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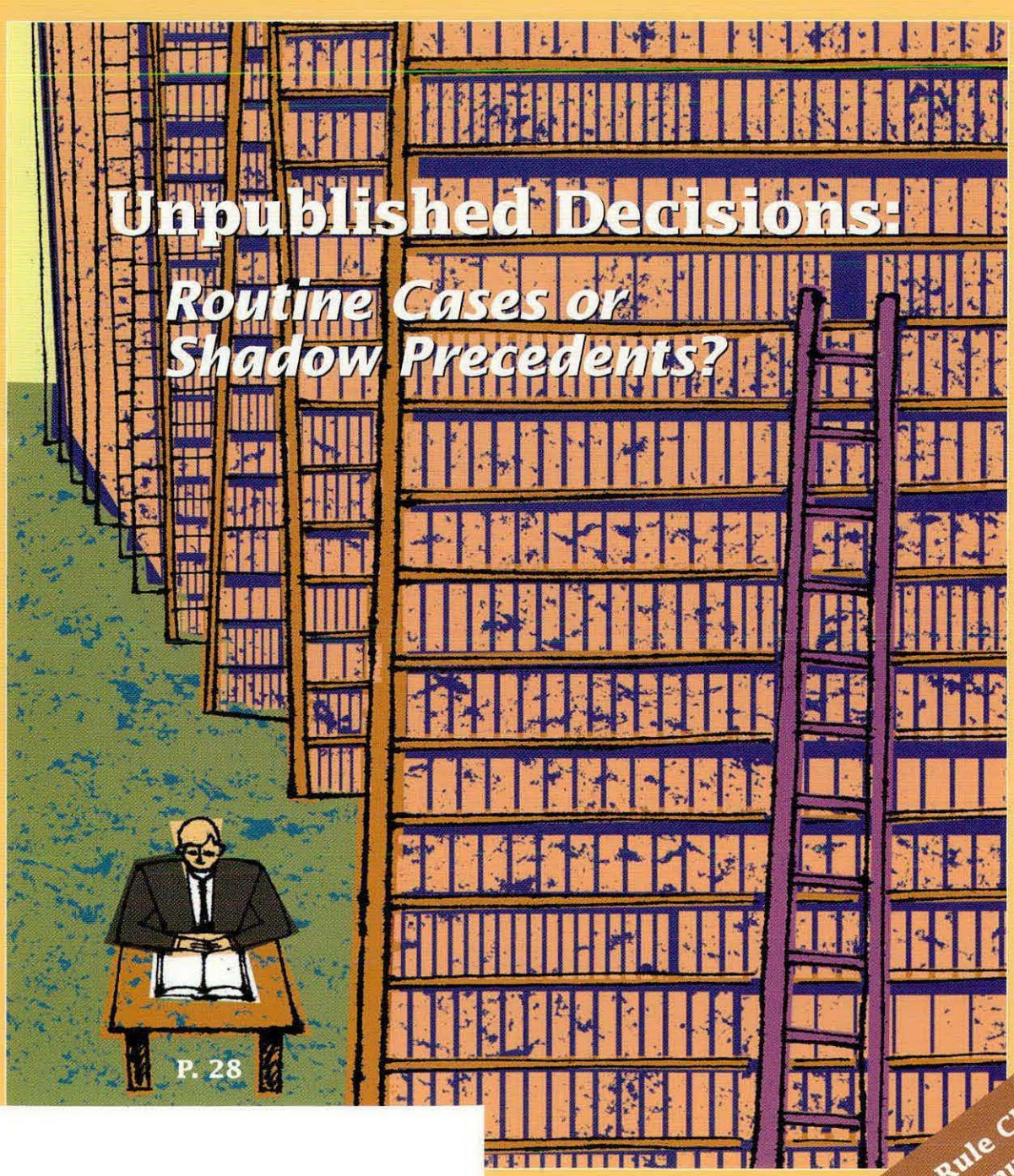

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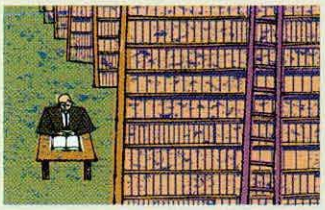

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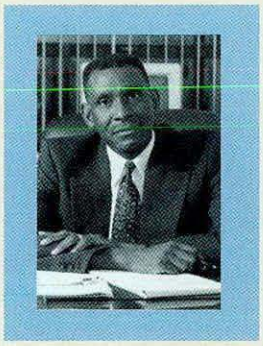

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The mission of the Washington State Bar Association is to promote justice and serve its members and the public.

Bar News
The Official Publication of the Washington State Bar Association

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Readers are invited to submit correspondence and articles. They may be sent via e-mail to comm@wsba.org or provided on disk in any conventional format with accompanying hard copy and sent to *Bar News* Editor, 2101 Fourth Avenue, Fourth Floor, Seattle, WA 98121-2330. Article submissions should run approximately 1,500 to 4,000 words. Graphics and photographs are welcome. The editor reserves the right to edit articles as deemed appropriate.

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Pictured clockwise from left: Dale Carlisle, Donald Thompson, Elizabeth Martin, Thomas Greenan and Albert Malanca.

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Letters

Proud to Be a Lawyer

Editor:

I recently concluded a case involving catastrophic injuries to a five-year-old child who was hit by a car while attempting to run across U.S. 101 near Sequim Bay State Park. The driver of the car was ably defended by opposing counsel R. Glenn Phillips of Woodinville. There came a point in the case when the interests of the insurance company on the case were not necessarily consistent with that of the defendant driver, placing Mr. Phillips in a difficult situation. Displeasing a claims adjuster can mean the loss of future business for an insurance defense lawyer. However, Mr. Phillips did what a lawyer should, protecting his client's interests zealously, as set forth by our Supreme Court in *Tank v. State Farm*. I am certain that it was not lost on Mr. Phillips that in so doing, he would not get assignments from that particular insurance company again. Whenever I see situations like this in my practice where an attorney places principle above the pressures of the marketplace, it reinforces the considerable pride I take in being a member of this profession.

William S. Bailey
Seattle

Response to Peterson Editorial

Editor:

I applaud President Peterson's editorial in the October 2000 issue of *Bar News*, which argues forcefully that we as attorneys have many reasons to be proud of our profession. However, I believe a sour note was introduced into this symphony when he cited Professor Anita Hill as one of his positive examples. This example is problematic for several reasons.

First, in giving her testimony she was acting in the role of victim rather than as an attorney, so it is difficult to see why attorneys have any special reason to be proud. Second, the purpose of her testimony was to accuse a fellow attorney of misconduct, so this is more a reason for attorney humility than for pride. Third, if one accepts her testimony as accurate and complete, one is led to ask why she did not make these accusations contemporaneously with the misconduct, rather than allow 10 years to lapse. While her defenders argued that the misconduct was so traumatic to her that it was difficult for her to come forward, I believe that she, as an attorney in the Equal Employment Opportunity Commission, had an explicit duty to her fellow female co-workers to file a formal complaint against someone who she believed was abusing his position through verbal sexual harassment. Instead, she looked after her own career interests rather than fulfill her obligations as an attorney to the law and to the public she was sworn to serve. As a senior professional civil rights attorney, employed by the federal government to root out unlawful discrimination, Professor Hill has admitted to an utter failure of professional nerve.

The final reason that the Hill example is troubling is that all of the principles of fair play for victims of sexual harassment that it seemed to establish were thrown out the window by William Jefferson Clinton, an attorney who used the entire mechanism of the executive branch of the federal government to shield himself from the natural consequences of his irresponsible use of a White House intern as his personal prostitute, and from his lies un-

der oath in a court of law. A thousand editorials will never compensate, in the public's perception of lawyers, for that one terrible example. It would raise the reputation of the legal profession immensely if he resigned from the profession he has abused so badly and admitted he is not honest enough to be an attorney. But that would require him to tell the truth.

Raymond Takashi Swenson
Idaho Falls, Idaho

Viewpoint on Contingency Fee Lawyers

Editor:

Reading Jan Peterson's editorial (October *Bar News*, p. 15) and Maria Diamond's letter (October *Bar News*, p. 7) in defense of contingency fee lawyers reminded me of several points.

First, an economy works when people work and make things — bricks, ships, clothes, cars and so forth. The more taxes increase, the less people are willing to work and produce things. When taxes reach 100 percent, no one works: communism. The more regulation restricts the way people work, the less people will work, because it becomes progressively more difficult to produce things and earn a living. And the greater the threat of destruction, as by crime, act of nature, confiscation, and of course, personal injury litigation, the fewer the number of people who are willing to take the chance of making something — bricks, ships, clothes, cars and so forth.

Contingency fee lawyers damage the economy in all these ways. They threaten business with destruction: Johns Manville. They add to regulation because court decisions are an overlay of regulation, and an unpredictable regulation at that, beyond what agencies and legislatures do: birth control litigation. They add to your taxes: insurance premiums paid by industry and you. WSTLA litigation is equivalent to a tax because it is a direct and indirect burden imposed on the public by the court for the benefit of WSTLA lawyers and their clients.

Now I think most plaintiff lawyers think their recovery comes from the tooth fairy, but it isn't so. It comes from the public, kids buying their first car, struggling families, people driving long distances to work, and, of course, you and me, all of whom pay for insurance. The rest comes from stockholders and bondholders and employees, who again are directly or indirectly you and me.

I think WSTLA lawyers think each case is no burden on the public because it is small in proportion to the economy. This is not always so, but even when the recovery is relatively small, calculus tells us that tiny increments that approach zero add up to large and visible amounts. Plaintiff lawyers consume a significant part of the American economy.

Plaintiff lawyers claim they do good because they induce the courts to act as legislatures. They do do that, but this is wrong, because public policy should be set in the legislature which is lobbied by all the interest groups. The legislature is directly accountable to the public. Courts are lobbied only by lawyers for the two sides. The public is not represented. To use Jan Peterson's example, if children's clothing is to be regulated for fire retardation, it should be done by the legislature, not by the efforts of a WSTLA amicus curiae committee or a WSTLA lawyer.

The legislature can consider lobbying by the manufacturer, unions, consumers, economists, retailers, competitors and everyone else, not to mention administrative agencies. Most important, the legislature can be recalled by the public if they do not like the decision. Judges are elected only in state court, and it is difficult for the public to hold accountable an individual judge for a "legislative" decision.

Jan Peterson characterizes plaintiff PI lawyers as heroes. They are not heroes, because all of them work for money and some of them become wealthy taking money from the public and taking policy issues from the legislature where they belong, into courts where they do not belong.

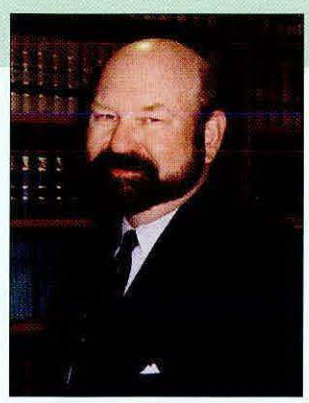
In her letter to the *Bar News* campaigning for Al Gore, Maria Diamond of WSTLA objects to corporate lobbying. Corporations create most of the bricks, ships, clothes, cars and so forth that everyone uses. WSTLA lobbies as aggressively as it can and tries to place its "stalwarts" on the board of the Bar and in the courts. I have heard that WSTLA and ATLA lawyers are the biggest single money contributors to Al Gore's campaign. It is hypocritical for WSTLA to complain about corporate lobbying which is, after all, protected by the First Amendment.

These are important issues. They should be debated. The *Bar News* should not be a forum for contingency fee lawyers, Columbia Legal Services, Al Gore's campaign, activist courts or any other partisan point of view.

Roger B. Ley
Seattle

...and the letters published in this issue constitute another view in the ongoing debate. — *Ed.*

Readers are invited to submit letters of reasonable length to the editor. They may be sent via e-mail to comm@wsba.org or provided on disk in any conventional format with accompanying hard copy. Due date is the 10th of the month for the second issue following, e.g., December 10 for publication in the February issue. The editor reserves the right to edit letters as deemed appropriate.



Proud to Be a Lawyer
Holiday Edition

by Jan Eric Peterson
WSBA President

As I go around the state banging my "proud to be a lawyer" drum, and as the holidays approach, I am thinking of possible connections with the spirit of the season. Certainly we can trace our profession's roots to the basic Judeo-Christian ethic, the tenets of the laws of right and wrong in Western culture. Moses could be considered our first law-giver when he delivered the Ten Commandments and the long list of laws that followed. The tradition of interpretation and judgment can be seen as the seeds of the legal profession. We can look to Solomon for the judicial model of wisdom with compassion, a wise and understanding heart.

Jesus could have been a great lawyer. He understood the necessity of the rule of law and said he didn't come to destroy the old laws or the teachings of the prophets but to fulfill them. He said to give unto Caesar the things that are Caesar's, the laws of commerce and coin. But, of course, he understood the power of civil disobedience to reveal an unjust and corrupt order. He also had a gift for teaching through parables and stories that would have made him a great advocate.

Even the legend of Santa Claus teaches rewards for good behavior and the punishment of only a few lumps of coal for those who behave badly.

Even the legend of Santa Claus teaches rewards for good behavior and the punishment of only a few lumps of coal for those who behave badly. Like a judge, he's making a list and checking it twice to see who's naughty and nice.

From these holiday inspirations we can learn the common thread of community and caring for others that should be the guiding principle of a service profession. Join in the holiday activities of your community, particularly those that embody the spirit of giving and caring. Make a holiday gift of yourself by volunteering. Get out there and be a visible example of a profession we can all be proud of by living the true holiday spirit.

Happy holidays.

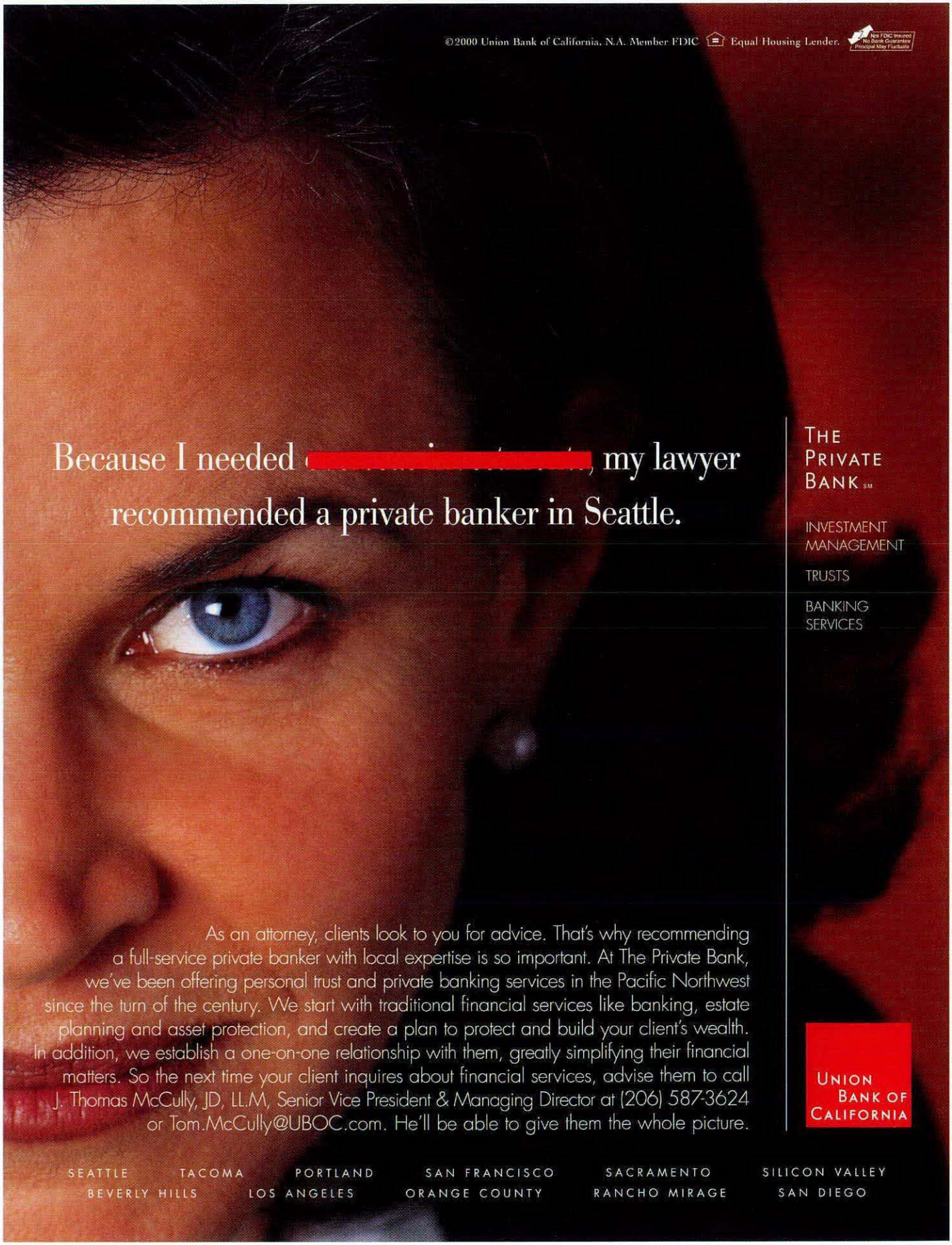
The Greengrocer

From my office window, I can observe
My Greengrocer neighbor begin each day;
Ritual unchanging, he throws up the shutter to his shop
And sweeps the night's refuse away from the walk.
Keenly aware that customers rely on his selection and
Trust in his attention to their wants,
He stocks an abundance of the freshest fruits and produce,
Arrayed by type and color
To attract and please the eye,
Yet always to provide the quality his patrons seek.
The store is a symbol of his good name.

How much alike are we indeed, though my own
Wares and tools differ some.
As you watch for passers-by to enter your shop's doorway,
I await the phone and mail to bring my daily trade,
Trusting my customers to find me in my
Perch above the street.
Honest Lawyer three floors up!
In cart and bag, your goods are carried off,
While thoughts and words – some written, others not –
Comprise the deliveries of my craft.

Coffee poured, I take my chair,
Sweep the detritus of yesterday into the bin and
Arrange my desk for its new custom.
I strive as well to gauge the market for my sales
And only storehouse product lines that can be used;
Like you, my stock in trade cannot grow stale.
Your constancy reminds that I too must keep the
"Shutter" up, the
"Walkway" clear, and
My inventory fresh and well-displayed.

Dan Caine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With Liberty and Justice for All

by Jan Michels
WSBA Executive Director

Words from the Pledge of Allegiance: The basis of our republic, a description of our allegiance to a country committed to living under the rule of law. The alternative is the rule of fear and coercion.

In 1999, the WSBA Board of Governors adopted Strategic Goal No. 7: *The WSBA will continue to provide leadership and support to programs and initiatives for the benefit of access to justice.*

Why it Matters

The core value of how we choose to be governed is that we have agreed to submit to a set of rules which govern our common good; make our interactions with strangers safe and predictable; and describe how we will deal with persons, entities or interests that violate these common understandings. The ongoing day-to-day, interaction-by-interaction submission to the law means little without the trust or reliability that the law will be there to right wrongs, guide strangers' interactions with us, and protect our liberty by ensuring "liberty and justice for all."

On a daily basis, our legal service providers and pro bono volunteers experience examples of the system failing to guide and protect. Because of culture, economic conditions, language barriers, citizenship or education, many people living in Washington cannot trust the justice system to be there for them when they suffer harm from strangers, unfair treatment from government representatives, family abuse, custody infringement, threats of deportation, or unjust labor practices. This violates the foundation of our legal system.

In 1999, the WSBA Board of Governors adopted Strategic Goal No. 7: *The WSBA will continue to provide leadership and support to programs and initiatives for the benefit of access to justice.* Commitment to this goal was well underway due to the 1991 initiative to create the Access to Justice Board and support the many activities that the goal of equal justice under the law dictates. The goal is directed at keeping the phrase "liberty and justice for all" from becoming hollow, a goal that matters tremendously.

What We're Doing

1. Make the Statement

Access to the justice system is a matter of right. In the resolutions that the WSBA and the Board for Judicial Administration (BJA) have passed unanimously, we declare that equal justice for all under law 1) is fundamental to American democracy; 2) is a core function of the judicial branch; and 3) is one of the most serious issues facing the justice system. These statements set the proper, high moral value from which flow a myriad of initiatives and programs. In the history of the practice of law (see Spitzer, *Bar News*, September 2000, p. 20), this moral value once was held at such a noble level that lawyers were not even allowed to benefit commercially from assuring justice. The practice of law today accommodates fee setting and the ability of practitioners to charge fees for their services, but the moral value remains paramount.

2. Operationalize our Moral Value

Having made our moral and constitutional statement, we next describe what having equal justice looks like. We see a criminal defense system that assures anyone accused of a crime assistance in protecting their rights under the law. We know what access to justice looks like on the criminal side. Why should access and assistance be any less available for civil injustice? Morally, how can we say we will defend people in a court of law and not help an abused spouse secure protection or an unfairly evicted tenant retain their housing? Access to civil remedy should be equally fundamental in our republic.

3. Pursue the Picture with All We've Got

From comparing the vision of "justice for all" to the reality of where we are today our action steps flow. At the October 28th Board of Governors meeting, the Access to Justice Board and the legal services community presented snapshots of the work that is being done to turn today's pictures into "justice for all."

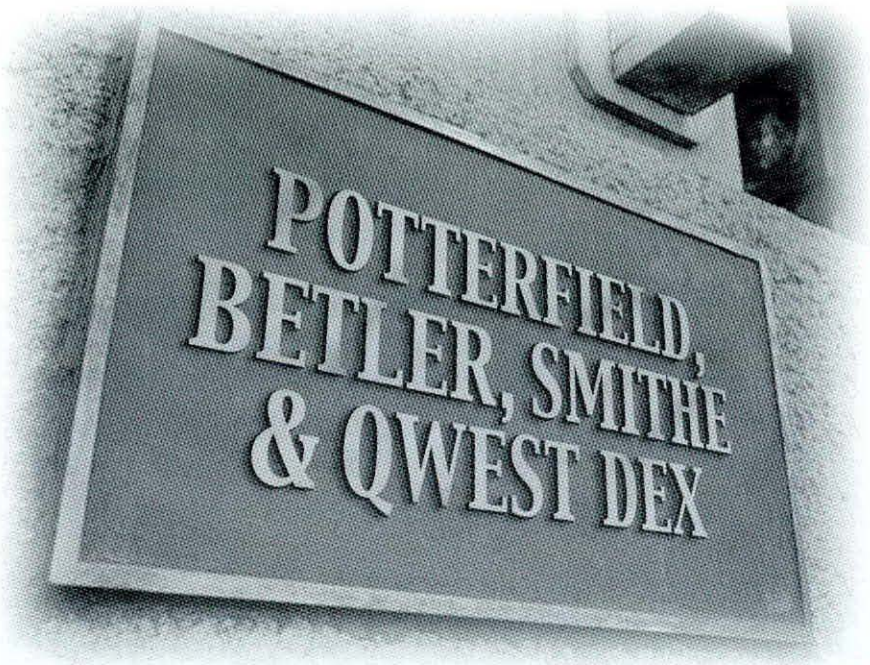
- Fervent pursuit at the federal and state levels of adequate funding for legal services for those otherwise unable to secure justice.
- Encouragement and incentives for pro bono service.
- Availability of reduced-fee legal services for middle-income persons through the Greater Access and Assistance

Program (GAAP).

- Facilitation and maximum use of assistance programs like domestic violence advocates, courthouse facilitators, electronic forms and Internet information.
- Promulgation of the definition of the practice of law and practice of law board rules to offer legitimate legal assistance to persons who would otherwise represent themselves.
- Statewide network of intake and referral services for those in need, including the corporate counsel videophone project and the Emeritus Program.
- Removal of the impediments of language, sophistication, physical barriers, economics or education.
- Public legal education to all residents about their rights and ways to protect them.

These activities are driven by a true zeal for equal access, and they are fueled by the stories of victims of injustice and by observations of what happens to persons, groups or communities who have lost trust in our justice system.

Lawyers in this country have long been the champions of justice, from the framing of the Constitution to civil rights to pro bono service. Being "of service" is a core value of the profession. Just because the need can sound like a cause, or the battle seems neverending, or we feel we're doing all we can, we can't become complacent or pass the baton to other groups or branches of government. Cherish the rule of law by supporting these many initiatives and programs and maintaining energy for protecting and assuring liberty for all.



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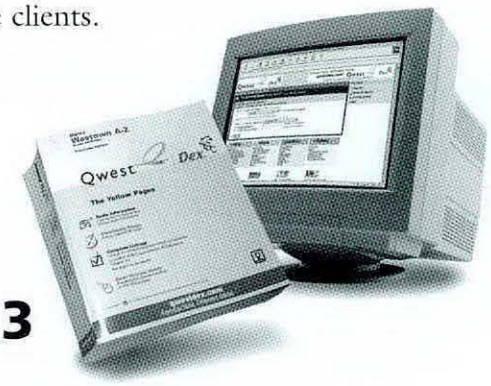

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Serving on the "D Board"

by Kimberly Goetz
Guest Editor

September 30, 2000: my first day of freedom in three years. Only yesterday I finished my term as a citizen member of the WSBA Disciplinary Board. Don't get me wrong — I had a great time, learned a lot, met a group of wonderful people, and made a contribution to my community. But I'm glad it's over.

Just for clarification — I'm not an attorney. I was one of four "citizen" members of the board. Like our attorney counterparts, citizen members serve three-year terms as full members, considering cases and casting votes. Although I've been a paralegal for almost nine years, attorney discipline was a world about which I knew next to nothing. I knew what a GAL was, the difference between a retainer and an advance fee deposit, and the importance of *Miranda v. Arizona*. What I didn't know was far more important.

My term on the D Board taught me about the law. Not the law in books, but the law in real life.

The first thing I noticed about the "D Board" (as we affectionately call it) was the amount of work being a member entails. I knew there would be a lot of reading involved; I just didn't comprehend how *much* reading. Over the past three years, I've reviewed somewhere in the neighborhood of 700 disciplinary cases. That translates to about 150 reams (15 cases) of copy paper, printed double-sided. All told, I figure I've spent almost 1,000 hours reviewing disciplinary cases during my time on the board. This assignment is obviously not for the faint of heart. Remember that everyone on the board is a volunteer — we all have real lives, too.

The next thing that surprised me about the D Board was the attitude of its members. Before my first meeting, I was a bit concerned about how the attorney members would react to me. My fears were completely unfounded. You might think the citizen members of the board are merely window dressing, that the attorney members do whatever they want. Nothing could be further from the truth. The respect shown to me and to the other citizen members by the attorneys was unparalleled. On more than one occasion, attorney members changed their perspective after hearing the comments and opinions of lay members. They listened, they considered, they debated, and they recognized the value of our input. They provided guidance and insight. They are, simply put, a group of people whom I respect beyond words.

Being on the D Board also taught me more about the nature of advocacy. It's easy to read the materials and come to a conclusion. Then you attend a board meeting and hear 13 other members express 13 different opinions — some the opposite of yours. In the free exchange of ideas that makes up a D Board meeting, nothing is set in stone. I've been convinced more than once to change my view and my vote. I wasn't bullied or intimidated, but I was persuaded.

My term on the D Board taught me about the law. Not the law in books, but the law in real life. I have a greater appreciation for the challenges faced by attorneys and for the troubles faced by clients. Most important, I've learned first hand that justice is sometimes an elusive concept. I made the best decisions I could based on the record presented. Were those decisions fair? Were they the right things to do? I certainly hope so, but I'm not so naive to think everyone would agree.

Finally, the past three years have taught me about myself. I've become even more committed to the importance of taking personal responsibility for my actions. I have a better understanding about my own prejudices and preconceptions. And I quit watching "Law and Order."

My heartfelt thanks to Julie Shankland, Angie Ordway, Brenda Jackson, Chris Pence, Charlie Wiggins, Dick Kilpatrick, Colleen Klein, John Murphy, Tanya Guenther, Bryce Dille, Les Weatherhead, Pat Shelton, Ron Myers, Jim Drewelow, Jennifer Wathen, Steve Henderson, Lori Lamb, Doug Smith, Dawn Sturwold, Steve Brandon, Steve Smith, Barry Bonnell, Dave Cullen, Rick Dullanty, Terry Brink and Tom Hayton. Thanks also go to the staff at the Office of Disciplinary Counsel and the various respondents' counsel for their zealous advocacy. Finally, thanks to the WSBA, the Board of Governors and the Supreme Court for giving me this fantastic opportunity.

Kimberly Goetz is a program specialist for the State of Washington Office of Minority and Women's Business Enterprises, and is a graduate of Pacific Lutheran University in Tacoma. She can be reached at kimbyg@excite.com.

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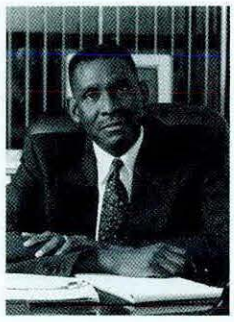

Chasing the Justice *and* Equality Dream

by David Hall
Provost & Senior Vice President for Academic Affairs
Northeastern University, Boston

Presented at the Celebration 2000 Closing Ceremony, September 16, 2000. Reprinted by permission of the author.

I am truly honored to be a part of this historic conference. This gathering of lawyers, judges and those committed to access to justice is a powerful symbol of how we should operate across artificial boundaries to achieve a common goal. You should feel proud of yourselves for having done this, and I hope other states will follow your lead. More importantly I hope that the time you have spent together will create a new path for justice in this state.

This is my second trip to this state this year. When I was asked to deliver my "Chasing the Justice Dream" speech, which I gave at the Goldmark Luncheon of the Legal Foundation of Washington, I felt a little awkward. Writing and giving speeches for me is like having children. No matter how much you love them and enjoyed delivering them, you don't want to give birth to that same one again.

Yet there are tremendous parallels between the theme of your conference, "Working Together to Champion Justice," and the theme of my Goldmark Luncheon address. "Chasing the Dream" is a message that this historic gathering of members of the legal profession in this state should hear. But I would like to expand that message, and speak to you today about "Chasing the Justice and Equality Dream."

Those of you gathered here today are the caretakers of this dream called justice for this state. As lawyers and judges you dispense it to those you serve, hail it as the ideal that other nations should embrace. Yet at the same time you realize that so many of this state and this nation are denied not only access to the avenues of the legal system, but even the ability to have a quality life. Without this access, the legitimacy and integrity of the legal system will eventually crumble. Therefore we must constantly chase this elusive dream called justice.

But standing right next to this ideal of justice is the ideal of equality. I submit to you that if we chase one at the expense of the other, then our chasing will be in vain. For justice cannot exist without equality, and equality becomes meaningless without justice. It is your relentless chasing of both of these dreams that gives full meaning to our lives, and helps us to create a society that we would be proud to pass on to our children.

These sacred concepts — justice and equality—were originally offered up at the birth of this nation as two of its most treasured ideals. Yet these precious moral and legal values were stillborn in the womb of this nation, and have remained fleeting ideas for every subsequent generation.

Justice and equality in America were drowned deep in the ocean of cruelty by this nation's endorsement of the slave trade and slavery. They were hidden under rocks in this country, as segregation was allowed to stand for a century as a fundamental part of the social and political landscape. They were placed in the dark closets of this nation when women were denied the right to vote, treated as an object of man's pleasure, but not as his professional equal. For the right price, justice and equality would be forced to take a back seat in the name of economic development and progress. Before the Americans with Disabilities Act was passed, we hid justice and equality in the attics of our minds, homes and institutions because we couldn't embrace those who were physically and emotionally different from us.

So we live in a society and world where justice and equality have not always been present on the throne. They come like hot flashes and then quickly disappear. They have been all too temporary and always more theoretical than real. We think we have achieved them when we get an innocent person acquitted because he was the victim of racial profiling, or the victim of discriminatory sentencing, yet that person often returns to a community that is so underdeveloped and undereducated that the chances of him being arrested again greatly exceed his chances of staying free. We believe we have found them when we halt the privatization of public hospitals; but when will we find and implement answers to the various environmental, economic and psychological conditions that cause such great disparities in health and death rates which exist along racial and class lines? We think we have justice and equality in our grasp when we order the testing of poor children for lead poisoning, yet we can't stop their minds from being poisoned by inadequate education, negative self images, and degrading music. So our justice and equality dreams escape our grasp as quickly as we touch them.

Some might argue that my understanding of justice and equality is too broad. Some of us sincerely believe that justice and equality can only be understood and applied in the context of individual cases that include a victim and an evil wrongdoer. But in a society such as ours, that has a history of endorsing and enabling so much systematic injustice and inequality, we cannot afford to be trapped by such a limited vision of justice. For woven within the lining of this justice dream is an assumption, an act of faith, that the playing fields are level, and the underlying social settings are fair. Yet for many of the people who come into your courtrooms and law offices, these fundamental prerequisites are missing. Therefore, we go through life placing band-aids over cancerous social wounds. We go merrily on our way invoking and embracing equality in an unequal world.

Very few persons in this country would say they are not for equality. Yet any cursory analysis of the conditions of persons of color, women and other marginalized groups would easily show that we are not there yet. And in this state where the populace has struggled with issues of equality and has created legislation that outlaws affirmative action, I feel compelled to focus for a moment on the equality portion of this dream which we chase.

It is easy to believe in the ideal of equality; it is another thing to make the sacrifices to bring that ideal into existence. We aren't willing to make too many sacrifices in this country for the ideals we say we believe in. We aren't even willing to sacrifice *other* ideals. We hold on to a notion of a colorblind society when this country has been color conscious for all of its existence, and used that consciousness to subjugate and segregate people of color.

Yes, I have heard the pain that some students have when they believe they were not admitted to law school because of affirmative action. I have had those conversations and I don't trivialize their frustration. But I also know the pain of generations of black people who were shut out not just from law schools but from life. Their pain rises from the grave, from the rivers where their bodies still lie. Their children now live stunted lives with limited opportunities because of that past. As a society we have distanced and trivialized that pain, and that is why our moral cups are dry. For Christians, the sacrifice of Jesus on the cross poured love and salvation into the moral and spiritual cups of humanity. For Jews, Moses' relinquishment of his position of honor and power in Egypt in order to serve his people filled up the moral cup with prosperity and promise for all people. Though our legal system draws heavily from these spiritual traditions, as a society we are not willing to sacrifice much for equality. Thus we live in a religiously dominated nation, but we practice non-religious ideals.

So I am here, as a voice crying out in the wilderness, asking this nation once again to look at what it has done to its own citizens. Look at how we have rationalized away centuries of oppression and denial. Look at how shallow the moral cup of our nation is. We dispensed affirmative action for a few decades, after centuries of injustice, and we holler too much. We get so upset when we feel that people are getting something for nothing, but we don't understand that this is what made this country advance so quickly. Slavery and segregation were the greatest examples of someone getting something for nothing.

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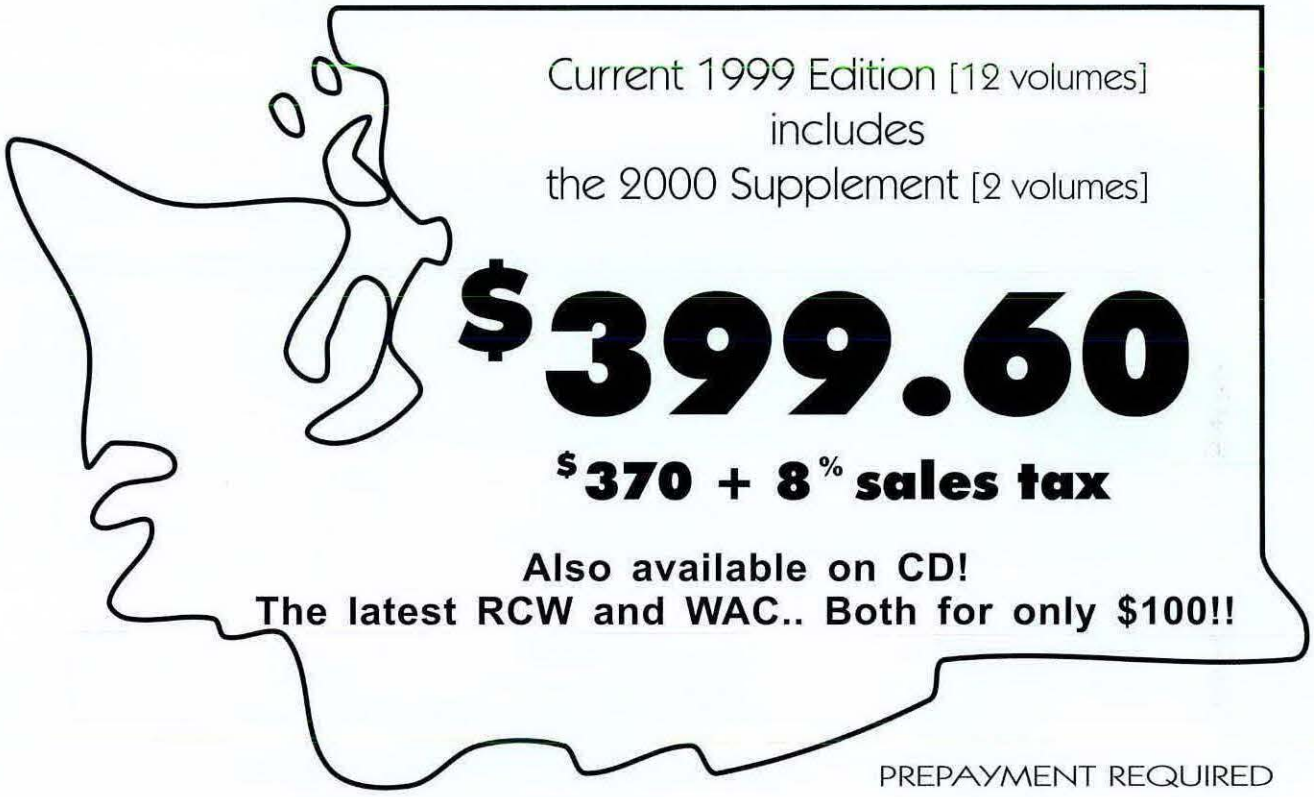

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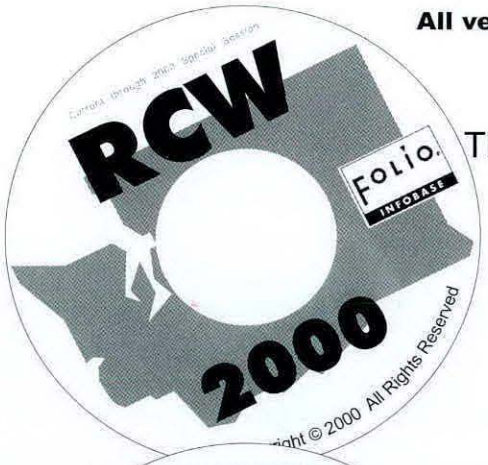

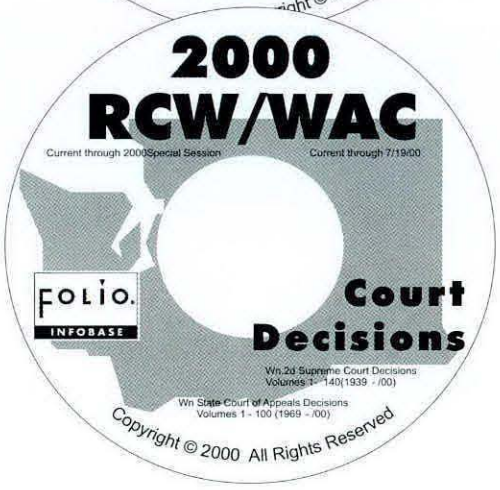

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Yet, the response is that two wrongs don't make a right. But to leave the first wrong, the original sin, uncorrected is to pour salt in an open wound and then tell the patient to be patient. We have been patient too long. This society, and this legal system, will never reach its full potential until it comes to grips with this sin.

But we say that the sin was so long ago that this generation should not be saddled with the responsibility of addressing it. But it wasn't that long ago. I grew up in those conditions in the South, and despite these grey hairs, I am not that old. More importantly, the consequences from the history of neglect, denial and hatred last a long time. When you keep a concept like equality locked away for centuries, you do not restore it by just declaring it.

I realize that this society and many of you in this room may be weary of discussion about equality, especially racial equality. When people like me continue to raise it, it feels like someone is trying to remind us of a bad dream which we want desperately to put behind us. Even I get tired of being the one to bring it up, to keep reminding myself and those around me that racial justice and equality are still distant fleeting goals, and at times we seem to be farther away from them instead of closer. But as lawyers and judges, we should never grow weary of discussions about equality. We should never feel as if we have had enough of those debates and discussion. For lawyers to grow weary of discussion of equality is like doctors wanting nothing more to do with blood.

The ideals of equality and justice are the lifeblood of our profession. To ignore them is to ignore the very foundation upon which this legal system rests. A justice system that has systematic inequality in its midst will never dispense justice. The fundamental prerequisite to an adversary justice system is that both sides are equally able to bring their petition, their version of truth to the altar, and have them fairly decided. But if there are serious biases in the process, in the minds of those who make decisions and represent clients, then we have not dispensed justice. When there are systemic inequities within the society that devalue the lives of people and place them on a path of destruction, then justice can never be obtained.

There is a popular slogan that many protesters have used in recent years that says "no justice, no peace." Though we may not agree with the circumstances under which this slogan is ushered, we can't ignore the fundamental truth associated with this slogan. We will never have real peace in this society when there are serious flaws in the justice system and in society.

But I would like to add to this slogan by saying "no equality, no justice." Equality is a fundamental value upon which we rest our system of laws. But as long as equality is a myth in this society and this state, justice will remain an illusion no matter how hard we chase it.

My plea to those of us who are sworn to uphold the laws of this state and the laws of this country is to be honest with ourselves about that which we are upholding. We are not upholding a system that has done what it has proclaimed. We uphold liberty in a society that enslaved people. We are the caretakers of justice in a society that for centuries purposely and constitutionally denied justice to so many. We are upholding equality in an unequal world.

My plea is not that we should stop upholding the system, but for us to be honest first with ourselves and then with others about the shortcomings and illusive nature of the system we took an oath to uphold. Then we must take a new oath

which commits us to chasing more vigorously the justice and equality dream.

I do not cry for this profession because there is some utopia that I want us to find. There is no paradise lost that I want us to regain. I cry because many of us don't care anymore. I cry because we have rationalized away our responsibility to even pretend that systemic inequity is something we should strive to eliminate.

Lawyers and judges are the guardians of justice and equality. You and I, the ones who have been given this sacred vessel to preserve, should be in the forefront of this quest. Our voices should be the loudest and our tears should be the wettest. But too many of us have focused too much on our own well-being. We have chosen to be believers in the equality ideal, as long as it doesn't cost us any time, money or clients.

I don't plead to this bar and judicial association for me. For I am not a resident of this state, and I have been blessed to escape some of the traps of racial injustice and inequality that this society lays out for people who are different. But I plead to you for those voices you may never hear. I plead to you for those who are locked in inner-city silos where hope is a fleeting moment that few can catch. I plead to you for the poor of this state who are poor not because of their work ethic, but because statistically there are just so many people of color, women, and disabled who will be allowed to move into the mainstream of society. There is no written quota, but there is an unwritten reality that if you place an unnecessarily high wall in front of human beings only a few will scale it, especially when there is no wall for others. This is the problem with America. We keep putting up walls instead of building bridges. We keep trying to keep people out as opposed to embracing them. We keep wanting to create a level playing field in a mountainous terrain.

We must not see justice and equality as a fixed formula that is easily applied, but as sacred principles that are always contextual and excruciatingly difficult to obtain.

As lawyers, judges and activists, we must be courageous enough in this new century to define justice in broad terms. When people, because of their birth, not because of their effort, are doomed to receive fewer chances at the brass ring of life, then justice and equality are a distant dream. When the infant mortality rate for some is so much greater than for others merely because of their color and economic conditions at birth, then justice is a complete illusion. As long as women are abused and killed because men can't control themselves, then equal pay for equal work becomes a hollow gesture.

Justice and equality must encompass the human and social conditions in which people exist. They rest on the moral and spiritual messages we send through our institutions and our individual lives. Justice and equality are not an act; they are not one concrete thing which we achieve and then forget. Justice and equality are dynamic ideals; they are legal and spiritual values which we must continuously release into the universe, and relentlessly pursue.

Therefore, our greatest hope for equality and justice is to correct the inequality and injustice that already exist. For they prevent these ideals from being born in every generation. Our greatest hope for justice and equality is to ensure that future generations aren't imprisoned in the patterns of the past. The dream of justice and equality must be an active process that does not wait for violations to occur. The dream should compel us to empower the

people we serve to take control of the destiny of their lives and community — economically, educationally and otherwise. Our greatest chance at catching this dream is to transform our institutions and ourselves. If not, then our chasing will only lead us in circles.

Regardless of circumstances and political winds, this Bar and Judicial Association must believe in and pursue the dream, because it is the believing and the chasing that gives the ideal concrete meaning. It is the stretching and striving that allows us to transform the society from what it is to a place closer to what it should be. Though I realize that we may never eliminate homelessness, racism, hatred and poverty from our midst, we must remain committed to that end. For as soon as we accept their elimination as unobtainable goals, then we reconcile ourselves to the status quo, and we needlessly write off people and lock in unfair institutional practices. But as long as the ideal of justice and equality remains part of our striving, it remains part of who we are as human beings. Chasing the justice and equality dream is spiritual medicine for lawyers and judges. It is our balm in Gilead to heal the sin-sick soul. It is our unwavering commitment to the ideal, even when all circumstances point in the opposite direction, that separates the dreamer from the cynic.

So in conclusion, we who stand on the dawn of a new century have the choice to defer again this justice and equality dream by narrowing it. We can wash our hands of the underlying inequality and poverty by individualizing our chase. But our individual victories will be stunted by the overwhelming social conditions that must still be rectified. This is a struggle that may exceed the boundaries and resources of these legal organizations assembled here, but it is a struggle that none of us can afford to ignore.

As you close this convention, don't see it as just a time when you reconnected with old friends and learned new theories and innovative practices. Remember it as a time when the members of the legal profession in this great state came together to drink from the well of justice, equality and love. Remember it as a time when you were reminded that you are not just lawyers, but moral leaders; you are not just judges of cases, but healers of people. This must be the time to revitalize the spirit of this profession. Certainly justice and equality are not the only ideals we need to revitalize and pursue, but they are the ones we too easily forget.

One day all of us must give account, not of the difficulty of our travels, but whether we continued to chase the dream. For if you stop chasing this dream of justice and equality, then this state and this nation will never be the type of places they could and should be. There are people in this state who will suffer greatly if you stop chasing the dream. They need you more desperately than you will ever understand. And you need them more than you presently realize.

So, as I said to some of you in Seattle, continue to chase this justice and equality dream, my friends. Chase it with your head and with your heart. Chase it as if your life depended upon it, because it does. For our lives will be ultimately measured by the good we do in the world and by the love and service that we give, especially to those in need. Chase this dream not only in your courtrooms and law offices, but chase it in every aspect of your life, in every waking hour. Chase it even as you sleep. If we do that, then when we wake, we will have become dreamcatchers.

Unpublished Decisions:
Routine Cases or Shadow Precedents?

by Eron Berg

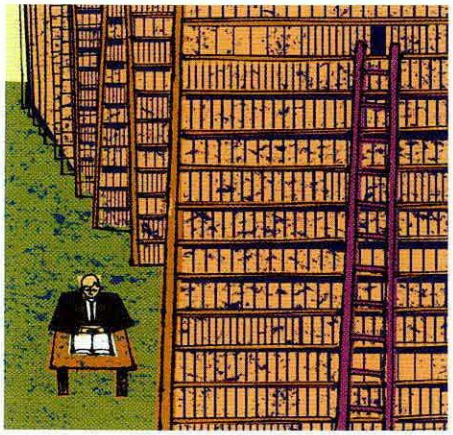
Introduction

Over the past 40 years virtually every jurisdiction in the United States, including Washington, has established a dual track for reporting its appellate decisions. Decisions that are considered to have "precedential value" are published, while those considered by the court to be more routine are not. Recently, though, the United States Court of Appeals for the 8th Circuit invalidated its own two-track rule, holding that it was a violation of Article III of the Constitution.

Attorney Eron Berg reviews the history of the two-track system, suggests that it may be leading to a system of shadow precedents, and finds that publication in the Court of Appeals may increase the chances that the Supreme Court will accept the case for review.

This is an issue that should interest every attorney.

— The Editor



Since the early 1970s, courts across the United States have implemented programs designed to limit the ever-growing stacks of casebooks filled with judicial opinions. Now, in *Anastasoff v. United States*, (223 F.3rd 898, August 22, 2000), the 8th Circuit calls into question the constitutionality of limited publication schemes in Article III courts.

In 1964 the Judicial Conference of the United States expressed concern over the ever- increasing number of published cases and its effect on maintaining accessible public and private law libraries.[1] As a result of that concern, the Judicial Conference ordered "[T]hat the judges of the courts of appeals and the district courts authorize the publication of only those opinions which are of general precedential value and that opinions authorized to be published be succinct."[2] In 1971, the Federal Judicial Center issued a report which helped spark interest and energy toward establishing limited publication plans.[3] In 1972, the Judicial Conference directed the circuit courts to begin developing limited publication plans.[4] By 1976, all federal appellate courts had adopted limited publication plans.[5]

The rationale for these plans includes judicial efficiency, cost and fairness.[6] Arguably, these plans increase judicial efficiency because judges reduce time spent writing opinions that add nothing new to the law.[7] They are able to leave out substantial detail, such as the history and facts of the case. Costs include the expense of publishing every decision, spending the time to cull through all those decisions (discussed in detail later), and spending the money to pay judges to write the decisions. The increased cost to consumers for legal services raises fairness issues. With additional opinions, larger companies and law firms will be advantaged because they can afford to maintain larger law libraries.

The real impetus for these plans, though, seems to be the sheer volume of new case law. As long ago as 1824 one observer noted "[T]he multiplication of reports emanating from the numerous collateral sources of jurisdiction, [sic] is becoming an evil alarming and impossible to be born [sic]." Judge Boyce Martin, Jr. notes that "[U]npublished opinions act as a pressure valve in the system, a way to pan for judicial gold while throwing the less influential opinions back into the stream."[8]

Limited publication plans are all premised on the assumption that opinions that make no new law should not be published and that publishing opinions is more expensive than not publishing opinions.[9] Plans vary as courts decide how their unpublished decisions will be used. Since unpublished decisions are not secret or hidden, people do access and use them (e.g., through Lexis or Westlaw).[10] What differentiates unpublished decisions from published decisions are the citation rules for the unpublished decisions. Most plans, including Washington's, discourage or ban the citation of unpublished decisions.[11] If unpublished decisions are allowed to be cited, they are usually allowed only as persuasive authority. Judge Martin concluded: "If we do not discourage citation to unpublished opinions, then we are creating a type of second-class precedent."[12] However, circuits and states have a multitude of differences. For example, the 10th U.S. Circuit Court of Appeals suspended its ban on the citation of unpublished decisions in 1994.[13] Most circuits allow

the electronic dissemination of unpublished decisions through websites or legal research companies such as Lexis or Westlaw, but the 2nd, 3rd, 5th and 11th circuits do not even allow for the dissemination of such decisions.[14] In those circuits, they are given to the parties and made available only pursuant to public records laws. In Washington unpublished decisions cannot be cited, but are routinely published on both Lexis and Westlaw.[15]

Judge Martin identified one of the more substantial problems of fairness for limited publication plans: "The litigant who garners ideas and arguments from unpublished opinions but does not cite to them, however, need never reveal the paper trail. This is a weakness in the use of unpublished opinions that no-citation rules will not eradicate."[16] This clearly illustrates one side of a difficult balancing act: if courts allow unpublished decisions to be cited, then the purpose is defeated. If they are not allowed to be cited, then one party gains an advantage by using a judge's prior decision against an opponent without having to share or cite the opinion. Further, in those cases where unpublished decisions do make new law or shed new light on a particular topic, litigants and judges have an incentive to use them, even if the use is surreptitious (i.e., follow the logic of the opinion in briefs to the court without citing the opinion to the court).[17]

Professor Lauren Robel identified other potential issues of fairness when repeat litigants are involved or when opinions written about specific subject areas are mostly unpublished. Specific areas where unpublished decisions dominate include "review of agency determinations in immigration and social security cases, Federal Tort Claims Act cases, criminal and habeas appeals, civil rights actions, and employment discrimination complaints against the federal government."[18] Since the government acts as a party in many of these areas, Professor Robel surveyed agencies and determined that all of the government offices surveyed do use unpublished decisions in making litigation and settlement decisions as well as writing briefs. Some offices maintain indexes to unpublished decisions. All of the offices indicate that they had moved to publish an unpublished decision. The active and regular use of unpublished decisions within a particular subject area, particularly when one of the parties remains constant, allows one party substantial knowledge and to some extent control over a particular body of law.

Another example of this problem is the use of an unpublished decision in the aftermath of Hurricane Hugo. In *Prudential-LMI Commercial Insurance Co. v. Colleton Enterprises Inc.*,[19] an unpublished decision, the court held that a hotel damaged by Hugo could not recover from its insurer the increase in projected lost earnings from being unable to accommodate the influx of people as a result of the hurricane.[20] The insurance industry published the decision in a trade journal and used the decision as a basis to deny similar claims after Hurricane Andrew, despite the fact that the decision was unpublished and of no precedential value.[21] In this example, the insurance companies were able to use an unpublished decision to great effect, and arguably in a manner that denied fairness to plaintiffs.

A final complaint about perceived fairness is that litigants feel their case was not heard or decided with as much care because the decision is not reported. Because unpublished decisions are often shorter, and less time is spent explaining the details and applying the law to facts of the case, litigants may feel that the judge or court did not seriously consider their cases and legal positions. The implication is that the court did not really listen or take the time to fully understand their situation, because the unpublished decision seems too short and incomplete.[22] This is a proposition for which I have seen no empirical studies reported.

Another substantial complaint is that unpublished decisions reduce precedent.[23] While a rationale for limited publication plans includes not publishing those cases where no new law is created, the problem is defining "no new law created." Each case, no matter how repetitive, provides litigants with new information. If it is identical to a prior case, then it allows a litigant to know that the court still holds the same way about a given topic. However, more common are cases that present facts slightly different from established precedent. Those cases add additional facts that can be used to find similarities with or distinguish a litigant's case.

Limited publication plans aim to avoid

missing such cases by allowing publication through various means.[24] Some plans allow parties to move for publication. Some plans allow a single judge the power to publish, even though a majority would prefer it unpublished.[25] The bigger problem with loss of precedent is those cases where new law is made and they are still released as unpublished decisions.

There is substantial anecdotal material suggesting that new law is in fact released in unpublished decisions. In the 5th Circuit "every opinion believed to have precedential value" is supposed to be published.[26] However, unpublished decisions made prior to 1996 are still binding precedent, while decisions made after January 1, 1996 are only persuasive, and have no precendential value.[27] In *Hodges v. Delta Airlines, Inc.*,[28] the court indicated that it was bound by an earlier unpublished decision to hold that the federal Airline Deregulation Act of 1978 preempted a tort suit for personal injuries caused by unsafe in-flight conditions. The court even stated its belief that the act should not have a preemptive effect.[29] Clearly, in this case the court should have published the case it cited because in citing that case it made new law, and cases that have precedential value are required to be published. Here, the unpublished decision was elevated to new law by a subsequent decision.

The court also relied on an unpublished decision in *Peters v. United States*.[30] However, in *Peters* the court had intended not to publish the decision, but agreed to a publication request by the Assistant U.S. Attorney on that case. This led one commentator to note that if the court had not published the decision, it could have resulted in an "underground stream of precedent — unpublished opinions relying on other unpublished opinions."[31]

In this state, a recent unpublished opinion from Division Three of the Washington State Court of Appeals, *Morisoli v. Sykora*,[32] held that contractors who work directly for property owners are exempt from the Contractor Registration Act (CRA). The purpose of the CRA is to afford protection to the public from unreliable, fraudulent, financially irresponsible, or incompetent contractors.[33] The decision clearly ignored the legislative intent and purpose in enacting the CRA by exempting registered contractors who work directly for owners. The *Morisoli* court's holding was contrary to both the purpose of the CRA and prior holdings.[34] This case illustrates what can happen when courts fail to publish decisions that announce new law.[35] As a result of this decision, Division Three litigants are not afforded the predictability of knowing the law. The *Morisoli* decision operates as a "shadow" precedent, eroding rights granted under the CRA. Potential litigants must decide between going to trial with the CRA, or settling with *Morisoli*.

Another substantial issue centers around the heart of the American system of jurisprudence and the very development of common law. As every practitioner knows, each new judicial pronouncement provides some information relevant to a particular body of law. Whether the pronouncement is a new holding that changes the direction of a particular body of law, or the holding is just one more in a long line of cases, the practitioner is able to learn something. Either the law is taking a new direction, or the old line of cases is still alive and strong. There is value in knowing that a particular holding is still strong and not waning, or on its way to being modified or even overruled.[36] Fur-

thermore, bodies of law develop with subtle changes over time. Some holdings are not recognized as significant until after they are reported and later interpreted by a different court. In that circumstance, as well as in the case where a practitioner follows a body of law, unpublished decisions which are not precedent cannot fulfil those important roles.

Some argue that too much case law will damage the whole system of precedent by requiring too much effort to search and fostering too much diversity of opinion. In fact, they are really arguing for slower and simpler changes in the reported precedent. While this certainly allows for greater stability and predictability, other commentators suggest that there is in fact an *inadequate* supply of precedent. "Despite the vast number of published decisions, most federal circuit judges will confess that a surprising fraction of federal appeals are difficult to decide, not because there are too many precedents but because there are too few on point."[37]

Review of Unpublished Decisions

As a criticism of unpublished decisions, Judge Martin noted that there is a "difficulty of higher court review, [and] that the Supreme Court is far less likely to review an unpublished opinion than it is to review a published opinion."[38] This criticism seemed reasonable, but discourse on the topic particularly relevant to Washington courts was surprisingly absent. In an effort to provide some empirical data to the discussion, I reviewed all Washington State Supreme Court decisions issued between January 1, 1999 and June 30, 1999.[39] The total number of decisions made was 473, including decisions on petitions for review from a variety of sources and opinions.

Of the 415 decisions on petitions for review, 64 did not have opinions from the Court of Appeals (such as petitions for direct review[40]), while 351 were petitions for the review of decisions from the Court of Appeals. Of those 64 petitions without Court of Appeals decisions, none was granted review. None of these petitions is relevant to this study.

Of the 351 petitions with Court of Appeals decisions, 133 were published by the Court of Appeals (review granted for 42, denied for 91), while 218 were unpublished (review granted for 12, denied

for 206). Of the 351 petitions, 15.4 percent were granted review (12 percent from published decisions and 3.4 percent from unpublished decisions). Within the 133 petitions for review of published decisions, 42 petitions were granted (31.6 percent), while 91 petitions were denied (68.4 percent). Within the 218 petitions for review of unpublished decisions, 12 petitions were granted (5.5 percent), while 206 petitions were denied (94.5 percent), indicating that petitions from published decisions were granted review in greater number and proportion than petitions from unpublished decisions.

Of the 58 opinions written and announced during the time of study, 18 were not preceded with decisions from the Court of Appeals, while 40 were so preceded. The 18 opinions that were not preceded with decisions from the Court of Appeals (such as those where direct review was granted, certified questions from federal court, appeals of commissioners' rulings, etc.) are not relevant to this inquiry. Of the 40 opinions that were preceded, 34 (85 percent) were preceded by published decisions and six (15 percent) were preceded by unpublished decisions. This indicates that the rate of review noted in the petitions for discretionary review is somewhat stable over time, as these opinions are the product of petitions from many months earlier and they share a similar rate of review.

The conclusions indicated by this relatively small study of Washington Supreme Court decisions is that the Court grants review more often for published decisions than it does for unpublished decisions. It is not suggested that the only reason for the disparity is the difference in publication. However, publication may factor into the decision-making process. Other possible reasons for the disparity include:

- Judges spend less time writing unpublished opinions, thereby making "sloppy" decisions;
- Unpublished decisions are written for cases where the issues of law are well-settled, thereby negating the Court's need to clarify or settle issues or address issues of first impression.

At first look, it does not make sense that "sloppy" decisions would result in a lower rate of review. However, those "sloppy" decisions may reach the correct result without providing a complete and detailed analysis. The lack of detailed analysis could lead litigants to seek review, while the same decision with a proper analysis would satisfy litigants' need to understand. Regardless of the reason for the disparity, the odds of review being granted by the Court are substantially enhanced if the lower court decision is published.

Washington State Law

In Washington, the Legislature enacted laws pertaining to publication of opinions of the Court of Appeals in 1969.[41] At that time, "all opinions of the court shall be published" was the law. In 1971, the Legislature modified the law to allow unpublished opinions.[42] No changes have been made regarding the publication of decisions since that time, and RCW 2.06.040 clearly identifies the standards by which the court is required to decide whether a particular decision is published or not.[43] Shortly after the adoption of this new rule, the first and only published opinion interpreting RCW 2.06.040 was written.[44]

In *State v. Fitzpatrick*, the state cited an unpublished decision of the Court of Appeals in its brief. While the *Fitzpatrick*

court noted that use of that case would not affect the decision, it still explained the basis for the legislative enactment. The court provided standards for publication of opinions and held that unpublished opinions of the Court of Appeals "will not be considered in the Court of Appeals and should not be considered in the trial courts."[45] In reaching its decision the court commented on the legislative reasoning behind RCW 2.06.040: "To continue the publication of cases which merely restate well established principles of the law fills up our book shelves, complicates legal research and will inevitably adversely affect the computerization of the case law of our state."[46] The court further stated: "If the trial courts were to consider them it would not only be wasteful of their time but would permit any group of lawyers to collect such opinions and create an unfair advantage by citing cases not available to their opponents."[47] It is important to consider in detail what the court said, because this is the only case that provides any guidance on the application of RCW 2.06.040.

The *Fitzpatrick* court found that "opinions of the Court of Appeals should be published: (1) where the decision determines an unsettled or new question of law or constitutional principle; (2) where the decision modifies, clarifies or reverses an established principle of law; (3) where the decision is of general public interest or importance; (4) where the case is in conflict with a prior opinion of the Court of Appeals; or (5) where the decision is not unanimous."[48] "Opinions of the Court of Appeals should not be published: (1) where an affirmance is based upon the conclusion that the evidence is sufficient to sustain the findings of fact of the trial court, except where the issue of sufficiency involves a novel or important question of law; (2) where the decision, whether an affirmance or reversal, is determined by following a legal principle or principles well-established by previous legal decisions; (3) where the decision, whether an affirmance or reversal, is based upon a question of practice or procedure, except where the question is one of such importance in the administration of law that it should be settled by an authoritative pronouncement."[49] Some of these standards were included in the Rules of Appellate Procedure.[50]

Even with clear standards, a party might believe that an unpublished decision should have precedential value and be published. Given the possibility that the Supreme Court would be less likely to grant review of an unpublished opinion than of a published opinion, and considering the data provided in an earlier section, parties may wish to consider moving for publication of unpublished decisions prior to petitioning for review. For parties who want a decision published, the Court has provided a process.[51] The request is made by motion and can be made by anyone, not just parties to the action. The motion should be made within 20 twenty days after the opinion is filed.[52] Once the request is filed, a judge will decide the motion, rather than a clerk or commissioner.[53]

In addition, filing a motion to publish has actual consequences on additional proceedings. RAP 13.4 outlines the process by which parties petition for review by the Supreme Court. However, in certain circumstances, petitions for discretionary review will not be forwarded to the Court. Those circumstances include the time before the Court of Appeals has made a determination on either a motion for reconsideration or a motion to pub-

lish.[54] Therefore, a party in a hurry to file a petition for discretionary review may be slowed by filing a motion to publish. Balancing the parties' sensitivity to time with the potential benefits of a published decision are clearly issues of legal strategy.

Conclusion

There seems to be a relationship between publication by the Court of Appeals and review by the Washington State Supreme Court. While there are many potential causes for this relationship, it is plausible that the very fact of publication plays some role in whether the Court grants review. Therefore, it is very important that any unpublished decision of the Court of Appeals which should have been published is published prior to petitioning for discretionary review.

Limited publication plans for unpublished decisions and no-citation rules are in question as a result of the 8th Circuit Panel's holding in *Anastasoff v. United States*. In *Anastasoff*, the Court specifically held that the portion of their Rule 28A(i) that declares unpublished decisions are not precedent is "...unconstitutional under Article III, because it purports to confer on the federal courts a power that goes beyond the 'judicial.'"[55] Specifically, the Court accepted the proposition that courts are necessarily limited by prior decisions, and to exclude such decisions from the process would allow the Court a power that goes beyond the constitutionally and historically recognized power of the judiciary. Washington's limited publication plan is very similar to the 8th Circuit's Rule 28A(i), and given that the role of precedent in Washington's courts is equally as important as in an Article III Court, it seems that Washington's limited publication plan may also be in jeopardy.

Eron Berg is a solo practitioner in Mount Vernon and the Mayor of LaConner.

NOTES

1 Kirt Shuldberg, *Digital Influence: Technology and Unpublished Opinions in the Federal Courts of Appeals*, 85 Calif. L. Rev. 541, 546-547 (1997).
2 Judicial Conference of the United States, Report of the Proceedings of the Judicial Conference of the United States 11 (1964).
3 George Weaver, *The Precedential Value of Unpublished Judicial Opinions*, 39 Mercer L. Rev. 477, (1988).
4 Judicial Conference of the United States, Report of the Proceedings of the Judicial Conference of the United States 33 (1972). *See supra* note 1.
5 Lauren K. Robel, *The Myth of the Disposable Opinion: Unpublished Opinions and Government Litigants in the United States Courts of Appeals*, 87 Mich. L. Rev. 940 (1989).
6 *See supra* note 1, 547-549.
7 The Honorable Boyce Martin, Jr., In Defense of Unpublished Opinions, 60 Ohio St. L.J. 177, 190 (1999), "I would estimate that my clerks and I spend about half as much time working on the average unpublished decision... . I will spend less than half as much time researching a typical unpublished opinion as I spend on a published opinion." *See* Weaver, *supra* at 479. See R. Posner, *The Federal Courts*, 124-26 (1985): Opinions identified for nonpublication are often drafted by central staff rather than by judges or even judges' own clerks.
8 The Honorable Boyce Martin, Jr., *In Defense of Unpublished Opinions*, 60 Ohio St. L.J. 177, (1999).
9 *See supra* note 5.
10 *See* Martin, *supra* at 193.
11 *See* RAP 10.4(h).
12 *Id.* at 193-194.
13 Richard Reuben, *New Cites for Sore Eyes*, 80-JUN A.B.A. J. 22, (1994).
14 *Id.*
15 Something which is common knowledge to any computer-savvy researcher who must wade through unpublished decisions to find precedent. *See* Shuldberg, *supra* at 566.

16 *See supra*, note 8, at 197.
17 *See* Shuldberg, *supra* at 563, "Barring citation does not prevent the use of unpublished opinions; it merely alters the character of that use."
18 *See supra*, note 5, at 953.
19 No. 91-1757, 1992 U.S. App. Lexis 25719 (4th Cir. Oct. 5, 1992) (cited in Shuldberg, *supra* at 563-564; *See* Reuben *supra* at 22.
20 *See supra*, notes 1 and 10.
21 *Supra.*
22 *See supra*, note 7.
23 *See* Martin, *supra.*
24 Some allow publication by a majority vote of the judges, others allow a single judge to require publication, and some allow others to move for publication.
25 *See* Robel, *supra* at 954.
26 5th Cir. R. 47.5.3 (cited in Shuldberg, *supra* note 1).
27 5th Cir. R. 47.5.3; 5th Cir. R. 47.5.4 (cited in Shuldberg, *supra* note 1).
28 4 F.3d 350, 355 (5th Cir. 1993), *rev'd and remanded*, 44 F.3d 334 (5th Cir. 1995) (en banc) (cited in Shuldberg, *supra* note 1).
29 *Id.*
30 9 F.3d 344, 346 (5th Cir. 1993) (cited in Shuldberg, *supra* note 1).
31 *See supra* note 1 (quoting James W. Paulsen & Gregory S. Coleman, Civil Procedure, 26 Tex. L. Rev. 397, 441 (1995)).
32 Morisoli v. Sykora, 1998 WL 765105 (Wn. App. Div. 3).
33 Frank v. Fischer, 46 Wn. App. 133, 730 P.2d 70 (1986), aff'd, 108 Wash.2d 468, 739 P.2d 1145 (1987), *quoting* RCW 18.27.140; *See* Laws of 1973, 1st Ex.Sess., ch. 161, sec. 2.
34 Hinton v. Johnson, 87 Wn. App. 670, 674, 942 P.2d 1061 (1997), *rev denied* 134 Wn.2d 1022 (1998), "*Hinton* argues that this exemption applies only to an owner who contracts with 'a [single] registered contractor,' and thus it does not apply to Johnson because he hired several registered contractors. We disagree with *Hinton's* construction of the statutory language." *See also*, Eron Berg, *Are Contractors Who Work for Owners Exempt from Registration and Notification Under the CRA?*, unpublished manuscript (1999).
35 *See* Shuldberg, *supra* at 555, "...many scholars have examined sample groups of unpublished opinions and have noted numerous instances of unpublished opinions that in fact did make law."
36 *See supra*, note 1.
37 Richard A. Posner, *The Federal Courts: Crisis and Reform viii*, 120-27 at 123 (1987) (cited in Shuldberg, *supra* note 1).
38 *Supra.*
39 Westlaw was utilized for this study.
40 *See*, Geoffrey Crooks, *Discretionary Review of Trial Court Decision Under the Washington Rules of Appellate Procedure*, 61 Wash. L. Rev. 1541 (1986).
41 1969 ex.s. c 221 sec. 4.
42 Laws 1971, ch. 41 sec. 1, removing "All opinions of the court shall be published" and adding "All decisions of the court having precedential value shall be published as opinions of the court. Each panel shall determine whether a decision of the court has sufficient precedential value to be published as an opinion of the court. Decisions determined not to have precedential value shall not be published."
43 RCW 2.06.040, "The court shall sit in panels of three judges and decisions shall be rendered by not less than a majority of the panel. In the determination of causes all decisions of the court shall be given in writing and the grounds of the decisions shall be stated. All decisions of the court having precedential value shall be published as opinions of the court. Each panel shall determine whether a decision of the court has sufficient precedential value to be published as an opinion of the court. Decisions determined not to have precedential value shall not be published...."
44 State v. Fitzpatrick, 5 Wn. App. 661, 491 P.2d 262, (Div. II 1971), *rev. denied*, (1972).
45 *Id.* at 668.
46 *Id.* at 668.
47 *Id.* at 668.
48 *Id.* at 669.
49 *Id.* at 669.
50 Wash. R. App. P. 12.3(d), "Publication of Opinions—Court of Appeals. A majority of the panel issuing an opinion will determine if it will be printed in the Washington Appellate Reports pursuant to RCW 2.06.040 or be filed for public record only. In determining whether the opinion will be published in the Washington Appellate Reports, the panel will use at least the following criteria: (1) whether the decision determines an unsettled or new question of law or constitutional principle; (2) whether the decision modifies, clarifies or reverses an established principle of law; (3) whether a decision if of general public interest or importance or (4) whether a case is in conflict with a prior opinion of the Court of Appeals."
51 Wash. R. App. P. 12.3(e).
52 *Id.*
53 Wash. R. App. P. 17.2(a)(6).
54 Wash. R. App. P. 13.4(a).
55 *Id.* at 3.

The Board's Work

by Allison L. Parker

It was "home town" week for Tri-Cities native Jan Eric Peterson as he conducted his first meeting as WSBA president in Richland on October 27-28.

BOG Initiates "Listening Lunch"

Local lawyers and judges were invited to a "listening lunch" with the governors. Nearly 80 lawyers representing primarily solo or under-five firms attended the lunch. They discussed such things as civil case stagnation in the courts, multi-disciplinary practice issues, pro bono work, and the feasibility of member benefits such as medical insurance.

Board Approves Partnership with Horvitz Newspapers

Horvitz Newspapers, Inc., publishers of the Eastside, South County, Mercer Island and Northshore Journals, offered the WSBA the opportunity to partner with them in producing a supplement about the law. The board unanimously approved the partnership, as it fits in well with WSBA Strategic Goal No. 2: *Public Legal Education.*

The target date for publication is March. The supplement will be included in all Horvitz publications, with a total circulation of approximately 80,000. Horvitz will solicit advertising, absorb any financial risks, and donate 10 percent of advertising revenue to pro bono programs.

Celebration 2000 Evaluation

The board engaged in a lively evaluation of Celebration 2000. There was general agreement on the following points:

- Attendance indicated that there is not an overwhelming desire for an annual convention.
- Meeting with the judges was positive.
- The event tried to accomplish too much and was too long. The WSBA should investigate other possible formats for an event in three to five years, such as a "jumbo CLE." The planning process should include local/specialty bar associations and sections.

Governor **Victoria Vreeland** made a motion to form an ad hoc committee appointed by the president to explore alternatives for a joint periodic event with the judges. The motion passed, and Governors Ken Davidson and Lindsay Thompson, and Executive Director Jan Michels agreed to serve on the committee.

Summit on Improving Judicial Selection

Executive Director **Jan Michels** briefed the board on the Summit on Improving Judicial Selection sponsored by the National Center for State Courts, the Open Society Institute, and the Joyce Foundation. Chief Justice Richard P. Guy has assembled a team of Washington representatives to attend the meeting.

A motion made by Governor **Jenny Durkan** was passed to create a group charged with developing a timeline and action plan for judicial election reforms. Since changes to the process will ultimately be the responsibility of the governor and the Legislature, the committee should work with the intention of providing recommendations to them.

The board consensus was that incremental judicial selection reforms should be a recurring item on the BOG agenda.

2000-2001 Treasurer Elected

Governor **Daryl Graves** was elected treasurer of the WSBA. In his report, Governor Graves explained that as a result of having changed the investment policy to allow the use of investment instruments other than T-bills, the WSBA received a $22,500 increase in investment interest. There was also a $2,500 increase in interest earnings due to implementing an overnight sweep account for WSBA banking services.

Formal Ethics Opinion #196

The Rules of Professional Conduct Committee recommended that the board adopt formal ethics opinion #196, prohibiting the use of the name of a suspended or disbarred lawyer in advertising or letterhead. There was some concern and discussion about the impact on partners, especially when suspensions were short-term.

Governor **Stephen Osborne** asked, "Is this necessarily appropriate for interim suspensions?" Governor **James Deno** remarked, "It seems inappropriate to make other partners suffer financially or otherwise because one partner is suspended, but then returns [to practice] after the suspension." However, Governor **Victoria Vreeland** chalked it up to the cost of business. Governor **Daryl Graves** pointed out that "there are benefits and burdens of partnership and this may be one." Formal Ethics Opinion #196 was adopted.

Access to Justice Report

Barbara Clark, Executive Director of the Legal Foundation of Washington, explained the status of IOLTA interest rates and encouraged board members to ask their banks to raise IOLTA interest rates.

ATJ Board Member **Susan Daniel** and Young Lawyers Division President **Tom Quinlan** reported on the Greater Access and Assistance Program (GAAP) pilot program in Thurston and Spokane counties, which addresses the needs of moderate-income people who would not otherwise qualify for legal services. Eligible participants will be referred from the Coordinated Legal Education, Advice and Referral (CLEAR) service to lawyers willing to take their case at a reduced fee. Still in its infancy, the pilot program is actively recruiting volunteers in both counties.

Project 2001 Report

State Court Administrator **Mary McQueen** reported on the 47 court improvement recommendations made in the Project 2001 report. The Board of Judicial Administration (BJA) adopted certain recommendations in November and will present them to the Legislature on December 1. Some of the recommendations will ultimately be court rules, while others will require legislation.

The board considered recommendations regarding the "portability" of judges to be the most significant and immediate. The BJA proposal allows more flexibility in the assignment of judicial resources without stipulation. The WSBA Court Improvement Committee (CIC) was charged with developing a WSBA position on this proposal. The CIC will seek input from other committees and sections, and will make a recommendation to the board after its November 17 meeting. (Note: For information about Project 2001, see the Court's website at http://www.courts.wa.gov/projects/proj2001.)

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RPC Informal Opinion Roundup

by Christopher Sutton • *Professional Responsibility Counsel*

The Rules of Professional Conduct (RPC) Committee, which meets bimonthly, receives, researches and prepares responses to written ethical inquiries submitted by Bar members. When issuing responses to inquiries, the RPC Committee mainly relies on the Rules of Professional Conduct, adopted by the Supreme Court in 1985.

Upon receipt, each written inquiry is assigned to two committee members for research. If the response to an inquiry could have wide impact, additional information from knowledgeable experts may also be sought. Those assigned to the inquiry present a written response memo to the entire RPC Committee for discussion. Specific language is proposed and voted on by the full committee, and a response letter is directed to the inquirer.

Once the response letter is redacted to remove identifying information, it is designated an informal opinion. If the inquirer acts in accordance with the response letter, a rebuttal presumption arises that the action is ethical. Informal opinions are based on the specific facts of the inquiry and reflect only the opinion of the RPC Committee and not the official opinion of the WSBA. While informal opinions are generally concerned with situations specific to the inquiry, because of current technological and economic developments, many of the recently issued informal opinions may be of interest to many. Some opinions are summarized below:

Informal Opinion 1848 concerns whether a nonprofit legal services organization which operates under and shares a computer network with a community services organization (CSO) may permit network administrators and related technical personnel from the community service organization (CSO) access for maintenance without the consent of legal services clients. The committee stated that sharing network personnel is permissible, provided that CSO personnel are instructed and agree in writing that permission is granted only for the purpose of maintenance of the network, does not extend to any confidential information on the system, and if confidential information is encountered incident to their technical work, it will not be disclosed.

Informal opinions are based on the specific facts of the inquiry and reflect only the opinion of the RPC Committee and not the official opinion of the WSBA.

Informal Opinion 1853 concerns whether a lawyer may enter into an agreement with an investment company whereby the lawyer would refer his clients to the investment company in exchange for a fee. The committee stated that such an agreement may violate one or more of the Rules of Professional Conduct, including: RPC 1.6 (maintaining confidences), because the lawyer may need to use confidential client information to assess the client's need for financial services; 1.7(b) (conflicts of interest), because the agreement includes either a non-waivable conflict of interest, or because it prohibits the lawyer from making the disclosures that the rules mandate; 1.8(a) (business with client), because the agreement contemplates the lawyer's obtaining a pecuniary interest in the client's property and sufficient disclosure is prohibited; 1.8(f) (compensation from one other than the client), because the agreement suggests that the lawyer's independent judgment and advice may be compromised; 1.8(h) (prospective limitation on liability), because some of the terms of the agreement suggest that the lawyer may be limiting his liability to the client; and 2.1 (candid advice), because the lawyer's relationship with the client may include duties that require the lawyer to render candid advice to the client that is prohibited by the agreement with the investment company.

Informal Opinion 1857 concerns whether work performed while clerking or interning during law school is governed by the conflict of interest rules. The committee stated that RPC 5.3 (responsibilities regarding nonlawyers) makes the lawyers in a firm responsible for the ethical behavior of its nonlawyer staff and makes the ethical rules apply to nonlawyers. In addition, once the clerk or intern is admitted to the Bar, he is bound by the RPCs, which includes potential conflicts of interest for work done as a clerk or intern.

Informal Opinion 1867 concerns whether a law firm may represent a lawyer when the lawyer is personally or vicariously representing a third party with direct adverse interests to a defense client of the firm, and when the firm's representation is unrelated to the matter between the defense client and the third party. The committee stated that the representation is possible, but under the facts presented, there may be material limitations that require compliance with RPC 1.7(b) (conflict of interest).

Informal Opinion 1868 concerns whether a lawyer on inactive status may maintain an "of counsel" relationship with a law firm. The committee answered no. Identifying a lawyer as of counsel to a firm implies a continuing professional relationship between the lawyer and the firm, necessarily involving some practice of law by the lawyer. An inactive lawyer cannot engage in the practice of law. Therefore, identifying an inactive member as of counsel would be false and misleading, in

violation of RPC 7.1 and possibly 8.4.

Informal Opinion 1869 concerns whether a lawyer may directly contact an opposing party, whom he knows is represented, when the lawyer believes the opposing party's lawyer is not adequately representing the opposing party. The committee stated that RPC 4.2 prohibits a lawyer from communicating with a person who is represented by counsel, absent consent or authorization by law. The committee is of the opinion that RPC 4.2 clearly prohibits contact with the opposing party under these facts.

Informal Opinion 1873 concerns a lawyer's obligations to a client where the client, who had retained the lawyer to represent the client in a personal injury case, has disappeared. The committee stated that the lawyer may not settle the client's claim without authority from the client. The lawyer must use due diligence to try to locate the client and, if unsuccessful, may withdraw in accordance with RPCs 1.15(b)(5) and (6).

Informal Opinion 1874 concerns a lawyer wishing to provide financial and legal services. The committee stated that it may be difficult, if not impossible, for a lawyer to sell clients mutual funds, insurance and other financial investments while continuing to act as a lawyer. RPC 1.7(b) (conflicts of interest), 1.8(a) (entering business transaction with a client), 1.8(f) (accepting compensation from one other than your client), 1.10 (imputation of conflict to firm), 5.4(c) (independence of judgment), and 7.3(a) (solicitation) should be consulted. There is a serious risk that the responsibilities of the investment sales business may be materially limited by the lawyer's professional responsibilities.

Informal Opinion 1877 states that a lawyer may place brochures in a chiropractor's office so long as the lawyer gives nothing of value to the chiropractor. The brochures should comply with Title 7 of the RPCs, i.e., contain the lawyer's name and not contain misleading or false information.

Informal Opinion 1879 deals with the question of whether a lawyer may form a partnership to market and sell legal forms to Washington residents. The committee stated that a Washington lawyer does not violate RPC 5.4(b) by participating in a partnership with nonlawyers who sell legal forms, provided that the partnership does not give legal advice or engage in other conduct that constitutes the unauthorized practice of law.

Informal Opinion 1882 concerns, in part, the situation in which an organization sponsors a lawyer who is to provide free legal advice to the organization's members about estate matters. The committee stated that a lawyer may provide free legal services to a client, and the client may make voluntary donations to the organization. The lawyer must take care to maintain independent judgment (RPC 5.4(c)) and to maintain client confidences and secrets (RPC 1.6).

Informal Opinion 1884 deals with a lawyer mailing letters advertising legal services to persons whose names appear on a municipal court docket. The committee stated that RPC 7.3(b) permits a lawyer to communicate with prospective clients *in writing* unless the client has indicated that the client does not wish to receive such communications from the lawyer. The letter must comply with RPCs 7.1 and 7.2. The committee cautioned that it took no position on the legality of the use of the court list.

Informal Opinion 1887 concerns the following facts:

A law firm represents Insurance Company X in various coverage disputes and regulatory matters. A lawyer in the firm who does neither coverage nor regulatory work accepts a personal injury case arising from a traffic collision. The alleged tortfeasor provides the personal injury client with information at the scene of the collision indicating that Insurance Company X insured him. Is the lawyer wishing to represent the injured party prohibited from doing so? Yes, unless the requirements of RPC 1.7(a) and possibly 1.7(b) are satisfied. Under RPC 1.7(a), a lawyer may not represent a client if the representation will be directly adverse to another client, unless two additional requirements are met. First, the lawyer must in fact believe that the representation will not affect the relationship with the other client. See RPC 1.7(a)(1). Second, both clients must consent in writing following consultation and a full disclosure of the material facts. See RPC 1.7(a)(2). Third, if

there is a long-standing relationship with one of the clients, the firm's responsibility to that client, as well as the personal interests of the lawyers in the firm in maintaining that relationship, may implicate 1.7(b). When a lawyer is precluded from representation by virtue of RPC 1.7(a) or (b), RPC 1.10 imputes the disqualification to all lawyers in the firm.

Informal Opinion 1888 concerns the issue of whether it is permissible for a lawyer to disclose the client's fee agreement to that client's insurer, who has a subrogation interest in a recovery and an obligation to pay fees and a portion of costs; and whether the lawyer is required to disclose the terms of an agreement with the client to reduce lawyer fees to effect settlement. The committee stated that the fee agreement would not generally be considered to be a "confidence" as defined in the Rules of Professional Conduct. It also would not be considered a "secret," unless the client had requested that it not be disclosed or if the information contained within would be embarrassing or would be likely to be detrimental to the client. Even if the fee agreement is "confidences or secrets" under RPC 1.6, disclosure seems necessary to provide maximum recovery for the client and to "carry out the representation." Although the lawyer may disclose the fee agreement, he or she would be wise to obtain the client's prior consent.

In addition, the lawyer must disclose to the insurer, pursuant to RPC 4.1(a), the terms of any "side agreement" with the client that modifies the terms of the contract concerning the payment of fees, since the contract with the client controls the fees paid by the insurer.

Informal Opinion 1891 deals with the question of whether a Washington provider law firm for a prepaid web-based legal services plan may contact a potential client based upon the potential client's response to a prepaid legal services website questionnaire. The committee opined that the use of information contained on the website to make an unsolicited call to a potential client to discuss his or her answers to a questionnaire about legal issues and the need for legal services violates RPC 7.3(a). The fact that the client information appeared on a website does not change the nature of the act by the lawyer, which would be an uninvited, unsolicited phone call to a potential client with whom the lawyer had no prior family or professional connection for the purposes of monetary gain.

Informal Opinion 1899 deals with the following situation: A lawyer has formed an attorney-client relationship with a personal injury client, but lost contact with the client before a complaint was filed and before receiving instructions on whether to file a complaint. May the lawyer file an action before the statute of limitations runs? Whether or not it is appropriate under the Rules of Professional Conduct to file suit depends upon the scope of the representation (RPC 1.2). The question of whether filing suit is or was implicit or express depends upon the totality of the communications between the lawyer and the client. Whether refraining from or commencing suit without further direction from the client would violate the Rules of Professional Conduct turns on whether the lawyer can articulate a good-faith belief that he was authorized to file suit or refrain from filing. In reaching a decision about the scope of representation,

the lawyer should be guided by a review of RPC 1.4(b) (communication), 1.13(b) (client under a disability), and 3.1 (meritorious claims).

Informal Opinion 1990 concerns whether a dispute about the division of property acquired by parties who are not married (and who were not married during the time the property was acquired) may be handled by a lawyer acting under a contingency fee agreement. The committee stated that RPC 1.5(d) does not prohibit contingency fee agreements in this situation. The committee observed that clients will be protected because RPC 1.5(a) requires fees to be reasonable; 1.5(a)(8) requires that the client must receive a reasonable and fair disclosure of the material elements of the fee agreement; 1.5(c)(1) requires contingent fee agreements to be in writing; 1.4 requires the lawyer to keep the client sufficiently informed to make decisions regarding the matter; and 1.2(a) requires a lawyer to abide by a client's decisions concerning the objectives of the representation, including the client's decision whether to accept an offer of settlement of a matter.

Informal Opinion 1903 concerns a lawyer posting qualifications and representative experience on a website. The committee opined that the contents of a website posted by a lawyer or law firm must comply with RPC 7.1. The lawyer must maintain a copy of the website and changes made to that site pursuant to RPC 7.2. The committee suggested the lawyer review Published Informal Opinion 97-1.

Informal Opinion 1905 deals with competing claims made on funds held by a lawyer in an IOLTA account. The committee stated that because there are competing demands on the funds and the lawyer cannot with exact certainty determine who may be the rightful owner, he should not disburse the funds to either of the competing parties. Under RPC 1.14(b)(4), a lawyer is obligated to promptly pay or deliver funds from the lawyer's trust account. If the controversy cannot be promptly resolved, the lawyer should seek a judicial determination of the competing claims and act according to the decision. See CR 22.

Informal Opinion 1907 concerns client confidences and the reporting requirements of IRS Form 1099. The committee stated that it does not give legal advice and therefore does not offer comment on the accuracy of the lawyer's interpretation of any tax-reporting requirements. It is assumed that the lawyer has either correctly analyzed his substantive legal opinions or will seek the appropriate professional advice regarding the same. Subject to that caveat, the committee opined that RPC 1.6 does not prohibit the filing of Form 1099, reflecting moneys disbursed to clients by the lawyers, unless the client has requested that the lawyer keep the client's identity confidential or has otherwise communicated to the lawyer that his/her identity or the terms of the settlement not be divulged, in which case the lawyer is prohibited from doing so by RPC 1.6. The lawyer's attention is directed to WSBA Formal Opinion 194 (disclosure of client information to Treasury Department) for further guidance and to RPCs 1.2(d) (scope of representation), 8.4(b) (criminal conduct) and 8.4(c) (dishonesty, fraud, deceit or misrepresentation), and RLD 1.1 (grounds for discipline).

Informal Opinion 1908 concerns whether it is ethical for a lawyer to pay for the trial testimony of a doctor who provided medical treatment to the lawyer's client. The committee opined that it is not unethical for a lawyer to pay a treating physician testifying as a fact witness the reasonable expenses incurred by the witness in connection with testifying and the reasonable value of the witness's time in connection with testifying. A lawyer may not ethically pay a witness to induce particular testimony or make payment contingent on the outcome of the litigation, nor may a lawyer ethically pay a witness when doing so is prohibited by law, e.g., RCW 9A.72.090 (bribing a witness) and RCW 9A.72.120 (tampering with a witness).

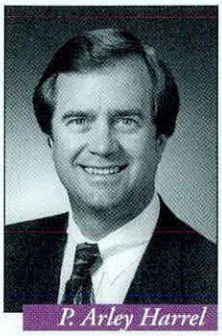
Informal Opinion 1911 states that RPC 1.8(e) prohibits a lawyer from agreeing to advance the costs of litigation on behalf of a client when repayment of the costs is contingent on the outcome of the litigation.

To submit an ethical inquiry, contact Christopher Sutton at 206-727-8284.

Changing Venues

Honors and Awards

José Gaitan and **Shan Mullin** have received the University of Washington Law School Alumni Service Recognition Award for their contributions to the welfare of the school and its students. Mr. Gaitan has served for over a decade on the Alumni Association Board of Trustees, most recently as president. He has sponsored local alumni events, been active in diversity enrichment efforts, served as a consultant to the dean, and is a mentor to students. Mr. Mullin is a strong financial supporter of the law school, and a former board member and president of the Washington Law School Foundation. He has frequently made himself and his counsel available to law school administration and staff.



P. Arley Harrel

Trish Bostrom

Thomas P. Quinlan

Seattle lawyer **P. Arley Harrel**, a member of Williams, Kastner & Gibbs PLLC, was elected as a member of the Governing Council of the Section of Litigation of the American Bar Association. His term will run through August 2003.

The Honorable **Mary L. Pearson** has been elected vice-president of the Northwest Tribal Court Judges Association. She was recently reappointed to a second three-year term as chief judge for the Spokane Tribe of Indians.

The American Corporate Counsel Association presented **Gregory P. Landis** with its 2000 Corporate Pro Bono Award. The award is given annually in recognition of outstanding commitment to the provision of pro bono service. Mr. Landis is senior vice-president and general counsel at AT&T Wireless in Redmond.

Gary Gayton, of counsel to the Seattle firm of Cusack Knowles Ferguson PLLC, has been named chairman of the Senior Advisory Board for the 9th Circuit federal courts. The board advises the 9th Circuit on proposed matters relating to effective administration of the courts.

Chuck Wolfe, chair of the environmental practice group at Foster Pepper Shefelman PLLC, has been elected chair-elect of the WSBA Environmental and Land Use Section. He will serve as chair in 2001-2002.

Trish Bostrom has been elected president of the University of Washington Alumni Association. She is a partner at Bostrom Law Offices in Seattle, and serves as a judge pro tem for the King County Superior Court Ex Parte Division.

Pierce County lawyer **Thomas P. Quinlan** has assumed the presidency of the Washington Young Lawyers Division. For the past year he has served as president-elect.

Robert F. (Robb) Bakemeier has been elected vice-president of the board of directors of the Seattle-King County Chapter of the American Red Cross. He is a partner with the Seattle office of Perkins Coie LLP.

Movers and Shakers

Millicent Newhouse has become director of the Career Planning and Public Service Center at the University of Washington Law School.

Dorsey & Whitney LLP has appointed **Curt Hineline** co-chair of the firm's securities and financial institutions litigation practice group. He is one of three persons responsible for managing the practice group across the country.

Clallam County lawyer **Ken Norris** organized the Clallam County Pro Bono Lawyers' Motorcycle Ride for Justice as a fundraiser for the Summer of Justice campaign. Lawyers and judges rode from Port Angeles to La Push, raising several hundred dollars.

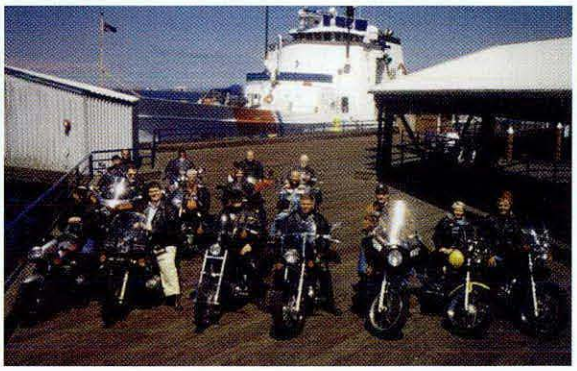
The Seattle firm of Peery, Hiscock, Pierson, Kingman & Peabody PS has become Kingman, Peabody, Pierson & Fitzharris, PS. The firm continues to practice in the areas of dispute resolution, complex insurance, commercial and construction litigation, employment matters, real estate, and environmental and land use law. **David J. Corey** has joined the firm as an associate.

Clint Eddy and **Jayson Sowers** have joined Riddell Williams as associates. Mr. Eddy practices business and tax law, and is a member of the firm's tax and corporate finance and transactions practice groups. Mr. Sowers practices in the areas of insurance coverage, and corporate and complex litigation.

Patrick J. Layman has joined the Seattle firm of Bishop, Lynch & White PS as of counsel. His practice focuses on retail and commercial collections, debtor/creditor rights, and commercial and civil litigation.

Kristopher I. Tefft has become an associate with the Spokane firm of Paine, Hamblen, Coffin, Brooke & Miller LLP. His practice emphasizes commercial law, complex civil litigation and appeals.

Perkins Coie LLP has expanded its Seattle trademark and copyright counseling and registration group. **Lynne Graybeal** joined the group as co-chair. Formerly a partner with Foster, Pepper & Shefelman PLLC, she has worked with companies in a variety of industries in all areas of intellectual property including trademark, copyright, technology development and licensing, and electronic commerce. **Brian Goeghegan** (a member of the California Bar) has become of counsel to the group. His practice emphasizes domestic and foreign trademark, copyright and related issues. **Davina Childs** (a member of the Illinois Bar) has joined the group as an associate.



Ken Norris with Clallum County Pro Bono Lawyers.


Kathy Feldman


Ann T. Wilson


N. Elizabeth McCaw


Heidi L.G. Orr

James P. Dugan has joined the Internet/e-commerce practice group as a partner in the Seattle office of Perkins Coie LLP. His practice focuses on technology and content licensing, technology development agreements, joint ventures, affiliate and co-marketing agreements, and other transactions relating to Internet and e-commerce technology. **Gail P. Runnfeldt** has joined the firm's Seattle office as a partner in the corporate finance group. Her practice focuses on mergers and acquisitions, leveraged buyouts, venture capital, business formations and joint ventures.

Everett B. Coulter, Jr. has joined Evans, Craven & Lackie PS as a principal, where his practice focuses on insurance defense and commercial litigation. **Bruce E. Cox** has joined the firm as an associate and emphasizes insurance defense and personal injury.

Ater Wynne LLP has added **Kathy Feldman** to its Seattle office. As of counsel, Ms. Feldman focuses on business and regulated industries. She has more than 15 years' experience in employment counseling and in defending wrongful termination and employment discrimination claims.

Foster Pepper & Shefelman PLLC has added **Thomas H. Nelson** and **Craig R. Aird** to their Seattle office. Mr. Nelson, a member, concentrates his practice on strategic tax and business planning for domestic and international corporations, partnerships, limited liability companies, joint ventures and tax-exempt organizations. Mr. Aird, an associate, focuses on estate planning with particular emphasis on international transactions and choice of entity questions. **Nancy A. Giunto** has joined the firm as executive director. She serves as chief operating officer, making recommendations regarding administrative support, management polices and strategic direction.

Kenneth L. Karlberg and **George S. Treperinas** have joined the Seattle office of Karr Tuttle Campbell as shareholders. Mr. Karlberg's trial practice includes products liability and personal injury defense, engineering/architectural design failures, commercial disputes and insurance coverage. Mr. Treperinas joined the firm's business and finance department, focusing on the representation of creditors and debtors in bankruptcy matters.

Willams, Kastner & Gibbs PLLC has added two new lawyers to their estate planning department. **Ann T. Wilson** has joined the group as of counsel and focuses on estate planning, probate, federal taxation, and trust and estate litigation. **N. Elizabeth (Beth) McCaw**, an associate, concentrates her practice in the areas of estate planning, gift and estate taxation, probate and the law of exempt organizations.

Joseph B. Genster has rejoined the Seattle firm of Hillis Clark Martin & Peterson as of counsel. He was an associate at the firm from 1985 to 1987. Mr. Genster focuses on civil litigation with an emphasis on employment, land use and contract law.

Lisa J. Dickinson has joined the Spokane firm of Feltman, Gebhardt, Greer & Zeimantz, PS as an associate.

Heidi L.G. Orr has joined the Seattle office of Lane Powell Spears Lubersky LLP as an associate. She concentrates her practice in corporate law and taxation.

Jeffrey A. Coop has joined Short Cressman & Burgess PLLC as an associate, and **Carina Y. Enhada** has joined as of counsel. Mr. Coop represents clients in commercial transactional and litigation matters, including real estate, business, land use and municipal law. Ms. Enhada focuses on full-service construction services for federal, state and private projects.

Marlo DeLange has joined the Tacoma office of Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim PLLC as an associate. Her practice includes securities, corporate, business and transactional law. **Steven Sitek** has joined the Seattle office as an associate, focusing on general litigation, construction law and insurance defense.

In Memoriam

Skagit County lawyer **Leslie Johnson** passed away unexpectedly at age 49 on August 19. He was a principal in the firm of Wells and Johnson in Anacortes. Mr. Johnson was a strong believer in community service. He was a past-president of the Kiwanis Noon Club of Anacortes, chairman of the Sponsored Youth Committee, and Kiwanis advisor to the Anacortes Key Club. He served on the legal and legislative committees of the Washington Public Ports Association, which grew out of his position advising the ports of Anacortes and Skagit County.

Justice **Robert T. Hunter**, former chief justice of the Washington State Supreme Court, died September 17 at the age of 92. During his Supreme Court career, Justice Hunter led the movement to establish the state Court of Appeals. He persuaded some colleagues and legislators that an appeals court was necessary for speedy justice.

Seattle trial lawyer **Wayne Murray** died August 31 of a stroke. He was 86. Prior to practicing law, Mr. Murray was an FBI agent. In four years at the FBI, he received at least five commendations from FBI Director J. Edgar Hoover. In 1952, he and friend Roger Dunham started their own law firm, Murray and Dunham. They practiced together for 50 years.

Wallace Aiken, a Seattle lawyer who co-founded Aiken, St. Louis & Siljeg, died of pneumonia on August 27 at age 81. Known to many as the ultimate prankster, Mr. Aiken and a friend took over and wrecked an old-time streetcar when they were students at the University of Washington. They were bailed out of jail by the head of the law school, who later hired Mr. Aiken so he could pay back the debt.

Serving at the Banquet of Justice

by Barrie Althoff • *WSBA Chief Disciplinary Counsel*

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

Experienced lawyers know that one of the greatest pleasures in practicing law is helping a client know justice, especially where the lawyer does so without any compensation. Simply put, doing a good deed makes us feel good. Because providing public-interest legal service is a core value of our profession, Rule 6.1 of the Rules of Professional Conduct obligates us to provide such services. Similarly, in our oath of admission to the practice of law, each of us declared that we will never reject the cause of the defenseless or the oppressed. But where do we start to do this? This article provides some basic answers.

Each of us has sworn not to reject the cause of the oppressed or of the defenseless.

Introduction

A previous article considered whether lawyers have an obligation to provide pro bono services, the possible sources or rationale for the obligation, and the possible means by which the obligation might be met. Althoff, "Ethical Obligation to Provide Pro Bono Service," *Washington State Bar News*, May 1999, p. 47. A more recent article explored the question of why, despite a continued recognition and proclamation of our duty to provide public legal service, relatively few of us actually do so, and thus why many of our citizens struggle to find justice. Althoff, "Starving at the Banquet of Justice," *Washington State Bar News*, November 2000, p. 46. About 4,000 of Washington's 26,000 lawyers are estimated to provide some pro bono services. Where are the other 22,000 lawyers?

This article assumes we have recognized our ethical obligation and that we now want to actually fulfill it. Most of us have to make a living and have family and other obligations, so we must ration our time and activities amongst competing needs. If we are in private practice, we have many opportunities to provide free or reduced-cost legal services in our own day-to-day work. But we may prefer to keep our pro bono activities separate from our private practices and provide volunteer services through a separate organization. And, some of us have highly specialized practices and either cannot provide direct services or do not know where to start. So where do we start? Where do we go to find information? To actually volunteer? Below is a list, compiled by others and published several times previously, of some organizations that need our legal services and financial help. This is one place to start.

Some Places to Help

Many law-related organizations need help, commonly in areas of direct representation, referral, advice and education to low-income people with civil legal problems in the areas of housing, protection of financial resources, consumer protection and family law. Help is often needed to staff advice clinics, lecture to community groups, and serve as board members. In many cases the volunteer will first undergo initial training and work with either staff lawyers or experienced volunteers.

You can safely find out about volunteering at any of the programs, without any pressure to volunteer, by calling Leslie Johnson, WSBA Access to Justice Programs Coordinator, at 206-733-5942 or 800-945-WSBA, ext. 5942. If you prefer to call an organization directly, detailed contact information is available on the WSBA website at www.wsba.org/atj/support.htm. If you do not find an organization that looks like it can use your talents, why not start a new one that can?

Benton-Franklin Legal Aid Society (Kennewick): Volunteer legal representation, dissolution clinics and parenting plan assistance for low-income persons, in conjunction with the Volunteer Center and the local bar.

Blue Mountain Action Council (Walla Walla): Volunteer lawyers from Walla Walla and Columbia counties provide direct representation, family law clinics and pro se document review to low-income persons.

Chelan-Douglas Community Action Legal Aid (Wenatchee): Legal advice, representation, and pro se dissolution assistance to low-income persons in conjunction with the Community Action Agency and the local bar.

Clallam County Pro Bono Lawyers (Port Angeles): Volunteer attorneys provide advice and representation to low-income persons.

Clark County Volunteer Lawyers (Vancouver): Volunteer lawyers from the local bar provide legal representation, advice, bankruptcy clinics and dissolution classes to low-income persons.

Columbia Legal Services: A full-service, statewide legal services program dedicated to ensuring that a full range of legal services is available to all of Washington's low-income population, particularly vulnerable and hard-to-serve special-needs populations that face unique barriers to the justice system. It focuses on hard-to-reach/hard-to-serve poor people who are unable to use the CLEAR system (see Northwest Justice Project on page 46). Each local office uses volunteer attorneys in a variety of ways — from research and writing to direct representation.

Cowlitz-Wahkiakum Legal Aid (Longview): Volunteer attorneys from Cowlitz and Wahkiakum counties provide advice clinics and representation to low-income persons.

Eastside Legal Assistance Program (Bellevue): Legal advice, dissolution workshops, and representation to low-income persons in east King County by volunteer attorneys.

Fremont Public Association, Welfare Advocacy (Seattle): Represents low-income persons in administrative hearings and superior court regarding public benefits in King and southern Snohomish counties. The areas of focus are Temporary Assistance for Needy Families (TANF, formerly AFDC), General Assistance-Unemployable (GA-U), food stamps, Medicaid and childcare. Volunteer attorneys, paralegals and law students are needed to provide assistance with representation and advice. Volunteers with knowledge of SSI, social security and family law are desired.

Grays Harbor Bar Volunteer Legal Aid Service (Aberdeen): Legal advice, representation, and a dissolution clinic for low-income residents by the local bar, in conjunction with Coastal Community Action.

Volunteer Lawyer Program of Jefferson County (Port Townsend): Monthly do-it-yourself divorce workshops for low-income persons.

King County Bar Association

For information about the many volunteer legal service programs of the King County Bar Association, call Robin Lister at 206-624-9365. Programs include:

- **Neighborhood Legal Clinics:** Volunteer attorneys provide 30 minutes of free legal consultation. Specialty clinics include a Spanish and immigration clinic. The program needs Spanish-speaking volunteers.
- **Family Law Mentor Program:** This program pairs new family law attorneys with experienced practitioners to represent clients in contested divorces where the children are at risk of physical harm. Clients must meet legal and financial guidelines. The cases are complex and involve litigation. This is an excellent way to receive courtroom experience with the help of a mentor.
- **Legal Services for the Homeless:** The program works with firms and individual attorneys to provide free legal services to homeless people living in shelters. This program works closely with shelter case managers and firms to meet the unique needs of the homeless population. As a volunteer, you will receive training, reference materials, and a list of attorneys who can advise you on how to handle specific problems that may arise with your cases.
- **Newcomers Resource Coordination Project:** This project coordinates and directs newcomers, refugees and immigrants to the legal resources currently available in King County. The program serves the newcomer community through three specialized clinics, community workshops, and referral to pro bono attorneys to assist newcomers on issues other than immigration. A panel of volunteer and low-cost interpreters is also available as required.
- **Self-help Plus Program:** This program helps low- and moderate-income King County residents to process their own non-contested divorces, and with child support or minor parenting plan matters.
- **Volunteer Attorneys for Persons with AIDS/HIV and AIDS Legal Access:** This is a free service that finds volunteer, reduced- or full-fee attorneys for persons who are living with HIV or who have legal problems related to HIV. Most clients qualify for pro bono services. Volunteers include attorneys for all areas of practice. Common referrals include estate planning, debt defense, insurance issues and discrimination.
- **Volunteer Legal Services:** Volunteer attorneys provide free representation in civil cases for low-income people in King County. VLS also provides a panel of attorneys for the Housing Justice Project to represent low-income defendants in unlawful detainer actions.

Kitsap County Volunteer Attorney Services (Bremerton): Volunteer attorneys provide legal representation, advice, and dissolution clinics in conjunction with Kitsap Community Resources and the local bar.

Kittitas County Volunteer Legal Services (Ellensburg): Volunteer attorneys provide representation, advice, and dissolution clinics for low-income residents of Kittitas County.

LAW Advocates (Bellingham): Volunteer attorneys provide free legal represen-

tation, advice and consultation, a summer Street Law Program, and a pro se dissolution clinic for low-income Whatcom County residents.

Legal Action Center (Seattle): Its mission is homelessness prevention. Volunteer attorneys are needed to staff neighborhood intake sites. Types of cases include landlord/tenant, debtor/creditor and consumer protection matters.

Lewis County Bar Legal Aid (Chehalis): Volunteer attorneys from the Lewis County Bar Association provide legal representation and advice.

Native American Project: Approximately 50 attorneys serve on this statewide panel designed to provide assistance with federal Indian law issues.

North Columbia Community Action Council, Inc. (Moses Lake): Volunteer attorneys from the Grant and Adams County Bar Associations provide advice, representation, and divorce assistance in conjunction with the Community Action Council.

Northeast Washington Legal Aid Program (Colville): Volunteer attorneys provide direct legal representation, advice and consultation clinics, and pro se dissolution clinics.

Northwest Immigrant Rights Project (Seattle): This project provides statewide immigration assistance to low-income persons. Volunteer attorneys are needed to take on individual cases, do research, and work with clients. Staff attorneys will assist volunteer attorneys without expertise in the immigration area. NWIRP also uses volunteers for family law and criminal cases.

Northwest Justice Project: The federal statewide partner in the Access to Justice Network, NJP provides direct services to low-income clients and serves as a primary point of access for clients through a centralized, statewide referral system called CLEAR (Coordinated Legal Education, Advice and Referral). NJP needs volunteer attorneys to answer and follow up on CLEAR calls, serve as a resource in their given field for CLEAR staff, and provide training to CLEAR staff on specific areas of law.

Northwest Women's Law Center (Seattle): The Center provides legal information, self-help and referral services, and litigates public-impact cases. It depends on a large and active volunteer network. Volunteers are needed to staff telephones; prepare briefs in high-impact cases; prepare self-help materials; and present training workshops and seminars on sexual harassment, discrimination issues, family law and other women's issues.

Okanogan County Legal Services Program (Okanogan): Volunteer attorneys from the Okanogan County Bar Association provide advice, representation, and pro se dissolution assistance, in conjunction with the Community Action Council.

Skagit County Volunteer Lawyer Program (Mount Vernon): Legal advice, representation and dissolution assistance for low-income persons with the assistance of the Community Action Agency and the local bar.

Snohomish County Legal Services (Everett): Advice, family law self-help classes, and legal representation for low-income persons by the local bar.

Spokane Bar Volunteer Lawyers Program (Spokane): Volunteer attorneys provide free representation in civil cases, advice, dissolution and bankruptcy seminars to low-income persons in Spokane County.

Tacoma-Pierce County Bar Association Volunteer Legal Services Program (Tacoma): Free dissolution self-help classes for low-income persons, legal advice through a neighborhood legal clinic, and direct representation.

TeamChild (Seattle): TeamChild helps juveniles in the juvenile justice system gain access to mental-health services, education and safe housing. TeamChild has offices in Tacoma, Seattle, Spokane and Yakima.

The Tenants Union (Seattle): The Tenants Union operates a statewide toll-free hotline which provides landlord/tenant information to callers. It needs volunteers to serve as members of the board of directors and to participate in annual fund-raising events.

Thurston-Mason County Volunteer Legal Clinic (Olympia): Volunteer attorneys provide 30 minutes of free legal consultation in the general areas of family, consumer and landlord/tenant law, and offer monthly "do-it-yourself" divorce workshops for help with uncontested dissolutions.

Thurston-Mason County Pro Bono Program (Olympia): Volunteer attorneys provide direct representation in these counties.

University Legal Assistance (Spokane): This program provides legal assistance in family law cases for low-income persons in Spokane County. Services are provided by Rule 9 legal interns at Gonzaga Law School. Since 1981, it has operated the Elderlaw Project, a program funded in part by the federal Older American Act administered through the Aging and Long-Term Care of Eastern Washington. The Elderlaw project provides access to the justice system by offering basic legal services for socially and economically disadvantaged individuals age 60 and over in Spokane County. ULA also receives funding from the Washington Long-Term Care Ombudsmen Program (LTCOP) to represent individuals in nursing homes and other adult-care facilities.

Unemployment Law Project (Seattle): This project provides counseling, assistance and representation without cost for low-income persons in unemployment hearings statewide. Volunteer attorneys are needed to interview prospective clients, investigate and prepare cases, and write appeals to the commissioner. This program also uses volunteers to serve on a referral panel of private attorneys who represent clients in superior court, and to help with fundraising and community outreach.

Whitman County Indigent Legal Services (Pullman): Volunteer attorney representation, advice, dissolution clinics, and landlord/tenant clinics for low-income persons in conjunction with the Community Action Center.

YWCA/Yakima County Bar Association Volunteer Attorney Services (Yakima): Volunteer attorneys, with support from the Yakima YWCA, provide legal representation, advice and dissolution assistance for low-income persons.

Places to Give Your Money

Providing volunteer legal services is not always a practical option. As we become more specialized, and as our lives become more crowded, some of us cannot directly provide such services. If we are partners in a firm or senior officers in a corporate law office, however, perhaps we can make

some of the junior attorneys, paralegals or legal interns available to do so. Or, we can provide financial resources to volunteer legal services organizations so that others may provide the needed services. Here are a few organizations that provide funding for many of the organizations listed above and that need your financial support.

King County Bar Foundation, 900 Fourth Avenue, Suite 600, Seattle, WA 98164-1060: This is a charitable and educational foundation which promotes programs that increase legal remedies to the poor, enhance public understanding of the law, and increase minority participation in the legal profession.

LAW Fund, 1325 Fourth Avenue, Suite 531, Seattle, WA 98101-2525: Created by members of the private bar in 1991, it seeks to institutionalize private support for civil legal services programs in Washington state by raising funds to preserve and expand civil legal services for low-income persons.

Legal Foundation of Washington, 500 Union Street, Suite 545, Seattle, WA 98101: This organization is dedicated to the provision of equal access to the justice system by funding legal and education programs for low-income persons through the fair and efficient administration of IOLTA and other available funds.

Pierce County Bar Foundation, 13211 82nd Ave NW, Gig Harbor, WA 98329-8658: Created in 1996, the Foundation's purpose is to carry on law-related education and charitable activities, with a primary focus on the support of the Tacoma-Pierce County Bar Association's Volunteer Legal Services Program.

Conclusion

We all know we should provide volunteer public-interest legal services. We are ethically obliged to do so either directly or through others. Each of us has sworn not to reject the cause of the oppressed or of the defenseless. We can fulfill our duty, live that oath, and help others know justice by directly providing needed services or by funding those who do. When we do so joyfully, not out of a sense of obligation, but out of a passion for justice, we help others know justice and we give meaning to our own lives.

Disciplinary Notices

These 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 206-733-5926, leaving the case name and your address.

Reprimand

Gregory Esau (WSBA No. 22404, admitted 1993), of Bellevue, has been ordered to receive a reprimand pursuant to a stipulation for discipline approved by the Disciplinary Board on January 12, 2000. The discipline is based upon his failure to deal properly with a client's advance fee deposit.

On July 2, 1996, Mr. Esau agreed to represent a client in a dissolution of marriage action. The written fee agreement required that the client pay a $1,700 advance fee deposit that Mr. Esau would apply against fees and costs as they were incurred. Mr. Esau deposited the client's funds into his general account because he did not have a trust account. He prepared preliminary pleadings for the client and then explained that he would be on vacation for the next three to four weeks and would not be able to do further work until he returned. The client was not willing to wait and discharged Mr. Esau, requesting a refund of the remainder of his $1,700. Mr. Esau did not respond to the client's letter. The client wrote to Mr. Esau two more times; Mr. Esau did not respond.

On January 23, 1997, the client obtained an uncontested King County District Court judgment against Mr. Esau. Mr. Esau satisfied this judgment on March 5, 1997. Mr. Esau opened a trust account in 1998.

Mr. Esau's conduct violated RPC 1.14, requiring lawyers to deposit advance fee payments into trust accounts, provide clients with accountings when requested and timely refund unearned advance fees upon discharge.

Marsha Matsumoto represented the Bar Association. Leland Ripley represented Mr. Esau.

Censured

Richard D. Wall (WSBA No. 16581, admitted 1986), of Spokane, has been ordered to receive a censure pursuant to a stipulation approved by the Disciplinary Board on January 12, 2000. This discipline is based on Mr. Wall's practicing law while on inactive status.

On July 15, 1996, the Spokane County Prosecuting Attorney's Office hired Mr. Wall as a deputy prosecuting attorney. During the first or second week of July, Mr. Wall contacted the Washington State Bar Association (WSBA) requesting a change in his status from inactive to active because of his position with the Spokane Prosecutor's Office. The WSBA received Mr. Wall's status change application and check on July 25, 1996. The next day, the WSBA wrote Mr. Wall that his status could not be changed until he completed the required continuing legal education (CLE) credits. Mr. Wall did not inform his employer that he was on inactive status. He began handling criminal prosecutions after the first week of August.

During the month of August, Mr. Wall and the WSBA discussed his CLE credits and inactive status by letter and telephone. In late August, Mr. Wall asked that the MCLE Board waive his deficient CLE credits. Through an error, this matter was not placed on the September 1996 MCLE Board agenda. In December 1996, Mr. Wall received his annual licensing form from the WSBA, showing that his status was still inactive. In January 1997, Mr. Wall contacted the WSBA licensing department again, asking why he remained on inactive status. On January 14, 1997, Mr. Wall informed his supervisor that he was on inactive status and could not continue to practice until his CLE credits were completed and his status could be changed. Mr. Wall completed the required CLE credits and was returned to active status on February 3, 1997.

Mr. Wall's conduct violated RLD 1.1(l), which subjects a lawyer to discipline for engaging in the practice of law while on inactive status; and RPC 5.5(a), which prohibits a lawyer from practicing law in a jurisdiction where doing so violates the regulations of the profession.

Jonathan Burke represented the Bar Association. Mr. Wall represented himself.

Admonished

C. David Lutz (WSBA No. 26728, admitted 1997), of Tacoma, has been ordered admonished by a review committee of the Disciplinary Board. The admonition is based upon his continuing to represent a client after a conflict of interest developed between the lawyer and the client's interests.

Mr. Lutz settled a client's case without the client's consent. He sent the client a letter offering to complete the case without additional attorney's fees. The letter also asked for the client's assurance that the offer "satisfied any financial loss or other damages" that the client felt he had suffered as a result of Mr. Lutz's legal representation. The letter stated "by accepting this letter or offer, you thereby give me the assurance I seek." Mr. Lutz did not advise the client that Mr. Lutz's personal interests may be in conflict with the client's interests and that the client should seek independent legal advice about continuing the representation. Mr. Lutz did not obtain the client's written consent to continue the representation.

Mr. Lutz's conduct violated RPCs 1.7 and 1.8(h). RPC 1.7 prohibits a lawyer from representing a client if the representation would be materially limited by the lawyer's own interests, unless the lawyer believes that the representation will not be affected and the client consents in writing after full disclosure of the material facts. RPC 1.8(h) prohibits a lawyer from making an agreement prospectively limiting the lawyer's liability to a client for malpractice, unless permitted by law, and the client is independently represented in making the agreement.

Anne Seidel represented the Bar Association. Mr. Lutz represented himself.

Admonished

David A. Nelson (WSBA No. 19145, admitted 1989), of Longview, has been admonished pursuant to an order from a review committee of the Disciplinary Board. The admonition is based upon his discussion of the subject matter of representation with a party he knew to be represented by counsel.

Mr. Nelson represented the City of Kalama in a dispute regarding access to an easement across a landowner's driveway to access a water line. The landowner retained counsel, and Mr. Nelson began negotiating with counsel. The landowner's counsel believed that there was an agreement, so he did not appear for a scheduled hearing; however, both Mr. Nelson and the landowner did appear. Shortly before the hearing, the court clerk called the parties together for a meeting. Mr. Nelson discussed the subject matter of the case with the landowner for several minutes. Mr. Nelson knew the landowner was represented and notified the landowner's counsel of the discussion shortly afterward.

Mr. Nelson's conduct violated RPC 4.2, prohibiting a lawyer from communicating about the subject of representation with a party the lawyer knows to be represented by another lawyer.

Kevin Bank represented the Bar Association. Mr. Nelson represented himself.

Admonished

Chul Shirts (WSBA No. 24993, admitted 1995), of Vancouver, has been ordered admonished pursuant to an order of a review committee of the Disciplinary Board. The admonition is based upon his failure to diligently represent his client.

In June 1999, Mr. Shirts represented a client in a marriage dissolution proceeding. He did not inform the client of a court hearing date during which the court entered temporary child support orders and a temporary parenting plan. Mr. Shirts also failed to answer the client's questions regarding the status of her case and provide her an accounting of his fee. Additionally, Mr. Shirts did not provide information to the opposing party when requested by his client.

Mr. Shirts' conduct violated RPCs 1.3 and 1.4(a). RPC 1.3 requires lawyers to diligently represent their clients. RPC 1.4(a) requires lawyers to keep clients informed about the status of their matters and to promptly comply with reasonable requests for information.

Sachia Stonefeld represented the Bar Association. Mr. Shirts represented himself.

Admonished

Odine H. Husemoen (WSBA No. 3697, admitted 1963), of Longview, has been admonished pursuant to an order from a review committee of the Disciplinary Board. The admonition is based upon his contacting a represented party and communicating about the subject matter of the representation.

Mr. Husemoen represented a homeowner in a dispute with the Home Owners Association (HOA). The client received letters from the HOA signed by its president. In June 1999, the client received a letter from a lawyer representing the HOA. In August, Mr. Husemoen explained his client's position to the HOA's lawyer. In November 1999, Mr. Husemoen wrote directly to the HOA president regarding additional disputes with the homeowner client. His letter indicated that he knew the HOA was represented, but he thought the additional issues would better be addressed to the HOA president directly.

Mr. Husemoen's conduct violated RPC 4.2, prohibiting a lawyer from communicating about the subject of representation with a party the lawyer knows to be represented by another lawyer.

Sachia Stonefeld represented the Bar Association. Mr. Husemoen represented himself.

NON-DISCIPLINARY NOTICES:

Interim Suspensions

Clayton Cochran (WSBA No. 23102, admitted 1993), of Vancouver, was ordered suspended from the practice of law pending the outcome of disciplinary proceedings by Supreme Court order entered July 18, 2000.

Terry L. Deglow (WSBA No. 13357, admitted 1983), of Spokane, was ordered suspended from the practice of law pending the outcome of disciplinary proceedings by Supreme Court order entered July 10, 2000.

Hugh Kelly (WSBA No. 14616, admitted 1984), of Spokane, was ordered suspended from the practice of law pending the outcome of disciplinary proceedings by Supreme Court order entered May 18, 2000.

Electronic Filing is Coming to UCC

Effective July 1, 2001, Uniform Commercial Code financing statements can be filed on the Internet. Some of the statutory changes to RCW 62A.9A are listed below.

- Signatures will not be required.
- Electronic records will be sufficient. Paper documents will no longer be needed.
- Washington laws and rules will be consistent with national standards.

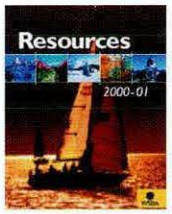
Online help will be available. Users can expect secured, online payment by credit card or account number; immediate filing, acknowledgment and search results; and two-day return of microfilmed copies requested. For frequent updates and more information, visit http://www.wa.gov/dol/bpd/uccfront.htm.

Resources on Sale for Half Price

The 2000-2001 *Resources* membership directory is now on sale for half-price:

$8.69 — WSBA members in-state
$8.00 — WSBA members out-of-state
$18.46 — non-WSBA members in-state
$17.00 — non-WSBA members out-of-state

To order a copy of *Resources*, call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or send a letter request to: Washington State Bar Association, Order Processing, 2101 Fourth Ave., Fourth Fl., Seattle, WA 98121-2330. Payment may be made by check (payable to WSBA), MasterCard or Visa, and must accompany your order.



WSBA Interprofessional Committee Sponsors CLE

A CLE (3.25 credits) titled *Real People, Real Trouble — Ethical Tools to Avoid Malpractice* will be sponsored by the WSBA Interprofessional Committee on Friday, December 15, 2000. The program will be held at the WSBA Conference Center from 8:00 a.m to noon. For more information, contact Lisa KauzLoric at 206-733-5944 or lisak@wsba.org.

NJP Reopens Housing Justice Project

The Northwest Justice Project announces the reopening of the Housing Justice Project (HJP) on October 2, 2000. HJP is a pro bono program developed to prevent low-income people facing eviction from becoming homeless. HJP volunteer attorneys provide limited representation for clients at eviction show-cause hearings.

HJP has several dedicated volunteers who have agreed to commit up to one morning a month at the courthouse to represent pro se tenants, but more assistance is needed. HJP provides training and materials for volunteers. To volunteer or for more information, contact Kate Hoskinson at the Northwest Justice Project at 206-324-9128.

Free Trust Account Information

The WSBA publication *Managing Client Trust Accounts: Rules, Regulations and Common Sense* is available to members free of charge. To order a copy, call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA. Please note that this publication is also available on the WSBA website (www.wsba.org/publications/managing.htm), and is printed in the 1999-2000 *Resources* (p. 478). The WSBA Audit Department is also available to answer your questions about trust accounts. Call Julie Mass at 206-727-8242 or Tim Dobler at 206-733-5937.

Bankruptcy Court to Implement Electronic Filing

The U.S. Bankruptcy Court for the Western District of Washington is planning to implement a new electronic case-management system that will allow attorneys to file bankruptcy petitions and other documents over the Internet. The target date for implementation is January 1, 2001. Electronic filing is part of the court's larger goal to create an entire electronic case files system. Once the system is fully implemented, it will be possible to file documents electronically, as well as view and print documents remotely, using standard Web browser technology. More information about the CM/ECF (Case Management/Electronic Case Filing) initiative, including a list of Frequently Asked Questions (FAQs), is posted on the court's website at http://www.wawb.uscourts.gov.

WSBA-CLE Publications Releases

WSBA-CLE Publications has released a new edition of the best-selling *Family Law Deskbook*. The three-volume *Family Law Deskbook 2000* offers comprehensive treatment of every aspect of a family law case, from retainer agreements to the finality of decrees, with new chapters on King County's Unified Family Court and Internet resources for family law practitioners. It is available for $385 plus tax, shipping and handling.

Other recent releases from WSBA-CLE Publications are softbound supplements to Volumes I and II of the *Real Property Deskbook*, Third Edition. This popular deskbook, which addresses a multitude of topics relevant to real property transactions in the state, is being supplemented serially to address developments since the original deskbook volumes were published in 1997. Supplements to the remaining six volumes will be released throughout the remainder of 2000 and 2001. Each of the supplements costs $38.89 plus tax, shipping and handling, with a 10 percent discount off the purchase price when you register as an Automatic Update Service subscriber. For ordering information, or to register for a discount through the Automatic Update Service, please call 206-733-5918.

WestCoast Hotels Contribute to LAW Fund

WestCoast Hotels, the WSBA, and Legal Aid for Washington (LAW) Fund have created a partnership to raise funds for low-income legal services. Through the end of 2001, WestCoast Hotels will make donations to LAW Fund, based on the number of nights that anyone associated with the WSBA stays at any of the 47 Washington WestCoast Hotels. By simply asking for the WSBA rate, guests will receive a reduced room rate, and LAW Fund will receive five dollars for each night's stay. For reservations, contact WestCoast Hotels at 800-325-4000.

Goldmark Award Luncheon

The Legal Foundation of Washington will host the 15th Annual Goldmark Award Luncheon on Friday, February 23, 2001 at the Washington State Convention & Trade Center from noon to 1:30 p.m. The Legal Foundation is a not-for-profit organization which has provided over $51,000,000 for legal services to the poor since 1985.

Kenneth A. MacDonald of MacDonald Hoague & Bayless will receive the Goldmark Award for Distinguished Service in recognition of his exceptional leadership and tireless lifelong efforts to expand access to our justice system for society's poorest and most vulnerable people. Known for his involvement in civil rights litigation since the late 1940s, Ken MacDonald co-founded what is today known as the Washington State Human Rights Commission.

The Honorable Robert F. Utter, retired Chief Justice of the Washington State Supreme Court, will give the keynote address. Justice Utter, a leading expert on constitutional law, currently is on the Advisory Board to the American Bar Association's Central and Eastern European Law Initiative.

The Goldmark Award honors the memory of Charles A. Goldmark, Seattle attorney, community leader, and ardent supporter of access to justice. Mr. Goldmark was the Legal Foundation's president at the time of the tragic assault in 1985 that led to his death. We invite the public to attend the luncheon, where we pay tribute through the Goldmark name to statewide volunteer lawyer programs, and civil legal services providers.

Show your support for access to justice by purchasing an individual ticket to the luncheon or accepting one of the other donation opportunities. Please send the coupon below with your check payable to the Legal Foundation of Washington.

Legal Foundation of Washington, Friday, February 23, 2001 Goldmark Awards Luncheon Honoring Kenneth A. MacDonald with guest speaker Justice Robert F. Utter (Ret.)

❑ Yes, I would like to honor the work of legal services by attending the luncheon. I will bring _____ additional guests. ($35/person enclosed).

❑ My firm would like to be an Equal Justice Sponsor ($500 enclosed). Four members of our firm will attend. (A charitable contribution of $360 will help cover luncheon expenses.)

❑ I would like to be a Goldmark Donor ($100 enclosed). Two lunches will be provided and a charitable contribution of $30 will help cover luncheon expenses.

❑ No, I cannot attend the luncheon, but I would like to support the luncheon with a donation of $_____.

Name(s): _____

Indicate if a vegetarian meal is preferred. Yes ❑ No ❑

Please send this coupon with your check to:
Legal Foundation of Washington
500 Union Street, Suite 545, Seattle, WA 98101.

The Legal Foundation of Washington is a 501(c) (3)-status institution.

MCLE Changes

The Supreme Court has approved changes to APR Rule 11, effective January 1, 2001, which will streamline Mandatory Continuing Legal Education (MCLE) program CLE reporting. The main changes are that the WSBA will track your credits, and sponsors of CLE activities will report attendance directly to the WSBA.

MCLE Requirements

The MCLE credit requirements will remain the same:

- 45 total credits for the three-year reporting period: 39 general and six (6) ethics.
- A maximum of 15 credits can be from audio/video programs.

Changes in Reporting

- Each sponsor will report your attendance at approved CLE courses to WSBA. It will be your responsibility to sign the attendance roster at every approved CLE activity.
- You will be able to view your CLE attendance record online. To ensure privacy, you will have a confidential password.
- You will receive a report of your attendance records twice a year.
- You will be able to apply online for approval of CLE activities.
- You will be able to view approved CLE courses online, searching by date, title, sponsor or location.
- You will receive a report and affidavit at the end of your reporting period to verify the courses you attended. The signed affidavit must be returned to the WSBA.

Changes in Rules and Regulations

- Pro bono credits – limited approval under specific parameters.
- In-house seminars – relaxed parameters for approval.
- Tracking system for reporting attendance.
- Substance-abuse training – will be approved for ethics credits.
- Mealtime presentations – may now be accredited if a presentation is given during the meal.
- Judging law school competitions – no credit available.

Phasing in the New System

- Group 1 (reports for 1999, 2000 and 2001 by January 31, 2002) – you must submit attendance for 1999 and 2000. Attendance for 2001 will be reported by the CLE sponsors.
- Group 2 (reports for years 2000, 2001 and 2002 by January 31, 2003) – you must submit attendance for 2000. Attendance for 2001 and 2002 will be reported by the CLE sponsors.
- Group 3 (reports for years 2001, 2002, and 2003 by January 31, 2004) – all attendance will be reported by the CLE sponsor.

The full text of the APR 11 regulations may be viewed online at http://www.courts.wa.gov/rules/state/apr/regs.txt.

WSBA News Center on the Web

News releases issued by the WSBA can now be found on the Bar's website at www.wsba.org/news. At the bottom of the page, there's also a link to the ABA's news release page.

CLE Bookstore Open for WSBA Members

For members who must complete their MCLE credits before December 31, 2000, the WSBA CLE bookstore will be open at the Washington State Bar Association, 2101 Fourth Ave., 4th Fl., from December 1 through December 29 and on January 2. Hours of operation will be from 9:00 a.m. to 4:30 p.m., Monday through Friday. Available MCLE A/V credit-approved material will include taped seminars with coursebooks. Payment may be made by cash, check, MasterCard or Visa. (You may claim up to 15 total A/V credits for the current reporting period. All ethics credits can be acquired using approved A/V self-study.)

WSBA and Pro2Net Team Up to Offer "CLE by the Slice"

WSBA-CLE has teamed up with Pro2Net to offer approved A/V-credit audio seminars on the Internet. In addition to the convenience of accessing any course the WSBA has offered in 1999 or 2000, online training has several distinct, user-friendly features. Individual seminars are grouped under practice areas such as taxation, real property, estate planning, business law and ethics. Any case or statute cited in the course materials can be opened to full text by hyperlinking. For information, visit the Pro2Net website at http://www.education.pro2net.com/wsba or call 888-522-PRO2.

Mugs and Mousepads

Mugs and mousepads featuring the distinctive Celebration 2000 logo are now for sale. Mousepads show the logo in full color, while the mugs are in black and white. Prices include sales tax.

To place your order, please send this order form with your check (payable to WSBA) to: Order Processing, Washington State Bar Association, 2101 4th Ave., 4th Fl., Seattle, WA 98121-2330.

Mugs
Quantity ____ @ $5 each = _____

Mousepads
Quantity ____ @ $5 each = _____

Shipping and handling: $1.50

Total: _____

Name: _____

Address: _____

City/State/Zip: _____

Note: Prices include tax.

Upcoming BOG Meetings

The Board of Governors meeting schedule is as follows:

Dec. 1-2, Port Ludlow Resort & Conference Center, Port Ludlow

Jan. 18-19, Cavanaugh's at Capitol Lake, Olympia

Feb. 9-10, Inn at Gig Harbor, Gig Harbor

With the exception of a one-hour executive session the morning of the first day, BOG meetings are open, and all WSBA members are welcome to attend. RSVPs are appreciated, but not required. Please contact Lisa KauzLoric at 206-733-5944 or e-mail oed@wsba.org.

Usury Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in November 2000 is 6.386 percent. The maximum allowable interest rate for December 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 June 1988-June 1999 appear on page 53 of the June 1999 *Bar News*. Information from January 1987 to date appears at www.wsba.org/barnews/.

Nominations Sought for Devitt Distinguished Service to Justice Award

The American Judicature Society, with the support of the Dwight D. Opperman Foundation, is seeking nominees for the Edward J. Devitt Distinguished Service to Justice Award. This award recognizes the public service of members of the federal judiciary. All federal judges appointed under Article III of the Constitution are eligible for nomination. Nominations should be made in writing, and should set forth the nominee's accomplishments and professional activities which have contributed to the cause of justice. For more information, contact Celia Colista at 312-558-6900, extension 107, or ccolista@ajs.org.

Nominees Sought for Paul G. Hearne Award

The American Bar Association Commission on Mental and Physical Disability Law, in conjunction with the National Organization on Disability, is seeking nominations for the 2001 Paul G. Hearne Award. The submission deadline is March 31, 2001. This award honors an individual or organization that has performed exemplary service in furthering the rights, dignity and access to justice of Americans with disabilities. For more information, contact Cathleen West at 202-662-1573 or westa@staff.abanet.org.

Proud to Be a Lawyer

Start your day off with an inspirational story or quote! The WSBA website (www.wsba.org) features a new "Proud to Be a Lawyer" item each day. Please help us gather stories about your fellow members of the Bar, or share your favorite quote. Contact Allison Parker at allisonp@wsba.org or 206-733-5932.

Congratulations to the following individuals who passed the July 2000 Bar Examination.

Note: Individuals listed are from Washington unless indicated otherwise.

Acland, Beatrice Maud Dyke, Bellingham
Acosta, John Victor, Portland, OR
Adamitis, Elizabeth M., Seattle
Adams, Kate, Seattle
Aeschbacher, Steven J., Woodinville
Akhtar, Sarah E., Seattle
Albright, Nathan P., Moscow, ID
Allen, Donald Meade, Spokane
Allen, George H., Seattle
Alterman, Susan T., Portland, OR
Altman, Aren Lee Ray, Vancouver, BC
Amblad, Kristofer L., Seattle
Andersen, Sarah Rose, Seattle
Anderson, David A., Normandy Park
Anderson, Ivy, Bow
Anderson, Jason Wayne, Seattle
Andrade, Branda N., Redmond
Angelis, Theodore J., Washington, DC
Arai, Ivy D., Seattle
Armstrong, James Wesley, Tacoma
Bailey, Vanessa Patrice, Seattle
Baker, Magda Rona, Seattle
Barghelame, Yeganeh Sarah, Seattle
Barnes, Chad Robert, Seattle
Barnes, Craig Patrick, Seattle
Barnett, Paras B., Spokane
Baunach, Jeremiah James, Vandenberg AFB, CA
Beaudoin, Ryan Marshall, Spokane
Beermann, Nicholas Michael, Seattle
Beldy, Janine E., Spokane
Belsby, Kathleen Fitzgerald, Spokane
Bender, Jennifer Frances, Seattle
Bendersky, Sarah, Portland, OR
Benedict, Timothy Dwight, Seattle
Benton, Holly B., Seattle
Berger, Peter Erik, Billings, MT
Berner, Yevgeny, Seattle
Berntsen, Seth J., Seattle
Bingham, Justin Hunter, Henderson, TN
Bliss, Heather Z., University Place
Bliss-Ward, Renee Marie, Issaquah
Bogar, Alison Moore, Seattle
Bosley, Mary Anne, Sacramento, CA
Bosser, Manuel J., Spanaway
Bounlutay, Souphavady, Tacoma
Boyd, Jamie Wade, New York, NY
Brady II, William Alex, Olympia
Brandt, Frank Jay, Puyallup
Brandt, Garth R., Snohomish
Brandt-Erichsen, Scott A., Ketchikan, AK
Brann, Heather A., Richland
Branson, Bradley Tony, Tacoma
Bravo, Earle Quisano, Seattle
Brennan, Thomas M., Seattle
Bridges, Karen L., Denver, CO
Briggs, Rodney Wayne, University Place
Briley, Taya, Seattle
Brodniak, Roger Allen, Seattle
Brogan, Joseph Anthony, Bothell
Brown, Jennifer A., Seattle
Bruggeman, Alan, Seattle
Brunstad, Signe H., Seattle
Bucknell, Jack Eastman, Olympia
Buel, Melinda M., Keizer, OR
Bulacan, Bernadette Mary, Seattle
Bullis, Alana Kimberly, Dupont
Burke, Steven Charles, Tigard, OR
Burnett, Jason W., Seattle
Burns, Holland, Spokane
Burns, Justin Joseph, Wilsonville, OR
Burr, Jennifer Marie, Spokane
Burton-Bernstein, Treena C., Bothell
Buskirk, Todd Alan, Seabeck
Buzzard, Richard Wolcott, Centralia
Callahan, Jason C., Federal Way
Callow, Edward, Ocean Shores
Campbell, Donna J., North Bend
Campbell, Margaret Ellen, Seattle
Campobasso, Melissa T., Elmer City
Carlson, Jay S., Seattle
Carlson, Mary Marlyss, Seattle
Carney, Christopher R., Seattle
Carpenter, Stephanie B., Seattle
Carroll, Jenny Elizabeth, Washington, DC
Casey, Bridget Elizabeth, Bellevue
Castillo, David B., Seattle
Ceffalo, Julia Renee, Mountlake Terrace
Chapel, Joan Alicia, Bellevue
Charles, David Ray, Redmond
Chatfield II, Lloyd C., Mill Creek
Chaudhry, Priya, Seattle
Chee, Lloyd Arthur, Seattle
Chen, David W. C., Tracyton
Chen, Joe, Mountlake Terrace
Chenoweth III, John B., Juneau, AK
Cherry, Jason Seth, Portland, OR
Cherry, Roma Christine, Redmond
Chinitz, Julie, Seattle
Chisholm, Andrew Richard, Sammamish
Cho, Sueyoung, Seattle
Choate, Joshua, Seattle
Christy Jr., Joseph, Seattle
Cimuchowski, Heather Joy, Seattle
Clabaugh, Edward Lee, Vashon
Clark, Kendra L., San Jose, CA
Clay, Christopher Murray, Puyallup
Colegrove, Leona T., Federal Way
Colgan, Beth Ann, Seattle
Compton, Sara Lynn, Bainbridge Island
Comstock, John L., Redmond
Cooley, Helen Kathleen, Spokane
Cooney, John Oscar, Spokane
Coop, Jeffrey A., Seattle
Cooper, Russell L., Mercer Island
Corbett, David John, Tacoma
Corl, Michael John, Seattle
Cornwall, Randall John, Seattle
Corwin, Christina L., Seattle
Crisera, Michael Joseph, Seattle
Croft, Allison Margaret, Auburn
Culbertson, Ivan, Seattle
Cunnane, Thomas J., Seattle
Cunningham, Richard Todd, Lynnwood
Daheim, Matthew, Everett
Danielson, Mia, Spokane
D'Annunzio, Michael A., Gig Harbor
Davidson, Clara Bowron, Seattle
Davis, Douglas R., Anchorage, AK
Davis, Emily Woodson, Seattle
Davis, Noah Christian, Glendale, AZ
Davis Jr., Thomas W., Bainbridge Island
Day, Ross Alan, Keizer, OR
Day, Russell W., Moscow, ID
Decora, Lisa Marie, Seattle
Defelice, Eugene V., Redmond
Deleon, Cynthia L., Spokane
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De Long, Victor, Lynnwood
Delvillar, Rachael, Seattle
Dennett, Jason T., Seattle
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Driggs, Anna, Seattle
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Essley, Steven P., Anchorage, AK
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Fairborn, Katherine Westbrook, Austin, TX
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Fox, Gregory R., Mukilteo
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Frost, Ann Christine, Seattle
Frost, Lisa Ann, Santa Barbara, CA
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McPhee, Mona Kathleen, Seattle
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Meier, Robert Paul, Anacortes
Meierbachtol, Dierk Jon, Chicago, IL
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Merrick, Jennifer E., Seattle
Miguel, Sofia Kathryn, Lakewood
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Minson, Steven C., Lexington, VA
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Mitchell, Maureen L., Seattle
Moberly, Sharea Marchelle, Moscow, ID
Mobley, Paul R., Seattle
Moen, Sarah Lisa, Bryn Mawr, PA
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Mortimer, Charles Philip, Bellevue
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Musafia, Dominik, Seattle
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Myhre, Theodore Andrew, Seattle
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Neal, Nancy M., Ferndale
Needham, Nathaniel Lauren, Raymond
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Neiswender, Philip Kyle, Seattle
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Ward, Joseph Lorenzo, Seattle
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Along with our associate attorneys, we will continue our practice in tort litigation and insurance defense. We will continue an affiliation with our former partners, M. Kathrine Julin and James D. McBride, who will serve as of counsel to the firm. Ms. Julin and Mr. McBride have relocated their business and general practice to Redmond as Julin & McBride, PS.

FAIN SHELDON ANDERSON & VANDERHOEF, PLLC

is pleased to announce that

Ruth E. Ammons

has joined the firm
emphasizing civil litigation
with a focus on medical/dental
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and privileging/licensing disputes.

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The law firm of
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Katharine Witter Brindley

has become of counsel to the firm.

Her practice at Helsell Fetterman will concentrate on health and hospital law, risk management and medical staff relations, medical malpractice, and licensing matters involving health care professionals.

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Foster Pepper & Shefelman PLLC

Attorneys at Law

We are pleased to announce the expansion of our Seattle office with the addition of:

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Of Counsel
Intellectual Property

Sarah K. Johnson*
Of Counsel
Litigation

Hunington Sachs
Of Counsel
Business

Nancy V. Stephens
Of Counsel
Trademarks

Michelle M. Carmody
Associate
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W. Alexa Chiang**
Associate
Business

* Admitted in Illinois
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Karr Tuttle Campbell

is pleased to welcome

Jill C. Yen
as an associate in the business department's corporate finance practice group in the firm's Seattle office.

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The partners of

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are pleased to announce

Nena Cook
has become a partner of the firm.

Ms. Cook will continue to focus her practice in the areas of employment law and complex commercial litigation in Oregon and Washington.

Sussman Shank LLP, founded in 1960, is a full service business and commercial law firm practicing in business litigation, construction law, creditors' rights, tax, corporate and business, real estate, and estate planning.

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Michael D. Daudt	Linda J. Patterson	Cynthia Thomas
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The law firm of

WOLFSTONE, PANCHOT & BLOCH PS, INC

is pleased to announce that

Steven N. Ross
has become of counsel to the firm.
Mr. Ross will continue his practice in labor and employment law.

The firm is also pleased to announce that

Kevin D. Hull
has joined the firm as an associate.
Mr. Hull's practice emphasizes all aspects of litigation and family law.

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Calendar

This information is submitted by providers. Please check with providers to verify approved CLE credits. To announce a seminar, please send information 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 day of the month for placement in the following month's calendar.

BUSINESS

Business Law for the Small Business Owner/Operator
December 13 – Port Orchard. 6 CLE credits, including 2 ethics pending. By Kitsap County Clerk and Dispute Resolution Center of Kitsap County; 360-377-4225.

Condominium Issues (morning) Negotiating and Drafting Real Estate Documents (afternoon)
January 25 – Tacoma. CLE credits TBA. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

COMPUTER SKILLS

Computer Camp for Counselors™
December 13 – Seattle (basic – morning; intermediate – afternoon); December 14 – Seattle (advanced – morning). 4 CLE credits each. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

CREDITOR/DEBTOR

How to Create, Perfect, Foreclose and Defend Liens
December 6 – Spokane; December 7 – Seattle. 6.5 CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

ELDER LAW

Elder/Medicaid Planning and Long-Term Care Planning
January 26 – Seattle. CLE credits TBA. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

EMPLOYMENT LAW

Employment Law Workshop
December 7 – Seattle. CLE credits pending. By Foster Pepper & Shefelman PLLC; 206-447-8985.

Covenants Not to Compete (morning) Key Employee Retention (afternoon)
December 14 – Seattle. 3 CLE credits per session. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

ESTATE PLANNING

Northwest Family Business Forum: A Resource Workshop with Gerald Le Van
December 6 – Seattle. 5.75 CLE credits. By WSBA-CLE and Estate Planning Council of Seattle; 800-945-WSBA or 206-443-WSBA.

ETHICS

Ethics Tele-CLE Series
December 6 (Real Estate); December 13 – (Estate Planners); December 13 – (Litigators). 1.5 CLE credits each. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethics of Alternate Dispute Resolution
December 7 – Seattle. 3.5 CLE ethics credits pending. By King County Bar Association; 206-382-1270.

8th Annual Professional Responsibility Institute
December 9 – Seattle. 7 CLE credits pending. By UW-CLE; 206-543-0059.

Special Issues in Ethics
December 13 – Seattle. 2 CLE ethics credits. By King County Bar Association; 206-382-1270.

The Ethics of Taking Equity Interests in Clients
December 14 – Seattle. 2 CLE ethics credits. By King County Bar Association; 206-382-1270.

Real People – Real Trouble: Ethical Tools to Avoid Malpractice
December 15 – Seattle. 3.5 CLE credits pending. By WSBA Interprofessional Committee; 206-733-5944.

FAMILY LAW

7th Annual Family Law Institute
December 7 – Seattle. 6 CLE credits, including .5 ethics pending. By King County Bar Association; 206-382-1270.

Family Law 2001
January 26 – Portland. CLE credits TBA. By Oregon State Bar; 503-684-7413.

GENERAL PRACTICE

Free All-Day WSBA Emeritus Program Training
December 1 – Spokane. CLE credits pending. By WSBA Emeritus Program and Spokane County Bar Association Volunteer Lawyers Program; 206-727-8262.

Super CLE Video Week
December 4-12 – Portland. CLE credits TBA. By Oregon State Bar; 503-684-7413.

Nuts & Bolts Litigation Series: Part 3 – Cross-Examination of Lay and Expert Witnesses
December 5 – Seattle. 3 CLE credits pending. By King County Bar Association; 206-382-1270.

Incoterms 2000
December 7 – Seattle. CLE credits pending. By International Projects, Inc.; 800-865-6201.

The Best of CLE 2000
December 8 – Seattle. 3.25 CLE credits, including up to 1.5 ethics pending for half day; 6.5 CLE credits, including up to 3 ethics pending for full day. By WSBA-CLE and General Practice Section; 800-945-WSBA or 206-443-WSBA.

The Evolving Law and Technology of E-commerce Websites
December 8 – Seattle. 6 CLE credits pending. By King County Bar Association; 206-382-1270.

Annual Potpourri CLE
December 8 – Spokane. CLE credits TBA. By Spokane County Bar Association; 509-477-2665.

Internet Legal Research Series
December 12, 13, 14, 19, 20, 21, 27, 28, 29 – Seattle. 3.5 CLE credits per session. By UW-CLE; 206-543-0059.

Protection of Religious Liberties Under the U.S. and WA Constitutions
December 19 – Seattle. 3.5 CLE credits pending. By UW-CLE; 206-543-0059.

CLE Video Roundup
December 19-21 – Spokane; December 26-29 – Seattle. CLE credits TBA. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

South Sound Year-End Smorgasbord: The New, The Tried, The Proven, Part II
December 20 – Tacoma. 5.75 CLE credits, including .5 ethics. By WSTLA; 206-464-1011.

Persuasive Writing: The Advocate's Edge
December 20 – Seattle. 3 CLE credits pending. By King County Bar Association; 206-382-1270.

Hazards & Haphazards: Managing Safety-Related Cases
December 20 – Seattle. 3 CLE credits pending. By King County Bar Association; 206-382-1270.

Best of KCBA CLE
December 27 – Seattle. CLE credits TBA. By King County Bar Association; 206-382-1270.

Writing for Lawyers
January 31 – Seattle. CLE credits TBA. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

INTERNATIONAL LAW

Business Across the Borders
December 8 – Seattle. 7 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

LAND USE

Land Use Training
December 12-15 – Seattle. 7 CLE credits per day pending. By UW-CLE; 206-543-0059.

LITIGATION

Trial Masters at Work: Persuading the Jury
December 8 – Seattle. 5.75 CLE credits, including .5 ethics. By WSTLA; 206-464-1011.

Skilled Litigators Share Their Secrets
December 8 – Portland. 6 CLE credits pending. By Oregon State Bar; 503-684-7413.

Ultimate Cross-Examination: How to Dominate a Courtroom *(with Larry Pozner and Roger Dodd)*
December 15 – Seattle. 6.75 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Evidence with Rossi
January 19 – Seattle. CLE credits TBA. By WSBA-CLE and Young Lawyers Division; 800-945-WSBA or 206-443-WSBA.

Nuts & Bolts Litigation Series: Part 4 – Jury Selection, Opening Statements and Closing Arguments
December 19 – Seattle. 3 CLE credits pending. By King County Bar Association; 206-382-1270.

REAL ESTATE

8th Annual Real Estate Institute
December 13 – Seattle. 7 CLE credits. By King County Bar Association; 206-382-1270.

TAX LAW

Real Estate Exchanges Made Easy Under Section 1031 R.C. *(with Jeremiah M. Long)*
December 1 – Seattle (live); December 8 – Spokane, Boise, Billings (video replay sites), 6.25 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

UW Tax Conference
December 9 – Seattle. 7 CLE credits pending. By UW-CLE; 206-543-0059.

Tax-Deferred Exchanges: Evolving Rules, Greater Opportunities
December 15 – Bellevue. CLE credits TBA. By Asset Preservation, Inc.; 877-615-1031.

Planning Considerations for Retirement Plans and IRAs
January 31 – Seattle. CLE credits TBA. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

WATER LAW

9th Annual Water Law Seminar
December 14-15 – Seattle. CLE credits TBA. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Professionals

APPEALS

James E. Lobsenz
handles both civil and criminal appeals in state and federal courts. He has argued over 25 cases in the Washington Supreme Court, including *Washington State Physicians v. Fisons*, 122 Wn.2d 299, 858 P.2d 1054 (1993).

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www.krafchick.com

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Seattle, Washington 98164
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fax: 206-682-2382
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Bellevue law office: Ill health forces sale of long-established Bellevue sole general practice. Library, phone system, computers, copier, fax machine, phone number. Take over reasonable lease. Client referrals. Send inquiries to: WSBA *Bar News* Box 606, 2101 4th Ave., 4th Fl., Seattle, WA 98121.

Washington law practices available in Redmond, Olympic Peninsula and West Seattle – estate planning. Website will soon be available for current listings of practices for sale and potential buyers or parties interested in merger. For information, e-mail louismillman@coldwellbankercom.com. Confidential information and consultation; call 425-467-4180 or 800-459-5860; fax 425-646-5979.

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Downtown Seattle: Near federal court and King County Courthouse. Western view office on 22nd floor, 1111 3rd Ave. Reception service, shared use of conference room, on-site storage and other amenities provided. Available December 1st. For more information, call Al Bentley or Emily Coward at 206-343-9391 or e-mail emilycoward@hotmail.com.

Pioneer Square historic building: Large office in friendly eight-attorney suite. Reception, library, conference, fax, copier, phone system and high-speed data. Some secretarial available. Please call Suzy at the Beles Group, 206-623-9119.

POSITIONS AVAILABLE

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Litigation attorney: Lasher, Holzapfel, Sperry and Ebberson, a 23-attorney, AV-rated law firm, is seeking an associate with a minimum of three years' commercial litigation experience to support busy litigation department. Plenty of interesting work for a motivated individual who desires to build a practice. Areas of law include business, employment, construction, bankruptcy, personal injury and family law. Candidates should possess excellent interpersonal, writing and research skills. Current WSBA membership and basic computer literacy are strongly preferred. Competitive salary and benefits. Friendly, supportive workplace. Send

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Deadline: Text and payment must be received (not postmarked) by the 1st day of each month for the issue following, e.g., January 1 for the February issue. No cancellations after deadline. **Mail to:** WSBA *Bar News* Classifieds, 2101 Fourth Ave., Fourth Fl., Seattle, WA 98121-2330.

Qualifying experience for positions available: State and federal law allow minimum, but prohibit maximum, qualifying experience. No ranges (e.g., "5-10 years").

Questions? 206-727-8213; comm@wsba.org.

résumé with writing sample to: Personnel, 601 Union St., Ste. 2600, Seattle, WA 98101.

Contract attorney: Karr Tuttle Campbell seeks a contract attorney with experience in foreclosure and bankruptcy. Candidates must have superior academic credentials and excellent writing and communication skills. Current WSBA membership required. Qualified individuals should submit a cover letter, résumé outlining their qualifications, and a writing sample to: Carol Anne Nitsche, Director of Human Resources, Karr Tuttle Campbell, 1201 3rd Ave., Ste. 2900, Seattle, WA 98101. Competitive salary DOE, comprehensive benefits. All inquiries confidential.

Litigation attorney: McKinley and Irvin PS, a seven-attorney firm, seeks an associate attorney with minimum three years' general commercial litigation experience. Areas of practice include business, bankruptcy, real estate, employment, personal injury, L&I and family law. Excellent oral and written advocacy skills necessary. We offer a competitive salary and benefits, as well as a friendly, supportive work environment. Please send résumé, writing sample and references to: M&I, 33801 1st Way S., Ste. 281, Federal Way, WA 98003; http://www.mckinleyirvin.com.

Industrial insurance defense attorneys: Law Offices of Deborah J. Lazaldi is seeking an entry-level associate and one associate with at least two years' litigation experience. Candidates must have excellent writing and communication skills. Please send cover letter, résumé and a writing sample to: Lisa Dalenius, Administrator, Law Offices of Deborah J. Lazaldi, 8015 15th Ave. NW, Seattle, WA 98117.

Seattle insurance defense firm seeks two associate attorneys: 1) with at least three years' experience, including trials; 2) up to one year's experience in civil litigation. Compensation DOE. Send résumé to: Hiring Partner, 400 Mercer St., Ste. 308, Seattle, WA 98109; fax 206-378-1522; e-mail trichred@uswest.net.

The Washington State Department of Corrections intends to issue a Request for Proposal (RFP) for the purpose of obtaining legal services for felony offenders housed at the Stafford Creek Corrections Center, Aberdeen, WA. Successful proposers will provide legal services to eligible offenders. Representation will be for civil matters only. Contracts shall be for the period of March 1, 2001 through June 30, 2003, and will contain an option for the Department of Corrections to renew for additional one-year periods through June 30, 2006. Copies of the RFP may be obtained on or about December 15, 2000, by mail or in person, from the Department of Corrections, Rules, Contracts, and Public Disclosure, at the following address: Department of Corrections, Rules, Contracts, and Public Disclosure; Attn: Michelle Sabin, RFP Coordinator, 410 W. 5th Ave., PO Box 41114, Olympia, WA 98504-1114; phone 360-753-5770; fax: 360-664-2009; e-mail: mrsabin@doc1.wa.gov.

Wenatchee AV-firm needs to add two good lawyers: litigator and transaction person. Two years' or more experience. Spanish language skills preferred. Branch offices in Chelan, Omak and Moses Lake provide growth potential. Compensation negotiable. Call Dale Foreman at 509-662-9602.

Associate: Minimum three years' litigation experience. Sole practitioner in Laurelhurst professional suite managing double caseload with paralegal wants to expand practice to a two-attorney real estate, business, and intellectual property law firm at which both attorneys have a challenging, full caseload and an enjoyable, full life. Ideal attorney will have a current client base that occupies 30-50 percent of his/her time, aptitude and desire to effectively manage cases from start to finish. Send cover letter and résumé to Michael Brandt; mdbrandt@mindspring.com; fax 206-523-1645 or mail to: 3513 NE 45th, Ste. 2W, Seattle, WA 98105.

Employment relations attorney: Karr Tuttle Campbell seeks an associate with at least three years' experience in employment relations. Candidates must have superior academic credentials and excellent writing and communication skills. Current WSBA membership required. Qualified individuals should submit a cover letter, résumé outlining their qualifications, and a writing sample to: Carol Anne Nitsche, Director of Human Resources, Karr Tuttle Campbell, 1201 3rd Ave., Ste. 2900, Seattle, WA 98101. Competitive salary DOE, comprehensive benefits. All inquiries confidential.

Seeking real estate, business law and estate planning attorney to join thriving general practice firm on beautiful Whidbey Island. Great for an established attorney or an attorney from another state. Candidates must be dedicated to superior client service and possess excellent academic background, writing and interpersonal skills. Send résumé and writing sample to: Hawkins and Hansen PLLC, 275 SE Cabot Dr., Ste. A-9, Oak Harbor, WA 98277.

Seeking estate tax and business attorney. Requirements: LLM degree or CPA certificate and minimum five years' experience. Downtown Seattle. Send résumé and cover letter to: Human Resources Director, 900 4th Ave., Ste. 4050, Seattle, WA 98164.

Prominent AV-rated downtown Bellevue patent firm seeks EE/CS/ Physics patent associates with at least three years' prosecution experience and lateral partners with at least six years' prosecution experience. Serve Fortune 500 and startup companies in a friendly, small-firm environment with the opportunity to participate in the growth of a top-notch patent firm. Compensation DOE. Send résumé to: Graybeal Jackson Haley LLP, 155 108th Ave. NE, Ste. 350, Bellevue, WA 98004-5901; fax 425-455-5575; query@graybeal.com.

Business transactions and tax associate attorney: Karr Tuttle Campbell seeks a tax and transactions attorney to join its business and finance department. At least two years' experience is preferred. LLM in tax or CPA would be helpful. Candidates must have superior academic credentials and excellent writing and communication skills. Qualified individuals should submit a cover letter and résumé outlining their qualifications to: Carol Anne Nitsche, Director of Human Resources, Karr Tuttle Campbell, 1201 3rd Ave., Ste. 2900, Seattle, WA 98101. Competitive salary DOE, comprehensive benefits. All inquiries confidential.

Avocent Corporation, a publicly traded, international hardware company, seeks part-time attorney (15 to 30 hours a week) to handle preparation, review and negotiation of a variety of corporate/commercial agreements and contracts (e.g., reseller, distributor, license, supplier, OEM, nondisclosure and purchase/sale agreements), and to assist on other corporate legal matters. The ideal candidate will have superior academic credentials, excellent writing and communication skills, at least three years' general corporate or commercial experience (including licensing and intellectual property issues), and will be a self-starter who enjoys working in a fast-paced environment. Current WSBA membership required. Competitive salary DOE. Office is located in Redmond, WA, but flexible telecommuting options are available for the right candidate. Qualified individuals should submit a cover letter, a résumé outlining their qualifications, and a writing sample to: Samuel F. Saracino, SVP/General Counsel; fax 425-497-5597 or e-mail Sam.Saracino@Avocent.com.

Lukins and Annis PS, is expanding its commercial law department. The firm is seeking an associate with a minimum of one year's experience to work in the areas of commercial litigation, bankruptcy, foreclosure, UCC and related matters. Candidates must have superior academic credentials and current WSBA member-

ship. Send résumé to: Ms. Jody K. Hamilton, Hiring Director, 717 W. Sprague Ave., Ste. 1600, Spokane, WA 99201-0466.

Patent attorney: Blakely Sokoloff Taylor and Zafman LLP, an intellectual property law firm, is seeking patent attorneys for their rapidly expanding suburban offices in Lake Oswego, OR, and Kirkland, WA. Earn nationally competitive salaries and work with top-tier local and Silicon Valley high-technology clients while enjoying the benefits of living in the Pacific Northwest. Seeking candidates with backgrounds in electrical engineering, computer science, and communications technologies. Candidates should be registered to practice before the U.S. Patent and Trademark Office and admitted to a state bar. Please forward your résumé in confidence to: Chun Ng, Blakely Sokoloff Taylor and Zafman LLP, 3230 Carillon Point, Bldg. 3000, Kirkland, WA 98033-7354; e-mail chun_ng@bstz.com; phone 425-827-8600; fax 425-827-5644.

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Litigation attorney: Karr Tuttle Campbell seeks an associate with at least three years' experience in litigation. Candidates must have superior academic credentials and excellent writing and communication skills. Current Washington State Bar membership required. Qualified individuals should submit a cover letter, résumé outlining their qualifications and a writing sample to: Carol Anne Nitsche, Director of Human Resources, Karr Tuttle Campbell, 1201 3rd Ave., Ste. 2900, Seattle, WA 98101. Competitive salary DOE, comprehensive benefits. All inquiries confidential.

Deputy prosecutor: Benton County Prosecutor's Office seeks an entry-level deputy prosecutor for district court to prosecute traffic and misdemeanors ($3,263 - $3,328 starting) and a Deputy II for superior court felony ($3,966 - $4,045 starting). Both positions require a Juris doctor degree, and passing the Washington State Bar exam; computer skills desired. Deputy II requires three years' legal experience. Excellent benefits. Selections based on qualifications, background check and oral interview. Send résumé to: Andy Miller, Benton County Prosecutor, 7320 W. Quinault, Kennewick, WA 99336.

Associate for plaintiffs' litigation firm. PI or toxic tort experience preferred. WSBA membership required. Oregon Bar membership a plus. Send résumé to: Administrator, 621 SW Morrison, Ste. 950, Portland, OR 97205.

Opportunity in Eastern Washington: Small firm with well-established practice has opening for associate attorney. Individual must possess excellent academic credentials, superior writing and analytical skills. Position requires self-starter who is highly motivated. Compensation DOQ. Mail résumé to: Foianini Law Offices, PO Box 908, Ephrata, WA 98823.

Associate position: Attorney sought by established general practice firm located in the Lewis, Thurston and Grays Harbor County areas. Must be aggressive self-starter and team player. Potential for growth available. Send résumé to: Don A. McConnell and Associates; 207 W. Main St., Centralia, WA 98531; http://www.lewiscountylaw.com.

Established Olympia law firm has immediate opening for an aggressive, energetic associate attorney with experience in domestic, criminal, probate and personal injury law. Good research and writing skills are required. Excellent opportunity for growth and chance to build own law practice. Benefits package available. Salary negotiable. Reply with résumé and writing sample to: Foster, Foster and Schaller LLC, 711 S. Capitol Way, Ste. 701, Olympia, WA 98501.

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

Associate positions: Betts, Patterson and Mines PS is accepting applications for three associate attorney positions. Individuals with at least three years' litigation experience in the areas of construction defects, insurance coverage, or complex personal injury defense are invited to apply. Excellent analytical and writing skills required. Send résumé, list of references, and self-edited writing sample to: Lori L. Guzzo; Betts, Patterson and Mines PS; 1215 4th Ave., Ste. 800, Seattle, WA 98161-1090.

Public School Employees of Washington, a union representing 24,000 classified school employees in Washington state, is looking for union-friendly attorneys to accept referrals from its member lawyer referral program. Strongly desire attorneys from Eastern Washington towns/cities. Accepting lawyers from all areas, as well. Please email jspence@pseofwa.org for more information.

Preg O'Donnell and Gillett, an 11-attorney litigation firm emphasizing insurance defense, title and real estate litigation, seeks an associate with a minimum of three years' experience. Prefer experience in construction deficiency litigation or real estate litigation. The successful can-

didate will be self-motivated and self-driven. Please direct your confidential reply to: John Hegna, Office Manager, Preg O'Donnell and Gillett, 1215 4th Ave., Ste. 920, Seattle, WA 98161-1008.

Snohomish County prosecuting attorney is seeking two land use attorneys with at least three years' experience. Responsibilities primarily include advising clients in areas relating to land use regulation including zoning, GMA and comprehensive plans, as well as Endangered Species Act compliance. Send résumé and writing sample to: Barbara Dykes, 2918 Colby Ave., Ste. 203, Everett, WA 98201.

Corporate counsel — Adobe Systems, one of the world's leading PC software companies, is looking for a corporate counsel to be part of a motivated team that will provide legal support for our leading Web and graphic products and services. You will advise on all aspects of software product marketing and development, including software and content licenses, marketing promotions, developer technologies, and SDK licenses for System Integrators. This includes significant drafting and negotiation pertaining to strategic alliance agreements with Internet companies that extend the market and functionality of the Adobe products. We're seeking a team player with excellent interpersonal and communication skills and a good sense of humor who enjoys working closely with in-house clients. You must have the ability to see the big picture, understand and enhance the business model, and work quickly to minimize risk while helping to meet our business objectives. Solid business, negotiating and drafting skills are essential. Qualified candidates will have at least four years' experience in high-tech company or law firm supporting software and Internet clients. Strong background in software licensing, mergers and acquisitions, and product marketing support preferred. International marketing law experience a plus. Please submit your résumé with cover letter indicating job # 1201WSBAVB via e-mail to: VBrown@adobe.com; fax to 206- 675-6809; mail to Adobe Systems Incorporated, 801 N. 34th St., Seattle, WA 98103-8882. Adobe is an equal opportunity, affirmative action employer. For more information, visit our website at http://www.adobe.com.

POSITION WANTED

WSBA attorney with construction law experience seeks position with Seattle area firm with substantial construction law practice. Experience with critical path construction method, platting, drainage and retainage issues. Send inquiries to: WSBA *Bar News* Box 605, 2101 4th Ave., 4th Fl., Seattle, WA 98121.

WILL SEARCH

Will sought for Hui Zhang of Redmond, King County, WA. Please contact: Michael Longyear at Maltman, Reed, Ahrens and Malnati PS, 206-624-6271.

Will sought for Diana J. Coulter, formerly Ok Kum (Diana) Roberts, who died on September 13, 2000 in Lakewood, Pierce County, WA. Ms. Coulter was born in Korea on September 11, 1939. Please contact: Teresa Schrempp; Sonkin and Schrempp PLLC; 2955 80th Ave. SE, Ste. 201, Mercer Island, WA 98040-2973; phone 206-275-2878.

Will sought for Anthony Williams of Des Moines, King County, WA. Please contact: Michael Longyear at Maltman, Reed, Ahrens and Malnati PS, 206-624-6271.

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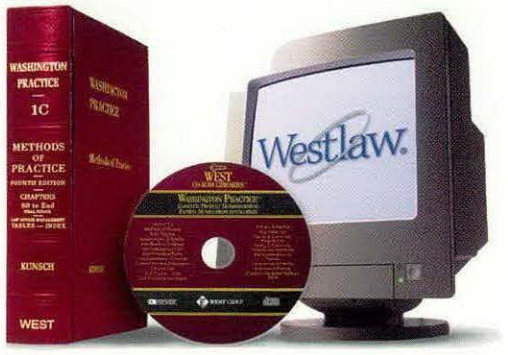

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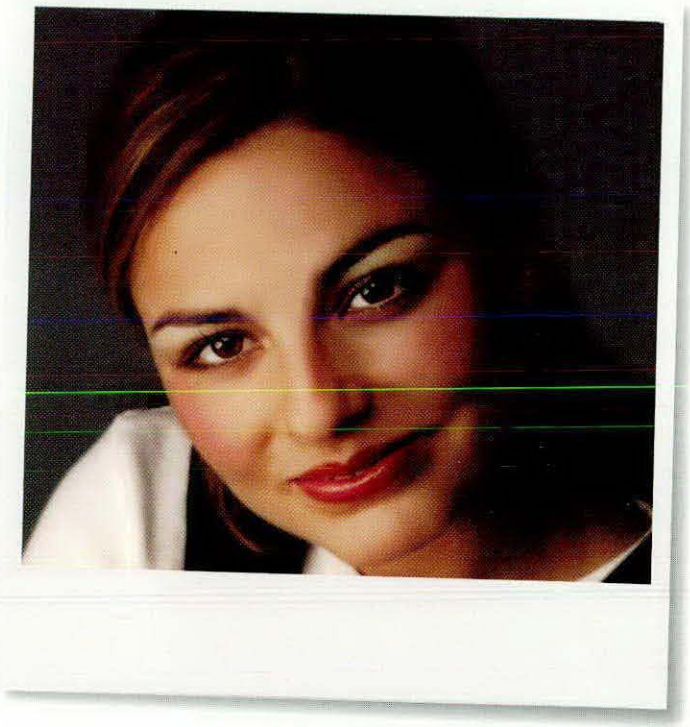

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