address the extent of the required interventions, but in the majority of cases some creativity and persistence by all has provided new opportunities for young people to reconnect with school.

The burden of scrambling to find the resources has taken its toll on schools and has some wondering whether it is worth the effort, despite the actual increase in attendance. Yet a significant number of those working on truancy admit that the most important policy feature of the truancy law is that schools and parents are finally being forced to take note of who is in school and who is missing, and to find creative solutions for finding and keeping kids in school. Notwithstanding the financial challenge of implementation, it would be a mistake if we believe that we can use the truancy law to solve all of the social problems that young people face. It is only an entry point into a young

person's life and is better than the alternative of doing nothing.

Among the strong supporters of the Becca Bill were King County Superior Court Presiding Judge Bobbe Bridge and King County Prosecutor Norm Maleng. Judge Bridge, who has been an advocate for services to juveniles for almost two decades, saw the legislative effort as a way to get

involved early in a young person's life — early enough to make a difference. She, too, notes that most of the cases that get filed can be easily resolved and serve as a mechanism for getting everyone the support they need early enough in the ballgame to change the path to be traveled. "Next to families, schools are one of the most significant social institutions for a young person. Schools in King County have stepped up to the plate to not only help kids stay in school but, in working with kids on a daily basis, they have helped to identify other patterns of behavior that may actually be the reason why the kid is not in school in the first place or why they are having trouble learning." As the guardian of judicial resources, Judge Bridge recognizes the strain put on the court system and on schools. Yet, she firmly believes that the time and energy put into early interventions will pay off in the long run.

King County Prosecutor Norm Maleng concurs with this vision of early intervention as a way to keep kids out of the criminal justice system. "I believe we all would be remiss if we did not recognize that truancy prevention efforts provide an opportunity to be of assistance to a young person when they are first sending the signals that something is wrong. Getting involved early gives everyone a chance to address some of the family or social issues before they are manifested in a destructive way."

Community Truancy Boards

A unique feature of the Becca Bill has been its effort to involve the surrounding community. One of the many resources available to school districts is the use of a com-

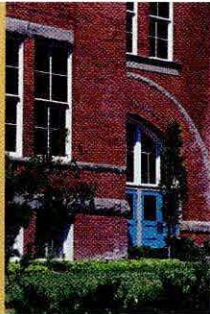
munity truancy board. Community truancy boards offer school districts a way to take advantage of the interest, skills and expertise of volunteers in their own communities and reduce the amount of time spent in court on truancy petitions. Community truancy boards are authorized by the Washington State Legislature to establish attendance requirements and other appropriate action designed to reduce a student's absences.¹² Community truancy boards meet with truant students and their parent/guardian(s) to identify the often elusive reasons for their non-attendance and to create intervention plans to help the student resume regular attendance. These intervention plans may include action steps for the student, the parent/guardian(s) and the school district. If the school districts choose, this plan may be written as a stipulated order and, upon agreement of all the parties, may be submitted to the court for approval and, therefore, serve as the fact-finding hearing.

There are six school districts in King County currently using community truancy boards as interventions and alternatives to appearing in court for the fact-finding hearing. The volunteers in these districts make up a total of 24 separate boards who meet, generally, once a month, and see as many as three families each time. These boards allow for and create powerful partnerships between schools, the court and communities who share the responsibility for the safety and success of our students. While the widespread use of community truancy boards in King County is too new to have been formally evaluated, school districts report that the boards are keeping some families from ever having to step foot in juvenile court on a truancy petition. The parent/guardians(s) who have returned satisfaction surveys administered in one district report feeling that the process was empowering and meaningful for them. King County Superior Court has supported the 19 school districts in King County in the development of community truancy boards by creating a handbook and hiring a full-time truancy board development manager who can help districts in the design of a board as well as with recruiting and training of volunteers.

Contempt and Detention

Much of the controversy about the Becca Bill has been the fear of incarceration. Implementation of the law has never been about detention. A juvenile may be detained under the statute but, in fact, it has always been applied as a last resort and under extraordinary circumstances. The King County Truancy Steering Committee has made finding alternatives to detention a priority.¹³ In cooperation with the Department of Youth Services (DYS), efforts to support non-secure facilities and day-reporting programs are a priority. In

A juvenile may be detained under the statute but, in fact, it has always been applied as a last resort and under extraordinary circumstances.



addition, it is not the general practice of DYS to house truants with criminal offenders. With limited resources, DYS has responded to the concern raised by the underlying policy goal of getting kids in school and has dedicated staff to truancy prevention efforts. Most of the children coming through detention are actually there for a very brief time, as they are in detention for disobeying a court order and, in accordance with civil contempt laws, they are given immediate opportunities to purge their contempt.¹⁴ This often translates into writing a paper for the court on "The Importance of Staying in School" or "The Consequences of Missing School." They are assisted by legal counsel and afforded every due process available.¹⁵

Is It Worth the Effort?

The following is an actual case which is concrete evidence that the effort is worth the time. Because of the Becca Bill, seventh-grader Stephen Witt was back in school and smiling at a supportive group of school staff who were smiling back at him. Stephen's mother, Joan, beamed with pride as she acknowledged that Stephen had taken a positive step to a better fu-

ture. It was the first time in a long while that Stephen had attended school with regularity. At this gathering in Stephen's honor, staff from the Kent School District recalled their extensive efforts to encourage and compel Stephen to go to school. They went so far as to stop by the Witts' home some mornings to make sure that he was awake and getting ready for school.

In late 1997, the Kent School District filed a truancy petition with the King County Juvenile Court requesting that it intervene in the effort to return Stephen to school. Stephen's parents and the school district had already made extensive but fruitless efforts to ameliorate his truancy. Stephen did not suffer from any disability or affliction but rather, as he admits, he was intentionally underachieving. The strong-willed seventh-grader went to great lengths to spend his days

lounging on a couch at home. He simply refused to go to school. King County Superior Court commissioners jogged his academic awareness after a series of truancy hearings in 1998. The Court granted the school district's truancy petition and directly ordered Stephen to attend school. Stephen appeared before the Commissioner multiple times in 1998, as the Court crafted creative conditions to compel him to go to school. In November, the Kent School District finally reported to the Court that "Stephen is doing very well."

"It's going to help get kids in school," Stephen recently said about the Becca process. Surrounded by school staff, he openly credited the Court, the school district, and his mother for pushing him in a positive direction. He predicted that had he not faced the authority of the Court and the possibility of significant remedial sanctions, he would likely still be wasting his time on the couch while other children were in school.¹⁶

Stephen's success story is the norm rather than the exception when it comes to evaluating the impact of the Becca Bill. A 1998 study conducted by the Washington State Institute for Public Policy

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states that court data indicated that during the 1996-97 school year, only about seven percent of the truant students in Washington continued to miss school after the school district filed contempt orders in court. The study stated that over 12,000 petitions had been filed statewide. Based on these figures, the Becca Bill has

already influenced thousands of children like Stephen Witt, and made them prioritize their education. Whether the Becca process will have a permanent effect on these children can only be measured by their attendance at their high-school graduation ceremony. But one thing is for certain: the truancy provisions mandated

by the Becca Bill have given children a greater chance to succeed. ☞

Kaki A. Dimock, M.S.W., is the truancy board manager at the King County Superior Court.

Shannon Anderson, J.D., is a deputy prosecuting attorney in the King County Prosecutor's Office. He is assigned to work with school districts on implementing the truancy laws.

Mary Yu, J.D., is deputy chief of staff in the King County Prosecutor's Office and has been involved with truancy issues since 1993.

NOTES

- 1 See Dateline: Profile: Born to Run?: Parents in Washington Seek Law to Keep Children from Running Away (NBC television broadcast, June 23, 1995). See also Kery Murakami, *Would "Becca Bill" Have Saved Becca?*, Seattle Times, June 23, 1995 at A1.
- 2 See Catherine Chaney and Anne Kysar, *The Becca Bill: Is the Cure Worse than the Disease?* Washington State Bar News, April 1999 at 19.
- 3 See 13.32A.010.
- 4 *Id.*
- 5 See report published by the King County Superior Court Clerk, March 1999, indicating number of filings and hearings.
- 6 *Id.*
- 7 *Truancy: Statewide Statistics for the 1997-1998 School Year: Third Annual Report to the Washington State Legislature*, State of Washington, Office of the Administrator for the Courts, December 1998.
- 8 See e.g., Seattle Public School Data Profile District Summary, Report 98-1, Prepared by Steven Wright, November 1998.
- 9 RCW 28A.225.030.
- 10 RCW 28A.225.020.
- 11 RCW 28A.225.035. The issue of whether legal counsel is required at the first hearing was also addressed by the Washington Court of Appeals in *In Re: Truancy of Perkins*, __ Wn.App. __, 969P.2d 1101 (1999) (No. 41166-7, decided January 19, 1999).
- 12 RCW 28A.225.025.
- 13 The King County Truancy Steering Committee is made up of school district representatives, social service providers, police officers, court staff and attorneys from the Prosecutor's Office and public defender agencies. The Committee was convened shortly after the Becca Bill was enacted.
- 14 See RCW 7.2.
- 15 Legal counsel is appointed for the child when a motion for show cause hearing on whether a contempt order should issue is filed by a school district since a finding of contempt could include the imposition of detention.
- 16 Stephen was recently the recipient of the King county Academic Awareness Award. See story on Stephen at <http://www.metrokc.gov/proatty/Mar99.htm#academic>.

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A "Bar Convention" in 2000? Yes — Bigger, Better and Different!

Celebration 2000

by **Richard C. Eymann**
WSBA President-elect

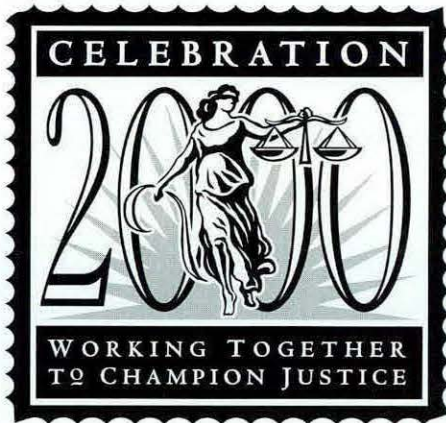
It started as a simple idea. What if we once again held a statewide convention, bringing together lawyers and judges, along with their families and friends? Casual conversations turned into serious discussions, and soon there was a well-organized committee diligently and enthusiastically planning the event we have named "Celebration 2000."

Under the grand theme of "Working Together to Champion Justice," this monumental gathering will unite lawyers, judges and others throughout our state. With the dawn of the new millennium, it seems appropriate that we celebrate, commemorate and rejuvenate! At Celebration 2000, we will dedicate ourselves to maintaining a healthy and vibrant system of law and justice accessible to all, seize the opportunity to reflect on our rich heritage, and share our visions for the future.

Celebration 2000 will be an unprecedented opportunity for members of the bench, bar and access-to-justice community to coalesce, discuss and debate short- and long-term legal issues and goals, and consider how to champion justice for all citizens. We will mix and mingle with friends and colleagues from all corners of the state — all under the universal umbrella of celebrating the law and those who have dedicated their professional and personal lives to championing justice and assuring a just society.

Celebration 2000 is the working product of three major groups — the Washington Judiciary, the Washington State Bar Association, and the Access to Justice Board. Many other law-related organizations — including WSBA sections and committees; the Young Lawyers Division; the Washington State Trial Lawyers Association; the Washington Defense Trial Lawyers Association; the East and West Federal Bar Associations; and the Gonzaga University, University of Washington, and Seattle University law schools — will also be participating.

Our plan calls for a four-day conference to be held September 13-16, 2000 in Spokane. Events will be held at the



Convention Center as well as the major downtown hotels. The WSBA Annual Meeting, Fall Judicial Conference and Access to Justice Conference will all take place during this time. There will be a multitude of events from which to choose — these four days will be packed with educational and social activities!

The 27-member planning committee — headed by Washington State Supreme Court Chief Justice Richard Guy, Access to Justice Board

President Ken Davidson, and me — has been meeting for months. Organizers are working on obtaining renowned national speakers; developing a "blockbuster" CLE seminar; creating programs that will be innovative, thought-provoking and inspiring; and planning a variety of social activities. The program will feature four tracks: Judicial, Access to Justice, Lawyers, and Bar Leaders. Whatever your particular area of interest or practice, we promise that there will be something of value for you!

Over the years, and at WSBA Town Meetings held over the past several months, some of our more seasoned colleagues have lamented the fact that the lawyers and judges of today seem to be drifting more into isolation — we have somehow lost our sense of community. We hear concerns that it's been many years since we have had an event that brings together in one gathering all those in the legal profession — to share, to teach, to learn, and to enjoy one another's company. Those involved in planning Celebration 2000 hold a common vision of providing the opportunity for the renewal of old friendships and the formation of new professional and personal relationships within our community.

There has never been an event quite like Celebration 2000, and you won't want to miss it. We sincerely hope you will be able to join us, as we celebrate working together to champion justice. ☞

The Depressing Nature of the Law Is Law Hazardous to Your Health?

By **Rebecca M. Nerison**

Psychologist, WSBA Lawyers' Assistance Program

Emily made partner last year. She enjoys a spectacular view from her office windows — when she takes the time to look out. She has everything she has always wanted, yet feels enervated and guilty about not enjoying her success.

Edgar graduated from law school four years ago. He took a temporary job at a hardware store while looking for legal work, but his last employment interview was two years ago. He still works at the hardware store. Edgar feels hopeless and worthless.

Studies show that lawyers are more likely to be depressed than other professionals. I regularly see depression in the lawyers I counsel through the Lawyers' Assistance Program. Depression is often associated with feelings of loss, isolation, powerlessness and hopelessness. What is it about the law that causes this state of depression? What makes the law so hazardous to the health?

Three Environmental Factors

Law is a largely adversarial enterprise in which the winner takes all. Barbara Harper, director of our Lawyers' Assistance Program, believes it is often this adversarial

attitude that contributes to depression. When lawyers relate continuously to the world in an us-vs.-them/win-or-lose mode, interpersonal problems are inevitable.

In his 1994 book, *The Soul of the Law*,

Disillusionment with the practice of law is a common precursor to depression. It occurs when expectations don't match perceptions of reality.

psychotherapist and lawyer Benjamin Sells notes that his lawyer-clients frequently experience problems in maintaining close relationships. They are so into the habit of arguing that it's hard to break out of it when they're with family, friends and colleagues. The interpersonal distance created by this fundamental disconnectedness often engenders feelings of isolation and misunderstanding. Sells calls litigation's fixation on winning "psychologically corrosive."

Another attribute of the law is what Sells calls the "tyranny" of the rational, objective mind. Lawyers must leave their feelings, beliefs and preferences out of their

work. If a lawyer's world view differs greatly from the cause being advocated, an internal split can occur. This degree of objectivity and detachment may lead to feelings of isolation from the true self and others.

A third attribute of the law is its hierarchical nature. Law schools are rife with competition to earn the best grades and win the top jobs. Those who land in firms must then bill the most hours, make partner, lure the most (and richest) clients, and win the big-

gest judgments. In recent years, the pressure to produce and compete successfully for clients has intensified as business loyalties shift and the number of lawyers grows. Failure to meet ever-rising standards equates with professional mediocrity and a loss of prestige and power.

Personal Factors

Disillusionment with the practice of law is a common precursor to depression. It occurs when expectations don't match perceptions of reality. Despite modern cynicism, many lawyers have entered the law to help others, that is, "save the world." Some become lawyers for the financial rewards; others expect intellectual stimulation; and still others just like the idea of calling themselves lawyers — all goals easily thwarted in today's changing legal climate.

Many older lawyers complain that practicing law just isn't fun anymore. Younger lawyers looking for jobs or those who are underemployed struggle under the burdensome debt of student loans. Increasing competition results in more specialization, so many lawyers find themselves churning out work that is no longer challenging. All of these factors result in a loss of personal vision.

Another occupational hazard for law-

The WSBA Lawyer Services Department offers these four programs:

The Lawyers' Assistance Program (LAP) – 206-727-8268: Confidential assistance for lawyers with emotional, drug/alcohol or other personal problems.

The Law Office Management Assistance Program (LOMAP) – 206-727-8237: Offers consultation and information to help solo and small-firm practitioners deliver legal services of the highest quality.

The Professional Responsibility/Ethics Program – 206-727-8219: Lawyers can call a WSBA lawyer for assistance in resolving ethical dilemmas.

The Alternative Dispute Resolution Program (ADR) – 206-733-5923: Offers two low-cost methods of resolving disputes: voluntary fee arbitration and mediation.

Please call our department at the phone numbers listed above for additional information and/or assistance in these areas.

yers is the failure to honor body and soul. The pressure to bill thousands of hours can persuade the lawyer that there's no time for anything but work. Taking on others' problems and dealing with deadlines requires listening to everyone, but often neglecting oneself. Busy lawyers tend to neglect activities that nature has designed to nourish parts of the body other than the mind: nutrition, exercise, rest, recreation and the maintenance of relationships. Alcohol and other drugs (including caffeine) may become a quick fix for the symptoms of an impoverished spirit.

Likewise, reliance on money can entrap successful lawyers. They may realize they dislike their work but can't quit because of their inflated lifestyle. A person boxed in by financial obligations often feels powerless to change. Those who want a life apart from work struggle with the decision to leave the law. Some lawyers leave altogether; others change practice areas or settings to better suit their values.

Law School

Studies suggest that law students are four times more likely to get depressed than the general population.¹ Sells points out that law school isolates students from the rest of the world by training them to view human problems objectively, intellectually and impersonally. Students feel reassured when their legal skills give them the tools to solve others' problems, but those same skills prove useless in confronting their own feelings. Graduate students in other fields, such as medicine, are known to experience similar levels of depression during their training. But while these levels in other professions return to the national average, the level of lawyers' depression remains constant throughout their careers because the insidious internal processes that started in law school are perpetuated throughout the practice of law.

Humiliation and defensiveness are among these processes. Barbara Harper believes that defending against humiliation becomes a way of life for lawyers reminiscent of adolescent self-consciousness and the need to look good. She tells of watching a group of nicely dressed young lawyers drinking at a fashionable restaurant and loudly bragging to one another about their legal exploits. She could sense

the feelings of powerlessness and the fear underlying the arrogant behavior. This contributes to depression.

And what about the rate at which law schools are pumping out new graduates? In the state of Washington alone, 1,015 new lawyers were licensed in 1998, adding pressure to an already competitive job market. Many of these new lawyers are unable to find employment, so they go solo — something most law schools have not prepared them for. Sometimes they take non-lawyer positions that preclude them from future legal employment.

What are law schools thinking? Are they aware that the current supply exceeds the demand? Are they communicating this fact to eager applicants? Are they informing students of the emotional price they are likely to pay as they learn and practice law? In all fairness, many graduate schools, including psychology programs, are guilty of oversupplying a dwindling market, probably for similar economically driven reasons. Certainly, law schools bear some responsibility for the current and future psychological climate of the profession.

While it's true that there are many things lawyers can do to clean up their lifestyles, Sells sees their task as more fundamental. He encourages them to live lives that are "ordinary" in the sense that they remain in touch with the needs of the soul: savoring everyday sights, sounds, smells; reconnecting with passions deeply felt; being "erotically attached to the world."

Emily and Edgar already know how to work hard. Now they need to reintegrate. The big players — law firms, government agencies, law schools — must transform their environments into places where whole human beings can thrive. After all, law needn't be hazardous to the health. ♪

Rebecca M. Nerison is a psychotherapist with the WSBA Lawyers' Assistance Program. She has a Ph.D. in counseling psychology and is a licensed psychologist.

This article is reprinted with permission from the March-April 1998 issue of the *ABA Bar Leader*.

NOTE

1 Beck, Sales and Benjamin, *Lawyer Distress: Alcohol-related problems and other psychological concerns among a sample of practicing lawyers*, 10 *Journal of Law and Health* (1995).

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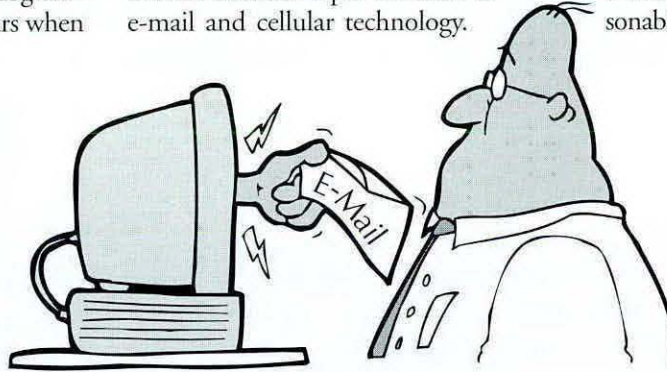
The Greyhaired Cyberpunk

Back in the Dark Ages (read: during my college undergraduate years), when I was earning the right to wear a propeller on my beanie, pulling all-nighters in the computer lab was a common occurrence for the group of computer-jockeys of which I was a part. Some of our most productive programming was done during these hours when we had completed our other studies and were no longer bothered by such tedious nuisances. Since most of us were fairly adept at cracking the passwords to each other's computer accounts, we typically resorted to developing ways to encrypt our most secret program source code (marks of our budding computer prowess and claim to fame) so we couldn't pirate it from each other. Obviously, an encrypted file was yet another challenge and, after a successful decryption, a more complicated and involved scheme of encryption had to be developed. Similar activities were being conducted on college campuses across the country, and many of the complex computer encryption schemes used today were born at that time.

Confidentiality in communications has always been a necessity and has always been the driving force behind encryption. As unintended recipients of encrypted communications became more adept at decoding secret messages, the encryption methods became more complex and laborious. Automation of complex tasks, too, has always been a necessity. Computers, it was soon discovered, are the perfect tools for complex encryption of communications. The infamous ENIGMA machine of World War II, arguably the first "computer" to perform this task in a useful way, is a perfect example of this automation.

Attorney-client and attorney-attorney communications have a history of well-defined rules that protect their confidentiality. Statutory and case law have established the metes and bounds of these protections with respect to communications made through traditional mail and tele-

phone. In much the same way that, in its infancy, the common use of telephones posed new and complex issues of confidentiality to the legislatures and courts, many of the same issues are now presenting themselves to the legislatures and courts in the electronic communications forums with the rapid embrace of e-mail and cellular technology.



Confidential Communications, Encryption and Other Secret Stuff

by ROB APGOOD / roba@sidlon.com

While we naturally expect a right of privacy in telephone conversations with our clients and each other, some of us have discovered, much to our dismay, that the right is waived when we pick up our portable telephones or flip open our cell phones to have confidential conversations. The courts are divided on whether users of these devices have a reasonable expectation of privacy in their conversations.

E-mail adds a whole new problem to the mix. The particle "mail" in "e-mail" tends to lead the user into an understandable, but false, sense of security. "Hey! It's just another form of mail, so it *must* be protected!" Not so. As with cellular and portable phone questions, the courts are split on reasonable expectations of privacy in e-mail.

In an attempt to frame some sort of guidance on the issue, the American Bar

Association standing committee on Ethics and Professional Responsibility recently published an opinion (#1999-01) on the use of e-mail. In that opinion, the ABA indicates that a lawyer does not violate a client's confidentiality privilege by transmitting documents via unencrypted e-mail. A lawyer's obligation to take reasonable steps in protecting confidential client information against unauthorized use or disclosure does not require an "absolute expectation of privacy," only a "reasonable expectation of privacy." The committee opines that e-mail offers a reasonable expectation of privacy when compared to traditional "land-line" telephone, cellular and cordless phone services, fax machines, and ordinary mail. Although some earlier state ethics rulings focused on the medium's potential susceptibility to unauthorized interception, the committee accurately notes that even the more traditional methods of communication are susceptible to unauthorized interception, or inadvertent disclosure. Of note, the committee expressly states that it is *not* addressing the use of cellular or portable phones (acknowledging the split of authority on these media) in the

opinion, and admonishes lawyers that they have a continuing obligation to consult with a client as to his or her wishes about the vehicle for transmission of extraordinarily sensitive information.

Enter the world of encryption. (Please.) The encryption of highly sensitive information is a process that is increasing in use at an explosive rate, particularly when that information is being transmitted electronically. Sure, that sounds like something taken directly out of a marketing brochure, but it is *intended* to be general and all-encompassing. While encrypted e-mail is probably the most common use, the process of encryption is not, nor should it be, limited to electronic documents that are *transmitted*. As more and more firms establish an in-house Local Area Network (LAN),

Sites where you can learn more about PGP encryption and acquire freeware versions of the software:

U.S. Sites

<http://web.mit.edu/network/pgp>
<http://www.eudora.com/eudoralight/>

International Sites

<http://www.pgpi.com>
<http://www.pgpi.com/overview/>
<http://cert.upc.es/download.html>
<http://www.csd.uu.se/~d95mno/PGP.html>

their PCs risk open exposure to anyone on that LAN (and possibly anyone on the Internet, depending on how the LAN is exposed through persistent Internet connections). Consequently, *any* electronic document containing sensitive information should be encrypted as a matter of course ("Where *is* that diskette I was looking at on the airplane, anyway?"). Frequently, no special software tools are required. Both WordPerfect and Microsoft

program) that allow you to encrypt your e-mail message with the simple click of a button or selection of the option on a menu. PGP is so effective that at one time, the U.S. Government attempted to prosecute its author, Phil Zimmerman, for its distribution. Although they later declined to pursue the action, the software is classified as a "munition" and cannot be legally exported from the U.S., although international versions are available (see sidebar).

PGP employs a scheme of dual-key encryption that ensures that the recipient is the only person able to decode the message into something meaningful. A dual-key system uses two keys for the sender and receiver; one key is "public" and the other is "private." The sender specifies the "public" key of the recipient and PGP takes that "public" key, combines it with the sender's key, and creates an encoding "seed" that is used to encrypt the message. Once the encoded message is received, the recipient uses his "private" key to decipher the message, which otherwise appears as gibberish. If the correct key is used, the message is decoded into something meaningful (not necessarily text). If anything other than the recipient's "private" key is supplied, the result is indecipherable gibberish. Different levels of sophistication of encryption can be used. The greater the level, the greater the time required to encode and the greater the difficulty in cracking.

As unintended recipients of encrypted communications became more adept at decoding secret messages, the encryption methods became more complex and laborious.

Word (arguably comprising the totality of word-processing software in law offices) have document password capabilities that are simple and fairly effective. Using a pre-arranged password, or informing the document recipient of the password by other means, the receiver simply enters the password when prompted by either product and the document is displayed. Although such a password-protected document is not impenetrable, the simple fact that it is so encoded creates a strong presumption that the author intends the document to be confidential and may well make the difference when arguing the use or admissibility of the document by an opposing party.

Far more sophisticated means for encryption are readily available, the most prevalent being Phil's Pretty Good Privacy (PGP). PGP is available commercially and in freeware versions and can be found on the Internet. Some of the more robust e-mail programs, like Outlook and Eudora, provide PGP "plug-ins" (ancillary software that is "plugged in" and run by the e-mail

It will take time for the courts to settle on a uniform view of whether e-mail provides a reasonable expectation of privacy. Although the ABA has issued what appears to be a well-reasoned opinion, it obviously offers only guidance in future litigation of the issue. Even if a reasonable expectation of privacy is found in the medium, prudence dictates the use of encryption of particularly sensitive information. *LD*

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Take Me Out To the Ball Game...

Five partners at the Seattle firm of Heller Ehrman White & McAuliffe returned from their annual business retreat to find their offices turned into a model of Seattle's new baseball stadium, complete with retractable roof, astroturf, locker room and a concession stand with popcorn, peanuts and hot dogs for staff and attorneys who happened by. The "lucky" partners included Don Percival, Bruce Pym, Fred Corbit, Leif Ormseth and new managing partner Mark Parris.

Honors and Awards

Laura Bradley, Laura King and Mattie Harvin Woode have been appointed as Washington state's newest Administrative Law Judges for the Office of Administrative Hearings. Bradley is the president of the Young Lawyers Section of the Tacoma-Pierce County Bar Association. Since 1996 King has served as tax referee in adjudicating cases for the Washington State Board of Tax Appeals. Woode was previously a judicial clerk for the Superior Court of the District of Columbia.

The Clark County Bar Association recently honored the following attorneys who have been WSBA members for 25 years or longer: William Baumgartner, William Boettcher, James Boyd, Charles Burns, Steven Busick, Thomas Duffy, Dennis Duggan, William Dunn, Jr., Donald English, Randall Ferguson, Charles Gallup, Theodore Gathe, James Gregg, Donald Greig, Jerry Hall, Terrance Hannan, Grant Hansen, Michael Hicks, James Holland, James Horton, David Hutchison, Richard Johnson, Jerry King, Gilbert Kleweno, John Lalonde, Irwin Landerholm, Michael Langsdorf, Duane Lansverk, Brian Leahy, Richard Lowry, Daniel Marsh, Philip Casey Marshall, Steven Memovich, Morgan Mercer, James Miller, Robert Mitchelson, Robert Moilanen, Richard Monaghan, John E. Morse, William Nelson, Dean Pontius, Hugh Potter, Dale Read, Jr., Robert Schaefer, James Sellers, John Skimas, Randall Stewart, Douglas Whitlock, Jeffrey Witteman and Brian Wolfe.

Tacoma attorney William Mays is the recipient of the Pacific Northwest Golf Association's Distinguished Service Award, in recognition of his decades of volunteer service to amateur golf in the Northwest. His firm, Williams, Kastner and Gibbs PLLC, is a lead sponsor of the PPGA 100th-year celebration.

Jan Eric Peterson, former governor of the WSBA and past president of the Washington State Trial Lawyers Association, has become a Fellow of the American College of Trial Lawyers. Also inducted was G. Val Tollefson of Danielson Harrigan & Tollefson LLP.

The East King County Bar Association has appointed Jason Grover to its 1999 Board of Trustees. Grover is a sole practitioner in Bellevue, practicing in the areas of real estate, real estate finance and business.

Daniel Gandara and E. Charles Routh have been elected Fellows of the American Bar Foundation, an honorary organization of practicing attorneys, judges and law teachers whose professional, public and private careers have demonstrated outstanding dedication to the welfare of their communities and to the highest principles of the legal profession. Gandara is a member of Vandenberg, Johnson & Gandara in Seattle and a recipient of the 1995 WSBA Board of Governors Affirmative Action Award. Routh is a member of Garvey, Schubert & Barer, and is currently Chair of the WSBA International Practice Section Technology Committee and a member of the Technology Council for the American Bar Association.

Annalee P. Cobbett has been accepted by the national Registry of Who's Who as a Life Member. Cobbett, who founded the FarmCity Alliance, a nonprofit organization dedicated to preserving farmland in Washington, is a former member of the Board of Directors of King County Conservation Voters and serves on the Board of Seattle Citizens for Parks.

THUMBS UP to...

the King County Bar Association for an innovative television advertising campaign highlighting the gift of thousands of hours of free legal advice by attorneys throughout King County. An ad titled "Voices of Justice" features the voices of Seattle attorneys Rick Spoonemore and Lisa Schuchman.

Movers and Shakers

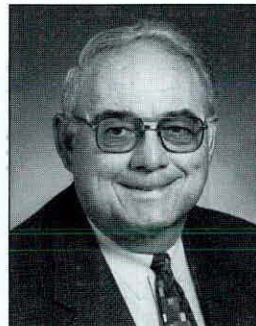
Patrick M. Moran has become a member of the Bellevue firm Peterson Russell Cofano. His practice concentrates in the areas of federal, state and international taxation; estate planning; and corporate and business law.

Bernard L. Russell, Lynn J. Loacker and David R. Wilson have joined Heller Ehrman White & McAuliffe in Seattle as shareholders. Russell has significant experience in federal and state banking regulatory matters, mergers and acquisitions, bank securities offerings, bank consumer products, non-deposit investment products, and commercial transactions. Loacker has a corporate finance practice with an emphasis on project and structured finance, institutional debt financing, private equity

transactions and commercial lending. Wilson's practice focuses on public company securities and merger and acquisition transactions.

Eric C. Frimodt has been elected as a shareholder at the Bellevue firm of Inslee, Best, Doezie & Ryder PS. Frimodt's practice areas include civil litigation, municipal, employment and business law. Reagan B. Dunn, son of Congresswoman Jennifer Dunn, has joined the firm as an associate, and will focus his practice in the areas of business and commercial litigation.

Perkins Coie LLP has announced that Charles R. Blumenfeld, Robert F. Bakemeier, Karen M. McGaffey, Elizabeth L. McDougall and Karla J. Axell



William Mays



Jan Eric Peterson

have joined the firm's Seattle office, practicing in the areas of environmental, natural resources and land use law and litigation. **Bruce G. MacIntyre** has joined the firm's commercial law group.

Wendy S. Goffe is now Of Counsel at Seattle-based Graham & Dunn PC, where she has become a member of the firm's succession-planning team. She will continue her practice in estate planning and administration and advising non-profit organizations. Joining the firm as a shareholder and member of the firm's Litigation Group is **Michael Mirande**. Mirande will continue to focus his practice on Indian law, maritime pollution, and appellate and complex litigation.

The Law Offices of Paul R. Lehto in Everett now include newly hired associate **Michelle M. Hull**, who will practice in the areas of civil litigation and trusts and estates.

Seattle firm Graham & James LLP/Riddell Williams PS has welcomed new associate **James Rhett Brigman** to its Litigation Practice Group, where he will do general litigation. Returning to the firm after a two-year stint in the firm's Tokyo office is **Craighton Goeppele**, whose practice focuses on project finance and international commercial transactions.

Kit G. Narodick has joined the Seattle office of Lane Powell Spears Lubersky LLP as a partner. He will continue his practice in corporate and commercial aircraft transactions, aircraft finance, and general business and corporate law. New associate **Brian D. Zeringer's** practice will focus on product liability, real estate and commercial litigation.

Stoel Rives LLP has added a new associate, **Andrew I. Davis**, to its 35-member real estate group.

Brian J. King has joined Schwabe,



Wendy S. Goffe



Michael Mirande



Brian D. Zeringer

Williamson & Wyatt as a member of the Environmental, Energy & Natural Resources practice group. King has particular expertise in environmental auditing, permitting, compliance and working with environmental managers.

Betts Patterson & Mines PS in Seattle has grown by two: new associates **Paul D. McFarlane**, in the insurance defense and transportation practice areas, and **Denise L. Ashbaugh**, in the commercial litigation and labor/employment law practice areas.

Chris R. Casey and **Patrick K. Fannin** have become associates with Fering Nelson LLP, where their practices will emphasize construction, contracts, employment, and insurance defense law.

In Memoriam

John Caughlan of Seattle passed away on April 17, 1999 at the age of 89. A former King County deputy prosecutor, he was an irrepressible civil libertarian who defended University of Washington professors during the 1948 anti-communist Canwell hearings.

Judge Larry Moller, 49, of Burlington, passed away on March 8, 1999. Past president of the District and Municipal Judges Association, he also served on the Washington State Traffic Safety Commission, and was a lecturer at the People's Law School, a community legal-education program at Skagit Valley College.

Edward P. Reed of Vancouver, a former Clark County Superior Court and State Court of Appeals Judge, passed away on April 8, 1999 at the age of 73.

Lawrence Soriano of Bremerton passed away on March 17, 1999 at the age of 64. A past president of the Kitsap County Bar Association, he was also a longtime participant of the Kitsap County Volunteer Attorney Service. ☐

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Constitution of the State of Washington,
Article 1, Section 32

As we near the end of the century, there is heightened concern among lawyers as to the nature and future of the legal profession. The importance, wealth and power of the profession has outpaced even its numerical growth. Yet there is extreme disquietude, heightened by the lack of public confidence, distrust and even hatred of lawyers and the law. For many, there are questions as to what it means to be a lawyer, and what is meant by professionalism. It therefore seems appropriate to heed the mandatory admonition of our state constitution to revisit our most fundamental principles.

A reasonable starting point is to determine how the term *profession* was defined over a century ago. According to Black's *Dictionary of Law*, *profession* means "a public declaration." In ecclesiastical law, it is defined as "the act of entering into a religious order." Also a "calling," a "vocation." Divinity, medicine and law are all called the "learned professions."

Thus, the *idea* of professionalism, rooted in ecclesiastical law, was that becoming an attorney called for an extraordinarily exclusive commitment, selfless in character and totally removed from the marketplace. It meant commitment to the service of others. Black's definition of "justice in jurisprudence" is "the constant and perpetual disposition to render every man his due. The conformity of our actions and our will to the law. In the most extensive sense of the word, it differs little from 'virtue'; for it includes within itself the whole circle of virtues."

Both Black and the *Encyclopedia Britannica*, discussing the legal profession a century ago, define *jurisprudence* simply in terms of the language of "what is," i.e., the positive law. We necessarily infer that a century ago, the organized legal profession

wanted to be as free as possible from meaningful ethics, social morals or any concept of public justice.

The classic history of American law, Morton Horwitz's prize-winning *The Transformation of American Law*, notes that although the legal profession of the 19th century grew into "a position of political and intellectual domination...the development of an important new set of relationships...made this position of domination possible: the forging of an alliance between legal and commercial interests." The legal profession fully allied itself with the rising forces of capitalism. Horwitz writes:

As political and economic power shifted to merchant and entrepreneurial groups, they began to forge an alliance with the legal profession to advance their own interests through a transformation of the legal system....Law, once conceived of as protective, regulative, paternalistic, and, above all, a paramount expression of the moral sense of the community, had come to be thought of as facilitative of individual desires and as simply reflective of the existing organization of economic and political power.

Battle lines were drawn between those with a democratic vision of American law, and those who saw law as the protector of the marketplace, whose clients were the rich and powerful, and whose jurisprudence was the maintenance of the status quo — law as it is, not as it should be. The legal profession mirrored this conflict, creating a jurisprudence that reflected these broad divisions.

The Historical Transformation of the Jurisprudence of Legal Professionalism

For at least the past 15 years, the phrase "professional responsibility" has been a widespread descriptive guide in the legal profession. The term has a nice ring, and implies social duty and accountability. It is based on what conduct *ought* to be rather than what it *is*.

The ABA first set nationally uniform standards in the early part of this century, although only a tiny part of the profession was permitted membership. It warned that:

We cannot be blind to the fact that, however high may be the motives of some, the trend of many is away from the ideals of the past, and a tendency more and more to reduce our high calling to the level of a trade, to a mere means of livelihood, or of personal aggrandizement....Members of the Bar are officers of the courts, and like judges should hold office only during good behavior. It should be defined and measured by such ethical standards, however high, as are necessary to keep the administration of justice pure and unsullied.

At the same time that the exclusive, prestigious leadership of the ABA announced its self-righteous, rigorous standards, Louis D. Brandeis, in a 1905 address at Harvard, described the popular distrust of the bar:

Instead of holding a position of independence, between the wealthy and the people, prepared to curb the excesses of either, able lawyers have to a great extent allowed themselves to be adjuncts of great corporations and have neglected their obligation to use their power for the protection of the people. We hear much of the "corporation lawyer" and far too little of the "people's lawyer."

President Theodore Roosevelt, the same year, described this new professional elite as "influential" and charged that:

[T]he most highly remunerated members of the bar have made their special task to work out bold and ingenious schemes by which their very wealthy clients can evade the laws which are made to regulate the interests of the public, from the abuse of great wealth.

Harlan F. Stone, Dean of Columbia University Law School and later a Supreme Court Justice, characterized the bar leadership as "the mere hired man of corpora-

tions." And Woodrow Wilson, in an address to the ABA, lamented that:

...[T]he constitutional advocate, once the pride of the profession, has virtually disappeared. In his place stands lawyers who have been sucked into the maelstrom of the new business system of the country.... They do not practice law. They do not handle the general, miscellaneous interests of society. They are not general counselors of right and obligation.... The country holds them largely responsible for it distrusts every corporation lawyer.

For the better part of the first half of this century, the powerful American bar leadership was perceived by many attorneys, and much of the public, as elitist, racist, sexist, anti-Semitic and reactionary. Their canons were seen as high walls to prevent the unwelcome entry of Jews, foreigners, blacks, new immigrants and radicals into their private club.

A substantial critical literature asked the question as to whose interests were being served when the organized bar defined professionalism. Special committees on ethical standards considered change, but the Model Code of Professional Responsibility was not adopted until 1969. It consisted of three parts: canons, ethical considerations, and disciplinary rules. The First Canon stated:

The basic tenet of the professional responsibility of lawyers is that every person in our society should have ready access to the independent professional services of a lawyer of integrity and confidence. Maintaining the integrity and improving the competence of the bar to meet the highest standards is the ethical responsibility of every lawyer.

But there were no implementing rules, and the canons' ethical considerations had no recognition of the fundamental right of every person to be able to access the justice system, much less the necessary duty of bench and bar to make that right meaningful.

Canon Seven stated:

"A lawyer should represent a client zealously within the bound of the law." For many lawyers, this canon is still the dominant, and sometimes even the singularly acknowledged, professional responsibility. Yet diligently serving the interests of powerful

lawless clients may almost be antisocial by definition. At best, it is asocial and amoral.

Part of a comforting ideology of lawyers maintains that "out of combat, truth is served." It is debatable as to whether this idea has any empirical reality, and certainly some are skeptical as to whether justice is achieved through legal combat. Historically, the concept appears to be related to the economic mythology that social benefits arise from competition. Just as the marketplace clearly cannot guarantee economic justice, the advocacy cockpit hardly ensures either civil or criminal justice.

For the better part of the first half of this century, the powerful American bar leadership was perceived by many attorneys, and much of the public, as elitist, racist, sexist, anti-Semitic and reactionary.

In 1985, the ABA Model Rule of Professional Conduct was first adopted in Washington state. The title of the preamble is "A Lawyer's Responsibilities." It begins:

A lawyer is a representative of clients, an officer of the legal system, and a public citizen having special responsibility for the quality of justice.

Moreover,

Each lawyer must find within his or her own conscience the touchstone against which to test the extent to which his or her actions should rise above minimum standards.

These rules, addressing important, sensitive and controversial aspects of professionalism and lawyer responsibility, have led to continuous discussion, and a body of opinions which may loosely be seen as jurisprudence.

Washington's current Rules of Professional Conduct (RPCs) establish a high standard of social responsibility, reading:

The continued existence of a free and democratic society depends upon recognition of the concept that justice is based upon rule of law grounded in respect for the dignity of the individual and the capacity through reason for enlightened self-government. Law so grounded makes justice possible, for only through such law does the dignity of

the individual attain respect and protection. Without it, individual rights become subject to unrestrained power, respect for law is destroyed, and rational self-government is impossible.

Despite these rules, the organized structures of the bar continue to ask these questions: Has our profession abandoned principle for profit? Professionalism for commercialism?

Is the Legal Profession Becoming Socially Responsible?

In the last year of this century, the jurisprudence of professionalism appears to be as unsettled and insecure as it was at the century's beginning. Recent books by critics such as Ralph Nader, indicting America's large corporate law firms, elaborate upon what had deeply disturbed critics earlier in this century. The legal profession remains in a century-old crisis, because it has become a business rather than a calling. Given this sordid reality, there can be no jurisprudence of ethics, because meaningful ethics has always been incompatible with materialistic self-interest. Yet young people still become lawyers with a sense of hope and service and often with an altruism that leads them into legal services and public-interest law.

All is not lost. Increasingly, the voices of the organized bar have become more responsible than in the past. Law schools have begun to teach students the importance of public-interest law. The Washington Supreme Court has created an Access to Justice Board, staffed by the WSBA, and other states are showing signs of interest in following Washington state's example.

Many bar members, however, see their organization as a trade union, set up to protect their economic interests. Trenchant criticisms have analyzed the reasons for the relative incapability of the bar to stem the increasing loss of public confidence and widespread corruption (particularly among large corporate firms). One such critic, Professor Amy Mashburn, sees the profession as an ailing patient:

The legal profession is a very powerful and autonomous patient. By monopolizing legal services, protecting the right to regulate itself, and engaging in de facto private law-making, the legal profession has consistently

been able to make its concerns and perceptions about itself paramount... The literature in legal trade journals reveals an almost obsessive focus upon the behavior of lawyers to the virtual exclusion of all other social, cultural, historical and economic factors affecting the health of the profession and the well-being of its relationships with those whom it serves.

She sees the bar as a "power elite" and contends that "civility codes are a patrician reaction to the shortcomings of the attorney disciplinary and regulatory systems." She suggests that civility codes have a tendency to "impose a reactionary and authoritarian conformity upon a rapidly diversifying profession and to resist redistribution of power to those who have been historically excluded from the practice of law and denied access to legal services." As she delineates the sometimes schizoid tokenism of the legal establishment to professionalism, Mashburn decries "the singularity of the focus on pro bono service as the symbolic centerpiece of the profession's commitment to public service." She claims that it "betrays an aristocratic *noblesse oblige* attitude toward societal problems":

Pro bono service can be viewed as token charity to stave off more far-reaching reform efforts. The privileged are philanthropic to ensure that the public does not seriously challenge a system that guarantees lawyers a monopoly and authorizes them to extract exorbitant fees for their services.

Conclusion

Attorneys who care deeply about their profession must pay attention to the complexities of its agonizing throes. Our profession is in trouble, and so is our society. We cannot separate the two, nor can we ignore the importance of what we do as a profession, and what happens to our country as the gap between rich and poor widens. Law cannot separate itself from the unavoidable constitutional relevance of wealth and power, any more than legal professionalism can ignore the unfulfilled promise of equal justice under law. The jurisprudence of ethics, or professionalism, requires more arduous historical and sociological analysis within the context of a jurisprudence based on "what ought to be." ☞

The Board's Work

by Sherrie Bennett
Bar News Editor

Lawyer Discipline Progress Reviewed

The state of lawyer discipline topped the Board of Governors' agenda for the April 30-May 1 meeting in Spokane. Barrie Althoff (Chief Disciplinary Counsel), Charlie Wiggins (Disciplinary Board Chair) and Julie Shankland (Clerk/Counsel to the Disciplinary Board) gave reports to the Board covering the activities of the Disciplinary Board and in-house disciplinary counsel over the past year, and presented recommendations for current and future action to improve the process.

In 1998, there were 2,723 new investigations by disciplinary counsel, with 57 percent of all grievances filed by clients.

The practice areas to garner the highest number of grievances included family law (22 percent), criminal law (21 percent), and torts (13 percent). Communication problems between lawyer and client and delay accounted for 32 percent of the grievances, with other problems including the unauthorized practice of law, criminal convictions, fraud and trust account violations. Althoff reported that an effort is being made to divert file disputes and communication problems out of the discipline system. Internal changes within the Office of Disciplinary Counsel (ODC) include the addition of an investigator, paralegal and support clerical staff, and the institution of "career paths" to motivate ODC staff. Althoff described a plan toward a more preventative discipline program, using as an example the 70 presentations given to various attorney groups by discipline staff over the past year.

Governor Moschetto, Board liaison to the Disciplinary Board for the past three years, asked the Board to consider a shift away from a disciplinary emphasis toward lawyer management issues, perhaps involving lawyers in ethics CLEs and professionalism programs, and beefing up law office management and lawyer assistance programs. She also suggested the Board continue implementing a discipline diver-

sion program for appropriate cases as approved in 1997.

The Board authorized the appointment of 11 additional hearing officers. Althoff described the disciplinary rules as being rather like "a 1940s car...it will get you there, but the ride is uncomfortable and strange things happen along the way." He supported Wiggins' request that the



"Lei Day" at the Board of Governor's Meeting, Saturday, May 1.

Board appoint a rules task force to review the rules and make suggestions for improvement.

Storm clouds brewed over a request by Althoff for an official Board policy on the non-involvement of Board members in individual lawyer grievances. Althoff explained that Board members' "second-guessing" of substantive disciplinary decisions was an improper intrusion and was having an influence on the ODC. Governor Powell described the proposed policy as an effort to "remove the Board from a truth-finding role that entails a level of accountability that we are bound by duty to uphold," adding that it is impossible to "depoliticize" the Board.

Governor Powell went on to explain that when he hears about discipline issues from constituents, there is the perception that the "ODC is a big, bad monster out to make lawyers' lives miserable." He concluded that "gagging" elected leaders from making inquiries would be a "bass-ackwards" way of running an organization. Governor Manning pointed out that the Rules for Lawyer Discipline seem to already prohibit the Board from getting involved in individual discipline matters. Governor Thompson then asked Althoff why he thought it would be inappropriate for Board members to discuss indi-

vidual disciplinary matters amongst themselves, without taking any action to influence the decision(s). After considerable heated discussion, the issue was referred to the Disciplinary Committee for further review.

Lawyers' Assistance Program

Update

Barbara Harper and Elliott Johnson presented the Board with new statistics on lawyer usage of the Lawyers' Assistance Program, described as the first "broad-brush program" of its kind in the country. During the first three months of 1999, 37 lawyers either self-referred or were referred by third parties to the program. Of that number, 62 percent were given client treatment by LAP personnel, seven percent consulted with peer counselors (other attorneys trained to assist lawyers with specific problems), and 18 percent received professional consultations of various kinds. Harper praised lawyer peer counselors as the "backbone of the program," without whom much of the work done by LAP would go undone. The program is currently working on a "How to Help Lawyers Retire" process.

Long-Range Strategic Planning Reaches Across State

Town meetings set up to gather information for the Board's long-range strategic planning were set to end May 16th, at which time the process of collating and reviewing the acquired data will begin. A planning session has been set for May 27th. Several of the governors described town meetings in Kennewick, Bellingham and Seattle. A town meeting involving 80 lawyers was held in Spokane to coincide with the Board meeting.

Website Demonstration

The Board was treated to a demonstration of the many features of the WSBA's newly re-designed website. Interested viewers can read *Bar News* articles, look up addresses and phone numbers of attorneys, scan CLE offerings, peruse job listings, check on disciplinary action against lawyers, and more. Researchers will find links to RCWs, WACs, court rules and other resources. The website is located at www.wsba.org.



Town meeting in Spokane on April 30th

Appointments

Lindsay Thompson and Maria Diamond were appointed to the Washington State Jury Commission being formed by the Board for Judicial Administration, which is set to explore the low response to jury summonses and potential solutions.

Greg Dallaire and Joseph Delay (as alternate) were appointed to the Commission on Judicial Conduct.

John G. Shultz and John Strait were appointed to the Statute Law Committee.

Newly appointed members of the Alternative Dispute Resolution Standing Committee include Carmel Mackin, Donnelly Wilburn, Marc Christianson, Bill Rush, Dennis Burns, Erv Desmet, Ken Le Master, Alan Alhadeff, Phil Cutler, Linda Roubik, Nick Wagner, John Cooper, Fred Diamondstone, Stew Cogan, Carolyn Cairns, Kay Fields, Fran Forgette, John Erlick, Don Desoniere, Chris Goelz,

Dennis Lane, Thomas J. Brewer and John C. Riseborough. The hope is that at least one of this large number has an ample meeting space, so that they will not *literally* become a standing committee.

Virginia Kirk was appointed to the Judicial Information System Committee.

Gonzaga Law School Update

Associate Dean Stephen Sepinuck spoke with the Board regarding some 25 new courses added to the Gonzaga Law School curriculum and the school's success in national moot court competitions. The new law school building will be completed under budget and ahead of schedule. Dean Sepinuck's appearance in front of the Board sparked a discussion of ways in which student loan burdens can be mitigated.

American Bar Association Report

Scott Miller briefed the Board on upcoming ABA activities. The group's legislative and governmental priorities for 1999 include alternative dispute resolution, application of state ethical codes to government attorneys, federal gun control, federal tort laws, government attorney participation in the organized bar, immigration issues, independence of the judiciary, indigent defense funding, legal remedies to eliminate discrimination, the Legal Services Corporation and the international rule of law. ☐

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Lawyer Discipline: 1998 Summary Report

by **Barrie Althoff**

WSBA Chief Disciplinary Counsel

Opinions expressed herein are the author's and are not official or unofficial WSBA positions.

This article summarizes what happened during 1998 in Washington's lawyer disciplinary system.

Allegations of unethical conduct by Washington lawyers are filed by grievants with the WSBA Office of Disciplinary Counsel (ODC), which investigates and either dismisses the grievance or prosecutes the involved attorney. Prosecutions must first be authorized by order of a three-person review committee (two lawyers, one nonlawyer). Volunteer lawyers act as trial-court hearing officers. Collectively, all members of all four review committees sit as the WSBA Disciplinary Board, which serves as a disciplinary appellate court. The Supreme Court, which has exclusive authority to suspend or disbar lawyers, serves as the disciplinary court of last resort.

How Many Lawyers Were Subject to Disciplinary Action?

Last year, 65 Washington lawyers were the subject of 69 disciplinary sanctions or actions. Of these, 41 were formal disciplinary sanctions (permanent public records): 15 lawyers were disbarred, 11 were suspended from practice for disciplinary reasons, seven were reprimanded (one lawyer twice), and eight were censured. The remaining 24 lawyers were formally admonished (a public record for only three years) for their conduct, with two lawyers being twice admonished. Another 11 lawyers were suspended from practice on an interim basis (not a disciplinary sanction) pending disciplinary proceedings.

Of Washington's approximately 18,000 lawyers, last year about one in every 439 (slightly over 1/5 of one percent) was formally sanctioned (disbarred, suspended for discipline, reprimanded or censured). One in every 750 (slightly over 1/10 of one

percent) was formally admonished. Or, collectively, one in every 261 Washington lawyers (slightly over 3/10 of one percent) was either sanctioned or admonished. Alternatively, 260 out of 261 Washington lawyers (more than 99.6 percent) were *not* subject to any disciplinary action last year.

How Big a Problem are Grievances?

During 1998, the ODC opened up files on 2,723 new matters: 2,008 new written grievances (allegations of unethical conduct), 417 lawyer/client file disputes, and 298 lawyer/client non-communication matters. While some lawyers were subject to multiple grievances, grievances averaged about one for every seven lawyers (15 percent) — or, alternatively, 85 percent of Washington's lawyers were *not* the subject of a grievance. The number of grievances per lawyer does not, however, accurately reflect client satisfaction. If each of Washington's 18,000+ lawyers represented only 20 clients in 1998 (an unrealistically low assumption), fewer than one percent of those 360,000 lawyer-client representations resulted in a grievance — or, more than 99 percent did *not* result in a grievance. This suggests that Washington lawyers are doing a very good job in satisfying their clients.

What About the "Discipline Backlog"?

For some persons, particularly those with a grievance pending for some time, the "discipline backlog" has taken on mythic proportions. The reality is that most grievances are closed out within a relatively short time of being opened. While a few really old grievances still remain, all are being attended to as resources permit. Older cases often have been deferred pending resolution of criminal or civil litigation involving the same or similar issues, or are usually more complex and likely to be ordered to a hearing. The reality of the "discipline backlog" is that, as of mid-April 1999, investigations have been closed on 100 percent of all 1993 and earlier grievances, more than 99.7 percent of all 1994 and 1995 grievances, 96 percent of all 1996 grievances, 89 percent of 1997 grievances, and 82 percent of 1998 grievances. Although there were delays in previous years due to lack of resources, substantially all of the 1,256 cases in inventory, which includes many cases only very recently filed, are now being investigated and processed on a timely basis.

The chart below shows the status of all grievances filed with the ODC over the last 10 years as of April 14, 1999.

Investigations Opened in Year:		Status of Investigations as of April 14, 1999:				Open Cases as Percent of Current Inventory
		Closed		Open		
Year	Number	Number	Percent	Number	Percent	
1999	903	536	59%	367	41%	29%
1998	2,723	2,245	82%	478	18%	38%
1997	2,652	2,348	89%	304	11%	24%
1996	2,366	2,269	96%	97	4%	7%
1995	2,344	2,338	99.7%	6	0.3%	<1%
1994	2,087	2,083	99.8%	4	0.2%	<1%
1993	2,236	2,236	100%	0	0%	0%
1992	2,324	2,324	100%	0	0%	0%
1991	2,213	2,213	100%	0	0%	0%
1990	2,107	2,107	100%	0	0%	0%
TOTAL	21,955	20,699	94%	1,256	6%	100%

Were There More Prosecutions in 1998?

During 1998, as review committees ordered more grievances to public hearings, disciplinary prosecutions increased by 68 percent, with the ODC beginning 1998 with 56 pieces of litigation on its docket and ending with 94 items, an increase of 38 items. The increase reflects primarily that the ODC successfully completed many more-complex investigations, which were then ordered to hearing.

Who Were the 1998 Grievants?

About 57 percent of all grievances were filed by clients (34 percent) or ex-clients (23 percent), while 13 percent were filed by opposing clients (nine percent) or opposing counsel (four percent). Judges filed another three percent, other lawyers three percent, and court reporters and expert witnesses another three percent. The WSBA itself filed 11 percent of the grievances, mostly for trust-account deficiencies. The remaining 13 percent were filed by others.

Who Were the Grievances Filed Against?

By area of practice of law, most grievances were filed against lawyers practicing family law (22 percent), criminal law (21 percent), personal injury law (13 percent), bankruptcy law (seven percent), and estates/probate (four percent). Grievances were filed less frequently against lawyers practicing in the areas of immigration, collections, workers compensation, guardianships, commercial law, landlord/tenant, corporate/business, and labor law matters. The areas in which most grievances were filed are generally the most common areas of practice with the most clients, and thus are most likely to receive grievances. In addition, clients in these areas often have not previously dealt with lawyers and may not have realistic expectations of what their lawyer will or can do for them, or what the lawyer's services will cost.

Although statistics are not available on the type of organization in which lawyers against whom grievances are filed practice, sole practitioners or lawyers in small partnerships appear to be more likely to

receive grievances. This reflects that most lawyers practice alone or in small partnerships. In addition, however, such practices often deal with unsophisticated clients, often handle more high-volume/low-profit cases, and may be struggling to implement the office-management and quality-control procedures more common in larger firms, which might internally catch problems before they result in grievances.

What Did the Grievances Allege?

About 38 percent of grievances allege that

About 11 percent [of grievances] allege failure by the lawyer to satisfy duties to the client, including by making misrepresentations to the client, disregarding conflicts of interest, improperly withdrawing from representation, failing to turn over files to the client, or settling cases without authority.

the lawyer either did not perform promised legal services at all, unduly delayed performance beyond what the client expected, failed to adequately communicate with the client, or otherwise failed to perform required duties to the client. Another 17 percent relate to the lawyer's personal conduct, including criminal convictions of the lawyer, misrepresentations by the lawyer to nonclients, failure to pay debts, practicing while suspended, use of offensive language, and so on. About 12 percent allege interference by the lawyer with justice, for example, by communicating with represented adversaries, making misrepresentations to a court, disobeying court orders, or filing harassing lawsuits. About 11 percent allege failure by the lawyer to satisfy duties to the client, including by making misrepresentations to the client, disregarding conflicts of interest, improperly withdrawing from representation, failing to turn over files to the client, or settling cases without authority. Another nine percent allege that the lawyer charged excessive fees, failed to return unearned fees, or made unauthorized withdrawal of disputed fees. Another 11 percent allege trust-account violations.

Why Were Grievance Files Closed?

The ODC examines each grievance to determine if it alleges an ethical violation. If so, the ODC then informally, or more extensively, investigates the grievance. About 17 percent of the files closed in 1998 were immediate dismissals for failing to allege any ethical violation, while another 17 percent were dismissals after investigation showed that, although a violation was alleged, there was either no evidence or insufficient evidence to establish that a violation had occurred. Review Committees dismissed another six percent. About 16 percent of 1998 closings related to disputes over possession of files, and another 12 percent related to non-communication problems between clients and lawyers; these two types of problems were usually resolved informally outside of the discipline/grievance process. Another eight percent of files were dismissed after a brief informal investigation. About eight percent of files were viewed as essentially fee disputes not appropriate for lawyer discipline and were dismissed and referred to voluntary fee arbitration, while another three percent were referred to the Interprofessional Committee for informal mediation. About four percent of the closed files resulted in some form of discipline. About one percent of grievances were deferred pending resolution of civil or criminal cases in which substantially similar issues were being raised.

What Did the Supreme Court Do in 1998 on Lawyer Discipline?

The Supreme Court issued three important lawyer disciplinary decisions in 1998, in each case suspending the lawyer involved from the practice of law: *In re Wade R. Dann*, 136 Wn.2d 67 (1998); *In re Stephen C. Haskell*, 136 Wn.2d 300 (1998); and *In re Discipline of James A. Heard*, 136 Wn.2d 405 (1998). The first two cases make it clear that lawyers must be honest with their clients in billing matters and may not lie to or cheat them. The last case, based on the personal-injury representation of a client on a contingency-fee basis, made it clear that lawyers may not financially or sexually ex-

exploit their clients. While not stating a general rule regarding lawyer-client sexual relationships, instead leaving that to the Court's normal rule-making and decision-making process, the Court found that under the facts of that case, the lawyer's sexual relationship with his client was an act of moral turpitude.

During 1998 a number of rule changes, which would be enforced in part through the lawyer disciplinary process, were proposed by the WSBA Board of Governors to the Supreme Court. These included: (1) a proposal to add a Rule 1.8(k) to the Rules of Professional Conduct that would generally prohibit lawyer/client sexual relationships as conflicts of interest; (2) a proposal to add a Rule 8.4(g & h) to the RPCs that would prohibit certain acts viewed as discriminatory; and (3) a proposal to add a new Admission to Practice Rule 16 that would suspend a lawyer from practice for failing to comply with child-support or visitation orders. The Supreme Court, having published each for public comment, has yet to act on them pending expiration of the comment period. In addition, after extensive and lively debate during 1997 and 1998, the WSBA Board of Governors determined in 1998 to abandon a prior proposal to adopt a program which would have required lawyers to arbitrate fee disputes upon client request.

Did Things Continue as Usual at the WSBA?

During 1998 the WSBA Executive Director and the WSBA Chief Disciplinary Counsel reviewed the ODC's internal practices and procedures with an eye to making the ODC more efficient and timely in processing investigations and prosecutions. While it was found to be in good condition, a number of changes were made, including consolidating and reorganizing the investigation-prosecution teams, adding an investigator and legal-assistant and clerical-support positions, transferring some non-discipline-related responsibilities to other WSBA staff, and developing career paths for staff to encourage individual professional growth and reduce turnover.

During 1998 the WSBA's Lawyer Services Department took over responsibil-

ity for the voluntary fee arbitration program previously overseen by the ODC. It also began operation of both an informal mediation program to resolve disputes between lawyers and other professionals and clients, and the Law Office Management Assistance Program, which is intended to help mostly lawyers in small practices master the practical business and management aspects of law practice to better serve their clients and avoid conduct which would lead to discipline.

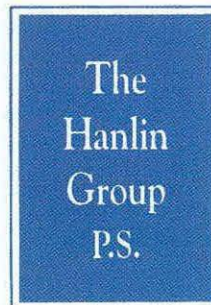
Want More Information?

The ODC publishes annually the *Washington Lawyer Discipline Manual*. The 1999 version contains the annual report for 1998; reprints relevant rules and guidelines; reprints all discipline notices for 1998, and the 1998 ethics articles from *Bar News*; and sets out statistical information going back to 1981. It is available for \$15 from the ODC; to order, call 206-727-8207. ✉

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Disciplinary Notices

The following notices of imposition of disciplinary sanctions and actions are published pursuant to Rule 11.2(c)(4) of the Supreme Court's Rules for Lawyer Discipline, and pursuant to the February 18, 1995 policy statement of the WSBA Board of Governors.

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.

Clarification

Attorney John C. Gibson (WSBA No. 26056), of Peery, Hiscock, Pierson, Kingman & Peabody, P.S. is to be distinguished from John E. Gibson (WSBA No. 19407), whose admonition was published in the May *Bar News* (p. 53).

Disbarred

Courtney Lisa Tippin (WSBA No. 21644, admitted 1992), of Mill Creek, has been disbarred by order of the Supreme Court of Washington, effective February 8, 1999. The Supreme Court's order of reciprocal discipline, pursuant to Rule for Lawyer Discipline (RLD) 12.6, is based on the California Supreme Court's March 20, 1998 order.

In 1993, Ms. Tippin formed a partnership with another lawyer in California. Later that year, Ms. Tippin's partner was fatally injured in an automobile accident. Ms. Tippin took over most of her partner's clients. Most of the cases were personal injury cases involving automobile accidents. In 1997, The California State Bar Court found that Ms. Tippin had committed 45 acts of misconduct involving 23 clients. The misconduct included: nine counts of failure to perform legal services for which she was hired (RPC 3-110(A)); 11 counts of failure to communicate with clients, or answer their requests for information (Bus. & Prof. Code Section 6068 (m)); 10 counts of improper withdrawals and failure to take reasonable steps to protect clients' interests (RPC 3-700(A)(2)); one count of failure to deposit client funds in the lawyer trust account; four counts of failure to provide an accounting when requested (RPC 4-100(A)); one count of failure to return a client file when requested (RPC

3-700(D)(1)); two counts of failure to return clients' fees when no work was performed (RPC 3-700(D)(2)); one count of failure to convey a written settlement offer to the client (RPC 3-510(A)); one count of failure to pay monies (RPC 4-100(B)(4)); and four counts of failure to cooperate with the Bar Association (Bus. & Prof. Code Section 6068(i)).

Douglas Ende represented the Bar Association. Ms. Tippin represented herself.

Suspended

J. Marvin Benson (WSBA No. 9078, admitted 1979), of Vancouver, has been suspended for 60 days by order of the Supreme Court of Washington, effective February 16, 1999. 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 October 15, 1998 order approving a stipulation to discipline.

Senior Financial Planning Service (SFP) sold revocable living trusts and other estate-planning documents and packages. The company used nonlawyer agents to meet with individual clients. SFP agents then gave the individual client information and the purchased forms to Mr. Benson. Mr. Benson drafted the purchased estate-planning documents. SFP paid Mr. Benson's attorney's fees. Mr. Benson did not explain to any of the individual clients that he may have a conflict of interest by having an attorney-client relationship with both SFP and the individual clients. Mr. Benson also provided legal advice and training to the non-lawyer agents regarding estate-planning documents.

In April 1994, a couple met with SFP agents and purchased an estate-planning package. The agents delivered the couple's information and the purchased documents to Mr. Benson, with instructions to prepare the documents. Mr. Benson prepared the documents based solely on the agents' instructions. He did not review any personal or financial information, or discuss anything with the couple. The documents Mr. Benson prepared were not necessary or appropriate for the couple. For example, the documents contained community property provisions, when the couple had never lived in a com-

munity property state during their marriage. Mr. Benson delivered the documents to the agent for execution and instructions on how to fund the living trust. The documents were not properly executed.

Mr. Benson's actions violated the following provisions of the Oregon Code of Professional Responsibility: DR 5-101(A) and DR 5-105 (E), prohibiting representation of multiple parties in the same transaction who may have adverse interests; DR 3-101(A) and DR 3-102(A), prohibiting aiding nonlawyers in the unlawful practice of law; DR 108(A), prohibiting accepting payment from someone other than the client, without consent; DR 5-108(B), requiring lawyers to use independent judgment when representing clients; and DR 6-101(A), requiring lawyers to provide competent representation to clients.

Douglas Ende represented the Bar Association. Mr. Benson represented himself.

Censured

Eugene N. Bolin (WSBA No. 11450, admitted 1981), of Seattle, has been censured following a hearing. The discipline is based upon his sending copies of correspondence to parties he knew to be represented by counsel.

Mr. Bolin represented the mother and brother in a closely held family corporation. Mr. Bolin's clients had a dispute with the remaining corporate officers, three sisters. The mother and brother had claims against the sisters in both their individual and corporate capacity. The sisters were represented by separate lawyers in each capacity. Mr. Bolin sent several letters to the sisters' counsel and also sent copies of the letters to the sisters directly. The sisters' individual counsel requested that Mr. Bolin not send any further correspondence copies to her clients. Mr. Bolin sent two additional correspondence copies to the sisters.

Mr. Bolin's conduct violated RPC 4.2, prohibiting a lawyer from communicating about the subject matter of the representation with a party the lawyer knows to be represented by another lawyer, without consent of the other lawyer.

Joanne Abelson represented the Bar As-

sociation. William McNerney represented Mr. Bolin. The hearing officer was Deborra Garrett.

Reprimanded

Michael E. Jones (WSBA No. 331, admitted 1971), of Mountlake Terrace, has been reprimanded pursuant to a stipulation for discipline approved by the Disciplinary Board on March 22, 1999. The discipline is based upon his neglect of a personal injury matter and failure to promptly answer his client's requests for information about her case.

In 1990, Mr. Jones represented a client who had been injured in two separate traffic accidents. In February 1992, Mr. Jones successfully settled the first claim. In March 1992, Mr. Jones sent a demand letter to the insurance company involved in the second claim. Shortly after this, the paralegal assigned to the client's case left Mr. Jones' firm. Mr. Jones took no further action on the client's case and failed to respond to the client's phone calls. Mr. Jones did not settle the case or file a lawsuit prior to expiration of the statute of limitations.

Mr. Jones' conduct violated RPC 1.3, requiring a lawyer to diligently represent a client; RPC 1.1, requiring a lawyer to provide competent representation; and RPC 1.4, requiring a lawyer to keep clients reasonably informed of the status of their cases and promptly comply with reasonable requests for information.

Douglas Ende represented the Bar Association. Mr. Jones represented himself.

Change of Status

Pursuant to Order filed March 22, 1999, Terry P. Watkins (WSBA No. 2333, admitted 1967) became an inactive member of the Bar Association. ☐

Speak Out!

Wanted: Lawyers to volunteer to speak to schools & community groups on a variety of topics.

For information, call the WSBA Speakers Bureau Coordinator at 206-727-8213.

Average Coupon Equivalent Yields from the Auction of 26-week Treasury Bills: 1989 to Date

Below are the average coupon equivalent yields from the auction of 26-week treasury bills from January 1989 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 percent per annum, whichever is higher. Note that when the equivalent bond yield is below 8 percent, the maximum interest allowable remains at 12 percent.

The yields shown on the chart are those applied to the month shown, computed on the coupon equivalent yield 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 1999 auction of 26-week treasury bills applicable to the computation of the maximum allowable interest rate for June 1999 is 4.675 percent. According to the state treasurer's office, the maximum allowable interest rate for June 1999 is 12 percent. Usury rate information is regularly updated online at <http://www.wsba.org/barnews/usuryrate.html>.

Month	Yield	Rate	Month	Yield	Rate
1989			1992		
January	8.73%	12.73%	January	4.56%	12.00%
February	8.86%	12.86%	February	4.00%	12.00%
March	9.04%	13.04%	March	4.08%	12.00%
April	9.18%	13.18%	April	4.28%	12.00%
May	9.38%	13.38%	May	4.16%	12.00%
June	9.16%	13.16%	June	3.91%	12.00%
July	8.44%	12.44%	July	3.84%	12.00%
August	8.05%	12.05%	August	3.42%	12.00%
September	8.12%	12.12%	September	3.40%	12.00%
October	8.31%	12.31%	October	3.00%	12.00%
November	8.36%	12.36%	November	2.86%	12.00%
December	7.89%	12.00%	December	3.37%	12.00%
1990			1993		
January	7.69%	12.00%	January	3.57%	12.00%
February	7.93%	12.00%	February	3.38%	12.00%
March	8.15%	12.15%	March	3.19%	12.00%
April	8.22%	12.22%	April	3.14%	12.00%
May	8.24%	12.24%	May	3.13%	12.00%
June	8.28%	12.28%	June	3.07%	12.00%
July	8.03%	12.03%	July	3.32%	12.00%
August	8.01%	12.01%	August	3.32%	12.00%
September	7.56%	12.00%	September	3.35%	12.00%
October	7.75%	12.00%	October	3.12%	12.00%
November	7.59%	12.00%	November	3.17%	12.00%
December	7.41%	12.00%	December	3.35%	12.00%
1991			1994		
January	7.31%	12.00%	January	3.37%	12.00%
February	6.92%	12.00%	February	3.39%	12.00%
March	6.91%	12.00%	March	3.51%	12.00%
April	6.36%	12.00%	April	3.88%	12.00%
May	6.06%	12.00%	May	4.16%	12.00%
June	5.87%	12.00%	June	4.57%	12.00%
July	5.98%	12.00%	July	4.70%	12.00%
August	5.98%	12.00%	August	4.92%	12.00%
September	5.85%	12.00%	September	4.93%	12.00%
October	5.63%	12.00%	October	5.08%	12.00%
November	5.30%	12.00%	November	5.61%	12.00%
December	5.00%	12.00%	December	5.93%	12.00%

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Month	Yield	Rate
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%
July	5.077%	12.00%
August	5.212%	12.00%
September	5.233%	12.00%
October	4.978%	12.00%
November	4.335%	12.00%
December	4.52%	12.00%
1999		
January	4.537%	12.00%
February	4.585%	12.00%
March	4.551%	12.00%
April	4.772%	12.00%
May	4.517%	12.00%
June	4.675%	12.00%

Opportunity for Service: ABA House of Delegates

Deadline: Wednesday, June 23, 1999

Three positions are available on the American Bar Association House of Delegates (including one Young Lawyer delegate). The control and administration of the ABA is vested in the House of Delegates, the policymaking body of the ABA. The House, which has approximately 500 delegates, elects the ABA Officers and Board, and meets out-of-state twice a year. Delegate attendance is required. The WSBA's allowance is \$250 per year per delegate. Members appointed to the House of Delegates serve two-year terms. Incumbents may be reappointed, but must reapply.

Members interested in this appointment should submit a letter of interest and résumé to: Executive Director, WSBA, 2101 Fourth Avenue, 4th Floor, Seattle, WA 98121-2330; e-mail: oed@wsba.org.

What Is Your E-mail Address?

In 1999, for the first time, the WSBA license renewal form included a space for members to provide an e-mail address as part of their contact information. We had calculated that e-mail was a low-overhead method of contact and represented a convenience for members and the public. So we were surprised that only 15 percent of our members provided an e-mail address — especially since the "Raising the Bar" survey results so far indicate that up to 60 percent of our members have e-mail addresses. Additionally, since late 1998 the WSBA CLE department has been requesting e-mail addresses on registration forms with a note that unless the member indicated otherwise, the e-mail address would be entered in the member's file. To date, no one has objected.

The WSBA treats business e-mail addresses exactly the same as other business contact information we collect. That means that e-mail addresses will be printed in *Resources* and included in the lawyer search database online (www.wsba.org). E-mail addresses on contact lists will be made available only to the WSBA, its sections and committees, and other bar associations and law-related entities. When implementing this policy, the Board of Governors also decided to fully restrict the availability of fax numbers on contact lists, since fax contact entails significant overhead for the recipient.

We invite your comments at oed@wsba.org. If you would simply like to

add your e-mail address to your member file, contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA or e-mail questions@wsba.org.

Upcoming ATJ and Bar Leaders Conferences

The WSBA Bar Leaders Conference and the fourth annual Access to Justice Conference will be held in conjunction with the June Board of Governors meeting. The events will all take place during the weekend of June 25-27 in Wenatchee. For information about the conferences, contact Sharlene Steele at 206-727-8262 or sharlene@wsba.org.

Board of Governors Election Ballots Mailed

Election ballots for the 6th and 8th districts were mailed after May 15 and are due by 5:00 p.m., June 11, 1999. Ballots will be counted beginning 9:00 a.m. on Monday, June 14, 1999 at the WSBA office. If you are an active WSBA member in the 6th or 8th district and did not receive a ballot, please contact the WSBA Office of the Executive Director at 206-727-8244 or oed@wsba.org.

Mark Your Calendar: WSBA Annual Awards Dinner



The WSBA Annual Awards Dinner will be held from 6-9 p.m. on Thursday, September 9, 1999 at Cavanaugh's on Fifth Avenue, Seattle. Watch future issues of *Bar News* for further information.

Congratulations to the 418 New Admittees from the Spring 1999 WSBA Bar Exam!

Of the 539 applicants who took the exam, 78 percent passed.

A

Aidinejad, Yasmeen E., Seattle, WA
Alexander, Amy P., Portland, OR
Alexandre, Kelly, Bainbridge Island, WA
Almaguer, Pamela Marie, Seattle, WA
Alvarez, David W., Denville, NJ
Apple, Lesley, Hood River, OR
Armstrong, Elizabeth M., Seattle, WA
Ashley, Kimberly R., Moses Lake, WA
Askew, John Scott, Sandy, UT
Asplund, Mark Joseph, Seattle, WA
Austin, John A. III, Seattle, WA
Austin, Kevin C., Mill Creek, WA
Auyeung, Aloysius T.C., Lake Oswego, OR

B

Bajalcaliev, Chris, Spokane, WA
Bak, J. Randolph, Seattle, WA
Baldwin, Tracey, Seattle, WA
Bank, Kevin M., Seattle, WA
Baum, Traci, Colville, WA
Baweja, Sandeep, Seattle, WA
Beckmann, Natalie M., Redmond, WA
Bedell, Geoffrey C., Seattle, WA
Bellis, James Rittenhouse, Omak, WA
Berry, Alicia Marie, Richland, WA
Black, David H. Jr., Jackson, MI
Black, Joanna Shen-Ju Lin, Kirkland, WA
Boller, Timothy Leroy, Seattle, WA
Bollero, Barbara L., Seattle, WA
Bona, Kathy Louise, Yakima, WA
Boose, Justin Randall, Portland, OR
Bott, Charles Andrew, Renton, WA
Bourgette, Bridget A., Seattle, WA
Bowman, Guy M., New York, NY
Boyle, Michael Philip, Seattle, WA
Braden, Shannon Dea, Seattle, WA
Brannan, Michael G., Seattle, WA

Bromfield, William H., Seattle, WA
Brosnan, Teresa Sook Hian, Bellevue, WA
Brown, Megan Elizabeth, Oak Harbor, WA
Brown, Sarah Louisa, Richland, WA
Browning, Sheri Crigler, Gervais, OR
Brumley-Moore, Jennifer Kay, Clarkston, WA
Burdett, David J., Seattle, WA
Burga, Elida, Seattle, WA
Burgess, Nathaniel Delisle, Seattle, WA
Burnett, R. Alan, Bellevue, WA
Butler, Mireille O., Seattle, WA

C

Caldwell, John Christopher, Mill Creek, WA
Calvin, Neil Patrick, Redmond, WA
Campolucci, Roger Louis, Issaquah, WA
Cannon, Joseph L., San Francisco, CA
Cao, Jie, Seattle, WA
Cargill, Amanda Justine, Spokane, WA
Carter, Carrie M. Coppinger,
Federal Way, WA
Carter, Tomina M., Newberg, OR
Case, Katrina Maria Nantz, Seattle, WA
Castelda, Anthony Rocco, Tonasket, WA
Chaffe, Maja Dagny, Seattle, WA
Chang, Neil Iksung, Seattle, WA
Cherzan, Deidre's, Bend, OR
Chilton, Mark Hayes, Vancouver, BC
Christophersen, Amy S., Seattle, WA
Christopher, Dwayne L., Tacoma, WA
Christophersen, Steven J.S., Seattle, WA
Clark, Charles Edward, Sacramento, CA
Clark, Gregory A., Tacoma, WA
Colbert, Carl Park, Gig Harbor, WA
Connell, Michael V., Yakima, WA
Corbett, Richard James, Seattle, WA
Coulter, Jefferson Hampton II, Kent, WA
Coy, Kevin W., Seattle, WA
Crabbe, Elke Welss, San Diego, CA
Critchfield, Robert E., Bellevue, WA
Croy, Ann-Marie, Tacoma, WA

D

Davis, William Scott, Seattle, WA
Davy, Hugh W. Jr., Seattle, WA
DeFond, Jean M., Edmonds, WA
Degen, Alice, Auburn, WA
Delaney, Amy Jeanne, Portland, OR
Dell'Acqua, Ilene Dubin, Portland, OR
Del Matto, Bradley Andrew, Issaquah, WA
DeMoss, Ashley A., Tacoma, WA
Desai, Anuj Chang, Seattle, WA
DeWald, Jennifer K., Portland, OR
DeWalt, Daniel J., Gig Harbor, WA
Diehl, Robert A., Lake Oswego, OR
Dolan, James Brian, Everett, WA

E

Ealy, Michael A., Coeur D'alene, ID
Ebel, David R., Seattle, WA
Eberhardt, Paul, Portland, OR
Eisen, Debra Jane, Tacoma, WA
Elder, Jason Thomas, Portland, OR
Elliott, Elizabeth Lorraine, Seattle, WA
Empey, Gordon Hume, Seattle, WA
Enriquez, Credo James, Seattle, WA
Eppenauer, David Bartley, Woodinville, WA
Eriksson, Xan Marie, Portland, OR
Eskridge, Robert Perry, Helena, MT

F

Fairbanks, James Byron, Federal Way, WA
Farrell, Robert Charles, Seattle, WA
Feldman, Lori Gwen, Kirkland, WA
Felstiner, Susan T., Portland, OR
Ferrell, John David, Bremerton, WA
Fields, Forrest S. Jr., Tallahassee, FL
Filigenzi, Marc Thomas, Spokane, WA
Fink, Michael Peter, Mercer Island, WA
Finkelstein, Paul H., Wilsonville, OR
Fisher, Jonathan J., Seattle, WA
Fisher, Kelsey Lee, Gresham, OR
Fisher, Kendall Joy, Seattle, WA

Usury Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in May 1999 is 4.675 percent. The maximum allowable interest rate 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 for the past 10 years appear on page 53 of this issue. Information from January 1987 to date appears at <http://www.wsba.org/barnews/usuryrate.html>.

Notice of Availability of Competitive Grant Funds for Calendar Year 2000

The Legal Services Corporation (LSC) announces the availability of competitive grant funds to provide civil legal services to eligible clients during calendar year 2000. In accordance with LSC's multi-year funding policy, grants are available for specified service areas only. A listing of those service areas for each state, the estimated grant amounts, and all document submission deadlines are shown at LSC's website, or may be obtained by calling 202-336-8900. The RFP may be obtained from the LSC website, or by calling 202-336-8900. The LSC website address is <http://www.lsc.gov>. Applicants must file a Notice of Intent to Compete (NIC) to participate in the competitive grants process. The NIC is included in the RFP.

Flora, Courtney E., Seattle, WA
 Fogg, Scott M., Seattle, WA
 Foley, Joseph Robert, Seattle, WA
 Fritts, Sonja D., Seattle, WA

G

Gabriel, Denise Graves, Clackamas, OR
 Garrity, Kelly Marie, Seattle, WA
 Gates, David B., Gig Harbor, WA
 Gaviria, Ivan A., Seattle, WA
 Geib, Richard Paul, Federal Way, WA
 Geidl, Tod D., Clarkston, WA
 George, Erika Johnson, Portland, OR
 Gersten, Carol R., Miami, FL
 Gilbert, Peter A., Mount Vernon, WA
 Gilliam, Theodore Nelson, Vancouver, WA
 Gilstrap, David Victor, Ashland, OR
 Glover, Richard Allen, Seattle, WA
 Go, James Y., Bellevue, WA
 Go, Jennifer K., Bellevue, WA
 Gorski, Rafal, Haslett, MI
 Graunke, Michelle Lynn, Seattle, WA
 Green, Harvey Marlow, Issaquah, WA
 Greenawald, Erin Stacey, Salem, OR
 Greenspoon, Holly S., Redmond, WA
 Griffin, Michael Anthony, Seattle, WA
 Groseclose, John Daniel, Seattle, WA
 Guetlich, Mark A., Redmond, WA

H

Haeuber, Douglas H., Mercer Island, WA
 Hagan, Kelly T., Portland, OR
 Hagin, Leslie J., Washington, DC
 Haig, Alison Ann, Seattle, WA
 Haldeman, George P., Seattle, WA
 Hallisky, Seann W., Seattle, WA
 Hamilton, Kathryn Devane, Bal Harbour, FL
 Hammerstrom, James Hart,
 Mercer Island, WA
 Hanger, Eric Welch, Silverdale, WA
 Hanley, Patrick Francis Jr., Des Moines, WA
 Hardin, Andrea Dee, North Bend, WA
 Hart, Emmelyn Marie, Seattle, WA
 Hasselman, Jan Erik, Seattle, WA
 Havel, Paul Linwood, Portland, OR
 Hawarth, Kristin K., Freeland, WA
 Hazard, Kristin, Portland, OR
 Heard, Stacy Oyan, Renton, WA
 Heekin, Katherine Ruth, Jacksonville, OR
 Herbert, Fern Ann E., Seattle, WA
 Herman, Michele Karen, Bellevue, WA
 Hess, Andrew, Spokane, WA
 Hickman, Troy James, Shoreline, WA
 Honeywell, Matthew Valen, Seattle, WA
 Hopkins, Shelby Ann, Seattle, WA
 Howley, Sean Michael, Tualatin, OR
 Hughes, Angela Dawn, Bellingham, WA

Hughes, Mike, Sumas, WA
 Hunter, Natalie Ann, Seattle, WA
 Hunter, Robert Keith Jr., East Wenatchee, WA
 Hurley, Christopher John, Seattle, WA
 Hurtado, Peter Leonard, Seattle, WA

I

Inouye, Patrick Joseph Sus, Seattle, WA
 Inskeep, Kristina A., East Wenatchee, WA

J

Jacobson, Garth Baker, Seattle, WA
 Janeway, John M., North Bend, WA
 Jennings, Teri K., Snohomish, WA
 Jennrich, Timothy William, Seattle, WA
 Johnson, Brian Lee, Poulsbo, WA
 Johnson, Karyn S., Seattle, WA
 Johnston, Danielle Marie, Seattle, WA
 Jones, Dylan Snowdon, Seattle, WA
 Jonsson, Geir T., Seattle, WA
 Julian, Denise Consuelo, Spokane, WA

K

Kalotay, Patricia, Mercer Island, WA
 Karimi, Steve, Redmond, WA
 Kellison, Julia Cresswell, Seattle, WA
 Keys, Brian A., Kirkland, WA
 Kigawa, Susan Sayuri, Seattle, WA
 Kim, Charles, Federal Way, WA
 Kim, Danny D., Kirkland, WA
 King, Brian Matthew, Tacoma, WA
 King, Wayne Robert II, Spokane, WA
 Klein, Marlene, Newcastle, WA
 Koa, Christopher Meredith, Redmond, WA
 Kostin, Alex A., Bellevue, WA
 Kothary, Roger Jacques, Vancouver, BC
 Kotula, Steven John, Mukilteo, WA
 Kranick, James Frederick, Bellevue, WA
 Kresl, Douglas J., Tacoma, WA
 Krubiner, Alan Martin, Seattle, WA
 Kuffner, M. Catherine Rubio,
 Stevensville, MT
 Kuhn, Steven James, Portland, OR
 Kuiper, Jody Kristen, Kennewick, WA
 Kupka, Erik M., Montesano, WA
 Kurfis, Mitchell Wilson, Reno, NV

L

Lacross, Jeniece, Port Orchard, WA
 Lall, Sumeet, Seattle, WA
 Lally, Patricia C., Tacoma, WA
 Lange, Juliann, Mountlake Terrace, WA
 Lanza, Shelley B., Mercer Island, WA
 Larson, Carolyn Louise, Hillsboro, OR
 Larvik, Cory James, Portland, OR
 Latta, Meena Kang, Seattle, WA
 Lavy, Beverly Stumpf, Seattle, WA
 Lawson, Peter Carl, Seattle, WA

Leahy, Jean Ada, Seattle, WA
 Lee, Sohaye, Seattle, WA
 Leghorn, Allan Jeff, Brentwood Bay, BC
 Leonard, Heather Marie, Colville, WA
 Lester, Joseph S. Jr., Saint Paul, MN
 Lloyd, Robert D., Puyallup, WA
 Logan, Jason C., Seattle, WA
 London, Kim Elizabeth, Altus, OK
 Lu, Simon, Los Angeles, CA
 Lubin, Seth Michael, Hood River, OR
 Lumala, Loi Kavutse, Issaquah, WA
 Lund, David Harrison Jr., Redmond, WA

M

Makar, Andrew J., Tacoma, WA
 Malaska, Stephen Lawrence, Redmond, WA
 Malek, Steven Morris, Ottawa, ON
 Maltseva, Maria, Bellevue, WA
 Mann, Philip P., Bainbridge Island, WA
 Marchiel, Marc St. John, Seattle, WA
 Markham, Drew Germain, Seattle, WA
 Marquis, Thomas R., Kirkland, WA
 Martinson, Ruth Susan, Seattle, WA
 Martyn, Hartley Bruce, Cleveland, OH
 Mason, James M., Hood River, OR
 Mastick, Annette Willis, Tacoma, WA
 Maurer, Lori Ann, Vancouver, WA
 Mauricio, Jennifer Jo, Edmonds, WA
 McCabe, Kevin P., Tacoma, WA
 McCaw, Nell Elizabeth, Seattle, WA
 McDermott, Robert A., Kirkland, WA
 McFadden, Alton B. II, Auburn, WA
 McGuigan, Patrick Leo, Seattle, WA
 McGuire, Timothy Joseph, Spokane, WA
 McKee, Audrey K., Albuquerque, NM
 McLeod, Wade Michael, Pendleton, OR
 McNamara, Michael Shannon, Seattle, WA
 McQuillen, Brian P., Seattle, WA
 Mead, Russell B., Phoenix, AZ
 Mears, David Kruger, Lacey, WA
 Mendel, James N., New York, NY
 Mendelsohn, D. Eric, Seattle, WA
 Michael, Brita Linnea, Seattle, WA
 Miles, Kristin A., Bellevue, WA
 Miller, Brandyn Deanne, Seattle, WA
 Milner, Wady Hope, Kirkland, WA
 Milnor, Heiti Marie-Theresa, Seattle, WA
 Min, Susan L., Federal Way, WA
 Minear, Jennifer L., Federal Way, WA
 Minear, Timothy M., Federal Way, WA
 Mitchell, Paul William, Spokane, WA
 Mitchell, Todd Alan, Salem, OR
 Monsebroten, James Matthew, Baker City, OR
 Moore, James H. Jr., Lynnwood, WA
 Morgan, Janie, Everett, WA
 Mottram, John Forrest, Tualatin, OR
 Mumford, Mark, Pullman, WA
 Muse, Dirk Jonathan, Medina, WA

N

Nakamori-Schwartz, Gail, Spokane, WA
 Nedderman, Thomas Bradley, Skokie, IL
 Neighbors, Tracy Charles, Redmond, WA
 Nelson, Martin Stephen, Philadelphia, PA
 Newcombe, Jason Scott, Eugene, OR
 Newman, Frederick John IV, Gainesville, FL
 Newman, Roger Hugh Jr., Redmond, WA
 Newton, James Van, Kent, WA

O

O'Connor, Jennifer Lea, Bellevue, WA
 O'Rourke, Kevin Daniel, Spokane, WA

P

Page, Suzanne Liv, Seattle, WA
 Park, Kyung S., Seattle, WA
 Parry, Jonathon D., Seattle, WA
 Pascoe, W. Todd, Clackamas, OR
 Pearson, Elizabeth S., Seattle, WA
 Peltin, Steven R., Seattle, WA
 Percival, Thornton Powers, Suquamish, WA
 Petrich, Annmarie Barbara, Seattle, WA
 Pettett, Galt Loren, Kennewick, WA
 Pizl, James B., Milton, WA
 Placide, Carlene M., Seattle, WA
 Planchon, Benjamin J., Seattle, WA
 Plewes, Stanley Frank, Long Beach, CA
 Poellet, Laura E., Bainbridge Island, WA
 Pool, Mary L., Portland, OR
 Poulin, Douglas M., Bellevue, WA
 Proksch, Michael Arlyn, Portland, OR

Q

Quigg, James Thomas, Seattle, WA

R

Rademaker, Kristen M., Seattle, WA
 Ranck, Jeffrey Lynn, Redmond, WA
 Rath, Cheryl A., Portland, OR
 Raymon, Brian D., Spokane, WA
 Reedy, Michael London, Seattle, WA
 Rehmke, Jonete Waters, Tacoma, WA
 Rendina, Charles Frederick, Enderby BC
 Resch, Timothy John, Portland, OR
 Reynon, Timothy D., Puyallup, WA
 Rice, David L., Seattle, WA
 Rich, Matthew L., Portland, OR
 Richardson, Yvonne Marja, Seattle, WA
 Riley, June, Northridge, CA
 Robbins, Jon N., Walnut Creek, CA
 Robbins, Kay, Spokane, WA
 Ross, Lowell William Jr., Redmond, WA
 Ross, Virginia L., Portland, OR
 Roth, Bryan L., Seattle, WA
 Roy, Christopher E., Portland, OR
 Royce, Charles Harold II, Seattle, WA
 Rozek, Roger P., Newcastle, WA

Ruddy, Lydia K., Seattle, WA
 Runnette, Deirdre L., Seattle, WA
 Russo, Giacomo Anthony, Palo Alto, CA

S

Sabido, Robert E., Tualatin, OR
 Safford, Sherri M., Seattle, WA
 San Nicolas, Silvia Ann, Des Moines, WA
 Sarti, Janine, Fircrest, WA
 Satran, Jill Marie, Tumwater, WA
 Schlossman, Paul Arthur, Tacoma, WA
 Schlotthauer, Brent G., Blanchard, ID
 Schofield, Dale Halverson, Portland, OR
 Schotthoefer, Robb Alan, Aloha, OR
 Schroeder, Michelle L., Spokane, WA
 Schumacher, Kirk D., Seattle, WA
 Scully, Jennifer L., Seattle, WA
 Seelye, Susan Heather, Lakebay, WA
 Self, Steven M., Lake Oswego, OR
 Sellari, Leigh A., Seattle, WA
 Shaffer, Michelle L., Portland, OR
 Shaw, Jonathan Mark, Seattle, WA
 Shisk, Diane, Seattle, WA
 Shively, Martin Layne, Duvall, WA
 Sidlo, Martha Dean, Seattle, WA
 Siegel, John Christian, Sarasota, FL
 Sims, Kathleen S., Seattle, WA
 Sledd, Charles Mcdonald, Shoreline, WA
 Smith, Christine Helen, San Jose, CA
 Smith, Elisha Sandra, Poulsbo, WA
 Smith, Julie K., Bainbridge Island, WA
 Smith, Laura Lynn, Seattle, WA
 Smithson, Lynden Patrick, Tacoma, WA
 Snyder, Christie Lynn, Seattle, WA
 Soreff, Paul, Seattle, WA
 Spaulding, Franklin Eleazar, Seattle, WA
 Spinks, Susan Gayle, College Station, TX
 Staihar, Steven J., Kennewick, WA
 Staten, Lorna Joy, Seattle, WA
 Steiner, Amanda M., Seattle, WA
 Stern, Margaret Bird, Portland, OR
 Stewart, Carrie L., Lacey, WA
 Stewart, David A., Portland, OR
 St. Louis, Glen, Kent, WA
 Stodola, Ann Lindsay, Bellingham, WA
 Stulberg, Barry Alan, Issaquah, WA
 Subit, Michael Craig, Washington, DC
 Suddeth, William Norman, Federal Way, WA
 Suh, Gregory Dong Shin, Baltimore, MD
 Surace-Smith, Kathryn, Seattle, WA
 Swanson, Shelley Noelle, Spokane, WA
 Sweet, Michelle Marie, Seattle, WA

T

Tamblyn, Sara Blastos, Mercer Island, WA
 Tapia, Steven Paul, Redmond, WA
 Taylor, Paul Joseph, Tigard, OR
 Thomas, Ann Dozier, Redmond, WA

Thomas, Joan, Bellevue, WA
 Thompson, Bruce Grant, Portland, OR
 Thompson, Scott Foster, Bothell, WA
 Thoreson, Eric K., Seattle, WA
 Thorness, Kristin E., Seattle, WA
 Thorp, Justin Michael, Portland, OR
 Truong, Hue, Seattle, WA
 Tuley, Deanna Marie, Federal Way, WA

V

Van Arsdale, Corey Hunter, Woodinville, WA
 Van Damme, James, Seattle, WA
 Van Meter, Heather Jo, Portland, OR
 Vaughn, Daniel F., Everett, WA
 Verhulp, Ryan Elliot, Spokane, WA
 Von Tersch, Glenn E., Sunnyvale, CA
 Vucinovich, James Kelly, Minneapolis, MN
 Vukanovich, Robert M., Vancouver, WA

W

Walker, Donovan E., Post Falls, ID
 Walters, Laura A., Lynnwood, WA
 Warzecha, Timothy J., Seattle, WA
 Wasankari, Brian Neal, Richland, WA
 Webb, Jamie B., Shoreline, WA
 Webb, Nathan, Seattle, WA
 Webber, Edward Earl III, Seattle, WA
 Weber, William L., East Lansing, MI
 Weddle, Dewey W., Seattle, WA
 Weiss, Roland R., Olympia, WA
 Whealdon-Andrews, Karol, Chula Vista, CA
 Whipple, Blaine Scott, Portland, OR
 Whitaker, John, Seattle, WA
 White, Janis G., Seattle, WA
 Whitener, Grace Helen, Renton, WA
 Whitney, Robert Alexander, Montesano, WA
 Williams, Brian Blaine, Portland, OR
 Williams, David Hywel, Yakima, WA
 Williams, J. D., Pendleton, OR
 Wilson, Clay F., Bainbridge Island, WA
 Wilson, Faith Mary, Seattle, WA
 Winter, Linda Joan, Seattle, WA
 Wolk, Gregory Alan, Seattle, WA
 Wong, Jennifer Young, Seattle, WA
 Wong, Winifred Melinda, Seattle, WA

Y

Yakely, Heather, Mead, WA
 Yaroschuk, Elisabeth, Seattle, WA
 Yoshimura, Masahiro Max, Vashon, WA
 Youmans, Elizabeth Lee Luongo,
 Olympia, WA
 Youth, Thomas B., Kirkland, WA
 Yu, Jerry J, Seattle, WA

Z

Zajdel, Phillip Alan, Seattle, WA
 Zwerin, Steven Neil, Seattle, WA

Calendar

ALTERNATE DISPUTE RESOLUTION

Alternate Dispute Resolution

June 9 – Seattle. CLE credits TBA. By WSBA-CLE 800-945-WSBA or 206-443-WSBA.

The Top Ten Reasons Why Mediations Fail

June 15 – Seattle. 1.5 CLE credits pending. By King County Washington Women Lawyers 206-723-2330 or mleary@democolaw.com.

Arbitration

June 18 – Portland. 7 CLE credits pending. By Oregon State Bar 503-684-7413.

BANKRUPTCY

The Lawyer's Tool Box: Nuts & Bolts for New Practitioners – Bankruptcy

June 16 – Seattle. 3 CLE credits (incl. .5 ethics). By WSBA-CLE 800-945-WSBA or 206-443-WSBA.

WA Foreclosure and Related Bankruptcy and Title Issues

June 16 – Seattle. 6.5 CLE credits (incl. 1 ethics). By NBI 715-835-7909.

BUSINESS LAW

Contract Law Essentials – The *Berg v. Hudesman* 10th Birthday Celebration CLE

June 18 – Seattle. 6.5 CLE credits pending. By WSBA-CLE 800-945-WSBA or 206-443-WSBA.

The Lawyer's Tool Box: Nuts & Bolts for New Practitioners – Business Law

June 23 – Seattle. 3 CLE credits (incl. .5 ethics). By WSBA-CLE 800-945-WSBA or 206-443-WSBA.

CRIMINAL LAW

1999 WACDL Annual Conference: Succeeding in Difficult Cases

June 10-12 – Lake Chelan. 8 CLE credits. By WACDL 206-623-1302 or wacdl@halcyon.com.

EMPLOYMENT

Defending Wrongful Discharge Claims Under WA Law

June 10 – Seattle; June 11 – Spokane. 6.5 CLE credits (incl. 1 ethics). By NBI 715-835-7909.

ETHICS

WA Legal Ethics

June 30 – Seattle. 6.25 CLE ethics. By Lorman 715-833-3940.

ESTATE PLANNING

The Lawyer's Tool Box: Nuts & Bolts for New Practitioners – Estate Planning & Probate Practice

June 9 – Seattle. 2 CLE credits (incl. .25 ethics). By WSBA-CLE 800-945-WSBA or 206-443-WSBA.

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

To announce a seminar, please send to:

WSBA Bar News Calendar
2101 Fourth Avenue, Fourth Floor
Seattle, WA 98121-2330
Fax: 206-727-8320
e-mail: comm@wsba.org.

Information must be received by the 1st of the month for placement in the following month's calendar.

Advanced Trust Drafting

June 25 – Portland. 7 CLE credits pending. By Oregon State Bar 503-684-7413.

ENVIRONMENTAL LAW

1999 Environmental and Land Use Law Section Midyear Seminar & Meeting – Keeping Your Environmental/Land Use Law Practice Current

June 3-5 – Stevenson. 11.25 CLE credits (incl. 1 ethics). By WSBA-CLE and Environmental and Land Use Law Section 800-945-WSBA or 206-443-WSBA.

FAMILY LAW

The Lawyer's Tool Box: Nuts & Bolts for New Practitioners – Family Law

June 2 – Seattle. 2.5 CLE credits (incl. .5 ethics). By WSBA-CLE 800-945-WSBA or 206-443-WSBA.

Family Law Midyear Seminar & Meeting

June 25-27 – Seattle. 13.75 CLE credits (incl. .75 ethics). By WSBA-CLE 800-945-WSBA or 206-443-WSBA.

GENERAL

Trial Evidence: Direct from the Masters

June 4 – Portland. 6 CLE credits pending. By Oregon State Bar 503-684-7413.

Eminent Domain

June 10-11 – Seattle. 10.5 CLE credits (incl. 1 ethics). By Law Seminars International 206-621-1938.

Successful Equity Management

June 15, 17, 19 – Bellevue. 3 CLE credits. By Secure Start Seminars 425-456-0071.

Jury Selection

June 16 – Portland. CLE credits TBA. By Oregon State Bar 503-684-7413.

Mechanics' Lien Law and Strategies in WA

June 22 – Seattle. 6.5 CLE credits (incl. 1 ethics). By NBI 715-835-7909.

Law for Social Workers, Counselors and Other Helping Professions

June 29 – Seattle. 6.5 CLE credits. By Lorman 715-833-3940.

1999 WSBA Bar Leaders and Access to Justice Conferences

June 25-27 – Wenatchee. CLE credits TBA. Contact Sharlene Steele 206-727-8262.

LAW OFFICE MANAGEMENT

Winning Numbers: Accounting and Finance for Lawyers

June 3 – Portland. 6.5 CLE credits pending. By Oregon State Bar 503-684-7413.

LITIGATION

1999 Litigation Section Midyear – Communication Skills for the Litigator: Persuasive Strategies and Personal Style

June 25-26 – Chelan. 8 CLE credits (incl. 1 ethics). By WSBA-CLE and Litigation Section 800-945-WSBA or 206-443-WSBA.

The Lawyer's Tool Box: Nuts & Bolts for New Practitioners – Civil Litigation

June 30 – Seattle. 3 CLE credits (incl. .5 ethics). By WSBA-CLE 800-945-WSBA or 206-443-WSBA.

REAL ESTATE

1999 Real Property, Probate & Trust Section Midyear Seminar & Meeting

June 4-6 – Wenatchee. 12 CLE credits (incl. up to 1.5 ethics). By WSBA-CLE and Real Property, Probate & Trust Section 800-945-WSBA or 206-443-WSBA.

RESEARCH

Internet Legal Research Series: Basic Power Searching

June 2 – Seattle. 3.25 CLE credits. By UW-CLE 206-543-0059.

Using the Internet for Legal Research

June 3 – Seattle. 6.5 CLE credits (incl. 1 ethics). By Washington Law Institute 206-726-9337.

Internet Legal Research Series: Tax Research

June 22 – Seattle. 3.25 CLE credits. By UW-CLE 206-543-0059.

TAX LAW

Current WA State Taxation Issues

June 18 – Spokane. 7 CLE credits. By Lorman 715-833-3940.

Announcements

CORR CRONIN LLP

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Joshua J. Preece	Patrick W. Crumb
Rachel Weinstein	Philip M. Guess
William D. Fisher	Michael A. Moore

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Jennifer J. Payseno

has joined the firm.

Ms. Payseno is the outgoing president of the
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recently elected to serve as a Trustee on the
King County Bar Association's Board of Trustees.
Ms. Payseno will continue to practice Family Law.

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has joined the firm as a partner

and

Valerie du Laney

has joined the firm as an associate

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206-622-7485 fax
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The Law Offices of

Schroeter Goldmark & Bender

is pleased to announce that

A D A M B E R G E R

has joined the firm as an Associate.

Prior to joining Schroeter Goldmark & Bender,
Mr. Berger was a staff attorney with the Pacific Northwest
office of the Earthjustice Legal Defense Fund.
Mr. Berger graduated from Yale law school and clerked
for the Honorable Mark L. Wolf of the
United States District Court for Massachusetts.
Mr. Berger's practice will focus on environmental torts.

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— *John W. Davis*

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Difference of opinion.

536 Minn. 367 NORTH WESTERN REPORTER, 2d SERIES

Eleanor Louis BOOM, Respondent,
v.
Rolland David BOOM, Appellant.
No. C2-83-1956.
Court of Appeals of Minnesota.
April 23, 1985.

536 Minn. 367 NORTH WESTERN REPORTER, 2d SERIES

Eleanor Louis BOOM, Respondent,
v.
Rolland David BOOM, Appellant.
No. C2-83-1956.
Court of Appeals of Minnesota.
April 23, 1985.

Review Denied June 27, 1985.

Upon motion of wife, appeal by husband from a judgment entered in a marriage dissolution proceeding was dismissed. Husband petitioned for reinstatement of appeal. The Court of Appeals, Peter S. Popovich, J., denied the petition, and husband petitioned for further review. The Supreme Court, Coyne, J., 361 N.W.2d 34, reversed and remanded. Upon remand, the District Court, Traverse County, Bruce N. Reuther, J., divided the parties' property. Appeal was taken. The Court of Appeals, Sedgwick, J., held that: (1) disproportionate award of marital property to husband was justified where 13 years elapsed between service of summons and complaint and marriage dissolution and property was acquired solely by husband during that period, and (2) trial court may amend its judgment any time before appeal time on judgment expires.

- Affirmed.**
- Divorce** ¶252.3(3)
Disproportionate award of marital property to husband was justified, where 13 years elapsed between service of summons and complaint and the marriage dissolution and the property was acquired solely by husband during that period.
 - Judgment** ¶297
Trial court may amend its judgment any time before appeal time on judgment expires. 48 M.S.A., Rules Civ.Proc., Rules 52.02, 59.03.
 - Divorce** ¶254(1, 2)
Property divisions are final and are not subject to modification except when they are product of mistake or fraud; however,

this does not preclude trial court from reviewing award if the appeal period has not expired and a party timely moves for amendment pursuant to rule. 48 M.S.A., Rules Civ.Proc., Rule 52.02.

- Divorce** ¶254(1)
A property distribution in a judgment and decree is not "final" until after the appeal period expires.
See publication Words and Phrases for other judicial constructions and definitions.

Syllabus by the Court.

- A disproportionate award of marital property to the husband is justified where 13 years elapsed between service of the summons and complaint and the dissolution and the property was acquired solely by the husband during that period.
- A court may amend its judgment anytime before the appeal time on the judgment expires.

Robert E. Van Nostrand, Wheaton, for respondent.

John E. Mack, New London, for appellant.

Heard, considered and decided by POPOVICH, Chief Judge, and SEDGWICK, and NIERENGARTEN, JJ.

OPINION

SEDGWICK, Judge.
Appellant Rolland Boom and respondent Eleanor Boom both challenge the trial court's division of property. Rolland also alleges the trial court erred: (1) in amending its judgment decree without any findings, explanation or justification; and (2) awarding Eleanor attorney fees. We affirm.

FACTS

Appellant Rolland and respondent Eleanor Boom were married in 1951. They

Headnotes summarize each point in case

OPINION

SEDGWICK, Judge.
Appellant Rolland Boom and respondent Eleanor Boom both challenge the trial court's division of property. Rolland also alleges the trial court erred: (1) in amending its judgment decree without any findings, explanation or justification; and (2) awarding Eleanor attorney fees. We affirm.

FACTS

Appellant Rolland and respondent Eleanor Boom were married in 1951. They

OTHERS

Opinion with citations verified, errors corrected and parallel cites added

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